

RED HAWK WILDLIFE PRESERVE  
DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS

May 20, 1997

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ALAN SPRIGGS, SUMMIT COUNTY RECORDER  
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REQUEST: REDHAWK DEVELOPMENT LLC

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RED HAWK WILDLIFE PRESERVE

DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS

THIS DECLARATION is made on the date hereinafter set forth by Red Hawk Development, L.L.C., a Utah limited liability company (hereinafter "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant is the either the owner, or has authority under several special power of attorney agreements, recorded in the office of the Summit County Recorder, to act on behalf of the owners of certain real property in Summit County, Utah, to be developed into several integrated subdivisions known as the Red Hawk Wildlife Preserve (hereinafter "the Preserve"), more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof; and

**WHEREAS**, Declarant has entered into a Consent Agreement with Summit County establishing development guidelines and a land use plan for the Preserve and desires to provide for the preservation of the values and amenities established by Declarant, and, to that end, does hereby subject the real property described in Exhibit "A" to the land use covenants, conditions, restrictions, reservations, regulations, burdens and lien hereinafter set forth; and

**WHEREAS**, the Consent Agreement provides for potential future development by Declarant of real property contiguous to the Preserve, which contiguous real property is described in Exhibit "B" attached hereto and by this reference made a part hereof, such real property shall be subjected to the Consent Agreement and to this Declaration upon approval by Summit County of the Plat(s) submitted by Declarant covering that real property; and

**WHEREAS**, Declarant has deemed it desirable for the maintenance and preservation of the values and amenities established as aforesaid to establish the Red Hawk Wildlife Preserve Foundation, a Utah non-profit corporation (hereinafter "the Foundation"), and to delegate and assign certain powers and duties of ownership, operation, administration, maintenance and repair of certain property within the Preserve, the enforcement of the covenants, conditions, restrictions and easements contained herein, and the collection and disbursement of the assessments and charges hereinafter provided to the Foundation.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein, the Declarant hereby declares that the Preserve, to the extent now committed to this Declaration, shall be owned, held, used, transferred, sold, conveyed, demised, and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, burdens, and liens hereinafter set forth.

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1 PURPOSE AND EFFECT OF THIS DECLARATION.

Declarant intends that the Preserve be developed as a "wildlife preservation and conservation project" with the vast majority of the Preserve protected through interconnected open space and conservation areas subject to these covenants, conditions and restrictions and any applicable conservation easement, and the balance of the Preserve improved and maintained in a manner as consistent with conservation and preservation values as is reasonably practicable. The purpose of this Declaration, then, is to preserve and protect, to the largest extent possible in connection with the uses permitted hereunder, the natural beauty, serenity, views, environment and ecosystem of the Preserve, specifically including the native wildlife habitat and natural land within the Preserve and its environs. This Declaration is also intended to create a generally uniform pattern of development to protect and enhance the property values and aesthetic values of the Preserve, all for the mutual protection and benefit of the Owners.

2 OBJECTIVES REGARDING WILDLIFE PRESERVATION WITHIN THE PRESERVE.

Whereas the Preserve is located on relatively undisturbed land, and whereas development and residential use of this land has the potential to disrupt significantly the ecosystem within the Preserve, all land use activities within the Preserve must place a high value on minimum impact. Therefore, the following objectives regarding wildlife preservation within the Preserve are hereby adopted:

- I. To encourage, promote, propagate, preserve and protect the wildlife within the environs of the Preserve and the Red Hawk environment as it relates to the off-site ecosystem so that current Owners and succeeding generations of Snyderville Basin residents may enjoy and learn to accept the responsibilities for native wildlife.
- II. Specifically, to take the following steps, as reasonably practicable, to encourage, promote, propagate, preserve and protect the wildlife in the environs of the Preserve: protect the native habitat for the bedding and birthing of native wildlife; nurture and improve native wildlife stocks; rehabilitate and restore damaged wildlife environments; preserve the natural game trails, drinking areas and natural tree and shrub cover for native bird life and wildlife protection; plant areas to provide additional food for the wildlife, as appropriate; set up salt stations and, during severe winter periods, provide feeding stations for big game, as appropriate; promote and assist in construction of trails for uses in harmony with the native wildlife and natural environment, such as hiking, equestrian, non-motorized biking, and Nordic skiing.
- III. To the extent reasonably practicable, to acquire, receive and hold such real and personal property, either by purchase or by gift, as may be necessary and convenient to carry out these objectives. To issue bonds, notes and other assessments for the improvement of the wildlife areas. To lease or buy water rights, develop watering areas and catch basins, deepen beaver ponds and develop natural springs and wells for the benefit of the native wildlife.

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- IV. To cooperate with local, state, federal and other public and private agencies to develop and maintain effective wildlife conservation practices in Summit County and on a state-wide basis. To assist with the design of future developments that harmonize development with concerns for the environment.
- V. To assist other property owners and state and local law enforcement officials in protecting private property and enforcing hunting and animal abuse laws and ordinances.

This Declaration is intended to, and shall in all cases, run with the land within the Preserve, and be binding upon the Owners, their successors, assigns, heirs, lien holders, and any other person holding any interest in the Preserve, and shall inure to the benefit of the land within the Preserve.

3 DEFINITIONS AND AREA DESIGNATIONS.

- 3.1 Annual Assessments shall mean the charges levied and assessed each year against a Lot pursuant to Paragraph 6.2 below.
- 3.2 Assessments shall mean both Annual (or regular) Assessments and Special Assessments.
- 3.3 Board of Trustees shall mean the governing board of the Foundation.
- 3.4 Common Expenses shall mean estimated and actual expenditures made or to be made by or on behalf of the Foundation, together with any allocations to reserve or sinking funds.
- 3.5 Consent Agreement shall mean the written agreement entered into between Declarant and Summit County, consisting of the Consent Agreement and the exhibits and Schedule 1 thereto, relating to the platting and improvement of the Preserve.
- 3.6 County shall mean Summit County, Utah.
- 3.7 Declarant shall mean Red Hawk Development, L.L.C., a Utah limited liability company, which is the owner and project developer, or the holder of special power of attorney from other owners of property to be included in the Preserve.
- 3.8 Design Review and Land Use Committee, sometimes referred to as the "DLC", shall mean either the Board of Trustees or a committee appointed by the Board of Trustees for the purpose of reviewing and approving those improvements or changes to lands within the Preserve specifically described in the Consent Agreement and herein.
- 3.9 Development Activity Envelope shall mean the area designated on the Plat within which principal development activity may occur. With respect to all Lots, no development activities or changes in the natural conditions of any lands shall occur outside the Development Activity Envelopes except as approved by the Foundation or allowed elsewhere in this Declaration.

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- 3.10 Development Guidelines shall mean guidelines and regulations adopted by the Design Review and Land Use Committee to provide site and development design criteria to Owners desiring to build homes, construct other improvements or carry on any other development activity on Lots.
- 3.11 Driveway shall mean the driveway from any Major Road or Minor Road to each homesite.
- 3.12 Eligible Mortgage Holder shall mean the holder of any first priority Mortgage encumbering a Lot that has given written notice to the Foundation of said Mortgage. Such notice shall include a true copy of the Mortgage as recorded.
- 3.13 Foundation shall mean the Red Hawk Wildlife Preserve Foundation, a Utah nonprofit corporation formed and incorporated to carry out the instructions and purposes of the Wildlife Conservation Easement and these covenants, conditions and restrictions, and to further the common interests of all Owners of the Lots within the Preserve.
- 3.14 Lot or Lots shall mean fee ownership subdivided lots or parcels of land designated by number on the Plat.
- 3.15 Major Roads shall mean the primary subdivision roads as shown on the subdivision plat.
- 3.16 Minor Roads shall mean all other subdivision roads, including but not limited to service roads, and access roads to the Preserve facilities.
- 3.17 Mortgage shall mean any mortgage, deed of trust or other security instrument creating a real property security interest in any Lot, excluding any statutory, tax or judicial liens.
- 3.18 Mortgagee shall mean any grantee or beneficiary of a Mortgage.
- 3.19 Mortgagor shall mean any grantor or trustor of a Mortgage.
- 3.20 Owner shall mean the person or persons or legal entity holding record fee simple title to a Lot. The Foundation shall be entitled to treat the record title holder of a Lot as the Owner thereof for all purposes.
- 3.21 Plat shall mean the final subdivision plats for all phases of the Preserve recorded with the Summit County Recorder.
- 3.22 Preserve shall mean the real property described in Exhibit "A" hereto and all the property shown on the Plat, and any additions thereto as permitted under this Declaration.
- 3.23 Preserve Manager shall mean a person or other entity who may or may not be an employee of the Foundation who shall be primarily responsible for the operation of the Preserve, which operation may include, but not be limited to, wildlife enhancement and management, maintenance and repair of roads, and operation of the water distribution system.

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- 3.24 Preserve Manager's Parcel shall mean the lands described in the Deed duly recorded in the real estate records of Summit County, Utah, which parcel includes a residence for the Preserve Manager and outbuildings. This parcel shall initially be owned by the Foundation.
- 3.25 Property Conveyed by Declarant shall mean any real or personal property which Declarant sells, grants, assigns or conveys to the Foundation including, but not limited to, the Preserve Manager's Parcel, buildings, other improvements, roads, trails, utilities, water rights (which water rights may include, but not be limited to, wells, ditches, reservoirs, water lines, or shares of stock in any ditch or reservoir company), signage, security gates, equipment, inventory, furniture, fixtures, fences, lighting, trucks or other vehicles. The Foundation shall be obligated to and shall accept title to or interests in any property which may be sold, assigned, granted or conveyed to the Foundation by Declarant. All property to be sold, assigned, granted or conveyed by Declarant to the Foundation will be an outright conveyance, sale, assignment, grant or conveyance of all the interest of Declarant therein, subject only to such reservations, restrictions and conditions as Declarant may reasonably provide, and none of such property, to the extent owned by Declarant, will be leased to the Foundation.
- 3.26 Special Assessments shall mean any special or extra-ordinary Assessment levied and assessed pursuant to Paragraph 6.3 below.
- 3.27 Subsidiaries shall mean one or more non-profit corporations or other entities that are subsidiaries of the Foundation to which certain rights, properties or appurtenances of the Preserve or the Foundation may be leased or transferred and thereafter held, owned, operated, leased, managed or otherwise dealt by such subsidiary in furtherance of the interests of the Preserve.
- 3.28 Wildfire Prevention Plan shall mean the terms and conditions of the Red Hawk Wildfire Prevention Plan adopted by the Declarant for the Preserve pursuant to the Consent Agreement.
- 3.29 Wildlife Management and Enhancement Plan shall mean the terms and conditions of the Red Hawk Wildlife Management and Enhancement Plan adopted by the Declarant for the Preserve pursuant to the Consent Agreement.
- 3.30 Wildlife Conservation Easement shall mean any conservation easement granted by Declarant and recorded against any of the property within the Preserve.

4 THE FOUNDATION.

- 4.1 Foundation. The Foundation is a nonprofit Utah corporation charged with the duties and invested with the powers prescribed by law and as set forth in its Articles of Incorporation and Bylaws, as the same may be amended from time to time.
- 4.2 Board of Trustees and Officers. Pursuant to the Foundation's Articles and Bylaws, the affairs of the Foundation are conducted by the Board of Trustees and such officers as the Board of Trustees may elect or appoint in accordance with its Articles of Incorporation and Bylaws as the same may be amended from time to time. The Foundation shall carry out and enforce the provisions of this Declaration. Additionally, the Foundation by and through the Board of

Trustees will govern and manage all Property Conveyed or Leased by Declarant and any other Foundation property. The Board of Trustees will be composed and designated as prescribed by law and as set forth in its Articles of Incorporation and Bylaws. The Board may also appoint various committees, including the Design Review and Land Use Committee. The Board of Trustees may employ, or otherwise contract with, the Preserve Manager who will be responsible, subject to the direction of the Board of Trustees and the terms of the Preserve Manager's Contract, for the operation of the Preserve.

- 4.3 Foundation Rules. The Foundation may from time to time adopt, amend and repeal rules and regulations to be known as the "Rules for the Preserve" (the "Foundation Rules") by a majority vote of the Board. The purpose of the Foundation Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration. The Foundation Rules may not be inconsistent with this Declaration or the Consent Agreement.
- 4.4 Limited Liability. Neither the Declarant, the Foundation, any Subsidiary, nor their past, present or future officers or Trustees, nor the Preserve Manager (but only in the case the Preserve Manager shall be an employee of the Foundation), nor any employee, agent or committee member of the Foundation or any Subsidiary shall be liable to any Owner or to any other person for any damage, act, omission to act, simple negligence or other matter of any kind or nature, except gross negligence. As to employees of the Foundation including the Preserve Manager (but only in the case the Preserve Manager shall be an employee of the Foundation) or employees of any Subsidiary, the limits of liability set forth in the sentence immediately preceding shall only apply where: (i) such persons were employees of the Foundation or Subsidiary (as opposed to independent contractors) at the time of alleged damage, act, omission to act, simple negligence or other matter of any kind or nature, except gross negligence; and (ii) said employee was acting within the scope of his or her job or responsibility. Without limit to the foregoing, neither the Foundation nor the Board of Trustees nor any Subsidiary or its board shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Foundation for such purposes shall not be adequate, the Owners agree in equal shares to indemnify the Foundation or Board of Trustees or any Subsidiary or its board against loss resulting from such action or failure to act, provided that the Foundation and the Board of Trustees and any Subsidiary or its board acted or failed to act in good faith and without malice.
- 4.5 Binding Effect. Each Owner, his lessees, their families and guests, the heirs, successors or assigns of an Owner, or any Mortgagee, and any other persons using or occupying a Lot, shall be bound by and shall strictly comply with the provisions of this Declaration, the Bylaws, the Articles of Incorporation, any deed restrictions and covenants and all rules, regulations and agreements lawfully made by the Foundation.
- 4.6 Enforcement. The Foundation shall have the right and power to bring suit for legal or equitable relief for any lack of compliance with any provisions of this Declaration or rules promulgated by the Board of Trustees or DLC. In addition, the Foundation shall have the right to impose on any Owner monetary fines for any lack of compliance with provisions of this Declaration or rules

promulgated by the Board or DLC and where such fines are not paid within the time provided, such fines may be collected as an Assessment Lien as more fully described in Section 6 below. The Foundation shall have the right to enter upon any Lot to correct or remedy any violation of or lack of compliance with this Declaration or any rules promulgated hereunder, and to impose a fine on the Owner of such Lot to cover the cost incurred to correct or remedy the violation or lack of compliance. The failure of the Foundation to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or a relinquishment for the future of any such provision or the enforcement thereof. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including its attorneys' fees incurred in connection therewith.

4.7 Powers of the Foundation. Each Owner agrees that the Foundation has all the powers granted it by the Utah Nonprofit Corporation and Co-operative Association Act and any amendments thereto or replacements thereof. Such powers shall include, without limitation, levying Assessments against Owners, imposing a lien on a Lot for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens, enforcing any deed restrictions and covenants, acquiring, holding, owning, leasing, mortgaging and disposing of property (excepting as such disposing of property may be limited in accordance with Section 6 below), the adoption of rules and regulations, the defending, prosecuting or intervention in litigation on behalf of all Owners, the borrowing of monies for Foundation purposes and the right to pledge future income in order to secure such borrowing. The term "pledge of future income" shall include the right to impose a Special Assessment for repayment of such borrowings and to assign such Special Assessment (and all lien and collection rights appurtenant thereto) to the lender as security for repayment thereof provided however, the right to impose a Special Assessment hereunder shall at all times be subject to the limitations of Paragraph 6.3 of this Declaration, and the Consent Agreement. The Foundation may exercise any other right, power or privilege given to it expressly by this Declaration, by its Articles of Incorporation or Bylaws, or by law, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege. Foundation functions and assets may be held, owned, operated, performed, or carried out by one or more Subsidiaries; provided however, any acts, operations or activities of any Subsidiary shall at all times be in compliance with this Declaration. The Foundation may promulgate reasonable rules and regulations regarding guests which balance the rights of Owners to the full use and benefit of their property against the objective of preserving the Preserve as an exclusive private reserve with reasonably restricted access. To this end, the Foundation may, where necessary to prevent interference with other Owners' use and enjoyment of their property, adopt reasonable rules and regulations which: (i) control the use by guests of common area facilities and easements across other Lots and/or (ii) limit the number of guests and the duration of their stay at the Preserve over extended periods of time.

4.8 Other Foundation Functions. The Foundation may undertake, to the extent the Board of Trustees in its sole discretion so elects, to provide functions or services for the benefit of all, or some, Owners on such basis as the Board may reasonably determine. Such functions may be provided by the Foundation's employees or an independent contractor retained by the Foundation. With respect to any functions or services, the Board may establish "cost centers" for the operation

thereof. A cost center shall mean the identification and aggregation of all costs reasonably estimated by the Board to be attributable to a particular function or service. Where cost centers are established, the Board shall have the discretion, based on benefits received, to determine which Members shall be charged for such benefits and what amounts shall be paid by each such Member. Except for functions or services relating to water (including domestic and irrigation) and roads, no Owner shall, without the consent of such Owner having been first obtained, be charged a disproportionate or unequal share for any cost center functions or services greater than what such share would have been if the cost center function was charged equally to all Owners.

- 4.9 Notice to Maintain. An Owner shall promptly report to the Foundation, in writing, the need for any maintenance, repair or replacement which is the Foundation's responsibility to provide. In the event of any disagreement as to the need for, or the responsibility of the Foundation to provide the said maintenance, repair or replacement, the good faith decision of the Board of Trustees shall be final.
- 4.10 Mechanics' Liens. Declarant shall be responsible for the release of all mechanics' liens filed with respect to the Foundation property, or any part thereof, if any such liens arise or are alleged to arise from labor performed or materials furnished at the instance of Declarant, its agents, contractors or subcontractors. Except as the result of labor performed or materials furnished at the instance of the Board of Trustees, no labor performed or materials furnished with respect to Foundation property or Lots shall be the basis for filing a lien against any Foundation property. No labor performed or materials furnished at the instance of the Board of Trustees shall be the basis for filing a lien against any Lot.
- 4.11 Special Provisions Regarding Foundation Property. The Preserve Manager's Parcel and all improvements thereon, Property Conveyed by Declarant and any other Foundation property, including but not limited to, the Roads, trail and utility easements and water rights shall, at all times, be owned, operated, maintained and exercised by the Foundation or a Subsidiary consistent with the provisions of this Declaration and in trust for the use, benefit and enjoyment of Owners of all Lots of the Preserve and their family members, guests and invitees. To the fullest extent permitted by law, creditors of the Foundation or any Subsidiary, whether as a lienholder, mechanic lienor, judgment creditor or otherwise, shall, in the event such creditor shall become the owner of any Foundation property or the property of any Subsidiary, have no right to cause such property to be utilized, appropriated, consumed or otherwise used, except to the benefit of the Preserve and in accordance with this Declaration. The Foundation shall have the right to sell, lease or otherwise dispose of Foundation property.

5 ARCHITECTURAL CONTROLS.

- 5.1 Design Review and Land Use Committee. The DLC shall be composed of at least three (3) natural persons appointed by the Board of Trustees. Persons serving on the DLC shall serve at the pleasure of the Board of Trustees. The Board of Trustees may remove a member of the DLC and appoint a new member at any time, provided there shall at all times be at least three (3) persons serving on the DLC. The members of the DLC may or may not be Trustees or Owners and may include one or more professionals such as an architect paid by the Foundation to perform such services. The DLC shall have and exercise all the powers, duties and

responsibilities set out in this Declaration. The DLC may at the expense of the Foundation hire any professionals or a secretary or other personnel to perform administrative, clerical and other functions. So long as Declarant appoints the members of the Board of Trustees, then Declarant may also act as the DLC hereunder.

- 5.2 Authority. Except as otherwise provided in this Declaration, no improvements of any kind or changes in the natural condition of any property including, but not limited to, the construction of dwellings or other structures, outbuildings, well enclosures and pipelines, fences, grading, planting, ponds, parking areas, walls, garages, roads, driveways, antennae, satellite dishes, flag poles or the like, shall be erected, altered or permitted to remain on any Lots, or within any Development Activity Envelopes, or elsewhere on the Preserve, nor shall any excavating, clearing or landscaping be done thereon unless complete architectural plans and specifications and a site plan showing the location and orientation for such construction or alteration or landscaping are approved by the DLC prior to the commencement of such work. Any work performed by or on behalf of Declarant to any of the Preserve including, but not limited to, construction of Preserve amenities, subdivision infrastructure and the like, shall not require approval of the DLC.
- 5.3 General Standards. The DLC shall evaluate, among other things: (i) the materials to be used on the outside of buildings or structures, (ii) exterior colors, (iii) harmony of architectural design with other structures within the Preserve, (iv) height and other design features, (v) location with respect to topography and finished grade elevations, (vi) harmony of landscaping with the natural setting and native vegetation, and (vii) consistency with the Development Guidelines.
- 5.4 Rules and Regulations. The DLC may promulgate and adopt rules and regulations necessary to implement these covenants. These rules and regulations may include submission requirements concerning the type of information, reports, plans and specifications and the like which need to be submitted with any application, site specific limitations or restrictions for each Development Activity Envelope, and may also include guidelines governing the development of each Development Activity Envelope. These rules and regulations need not be uniform for each Development Activity Envelope and shall take into account the unique character of each Development Activity Envelope. By way of illustration only and without requirement to do so, the DLC rules and regulations may address and the DLC shall have the power and authority to regulate any or all of the following: application procedures and processing fees; charges by any outside professionals or other costs incident to evaluating any application, bonds in the form of cash deposit, letter of credit or otherwise regarding damage to Roads or other subdivision infrastructure and for re-vegetation and restoration of lands; color and materials, including, but not limited to, roofs, chimneys, siding, masonry and glazing; setbacks, height limitations, building, profiles and driveway locations; construction staging, construction hours which may be controlled during certain times of the year, storage for construction materials, location of temporary construction facilities such as trailers, dumpsters and toilets; routing of utility extensions; drainage, grading and erosion control; landscape and vegetation, fencing, lighting, signage, and trails; concerns or objectives regarding maintenance of agricultural lands and preservation of wildlife; and privacy and visual characteristics. Such rules and regulations shall be adopted, amended or replaced by affirmative vote of a majority of the DLC and the approval of the Board of Trustees.

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- 5.5 Variances. The DLC may, by an affirmative vote of a majority of the members of the DLC, allow variances as to any of the architectural controls contained in this Declaration and/or policies or rules promulgated by the DLC or contained in the Development Guidelines, on such terms and conditions as it shall require, so long as the requested variance is generally consistent with, and not contrary to, the objectives of the Consent Agreement and this Declaration. Further, any matter requiring a variance from the County land use, building or zoning regulations shall also require an approval from the DLC. Every Owner shall be given written notice of any meeting of the DLC where a request for a variance is to be considered, such notice to be given not less than twenty (20) days before the date of the meeting and to include a copy of the variance request or application and any other relevant information. Any decision of the DLC with respect to a variance may be appealed to the Board of Trustees, and the Board may override the decision of the DLC. An individual may be a member of both the Board and the DLC, and may vote on the variance appeal.
- 5.6 DLC Not Liable. Neither the DLC, the Board of Trustees, the Foundation or any of its individual members shall be liable for damages to any person submitting any plans for approval, or to any Owner or owners of lands within the Preserve, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such plans. The DLC shall have no liability or responsibility for any representations made to any Owner or prospective owner by any third parties. The decision of the DLC shall be governed by these protective covenants and any rules or regulations duly adopted by the DLC pursuant to this Declaration.
- 5.7 Written Records. The DLC shall keep and safeguard complete and permanent written records of all approved applications, including one set of the finally approved architectural and site development plans, and of all actions of approval or disapproval and all other formal actions taken by it under the provisions of this Declaration.
- 5.8 Inspection and Compliance. The DLC shall have no duty or obligation to make inspections of any construction; however, nothing herein shall prevent the DLC from making inspections prior to or after completion. Upon the completion of any work for which approved plans and specifications are required, the Owner shall give written notice of completion to the DLC. Within thirty (30) days after receipt of such notice, the DLC may inspect the work to determine its compliance with the approved plans. If the DLC finds that the work was not done in substantial compliance with the approved plans or any construction or change in natural conditions on any Homesite was undertaken without first obtaining approval from DLC, written notice shall be sent by the Board of Trustees to such Owner specifying the noncompliance and requiring the Owner to cure such noncompliance within thirty (30) days or any extension thereof granted. If the Owner fails to cure the noncompliance or to enter into an agreement to cure on a basis satisfactory to DLC within said thirty (30) day period or any extension thereof as may be granted, the Board of Trustees may, at its option, cause the noncomplying improvement to be removed or the noncompliance to be cured. Upon demand, the Owner shall reimburse the Foundation for all costs and expenses incurred by the DLC in taking corrective action, plus all costs incurred in collecting amounts due, including reasonable attorneys' fees and costs and any amounts not paid may, without waiver of any other right or remedy, be collected as an Assessment Lien. The Owner shall be personally liable for all such costs and expenses, and the Foundation shall also have a lien against the noncomplying Lot for the amount of all such costs and expenses. Such lien shall be (i) evidenced by a statement executed by the Foundation and

recorded in the real estate records of Summit County, Utah, (ii) subordinate only to the first Mortgage, and (iii) subject to foreclosure in the manner provided by Utah law for mortgages upon real property. Notwithstanding any other provision hereof, the DLC shall not be responsible for: (a) determining that any construction or construction documents conform to applicable building, codes, zoning or other land use regulations, (b) for the accuracy or content of any construction documents or specifications prepared by any architect, engineer or any other person, (c) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist, or (d) any failure to carry out any construction in accordance with plans or specifications.

6 ASSESSMENTS.

6.1 Purpose of Assessments; Assessment Lien. Each Owner, who has accepted a deed to a Lot from the Declarant, including a public or private trustee or sheriff's deed, is deemed to covenant and agree to pay the Foundation both Annual Assessments and Special Assessments, all such Assessments and charges to be established and collected as hereinafter provided. Annual Assessments and Special Assessments, together with interest, costs, and reasonable attorneys' fees, shall be secured by a lien (the "Assessment Lien") on the Lot to which they relate in favor of the Foundation, which shall be a continuing servitude and lien upon the Lot against which each such Assessment or charge is made. The Assessment Lien shall be a charge on the Lot, shall attach from the date when the unpaid Assessment or charge shall become due, shall be a continuing lien upon the Lot, together with interest, costs and reasonable attorneys' fees, and shall be the personal obligation of the Owner of such Lot at the time the Assessment became due. Where there is more than one Owner, each shall be jointly and severally liable for all Assessments. The Assessment Lien may be foreclosed by the Foundation in the same manner as a mortgage on real property upon the recording of a Notice of Delinquent Assessment or charge as set forth in Paragraph 6.7 hereof. The Foundation shall be entitled to purchase the Lot at any foreclosure sale. The grantee of any Lot (i.e., purchaser or other transferee) shall be jointly and severally liable with his grantor (i.e., seller or other transferor) for all unpaid Assessments or other proper charges due the Foundation prior to, as well as subsequent to, the date of the recording of the conveyance without prejudice to the rights of said grantee to recover from grantor any Assessments paid. Notwithstanding the preceding, no Mortgagee shall be personally liable for any Assessment or other proper charges due the Foundation, except in the event such Mortgagee shall acquire title to the Lot through a foreclosure or deed in lieu of foreclosure or otherwise and under such circumstances, the Mortgagee shall then be liable for Assessments or other proper charges due the Foundation arising on or subsequent to the date such Mortgagee became the record owner of the Lot.

6.2 Annual Assessments. An Annual Assessment shall be made against each Lot once it is sold by Declarant based upon an annual budget approved by the Board of Trustees for the purpose of paying Common Expenses, cost center functions or services allocated to certain or all Lots, including but not limited to, maintaining and/or replacing subdivision infrastructure such as roads, snow removal from roads, water system and utility lines, reserves for operating deficiencies, a sinking fund for capital improvements or any other matters reasonably determined by the Board to be the subject of an Annual Assessment.

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- 6.3 Special Assessments. In addition to the Annual Assessment authorized above, the Foundation may levy, in any Assessment period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, or for other extraordinary expenses, provided that any Special Assessment in excess of Thirty-Five Thousand and No/100 Dollars (\$35,000.00) shall (except in the event of an emergency where there shall be no such limit) have the approval of two-thirds (2/3) of the Owners of all Lots voting in person or by proxy at a meeting duly called for such purpose. For purposes of this Section, the term "emergency" shall mean any loss or damage, actual or threatened, to persons or property. The limit on the amount (i.e. \$35,000.00) of the Special Assessment that may, except in emergencies, be levied by the Foundation without obtaining approval of the Owners is a total amount for all of the Preserve and not an amount applicable to each Lot. Prior to adopting any emergency Special Assessment, the Foundation shall make reasonable efforts, via mail, telephone or facsimile, to notify each Owner of the amount and purpose of the emergency Special Assessment to be levied.
- 6.4 Funding for Wildlife Enhancements. Implementation of the Wildlife Management and Enhancement Plan shall be a financial obligation of the Foundation to be funded through a continuing Annual Assessment chargeable to each Lot. In furtherance of this obligation, the Foundation does hereby declare, levy and impose an assessment, in an amount to be determined on an annual basis by the Foundation, to pay for the implementation of the Wildlife Management and Enhancement Plan. The obligations of the Foundation with respect to the Wildlife Management and Enhancement Plan include, but are not limited to, payment for the services of one or more wildlife consultants (the "Wildlife Consultant") to assist in the implementation of the Wildlife Management and Enhancement Plan. There shall be an ongoing obligation on the part of the Foundation to continue activities on the Preserve for purposes of monitoring, maintaining and improving wildlife habitat. The extent of this obligation shall be determined by the Foundation, with input from the Wildlife Consultant. The Foundation hereby assumes and agrees to perform all the obligations of Declarant under the Wildlife Management and Enhancement Plan.
- 6.5 Rate of Assessment. Except as otherwise provided herein, Annual Assessments and Special Assessments shall be fixed, based on the amount of the Assessment divided by the number of Lots that are obligated to pay Assessments, and may be collected on a yearly basis or more often as the Board of Trustees so determines. Where special cost centers are established as described in Paragraph 4.8 above, assessments will be charged to Lots participating in or receiving benefits on such basis as the Board of Trustees may determine.
- 6.6 Establishment of Annual Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year. The Board of Trustees in its sole discretion from time to time may change the Assessment Period. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty days in advance of the end of each Assessment Period. Written notice of the Annual Assessment shall be sent to each Member. Failure of the Foundation to timely fix the Annual Assessment or to send a bill to any Member shall not relieve the Member of liability for payment of any Assessment or charge. The due dates for payment of any Assessments shall be established by the Board of Trustees.

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6.7 Effect of Nonpayment. Any Assessment or charge or installment thereof not paid when due shall be deemed delinquent and, in the discretion of the Board of Trustees, may bear interest from and after the due date until paid at a rate set by the Foundation, but in no event greater than that allowed under applicable law. The delinquent Owner shall also be liable for all costs, including attorneys' fees, which may be incurred by the Foundation in collecting a delinquent Assessment. The Board of Trustees may also record a Notice of Delinquent Assessment or charge against any Lot as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Foundation, shall set forth the amount of the unpaid Assessment, the name of the delinquent Owner and a description of the Lot and shall, upon recording, constitute an Assessment Lien. The Board of Trustees may establish a fixed fee to reimburse the Foundation for the Foundation's cost in preparing and recording such notice, processing the delinquency and recording a release of said lien, which fixed fee shall be treated as part of the delinquent Assessment secured by the Assessment Lien. The Foundation may bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Lot. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use of the benefits derived from Assessments or abandonment of his Lot. No delinquent Owner shall be entitled to vote on any Foundation matters until the assessment due, with interest and all other costs, shall be paid in full. Where assessments due from any Owner are more than six (6) months delinquent, the Foundation may temporarily cut off any or all Foundation services or benefits, including water service, to such Lot, until all delinquent assessments are fully paid.

6.8 Priority of Lien. The Assessment Lien provided for herein shall be subordinate to:

- (a) Liens for taxes and other public charges.
- (b) Any purchase money Mortgage lien.
- (c) Except as set forth in 6.8(a) and 6.8(b) above, no sale or other transfer of any Lot shall affect, extinguish or terminate an Assessment Lien.

6.9 Statement From Foundation. Upon written request and payment of such reasonable fee as may be set by the Foundation, the Foundation shall issue a written statement to any grantee or Mortgagee verifying the status of all Assessments or charges affecting the Lot. Any statement as to the existence or amount of any delinquencies shall, absent manifest error, conclusively bind the Foundation with respect to the grantee or Mortgagee.

6.10 Assessments for Tort Liability. In the event of any tort liability against the Foundation which is not covered completely by insurance, only those Owners, if any, directly responsible for the negligent or willful acts or omissions giving rise to such tort liability shall be obligated to contribute for the payment of such excess liability as a Special Assessment. Owners, if any, liable for a Special Assessment hereunder may be assessed by the Foundation in the same or different proportions based on legal and equitable principles regarding liability for negligent or willful acts or omissions. Notwithstanding the preceding, in the event of any tort liability against the Foundation which is not covered completely by insurance and for which none of the Owners are directly responsible, each Owner may be charged a Special Assessment (such assessment to be charged equally to all Owners) of up to \$250,000.00 per Owner to cover such excess liability.

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For acts or omissions of the Foundation, its officers, directors, agents and employees, the insurance carried by the Foundation shall be primary with regard to any other insurance.

7 INSURANCE.

7.1 Types of Insurance. The Foundation shall obtain and keep in full force and effect the following insurance coverage:

- (a) Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, on Property Conveyed or Leased by Declarant or any other Foundation property. The total amount of insurance, after application of deductibles, shall be 100% of the replacement value of the insured property exclusive of land, foundations and other items normally excluded from property policies.
- (b) Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the ownership, operation, maintenance or other use of Foundation property. This policy shall also cover operation of automobiles or other vehicles or equipment on behalf of the Foundation. This policy shall extend to the Preserve trail system provided for in Paragraph 9.9 below. The minimum public liability insurance to be carried by the Foundation shall be Ten Million Dollars (\$10,000,000.00) and limits of coverage shall be reviewed annually to determine whether the Foundation should carry public liability insurance in excess of this minimum amount. The maximum deductible amount for the insurance required by this subsection (b) shall be \$25,000.00.
- (c) Workmen's compensation and employer's liability insurance in the amounts and in the forms required by law.
- (d) Fidelity coverage against the dishonesty of employees, destruction or disappearance of money or securities, and forgery. This policy shall also cover persons who serve the Foundation without compensation.
- (e) Coverage of members of the Board and officers of the Foundation against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.
- (f) Coverage against such other risks of a similar or dissimilar nature as the Board deems appropriate, including, but not limited to, loss or damage to persons or property for ditch or dam failure.
- (g) With respect to Subsidiaries, any or all of the insurance coverage described in this Section 7.1
- (h) Notwithstanding the preceding, the Foundation shall be permitted to omit any of the coverage described in (d) above where premiums are unreasonably expensive or the

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coverage is not available in this geographic area or the coverage is not offered by a carrier of sufficient credit rating.

7.2 Named Insured and Interests. The Foundation shall be the named insured under each of said policies. Where appropriate, the named insured may be any water company owned or controlled by the Foundation or the officers and directors of the Foundation or the officers and directors of any water company owned or controlled by the Foundation. Policies of insurance shall also name Declarant as an insured so long as it shall retain any interest in the Preserve. Separate Owners shall be named insureds. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Foundation, and upon request, to Declarant and to any Owner who is a named insured or to any Eligible Mortgage Holder. Provided that such arrangements can be made with the Foundation's insurers and provided further there shall be no additional cost to the Foundation (other than a nominal cost not to exceed \$100.00 per policy annually) each policy shall provide that twenty (20) days written notice will be given to each Owner prior to any cancellation of such policy. The Foundation shall promptly report, in writing, to all Owners any claims made against the Foundation which report shall contain the name of the claimant, date the Foundation received notice of the claim, amount of the claims, if known, and a brief description of the nature of the claim. Notwithstanding the provisions of Paragraph 13.2 of this Declaration, Paragraph 6.10, the last sentence of Paragraph 7.1(b), and the fourth and sixth sentences of this Paragraph 7.2 shall not be amended without the prior written consent of all Owners having been first obtained.

7.3 Insurance Proceeds. The Foundation shall receive the proceeds of any insurance purchased by the Foundation. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Foundation shall promptly cause such reconstruction to occur. If the insurance proceeds are not sufficient for such purpose, the Foundation may levy a Special Assessment against the Owners for such deficiency.

8 GENERAL RESTRICTIONS.

8.1 Residential Uses. Each Lot shall be used only for residential purposes and such accessory or incidental uses thereto as may be permitted under applicable zoning, consistent with this Declaration and the Consent Agreement. An Owner may not rent out any facilities on the Owner's Lot. An Owner may not conduct any commercial activities on the Owner's Lot. Notwithstanding the preceding, "home occupations" as defined and permitted by the County land use regulations now or hereafter in effect shall be allowed on Lots. On each Lot there may be constructed only one primary single family residence, one guesthouse, one caretaker's cottage (to be occupied only by an individual employed by or under contract with the Owner in connection with the care and maintenance of the Owner's Lot), and such accessory or incidental structures as may be permitted by the Foundation under the Consent Agreement and by the County in accordance with its land use regulations. An Owner must maintain ownership of the multiple structures permitted hereunder. All improvements constructed on any Lot and the use thereof shall be in accordance with the terms, provisions and conditions of the Plat, this Declaration, the Consent Agreement, and County land use regulations and any amendments thereto.

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8.2 Development Activity Envelope. No development activity or changes in natural conditions of any lands shall occur outside Development Activity Envelopes except as may be approved in writing by the DLC consistent with the Development Guidelines or as otherwise specifically permitted in this Declaration, the Consent Agreement and the County land use regulations. With regard to the Preserve, all development activity shall occur within the Development Activity Envelope, except: (i) subdivision infrastructure such as roads, utilities and ditches, driveways and utility connections, the Preserve operations and amenities; (ii) easements, rights-of-way and other conditions noted in the Plat created, reserved or granted under this Declaration; (iii) those structures, improvements or activities which may be situated outside Development Activity Envelopes as allowed by the Consent Agreement and County land use regulations; and (iv) activities in furtherance of the Wildlife Management and Enhancement Plan including, but not limited to, vegetation manipulation, ponds and other wildlife enhancements. No structure or improvements (including primary residences, guest cottages, caretaker cabins, barns, fences, etc.) shall be erected within one hundred (100) feet of the edge of the pavement of any road fronting a Lot. There shall be no development activity restrictions on the Preserve Manager's Parcel except as provided in this Declaration or in accordance with approval of the Plat.

8.3 Location of Development Activity Envelopes. Prior to obtaining a building permit for a Lot, the Owner and the DLC shall mutually agree on the location of a 50,000 square foot Development Activity Envelope for the Lot. The location shall be in accordance with the Consent Agreement. The location shall be surveyed and recorded. An Owner may not relocate the Development Activity Envelope without the written approval of the DLC and the Wildlife Consultant.

8.4 Dog and Cat Restrictions for the Preserve. Dogs and cats pose a significant threat to native wildlife and to the Foundation's objectives regarding wildlife preservation within the Preserve. For example, dogs chase wildlife, and domestic cats kill native birds. Therefore, while dogs and cats may be allowed in the Preserve, Owners will be subject to the following restrictions:

(a) Maintenance of more than two (2) dogs or two (2) cats on any Lot shall require approval of the DLC. Dogs and cats must be maintained inside residences or within escape proof kennels constructed inside the Development Activity Envelope. The term "escape proof kennels" shall extend to electric containment systems, which shall be maintained within the Development Activity Envelope. No kennel may be constructed unless the precise location, design, materials and color shall first be approved by the Foundation or DLC. Approved kennels shall be kept in good repair. Owners may take dogs outside kennels or residences provided that a leash is used at all times or the dog is maintained at all times under positive control. Under no circumstances may dogs or cats be allowed to run at large or harass wildlife. Notwithstanding any of the preceding, dogs may be prohibited temporarily or seasonally from any area of the Preserve other than Development Activity Envelopes or the Preserve Manager's Parcel, if necessary to further the objectives of the Preserve Wildlife Management and Enhancement Plan. Workers at construction sites on any Lots, as well as guests, employees or caretakers of Owners are all strictly prohibited from bringing any dogs or cats onto the Preserve. Dogs and cats shall not be allowed in any caretaker unit, unless approved by the DLC.

(b) Representatives of the State Division of Wildlife Resources (the "DWR") and the County are hereby granted a license to enter upon the Preserve in order to enforce any of

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the restrictions set forth in these Covenants with respect to dogs and cats. Enforcement on the part of the DWR or the County may include the capture or destruction of any dogs or cats running at large in the Preserve. Owners of dogs running at large shall, upon demand, reimburse the DWR or the County for all costs incurred in the capture or destruction of such dogs or cats.

- (c) The Preserve Manager and any employees of the Foundation are hereby authorized to enforce any of the restrictions with respect to dogs and cats, including the capture or destruction of dogs and cats running at large and the right to obtain reimbursement from Owners for all costs incurred in the capture or destruction of such dogs or cats.
- (d) In addition to the capture or destruction of dogs or cats, the Foundation shall promulgate a schedule of fines to be imposed on Owners for violations of these restrictions, which fines shall be at least \$500 but may range up to \$2,000 for violations of these restrictions. With regard to repeat violations, a dog or cat may be permanently removed from the Preserve. In the event of repeat violations involving a construction worker, all further construction on that site may be halted until a meeting of the DLC is held for purposes of implementing additional procedures at that particular construction site to ensure that no workers will again bring dogs or cats onto the site.
- (e) The Foundation may, from time to time, promulgate rules and regulations to supplement the above restrictions or provide additional enforcement procedures or to further restrict dogs or cats on the Preserve.

Notwithstanding any provisions of this Declaration to the contrary, the Foundation shall have the right, without requirement to obtain the consent of any Owner or Mortgagee, to further amend the provisions of this Paragraph 8.4 only to comply with, carry out or enforce any changes made by the County in conditions regarding dogs or cats at the Preserve. In the event of a complete prohibition against dogs or cats, Owners then maintaining dogs or cats at the Preserve prior to the effective date of said prohibition shall have a reasonable period of time, not to exceed ninety (90) days, to remove their dogs and cats from the Preserve.

- 8.5 Other Pets. Pets, other than dogs and cats, shall be permitted subject to obtaining the prior approval of the Foundation, which approval may include conditions or rules as to maintaining such pets. The Foundation may prohibit altogether the maintenance of certain pets on the Preserve. Further, any other pets that are inconsistent with the objectives of the Wildlife Management and Enhancement Plan shall be prohibited.
- 8.6 Other Livestock. No livestock shall be permitted on any Lot without first obtaining the approval of the Foundation. Nothing herein shall obligate the Foundation to approve livestock on any Lot. In the event approval is granted to an Owner, the Owner shall maintain a "first class" operation with respect to the approved livestock. Any approval granted by the Foundation shall be subject to such conditions as the Foundation may reasonably determine and shall at all times be consistent with the Livestock and Pasture Management Guidelines. These livestock guidelines are intended to ensure that the maintenance of livestock on the Preserve will not interfere with the use and enjoyment of the Preserve by other Owners and will not interfere with the wildlife

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interests and aesthetic values of the Preserve. The livestock guidelines shall ensure that the following minimum objectives are achieved:

- (a) Pastures, trees and shrubs within the Project shall continue to thrive and be protected from overgrazing or other damage by livestock.
- (b) Waste from livestock must be managed to control flies and odors such that the maintenance of livestock on the Project does not interfere with the use and enjoyment of the Project by each Owner.
- (c) Livestock shall be kept as far away as practicable, and in any event at least 100 feet, from any water well head or wetland located on the Project. In the event of a wetland, an Owner shall provide appropriate mechanisms to ensure that run-off does not have an impact on the wetland.
- (d) Adequate feed, water and other essential care must exist for any livestock maintained on the Project.
- (e) Trailers and other equipment associated with the maintenance of livestock must be enclosed in approved structures.

8.7 Further Subdivision. Except as allowed in Sections 8.8, 8.9 or elsewhere in this Declaration, no Lot shown on the Plat shall ever in the future be subdivided by an Owner into smaller parcels or conveyed or encumbered in any less than the full dimensions shown on the Plat; provided, however, conveyances, easements or dedications for utilities may be made with regard to less than a Lot.

8.8 Boundary Line Adjustments by Owners. Notwithstanding the provisions of Paragraph 8.7 above, a boundary line adjustment by Owners between two Lots shall be permitted provided that:

- (a) The approval of the Foundation and the County is first obtained;
- (b) No Development Activity Envelope is affected; and
- (c) The Owners desiring such adjustment shall pay all reasonable costs incident thereto, including preparation, approval and recording of an amended plat as may be required by the County or Declarant.
- (d) Boundary line adjustments between Lots and the Preserve Manager's Parcel shall also be permitted; provided however, there is compliance with subsections (a), (b) and (c) above and the approval of Declarant is obtained.
- (e) In the event of any boundary line adjustments as permitted in this Paragraph 8.8 or under Paragraph 8.9 below, and subject to any other applicable requirements of this Declaration, it shall be sufficient for any amended plat to be signed solely by the Owners of the properties whose boundaries are affected thereby and any Eligible Mortgage

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Holders and in the case of any property adjacent to the Preserve, the owner thereof and any lienholder affecting such adjacent property.

- 8.9 Boundary Line Adjustments by Declarant. Notwithstanding the provisions of Paragraph 8.8 above, the following boundary line adjustments by Declarant shall be permitted:
- (a) As between the boundary of any Lots owned by Declarant.
  - (b) As between the boundary of any Lots owned by Declarant and the Preserve Manager's parcel.
  - (c) As between the boundary of any Lots owned by Declarant and property adjacent to the Preserve lands abutting such Lots.
  - (d) As to any boundary line adjustment under this Paragraph, Declarant shall obtain any requisite approvals required by the County and shall pay all reasonable costs incident thereto, including preparation, approval and recording of an amended plat.
- 8.10 Utilities. With respect to development by Owners on any Lot, all domestic water, electrical, telephone and other utility pipes or lines shall be buried underground and shall not be carried on overhead poles or above the surface of the ground. Any areas of natural vegetation or terrain disturbed by the burying of utility lines shall be re-vegetated to DLC standards by and at the expense of the Owner causing the installation of the utilities no later than the next growing season following such installation. Notwithstanding any other provision hereof, there is reserved to Declarant the right to temporarily install overhead poles, towers or above ground pipes for utilities.
- 8.11 Enclosure of Unsightly Facilities and Equipment. Except as to the Preserve Manager's Parcel, all unsightly facilities, equipment and other items, including, but not limited to those specified below, shall be enclosed within a covered structure. With respect to the Preserve Manager's Parcel, it shall be sufficient to screen any unsightly facilities, equipment or other items. Any motor home, trailer, boat, truck, tractor, garden equipment and any similar items shall be kept at all times, except when in actual use, in an enclosed garage, excepting the Preserve Manager's Parcel where screening of such items shall be sufficient. Any refuse or trash containers, utility meters or other facilities, service areas, or storage piles shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the DLC and adequate to conceal the same. No lumber, metals, boat materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except building materials during the course of construction and only for such reasonable periods of time as is necessary prior to their collection or disposal. With regard to the Preserve Manager's Parcel, lumber, scrap or other materials may be screened, however, no refuse or trash shall be permitted to accumulate thereon.
- 8.12 Satellite Dishes. Satellite dishes not exceeding 18 inches in diameter shall be permitted on Lots. Owners desiring to install satellite, relay, up-link or other communication dishes or facilities shall first obtain approval from the DLC. Any proposal for a dish or other facilities by Owner shall also include a plan for berming, screening, fencing and planting so as to conceal the dish or

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other facilities. Plans for any dish or other facilities shall include details as to location, size, color, installation, maintenance and other specifications as the DLC may reasonably require.

- 8.13 Hunting and Firearms. The discharge or shooting of firearms is prohibited, except: (a) the Preserve Manager or other employees or agents of the Foundation shall be permitted to use firearms on any Lot in connection with wildlife management or predator control; provided, however, that any Owner shall be given reasonable notice of entry, except in the case of emergency; and (b) where hunting is approved by the Foundation for the benefit of the Preserve, consistent with the Wildlife Management and Enhancement Plan, and the consent of the Owner of the Lot has been obtained. Any approval of hunting by the Foundation shall specify the species that may be hunted, specific firearms or primitive weapons allowed, dates and areas where hunting may occur, manner of take and total harvest numbers by Lots or by the Preserve wildlife population. Notwithstanding any approval by the Foundation, Owners and their guests shall still be required to comply with all applicable State or local laws regarding hunting, including the obtaining of any required licenses.
- 8.14 Fire Prevention and Controls. The Preserve is built in an area which has a high risk of wildfire, particularly in the months of July and August. In order to help mitigate the risk of structural fires and wildfires on the Preserve, the following restrictions and controls shall be observed by all Owners.
- (a) No Open Burning. No bonfires or other types of open burning will be allowed on the Preserve. Owners shall be responsible to notify all construction or maintenance personnel of this restrictions and shall enforce this restriction on their respective Lot. Owners shall be liable for any man-made fire, whether accidental or intentional, which starts on their respective Lot and the subsequent damage to other Lots or structures on the Preserve attributable thereto. All barbecue facilities, other than standard gas or propane units, and outdoor fireplaces shall be approved by the DLC prior to their construction.
- (b) Annual Inspections. Annually or more frequently, the Park City Fire Service District ("PCFSD") may make inspections of the entire Preserve to see that fire breaks and other fire control measures are being observed by the Foundation and the Owners. The representatives of the PCFSD accompanied by a representation of the Foundation shall have unlimited access (outside of structures) to the Preserve to make these inspections. The Foundation shall be responsible to implement any modifications required by the PCFSD to maintain adequate fire protection on the Preserve. The Foundation shall be allowed to reasonably enter any Lot to make modifications required by the PCFSD, including but not limited to, controlled burning discussed below.
- (c) Controlled Burning. The PCFSD may, from time to time, deem a controlled burn of grass or brush on the Preserve necessary as a fire protection measure. The Preserve has agreed to work with the PCFSD to allow such controlled burning on the Preserve when it is reasonably deemed necessary, and the PCFSD shall have a perpetual easement across the entire Preserve to perform such activities when necessary. No Owner shall interfere with any such activities while they are being performed under the direction of the PCFSD.

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- (d) Fire Sprinklers. As an additional fire protection measure, the PCFSD may, in its discretion, as part of the building permit process, require the installation of interior and exterior fire sprinkler or foam systems on any structure constructed within the Preserve. Owners shall be solely responsible to install and maintain any such system, if required, and the PCFSD may, from time to time, make inspections of such systems to ensure they are operational.
- (e) Installation of Central Fire Alarm Systems. Due to the high number of false alarms to which the PCFSD is asked to respond on an annual basis, they have requested that Owners contact the PCFSD prior to the installation of any "central fire alarm system" which automatically notifies the Fire Department when a fire is detected. The PCFSD has created a list of companies which have good records as far as competent installation and maintenance of such systems. A representative of the PCFSD will also consult with Owners as to the number of smoke detectors which should be in the structures as well as where they should be placed for maximum effectiveness. All Owners should contact the PCFSD prior to the construction of any structure or the installation of any fire alarm system to obtain the necessary information and requirements.
- 8.15 Drainage and Erosion Control. No Owner shall do anything which shall impair or adversely affect the natural drainage on any Lot, or divert drainage or irrigation water onto another Lot, or deprive any other Lot of its natural drainage course, or otherwise deprive any Lot of its irrigation water. No Lot improvements may cause new erosion or exacerbate existing erosion or draining patterns where such changes are, in the opinion of the Foundation, detrimental to the Preserve lands. The Foundation retains the right over and across all Lots, to engage in any drainage, soil or erosion control activities.
- 8.16 Pest Control. No Owners may engage in any pest control activities outside of residences or other structures without having first obtained the written approval of the Foundation. The Foundation, consistent with this Declaration, may grant or withhold any such approvals. In the granting of any approval, the Foundation may impose conditions on any pest control, including the techniques, devices or chemicals that may be employed. All pest control shall be implemented at the expense of such Owner. Further, any pest control techniques inconsistent with the Wildlife Management and Enhancement Plan shall be prohibited. None of the foregoing restrictions shall apply to pest control activities contained wholly within residences or other structures.
- 8.17 Noxious or Offensive Activity. No noxious or offensive activity or sound shall be conducted on any portion of the Preserve at any time, nor shall anything be done or permitted which may become a nuisance to, or unreasonably disturb, Owners of other Lots, or be injurious to the reputation of the Preserve.
- 8.18 No Mining, Drilling or Quarrying.
- (a) Mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth, shall not be permitted within the limits of the Preserve except as allowed by this Paragraph.

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- (b) Drilling for water by Declarant, its successors and/or assigns, for domestic, agricultural or recreational purposes is hereby expressly permitted within the limits of the Preserve, excluding Development Activity Envelopes.
- (c) Excavation of rock or earth shall be permitted by Declarant or the Foundation to the extent necessary in the performance of their respective obligations under this Declaration and in the case of Declarant with respect to the construction and installation of the Preserve infrastructure, amenities or as otherwise required by the County land use regulations as applicable.
- 8.19 Completion of Construction. Any construction activity on any Lot in the Preserve shall be completed and fully cleaned up within eighteen (18) months from its commencement or a variance shall be obtained from the DLC to allow for a longer period of construction upon proof of due diligence.
- 8.20 Fireplaces. All structures to be constructed within the Preserve shall comply with any fireplace regulations of the County. Declarant will not object if any Owner applies or receives permission from the County for more than one fireplace within any structure located on a Lot.
- 8.21 Driveways. With respect to Driveways within each Development Activity Envelope, driveway design, location, surfacing material and construction methods shall be approved by the DLC. Except as to snow-plowing, each Owner shall be responsible for the maintenance and repair of the Driveway area inside the Owner's Development Activity Envelope.
- 8.22 Trees and Landscaping. Owners may not cut or alter live trees, bushes or natural vegetation except with the approval of the DLC and then only within Development Activity Envelopes. Cutting or alteration of trees, bushes or natural vegetation by the Foundation or Declarant may also occur outside Development Activity Envelopes consistent with the Wildlife Management and Enhancement Plan and the Wildfire Prevention Plan, as necessary for the Preserve operations or for the uses or activities described in the easements created, reserved or granted in Section 9 of this Declaration or as shown on the Plat or in the Plat approval as applicable.
- 8.23 Damage by Owners. Each Owner is responsible for any damage caused to Major Roads, Minor Roads, Driveways, ditches, fences, trails, natural draining courses, utilities, Foundation property, or to other Lots or property thereon during the construction of improvements upon his Lot by any vehicle belonging either to him or anyone using the roads of the Preserve while engaged in any activity benefiting the Owner.
- 8.24 Fences. All fences to be erected by Owners within Development Activity Envelopes shall be approved by DLC and shall be in harmony with the natural setting and surroundings of the Preserve. No fences may be erected by Owners outside Development Activity Envelopes, except for the limited purposes of containing horses on irrigated pastures, which fencing shall first be approved by the DLC and shall be consistent with the Wildlife Management and Enhancement Plan. Notwithstanding the preceding, the Foundation may maintain or construct permanent or temporary fences as part of the Preserve operations on all the Preserve lands other than Development Activity Envelopes. Fencing by the Foundation in wildlife sensitive areas shall be consistent with the Wildlife Management and Enhancement Plan. Notwithstanding the

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preceding, kennels meeting the requirements set forth in Paragraph 8.4 above as applicable shall be permitted subject only to an approval of the kennel design from DLC.

- 8.25 Sewage Disposal Systems. Each of the homes to be constructed on Lots will be on individual sewage disposal systems using septic tanks, which will be designed and installed by the Declarant with due regard for specific soil conditions, percolation rates and the like. All systems shall meet the minimum requirements of the Summit County Department of Health.
- 8.26 Limits on Certain Vehicles. With respect to all Lots: (i) use of snowmobiles and "all-terrain" type vehicles is prohibited anywhere within the Preserve, provided, however, that the Preserve Manager or Declarant's personnel may operate such vehicles incident to the Preserve operations and to Declarant's activities relating to improvement and sale of lots within the Preserve; and (ii) pedal bicycles shall be allowed only on the Roads and trail system. Subject to the foregoing, the Foundation shall have the authority: (a) to prohibit entirely from the Preserve certain motor vehicles that may be considered to emit noise or other pollution in excess of levels or standards promulgated by the Foundation, and (b) to promulgate such other rules and regulations as shall be necessary with respect to the operation of motor vehicles on the Preserve lands.
- 8.27 Signs. The Foundation shall have the right to post signs on any Lot prohibiting trespassing or hunting, to protect boundary lines, or for any other purposes consistent with the Preserve operations. Owners may not post, maintain or permit on any Lot "for sale" or "for rent" signs or signs advertising names of contractors, landscapers, brokers, lenders or the like. Except as provided herein, all other signs, including specifically, permanent or temporary identification signs, shall be approved, in writing, by the DLC and by the County, if required, prior to being erected. Notwithstanding the foregoing, Declarant shall be permitted to maintain signs and conduct all other activities permitted in Paragraph 16.3 of this Declaration.
- 8.28 Ponds. Subject to the provisions of this Declaration and the Consent Agreement, and the requirement to obtain any County land use approvals, as applicable, Owners may, at their expense and with Foundation approval, construct, operate and maintain ponds within their Development Activity Envelope, consistent with the Wildlife Management and Enhancement Plan and Wildfire Prevention Plan for recreational and fire control purposes. Prior to any development, the appropriateness, location, size, construction specifications and operational plans for such ponds must be approved by the DLC. The Foundation shall establish rules and regulations as to the size of the ponds and which of the Preserve water rights may be utilized to fill the ponds. Owners shall be solely responsible for obtaining any permits, drilling, operating and obtaining any State Engineer or other approvals for any exempt well for any such onsite recreational ponds.
- 9 EASEMENTS AND RIGHTS RESERVED.
- 9.1 Easements Described on Plat. All of the Preserve is subject to the easements shown, created, reserved or granted on the Plat as applicable.
- 9.2 Development of the Preserve. Declarant reserves the right for itself (and to the extent necessary, such right is hereby extended to the Foundation) and their agents, employees and contractors, to enter upon the Preserve and to do whatever Declarant deems necessary or advisable in

connection with construction or other work to be performed by Declarant for the development of the Preserve subdivision improvements, including, but without limitation, the construction and installation of a domestic water system, fire protection, drainage, irrigation and water storage facilities (including ponds for recreational or other purposes), the installation of all utilities, the construction of all roads and driveways, grading and landscaping, the construction of all buildings and other improvements to be constructed by Declarant, including an office(s) for the Foundation and/or Declarant, an equestrian center and other amenities, the development of a private trail system, or of a public trail system as may be required by Summit County, the erection or placement of such temporary structures as may be reasonably necessary to facilitate such development, and the placement of such sign or signs as Declarant may deem advisable in connection with the sale of the Lots. The foregoing rights shall remain in Declarant and may also be exercised by Declarant as to any Property Conveyed and Leased by Declarant notwithstanding such conveyance to the Foundation. No rights reserved in this Paragraph 9.2 shall extend into any Development Activity Envelope on any Lot after the closing on the sale to an Owner other than Declarant.

- 9.3 Utility Easements. Declarant hereby reserves rights: (a) to grant nonexclusive easements for utilities, ditches, irrigation and drainage purposes, including, without limitation, for the installation, relocation, operation, maintenance, repair and replacement of lines, pumps, pipes, transformers, towers, tanks, wires, conduits, culverts, ditches, ponds and other facilities or systems and for ingress and egress to and from the same over and across the Preserve other than Development Activity Envelopes, and (b) without extinguishing the aforementioned general easement, from time to time to substitute one or more specific easements for the use by utility companies or others by recording of an instrument in the real estate records of the County. Unless the written consent of Declarant is first obtained, utility companies shall have no right to use easements over the Preserve to serve properties adjacent to the Preserve. Where Declarant shall grant any easements to utility companies to serve properties adjacent to the Preserve, Declarant shall be entitled to receive any consideration paid by such adjacent property owner or the utility company for such easement. Where necessary, Declarant shall have the right, without obtaining the consent of any Owner, Mortgagee or the Foundation, to amend the Plat as applicable to reflect any relocations of existing easements shown thereon or the granting of new easements for any of the purposes permitted hereunder. Declarant is responsible for the installation of any domestic water system and shall also make necessary arrangements with utility companies to provide electric and telephone service to the Preserve; provided, however, the domestic water system and electric and telephone service may be extended to the Preserve in phases. Accordingly, utilities may not be available to all Lots at the same time and any Owner, prior to the purchase of a Lot, shall be responsible for obtaining from Declarant a schedule for the phasing of utilities.
- 9.4 Operations Easements. There is hereby reserved to Declarant and the Foundation the right from time to time to enter upon Lots, the Preserve Manager's Parcel or any other portions of the Preserve to perform or carry out any of the Preserve operations, including any controlled burning, cutting of trees and shrubs to enhance wildlife habitat, ditch or fence maintenance or repair or operation of the water system to serve the Preserve or any other actions reasonably required to implement wildlife, agricultural, weed control or livestock control or other Foundation-approved operations.

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- 9.5 Emergency Access Easement. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter servicing the Preserve and its residents and to Declarant and the Foundation, including the Preserve Manager or any Foundation employees, to enter upon all Roads and driveways located in the Preserve and on any Lots or other property in the Preserve in the lawful performance of their duties. Private security contracts or other security arrangements made by Owners must first be approved by the Foundation.
- 9.6 Agricultural Operations. There are hereby reserved to the Foundation perpetual easements over and across all Lots for the purposes of conducting agricultural activities.
- 9.7 Aviation Easement. Subject to any applicable laws, the Foundation may promulgate rules and regulations regarding use and operation of aircraft of all kinds, including but not limited to, hang gliders, parasails and the like, any of which may be prohibited altogether. To the fullest extent permitted by law, no helicopters shall be permitted to land, take off or hover in close proximity to the Preserve, except in the case of emergencies.
- 9.8 Wildlife Management and Enhancement Plan. The Foundation, through its employees or agents and the Wildlife Consultant, are hereby granted the right to enter upon any Lot to monitor, implement and carry out the Wildlife Management and Enhancement Plan. Entry may be accomplished on foot, by horseback, or by vehicle, including the Preserve Manager's all terrain type vehicles or snowmobiles.
- 9.9 The Preserve Trail System. There is hereby created for the use and enjoyment of Owners and their guests and invited members of the public accorded such rights by the Foundation for Foundation purposes, easements over and across all of the Preserve, excepting only Development Activity Envelopes, said easements being for trails and a trail system as presently located or relocated or hereafter located, constructed or enlarged for purposes of hiking, horseback riding, jogging, cross-country skiing, snow shoeing and other activities, consistent with this Declaration and the Consent Agreement. The Preserve Trail System may include a public trail along the southern boundary of the Preserve, in which event, the use and enjoyment of the easements created herein shall be extended accordingly. Portions of the trail system shall be closed periodically to accommodate elk, big game calving, migration or other wildlife concerns. The trail system shall be operated and maintained by the Foundation as a Common Expense. The Preserve Trail System shall be constructed by either Declarant or the Foundation and thereafter maintained and operated by the Foundation. Construction and operation of the trail system may include cutting, clearing, stabilizing or maintaining trails, the posting of signs and erosion control. The use of the Preserve Trail System shall be subject to such rules and regulations as the Foundation shall from time to time establish. The Foundation shall indemnify an Owner whose Lot is subject to the trail system in regard to any injury or death to persons or damage to property occurred by use of the trails. The Foundation shall have authority to establish trail setbacks from Development Activity Envelopes on the Owner's Lot. Each Owner, members of their families and their guests or invitees assume all risk in connection with use of the trails. Notwithstanding the provisions of Paragraph 13.2 of this Declaration regarding amendments, unless the prior written consent of all Owners is first obtained, no amendment to this Paragraph 9.9 shall be adopted which would limit or impair the right of any Owner to use the Preserve Trail System for hiking, horseback riding, jogging, cross country skiing, snowshoeing or other

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purposes as allowed in this Declaration together with the right to enter upon other Lots in the Preserve for such purposes; provided however, Declarant and/or the Foundation may modify or relocate specific trail locations on any Lot to accommodate the Owner thereof.

- 9.10 Major Road Easements. There is hereby reserved to the Foundation and Declarant a 100 foot permanent and perpetual easement under, over and across all Major Roads as shown on the Plat, for purposes of operating, installing, constructing, maintaining, and repairing Major Roads, the water distribution system, other utilities and for such other purposes as are described in this Declaration. The Foundation and Declarant permanently and perpetually dedicate all Major Roads for the use, benefit and enjoyment of all Owners, their family members, guests and invitees and for use by employees of the Foundation. Relative to the construction and maintenance of any Major Roads, Declarant and the Foundation shall have the right to install cattle guards, gates, including but not limited to, security and entry gates, security gate house, fences, signage, speed bumps or dips, culverts, guard rails and the like. There is further reserved to Declarant the right to enlarge the width of any Major Road shown on the Plat; provided, only, that such enlargement does not encroach into any Development Activity Envelope. In the event Declarant shall determine to enlarge the width of any Major Road, Declarant shall have the right to amend the Plat as applicable for that purpose without requirement to obtain the consent of any Owner, Mortgagee or the Foundation. The width of any Major Road may be enlarged for road purposes or to accommodate a security gate house, as long as the width of such enlargement does not exceed the maximum widths set forth herein.
- 9.11 Minor Roads and Driveway Easements. There is hereby reserved to the Foundation and Declarant the right to place Minor Roads and Driveways anywhere the Foundation deems necessary on the Project outside of the Development Activity Envelopes of the Lots in order to accommodate the logical and reasonable development of the Preserve. Minor Roads and Driveways easements shall be a maximum of 100 feet in width and shall be placed to the greatest extent possible in locations which minimize interference with the Owners' use and enjoyment of the Lots, however, the decision of the Foundation as to the location and design of the Minor Roads and Driveways shall be final. The Declarant or the Foundation may determine that it is necessary for a single Driveway to service more than one Lot. No Owner of a Lot on which a Driveway is placed shall have the right to interfere with the right of an Owner of another Lot which is serviced by that Driveway to access their respective Lot. The easement right reserved hereunder shall be under, over and across all Lots in the Preserve, for purposes of operating, installing, constructing, maintaining, and repairing Minor Roads and Driveways, the water distribution system, installation of other utilities and for such other purposes as are described in this Declaration. The Foundation and Declarant permanently and perpetually dedicate all Minor Roads for the use, benefit and enjoyment of all Owners, their family members, guests and invitees and for use by employees of the Foundation. The Foundation and Declarant permanently and perpetually dedicate all Driveways on the Project for the use, benefit and enjoyment of the Owners, their family members, guests and invitees of the Lot or Lots serviced by each respective Driveway. Employees of the Foundation shall also have the use and benefit of these Driveways for purposes of repair of improvements and utilities, snow removal or other maintenance, and other normal Preserve operations. Relative to the construction and maintenance of any Minor Roads and Driveways, Declarant and the Foundation shall have the right to install cattle guards, fences, signage, speed bumps or dips, culverts, guard rails and the like. There is further reserved to Declarant the right to enlarge the width of any Minor Road or Driveway; provided, only, that

such enlargement does not encroach into any Development Activity Envelope. In the event Declarant shall determine to locate or enlarge any Minor Road or Driveway, Declarant shall have the right to design and construct the improvements and amend the Plat as applicable for that purpose without requirement to obtain the consent of any Owner, Mortgagee or the Foundation.

- 9.12 Easements for Water System Facilities. There is hereby reserved to Declarant and the Foundation over, under and across the Lots easements necessary to accommodate access to, and construction, maintenance and operation of, underground water storage tanks.
- 9.13 Other Easements for Domestic Water System. There is also reserved in Declarant and the Foundation easements under, over and across all Major Roads, Minor Roads and Driveways for purposes of installing, constructing, maintaining, repairing and operating a domestic water system, including but not limited to, pumps, pipes, lines, fire hydrants and the like. It shall be the responsibility of Owners to install, in accordance with specifications approved by the DLC, water lines from the Development Activity Envelope boundary to the actual homesite. All water lines installed by Owners to actual home sites, together with easements fifteen (15) feet on either side of the centerline of such lines, shall remain the property of the Owner and such lines shall be operated, maintained, repaired or replaced by the Foundation as part of the domestic water system. The cost of the maintenance, repair or replacement of individual water lines shall be charged to each Owner as a special cost center.
- 9.14 Ownership of Easements. Any easements or rights reserved by Declarant in Paragraphs 9.1 through 9.13 above shall remain vested in Declarant until such time as Declarant has executed and delivered an instrument in writing transferring the same to the Foundation or any water company benefitting the Preserve lands or any successor or assign of Declarant. Where the instrument recites it is a complete transfer of a particular easement or right, Declarant shall be relieved from all continuing responsibilities therefor. With respect to any of the Preserve easements created by this Declaration and with respect to any easements hereafter granted by Declarant or the Foundation that benefit the Owner of any Lot such as Roads, utilities, ditches and trails, no such easements may be vacated, extinguished, impaired or limited (other than temporary limitations for maintenance, repair or replacement), except upon the written consent of the Owner of such Lot and any Eligible Mortgage Holder thereon, and notwithstanding the provisions of Paragraph 13.2 below, no amendment to this Declaration may repeal or change this requirement except upon the written consent of all Owners and all Eligible Mortgage Holders.
- 9.15 Performance Standards/Indemnification. Notwithstanding the provisions of Paragraph 4.4 of this Declaration, all activities undertaken by Declarant, the Foundation or their assigns within or in connection with the easements and reservations described in this Section shall be performed in a good and workmanlike manner and as expeditiously as possible, and shall at all times be in complete compliance with all applicable construction, health, safety and other laws, regulations and codes. Natural vegetation shall be disturbed as little as possible (excepting agricultural and wildlife enhancement activities), and any disturbed areas shall be regraded and re-vegetated to the extent necessary to restore the same as closely as practicable to its natural condition. All such activities shall be performed at the sole cost and expense of Declarant, the Foundation, or their assigns, and all areas subject to said easements shall be kept free from mechanics' or materialmen's liens of any kind and which may rise from the aforementioned activities. Nothing herein shall limit the ability of the Foundation as provided in this Declaration to assess Owners

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for costs for activities undertaken in connection with the easements and reservations described in this Section 9. Declarant, the Foundation, and their respective assigns shall indemnify, defend (including, reasonable attorney's fees and costs), save and hold harmless any Owner's and such Owner's partners and their respective affiliated companies, employees and agents, from and against any and all losses, liabilities, damages, expenses, claims or demands for personal injury, death, property damage, or any other form of loss or damage suffered by any person or persons (collectively "Liabilities") arising from the exercise by Declarant or the Foundation, as the case may be, or their respective assigns, of any of the easement rights created in this Section 9, and for claims covered by insurance, to the extent of such insurance coverage, this indemnification shall apply even if any of such Liabilities arise from or are attributable to the concurrent negligence of any Owner. The insurance coverage required under Paragraph 7.1(b) shall include Broad Form Contractual Liability specifically in support of, but not limited to, the indemnity contained herein. The liability of each of the Foundation and Declarant under this indemnification shall be several and separate, it being understood that Declarant shall not indemnify Owners for activities of the Foundation and the Foundation shall not indemnify Owners for activities of Declarant. Further, neither the Foundation nor Declarant shall be liable under this indemnification for the exercise of such easements or reservations by third parties such as police and fire protection.

- 9.16 Prohibition Against Owners Granting Easements. Owners are prohibited from granting any easements or right-of-ways over their Lots, except as permitted herein or expressly approved by the Foundation.

10 OPERATION OF THE PRESERVE.

- 10.1 Wildlife Management and Enhancement Plan. The Foundation, acting through the Preserve Manager and Foundation employees, shall be responsible for the implementation of the Wildlife Management and Enhancement Plan. Should the Foundation desire to change any provisions of the Wildlife Management and Enhancement Plan that implement County approval conditions or land use regulations, and provided there shall be any legal requirement to do so, the consent of the County must be first obtained. Provisions of the Wildlife Management and Enhancement Plan that are not mandated by the County may be reviewed periodically by the Board of Trustees and/or the Foundation's Advisory Board, and changes or additions thereto may be made so long as such changes or additions are consistent with the provisions of this Declaration.
- 10.2 Preserve Manager's Parcel. The Preserve Manager's Parcel includes or may include the Preserve Manager's residence and outbuildings, utility lines and such other improvements or structures as shall be made or installed by Declarant or the Foundation. Use of the Preserve Manager's Parcel shall be subject to any applicable terms, provisions or conditions of County regulations. The Foundation may, consistent with this Declaration and any applicable terms, provisions and conditions of County regulations, promulgate rules and regulations for the use of the Preserve Manager's Parcel.
- 10.3 Water System. The Foundation shall be responsible for the operation, maintenance and repair of the Preserve water system, which system shall, unless otherwise provided in this Declaration, include all domestic, municipal, irrigation and recreational uses. The Foundation shall

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promulgate rules and regulations for the operation and use of the water system, including user and tap fees, limits on usage for on-site ponds, domestic or irrigation purposes and deliveries of water to irrigated lands. Without limit to any other right or remedy provided in this Declaration, monetary penalties or curtailment or cessation of use may be imposed on Owners that exceed entitlement of irrigation or pond water to their Lots. Water rationing or other limitations or restrictions on the use of water may be imposed in times of drought, when necessary to allow for maintenance or repair to the system, by reason of acts of God causing disruptions to the system or for other good cause.

10.4 Maintenance and Repair of Major Roads, Minor Roads and Driveways. The Foundation shall be responsible for snow-plowing, maintenance and repair of Major Roads, Minor Roads and Driveways within the Project outside of the Development Activity Envelopes. Costs of snow-plowing, maintenance and repair of Driveways shall be charged as a special cost center to each Owner based on the length of (and other conditions peculiar to) such Owner's Driveway.

10.5 Operational Limitations. The following limitations shall apply to the operation of the Preserve:

- (a) Agricultural activities shall be consistent with proper wildlife levels.
- (b) Locations and types of fencing to maintain wildlife viability shall be consistent with Utah Division of Wildlife Resources fence regulations.
- (c) Use of certain trails or critical areas shall be scheduled so as to minimize conflict with wildlife at critical times of the year.
- (d) Construction activity and personnel shall be controlled so as to minimize disturbance of wildlife. Construction workers and maintenance people shall not carry firearms or bring dogs to their work sites.
- (e) The County shall be a beneficiary of each of the foregoing limitations and shall also be a beneficiary of the limitations on dogs and cats and certain vehicles set forth in Paragraphs 8.4 and 8.26, above, and none of such limitations may be modified without the consent of the County being first obtained.

## 11 WATER RIGHTS AND DISTRIBUTION SYSTEM.

11.1 Domestic Water System. Domestic water shall be provided to all Lots through individual wells on each Lot, a system of shared individual wells in which a single well might be shared by two or more Lots, and/or a central water system. Distribution lines will generally parallel roads and private driveways for purposes of supplying domestic water, firefighting water and limited irrigation. Owners shall maintain ownership of the water distribution system, including lines and related facilities, relating to the water provided to their respective Lot, and the Foundation thereafter shall be obligated for the operation, maintenance, repair and replacement of the same.

11.2 Potential Central Water System. Notwithstanding the provisions of Paragraph 11.1 above, the Board of Trustees may determine that it is in the best interest of the Preserve to create a central

water system to serve the Lots in the Preserve. The central water system, if constructed, would either be operated by the Foundation or by a water distribution company. The entity responsible for the new central water system will be required to guarantee adequate service to all of the Lots to be served by the new central water system. In the event that such a system is constructed and becomes operational, the Owners of the Lots serviced by the new system will be required to connect to the central water system and convey ownership of all of the then existing water distribution system, including wells, storage tanks, and distribution lines, to the Foundation. The Foundation or the applicable water distribution company will remain obligated to maintain the water distribution facilities up to the edge of the Development Activity Envelope on each Lot. Maintenance of the lines from the Development Activity Envelope to the home will be the responsibility of the Owner.

- 11.3 Water Rights Reserved. Ownership of any Lot in the Preserve excludes all water and water rights, spring and spring rights, ground water and ground water rights, all of which are reserved to Declarant. The foregoing reservation of water rights also includes the right, on the part of Declarant, or the Foundation, to drill and operate on any Lot, outside of Development Activity Envelopes, one or more wells. Declarant has made available to the Foundation water in adequate amounts for the domestic water system, including firefighting and raw water adequate for the purposes of the Wildlife Management and Enhancement Plan.
- 11.4 No Impairment of Water Rights by Owners. In no event shall Owners be entitled to have any standing, by virtue of ownership of said water rights, to object to any application for a well permit, any water rights applications, including but not limited to, a change of water right, approval of any augmentation plans or new water right that may be filed by Declarant or the Foundation, or their assigns. Each Owner hereby irrevocably constitutes and appoints Declarant his attorney-in-fact to file, join in or object as Declarant deems appropriate in its sole discretion to any water rights application affecting any lands within the Preserve.

12 VARIANCES FROM PROTECTIVE COVENANTS.

- 12.1 Variations. The Foundation may, by the majority vote of the members of its Board of Trustees, grant reasonable variances from the strict compliance with the provisions of this Declaration in the case of undue hardship.

13 TERM, AMENDMENT AND TERMINATION OF COVENANTS.

- 13.1 Term. The term of this Declaration shall be perpetual.
- 13.2 Amendment of Protective Covenants. Until Owners have built homes on seventy-five percent (75%) of the Lots within the Preserve and certificates of occupancy have been issued by Summit County on those homes, Declarant shall have the sole and absolute right to amend the protective covenants under this Declaration except as expressly limited elsewhere in this Declaration, provided that such amendment shall not adversely affect marketability of title to any Lot or materially diminish the value of any Lot. In cases where it is determined by the Foundation that any amendment does materially affect marketability of title adversely or materially diminish the

value of a Lot, such amendment may nevertheless be adopted by Declarant as allowed in the sentence immediately preceding so long as at the time such amendment becomes effective: (i) Declarant shall be record owner of the Lot so affected and the affected Lot is not the subject of any contract for sale or (ii) the written consent of the Owner (if other than Declarant) or contract vendee has been obtained. Except as expressly provided elsewhere in this Declaration, consent of Mortgagees shall not be required in order to amend the protective covenants in this Declaration. After the expiration of the period described in the first sentence of this Paragraph 13.2 or earlier written relinquishment by Declarant, if any, the protective covenants under this Declaration may be amended by a two-thirds (2/3) vote of the Owners of all Lots voting in person or by proxy at a meeting duly called for such purpose; provided that such amendment shall not materially affect marketability of title adversely or materially diminish the value of a Lot. Except as expressly provided elsewhere in this Declaration, consent of Owners and Mortgagees shall not be required in order to amend the protective covenants. Any instrument amending the protective covenants under this Declaration shall be duly executed by Declarant. Notwithstanding the preceding, no amendment shall be permitted that is inconsistent with any of the rights granted, retained or reserved to Declarant hereunder or which attempts to enlarge or expand any obligation of Declarant hereunder unless such amendment is consented to in writing by Declarant.

- 13.3 Rule Against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations or obligations created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing like or similar time limits, such provision shall continue only for the period of the lives of C. Michael Nielsen, John R. Gaskill, and David L. Gillette, their now living descendants, and the survivor of them, plus twenty-one (21) years.
- 13.4 Termination. This Declaration may be terminated by the Foundation only as provided in this Declaration. This Declaration shall also terminate in the event of the taking of all of the Preserve by condemnation or eminent domain or abandonment or termination as provided by law.
- 13.5 Disbursement of Proceeds. Upon the termination of this Declaration all property owned by the Foundation shall be sold by the Foundation either in whole or in parcels as the Board of Trustees may deem appropriate. The funds shall be disbursed by the Foundation for the following purposes and in the following order:
- (a) payment of all customary expenses of the sale;
  - (b) payment of all applicable taxes and Special Assessment liens in favor of any governmental authority;
  - (c) payment of the balance of any liens encumbering Foundation property;
  - (d) payment of any unpaid costs, expenses and fees incurred by the Foundation; and

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- (e) payment of any balance to the Owners in the same proportion that they pay Foundation Assessments; provided, however, there shall be deducted from any share due an Owner any delinquent and unpaid Foundation Assessments.

14 CONDEMNATION.

- 14.1 Condemnation of Foundation Property. If any Foundation property is taken or condemned by any authority having the power of eminent domain, all compensation and damages on account of the taking of the Foundation Property, exclusive of compensation for consequential damages to affected Lots, shall be payable to the Foundation and such proceeds shall be used promptly by the Foundation to the extent necessary for repair and reconstruction of remaining Foundation property in as substantial compliance to the original plan of development as possible. If there is an award in excess of the amount necessary to so substantially repair or reconstruct such remaining Foundation property, it shall, at the Board's discretion, be either refunded or retained by the Foundation for such uses as it deems appropriate.

15 INHERENT RISKS OF THE PRESERVE

- 15.1 Assumption of Risks. By taking title to a Lot, the Owner shall be deemed to be aware of and have agreed to, and shall be deemed to have explained and made known to said Owner's spouse, children, other relatives, visitors, invitees, guests and business associates who come onto the Preserve to visit or at the invitation of said Owner (collectively the "Informed Persons"), the following facts: (i) that the Preserve is a rural development and the roads are designed as country lanes to preserve the rural environment as much as is feasible; (ii) that the wildfire hazard rating for the Preserve is considered "high", and the response time for the nearest fire protection station is extended due to the remote location of many of the Lots; (iii) that the Preserve encourages the presence of wildlife and permits, livestock, including horses, within the Preserve; (iv) that narrow, winding roads, remote locations, and the presence of wildlife and livestock pose inherent risks of danger and suffering injury, including, without limitation, death, physical or emotional injury or damage to person, property or third parties, all of which injuries or damage may require costly emergency and/or medical care; and (v) that eliminating the risks of living in an environment such as the Preserve would be anathema to the Owner's decision to live in this particular environment, and would greatly reduce the benefits of living in the Preserve, which benefits the Owner is deemed to want more than the removal of such risks. Therefore, every Owner and every Informed Person shall be deemed, by virtue of coming onto the Preserve, to have made the voluntary decision to confront the risks posed by the existence of country lanes, remote locations, wildlife and livestock, and to have accepted and assumed all of the risks posed by the existence of such roads, locations, wildlife and livestock within the Preserve.

Nothing contained in this provision is intended to absolve Declarant or the Foundation from any duty to abide by all applicable zoning and building ordinances, including, when applicable, any ordinance of Summit County to construct fences, unless the same is waived through official action of said County.

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15.2 Release and Indemnification. Every Owner, by taking title to a Lot, shall be deemed (i) to have released and forever discharged, and to have agreed to indemnify and hold harmless, Declarant and the Foundation from any and all claims, demands, losses, damages, injuries or causes of action, which are in any way connected with or result from the design of narrow, winding roads or Lots in remote locations, or the involvement or contact with wildlife or livestock within the Preserve, including any such claims, demands or causes of action which allege negligent acts or omissions of the Declarant or the Preserve; (ii) to have released Declarant and the Foundation from any duty that either may have to protect the Owner from these risks, which risks Owner, by taking title to a Lot, has acknowledged he or she does not want eliminated because of the detrimental impact on the benefits of the Preserve that would result from eliminating such risks; and (iii) to have indemnified and held harmless Declarant and the Foundation from any and all claims or causes of action which are brought by or on behalf of the Informed Persons with respect to any matters similar to those from which the Owner has released and indemnified Declarant and the Foundation pursuant to the previous provisions of clauses (i) and (ii) of this Paragraph 15.2. The releases and indemnifications contained in this Paragraph 15.2 shall include an indemnification of Declarant and the Foundation by an Owner from any and all attorneys' fees and costs incurred by either of them in enforcing their rights under the provisions of this Section 15.

15.3 Rules and Regulations. Notwithstanding the provisions of Paragraphs 15.1 and 15.2, the Foundation shall have the right, in furtherance of its rights and duties set out in this Declaration, its articles and bylaws, and other law, to enact and adopt such rules and regulations managing wildlife and the keeping of livestock on the Preserve. Adoption of such rules and regulations will not serve to eliminate the assumption of the risks contained in Paragraphs 15.1 and 15.2.

16 MISCELLANEOUS.

16.1 Interpretation of the Covenants. Excepting for judicial construction, Declarant shall, until Owners have built homes on seventy-five percent (75%) of the Lots within the Preserve and Summit County has issued certificates of occupancy on those homes, have the exclusive right to construe and interpret the protective covenants under this Declaration. Thereafter, the exclusive right to construe and interpret the protective covenants of this Declaration shall rest with the Foundation acting by and through its Board of Trustees. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the construction or interpretation of the provisions hereof by Declarant and thereafter the Foundation shall be final, conclusive and binding as to all persons and property benefitted or bound by the protective covenants of this Declaration and provisions hereof. The provisions of the protective covenants under this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development, operation and maintenance of the Preserve.

16.2 Claims Regarding Declarant. The Foundation and all Owners shall have a period of two (2) years from the date Property Conveyed or Leased by Declarant is actually granted, assigned, conveyed or leased to the Foundation, within which to assert by legal action or otherwise any claim, demand, cause of action or lawsuit against Declarant with regard to said Property Conveyed or Leased by Declarant however arising and for whatever cause or reason whatsoever. Nothing herein shall be construed to limit, impair, diminish or bar any claim by the Foundation.

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Owners, Mortgagees, Declarant or any other person with standing to bring such claim to ever assert by legal proceedings or otherwise any claim, demand, cause of action or lawsuit against any engineer, architect, contractor, subcontractor, supplier, materialman or other person involved in the design, installation, manufacture, assembly, construction, operation, maintenance, repair or replacement of any Property Conveyed or Leased by Declarant.

- 16.3 Sales Activity. Declarant may conduct sales activity on the Preserve including, but not limited to, the showing of Lots by Declarant or any sales agents, maintaining a sales or management office, and conducting promotional or marketing events or activities. Declarant may also maintain signs advertising the Preserve.
- 16.4 Conflict with Plat. In the event of any conflict or inconsistency between the provisions of this Declaration and the Plat, including the plat notes thereon, the provisions of the Plat or plat notes, as the case may be, shall govern and control, and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of the Plat, including any plat notes.
- 16.5 Rights of Eligible Mortgage Holders. Any Eligible Mortgage Holder shall be entitled to:
- (a) upon request, inspect the books and records of the Foundation during normal business hours;
  - (b) receive written notice of meetings of the Foundation where the consent of any Eligible Mortgage Holder is required;
  - (c) upon request, obtain copies of Foundation financial statements;
  - (d) receive written notice of condemnation proceedings affecting any Foundation property;
  - (e) receive written notice of the lapse of any insurance that the Foundation is required to maintain under this Declaration; and
  - (f) where the Owner of any Lot shall be deemed delinquent in the payment of any Assessment, any Eligible Mortgage Holder of said Lot shall be given written notice of such delinquency.
- 16.6 Provisions of Declaration Incorporated in Deeds. Each provision contained in this Declaration shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any Lot is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.
- 16.7 No Dedication. Unless expressly provided, nothing contained in covenants under this Declaration shall be deemed to be a gift or dedication of all or any part of the Preserve to the public or for any public use.
- 16.8 Disclaimer. No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees, in connection with the Preserve, or any portion

thereof, or any improvement thereon, its physical condition, zoning, compliance with applicable laws, fitness or intended use or operation, cost of maintenance or taxes except as expressly set forth in this Declaration or except as set forth in any Public Offering Statement required to be given under applicable rules of the Utah State Real Estate Commission.

- 16.9 Special Provisions Regarding Declarant. The Foundation has executed this Declaration for the purpose of subjecting the Preserve Manager's Parcel to the terms, provisions, conditions and restrictions contained in this instrument and for such other purposes as may be provided in this Declaration. The Foundation hereby irrevocably constitutes and appoints Declarant its attorney-in-fact to execute and deliver any instruments, documents or other agreements or to perform any acts with regard to all the rights, powers, titles, privileges or other interest of Declarant hereunder and for the further purpose of performing all of the terms, provisions, conditions and restrictions contained in this instrument which bind, apply to or benefit Declarant.
- 16.10 Designation of Successor. For purposes of this Declaration and the easements, dedications, rights, privileges and reservations set forth herein, a successor and assign of Declarant shall be deemed a successor and assign only as specifically designated by Declarant by instrument recorded in the real estate records of the County, and only with respect to the particular rights or interests specifically designated therein.
- 16.11 Severability. Any determination by any court of competent jurisdiction that any protective covenant under this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other protective covenants hereof. Where any protective covenant under this Declaration is alleged to be or declared by a court of competent jurisdiction to be unconscionable, the Foundation shall have the right by amendment to this Declaration to replace such provision with a new provision, as similar thereto as practicable, but which in Foundation's reasonable opinion would be considered not to be unconscionable.
- 16.12 Run with the Land. The Foundation, for itself, its successors and assigns, hereby declares that all of the Preserve shall be held, used and occupied subject to the protective covenants under this Declaration, and to the restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in the Preserve.
- 16.13 Recording References. All references in this Declaration to maps, plats, agreements, instruments or other documents of record shall mean and refer recordings with the Office of the Recorder of Summit County, Utah.

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IN WITNESS WHEREOF, the Declarant has executed this Declaration the 20th day of May, 1997.

REDHAWK DEVELOPMENT, L.L.C.,  
a Utah limited liability company

By: Redhawk Management, L.L.C., Its Manager

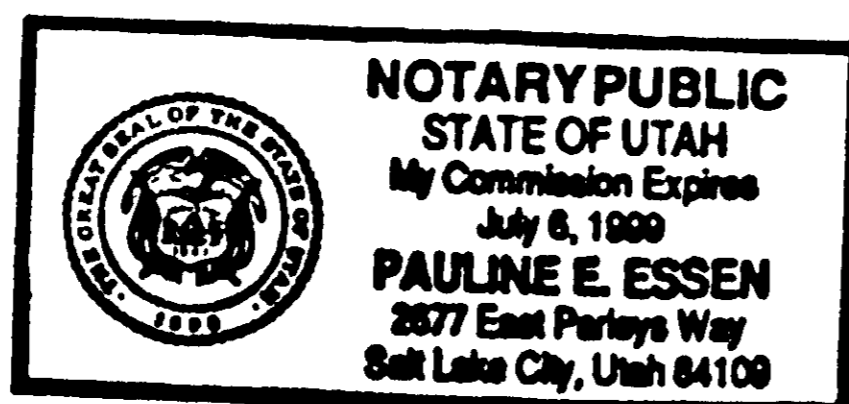
By: Redhawk Investors, L.L.C., Its Manager

By: David L. Gillette  
David L. Gillette, Its Manager

ACKNOWLEDGMENT  
(LLC)

STATE OF UTAH            )  
  : ss.  
COUNTY OF SALT LAKE )

On this 20th day of May, 1997 before me personally appeared David L. Gillette, to me personally known to be the Manager of Redhawk Investors, L.L.C., the company that executed the within instrument, known to me to be the person who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.



Pauline E. Essen  
Notary Public

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EXHIBIT "A"

RED HAWK WILDLIFE PRESERVE PROJECT LEGAL DESCRIPTION

Summary

Parcel 1: 272 acre (approx.) parcel in Section 5, T1S, R4E, SLB&M.  
Parcel 2: 638 acre (approx.) parcel in Section 8, T1S, R4E, SLB&M.  
Parcel 3: 21 acre (approx) parcel in Section 9, T1S, R4E, SLB&M.  
Parcel 4: 0 acres (Rights of Way and Easements through Parcels 1-3.)  
Parcel 5: 108 acre parcel (approx.) owned by Milton O. Bitner Co, in Sections 4 & 5, T1S, R4E, SLB&M  
Parcel 6: 603 acre (approx.) parcel in Section 6, T1S, R4E, SLB&M  
Parcel 7: 658 acre (approx.) parcel in Section 7, T1S, R4E, SLB&M

The parcels described herein total approximately 2300 acres.

**PARCEL 1:**

All of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian,  
EXCEPTING THEREFROM the following 5 tracts:

EXCEPTION 1:

BEGINNING at a point East 981 feet: from the Northwest corner of Section 5, Township 1 South, Range 4 East; thence East 326 feet along the Section line; thence South 1000 feet; thence West 326 feet; thence North 1000 feet to BEGINNING.

TOGETHER WITH an adequate right of way at least 50 feet in width over Grantor's property and subject to right of way over existing roadways.

EXCEPTION 2:

BEGINNING at a point East 1307 feet from the Northwest corner of Section 5, Township 1 South, Range 4 East; thence East along the Section line 870 feet; Thence South 1000 feet; Thence West 870 feet; thence North 1000 feet to BEGINNING.

TOGETHER WITH an adequate right of way at least 50 feet in width over Grantor's property and subject to right of way over existing roadways.

EXCEPTION 3:

BEGINNING; at a point 2177 feet East from the Northwest corner of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian; thence East along the Section line 423 feet; thence South 1029 feet; thence West 423 feet; thence North 1029 feet to the point of BEGINNING.

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**EXCEPTION 4:**

BEGINNING at the Southeast corner of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 89°45'34" West 2652.05 feet more or less along the South line of said Section to the South quarter corner of said Section 5; thence North 00°2'50" West 2696.26 feet along the quarter Section line to the center of said Section 5; thence North 89°39'30" East 2654.72 feet more or less to the East quarter corner of said Section 5; thence East 330.01 feet to an existing fence line; thence South 00°00'06" West 2702.20 feet along said fence line to an existing iron pipe, in a fence corner; thence North 89°47'07" West 330.35 feet along an existing fence line to the point of BEGINNING.

TOGETHER WITH a right of way 100 feet in width for ingress and egress, said right of way being 50 feet on each side of the following described center line:

BEGINNING at a point which is East 290.40 feet from the Southwest corner of Section 9, Township 1 South Range 4 East, Salt Lake Base and Meridian; and running thence North 10°24'43" East 80.35 feet; thence North 00°15'50" West 1344.26 feet; thence North 08°17'52" West 324.59 feet; thence North 24°06'15" West 116.17 feet; thence North 61°51'53" West 912.86 feet; thence North 58°43'03" West 276.53 feet; thence North 34°25'07" West 302.84 feet; thence North 17°09'09" West 490.38 feet; thence North 32°31'12" West 218.58 feet; thence North 18°30'43" West 722.90 feet; thence North 04°59'44" West 196.12 feet; thence North 20°15'51" East 284.87 feet; thence North 04°57'03" West 395.75 feet; thence North 11°16'06" East 112.41 feet; thence North 51°17'55" East 345.44 feet; thence North 09°10'52" West 184.10 feet; thence North 08°23'56" East 32.74 feet to the Southerly line of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian.

**EXCEPTION 5:**

BEGINNING at the Northeast corner of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 89°57'17" East 329.76 feet to an old existing fence line; thence South 00°00'06" West 2105.14 feet along said fence line; thence West 330.01 feet; thence South 89°39'30" West 1817.02 feet; thence North 00°00'32' East 2116.71 feet to the Northerly line of said section; thence South 89°59'06" East 1816.98 feet to the point of BEGINNING.

**PARCEL 2:**

All of Section 8, Township 1 South, Range 4 East, Salt Lake Base and Meridian, EXCEPTING THEREFROM those portions lying within the East one-half of the East half of the Northeast quarter of the Northeast quarter of said Section and Silver Creek Estates Unit "C" Subdivision recorded September 18, 1963 as Entry No. 97485 in the office of the Summit County Recorder.

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**PARCEL 3:**

The South 240 rods of the West 20 rods of Section 9, Township 1 South, Range 4 East, Salt Lake Base and Meridian, EXCEPTING THEREFROM any portion lying within Silver Creek Estates, Unit C (described above).

EXCEPTING from Parcels 2 & 3 those portions of the following described tract lying within said parcels:

Beginning at a point which is South 1241.49 feet and East 330.00 feet from the Northeast corner of Section 8, Township 1 South, Range 4 East, Salt Lake Base and Meridian (said point being on an existing fence corner and a 2" pipe) and running thence South 00°02'02" East 1320.00 feet along an old existing fence line; thence North 81°11'19" West 1463.43 feet to the Easterly edge of a dirt road; thence North 17°09'09" West 70.80 feet along said road; thence North 32°30'27" West 218.77 feet along said road; thence North 18°30'43" West 650.38 feet along said road; thence North 82°46'31" East 1804.65 feet to the point of Beginning.

Together with a right of way 22 feet in width for ingress and egress, said right of way being 11 feet on each side of the following described center line:

Beginning at a point which is South 1433.19 feet and West 2200.34 feet from the Southeast corner of Section 17, Township 1 South Range 4 East, Salt Lake Base and Meridian (said point being on the center line of an existing dirt road and the Northerly line of a County Road); and running thence North 12°37'36" West 90.16 feet; thence North 16°44'02" West 204.35 feet; thence North 02°00'32" East 59.86 feet; thence North 49°08'45" East 510.31 feet; thence North 79°39'38" East 258.66 feet; thence North 32°48'09" East 174.02 feet; thence North 11°01'47" West 579.08 feet, more or less, to the Southerly line of Section 17; thence North 00°22'58" West 176.11 feet; thence North 03°50'31" East 1700.84 feet; thence North 27°13'53" East 1568.28 feet; thence North 50°09'35" East 1041.33 feet; thence North 29°34'05" East 317.20 feet; thence North 06°08'20" East 687.26 feet; thence North 11°44'41" East 399.59 feet, more or less to the point of beginning of the right of way set forth next below.

Together with a right of way 22 feet in width for ingress and egress, said right of way being 11 feet on each side of the following described center line:

BEGINNING at a point which is East 290.40 feet from the Southwest corner of Section 9, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and running thence North 10°24'43" East 80.35 feet; thence North 00°15'50" West 1344.26 feet; thence North 08°17'52" West 324.59 feet; thence North 24°06'15" West 116.17 feet; thence North 61°51'53" West 912.86 feet; thence North 58°43'03" West 276.53 feet; thence North 34°25'07" West 302.84 feet; thence North 17°09'09" West 490.38 feet;

thence North 32°31'12" West 218.58 feet;      thence North 18°30'43" West 722.90 feet;  
thence North 04°59'44" West 196.12 feet;      thence North 20°15'51" East 284.87 feet;  
thence North 04°57'03" West 395.75 feet;      thence North 11°16'06" East 112.41 feet;  
thence North 51°17'55" East 345.44 feet;      thence North 09°10'52" West 184.10 feet;  
thence North 08°23'56" East 32.74 feet to the Southerly line of Section 5, Township 1 South,  
Range 4 East, Salt Lake Base and Meridian.

**PARCEL 4:**

The above described subject: Parcels 1 thru 3 are together with and subject to the following described rights of way and easements:

RIGHT OF WAY NO. 1

A right of way 100 feet in width for ingress and egress, said right of way being 50 feet on each side of the following described center line:

Beginning at a point which is South 1433.19 feet and West 2200.34 feet from the Southeast corner of Section 17, Township 1 South Range 4 East, Salt Lake Base and Meridian (said point being on the center line of an existing dirt road and the Northerly line of a County Road); and running thence North 12°37'36" West 90.16 feet; thence North 16°44'02" West 204.35 feet; thence North 02°00'32" East 59.86 feet; thence North 49°08'45" East 510.31 feet; thence North 79°39'38" East 258.66 feet; thence North 32°48'09" East 174.02 feet; thence North 11°01'47" West 579.08 feet, more or less, to the Southerly line of Section 17; thence North 00°22'58" West 176.11 feet; thence North 03°50'31" East 1700.84 feet; thence North 27°13'53" East 1568.28 feet; thence North 50°09'35" East 1041.33 feet; thence North 29°34'05" East 317.20 feet; thence North 06°08'20" East 687.26 feet; thence North 11°44'41" East 399.59 feet, more or less to the point of beginning of the right of way set forth next below.

RIGHT OF WAY NO. 2

A right of way 100 feet in width for ingress and egress, said right of way being 50 feet on each side of the following described center line:

BEGINNING at a point which is East 290.40 feet from the Southwest corner of Section 9, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and running  
thence North 10°24'43" East 80.35 feet;      thence North 00°15'50" West 1344.26 feet;  
thence North 08°17'52" West 324.59 feet;      thence North 24°06'15" West 116.17 feet;  
thence North 61°51'53" West 912.86 feet;      thence North 58°43'03" West 276.53 feet;  
thence North 34°25'07" West 302.84 feet;      thence North 17°09'09" West 490.38 feet;  
thence North 32°31'12" West 218.58 feet;      thence North 18°30'43" West 722.90 feet;

thence North 04°59'44" West 196.12 feet; thence North 20°15'51" East 284.87 feet;  
thence North 04°57'03" West 395.75 feet; thence North 11°16'06" East 112.41 feet;  
thence North 51°17'55" East 345.44 feet; thence North 09°10'52" West 184.10 feet;  
thence North 08°23'56" East 32.74 feet to the Southerly line of Section 5, Township 1  
South, Range 4 East, Salt Lake Base and Meridian.

RIGHT OF WAY NO. 3

Easement and right of way for an existing dirt road over, along and across the following  
described centerline as follows:

BEGINNING at a point which is South 89°45'34" West 1176.53 feet from the Southeast  
corner of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian; and  
running thence North 08°23'56" East 84.08 feet; thence North 58°44'30" East 137.13 feet;  
thence North 85°03'11" East 235.29 feet; thence North 46°02'01" East 160.26 feet; thence  
North 63°23'39" East 165.68 feet; thence North 29°18'53" East 151.62 feet; thence North  
67°55'51" East 79.45 feet; thence South 74°56'05" East 185.32 feet; thence North  
81°39'34" East 70.26 feet; thence North 34°50'04" East 136.37 feet; thence North  
54°53'29" East 174.64 feet; thence North 38°59'35" East 160.40 feet; thence North  
22°34'56" East 89.74 feet; thence North 01°38'34" East 85.45 feet; thence North 04°06'23"  
West 208.81 feet; thence North 09°43'41" West 381.17 feet; thence North 23°57'06" West  
83.02 feet; thence North 30°21'34" West 670.40 feet; thence North 06°47'06" West 53.74  
feet; thence North 04°12'57" East 92.05 feet; thence North 32°02'28" West 24.43 feet;  
thence North 52°10'06" West 502.71 feet to a point on the North line of the Southeast  
quarter of said Section, which is West 656.44 feet from the East quarter corner of said  
Section 5.

RIGHT OF WAY NO. 4

Easement and Right of Way for an existing dirt road over, along and across the following  
described centerline as follows:

BEGINNING at a point which is South 2109.33 feet and West 656.44 feet from the  
Northeast corner of Section 5, Township 1 South, Range 4 East, Salt Lake Base and  
Meridian; and running thence North 52°10'06" West 324.78 feet; thence North 15°29'16"  
West 205.75 feet, thence North 13°52'39" West 72.25 feet; thence North 26°48'51" West  
184.15 feet; thence North 12°04'08" West 181.58 feet to a point which is South 1300.00  
feet from the Northerly line of said Section.

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**PARCEL 5:**

BEGINNING at the Southeast corner of Section 5, Township 1 South, Range 4 East, Salt Lake  
Base and Meridian; and running thence South 89°45'34" West 2652.05 feet more or less along the

South line of said Section to the South quarter corner of said Section 5; thence North 00°2'50" West 2696.26 feet along the quarter Section line to the center of said Section 5; thence North 89°39'30" East 2654.72 feet more or less to the East quarter corner of said Section 5; thence East 330.01 feet to an existing fence line; thence South 00°00'06" West 2702.20 feet along said fence line to an existing iron pipe, in a fence corner; thence North 89°47'07" West 330.35 feet along an existing fence line to the point of BEGINNING.

TOGETHER WITH a right of way 100 feet in width for ingress and egress, said right of way being 50 feet on each side of the following described center line:

BEGINNING at a point which is East 290.40 feet from the Southwest corner of Section 9, Township 1 South Range 4 East, Salt Lake Base and Meridian; and running  
thence North 10°24'43" East 80.35 feet;      thence North 00°15'50" West 1344.26 feet;  
thence North 08°17'52" West 324.59 feet;      thence North 24°06'15" West 116.17 feet;  
thence North 61°51'53" West 912.86 feet;      thence North 58°43'03" West 276.53 feet;  
thence North 34°25'07" West 302.84 feet;      thence North 17°09'09" West 490.38 feet;  
thence North 32°31'12" West 218.58 feet;      thence North 18°30'43" West 722.90 feet;  
thence North 04°59'44" West 196.12 feet;      thence North 20°15'51" East 284.87 feet;  
thence North 04°57'03" West 395.75 feet;      thence North 11°16'06" East 112.41 feet;  
thence North 51°17'55" East 345.44 feet;      thence North 09°10'52" West 184.10 feet;  
thence North 08°23'56" East 32.74 feet to the Southerly line of Section 5, Township 1 South, Range 4 East, Salt Lake Base and Meridian.

**PARCEL 6:**

All of Section 6, Township 1 South, Range 4 East, Salt Lake Base and Meridian.

**PARCEL 7:**

All of Section 7, Township 1 South, Range 4 East, Salt Lake Base and Meridian

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EXHIBIT "B"

RED HAWK WILDLIFE PRESERVE

LEGAL DESCRIPTION OF POTENTIAL FUTURE PHASE

Summary

Parcel 8: 475 acre parcel owned by Porcupine Ridge, L.L.C. in Section 31, T1N, R4E, SLB&M..  
Parcel 9: 125 acre parcel owned by Milton O. Bitner Co. in Section 31, T1N, R4E, SLB&M.

Total future phase property is approximately 600 acres.

**PARCEL 8:**

BEGINNING at the Southwest corner of Section 31 Township 1 North, Range 4 East, Salt Lake Base and Meridian, thence North along the section line 871.2 ft, thence East 1800 ft, thence South 24°39'42" East 958.64 ft to the South line of Section 31; thence 2200.0 ft West to the point of Beginning. (Contains 40 acres.)

also

That portion of lots 116, 117, 118, 119 of Stagecoach Estate Plat "D" Subdivision lying in the W ½ and the W 247.5 ft of the E ½ of Section 31, Township 1 North, Range 4 East, Salt Lake Base and Meridian. (Contains approx. 18.91 acres).

also

W ½ of Section 31 Township 1 North, Range 4 East, Salt Lake Base and Meridian (Contains 444.60 acres and with 247.5 ft of E ½ of Section 31 Containing 30 acres, less 40 acres)

**PARCEL 9:**

E ½ of Section 31, Township 1 North, Range 4 East, Salt Lake Base and Meridian containing 320.0 acres. Less the West 247.5 feet of the East ½ of Section 31 containing 30 acres, less 165.22 acres included in Stagecoach Estates Plat "D" Subdivision 470-31-C. Total acreage 124.78 acres.

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