

**AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS,  
AGREEMENTS, CONDITIONS AND RESTRICTIONS FOR  
THE COVE AT SUN PEAK  
(A/K/A WINTER PARK AT SUN PEAK)**

The Cove at Sun Peak is a development consisting of nine (9) estate lots (the "Estate Lots"), thirty-one (31) twin-homes comprising a total of sixty-two (62) individual twin-home units (the "Twin Homes"), and eighteen (18) condominium units (the "Condominiums").

On June 12, 1996, a Declaration of Protective Covenants, Agreements, Conditions and Restrictions for The Cove at Sun Peak was recorded in the office of the Summit County Recorder as Entry No. 456155 (the "Initial Declaration"). The Initial Declaration applied to all eighty-nine (89) units within The Cove at Sun Peak, including the Estate Lots, the Twin Homes and the Condominiums.

On March 3, 2004, an Amended and Restated Declaration of Protective Covenants, Agreements, Conditions and Restrictions for The Cove at Sun Peak (a/k/a Winter Park at Sun Peak) was recorded in the office of the Summit County Recorder as Entry No. 690688, which replaced the Initial Declaration in its entirety (the "Restated Declaration"). Similar to the Initial Declaration, the Restated Declaration applies to all eighty-nine (89) units within The Cove at Sun Peak, including the Estate Lots, the Twin Homes and the Condominiums. However, due to an inadvertent oversight, when the Restated Declaration was recorded on March 3, 2004, it was only recorded against the Estate Lots and the Twin Homes, and was not recorded against the Condominiums.

The Restated Declaration, a copy of which is attached hereto, is now being recorded against the Condominiums in order to clarify and confirm that the Restated Declaration replaces the Initial Declaration in its entirety with respect to the Condominiums in the same manner in which the Restated Declaration replaces the Initial Declaration in its entirety with respect to the Estate Lots and Twin Homes. This is consistent with the fact that when an amendment to the Restated Declaration was recorded in the office of the Summit County Recorder on August 6, 2007, the amendment was recorded against all eighty-nine (89) units within The Cove at Sun Peak, including the Estate Lots, the Twin Homes and the Condominiums.

Dated this 27<sup>th</sup> day of October, 2010.

**THE COVE AT SUN PEAK  
HOME OWNERS ASSOCIATION**

By: Laurie Garland  
Laurie Garland, President

{Acknowledgement on Following Page}

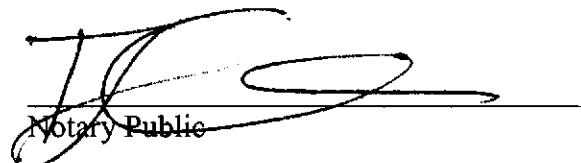
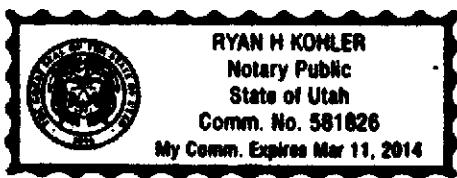
### **Acknowledgement**

State of Utah )  
: ss.

County of Summit )

*29th*

On this the 27<sup>th</sup> day of October, 2010, personally appeared before me, LAURIE GARLAND, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the foregoing instrument, who being duly sworn, acknowledged that she executed the foregoing instrument in her capacity as PRESIDENT of THE COVE AT SUN PEAK HOME OWNERS ASSOCIATION, and that she did so of her own voluntary act.



*Ryan H. Kohler*  
Notary Public

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11 EXHIBIT A  
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21  
22  
23  
24

When Recorded return to:  
The Cove @ Sun Peak (aka Winter  
Park @ Sun Peak) HOA  
P.O. Box 2220  
Park City, Utah 84060

AMENDED AND RESTATED

DECLARATION OF PROTECTIVE COVENANTS,

AGREEMENTS, CONDITIONS AND RESTRICTIONS FOR

***THE COVE AT SUN PEAK  
(aka, WINTER PARK AT SUN PEAK)***

Summit County, Utah

November 2003

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Q0690688 Bk01602 Pg01643-  
ALAN SPRIGGS, SUMMIT CO RECORDER  
2004 MAR 03 12:39 PM FEE \$224.00 BY MAT  
REQUEST: COVE AT SUN PEAK

BK1602 PG1643

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BK1602 PG1644

34 AMENDED AND RESTATED  
35

36 DECLARATION OF PROTECTIVE COVENANTS,  
37 AGREEMENTS, CONDITIONS AND RESTRICTIONS FOR  
38

39  
40 ***THE COVE AT SUN PEAK***  
41 ***(aka, WINTER PARK AT SUN PEAK)***  
42

43  
44 THIS Amended and Restated Declaration of Protective Covenants, Agreements, Conditions and  
45 Restrictions for The Cove at Sun Peak (also known as the Winter Park at Sun Peak) is made by  
46 The Cove at Sun Peak Home Owners Association (aka Winter Park at Sun Peak Home Owners  
47 Association ) pursuant to Title 57, Chapter 8 of the Utah Code to establish the subdivision  
48 project, and set forth the terms and conditions of its governance.  
49

- 50 A. The subdivision is approximately 98.4 acres of land in Summit County, Utah, consisting  
51 of 31 twin home units, 18 condominiums and 9 Estate home sites, together with streets,  
52 underground utilities, and other improvements necessary for the use and occupancy of the  
53 dwellings.
- 54 B. The provisions of this Declaration are intended to be equitable servitudes that run with  
55 the land for the mutual benefit of the owners of each of the Units created within the  
56 project.
- 57 C. The Cove at Sun Peak (also known as Winter Park at Sun Peak) Subdivision Plat and the  
58 Bear Lodge (currently known as the Lillehammer Lodges) Condominiums Condominium  
59 Plat for the Cove at Sun Peak has been recorded in the office of the Summit County  
60 Recorder on June 12, 1996 as Entries Number 456153 and 456154  
61 and are not altered or amended by this First Amended Declaration.  
62
- 63 D. The Cove at Sun Peak Subdivision (aka, Winter Park Subdivision) is a part of the Master  
64 Planned Community of Sun Peak. To that end, The Cove (aka, Winter Park) at Sun Peak  
65 is subject to all of the terms and conditions of that certain Master Declaration of  
66 Conditions and Restrictions for Sun Peak, Summit County, Utah.  
67

68 Now, therefore, in furtherance of the overall construction of the Project, the Declarant adopts the  
69 following declaration of condominium:  
70

71 BK1602 PG1645  
72

## ARTICLE I

## DEFINITIONS

76 1. When used in this Declaration, these defined terms shall have following meaning, unless  
77 the context clearly requires otherwise:

1.1     “Act” shall mean the Utah Condominium Ownership Act, Section 57-8-1 et seq. of the Utah Code.

1.2 “Amendment” shall mean any subsequent amendment to this Declaration.

1.3     “Arrears” shall mean an overdue debt to the Association as prescribed by the Association’s Delinquent Assessment Policy.

1.4     “Articles of Incorporation” shall mean and refer to the Articles of Incorporation of The Cove (aka, Winter Park) at Sun Peak Homeowners Association, Inc. on file or to be filed with the Utah Department of Commerce.

1.5     “Association” shall mean The Cove (aka, Winter Park) at Sun Peak Homeowners Association, which is the designated management entity for the management of the Project under the Act. The Association may be incorporated, or may function as an unincorporated association.

1.6 “Board of Trustees” shall mean and refer to the Board of Trustees of Owners elected to direct the affairs of the Association, sometimes also referred to as the “Board of Trustees”.

1.7 "Building" shall mean and refer to any of the structures constructed in the Project.

1.8. **“Business Use and Trade”** shall mean and refer to any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: a) such activity is engaged in full or part-time; b) such activity is intended to or does generate a profit; or c) a license is required therefore

1.9    "By-Laws" shall mean the By-Laws of the Association, as they may be amended from time to time.

1.10 **“Capital Improvement”** shall mean and refer to all new improvements intended to add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.

1.11 "Committee" shall mean and refer to the Board of Trustees of the Association or

117 if the context requires any subcommittee as duly constituted.  
118

119 1.12 “Common Expense” shall mean and refer to:(a) All sums lawfully assessed  
120 against the Owners; (b) Expenses of administration, maintenance, repair or replacement  
121 of the Project; (c) Expenses allocated by the Association among the Owners; (d)  
122 Expenses agreed upon as “common expenses” by the Association; and (d) Expenses  
123 declared “common expenses” by the Declaration.

124  
125 1.13 “Common Area” shall mean those elements of the Project that are defined as  
126 Common Area below, or designated as Common Area on the Record of Subdivision Plat.  
127

128 1.14 “Common Area Assessments” or “Assessments” shall mean the assessments  
129 levied by the Association for the purpose of maintaining, improving, and repairing  
130 Common Areas of the Project, including routine and special assessments.

131  
132 1.15. “Community” shall mean and refer to the Project.  
133

134 1.16. “Community Wide Standard” shall mean and refer to the standard of conduct,  
135 maintenance, or other activity generally prevailing in the Community, as determined by  
136 the Board of Trustees from time to time.  
137

138 1.17 “Condominium” shall mean the Lillehammer Lodge Condominiums, and may be  
139 referred to as The Lodges.  
140

141 1.18 “Condominium Plat” shall mean and refer to the Bear (currently Lillehammer)  
142 Lodges condominiums, together with the subdivision plat for The Cove (aka, Winter  
143 Park), at Sun Peak Project, which were filed for record in the office of the Summit County  
144 Recorder on 6/12/1996 as Entry Numbers 456153 and 456154 and any subsequent  
145 amendments that may be filed under the terms of this Declaration, as amended or  
146 supplemented from time to time.  
147

148 1.19 “Declarant” shall mean The Cove (aka, Winter Park) Home Owners Association.  
149

150 1.20 “Declaration” shall mean this Declaration of The Cove (aka, Winter Park)Home  
151 Owners Association Subdivision, and any subsequent amendments adopted by the Owner,  
152 together with any Supplemental Declarations.  
153

154 1.21 “Eligible Insurer” shall mean and refer to an insurer or governmental guarantor of  
155 a mortgage or trust deed that has requested notice in writing of certain matters from the  
156 Association in accordance with this Declaration.  
157

158 1.22 “Eligible Mortgagee” shall mean and refer to a mortgagee, beneficiary under a  
159 trust deed, or lender who has requested notice in writing of certain matters from the  
160 Association in accordance with this Declaration.  
161

162     1.23    “Eligible Votes” shall mean and refer to those votes available to be cast on any  
163    issue before the Association or the Board of Trustees. A vote, which is for any reason  
164    suspended, is not an “eligible vote”.

165  
166     1.24    “Family” shall mean one of the following: (1) a single person living alone, (2) a  
167    group of natural persons related to each other by blood or legally related to each other by  
168    marriage or adoption, such as a parent, child, grandparent, grandchild, brother, sister,  
169    uncle, aunt, nephew, niece, great-grandparent or great-grandchild, and an additional person  
170    or persons as domestic help or as a caretaker; or (3) a group of unrelated persons, not  
171    greater than the established limit of occupants allowed for the unit, living and cooking  
172    together as a single housekeeping unit and maintaining a common household, but not as a  
173    boarding or rooming house.

174  
175     1.25    “Land” shall mean and refer to all of the real property subject to this Declaration.

176  
177     1.26    “Limited Common Areas” will mean those areas of the Project, up to a maximum  
178    of 12 feet from the rear wall of the twin home, that are not part of a Unit, but which are  
179    reserved for the exclusive use of a particular Unit. Limited Common Areas are shown on  
180    the subdivision plat and the Condominium Plat, but are also described in the Declaration.  
181    Any portico, colonnade, Unit entry, doorsteps, landings, porches, balconies, decks, patios,  
182    private yard areas, garages, carports, assigned parking spaces, storage lockers, or other  
183    improvements intended to serve only a single Unit, shall constitute Limited Common Area  
184    appertaining to that Unit exclusively, whether or not the Condominium Plat makes such a  
185    designation.

186  
187     1.27    “Majority” shall mean and refer to those eligible votes of Owners or other groups  
188    as the context may indicate totaling more than fifty (50.0%) percent of the total eligible  
189    number.

190  
191     1.28    “Manager” shall mean and refer to the person or entity appointed or hired by the  
192    Association to assist in the administration, management and operation of the Project.

193  
194     1.29    “Map” shall mean and refer to the Condominium Plat on file in the office of the  
195    County Recorder of Summit County, Utah.

196  
197     1.30    “Member” shall mean and refer to the Owner of a Unit who by virtue of his  
198    ownership is a member of the Association, unless the context clearly requires otherwise.

199  
200     1.31    “Mortgage” shall mean any purchase money financing for the purchase of any  
201    Unit, whether it takes the form of a Trust Deed, Mortgage, or contract for deed.

202  
203     1.32    “Mortgagee” shall mean the holder of any purchase money security interest in any  
204    Unit.

205  
206     1.33    “Owner” shall mean the owner of any Unit, but shall exclude any Mortgagee who

207 holds title only for security purposes but is not in exclusive possession of the Unit. Owner  
208 shall not include persons renting or leasing a Unit from the Owner.

209  
210 1.34    "Person" shall mean and refer to a natural person, corporation, partnership, trust,  
211 limited liability company, or other legal entity.

212  
213 1.35    "Project" shall mean the entire condominium/subdivision area, including all  
214 Units, Common Areas, and Limited Common Areas to the extent they have not been  
215 withdrawn from the Project. The Project may also be referred to as "subdivision".

216  
217 1.36    "Property" shall mean the land on which the Project is constructed. The  
218 boundaries of the Project include the land described on Exhibit A.

219  
220 1.37    "Record of Survey Map" or "Map" shall mean the official Record of Survey Map  
221 now known under the Act as the Condominium Plat

222  
223 1.38    "Recreational, Oversized or Commercial Vehicle" shall mean and refer to any  
224 recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor,  
225 golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer,  
226 boat or other watercraft, boat trailer, or any other recreational or commercial transportation  
227 device of any kind.

228  
229 1.39.    "Repair" shall mean and refer to merely correcting the damage done sometimes by  
230 accident or fire or other cause, but more often due to the ravages of time and the  
231 deterioration resulting from ordinary wear and tear, by substituting for the damage,  
232 decayed or worn-out parts, new material, usually similar to that replaced, and so restoring  
233 the structure to its original sound condition.

234  
235 1.40.    "Single Family Residence" shall mean and refer to both the architectural style of a  
236 Unit and the nature of the residential use permitted.

237  
238 1.41    "Survey Map" shall mean and refer to the Condominium Plat on file in the office of  
239 the County Recorder of Summit County, Utah.

240  
241 1.42    "Twin Homes" shall mean the duplexes.

242  
243 1.43    "Total Vote or Votes" shall mean and refer to *all* of the undivided ownership  
244 interest in the Common Areas and Facilities, including ineligible votes

245  
246 1.44    "Total Voting Rights" shall mean and refer to *all* of the voting rights of the  
247 undivided ownership interest in the Common Areas and Facilities, including the rights of  
248 the holders of ineligible votes.

250        1.45    “Unit” shall mean the portion of the Project that has been designated as a Unit in  
251    the Condominium Plat and by the Declaration. The Unit is privately owned, subject to the  
252    terms of this Declaration. Unless expressly stated otherwise in Section 3.1 below, each  
253    Unit shall include that separate physical part of the Property intended for independent use,  
254    including one or more rooms or spaces located in one or more floors or part or parts of  
255    floors in a building. Mechanical equipment and appurtenances located within any one  
256    Unit, or located without said Unit but designated and designed to serve only that Unit,  
257    such as appliances, electrical receptacles and outlets, air conditioning compressors,  
258    furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be  
259    considered part of the Unit; so shall all decorated surfaces of interior walls, floors and  
260    ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and  
261    window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes,  
262    wires, conduits, or other utility lines or installations constituting a part of the Unit or  
263    serving only the Unit, and any structural members, parts, components or any other property  
264    of any kind, including fixtures or appliances within any Unit, which are removable without  
265    jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building  
266    within which the Unit is located shall be deemed to be part of the Unit.

267        1.46    “Unit Number” shall mean the designated number assigned to each Unit on the  
268    Condominium Plat. The Unit Number shall be the legal description of the Unit by which it  
269    is conveyed and assessed.

270        1.47    “Vote” shall mean the percentage of the total voting rights of the Project allocated  
271    to each Unit, as shown on Exhibit B.

272        1.48    Winter Park @ Sun Peak and The Cove @ Sun Peak, shall for purposes of this  
273    document refer to the same Association, Subdivision and Project.

277

## ARTICLE II

278

## SUBMISSION TO THE ACT

279

280 2. The Association hereby re-submits the Project, the Property, and all improvements to the  
281 Property to the provisions of the Act All Property within the Project shall be held, occupied,  
282 used, sold, mortgaged, assessed, and otherwise possessed as condominium/subdivision property  
283 subject in all respects to the Act. All of the Project is subject to the covenants, conditions, and  
284 restrictions contained in this Declaration, each of which is intended to be for the mutual burden  
285 and benefit of the Project, and for each of the Owners within the Project, for the purpose of  
286 creating a common pattern of use and development. The covenants, conditions, and restrictions  
287 are intended to be covenants running with the land, binding on the successors, assigns, lessees,  
288 and Mortgagees of each Owner for so long as the Property is subject to the Act.

289

290 2.1 Term of Declaration. This declaration shall remain in full force and effect until the  
291 Owners elect to terminate the project, or the Project is destroyed and liquidated as  
292 provided below.

293

294 2.2 Designation of Unit. The Condominium Plat has designated a Unit number for  
295 each Unit. That Unit number shall be the legal description of the Unit, and each Unit shall  
296 constitute a separate parcel of real property which can be conveyed, mortgaged, taxed,  
297 and otherwise identified by the description: "Unit Number - of The Cove (aka, Winter  
298 Park) at Sun Peak Condominium/Subdivision, as it appears of record in the office of the  
299 Summit County Recorder, together with its appurtenant interest in the common areas."

300

301 2.3 Nature of Ownership. Each Unit shall convey not only the Unit itself, but an  
302 appurtenant undivided interest in the Common Areas. The undivided interest is based on  
303 the proportion of the floor area of the Unit relative to the total floor area of all Units in  
304 the Project. The percentage undivided interest in the Common Area is shown on Exhibit  
305 B. The undivided interest of each Unit Owner in the Common Areas and Facilities shall  
306 have a permanent character and shall not be altered without the consent of two-thirds of  
307 the Unit Owners expressed in an amended declaration duly recorded.

308

309 2.4 Consent to Declaration. Acceptance of a deed to a Unit in The Cove (aka, Winter  
310 Park) @ Sun Peak subdivision is deemed to be consent to the terms and conditions of this  
311 Declaration, and the restrictions, assessments and obligations it creates, and to be bound  
312 thereby.

313

314 2.5 Easements for Encroachment. To the extent that any building is constructed or due  
315 to settlement or shifting later inadvertently encroaches on Common Areas, or that  
316 Common Areas encroach upon Units as a result of construction or settlement, the Owners  
317 and the Association each grant to the other easements for such encroachments.

318

BK1602 PG1651

319       2.6    Easements for Repairs. To the extent necessary to efficiently complete any repairs  
320    to Common Areas, the Owners of each Unit are subject to an easement and right of entry  
321    through each Unit for the benefit of the Association and the adjoining Unit Owner.  
322    Specifically including attics, crawl spaces, party walls, and any common utility facilities.  
323    Although unlikely in this building configuration, each Owner also grants the Association  
324    the right to enter his or her Unit in cases of emergencies to secure the Unit, or to  
325    disconnect utilities as necessary to prevent damage to the adjoining Unit until repairs can  
326    be arranged. The Manager or Board of Trustees shall have the right to access each Unit:  
327    (a) from time to time during reasonable hours and after reasonable notice to the residents  
328    of the Unit being entered, as may be necessary for such maintenance, repair or  
329    replacement of any of the Common Areas and Facilities; or (b) for making emergency  
330    repairs necessary to prevent damage to the Common Areas and Facilities or to another  
331    Unit or Units, provided that a reasonable effort is made to provide notice to the residents  
332    of the Unit prior to entry.

333  
334       2.7    Mechanical Liens. Each Unit is private property of the Owner. Persons providing  
335    labor or materials to the Unit at the request of the Owner shall have the right to enforce a  
336    mechanics lien against only that Unit, but not against the Common Areas of the  
337    subdivision and in accordance with Title 38 Chapter 1 of the Utah Code.

## ARTICLE III

### ELEMENTS OF THE PROJECT

341       3.    The Project is divided into Units, Common Areas, and Limited Common Areas. The  
342    nature of each of these areas is described below:

343  
344       3.1    Units. The Units within the project shall consist of several different unit types.  
345    They will include the twin home units, the two large condominium-building units and the  
346    nine estate home sites. One half of the twin home structures constructed within the  
347    Project is considered one Unit. (i.) The Twin Home unit shall include the land underneath  
348    the structure, and the structure itself, including structural elements and exterior wall  
349    surfaces, roofs, exterior doors and windows, and the interior space enclosed by the  
350    structure. All utility and mechanical systems within each dwelling are part of the Unit,  
351    except to the extent they service more than one dwelling. Within each twin home  
352    structure, the boundary between the Units will be the center of the double-studded party  
353    wall. Each Unit will be part of a twin home structure with a concrete foundation, wood  
354    frame construction, with wooden siding, and a truss roof system with asphalt shingles.  
355    The buildings are two and three stories, containing kitchen, bathing and living areas, and  
356    from two to four bedrooms, and a two car garage. (ii) The large condominium buildings  
357    referred to as the "Lillehammer Lodges" Units shall not include the land beneath the  
358    structure. They will have a separate condominium plat recorded within this subdivision.  
359  
360

"The Lillehammer Lodges" units shall share in the ownership of the common space but be subject to their own-recorded *Supplemental Declaration of Protective Covenants and Restrictions*. (iii.) The Estate Home Sites referred to as "The Cove (aka, Winter Park) @ Sun Peak Estates" will consist of nine lots on a private street and shall share in the ownership of the common space but be subject to their own recorded *Supplemental Declaration of Protective Covenants and Restrictions*.

3.2 Easement for Exterior Maintenance. Notwithstanding the inclusion of the exterior surfaces of the buildings as part of the Unit, the Association shall have a perpetual easement over the exterior wall surfaces, siding, roofing, and other exterior surfaces; and the foundations, load bearing walls, joists, trusses, and other load bearing or structural elements of each Unit for the purposes of maintenance. The costs of any maintenance or repairs carried out under this easement shall be assessed as Common Area Expenses. Under the terms of this easement, the Association shall:

(a) Maintain, repair, periodically re-paint and replace exterior siding and exterior doors and window frames on the buildings within the project; maintain, repair, and periodically replace the shingles and roofing on the buildings within the project

(b) Repair and restore any structural damage to the foundations, columns, load bearing walls, joists, rafters, trusses or other structural elements necessary for the support of the structures following damage by fire, storm, or other casualty or failure.

3.3 **Exterior Modifications.** Without the prior written consent of the Association, no Owner will make exterior modifications to siding, roofing, exterior doors or windows, or to structural elements of the Units within the Project.

3.4 Common Areas. Unless included in the Unit, the remainder of the Project is Common Area. Common Areas specifically include:

(a) The land not included within the Units and not dedicated as public streets, and improvements on that land including landscaping and sprinklers, lighting, and other improvements that were made by the Declarant or have been or may later be installed by the Association.

(b) Utility lines which serve more than one Unit, including water lines upstream of the individual Units, water meter, sewer lines outside of the foundation of the buildings, and storm drainage pipes are all Common Areas. To the extent not owned by the utility company providing service to the Unit, all wires, pipes, conduits or other utility service equipment will be Common Area up to the point at which the utility line enters the Building, the Unit Owner's side of

403 the meter, or the point at which the line splits to serve only one Unit.

404

405 3.5 Limited Common Areas. Some Common Areas have been designated as for the  
406 exclusive use and possession of the Units to which they are appurtenant. The Association  
407 is responsible for structural maintenance of the Limited Common Areas (excluding  
408 fixtures or equipment installed by Owner or assigned to Owner under this Declaration),  
409 but the Owner of the Unit to which the Limited Common Area is appurtenant shall have  
410 exclusive possession of that area. Unless the Association so elects, from time to time, the  
411 routine maintenance, landscaping, sprinkling, and other maintenance of Limited Common  
412 Areas will be the responsibility of the Owner of the Unit to which the Limited Common  
413 Area is appurtenant. The Limited Common Areas are:

414

415 (a) Driveways, walks, and porches/decks serving only one Unit.

416

417 Notwithstanding the status as Limited Common Area, the Unit Owner is  
418 responsible for snow removal on his or her own driveway (Association may  
419 provide limited scraping of the driveways down to within a few inches of the hard  
420 surface), approach walk, and porch/deck unless the Association agrees, from time  
421 to time, to include that service within the Common Area Assessments. Driveways  
422 and walkways may not be shown on the Map, but whether shown or not, they are  
423 considered Limited Common Areas of the Units they serve.

424

425 Driveways and walks, serving more than one Unit are shared Limited Common  
426 Areas. Notwithstanding the status as Limited Common Area, the Unit Owners  
427 share responsibility for snow removal on their shared approach walk, and  
428 driveways (Association may provide limited scraping of the driveways down to  
429 within a few inches of the hard surface), unless the Association agrees, from time  
430 to time, to include that service within the Common Area Assessments. Driveways  
431 and walkways may not be shown on the Map, but whether shown or not, they are  
432 considered Limited Common Areas of the Units they serve

433

434 (b) Open Space area designated as Limited Common Area I on the Record of  
435 Survey Map. This area is intended for use by the owners of The Cove (aka, Winter  
436 Park) @ Sun Peak Estates only for recreation, and other related activities.

437

438 (c) Limited Common Area designated as the Lillehammer Lodges  
439 Condominiums. This area is intended for the use by the owners of the  
440 Lillehammer Lodge units for access and parking.

441

442 (d) That portion of the Property of up to a maximum of 12 feet from the rear  
443 wall at the rear yard of the twin home units is deemed as Limited Common Area.  
444 The individual Owners can partition this Limited Common Area into rear yards  
445 appurtenant to each Unit through the use of landscaping, shrubbery, and trees. The  
exact location of these partitions will be determined in the field based on the

Assessment of views, the utility of the yard area and the efficient layout of the space and must be approved at the sole discretion of the Association. The Association, with approval of the affected Owners, may approve adjustments in the locations of these areas without a formal amendment of the Map or adjustment of the percentage of Common Area Ownership. When so approved by the Association, this area shall be designated and function as the private back yard of the Unit. Within this Limited Common Area, it is anticipated that there will be some elements that are the maintenance obligation of the Association, and other elements or improvements that are the sole obligation of the Owner. No fencing shall be permitted within the Limited Common or Common Areas.

(e) After application, the Unit Owner may make improvements, with the express prior written approval of the Board of Trustees, within the Limited Common Area described in (d), as provided in this Declaration. The Unit Owner is solely responsible for the initial construction costs, maintenance, insurance, and operation of any improvements installed by the Unit Owner (or by a prior Owner) including hot tubs, spas, planters, landscaping, or other improvements permitted by this Declaration.

(1) **No Waiver of Future Approvals.** The approval of the Board of Trustees of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Board of Trustees, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

(2) Variance. The Board of Trustees may authorize variances from compliance with any of the provisions of the design guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the Board of Trustees from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

(3) **Limitation of Liability.** Neither the Board of Trustees nor any of its employees, agents, or consultants shall be responsible in any way for

489 any defects in any plans or specifications submitted, revised or approved in  
490 accordance with the provisions of this Declaration, nor for any structural  
491 or other defects in any work done according to such plans and  
492 specifications. In all events, the Board of Trustees and its members shall  
493 be defended and indemnified by the Association as provided herein.  
494

495 (4) **Enforcement.** Any construction, alteration, or other work done in  
496 violation hereof shall be deemed to be nonconforming. Upon written  
497 request from the Board of Trustees, a defaulting Owner shall, at his own  
498 cost and expense, remove such construction, alteration, or other work and  
499 shall restore the property to substantially the same condition as existed  
500 prior to the construction, alteration, or other work. Should an Owner fail  
501 to remove and restore the as required hereunder, the Board of Trustees or  
502 its designees shall have the right to enter the property, remove the  
503 violation, and restore the property to substantially the same condition as  
504 existed prior to the construction, alteration or other work, without being  
505 guilty of a trespass. In addition to the foregoing, the Board of Trustees  
506 shall have the authority and standing, on behalf of the Association, to  
507 pursue all other formal legal and equitable remedies available, including  
508 the recovery of a reasonable attorneys fee.  
509

510 3.6 **Ownership of Common Areas.** The ownership of the Common Areas (Including  
511 Limited Common Areas) is an appurtenance to the ownership of the Units, and the Owner  
512 of each Unit shall own an undivided interest in the Common Areas equal to the  
513 proportion of the total interior floor area that Unit bears to the total interior floor area  
514 within the Project as a whole. The percentage of Common Area Ownership for each Unit  
515 is shown on Exhibit B.  
516

517 3.7 **Water Service.** The contracted Water Company provides water service to the  
518 Project. If shares are issued in the Company, those shares will be held by the Association  
519 for the benefit of the Members. The Water Company is responsible for maintaining water  
520 mains within the public right of way and the dedicated utility easements. Maintenance of  
521 water laterals between the water mains and the foundation of each building will be the  
522 responsibility of the Association as a common area expense. From the individual service  
523 meter serving each unit, or the point at which the lines enter the foundation of each unit  
524 or building, the maintenance responsibility is that of the unit owner.  
525

525

526

527

## ARTICLE IV

528

## OWNERS ASSOCATION

529

530 4. Management of the Project will be carried out by the Association, which shall have those  
531 duties, and powers set out for the management of the condominium in the Act, and the additional  
532 enforcement powers created under this Declaration. Management of the Project may be delegated  
533 to a contracted property manager.

534

535 4.1 Trustees. The Board of Trustees will govern the Association. There will be no less  
536 than three and no more than seven Trustees. The trustees will be elected by majority vote  
537 of the Owners as called for in the Declaration and By-Laws. Each Trustee will serve a 2-  
538 year term, provided that Trustees will continue to serve until their successors have been  
539 elected or replacements appointed. Terms will be staggered, and the initial board will  
540 divide itself into terms of 1 and 2 years by drawing lots. To be considered a candidate for  
541 election to The Cove (aka, Winter Park) @ Sun Peak Board of Trustees, or to remain a  
542 member of the Board of Trustees after election, a person must own at least one unit in  
543 The Cove (aka, Winter Park) @ Sun Peak and must have paid his or her share of the  
544 Common Expenses and may not be in Arrears.

545

546

4.2 Powers, Status and General Authority of Board of Trustees.

547 Any instrument executed by the Board of Trustees that recites facts which, if true, would  
548 establish the Board of Trustee's power and authority to accomplish through such  
549 instrument what is purported to be accomplished thereby, shall conclusively establish said  
550 power and authority in favor of any person who in good faith and for value relies upon  
551 said instrument. The Association shall, in connection with its exercise of any of the  
552 powers delineated in subparagraphs (a) through (m) below, constitute a legal entity  
553 capable of dealing in its Board of Trustees name. The Board of Trustees shall have, and  
554 is hereby granted, the following authority and powers:

555

556

(a) Access. The right, power and authority to have access to each Unit:

557

558

559

560

561

562

563

564

(1) from time to time during reasonable hours and after reasonable notice to the  
occupant of the Unit being entered, as may be necessary for the maintenance,  
repair or replacement of any of the Common Areas and Facilities; or (2) for  
making emergency repairs necessary to prevent damage to the Common Areas and  
Facilities or to another Unit or Units, provided that a reasonable effort is made to  
provide notice to the occupant of the Unit prior to entry.

(b) Grant Easements. The authority, without the vote or consent of the

565 Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other  
566 person, to grant or create, on such terms as it deems advisable, reasonable permits,  
567 licenses, and non-exclusive easements over, under, across, and through the  
568 Common Areas for utilities, roads, and other purposes reasonably necessary or  
569 useful for the proper maintenance, operation or regulation of the Project.

570  
571 (c) Execute Documents. The authority to execute and record, on behalf of  
572 all Owners, any amendment to the Declaration or Condominium Plat which has  
573 been approved by the vote or consent necessary to authorize such amendment.

574  
575 (d) Standing. The power to sue and be sued.

576  
577 (e) Enter Into Contracts. The authority to enter into contracts which in  
578 any way concern the Project, so long as any vote or consent necessitated by the  
579 subject matter of the agreement has been obtained.

580  
581 (f) Transfer Interests in Real Property. The power and authority to  
582 exchange, convey or transfer any interest in real property, so long as it has been  
583 approved by at least a Majority of the Total Vote.

584  
585 (g) Purchase Property. The power and authority to purchase, otherwise  
586 acquire, and accept title to, any interest in real property, so long as it has been  
587 approved by at least a Majority of the Total Vote.

588  
589 (h) Add Property. The power and authority to add any real property, or  
590 interest therein, obtained pursuant to subparagraph (g) above to the Project, so  
591 long as it has been approved by at least a Majority of the Total Vote.

592  
593 (i) Borrow Money and Pledge Collateral. The power and authority to  
594 borrow money and pledge collateral so long as it has been approved by at least a  
595 Majority of the Total Vote.

596  
597 (j) Promulgate Rules. The authority to promulgate such reasonable  
598 administrative guidelines, rules, regulations, policies and procedures as may be  
599 necessary or desirable to aid the Board of Trustees in carrying out any of its  
600 functions or to insure that the Project is maintained and used in a manner  
601 consistent with the Act and this Declaration.

602  
603 (k) Meetings. The authority to establish procedures for the conduct of its  
604 meetings, including but not limited to the power to decide what portion of the  
605 meeting shall be open or closed to Owners or Occupants not on the Board of

606 Trustees, to retire to executive session, to regulate record keeping, and to allow,  
607 control or prohibit the electronic reproduction (video or audio) of Board of  
608 Trustees meetings.

609

610 (l) Delegation of Authority. The power and authority to delegate its  
611 responsibilities over the management and control of the Common Areas and  
612 regulation of the Project to a professional manager, reserving the right, power and  
613 authority, however, to control and oversee the administration thereof.

614

615 (m) All other Acts. The power and authority to perform any and all other acts,  
616 and to enter into any other transactions which may be reasonably necessary for the  
617 Board of Trustees to perform its functions on behalf of the Owners.

618

619 4.3 Budget. At least 30 days prior to the annual meeting of the Owners, the Trustees  
620 will prepare a proposed operating budget for the ensuing year, and a statement showing  
621 actual expenditures for the current: year (with projections for the final months). The  
622 budget will detail the income and expenses of the Association showing expenses for  
623 building maintenance, operations, reserves, repairs, insurance, utilities, snow removal,  
624 landscaping, management fees, professional fees, and where applicable, capital  
625 improvements to the Project. The budget will also show income derived from all sources,  
626 and the amounts of any receivables. The proposed budget will be mailed to each Owner at  
627 his or her last known address (as shown by the most recent County property tax  
628 assessment rolls, if no other address is available) at least 30 days prior to the annual  
629 Owners meeting. The budget will also indicate the resulting Common Area Assessment  
630 to be levied on each Unit. The budget will also include the notice of the annual meeting.

631

632 4.4 Common Area Assessments. The Trustees have the power to levy Common Area  
633 Assessments for the operation of the Project. The assessments shall be for building  
634 maintenance, operations, reserves, repairs, insurance, utilities, snow removal,  
635 maintenance and repairs on walkways and the private roads shown on the Map,  
636 landscaping, management fees, professional fees, and where applicable, capital  
637 improvements to the Project, and other items which may be authorized by the Act, this  
638 Declaration, or by the Owners. The assessment will be levied on an annual basis, in  
639 advance. Unless the Trustees vote to require monthly payment, assessments will be paid  
640 in equal quarterly installments. When preparing the annual budget efforts will be made to  
641 keep the common area assessments as low as reasonably possible and still provide a high  
642 level of maintenance to the Project, as well as necessary improvements. Any legal action  
643 deemed acceptable by the Trustees may be utilized to collect an account in Arrears. This  
644 may include, but is not limited to imposing late fees, default interest, penalties, liens,  
645 fines, foreclosures, suspension of the right to use recreational amenities or the right to  
646 vote, arrest warrants, garnishments, and use of independent collection agencies. For the

647 Association to be responsible to pay for any maintenance, repairs or replacement, a  
648 written application must be submitted to the Board of Trustees and pre-approved in  
649 writing. The initial overall maintenance obligation and cost allocation is as follows:  
650

650 (a) Common Services and Expenses. Each Unit, the Limited Common Area,  
651 and Common Area shall be maintained, repaired, and replaced in accordance with  
652 the following provisions:  
653

654 (1) Clean, Safe, Sanitary and Attractive Condition. The Units, Limited  
655 Common Area, and Common Area shall be maintained in a usable, clean,  
656 functional, safe, sanitary, attractive and good condition, consistent with  
657 Community Standards.  
658

659 (2) Landscaping. All landscaping in the Project shall be maintained  
660 and cared for in a manner consistent with the standards of design and  
661 quality originally established by Declarant and in accordance with  
662 Community Standards. Specific written guidelines, standards, controls,  
663 and restrictions on landscaping may be adopted or amended by the Board  
664 of Trustees from time to time. All landscaping shall be maintained in a  
665 neat and orderly condition. Any weeds or diseased or dead lawn, trees,  
666 ground cover or shrubbery shall be removed and replaced. All lawn areas  
667 shall be neatly mowed and trees, shrubs and bushes shall be neatly  
668 trimmed. In a word, all landscaping shall be tasteful, so as not to affect  
669 adversely the value or use of any other Unit, or to detract from the uniform  
670 design and appearance of the Project.  
671

672 (3) The following items of maintenance, repair or replacement and  
673 operating expenses will be considered an Area of Common Responsibility  
674 and a Common Expense to be paid for by the Association as Common  
675 Area expenses shared by all owners within the Project:  
676

677 i. Snow removal, maintenance and repairs (due to  
678 normal wear and tear) on the private roads shown on the  
679 map, (Road damage resulting from construction work will  
680 be the responsibility of the lot owner), any other  
681 Association improvements installed in or adjacent to the  
682 public rights of way serving more than one unit  
683

684 ii. The premiums for insurance required by the Act,  
685 including by way of illustration but not limitation the  
686 property insurance, liability insurance, directors and



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damage is in the opinion of the Board of Trustees caused by or arising out of abuse, misuse, neglect, or Owners failure to provide proper care and maintenance.

(3) Re-roofing and roof repair, including the repair of leaks, (provided, however, that Owners immediately notify the Board of Trustees or Property Manager of any leaks or maintenance concerns) and maintenance on all buildings, etc. Heat tape installation is provided, in those areas, if any, that routinely develop ice dams due to drift patterns or sun exposure, with the prior express written consent of the Board of Trustee

(4) The Repair, maintenance and replacement due to normal wear and tear, of porches, decks and patios within the Limited Common Area and concrete flatwork driveways, and entry walks; provided, however, if an Owner has applied an unauthorized paint or finish product that would interfere with the normal application of the approved stain, or require other procedures or labor in excess of the normal staining maintenance task, the Owner is responsible for all additional costs. For example, if an Owner applies a paint product to the decking and normal staining cannot be accomplished without sanding off the unauthorized paint product, the Owner is responsible for the added cost.

(5) Twin Home and Lodge Owners individual driveways may be scraped to within a few inches of hard surface; however, any additional snow removal will be the responsibility of the Owner.

(6) The Association will be responsible for the Repair, maintenance and replacement of exterior building surfaces, berms, walks, decks, patios, and other improvements constructed as part of the initial design and construction scheme of the Project, or later installed by the Association.

(7) Lodge Units may be responsible for and shall share among themselves the cost of operating heat tape in winter months, shared satellite repairs and maintenance, or other expenses unique to the Lodges.

(8) Any other expenses unique to the Twin Homes and Lodges.

(c) Additional Estate Lot Owners Area of Responsibilities: The following items of maintenance, repair and replacement and operating expenses are applicable to the Estate Lot Owners exclusively and are not to be considered an Area of Common Responsibility or Common Expense of The Cove (aka, Winter Park) @ Sun Peak Homeowners Association and are to be considered areas of

### Personal Responsibility by the Estate Lot Owners;

- (1) Snow Removal on all Estate Lot Driveways
- (2) Repairs, routine maintenance and replacement of the Common Area intended for exclusive use by the owners of The Cove (aka, Winter Park) @ Sun Peak Estates only, including by way of illustration but not limitation the landscaping, the control and removal of all noxious and nuisance weeds, and irrigating
- (3) All maintenance, repairs, replacements to undeveloped lots and improvements to the lots, including by way of illustration but not limitation the landscaping, buildings, driveways.
- (4) Any expenses unique to The Cove (aka, Winter Park) @ Sun Peak Estate Owners.
- (5) The Association may, by Majority vote of the Owners, change an item included in the area of Additional The Cove (aka, Winter Park) @ Sun Peak Estate Owners Responsibilities to Common Responsibility and increase the Common Expenses from time to time in order to achieve cost savings, convenience of the Owners, and maintain a consistent level of maintenance, quality of construction and uniformity of appearance.

**Owner Maintenance Obligations.** The following items are the responsibility of the Owner for his or her Unit including by way of illustration but not limitation the landscaping, and will not be paid for as a Common Expense:

- (1) Snow removal on entry walks, patios and porches/decks, and sidewalks serving the Unit(s);
- (2) Installation, Repair, maintenance and replacement of rain gutters and down spouts on Twin Homes
- (3) Casualty, property or homeowners insurance on Owner's contents, personal property, possessions, belongings and effects within the Unit, and betterments, improvements, or upgrades to interior finishes, cabinetry, or other fixtures, and liability insurance on the Owner's Unit and Limited Common Area appurtenant thereto;
- (4) Utility costs for the Unit, including power, gas, water, telephone, cable/satellite television, sewer service, and other utility services or similar charges exclusive to the use and occupation of the Unit; Gas and power

816 service must be maintained within an occupied or non-occupied unit at all  
817 times with interior temperatures maintained at a level to prevent freezing  
818 of water pipes.

819  
820 (5) Interior maintenance and repairs, including paint, floor coverings,  
821 fireplaces and flues, furnaces, water heaters, all fire sprinklers (Twin  
822 Homes) and other mechanical equipment and appliances, non-load bearing  
823 walls, all drywall, ceilings, doors, glass replacement on exterior windows,  
824 windows, window units and frames, garage floor flatwork, garage door  
825 operations, automatic garage door openers and damage to garage doors,  
826 and any other equipment, devices, or appliances installed by Owner.  
827 Windows and doors must be approved in writing by the Board of Trustees  
828 as to the quality of construction and uniformity of appearance;

829  
830 (6) All owners are required to have yearly inspections of all fire  
831 sprinklers, and submit proof of inspection if requested by the Board of  
832 Trustees.

833  
834 (7) Repair, maintenance and replacement of sewer lateral lines serving  
835 only the Unit.

836  
837 (e) Increase of Association Obligations. The Association may, by Majority  
838 vote of the Owners, change an item included in the Area of Personal  
839 Responsibility to the Area of Common Responsibility and to increase the  
840 Common Expenses from time to time in order to achieve cost savings,  
841 convenience of the Owners, and maintain a consistent level of maintenance,  
842 quality of construction and uniformity of appearance.

843  
844 4.5 Owners' Obligation to Maintain. Each Owner covenants with the Association and  
845 each other Owner that he or she will maintain in a state of good condition and repair his  
846 or her Unit and the appurtenant Limited Common Areas (including by way of illustration  
847 but not limitation not allowing an accumulation of trash, garbage, refuse, litter, debris or  
848 pet waste) and those other items for which the Unit Owner is responsible. In the event an  
849 Owner fails to maintain these areas, and as a result of the failure to maintain, there are  
850 conditions which are dangerous, unsightly, unhealthy, unsanitary, or which constitute a  
851 nuisance, the Association shall have the right, but not the obligation, to make necessary  
852 repairs or carry out necessary maintenance, and may bill the Owner for such costs and  
853 expenses. Such an Assessment is a debt of the Owner at the time the Assessment is made  
854 and is collectible as such. If an Owner fails to pay such an Assessment when due, that  
855 amount constitutes a lien on the interest of the Owner in the property, and upon the  
856 recording of notice of lien by the Manager or Board of Trustees it is a lien upon the  
857 Owner's interest in the property prior to all other liens and encumbrances, recorded or  
858 unrecorded, except: (a) tax and special assessment liens on the Unit in favor of any

859 assessing unit or special improvement district; and (b) encumbrances on the interest of  
860 the Owner recorded prior to the date such notice is recorded which by law would be a lien  
861 prior to subsequently recorded encumbrances Prior to exercising this right to maintain,  
862 the Association will give the Owner written notice of the items needing maintenance or  
863 repair, and the owner will have at least 15 days from the date of notice to commence  
864 repairs. If the Owner has not commenced repairs or maintenance, or fails to pursue repairs  
865 or maintenance with reasonable diligence, then the Association may enter and complete  
866 the repairs, perform the maintenance, or abate the nuisance at the Owner's expense, and  
867 without being guilty of a trespass.

868  
869 4.6 Purpose of Common Expenses. The Assessments provided for herein shall be  
870 used for the general purpose of operating the Project, promoting the recreation, health,  
871 safety, welfare, common benefit and enjoyment of the Owners and residents, including  
872 the maintenance of any real and personal property owned by the Association, and  
873 regulating the Community, all as may be more specifically authorized from time to time  
874 by the Board of Trustees.

875  
876 4.7 Creation of Assessments. Since the Assessments shall pay for the common  
877 expenses of the Association, as shall be determined by the Board of Trustees from time to  
878 time, each Owner, by acceptance of a deed to a Unit, whether or not it shall be so  
879 expressed in such deed, covenants and agrees to pay to the Association in a timely  
880 manner all Assessments assessed by the Board of Trustees. Assessments will be made  
881 against all owners whether the unit/lot is unfinished, vacant, improved or unimproved.

882  
883 4.8 Budget. At least thirty (30) days prior to the Annual Homeowners Meeting, the  
884 Board of Trustees shall prepare and deliver to the Owners a proposed Budget which:

885  
886 (a) Itemization. Shall set forth an itemization of the anticipated Common  
887 Expenses for the twelve (12) month calendar year, commencing with the  
888 following January 1.

889  
890 (b) Basis. Shall be based upon advance estimates of cash requirements by the  
891 Board of Trustees to provide for the payment of all estimated expenses growing  
892 out of or connected with the maintenance and operation of the Common Areas  
893 and regulation of the Association, which estimate shall include but is not limited  
894 to expenses of management, irrigation water, grounds maintenance, taxes and  
895 special assessments, premiums for all insurance which the Board of Trustees is  
896 required or permitted to maintain, common lighting and heating, water charges,  
897 trash collection, sewer service charges, carpeting, painting, repairs and  
898 maintenance of the Common Areas and replacement of those elements of the  
899 Common Areas that must be replaced on a periodic basis, wages for Board of  
900 Trustees employees, legal and accounting fees, any deficit remaining from a  
901 previous period; the creation of a reasonable contingency reserve, surplus or

902 sinking fund, capital improvement reserve, and other expenses and liabilities  
903 which may be incurred by the Association for the benefit of the Owners under and  
904 by reason of this Declaration. Until the Project is completed, and all Phases are  
905 added, this estimate may need to be adjusted periodically as each new Phase is  
906 completed.

907  
908 4.9 Apportionment. The common profits, losses and voting rights of the Project shall  
909 be distributed among and the common expenses shall be charged equally to the Unit  
910 Owners.

911  
912 4.10 Approval of Budget and Assessments. The proposed Budget and the Assessments  
913 shall become effective unless disapproved at the Annual Meeting by a vote of at least a  
914 Majority of the percentage of ownership interest in the Common Areas. Notwithstanding  
915 the foregoing, however, if the membership disapproves the proposed budget and  
916 Assessments or the Board of Trustees fails for any reason to establish the Budget and  
917 Assessments for the succeeding year, then and until such time as a new budget and new  
918 Common Area Assessment schedule shall have been established, the Budget and the  
919 Assessments in effect for the then current year shall continue for the succeeding year.

920  
921 4.11 Personal Obligation of Owner. Owners are liable to pay all Assessments assessed  
922 and Additional Charges; provided, however, no first mortgagee or beneficiary under a  
923 first deed of trust (but not the Seller under a uniform real estate contract, land sales  
924 contract, or other similar instrument), who obtains title to a Unit pursuant to the remedies  
925 provided in the mortgage or trust deed shall be liable for unpaid Assessments which  
926 accrued prior to the acquisition of title. For purposes of this Section, the term "Owner"  
927 shall mean and refer jointly and severally to: (1) the Owner of both the legal and  
928 equitable interest in any Unit; (2) the owner of record in the offices of the County  
929 Recorder of Summit County, Utah; and (3) both the Buyer and Seller under any  
930 executory sales contract or other similar instrument.

931  
932 4.12 Equitable Changes. If the aggregate of all monthly payments on all of the Units is  
933 too large or too small as a result of unanticipated income or expenses, the Board of  
934 Trustees may from time to time effect an equitable change in the amount of said  
935 payments, but, without the prior approval of a majority of the percentage of ownership  
936 interest in the Common Area, not greater than fifteen (15%) percent of the Common Area  
937 Assessment in any calendar year. Owners shall be given at least thirty (30) days written  
938 notice of any changes.

939  
940 4.13 Dates and Manner of Payments. The Board of Trustees shall determine the dates  
941 and manner of payment.

942  
943 4.14 Reserve Account. The Board of Trustees shall establish and maintain a reserve  
944 account or accounts to pay for unexpected operating expenses and capital improvements.

945  
946     4.15 Capital Asset Report. The Board of Trustees shall establish and update at least  
947 annually a Capital Asset Report which shall list each major capital assets in the Project  
948 (e.g. roofs, roads, building exteriors, etc.), each item's expected useful life, the present  
949 cost of replacement, the estimated cost to replace the item at the end of its useful life, the  
950 percentage and amount of the monthly Assessment currently set aside in the reserve  
951 account to replace the item at the end of its useful life, and the amount of money currently  
952 set aside in the reserve account for the replacement of the item.

953  
954     4.16. Statement of Assessments Due. Upon written request, the Board of Trustees shall  
955 furnish to any Owner a statement of Assessments due, if any, on his Unit. Failure to  
956 provide the certificate within thirty (30) days after the Secretary receives a written request  
957 shall be deemed conclusive evidence that all Assessments are paid current. The  
958 Association may require the advance payment of a processing charge not to exceed  
959 \$15.00 for the issuance of such certificate.

960  
961     4.17 Superiority of Assessments. By accepting a deed or other document of  
962 conveyance to a Unit, each Owner waives his right to claim that his or her statutory  
963 homestead exemption is superior to the Association's lien for unpaid Assessments or his  
964 or her share of the Common Expenses.

965  
966     4.18. Special Assessment. The Trustees have the authority to levy Special Assessments  
967 as necessary to cover shortfalls in the budget or unanticipated expenses. So long as the  
968 Special Assessment (or the sum of all Special Assessments in the current operating year)  
969 is no greater than 10% of the currently approved budget, the Trustees may adopt a Special  
970 Assessment without a meeting of the Owners. If the Special Assessment (or sum of all  
971 prior Special Assessments in the current operating year) exceeds 10% of the current  
972 budget, a special meeting of the Owners will be called, and the purposes and amounts of  
973 the Special Assessments submitted to the Owners for approval.

974  
975     4.19 Benefit Assessments. If an Owner has the choice to accept or reject the benefit,  
976 then the Board of Trustees shall have the power and authority to assess an Owner in a  
977 particular area as follows:

978  
979         (a) Benefit only To Specific Unit. If the expense benefits less than all of the  
980 Units, then those Units benefited may be specifically assessed, and the specific  
981 assessment shall be equitably apportioned among those Units according to the  
982 benefit received.

983  
984         (b) Unequal or Disproportionate Benefit. If the expense benefits all Units,  
985 but does not provide an equal benefit to all Units, then all Units shall be  
986 specifically assessed, but the specific assessment shall be equitably apportioned  
987 among all Units according to the benefit received.

988

989 Failure of the Board of Trustees to exercise its authority under this Section shall not be  
990 grounds for any action against the Association or the Board of Trustees and shall not  
991 constitute a waiver of the Board of Trustee's right to exercise its authority under this  
992 Section in the future with respect to any expenses, including an expense for which the  
993 Board of Trustees has not previously exercised its authority under this Section.

994

995     4.20 Individual Assessments. Individual Assessments shall be levied by the Board of  
996 Trustees against a Unit and its Owner to reimburse the Association for: (a) administrative  
997 costs and expenses incurred by the Board of Trustees in enforcing the Project Documents;  
998 (b) costs associated with the maintenance, repair or replacement of Common Area for  
999 which the Unit Owner is responsible; (c) any other charge, fee, due, expense, or cost  
1000 designated as an Individual Assessment in the Project Documents or by the Board of  
1001 Trustees; and (d) attorneys' fees, interest, and other charges relating thereto as provided  
1002 in this Declaration.

1003

1004     4.21 Capital Improvements. No funds may be expended for a Capital Improvement  
1005 without the affirmative approval of at least a Majority of the undivided ownership interest  
1006 in the Common Areas and Facilities.

1007

1008     4.22 Collection of Assessments. The Owners must pay their Assessments in a timely  
1009 manner, as determined by the Board of Trustees.

1010

1011         (a) Accounts in Arrears. Any Assessment not paid when due shall be deemed  
1012 in Arrears and a lien securing the obligation may be attached to the Unit,  
1013 regardless of whether a written notice is recorded

1014

1015         (b) Late Fees and Accruing Interest. A late fee, determined by the Board of  
1016 Trustee, shall be assessed on all tardy payments. Default interest at the rate of at  
1017 least one percent (1.5%) per month or at least eighteen percent (18%) per annum  
1018 shall accrue on all delinquent accounts

1019

1020         (c) Lien. If any Unit Owner fails or refuses to make any payment of any  
1021 Assessment or his portion of the Common Expenses when due, that amount shall  
1022 constitute a lien on the interest of the Owner in the Property, and upon the  
1023 recording of notice of lien by the Manager, Board of Trustees or their designee it  
1024 is a lien upon the Owner's interest in the Property prior to all other liens and  
1025 encumbrances, recorded or unrecorded, except: (1) tax and special assessment  
1026 liens on the Unit in favor of any assessing unit or special improvement district;  
1027 and (2) encumbrances on the interest of the Owner recorded prior to the date such  
1028 notice is recorded which by law would be a lien prior to subsequently recorded  
1029 encumbrances.

1030

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1031 (d) Foreclosure of Lien and/or Collection Action. If the Assessments remain  
1032 unpaid, the Association may, as determined by the Board of Trustees, institute suit  
1033 to collect the amounts due and/or to foreclose the lien.

1035 (e) Personal Obligation. Each Owner, by acceptance of a deed or as a party  
1036 to any other type of conveyance, vests in the Association or its agents the right  
1037 and power to bring all actions against him or her personally for the collection of  
1038 the charges as a debt or to foreclose the lien in the same manner as mechanics  
1039 liens, mortgages, trust deeds or encumbrances may be foreclosed.

1041 (f) No Waiver. No Owner may waive or otherwise exempt himself or herself  
1042 from liability for the Assessments provided for herein, including but not limited to  
1043 the non-use of Common Areas or the abandonment of his Unit.

1045 (g) Duty to Pay Independent. No reduction or abatement of Assessments  
1046 shall be claimed or allowed by reason of any alleged failure of the Association or  
1047 Board of Trustees to take some action or perform some function required to be  
1048 taken or performed by the Association or Board of Trustees under this Declaration  
1049 or the By Laws, or for inconvenience or discomfort arising from the making of  
1050 repairs or improvements which are the responsibility of the Association, or from  
1051 any action taken to comply with any law, ordinance, or with any order or directive  
1052 of any municipal or other governmental authority, the obligation to pay  
1053 Assessments being a separate and independent covenant on the part of each  
1054 Owner.

1056 (h) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment  
1057 of Assessments may be enforced by sale or foreclosure of the Owner's interest  
1058 therein by the Board of Trustees. The sale or foreclosure shall be conducted in the  
1059 same manner as foreclosures in deeds of trust or mortgages or in any other manner  
1060 permitted by law. In any foreclosure or sale, the Owner shall pay the costs and  
1061 expenses of such proceedings, including but not limited to the cost of a  
1062 foreclosure report, reasonable attorney's fees, and a reasonable rental for the Unit  
1063 during the pendency of the foreclosure action. The Association in the foreclosure  
1064 action may require the appointment of a receiver to collect the rental without  
1065 regard to the value of the mortgage security. The Board of Trustees may bid for  
1066 the Unit at foreclosure or other sale and hold, lease, mortgage, or convey the  
1067 same.

1068 (i) Appointment of Trustee. If the Board of Trustees elects to foreclose the  
1069 lien in the same manner as foreclosures in deeds of trust, then the Owner by  
1070 accepting a deed to the Unit hereby irrevocably appoints the attorney of the  
1071 Association, provided s/he is a member of the Utah State Bar, as Trustee, and  
1072 hereby confers upon said Trustee the power of sale set forth with particularity in  
1073

1074 Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner  
1075 hereby transfers in trust to said Trustee all of his right, title and interest in and to  
1076 the real property for the purpose of securing his performance of the obligations set  
1077 forth herein

1078

1079 (j) Attorney in Fact. Each Owner by accepting a deed to a Unit hereby  
1080 irrevocably appoints the Association as his attorney in fact to collect rent from any  
1081 person renting his Unit, if the Unit is rented and Owner is delinquent in his  
1082 Assessments. Rent due shall be paid directly to the Association, upon written  
1083 demand, until such time as the Owner's Assessments are current; and the Owner  
1084 shall credit the Renter, against rent due, for the amount of money paid to the  
1085 Association.

1086

1087        4.23 Manner of Assessment. Each Unit/Lot will pay that portion of the Common Area  
1088        Assessment and any Special Assessment equal to the appurtenant undivided interest in  
1089        the Common Areas held by that Unit, as shown on Exhibit B.

1090

1091 4.24 Voting. Each Unit will have the number of votes equal to its appurtenant  
1092 percentage interest in the Common Area, as shown on Exhibit B. Only one person may  
1093 vote for each Unit regardless of multiple Owners, and all votes appurtenant to each Unit  
1094 must be cast the same way. If the Owners are not able to agree on how to cast their votes,  
1095 no vote will be accepted from that Unit (though the Owners will be counted for purposes  
1096 of establishing a quorum). When one of the multiple Owners is present at the meeting,  
1097 that person shall be deemed to be acting with authority of all of the Owners of that Unit  
1098 unless written objection from the other Owners has been received. Unless otherwise  
1099 provided in this Declaration, the Association may act by a simple majority of the eligible  
1100 votes. Any Owner in Arrears will not be eligible to vote on any Owner related matter in  
1101 his or her name or vote any proxies. Any Owner in Arrears would not be eligible to  
1102 quality, serve or vote as a member of the Board of Trustees.

1103

14025 4.25 Easements. The Trustees shall have the power to grant easements for utilities,  
1105 trails, and similar public or quasi-public purposes over the Common Areas of the Project.

1106

11026

1108 alterations or changes which would jeopardize the soundness or safety of the Property,  
1109 reduce its value or impair any easement or hereditament, without in every such case the  
1110 unanimous written consent of all the other Unit Owners being first had and obtained.

1111

1112        4.27 Insurance. The Manager, Board of Trustees or Association, will obtain insurance  
1113        against loss or damage by fire and other hazards for:

1114 (1) all Common Areas and Facilities; and (2) all Buildings that contain more than one  
1115 Unit, including any improvement which is a permanent part of a Building. The insurance  
1116 coverage shall be written on the property in the name of the Manager, Board of Trustees

1117 or Association, as trustee for each of the Unit Owners in the percentages established in  
1118 this Declaration. The insurance premiums shall be a Common Expense. This Section is  
1119 without prejudice to the right of each Unit Owner to insure his own Unit for his benefit.  
1120 The Manager, Board of Trustees or Association shall satisfy at least the following  
1121 minimum requirements:

1122

1123 (a) Property Insurance. Blanket property insurance using the standard  
1124 "Special" or "All Risk" building form. Loss adjustment shall be based upon  
1125 replacement cost. For purposes of this sub-section, the term "casualty insurance"  
1126 shall not mean or refer to "earthquake" or other special risks not included in the  
1127 standard 'condominium' casualty policy. This additional coverage may be added  
1128 by the Board of Trustees, as it deems necessary in its best judgment and in its sole  
1129 discretion.

1130

1131 (b) Liability Insurance. A public liability policy covering the Common Area,  
1132 the Association and its Members for all damage or injury caused by the negligence  
1133 of the Association or any of its Members or agents. The public liability policy  
1134 shall have at least a One Million (\$1,000,000) Dollar single person limit as  
1135 respects bodily injury and property damage, a One Million (\$1,000,000) Dollar  
1136 limit per occurrence, if reasonably available, and a One Million (\$1,000,000)  
1137 Dollar minimum property damage limit, or the minimum acceptable amount  
1138 recommended by our contracted insurance agent. If possible, the policy should be  
1139 written on the comprehensive form and shall include non-owned and hired  
1140 automobile liability protection

1141

1142 (c) Directors and Officers Insurance. A director's and officer's liability or  
1143 errors and omissions policy, if reasonably available, with at least One Million  
1144 (\$1,000,000) Dollars in coverage, or the minimum acceptable amount  
1145 recommended by our contracted insurance agent. .

1146

1147 (d) Fidelity Bond. A separate fidelity bond in a reasonable amount to be  
1148 determined by the Board of Trustees to cover all non-compensated officers as well  
1149 as all employees for theft of Association funds.

1150

1151 (e) Worker's Compensation. The Association will maintain Workers  
1152 Compensation Insurance on any employees. If a Property Manager is contracted,  
1153 he or she will be responsible for his or her own Worker's Compensation Insurance  
1154 for himself, herself and any employees.

1155

1156 (f) The named insured will be The Cove (aka, Winter Park) @ Sun Peak  
1157 Homeowners Association, or its authorized representative, for the use and benefit  
1158 of the individual Owners as their interests might appear.

1159

1160 (g) Each such policy will include a standard mortgagee clause, without  
1161 contribution, which shall be either endorsed to provide that any proceeds are  
1162 payable to the Association for the use and benefit of the Mortgagees, as their  
1163 interest may appear, or shall be otherwise endorsed to fully protect the interests of  
1164 the Mortgagees. Further, the policy shall require 30 days written notice to  
1165 Mortgagees in the event of a cancellation, reduction, or non-renewal of coverage.  
1166

1167 (h) Each policy shall contain a provision that, notwithstanding anything in the  
1168 policy that gives the carrier the right to restore the Project rather than make cash  
1169 settlement, such right will not be exercised without the prior written approval of  
1170 the Association.  
1171

1172 (i) Prompt Repair. Each Owner further covenants and agrees that in the event  
1173 of any partial loss, damage or destruction of his Unit, the Owner shall proceed  
1174 promptly to repair or to reconstruct the damaged structure in a manner consistent  
1175 with the original construction.  
1176

1177 (j) Disbursement of Proceeds. Proceeds of insurance policies shall be  
1178 disbursed to repair promptly and reasonably the damages. Any proceeds  
1179 remaining thereafter shall be placed in the Capital Improvement Reserve Account  
1180 and retained by and for the benefit of the Association. This is a covenant for the  
1181 benefit of the Association and any Mortgagee of a Unit, and may be enforced by  
1182 the Association as needed.  
1183

1184 (k) Deductible. The deductible on a claim made against the Association's  
1185 Property Insurance Policy shall be paid for by the party who would be liable for  
1186 the loss, damage, claim, or repair in the absence of insurance.  
1187

1188 (l) Owners and residents are solely responsible for public liability and  
1189 contents insurance and hereby covenants to save, indemnify and hold the  
1190 Association, Board of Trustees, Manager, and other Owners harmless from any  
1191 such claims.  
1192

1193 4.28 Additional Services. With the approval of a majority of the Owners, the  
1194 Association may undertake additional services not specifically mandated by this  
1195 Declaration or the Act for the benefit of the Owners, including such things as snow  
1196 removal services on Limited Common Areas, landscaping in Limited Common Areas,  
1197 bulk purchases of cable/satellite television or other utility type services, or such other  
1198 services that might be advantageous to the Owners. Such additional services may be  
1199 added or discontinued from time to time as the Association sees fit.  
1200

1201 4.29 Landlord Responsibilities. Owners that lease their unit(s) are responsible for  
1202 ensuring their tenants are aware of and adhere to this Declaration. In the event of a

1203 violation, the Owner of the Unit (s) will be held responsible. Rental Income may be  
1204 garnished for delinquent dues.

1205  
1206 4.30 Owner Contact Information. Owners are responsible for maintaining a  
1207 current address, phone number and emergency contact information on file with the  
1208 Board of Trustees and contracted Property Manager.

1209  
1210 4.31 All Owners are responsible for ensuring Association business is transacted timely  
1211 through prompt reply and participation either in person or by proxy.

1212

1213

1214

## ARTICLE V

### RESTRICTIONS ON THE USE OF UNITS

1215  
1216 5. The developer established a general plan of development for the Project as a master  
1217 planned community in order to protect the quality of life and collective interests of all Owners,  
1218 the aesthetics and environment and the vitality of and sense of community within the Project, all  
1219 subject to the ability of the Manager, Board of Trustees and Owners to respond to changes in  
1220 circumstances, conditions, needs, and desires within the Subdivision. The Project is subject to  
1221 the land development, architectural, and design provisions described herein, the other provisions  
1222 of this Declaration governing individual conduct, and uses of or actions upon the Project, and the  
1223 guidelines, rules, and restrictions promulgated pursuant hereto, as each may be amended from  
1224 time to time, all of which establish affirmative and negative covenants, easements, and  
1225 restrictions on the Project.

1226  
1227  
1228 5.1 Except as otherwise expressly provided herein, all provisions of this Declaration  
1229 and any rules shall apply to all Owners, residents, occupants, tenants, guests, visitors, and  
1230 invitees.

1231  
1232 5.2 Subject to the terms of this section and in accordance with its duty of care and  
1233 undivided loyalty to the Association and its Members, the Board of Trustees may amend  
1234 the Initial Use Restrictions and may adopt rules that modify, cancel, limit, create  
1235 exceptions to, or expand the Use Restrictions then in effect. Notice of any such proposed  
1236 action shall be posted in a prominent place within the Project or published in the  
1237 Association's newsletter, if any, at least five (5) business days prior to the Board of  
1238 Trustees meeting at which such action is to be considered. Members shall have a  
1239 reasonable opportunity to be heard at a Board of Trustees meeting prior to such action  
1240 being taken. Any such action shall become effective after compliance with the  
1241 requirements set forth below unless disapproved at a meeting by at least two-thirds of the  
1242 undivided ownership interest in the Common Areas and Facilities. The Board of Trustees  
1243 shall have no obligation to call a meeting of the Members to consider disapproval except  
1244 upon receipt of a petition of the Members as required for special meetings in the By-

1245 Laws. If a meeting to consider disapproval is requested by the Members prior to the  
1246 effective date of such action, the action may not become effective until after such meeting  
1247 is held. The Association shall provide, without cost, a copy of the Use Restrictions and  
1248 rules then in effect to any Member or Mortgagee requesting a copy. Nothing in this  
1249 section shall authorize the Board of Trustees or the Members to otherwise amend, repeal,  
1250 or expand the Declaration, the By-Laws, or the Articles of Incorporation except in  
1251 accordance with the Amendment provisions set forth below.

1252  
1253 5.3 All Owners are subject to the Use Restrictions and are given notice that (1) their  
1254 ability to use their privately owned property is limited thereby, and (2) the Board of  
1255 Trustees and/or the Members may amend the Use Restrictions or adopt rules which  
1256 modify, cancel, limit, create exceptions to, or expand the Use.

1257  
1258 5.4 Each Owner by acceptance of a deed or other document of conveyance to a Unit  
1259 acknowledges and agrees that the use and enjoyment and marketability of his or her  
1260 property can be affected by this provision and that the Use Restrictions and rules may  
1261 change from time to time.

1262  
1263 5.5 Except as may be specifically set forth in the Initial Use Restrictions, neither the  
1264 Board of Trustees nor the Members may adopt any rule in violation of the following  
1265 provisions:

1266  
1267 (a) Similar Treatment. Similarly situated Owners and occupants shall be  
1268 treated similarly.

1269  
1270 (b) Religious and Holiday Displays. The rights of Owners and occupants to  
1271 display religious and holiday signs, symbols, and decorations on their Lots of the  
1272 kinds normally displayed in residences located in single family residential  
1273 neighborhoods shall not be abridged, except that the Association may adopt time,  
1274 place, and manner restrictions regulating displays which are visible from outside  
1275 the Lot.

1276  
1277 (c) No rule shall interfere with the freedom of occupants of Dwelling Units to  
1278 determine the composition of their households, except that the Declaration limits  
1279 residency in a Dwelling Unit to a single family and the Association shall have the  
1280 power to limit the total number of occupants permitted in each Dwelling Unit on  
1281 the basis of the size and facilities of the Dwelling Unit and its fair share use of the  
1282 Common Area.

1283  
1284 (d) Activities Within Dwelling Units. No rule shall interfere with the activities  
1285 carried on within the confines of Dwelling Units, except that the Association may  
1286 prohibit activities not normally associated with property restricted to residential  
1287 use, and it may restrict or prohibit any activities that create monetary costs for the

1288 Association or other Owners, that create a danger to the health or safety of  
1289 occupants of other Dwelling Units, that generate excessive noise or traffic, that  
1290 create unsightly conditions visible from outside the Dwelling Unit, or that create  
1291 an unreasonable sounds of annoyance.

1292  
1293 (e) Allocation of Burdens and Benefits. No rule shall alter the basis for  
1294 allocation of financial burdens among various Lots or rights to use the Common  
1295 Area to the detriment of any Owner over that Owner's objection expressed in  
1296 writing to the Association. Nothing in this provision shall prevent the Association  
1297 from changing the use of the Common Area, from adopting generally applicable  
1298 rules for use of Common Area, or from denying use privileges to those who abuse  
1299 the Common Area, violate rules or this Declaration, or fail to pay assessments.  
1300 This provision does not affect the right to increase the amount of Assessments.

1301  
1302 (f) Alienation. No rule shall prohibit the leasing or transferring of any Lot, or  
1303 require consent of the Association or Board of Trustees for leasing or transferring  
1304 of any Lot; provided, the Association or the Board of Trustees may require a  
1305 minimum lease term of up to twelve (12) months. The Association may require  
1306 that Owners use lease forms approved by the Association (or include specific  
1307 terms in their leases), and may impose a review or administration fee on the lease  
1308 or transfer of any Lot.

1309  
1310 (g) Abridging Existing Rights. Any rule which would require Owners to  
1311 dispose of personal property being kept on the Property shall apply prospectively  
1312 only and shall not require the removal of any property which was being kept on  
1313 the Property prior to the adoption of such rule and which was in compliance with  
1314 all rules in force at such time unless otherwise required to be removed by law.  
1315 The limitations in this subsection shall apply to rules only; they shall not apply to  
1316 amendments to this Declaration.

1317  
1318 5.6 Nature and Restrictions on Ownership and Use in General. Each Owner shall  
1319 have and enjoy the privileges of fee simple ownership of his or her property. There shall  
1320 be no requirements concerning who may own a Unit, it being intended that they may and  
1321 shall be owned as any other property rights by persons. This is a residential community  
1322 and as such the Units shall be used only for residential purposes, except as expressly set  
1323 forth below, and the Common Areas shall only be used in a manner consistent with the  
1324 residential nature of the Project.

1325  
1326 5.7 The following activities are prohibited within the Property unless expressly  
1327 authorized by, and them subject to such conditions as may be imposed by, the Board of  
1328 Trustees:

1329  
1330 (a) Posting of signs of any kind, including posters, circulars, campaign signs,

1331 political signs, and bills, except those required by law and except as permitted by  
1332 the Board of Trustees on any Unit, the Limited Common Area or Common Area  
1333 (see 5.13);

1334  
1335 (b) Subdivision or partition of a Unit;

1336  
1337 (c) Capturing, trapping or killing wildlife within the Property, except (1) in  
1338 circumstances posing an imminent threat to the safety of persons or pets using the  
1339 Property; and (2) when authorized and supervised by the Board of Trustees in  
1340 accordance with a game management program;

1341  
1342 (d) Activities which materially disturb or destroy the vegetation, wildlife, or  
1343 air quality within the Property or which result in unreasonable levels of sound or  
1344 light pollution;

1345  
1346 (e) Disposal of any oil, gas, or lubricants, and the storage or disposal of other  
1347 hazardous materials (as may be determined in the Board of Trustee's reasonable  
1348 discretion and as defined by applicable law) anywhere within the Property;

1349  
1350 (d) Parking of any vehicle (including, but not limited to, any Recreational,  
1351 Commercial or Oversized vehicle, car, truck, motorcycle, boat, or trailer) in  
1352 violation of the Parking Rules adopted by the Board of Trustees, or containing or  
1353 displaying a "for sale" sign, or other indication of being "for sale" in any driveway  
1354 or other portion of any Lot, or on any street or any portion of the Common Area;

1355  
1356 (e) No garage, patio, porch or lawn sale shall be held in any Unit or the  
1357 Common Area, except that an Owner may conduct such a sale from his Unit with  
1358 the prior written consent of the Board of Trustees provided the items sold are only  
1359 his or her own furniture, furnishings and belongings, not acquired for purposes of  
1360 resale, if such sale is held at such time and in such manner as not to disturb any  
1361 other resident of the neighborhood and if such sale is held in full compliance with  
1362 all applicable governmental ordinances, statutes, laws, rules, regulations and  
1363 resolutions.

1364  
1365 (f) Behavior that causes erosion or unreasonable amounts of dust or pollen.

1366  
1367 5.8 Prohibited Conditions. The following shall be prohibited within the Project:

1368  
1369 (a) Dog runs, animal pens, walls or fences of any kind on any Lot except as  
1370 approved by the Board of Trustees in writing;

1371  
1372 (b) Garage doors shall remain closed at all times except when in actual use;

1374 (c) Stand-alone flagpoles, clotheslines, or other outside facilities for drying of  
1375 clothes;

1376 (d) Excessive exterior lighting;

1377 (e) Temporary or permanent storage buildings or sheds, whether  
1378 prefabricated, metal or of any other construction whatsoever, unless constructed  
1380 by the Association;

1382 (g) Furniture, fixtures, firewood, appliances, machinery, equipment, or other  
1384 goods or chattels which are not in active use stored in any building or any Unit or  
1385 Common Area in such a manner as to be visible from the Common Area or which  
1386 creates or may create a health or safety hazard; provided, however, this restriction  
1387 shall not apply to the property of the Association;

1388 (h) Without limiting the generality of any of the foregoing provisions, the  
1389 Board of Trustees shall be permitted to establish and enforce reasonable rules with  
1391 respect to noise levels originating from a Unit and with respect to the placement  
1392 and use of noise making apparatus on any Unit or motor vehicle. No activities  
1393 shall be conducted in any Unit or the Common Area, which are or might be unsafe  
1394 or hazardous to any other person or property in the Project. No open fires shall be  
1395 lighted or permitted on the Property, except in a contained outdoor fireplace or  
1396 barbecue unit while attended and in use for cooking purposes or within a safe and  
1397 well-designed interior fireplace. No odors shall be permitted to arise or emit from  
1398 any Unit, which are offensive or detrimental to any neighboring Unit, as  
1399 determined in the discretion of the Board of Trustees. Outdoor playground  
1400 equipment not authorized in writing by the Board of Trustees.

1401 (i) Permitting any thing or condition to exist in any Unit or the Common Area  
1402 that is likely to induce, breed, or harbor infectious plant diseases or noxious  
1403 insects.

1405 5.9 No Owner may create or allow the creation or maintenance of a nuisance. The  
1406 term "nuisance" includes but is not limited to the following:

1409 (a) The development of any unclean, unhealthy, unsightly, or unkempt  
1410 conditions on, in or about his Unit or the Common Areas;

1412 (b) The maintenance of any plants, animals, devices or items, instruments,  
1413 equipment, machinery, fixtures, or things of any sort whose activities or existence  
1414 in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as  
1415 may diminish or destroy the enjoyment of the Project by other residents, their  
1416 guests or invitees;

1417  
1418 (c) Unreasonable amounts of noise or traffic in, on or about any Unit or the  
1419 Common Area, especially after 10:00 p.m. and before 7:00 a.m. during the week  
1420 and between midnight and 8:00 a.m. during weekends, and

1421  
1422 (d) Allowing drug houses and drug dealing; the unlawful sale, manufacture,  
1423 service, storage, distribution, dispensing or acquisition occurs of any controlled  
1424 substance; gambling; criminal activity; parties which occur frequently which  
1425 bother, annoy or disturb other reasonable residents or interfere with their quiet and  
1426 peaceful enjoyment of the premises; prostitution; or other violation of U.C.A.,  
1427 Section 78-38-9 (1999) as amended or supplemented.

1428  
1429 5.10 Zoning Regulations. The lawfully enacted zoning regulations of Summit County,  
1430 and duly adopted building, fire, and health codes, and the master covenants of the Sun  
1431 Peak Development, and the Consent Agreement between Summit Ranch Joint Venture  
1432 and Summit County governing the development of the Property are in full force and  
1433 effect in the Project, and no Unit may be occupied in a manner that is in violation of any  
1434 such statute, law, ordinance, covenant, or conditional use permit.

1435  
1436 5.11 No Mining Uses. The Property within the Project shall be used for residential  
1437 purposes only, and no surface occupation for mining, drilling, or quarrying activity will  
1438 be permitted at any time.

1440        5.12 No Business or Commercial Uses. No portion of any Unit may be used for any  
1441        commercial business use, provided however that nothing in this provision is intended to  
1442        prevent (a) the use of Common Area for storage of construction materials, equipment or  
1443        a plant nursery in conjunction with the construction authorized by the Project, or (b.) the  
1444        use by any Owner of his Unit for a home occupation as defined by applicable ordinance.  
1445        No home occupation will be permitted, however, which requires or encourages the  
1446        Owner's clients, customers, patients or others to come to the Unit to conduct business, or  
1447        which requires any employees outside of the Owner's immediate family or household. No  
1448        retail sales of any kind may be made in the Project. No materials, machinery, equipment,  
1449        or inventory associated with any home occupation may be stored outside of any Unit or  
1450        on any Common Area or Limited Common Area. No signs associated with any home  
1451        occupation are permitted.

1453        5.13 Restrictions on Signs. No signs will be permitted on any Unit or within the  
1454        Project, except for traffic control signs, and temporary signs warning of some immediate  
1455        danger. Signs indicating the Unit is for sale may be placed in accordance with County  
1456        sign regulations, and no such sign may exceed six square feet. The Owner's name and  
1457        address may be posted adjacent to the front door of a Unit on a sign or plaque not  
1458        exceeding 2 square feet in area. A project sign will be installed off of Highway 224 as  
1459        approved by Summit County and The Sun Peak Homeowners association.

1460  
1461     5.14   Completion Required Before Occupancy. No Unit may be occupied prior to its  
1462       completion and the issuance of a Temporary or Permanent Certificate of Occupancy by  
1463       Summit County.

1464  
1465     5.15   Underground Utilities. All gas, electrical, telephone, television, and any other  
1466       utility lines in the Project are to be underground, including lines within any Limited  
1467       Common Area. No propane tanks or oil tanks may be installed within the Project except  
1468       for temporary heat during construction. Heating is to be natural gas supplied by utility  
1469       pipeline.

1470  
1471     5.16   Service Yards. All service yards, hot tubs, spas, and exterior mechanical  
1472       equipment must be within the Limited Common Area. Playground equipment, swimming  
1473       pools, trampolines, etc. are not permitted in the Project Service Yards.

1474  
1475     5.17   Maintenance of Property. All Units, including the Limited Common Area  
1476       appurtenant to the Unit, shall be maintained in a clean, sanitary, attractive and marketable  
1477       condition at all times by the Owner (this includes but is not limited to, removal of trash,  
1478       pet waste, etc). No Owner shall permit his Unit an/or his appurtenant Limited Common  
1479       Area to fall into disrepair.

1480  
1481     5.18   No Noxious or Offensive Activity. No noxious or offensive activity shall be  
1482       carried out in any Unit or on any portion of the Project, including the creation of loud or  
1483       offensive noises or odors that detract from the reasonable enjoyment of nearby or  
1484       adjoining Units.

1485  
1486     5.19   No Hazardous Activity. No activity may be conducted within any Unit, or within  
1487       the Project that is, or would be considered by a reasonable person to be unreasonably  
1488       dangerous or hazardous, or which would cause the cancellation of conventional property  
1489       casualty insurance. This includes, without limitation, the storage of caustic, toxic,  
1490       flammable, explosive or hazardous materials in excess of those reasonable and customary  
1491       for household uses, the discharge of firearms or fireworks, and setting open fires (other  
1492       than properly supervised and contained barbecues). No Owner will occupy a Unit in a  
1493       manner that is in violation of any State or Federal environmental protection law or  
1494       regulation concerning the storage, disposal, or use of toxic or hazardous materials.

1495  
1496     5.20   No Open Burning. The open burning of yard trimmings, construction waste, or  
1497       other materials on the Unit or within the Project is prohibited.

1498  
1499     5.21   No Unsightliness. No unsightliness is permitted on any Unit or its Limited  
1500       Common Areas. This shall include, without limitation, (a) the open storage of any  
1501       building, landscape or gardening materials (except during the construction or repair of  
1502       any Unit); (b) open storage or parking of farm or construction equipment, inoperable

1503 motor vehicles, boats, campers, trailers, trucks larger than pick-up trucks (except during  
1504 periods of actual loading and unloading); (c) accumulations of lawn or tree clippings or  
1505 trimmings; (d) accumulations of construction debris or waste; household refuse or  
1506 garbage except as stored in tight containers in a garage; and (e) lawn or garden furniture,  
1507 window air conditioners, and holiday lights except during the season of use.

1508

1509 5.22 No Annoying Sounds. No speakers, or other noise making devices may be used or  
1510 maintained on any Unit or Limited Common Area which create noise that might  
1511 reasonably be expected to be annoyingly loud from adjoining Units, except for properly  
1512 operating and maintained security or fire alarms.

1513

1514 5.23 Vehicle Restrictions. No motor vehicle, including by way of illustration but not  
1515 limitation all cars, trucks, snowmobiles, off-road vehicles, motorcycles, and Recreational,  
1516 Commercial and Oversized Vehicles may be operated on the Property in violation of the  
1517 Parking Rules adopted by the Board of Trustees.

1518

1519 5.24 No Automobile Repair. No automobile repairs or restoration work may be made  
1520 within the Property. No inoperative, unlicensed, unregistered or damaged motor vehicles  
1521 may be stored on the Property or within any Unit.

1522

1523 5.25 Animals. Only ordinary, domesticated household pets may be kept in any Unit.

1524

1525 (a) Invisible or fenceless dog runs may be placed only in the Limited  
1526 Common Area appurtenant to the Owner's Unit. The Owner will maintain any  
1527 dog run area in a clean and sanitary manner to that there are no annoying odors  
1528 affecting other Units.

1529

1530 (b) Owners are responsible for picking up their pet's waste throughout the  
1531 Common and Limited Common areas.

1532

1533 (c) Owners are responsible for adhering to all Animal Control and Summit  
1534 County laws pertaining to pets.

1535

1536 (d) Owners are responsible for ensuring their pets are not disruptive or a  
1537 nuisance to other Owners. The following acts of an animal may constitute a  
1538 nuisance: (i) it causes damage to the property of anyone other than its owner; (ii)  
1539 it causes unreasonable fouling of the air by odors; (iii) it causes unsanitary  
1540 conditions; (iv) it defecates on any common area and the feces are not  
1541 immediately cleaned up by the responsible party; (v) it barks, whines or howls, or  
1542 makes other disturbing noises in an excessive, continuous or untimely fashion; or  
1543 (vi) it molests or harasses passersby by lunging at them or chasing passing  
1544 vehicles.

1545

1546 (e) Pets may not be tied or tethered in the Common Area. The Board of  
1547 Trustees may require a pet deposit or a pet registration fee.

1548 (f) The Association may require an Owner to remove nuisance pets due to  
1549 noise, running at large, sanitary violations, or other violations of applicable  
1550 ordinances.

1552 5.26 No Transient Lodging Uses. The Units are to be used for residential housing  
1553 purposes only, and shall not be rented in whole or in part for transient lodging purposes,  
1555 boarding house, "bed and breakfast," or other uses for providing accommodations to  
1556 travelers. No lease of any Unit or Dwelling shall be for a period of less than one month.  
1557 No Unit shall be subjected to time interval ownership.

1558 5.27 No Time Interval Ownership. No Unit may be owned, leased, or otherwise held in  
1559 a manner that divides either the legal title or the right of use into formal or informal time  
1560 intervals or timeshare ownership, or any other contract, trust, partnership, or other  
1561 arrangement that permits, allows, or as a practical matter, creates or establishes time  
1562 interval ownership or rotating use of the Unit that is indistinguishable from time interval  
1563 ownership.

1565 5.28 No Firearms, Weapons, or Hunting. No firearms or weapons of any kind,  
1566 including bb guns, pellet guns, or similar air-powered firearms may be discharged within  
1567 the Project. No archery ranges or other weapons target areas or use is permitted. The  
1568 hunting, trapping, and harassment of wildlife, by firearms, or any other means, is  
1569 expressively prohibited within the Property.

1571 5.29 Fireplaces, Chimneys. Only one wood burning stove, fireplace, or other such  
1572 appliance is permitted in each Unit. The primary heat source must be natural gas or solar  
1573 rather than wood. No coal-fired appliances may be used, and no coal shall be burned in  
1574 fireplaces. Chimneys must be enclosed in an approved siding material with a spark  
1575 arrester. No exposed metal flues are permitted, other than sections less than 2 feet at the  
1576 top of the chimney.

1578 5.30 Antennas/Dishes. All Antennas/dishes must be pre-approved by the Board of  
1579 Trustees prior to installation. Any satellite dishes in excess of 24 inches in diameter must  
1580 be located and screened in a manner approved in advance by the Board of Trustees.  
1581 Antennas/Dishes are not to be visible from either adjoining Units, Lots or from outside  
1582 the Subdivision.

1584 5.31 Solar Panels. Solar panels will be permitted in accordance with Utah law and the  
1585 prior written consent of the Sun Peak Architectural Committee, and The Cove (aka,  
1586 Winter Park) @ Sun Peak Board of Trustees

1588

1589 5.32 Fencing. No Fencing shall be permitted in the Limited Common Areas or the  
1590 Common Areas without specific approvals from Summit County and The Cove (aka,  
1591 Winter Park) @ Sun Peak Board of Trustees

1592  
1593 5.33 Repairs and Replacements Repairs and replacements to any Unit or to the  
1594 Common Areas constituting the exterior of the buildings will be made in a manner that is  
1595 consistent in architectural design, materials, colors, and of equal or better quality than the  
1596 remainder of the Project, and with the original construction.

1597  
1598 5.34 New Construction/Additions. No Unit Owner may construct additions to his Unit  
1599 without the consent of the Association, which may require a formal amendment of the  
1600 Map to reflect the expansion of the Unit on to land that was previously Common Area,  
1601 and appropriate consideration paid to the Association. All costs associated with the  
1602 amendment of the Map and Declaration will be borne by the Unit Owner requesting the  
1603 amendment. The Sun Peak Architectural Design Review Committee must approve all  
1604 new construction.

1605  
1606 5.35 Interior Alterations. Unit Owners may make interior alterations within their Units  
1607 as they see fit, provided that no structural or bearing wall may be altered, moved, or  
1608 penetrated with new openings without the approval of the Association. Any alterations  
1609 must be carried out pursuant to a properly issued building permit, and in full compliance  
1610 with all applicable codes. No interior alterations that involve the relocation of any interior  
1611 partition will be made without advance notice to the Association, complete with copies of  
1612 plans indicating the alterations to be made.

1613  
1614 5.36 Outdoor Lighting. All exterior lighting should be limited to the confines of the lot  
1615 on which it is installed. Holiday lights should not be installed prior to November 1<sup>st</sup> and  
1616 should be removed by March 30<sup>th</sup>.

1617  
1618 5.37 Landscaping. Owners may add additional landscaping to the Common and  
1619 Limited Common areas appurtenant to their Unit as long as it is within the confines of the  
1620 overall The Cove (aka, Winter Park) @ Sun Peak landscape scheme.

1621  
1622 (a) The Board of Trustees must approve any landscaping that may  
1623 impact/compromise the integrity of the irrigation system and/or infringe on  
1624 the rights of a neighboring unit.

1625  
1626 (b) The Association has the right to remove any overgrown, diseased, dead,  
1627 dying or unsightly vegetation from the Common/Limited Areas.

1628  
1629 (c) Lawn ornaments should be in keeping with The Cove (aka, Winter Park)  
1630 @ Sun Peak landscape theme and be of natural woods, stone or metal and should  
1631 not be offensive in nature.

1632 5.38 Window Coverings, Awnings and Sun Shades. No-aluminum foil, newspapers,  
1633 reflective film coatings, or any other similar materials may be used to cover the exterior  
1634 windows of any residential structure on a Unit. Sunshades are not allowed on the exterior  
1635 of any Building, unless the color, style, construction material and uniformity of  
1636 appearance is approved by the Board of Trustees.

1637

1638 5.39 Windows. All windows and windowpanes in the Project shall be harmonious,  
1639 and comparable in size, design and quality so as not to detract from uniformity in  
1640 appearance and quality of construction.

1641

1642 5.40 Subdivision of a Unit. No Unit may be partitioned or subdivided.

1643

1644 5.41 No Severance. The elements of a Unit and other rights appurtenant to the  
1645 ownership of a Unit, including interest in Common Areas and Facilities and Limited  
1646 Common Areas and Facilities, if any, are inseparable, and each Owner agrees that he shall  
1647 not, while this Declaration is in effect, make any conveyance of less than an entire Unit  
1648 and such appurtenances. Any conveyance made in contravention of this Subsection,  
1649 including under any conveyance, encumbrance, judicial sale or other transfer (whether  
1650 voluntary or involuntary) shall be void.

1651

1652 5.42 Insurance. Nothing shall be done or kept in, on or about any Unit or in the  
1653 Common Areas or Limited Common Areas, which may result in the cancellation of the  
1654 insurance on the Property, or an increase in the rate of the insurance on the Property, over  
1655 what the Board of Trustees, but for such activity, would pay.

1656

1657 5.43 Laws. Nothing shall be done or kept in, on or about any Unit or Common Areas,  
1658 or any part thereof, which would be a violation of any statute, rule, ordinance, regulation,  
1659 permit or other validly imposed requirement of any governmental body.

1660

1661 5.44 Damage or Waste. No damage to, or waste of, the Common Areas or Limited  
1662 common Areas shall be committed by any Owner or Resident, their guests or invitees;  
1663 and each Owner and Resident shall indemnify and hold the Board of Trustees and the  
1664 other Owners in the Project harmless against all loss resulting from any such damage or  
1665 waste caused by that Owner or Resident, their guests or invitees.

1666

1667 5.45 Structural Alterations. Except in the case of an emergency repair, no structural  
1668 alterations, plumbing, electrical or similar work within the Common Areas or Limited  
1669 Common Areas shall be done or permitted by any Owner without the prior written  
1670 consent of the Board of Trustees.

1671

1672

1673

1674

1675

## ARTICLE VI

## 1676 DESTRUCTION OR TERMINATION OF CONDOMINIUM

1677

1678 6. Destruction, Condemnation, and Obsolescence. The following provisions shall apply  
1679 with respect to the destruction, condemnation, or obsolescence of the Project.

1680

1681 6.1 Definitions. Each of the following terms shall have the meaning indicated:

1682

1683 (a) "Substantial Destruction" shall exist whenever, as a result of any damage  
1684 or destruction to the Project or any part thereof, the excess of the estimated cost of  
1685 restoration over the funds available is Twenty five percent (25%) percent or more  
1686 of the estimated restored value of the Project.

1687

1688 (b) "Partial Destruction" shall mean any other damage or destruction to the  
1689 Project or any part thereof.

1690

1691 (c) "Substantial Condemnation" shall exist whenever a complete taking of the  
1692 Project or a taking of part of the Project has occurred under eminent domain or by  
1693 grant or conveyance in lieu of condemnation, and the excess of the estimated cost  
1694 of restoration over the funds available is Twenty five (25%) percent or more of the  
1695 estimated restored value of the Project.

1696

1697 (d) "Partial Condemnation" shall mean any other such taking by eminent  
1698 domain or grant or conveyance in lieu thereof.

1699

1700 (e) "Substantial Obsolescence" shall exist whenever the Project or any part  
1701 thereof has reached such a state of obsolescence or disrepair that the excess of the  
1702 estimated cost of restoration over the funds available is Twenty five percent  
1703 (25%) percent or more of the estimated restored value of the Project.

1704

1705 (f) "Partial Obsolescence" shall mean any state of obsolescence or disrepair,  
1706 which does not constitute Substantial Obsolescence.

1707

1708 (g) "Restored Value" shall mean the fair market value of the Project after  
1709 Restoration as determined by an MAI or other qualified appraisal.

1710

1711 (h) "Estimated Cost of Restoration" shall mean the estimated costs of  
1712 restoring the Project to its former condition.

1713

1714 (i) "Available Funds" shall mean any proceeds of insurance, condemnation  
1715 awards, payments in lieu of condemnation, and any uncommitted funds of the  
1716 Board of Trustees or Association. Available Funds shall not include that portion

1717 of insurance proceeds legally required to be paid to any party other than the  
1718 Association, including a mortgagee, or that portion of any condemnation award or  
1719 payment in lieu of condemnation payable to the Owner or Mortgagee for the  
1720 condemnation or taking of the Unit in which they are interested.

1721  
1722 6.2 Determination by Board of Trustees. Upon the occurrence of any damage or  
1723 destruction to the Project or any part thereof, or upon a complete or partial taking of the  
1724 Project under eminent domain or by grant or conveyance in lieu thereof, the Board of  
1725 Trustees shall make a determination as to whether the excess of Estimated Costs of  
1726 Restoration over Available Funds is twenty-five percent (25%) or more of the estimated  
1727 Restored Value of the Project. In addition, the Board of Trustees shall, from time to time,  
1728 review the condition of the Project to determine whether Substantial Obsolescence exists.  
1729 In making such determinations the Board of Trustees may retain and rely upon one or  
1730 more qualified appraisers or other professionals.

1731  
1732 6.3 Restoration of the Project. Restoration of the Project shall be undertaken by the  
1733 Board of Trustees promptly without a vote of the Owners in the event of Partial  
1734 Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken  
1735 in the event of Substantial Destruction, Substantial Condemnation, or Substantial  
1736 Obsolescence unless the failure to make Restoration is consented to by Owners  
1737 collectively holding at least sixty-seven percent of the Project's undivided Ownership  
1738 interest and is further consented to by Eligible Mortgagees holding Mortgages on Units  
1739 which have appurtenant at more than 50% percent of the undivided ownership interest in  
1740 the Common Areas and Facilities which is then subject to Mortgages held by Eligible  
1741 Mortgagees.

1742  
1743 6.4 Notices of Destruction or Obsolescence. Within thirty (30) days after the Board  
1744 of Trustees has determined that Substantial Destruction, Substantial Condemnation, or  
1745 Substantial Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a  
1746 written description of the destruction, condemnation, or state of obsolescence involved,  
1747 shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees  
1748 concerning Restoration, and shall, with or without a meeting of the Owners (but in any  
1749 event in accordance with the applicable provisions of this Declaration), take appropriate  
1750 steps to determine the preferences of the Owners regarding Restoration.

1751  
1752 6.5 Excess Insurance. In the event insurance proceeds, condemnation awards, or  
1753 payments in lieu of condemnation actually received by the Board of Trustees or  
1754 Association exceed the cost of Restoration when Restoration is undertaken, the excess  
1755 shall be paid and distributed to the Owners in proportion to their respective undivided  
1756 interests in the Common Areas. Payment to any Owner who's Unit is the subject of a  
1757 Mortgage shall be made jointly to such Owner and the interested Mortgagee.

1758  
1759 6.6 Inadequate Insurance. If the cost of Restoration exceeds Available Funds, the

1760 Board of Trustees may elect to make a special assessment in accordance with Article III,  
1761 Section 21 above to pay for the deficiency.

1762  
1763 6.7 Reallocation in Event of Partial Restoration. In the event that all or any portion of  
1764 one or more Units will not be the subject of Restoration (even though the Project will  
1765 continue as a condominium project) or is taken in a condemnation proceeding or pursuant  
1766 to any agreement in lieu thereof, the undivided Ownership interest in the Common Areas  
1767 and Facilities shall be immediately reallocated to the remaining Units.

1768  
1769 6.8 Sale of Project. Unless Restoration is accomplished as set forth above, the Project  
1770 shall be sold in the event of Substantial Destruction, Substantial Condemnation, or  
1771 Substantial Obsolescence. In the event of such sale, condominium Ownership under this  
1772 Declaration and the Condominium Plat shall terminate and the proceeds of sale and any  
1773 Available Funds shall be distributed by the Board of Trustees to the Owners in proportion  
1774 to their respective undivided interests in the Common Areas. Payment to any Owner  
1775 whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the  
1776 interested Mortgagee.

1777  
1778 6.9 Authority of Board of Trustees to Represent Owners in Condemnation or to  
1779 Restore or Sell. The Board of Trustees, as attorney-in-fact for each Owner, shall  
1780 represent all of the Owners and the Association in any condemnation proceeding or in  
1781 negotiations, settlements, and agreements with the condemning authority for the  
1782 acquisition of all or any part of the Common Areas and Facilities.

1783  
1784 6.10 Settlement Proceeds. The award in any condemnation proceeding and the  
1785 proceeds of any settlement related thereto shall be payable to the Association for the use  
1786 and benefit of the Owners and their mortgagees as their interests may appear.

1787  
1788 6.11 Restoration Power. The Board of Trustees, as attorney-in-fact for each Owner,  
1789 shall have and is hereby granted full power and authority to restore or to sell the Project  
1790 and each Unit therein whenever Restoration or sale, as the case may be, is undertaken as  
1791 hereinabove provided. Such authority shall include the right and power to enter into any  
1792 contracts, deeds or other instruments, which may be necessary or appropriate for  
1793 Restoration or sale, as the case may be.

1794  
1795 6.12 Termination of Legal Status. Any action to terminate the legal status of the  
1796 Project after Substantial Destruction or Condemnation occurs shall be agreed to by Unit  
1797 Owners who represent at least sixty-seven (67%) percent of the total allocated votes in  
1798 the Association and by Eligible Mortgage holders who represent at least fifty-one (51%)  
1799 percent of the votes of the Units that are subject to mortgages held by eligible holders.  
1800 The termination of the legal status of the Project for reasons other than Substantial  
1801 Destruction or Condemnation of the property shall be agreed to by Eligible Mortgage  
1802 holders that represent at least sixty-seven (67%) percent of the votes of the mortgaged

1803 Units. However, implied approval may be assumed when an Eligible Mortgage holder  
1804 fails to submit a response to any written proposal for an amendment within thirty (30)  
1805 days after it receives proper notice of the proposal, provided the notice was delivered by  
1806 certified or registered mail, with a "return receipt" requested. If financing has been  
1807 provided by any of the following agencies, their affirmative consent is required: The  
1808 Federal Housing Administration of the United States Department of Housing and Urban  
1809 Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage  
1810 Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government  
1811 National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA).

## ARTICLE VII

### AMENDMENT

1818 7. This Declaration may be amended from time to time by the affirmative vote of the  
1819 eligible Owners (Owners in arrears are not eligible) representing more than 50% of the undivided  
1820 ownership interest, based on the number of eligible Owners. The right to amend this Declaration  
1821 is subject to the following limitations:

1823  
1824 7.1 Mortgagee Consent. The consent of at least sixty-seven percent (67%) of the  
1825 Eligible Mortgagees shall be required to any amendment which would terminate the legal  
1826 status of the Project; and the consent of Eligible Mortgagees holding at least fifty-one  
1827 (51%) percent of the undivided ownership interest in the Common Areas shall be  
1828 required to add to or amend any material provision of this Declaration or the Record of  
1829 Survey Map which establishes, provides for, governs, or regulates any of the following:  
1830 (1) voting rights; (2) increases in assessments that raise the previously assessed amount  
1831 by more than 25%, assessment liens, or the priority of assessment liens; (3) reductions in  
1832 reserves for maintenance, repair, and replacement of the Common elements; (4)  
1833 insurance or fidelity bonds; (5) limitations and restrictions on the right to use of the  
1834 Common Areas; (6) responsibility for maintenance and repairs; (7) expansion or  
1835 contraction of the Project or the addition, annexation or withdrawal of property to or from  
1836 the Project; (8) the boundaries of any Lot; (9) the percentages of ownership interest in the  
1837 Common Areas; (10) convertibility of a Lot into Common Areas or Common Area into a  
1838 Lot; (11) the imposition of any right of first refusal or similar restriction on the right of an  
1839 Owner to sell, transfer, or otherwise convey his Lot; (12) express benefits or rights of  
1840 Mortgagees, Eligible Mortgagees, or Eligible Insurers or Guarantors; and (13) the  
1841 requirement that the Project be professionally managed rather than self managed. Any  
1842 addition or amendment shall not be considered material for purposes of this Paragraph if  
1843 it is for the clarification only or to correct a clerical error. Notice of any proposed

1844 amendment to any Eligible Mortgagee to whom a written request to approve an addition  
1845 or amendment to this Declaration or the Record of Survey Map is required shall be  
1846 mailed postage prepaid to the address for such Mortgagee shown on the list maintained by  
1847 the Association. Any Eligible Mortgagee who does not deliver to the Board of Trustees  
1848 or the Association a negative response to the notice of the proposed amendment within  
1849 thirty (30) days from the date of such mailing shall be deemed to have approved the  
1850 proposal. The foregoing consent requirements shall not be applicable to amendments to  
1851 this Declaration and the Record of Survey Map or the termination of the legal status of  
1852 the Project. If such amendments or such termination are made or accomplished in  
1853 accordance with the provisions of this Declaration regarding Condemnation or  
1854 Substantial Obsolescence.

1855

1856

1857

## ARTICLE VIII

1858

### MORTGAGEE PROTECTION

1859

1860 8. To facilitate financing for the Units in the Project, the following provisions for the  
1861 protection of Mortgagees shall apply:

1862

1863

1864 8.1 Subordination of Lien. The Association hereby subordinates its lien for Common  
1865 Area Assessments to the first lien purchase money mortgage on each Unit. In the event  
1866 that a mortgagee take title to any Unit through trustees sale, foreclosure or a deed in lieu  
1867 of foreclosure or sale, the Association will waive the right to a lien for accrued but unpaid  
1868 Common Area Assessments. The mortgagee will take title free of the lien for unpaid  
1869 Common Area Assessments accrued prior to the date of possession. The Mortgagee in  
1870 possession will, however, be subject to the Common Area Assessments accruing from the  
1871 date it takes possession.

1871

1872

1873 8.2 Statement of Account. The association will give any Owner, prospective  
1874 purchaser, or Mortgagee or prospective Mortgagee a written statement of account for the  
1875 Unit in question, showing the balance owing, if any, for Common Area Assessments. The  
1876 Association may charge a fee of \$25 for each such statement to cover its costs of  
1877 preparation. Prospective purchasers and Mortgagees will be entitled to rely on the  
1878 accuracy of that statement of account, and amounts not shown will be deemed waived as  
1879 to the new Owner or Mortgagee.

1879

1880

1881 8.3 No Release of Prior Owner. The obligation to pay Common Area Assessments is  
1882 personal, and despite subordination or waiver for the benefit of a Mortgagee or new  
1883 Owner, the Association may reserve its rights to proceed against the prior Owner to  
1884 collect any amounts due.

1884

1885

8.4 Mortgagee Protection. The lien or claim against a Unit for unpaid Assessments

1886 levied by the Board of Trustees or by the Association pursuant to this Declaration or the  
 1887 Act shall be subordinate to any Mortgage recorded on or before the date such  
 1888 Assessments become due, subject to the following:

1889

1890 (a) Effects of Voluntary and Involuntary Sale. The lien or claim against a  
 1891 Unit for such unpaid Assessments shall not be affected by any sale or transfer of  
 1892 such Unit, except that a sale or transfer pursuant to a foreclosure of the Mortgage  
 1893 affecting such Unit or the exercise of a power of sale available thereunder shall  
 1894 extinguish any debt payable prior to such sale or transfer. Nevertheless, any such  
 1895 unpaid Assessments which are extinguished in accordance with the foreclosure or  
 1896 power of sale shall not relieve the purchaser or transferee of such Unit from  
 1897 liability for, nor such Unit the lien of any Assessments becoming due thereafter.

1898

1899 (b) Books and Records Available for Inspection. The Board of Trustees or the  
 1900 Association shall make available to the Owners, to Mortgagees, and lenders, and  
 1901 to holders, insurers, or guarantors of any Mortgage current copies of the  
 1902 Declaration, By-Laws, and administrative rules and regulations concerning the  
 1903 Project, as well as the books, records, and financial statements of the Board of  
 1904 Trustees and the Association. The term "Available," as used in the Paragraph,  
 1905 shall mean available for reasonable inspection upon request during normal  
 1906 business hours or under other reasonable circumstances. The Association shall  
 1907 have the right to recover its photocopying and service charges incurred in making  
 1908 the inspection and photocopying available.

1909

1910 (c) Right to Financial Statement. The holder, insurer or guarantor of any  
 1911 Mortgage shall be entitled, upon written request, to a financial statement for the  
 1912 immediately preceding fiscal year. Any financial statement requested pursuant  
 1913 hereto shall be furnished to the requesting party within a reasonable time  
 1914 following such request.

1915

1916 (d) Management Contracts. Any agreement for professional management of  
 1917 the Project, and any contract for goods or services, or any lease, which is entered  
 1918 into by the Board of Trustees, shall provide, or be deemed to provide hereby, that:

1919

1920 (1) Either party may terminate the contract with cause upon at least  
 1921 thirty (30) days prior written notice to the other party; and

1922

1923 (2) No contract may be for an initial term greater than one (1) year.

1924

1925 (e) Eligible Mortgagee Designation. Upon written request to the Board of  
 1926 Trustees or the Association by the holder, insurer, or guarantor of a Mortgage  
 1927 (which request identifies the name and address of such holder, insurer or  
 1928 guarantor and the Unit Number or address of the property encumbered by the

1929 Mortgage held or insured by such holder, insurer, or guarantor), such holder  
 1930 insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or  
 1931 "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on  
 1932 the appropriate lists maintained by the Association, and shall be entitled to timely  
 1933 written notice of any of the following:

1934

1935 (1) Condemnation Loss or Award. Any condemnation loss or any  
 1936 casualty loss which affects a material portion of the Project or any Unit on  
 1937 which there is a Mortgage held, insured, or guaranteed by such Eligible  
 1938 Insurer or Guarantor.

1939

1940 (2) Delinquency. Any delinquency in the payment of Assessments  
 1941 owed by an Owner of a Unit subject to a Mortgage held, insured or  
 1942 guaranteed by such Eligible Insurer or Guarantor, which delinquency  
 1943 remains uncured for a period of sixty days.

1944

1945 (3) Lapse of Insurance. Any lapse, cancellation, or material  
 1946 modification of any insurance policy or fidelity bond maintained by the  
 1947 Board of Trustees or the Association.

1948

1949 (4) Consent Required. Any proposed action, which would require the  
 1950 consent of a specified percentage of Eligible Mortgagees.

1951

1952 (f) Approval of Proposed Action or Transaction. Any Mortgagee who  
 1953 receives, by certified or registered mail, a written request, with a return receipt  
 1954 requested, to approve any act, transaction or amendment to the Declaration, and  
 1955 who does not return a negative response within thirty (30) days shall be deemed to  
 1956 have approved such request. If financing has been provided by any of the  
 1957 following agencies, such action or transaction must be approved in writing by the  
 1958 Department of Veterans Affairs (VA) pursuant to CFR, Title 38, Section  
 1959 36.4357(b)(4) and, if any financing or the guaranty of any financing of a Unit is  
 1960 provided by the Federal Housing Administration of the United States Department  
 1961 of Housing and Urban Development (FHA), the Federal Home Loan Mortgage  
 1962 Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage  
 1963 Association (FNMA), Government National Mortgage Association (GNMA), by  
 1964 such agencies.

1965

1966

1967

1968

1969

1970

1971

1972

## ARTICLE IX

1973

## ENFORCEMENT

1974

1975     9. This Declaration is enforceable by bringing an action in the District Court for Summit  
 1976     County, Utah, or such other court, as may have jurisdiction. The provisions are enforceable by  
 1977     seeking money judgments, the right to foreclose on liens, or in the case of covenants concerning  
 1978     the use of the property, by injunction. Trustees may take any legal measures they deem  
 1979     reasonable for collection of past due assessments, which may include but is not limited to late  
 1980     fees, interest penalties, liens, foreclosures, turning the account over to a collection agency or  
 1981     contacting a credit bureau.

1982

1983     9.1     Notices. Notice of delinquent accounts will be sent to all owners at their last  
 1984     known address. Notice of additional past due assessment penalties will be sent to the  
 1985     Owner at the last known address, and/or delivered in person to the Unit. If payment has  
 1986     not been made within 10 days of written notice, the Association may record a notice of  
 1987     lien against the Unit, proceed to collection or foreclosure, utilize garnishment procedures,  
 1988     turn the account over to a collection agency, contact a credit bureau or use other legal  
 1989     mean deemed necessary. Notices of non-monetary violations of the Declaration will be  
 1990     given in the same manner, and if the violation is not cured, or the acts constituting the  
 1991     violation are repeated within 10 days, the Association may seek an injunction compelling  
 1992     performance.

1993

1994     9.2     Severability. If any provision of this Declaration is adjudicated to be  
 1995     unenforceable, the remainder of the Declaration shall remain in full force and effect.

1996

1997     9.3     Attorneys Fees. If the Association is required to consult with an attorney for  
 1998     purposes of collection of past due assessments, or enforcement of other covenants,  
 1999     conditions, or restrictions in this Declaration, the Owner in default or violation agrees to  
 2000     reimburse the Association for its reasonable attorneys fees, whether suit is filed or not. If  
 2001     suit is filed, all costs of enforcement will be recovered in addition to whatever other relief  
 2002     a court may award.

2003

2004     9.4     Arbitration. In any dispute between the Association and any Owner arising under  
 2005     the terms of this Declaration or the By-laws of the Association, the parties will submit the  
 2006     issue to binding arbitration under the Commercial Arbitration Rules of the American  
 2007     Arbitration Association. Judgment may be issued on award or, determination of the  
 2008     Arbitrators in any court having jurisdiction over the property or the parties to the dispute.  
 2009     All fees for the American Arbitration Association will be equally divided and paid in  
 2010     advance by the parties, or at such time as required by the Arbitration Rules. While it was  
 2011     the intent of the Declarant that disputes be resolved by arbitration where ever possible,  
 2012     the Association shall not be deemed to have waived its rights to foreclose liens for  
 2013     Common Area Expenses or other charges through judicial foreclosure, nor to have

2014       waived the right of the Association to seek injunctive relief in those situations where  
2015       arbitration does not provide an adequate or complete remedy. The Association will  
2016       attempt to include arbitration clauses in contracts with third parties providing goods or  
2017       services to the Association.

2018  
2019       9.5       Separate Taxation. Each Unit and its percentage of undivided interest in the  
2020       Common Areas and Facilities shall be considered to be a parcel and shall be subject to  
2021       separate assessment and taxation by each assessing unit and special district for all types of  
2022       taxes authorized by law, including ad valorem levies and special assessments. Neither the  
2023       Building or Buildings, the property nor any of the Common Areas and Facilities may be  
2024       considered a parcel for tax purposes.

2025  
2026       9.6.       Interpretation. To the extent Utah law is consistent with this Declaration, such  
2027       provisions shall supplement the terms hereof and are incorporated herein. The captions,  
2028       which precede the Articles and Sections of this Declaration, are for convenience only and  
2029       shall in no way affect the manner in which any provision hereof is construed. Whenever  
2030       the context so requires, the singular shall include the plural, the plural shall include the  
2031       singular, the whole shall include any part thereof, and any gender shall include both  
2032       genders. The invalidity or unenforceability of any portion of this Declaration shall not  
2033       affect the validity or enforceability of the remainder hereof.

2034  
2035       9.7       Covenants to Run with Land. This Declaration and all the provisions hereof shall  
2036       constitute covenants to run with the land or equitable servitudes, as the case may be, and  
2037       shall be binding upon and shall inure to the benefit of Association, all other signatories  
2038       hereto, all parties who hereafter acquire any interest in a Unit or in the Project, and their  
2039       respective grantees, transferees, heirs, devisees, personal representative, successors, and  
2040       assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all  
2041       Units shall be subject to, the terms of this Declaration and the provisions of any rules,  
2042       regulations, agreements, instruments, supplements, amendments, and determinations  
2043       contemplated by this Declaration. By acquiring any interest in a Unit in the Project, the  
2044       party acquiring such interest consents to, and agrees to be bound by, each and every  
2045       provision of this Declaration.

2046  
2047       9.8       Combination of Units. An owner of two or more adjoining units shall have the  
2048       right upon approval of the Board of Trustees and the mortgagees of said units, to combine  
2049       one or more adjoining units or portions thereof and to alter or amend the declaration and  
2050       map to reflect such combination.

2051  
2052       (a)       Such amendments may be accomplished by the unit owner recording an  
2053       amendment or amendments to this declaration, together with an amended map or  
2054       maps containing the same information with respect to the altered units as required  
2055       in the initial declaration and map with respect to the initial units. All costs and  
2056       expenses required in such amendments shall be borne by the unit owner desiring

2057 such combination.

2058

2059 (b) All such amendments to the declaration and map must be approved by  
2060 attorneys employed by the Board of Trustees to insure the continuing legality of  
2061 the declaration and the map. The cost of such review by the attorneys shall be  
2062 borne by the person wishing to combine the units.

2063

2064 (c) Any amendments of the declaration or map pursuant to this paragraph 20  
2065 shall reflect the changes occasioned by the alteration. Such changes shall include  
2066 a change in the percentage of undivided interest in the common areas and  
2067 facilities, which are appurtenant to the units involved in the alterations. The  
2068 remaining combined unit, if two or more units are totally combined, will acquire  
2069 the total of the percentage of undivided interest in the common areas and facilities  
2070 appurtenant to the units that are combined as set forth in Exhibit B. If a portion of  
2071 one unit is combined with another, the resulting units shall acquire a proportionate  
2072 percentage of the total undivided interest in the common areas and facilities of the  
2073 units involved in the combination on the basis of area remaining in the respective,  
2074 combined units. The percentage of undivided interest in the common areas and  
2075 facilities appurtenant to all other units shall not be changed. All such  
2076 amendments must, in all instances, be consented to by the Board of Trustees and  
2077 also all other persons holding interest in the units affected. The consent of other  
2078 unit owners need not be obtained to make such amendments or alterations valid,  
2079 providing the percentages of undivided interest in the common areas and facilities  
2080 of the other unit owners remain unchanged.

2081

2082 9.9 **Fines.** Each Owner and Resident is responsible for adhering to the Project  
2083 Documents governing the Project. Pursuant to U.C.A., Section 57-8-37 (2001), a breach  
2084 of these restrictive covenants and rules is subject to enforcement pursuant to the  
2085 declaration and may include the imposition of a fine. Each Owner is also accountable  
2086 and responsible for the behavior of his or her residents, tenants and/or guests. Fines  
2087 levied against residents, tenants, and guests are the responsibility of the Owner. The  
2088 Board of Trustees shall react to each material violation in the following manner:

2089

2090 (a) Fines imposed are final unless appealed in writing to the Board of Trustees  
2091 within thirty (30) days of written notification of the violation. If a request for a  
2092 hearing is not submitted to the Board of Trustees within thirty (30) days, the right  
2093 to a hearing is waived, and the fine imposed will stand. A request for a hearing to  
2094 appeal should be sent in writing to the Manager or Secretary of the Association.

2095

2096 (b) Before assessing a fine under Subsection (a), the Board of Trustees shall  
2097 give notice to the homeowner of the violation and inform the owner that the fine  
2098 will be imposed if the violation is not cured within the time provided in the  
2099 declaration, bylaws, or rules, which shall be at least forty-eight (48) hours.

2100  
2101       (c)     A fine assessed under Subsection (a) shall:

2102               (1)    Be made only for a violation of a restrictive covenant, rule or  
2103                   regulation;

2104               (2)    Be in the amount specifically provided for in the declaration,  
2105                   bylaws, or association rules for that specific type of violation, not to  
2106                   exceed \$500.00; and

2107               (3)    Accrue interest and late fees as provided in the declaration, bylaws,  
2108                   or association rules.

2109  
2110  
2111       (d)    Cumulative fines for a continuing violation may not exceed \$500.00 per  
2112                   month.

2113  
2114       (e)    An Owner who is assessed a fine under Subsection (a) may request an  
2115                   informal hearing to protest or dispute the fine within thirty (30) days from the date  
2116                   the fine is assessed. The hearing shall be conducted in accordance with standards  
2117                   of due process adopted by the Board of Trustees. No finance charge, default  
2118                   interest, or late fees may accrue until after the hearing has been conducted and a  
2119                   final decision has been rendered.

2120  
2121       (f)    An Owner may appeal a fine issued under Subsection (a) by initiating a  
2122                   civil action within one hundred and eighty (180) days after: (1) A hearing has  
2123                   been held and a final decision has been rendered by the Board of Trustees under  
2124                   Subsection (e); or (2) The time to request an informal hearing under Subsection  
2125                   (e) has expired without Owner making such a request.

2126  
2127       (g)    A fine assessed under Subsection (a) which remains unpaid after the time  
2128                   for appeal has expired becomes a lien against the Owner's interest in the property  
2129                   in accordance with the same standards as a lien for the nonpayment of common  
2130                   expenses under Section 26(c) above.

2131  
2132       9.10   Termination of Utilities and Right to Use Amenities for Non-Payment of  
2133                   Assessments

2134       (a)   If an owner fails or refuses to pay any assessment when due, the Board of  
2135                   Trustees may (1) terminate the owner's right to receive utility services paid as a  
2136                   common expense; and (2) terminate the owner's right of access and use of  
2137                   recreational facilities, after giving notice and an opportunity to be heard.

2138       (b)   Before terminating utility services or right of access and use of

2143 recreational facilities, the manager or Board of Trustees shall give written notice  
2144 to the owner in the manner provided in the declaration, bylaws, or association  
2145 rules. The notice shall state:

- (1) Utility services or right of access and use of recreational facilities will be terminated if payment of the assessment is not received within the time provided in the declaration, bylaws, or association rules, which time shall be stated and be at least 48 hours;
- (2) The amount of the assessment due, including any interest or late payment fee; and
- (3) The right to request a hearing.

(c) An owner who is given such notice may request an informal hearing to dispute the assessment by submitting a written request to the Board of Trustees within 14 days from the date the notice is received. A notice shall be considered received on the date (1) it is hand delivered, (2) it is delivered by certified mail, return receipt requested, or (3) five (5) days after it is deposited in the U.S. Mail, postage prepaid, addressed to the owner's last known address on the books and records of the Association.

(d) The hearing shall be conducted in accordance with the standards provided in the declaration, bylaws, or association rules.

(e) If a hearing is requested, utility services or right of access and use of recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered.

(f) Upon payment of the assessment due, including any interest or late payment fee, the manager or Board of Trustees shall immediately take action to reinstate the terminated utility services to the unit and right to use of recreational facilities.

## 9.11 Assignment of Rents

(a) If the owner of a unit who is leasing the unit fails to pay any assessment for a period of more than 60 days after it is due and payable, the Board of Trustees may demand the tenant to pay to the association all future lease payments due the owner, commencing with the next monthly or other periodic payment, until the amount due to the association is paid; provided, however, the manager or Board of Trustees must give the owner written notice, in accordance with the declaration, bylaws, or association rules, of its intent to demand full payment from

2186 the tenant. This notice shall:

2187

2188 (1) Provide notice to the tenant that full payment of remaining lease  
2189 payments will commence with the next monthly or other periodic payment  
2190 unless the assessment is received within the time period provided in the  
2191 declaration, bylaws, or association rules;

2192

2193 (2) State the amount of the assessment due, including any interest or  
2194 late payment fee;

2195

2196 (3) State that any costs of collection, not to exceed \$150, and other  
2197 assessments that become due may be added to the total amount due; and

2198

2199 (4) Provide the requirements and rights described herein.

2200

2201 (b) If the owner fails to pay the amount of the assessment due by the date  
2202 specified in the notice, the manager or Board of Trustees may deliver written  
2203 notice to the tenant, in accordance with the declaration, bylaws, or association  
2204 rules, that demands future payments due to the owner be paid to the association  
2205 pursuant hereto. A copy of the notice must be mailed to the owner at his last  
2206 known address as shown on the books and records of the Association. The notice  
2207 provided to the tenant must state:

2208

2209 (1) That due to the owner's failure to pay the assessment within the  
2210 time period allowed, the owner has been notified of the Board of Trustee's  
2211 intent to collect all lease payments due to the association pursuant hereto.

2212

2213 (2) That until notification by the association that the assessment due,  
2214 including any interest or late payment fee, has been paid, all future lease  
2215 payments due to the owner are to be paid to the association; and

2216

2217 (3) Payment by the tenant to the association in compliance herewith  
2218 will not constitute a default under the terms of the lease agreement. If  
2219 payment is in compliance with this Subsection (6) suit or other action may  
2220 not be initiated by the owner against the tenant for failure to pay.

2221

2222 (c) All funds paid to the association pursuant hereto shall be deposited in a  
2223 separate account and disbursed to the association until the assessment due,  
2224 together with any cost of administration which may not exceed \$25, is paid in full.  
2225 Any remaining balance must be paid to the owner within five business days of  
2226 payment in full to the association.

2227

2228 (d) Within five business days of payment in full of the assessment, including

2229 any interest or late payment fee, the manager or Board of Trustees must notify the  
2230 tenant in writing that future lease payments are no longer due to the association.  
2231 A copy of this notification must be mailed to the owner.

2232

2233 (e) As used in this section, the terms "lease" or "leasing" shall mean and refer  
2234 to regular, exclusive occupancy of a unit by any person or persons, other than the  
2235 owner, for which the owner receives any consideration or benefit, including a fee,  
2236 service, gratuity, or emolument.

2237

2238 9.12 Effective Date. This Declaration, any amendment or supplement hereto, and any  
2239 amendment or supplement to the Survey Map shall take effect upon its being filed for  
2240 record in the office of the County Recorder of Summit County, Utah.

2241

2242

2243 Effective this 20th day of November, 2003

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2273 State of Utah

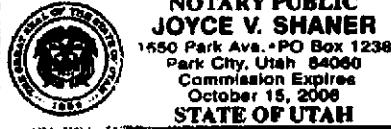
2274

2275 County of Summit

2276

2277 On the 2 day of March, 2004, the foregoing Declaration of Condominium for The Cove @ Sun Peak  
 2278 Homeowners' Association (aka Winter Park at Sun Peak Homeowners' Association) was acknowledged before me by  
 2279 John Michael, Barry Campbell and Marv Evans who personally appeared before me, and being by me duly sworn  
 2280 declared that they are members and Board of Trustee members of The Cove @ Sun Peak Homeowners' Association  
 2281 (aka Winter Park at Sun Peak Homeowners' Association), and that they signed the foregoing Declaration.

2282

2283 In witness whereof, I have set my hand and seal this 2 day of March, 2004.

Notary Public

Residing at: Summit Co

2284

2285

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2289 My Commission expires: 10-15-2006

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**EXHIBIT A**

***Parcel Description***  
***The Cove (aka Winter Park) @ Sun Peak***

Exhibit A - Page 1053  
The Cove at Sun Peak  
Parcel Description

Parcel 1:

A parcel of land within the East half of Section 25, Township 1 South, Range 3 East and the West half of Section 30, Township 1 South, Range 4 East, Salt Lake Base and Meridian, County of Summit, State of Utah, more particularly described as follows:

Commence at the Northwest Corner of Section 31, Township 1 South, Range 4 East, Salt Lake Base and Meridian; said Corner being a brass cap set by the County Surveyor in 1958; thence North 00°04'26" West 53.76 feet along the East line of Section 36, Township 1 South, Range 3 East, Salt Lake Base and Meridian, to the Northeast Corner of said Section 36; thence North 00°04'26" West 2065.68 feet along the East line of Section 25, Township 1 South, Range 3 East, Salt Lake Base and Meridian to the point of beginning; said point being on the Northerly boundary of the Mahogany Hills II Subdivision (basis of bearing is North 00°00'06" West between the West Quarter Corner and Northwest Corner of Section 31, Township 1 South, Range 4 East, Salt Lake Base and Meridian); thence leaving said Northerly boundary West 1529.94 feet to the Easterly boundary of the Cedar Draw Estates II Subdivision and following said Easterly line the following two calls: 1) North 02°58'33" West 317.95 feet; 2) North 20°08'22" West 312.76 feet; thence North 700.00 feet; thence East 1652.50 feet to the East line of said Section 25, Township 1 South, Range 3 East, Salt Lake Base and Meridian; thence North 00°04'26" West along said Section line 601.36 feet; thence leaving said Section line East 870.47 feet to the Westerly right-of-way line of State Highway U-224 and following said right-of-way line the following six calls: 1) South 28°04'25" West 96.50 feet; 2) South 14°54'41" West 157.11 feet to the beginning of a non-tangent curve concave Easterly, having a radius of 2949.79 feet and a central angle of 12°51'34"; 3) thence continuing along said curve to the left from which the radial line bears South 73°15'54" East 2949.79 feet, a distance of 662.05 feet; 4) South 04°38'59" West 206.48 feet to the beginning of a non-tangent curve concave Easterly, having a radius of 2959.79 feet and a central angle of 12°00'00"; 5) thence continuing along said curve to the left from which the radial line bears North 89°52'32" East 2959.79 feet, a distance of 619.90 feet; 6) thence South 09°59'04" East 207.66 feet to the Northerly boundary of the Mahogany Hills II Subdivision; thence along said Northerly boundary West 749.32 feet to the point of beginning.

Parcel 2:

A parcel of land within the East half of Section 25, Township 1 South, Range 3 East, Salt Lake Base and Meridian, County of Summit, State of Utah, more particularly described as follows:

Commence at the Northwest Corner of Section 31, Township 1 South, Range 4 East, Salt Lake Base and Meridian; said Corner being a brass cap set by the County Surveyor in 1958; thence North 00°04'26" West 53.76 feet along the East line of Section 36, Township 1 South, Range 3 East, Salt Lake Base and Meridian, to the Northeast Corner of said Section 36; thence North 00°04'26" West 2065.68 feet along the East line of Section 25, Township 1 South, Range 3 East, Salt Lake Base and Meridian; to the point of beginning; said point being on the Northerly boundary of the Mahogany Hills II Subdivision (basis of bearing is North 00°00'06" West between the West Quarter Corner and Northwest Corner of Section 31, Township 1 South, Range 4 East, Salt Lake Base and Meridian); thence along said boundary the following two calls: 1) South 71°29'19" West 599.49 feet; 2) South 31°11'25" West 1130.08 feet to the Northerly boundary of the Cedar Draw Estates Subdivision; thence continuing along said Northerly boundary North 58°48'34" West 381.55 feet to the Easterly boundary of the Cedar Draw Estates II Subdivision; thence continuing along said boundary North 02°58'33" West 960.76 feet; thence leaving said boundary East 1529.99 feet to the point of beginning.

EXHIBIT "A" Page 2 of 3

**PUBLIC UTILITY EASEMENT**

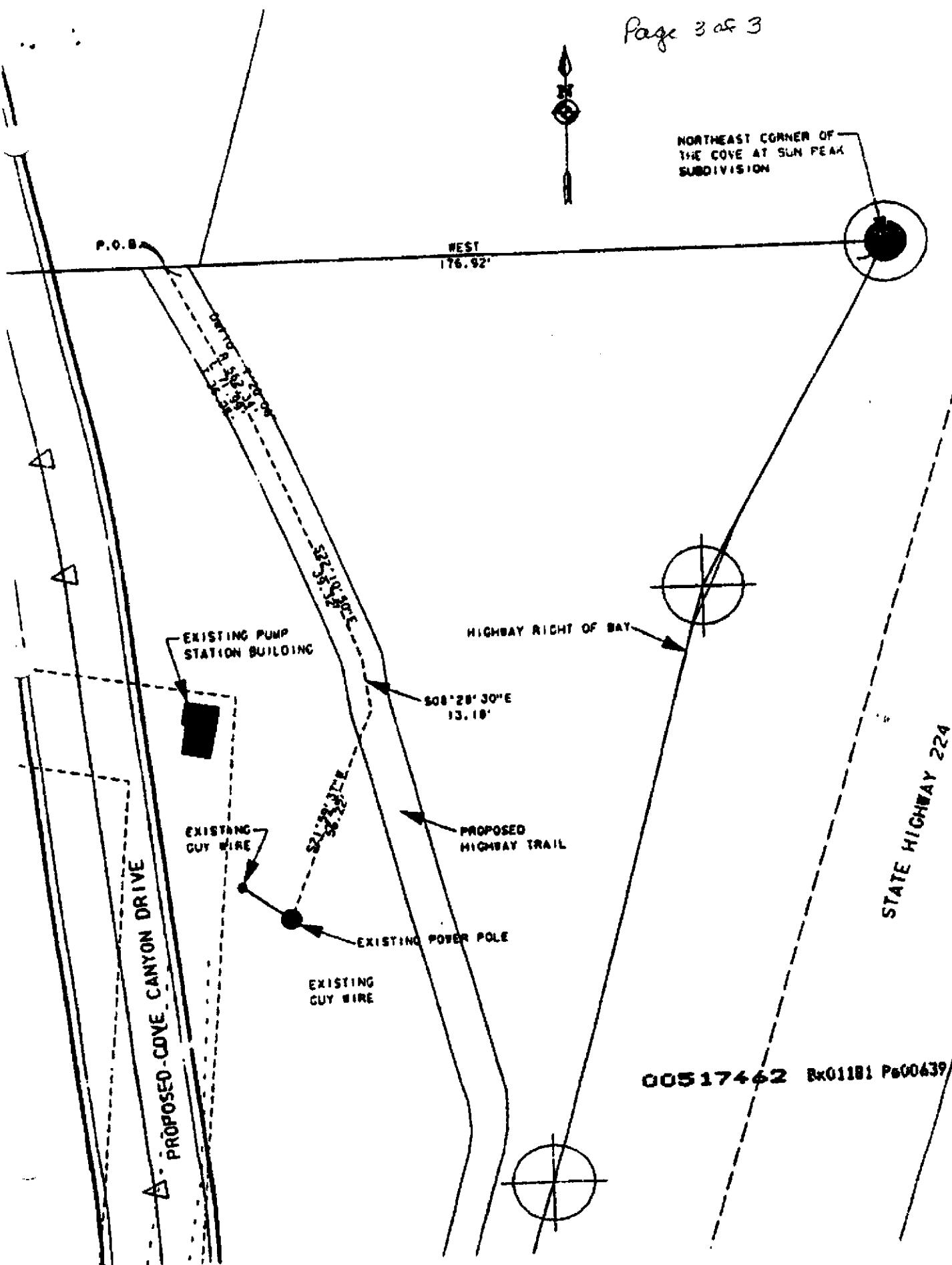
A 10-foot wide Public Utility Easement, being 5 feet on each side from the following described centerline alignment:

Beginning at a point West, 176.92 feet from the Northeast Corner of the Cove at Sun Peak Subdivision as recorded and on file at the Summit County Recorder's Office, and running thence 71.99 feet along the arc of a 562.34-foot radius curve to the right (chord bears South 25°50'53" East, 71.94 feet); thence South 22°10'50" East, 39.32 feet; thence South 08°28'30" East, 13.18 feet; thence South 1°59'57" West, 56.22 feet to the point of terminus, this point being the location of an existing power pole within Grantor's property.

See attached sketch.

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BK1602 PG1702

00911522 Page 62 of 74 Summit County

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**EXHIBIT B*****The Cove @ Sun Peak (aka Winter Park)  
Ownership Interests and Dues Structure***

**BK1602 PG1703**

00911522 Page 63 of 74 Summit County

## Winter Park at Sun Peak Condominiums - Ownership Interests

A Developer Unit Number	B Plat Bldg. No.	C Street Address	D Unit No.	E Unit Type	F Unit Square Foot*	G Project Common Area Ownership %	H Condominium Common Area Ownership %	I Sun Peak Homeowners Assoc. Votes	J The Cove at Sun Peak Homeowners Association Votes
1	1A	5080CC	A	The Innsbruck	1983	1.06	1.24	1	0.94
2	1A	5080CC	B	The Innsbruck	2023	1.06	1.26	1	0.96
3	2A	5100CC	A	The Innsbruck	1888	1.01	1.18	1	0.90
4	2A	5100CC	B	The Innsbruck	1886	1.01	1.18	1	0.90
5	3A	5110CC	A	The Innsbruck	1963	1.06	1.24	1	0.94
6	3A	5110CC	B	The Innsbruck	2023	1.06	1.26	1	0.96
7	4A	5120CC	A	The Innsbruck	2023	1.06	1.26	1	0.96
8	4A	5120CC	B	The Innsbruck	1983	1.06	1.24	1	0.94
9	1B	5121CC	A	The Calgary	2259	1.21	1.41	1	1.07
10	1B	5121CC	B	The Calgary	2259	1.21	1.41	1	1.07
11	2B	5131CC	A	The Calgary	2259	1.21	1.41	1	1.07
12	2B	5131CC	B	The Calgary	2259	1.21	1.41	1	1.07
13	5A	5130CC	A	The Innsbruck	1888	1.01	1.18	1	0.90
14	5A	5130CC	B	The Innsbruck	1896	1.01	1.18	1	0.90
15	5A	5140CC	A	The Innsbruck	1963	1.06	1.24	1	0.94
16	6A	5140CC	B	The Innsbruck	2023	1.06	1.26	1	0.96
17	7A	5150CC	A	The Innsbruck	2023	1.06	1.26	1	0.96
18	7A	5150CC	B	The Innsbruck	1983	1.06	1.24	1	0.94
19	3B	5141CC	A	The Calgary	2259	1.21	1.41	1	1.07
20	3B	5141CC	B	The Calgary	2259	1.21	1.41	1	1.07
21	4B	5151CC	A	The Calgary	2259	1.21	1.41	1	1.07
22	4B	5151CC	B	The Calgary	2259	1.21	1.41	1	1.07
23	5B	5161CC	A	The Calgary	2259	1.21	1.41	1	1.07
24	5B	5161CC	B	The Calgary	2259	1.21	1.41	1	1.07
25	1C	5171CC	A	The St. Moritz	2419	1.29	1.51	1	1.15
26	1C	5171CC	B	The St. Moritz	2419	1.29	1.51	1	1.15
27	2C	5181CC	A	The St. Moritz	2250	1.20	1.41	1	1.07
28	2C	5181CC	B	The St. Moritz	2250	1.20	1.41	1	1.07
29	3C	5191CC	A	The St. Moritz	2419	1.29	1.51	1	1.15
30	3C	5191CC	B	The St. Moritz	2419	1.29	1.51	1	1.15
31	4C	5201CC	A	The St. Moritz	2419	1.29	1.51	1	1.15
32	4C	5201CC	B	The St. Moritz	2419	1.29	1.51	1	1.15
33	5C	5211CC	A	The St. Moritz	2250	1.20	1.41	1	1.07
34	5C	5211CC	B	The St. Moritz	2250	1.20	1.41	1	1.07
35	6B	5180BR	A	The Calgary	2259	1.21	1.41	1	1.07
36	6B	5180BR	B	The Calgary	2259	1.21	1.41	1	1.07
37	7B	5190BR	A	The Calgary	2259	1.21	1.41	1	1.07
38	7B	5190BR	B	The Calgary	2259	1.21	1.41	1	1.07
39	8B	5200BR	A	The Calgary	2259	1.21	1.41	1	1.07
40	8B	5200BR	B	The Calgary	2259	1.21	1.41	1	1.07
41	8A	5195BR	A	The Innsbruck	1963	1.06	1.24	1	0.94
42	8A	5195BR	B	The Innsbruck	2023	1.06	1.26	1	0.96
43	9A	5205BR	A	The Innsbruck	1888	1.01	1.18	1	0.90
44	9A	5205BR	B	The Innsbruck	1886	1.01	1.18	1	0.90
45	10A	5215BR	A	The Innsbruck	1963	1.06	1.24	1	0.94
46	10A	5215BR	B	The Innsbruck	2023	1.06	1.26	1	0.96
47	9B	5210BR	A	The Calgary	2259	1.21	1.41	1	1.07
48	9B	5210BR	B	The Calgary	2259	1.21	1.41	1	1.07
49	8C	5221CC	A	The St. Moritz	2250	1.20	1.41	1	1.07
50	8C	5221CC	B	The St. Moritz	2250	1.20	1.41	1	1.07

## Winter Park at Sun Peak Condominiums - Ownership Interests

A	B	C	D	E	F	G	H	I	
Dev Unit Number	Bldg. No.	Street Address	Unit No.	Unit Type	Unit Square Feet	Project Common Area Ownership %	Condominium Common Area Ownership %	Sun Peak Homeowners Assn. Votes	The Cove at Sun Peak Homeowners Association Votes
51	7C	5231CC	A	The St. Moritz	2250	1.20	1.41	1	1.07
52	7C	5231CC	B	The St. Moritz	2250	1.20	1.41	1	1.07
53	8C	5241CC	A	The St. Moritz	2419	1.29	1.51	1	1.15
54	8C	5241CC	B	The St. Moritz	2419	1.29	1.51	1	1.15
55	9C	5251CC	A	The St. Moritz	2419	1.29	1.51	1	1.15
56	9C	5251CC	B	The St. Moritz	2419	1.29	1.51	1	0.94
57	11A	5252CC	A	The Innsbruck	1983	1.06	1.24	1	0.96
58	11A	5252CC	B	The Innsbruck	2023	1.06	1.26	1	0.90
59	12A	5254CC	A	The Innsbruck	1888	1.01	1.18	1	0.90
60	12A	5254CC	B	The Innsbruck	1896	1.01	1.18	1	0.94
61	13A	5256CC	A	The Innsbruck	1983	1.06	1.24	1	0.96
62	13A	5256CC	B	The Innsbruck	2023	1.06	1.26	1	0.68
63		5133CC	100	Lillehammer #1	1419	0.76	0.89	1	0.76
64		5133CC	101	Lillehammer #1	1604	0.86	1.00	1	0.68
65		5133CC	102	Lillehammer #1	1419	0.76	0.89	1	0.68
66		5135CC	103	Lillehammer #2	1419	0.76	0.89	1	0.76
67		5135CC	104	Lillehammer #2	1604	0.86	1.00	1	0.68
68		5135CC	105	Lillehammer #2	1419	0.76	0.89	1	0.60
69		5133CC	200	Lillehammer #1	1268	0.68	0.79	1	0.69
70		5133CC	201	Lillehammer #1	1455	0.78	0.91	1	0.60
71		5133CC	202	Lillehammer #1	1268	0.68	0.79	1	0.60
72		5135CC	203	Lillehammer #2	1268	0.68	0.79	1	0.69
73		5135CC	204	Lillehammer #2	1455	0.78	0.91	1	0.60
74		5135CC	205	Lillehammer #2	1268	0.68	0.79	1	0.71
75		5133CC	300	Lillehammer #1	1501	0.80	0.94	1	0.75
76		5133CC	301	Lillehammer #1	1577	0.84	0.99	1	0.71
77		5133CC	302	Lillehammer #1	1501	0.80	0.94	1	0.71
78		5135CC	303	Lillehammer #2	1501	0.80	0.94	1	0.75
79		5135CC	304	Lillehammer #2	1577	0.84	0.99	1	0.71
80		5135CC	305	Lillehammer #2	1501	0.80	0.94	1	
				Total Square Footage	160068		100.00%		
				Estate Homesites:					
81		5300CH	Lot 1		3000	1.60		2	1.43
82		5320CH	Lot 2		3000	1.60		2	1.43
83		5340CH	Lot 3		3000	1.60		2	1.43
84		5360CH	Lot 4		3000	1.60		2	1.43
85		5380CH	Lot 5		3000	1.60		2	1.43
86		5400CH	Lot 6		3000	1.60		2	1.43
87		5420CH	Lot 7		3000	1.60		2	1.43
88		5440CH	Lot 8		3000	1.60		2	1.43
89		5460CH	Lot 9		3000	1.60		2	1.43
					187066	100.00%		98	89

CC-Cove Canyon Drive  
BR-Bear Ridge Road  
CH-Cove Hollow Lane

\*Square footages exclude garage, patios and deck spaces.  
\*\*3000 Square feet is pro-rata share of ownership interest in The Cove at Sun Peak Common Area.  
Actual Home size will not affect this number.

\*\*\*Sun Peak Votes refers to the number of votes in the Sun Peak Homeowners Association. It is based upon the Master Declaration of Covenants, Conditions and Restrictions for the Sun Peak Community. (Section 8.04, Parcels 19 and 20)

\*\*\*\*The Cove at Sun Peak Homeowners Assn. Votes refers to the owners votes in this homeowners association. It is based on % of ownership in project.

2101.67

Average Unit Size

ss...Value123\WPOWNINT HOA

BK1602 PG1705

Winter Park at Sun Peak Condominiums - Due Structure

A	B	C	D	E	F	G	
Develop	Plot	Unit	Street	Unit	Unit	Project	Condominium
Unit	Bldg.	No.	Address	No.	Type	Square	Common Area
1	1A	5080CC		A	The Innsbruck	1983	1.08
2	1A	6080CC		B	The Innsbruck	2023	1.08
3	2A	5100CC		A	The Innsbruck	1888	1.01
4	2A	5100CC		B	The Innsbruck	1888	1.01
5	3A	5110CC		A	The Innsbruck	1983	1.08
6	3A	5110CC		B	The Innsbruck	2023	1.08
7	4A	5120CC		A	The Innsbruck	2023	1.08
8	4A	5120CC		B	The Innsbruck	1983	1.08
9	1B	5121CC		B	The Calgary	2250	1.21
10	1B	5121CC		A	The Calgary	2250	1.21
11	2B	5131CC		B	The Calgary	2250	1.21
12	2B	5131CC		A	The Calgary	2250	1.21
13	5A	5130CC		A	The Innsbruck	1888	1.01
14	5A	5130CC		B	The Innsbruck	1888	1.01
15	6A	5140CC		A	The Innsbruck	1983	1.08
16	6A	5140CC		B	The Innsbruck	2023	1.08
17	7A	5150CC		A	The Innsbruck	2023	1.08
18	7A	5150CC		B	The Innsbruck	1983	1.08
19	3B	5141CC		B	The Calgary	2250	1.21
20	3B	5141CC		A	The Calgary	2250	1.21
21	4B	5151CC		B	The Calgary	2250	1.21
22	4B	5151CC		A	The Calgary	2250	1.21
23	5B	5161CC		B	The Calgary	2250	1.21
24	5B	5161CC		A	The Calgary	2250	1.21
25	1C	5171CC		B	The St. Moritz	2419	1.29
26	1C	5171CC		A	The St. Moritz	2419	1.29
27	2C	5181CC		B	The St. Moritz	2250	1.20
28	2C	5181CC		A	The St. Moritz	2250	1.20
29	3C	5191CC		A	The St. Moritz	2419	1.29
30	3C	5191CC		B	The St. Moritz	2419	1.29
31	4C	5201CC		A	The St. Moritz	2419	1.29
32	4C	5201CC		B	The St. Moritz	2419	1.29
33	5C	5211CC		A	The St. Moritz	2250	1.20
34	5C	5211CC		B	The St. Moritz	2250	1.20
35	6B	5180BR		B	The Calgary	2250	1.21
36	6B	5180BR		A	The Calgary	2250	1.21
37	7B	5190BR		B	The Calgary	2250	1.21
38	7B	5190BR		A	The Calgary	2250	1.21
39	8B	5200BR		A	The Calgary	2250	1.21
40	8B	5200BR		B	The Calgary	2250	1.21
41	8A	5195BR		A	The Innsbruck	1983	1.08
42	8A	5195BR		B	The Innsbruck	2023	1.08
43	9A	5205BR		A	The Innsbruck	1888	1.01
44	9A	5205BR		B	The Innsbruck	1888	1.01
45	10A	5215BR		A	The Innsbruck	1983	1.08
46	10A	5215BR		B	The Innsbruck	2023	1.08
47	9B	5210BR		A	The Calgary	2250	1.21
48	9B	5210BR		B	The Calgary	2250	1.21
49	6C	5221CC		A	The St. Moritz	2250	1.20
50	6C	5221CC		B	The St. Moritz	2250	1.20

BK1602 PG1706

## Winter Park at Sun Peak Condominiums - Dues Structure

A	B	C	D	E	F	G	
Dev Unit Number	Bldg. No.	Street Address	Unit No.	Unit Type	Unit Square Foot:	Project Common Area Ownership %	Condominium Common Area Ownership %
51	7C	5231CC	A	The St. Moritz	2250	1.20	1.41
52	7C	5231CC	B	The St. Moritz	2250	1.20	1.41
53	8C	5241CC	A	The St. Moritz	2419	1.20	1.51
54	8C	5241CC	B	The St. Moritz	2419	1.20	1.51
55	8C	5251CC	A	The St. Moritz	2419	1.20	1.51
56	9C	5261CC	B	The St. Moritz	2419	1.20	1.51
57	11A	5262CC	A	The Innsbruck	1983	1.06	1.24
58	11A	5262CC	B	The Innsbruck	2023	1.06	1.26
59	12A	5264CC	A	The Innsbruck	1985	1.01	1.18
60	12A	5264CC	B	The Innsbruck	1985	1.01	1.18
61	13A	5266CC	A	The Innsbruck	1983	1.06	1.24
62	13A	5266CC	B	The Innsbruck	2023	1.06	1.26
63		5133CC	100	Lillehammer #1	1419	0.76	0.89
64		5133CC	101	Lillehammer #1	1604	0.86	1.00
65		5133CC	102	Lillehammer #1	1419	0.76	0.89
66		5135CC	103	Lillehammer #2	1419	0.76	0.89
67		5135CC	104	Lillehammer #2	1604	0.86	1.00
68		5136CC	105	Lillehammer #2	1419	0.76	0.89
69		5136CC	200	Lillehammer #1	1266	0.66	0.79
70		5136CC	201	Lillehammer #1	1455	0.76	0.91
71		5136CC	202	Lillehammer #1	1266	0.66	0.79
72		5136CC	203	Lillehammer #2	1266	0.66	0.79
73		5136CC	204	Lillehammer #2	1455	0.76	0.91
74		5136CC	205	Lillehammer #2	1266	0.66	0.79
75		5133CC	300	Lillehammer #1	1601	0.80	0.84
76		5133CC	301	Lillehammer #1	1577	0.84	0.89
77		5133CC	302	Lillehammer #1	1601	0.80	0.84
78		5135CC	303	Lillehammer #2	1601	0.80	0.84
79		5135CC	304	Lillehammer #2	1577	0.84	0.89
80		5136CC	305	Lillehammer #2	1601	0.80	0.84
Total Square Footage of C				160086		100.00%	

## Estate Homesites:

81	5300CH	Lot 1	3000	1.80
82	5320CH	Lot 2	3000	1.80
83	5340CH	Lot 3	3000	1.80
84	5360CH	Lot 4	3000	1.80
85	5380CH	Lot 5	3000	1.80
86	5400CH	Lot 6	3000	1.80
87	5420CH	Lot 7	3000	1.80
88	5440CH	Lot 8	3000	1.80
89	5460CH	Lot 9	3000	1.80
167086				100

CC-Cove Canyon Drive  
BR-Bear Ridge Road  
CH-Cove Hollow Lane

\*Square footages exclude garage, patios and deck spaces.  
\*\*3000 Square feet is pro-rata share of ownership interest in The Cove at Sun Peak Common Area.  
Actual Home size will not affect this number.

\*\*\*Sun Peak Votes refers to the number of votes in the Sun Peak Homeowners Association. It is based upon the Master Declaration of Covenants, Conditions and Restrictions for the Sun Peak Community. (Section 6.04, Paragraphs 19 and 20)  
WV - Winter Park at Sun Peak Homeowners Assn. Votes refers to the owners votes in this homeowners association. It is based on % of ownership in project.  
Average Unit Size 2101.87

as:...Nature123WWPDUE81.HOA

BK1602 PG1707

00911522 Page 67 of 74 Summit County

**BY-LAWS**  
**OF**  
**THE COVE (aka, WINTER PARK) AT SUN PEAK HOMEOWNERS ASSOCIATION**

A Non-Profit Corporation of the State of Utah

Pursuant to the provisions of the Utah Non-Profit Corporations Act, the Board of Trustees of THE COVE (aka, WINTER PARK) at Sun Peak Homeowners Association hereby adopt the following Bylaws of THE COVE (aka, WINTER PARK) at Sun Peak Homeowners Association

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BK1602 PG1713A

## Article I Name and Principal Office

- 1.1 Name. The name of the non-profit corporation is "THE COVE (aka, WINTER PARK) at Sun Peak Homeowners Association, and it is referred to below as the "Association."
- 1.2 Offices. The office of the Association will be in Summit County, Utah. The Association will use the address of the contracted Property Manager.

## Article II Members and Meetings

- 2.1 Annual Meetings. The annual meeting of the members of the Association shall be held on the third Thursday in November at 6:00 at the Sun Peak Clubhouse. . The Board of Trustees may designate some other time, date and place for the annual meeting by giving proper notice of the change in advance of the meeting. The purpose of the annual meeting is the election of officers and Trustees, and to consider such other business that comes before the meeting. If the Trustees are not elected at the annual meeting, the existing trustees shall continue to serve until their successors are named in a special meeting called for that purpose, or until the next annual meeting. The Trustees may change the date, time and place of the annual meeting as they see fit by formal resolution.
- 2.2 Special Meetings. Special Meetings of the Members may be called by the Board of Trustees or by the President as they see fit, or by the Members of the Association representing not less than 33% of the total votes of the Association. Any notice of special meeting shall state the time, place, and date of the meeting, and the matters to be considered at that meeting. When the Members of the Association call a special meeting, the notice shall be in writing, and delivered to the President or the Chairman of the Board.

Notice of a special meeting will be automatically included in the Annual Meeting Notice. In the event a quorum is not reached at the Annual Meeting, a special meeting will convene as early as 24 hours after the adjournment of the Annual Meeting. If a quorum is reached at the Annual Meeting, the special meeting will be considered canceled.

- 2.3 Place of Meetings. All meetings will be held in Summit County, Utah, unless the Members have authorized a meeting to be held elsewhere by written waiver.
- 2.4 Notice of Meeting. The Board of Trustees shall cause written notice of the date, time, place and purposes of the annual meetings of the Members to be sent to each of the Members not less than 30 days prior to the meeting. Mailed notice is deemed delivered when it is deposited in the United States mail, postage paid, addressed to the Member at the last known address. Each Member shall register his or her address with the Association, and it shall be the obligation of the Member to provide notice of any change of address to the Association. If no address is registered the Association may mail that Member's notice to the Secretary of the Association as the agent for the Member. Only one notice will be mailed for each Unit, so if there are multiple owners, they must designate one of them to receive the notice of the meeting on their behalf.

(a) Notice of special meetings may be included with the notice of an annual meeting and/or with the notice of any other owners' meeting.

(b) Notice of regular scheduled Board of Trustee Meetings may be by mail or through community postings. BK1502 PG1713 B

2.5 **Members of Record.** Upon purchasing a Unit in the Subdivision, each owner shall promptly furnish the Association with a copy of the deed or other instrument under which he or she acquired title to the Unit. For purposes of determining a quorum, determining the persons entitled to vote, and all other matters before a meeting of the Members, the Association may designate a record date not more than 30 days nor less than 10 days prior to the meeting date to determine the Members entitled to notice and to vote at the meeting. If no record date has been fixed, the record date is deemed to be the date on which notice of the meeting was mailed to the Members. The persons appearing as Members as of the record date are deemed entitled to notice and to vote, if in good standing, at the meeting. Owners in arrears in payment of Regular/Reserve/Special assessments are not deemed eligible to vote. Persons who become Members subsequent to the record date, or whose ownership is not registered with the Association until subsequent to the record date shall not be entitled to notice, shall not be counted in comprising a quorum, and shall not be entitled to vote at the meetings. This shall not preclude a person who acquires his or her Membership subsequent to the record date from voting the interest of his predecessor under a written proxy.

2.6 **Quorum.** At any meeting of the Members, the presence of members, in person or by proxy, holding the right to cast more than 50% of the total votes of the Association shall constitute a quorum for the transaction of business. In the event that a quorum is not present at a meeting, the Members present, in person or by proxy, though less than a quorum, may continue the meeting to a later date set, as early as 24 hours later, by those Members present. Notice of the continued meeting will be sent to the Members providing at least 5 days notice of the new meeting. Notice of such a special meeting may be included in the original meeting's notice. In this situation, the special meeting may convene as early as 24 hours after the original scheduled meeting. At any continued meeting, a quorum will be deemed to exist comprised of those Members present in person or by proxy at the re-convened meeting, regardless of number.

2.7 **Proxies.** At each meeting of the Members, each Member entitled to cast a vote shall be entitled to vote in person or by written proxy. All proxies must be in writing, signed by the Member as shown on the records of the corporation. Faxed proxies will be accepted if a signature is on record. Email proxies will be accepted if email address is on record. When a Membership is jointly held, the proxy must be signed by all of the joint owners of the Membership. Proxies must be presented to the Secretary of the Meeting at the beginning of the meeting for purposes of determining a quorum. The secretary will make an entry of proxies in the minutes of the meeting. No proxy may be assigned/designated to an owner deemed in arrears.

2.8 **Voting Rights.** With respect to each matter presented to the Members, including the election of Trustees, each Member will be entitled to cast the number of votes listed in the Declaration as appurtenant to that Member's Unit. Units with multiple owners will be entitled to cast one vote only. In the event that the multiple owners of that Unit are not able to agree on how to cast the vote, no vote will be accepted. If only one of the multiple owners is present at the meeting, the other owners are deemed to have consented to that owner voting the Interests of that Unit. In the event of Units held subject to Trust Deeds or Mortgages, the Trustor or Mortgagor will be entitled to vote, and the Lender shall have no right to vote; provided however that when a Lender has taken possession of any Unit, the Lender shall be deemed to have succeeded to the Interest of the Trustor or Mortgagor, and shall then be entitled to cast that vote. Unless given a written proxy, a person occupying a Unit under a lease or rental agreement shall not be entitled to vote the interests of the Owner of the Unit.

(a) The owner of a Unit who is in arrears on the payment of Common Area Regular/Reserve/Special Assessments will not be permitted to vote his/her vote or any proxies in any matter before the Owners/Board of Trustees, but if present at the meeting, may be counted for purposes of establishing a quorum.

(b) The owner of a Unit who is in arrears on the payment of Common Area Common Area Regular/Reserve/Special Assessments will not be permitted to serve on the Board of Trustees. If a current Board of Trustee member is in arrears he or she will be suspended from all Board making decisions. If this period of arrears lasts for 90 days or more, that Board member will be removed from the Board.

2.9 **Simple Majority.** Any matter placed before the Members for a vote shall pass if there is an affirmative vote of the majority of the Members present at the meeting (and there is a quorum present). Election of Trustees will be by secret ballot; other matters may be voted by secret ballot or by show of hands or such other means as the officer conducting the meeting shall determine, amendments of the Declaration will require the affirmative vote of 50% of the undivided interest in the Condominium/Subdivision.

2.10. **Waiver of Irregularities.** Any inaccuracies, irregularities, or errors in any call for a meeting or notice of meeting, inaccuracies or irregularities in the determination of a quorum or acceptance of proxies are deemed waived unless there is an objection stated at the meeting prior to the vote being taken.

2.11 **Informal Action.** Any act, which is required to be taken or approved at a meeting, may be taken or approved without a formal meeting if a majority of the Members consent to the action In writing prior to the action being taken. The Members may hold meetings for which formal notice was not given if the Members waive notice prior to the meeting.

**Article III**  
**Board of Trustees**

3.1 **General Powers.** The board of Trustees shall have authority to manage and control the property and affairs of the Association. The Board of Trustees may exercise all powers conferred upon them by law, by the Articles of Incorporation, by these by-laws, or the Declaration of Condominium, provided however that those powers which are specifically reserved to the Members by law shall be exercised only by the Members. The Board may delegate its powers to officers, managers, or others such of its powers as are appropriately delegated.

3.2 **Numbers and Tenure.** There shall be no less than three and no more than seven members of the Board of Trustees. They shall serve until the next annual meeting in which Trustees are elected, and shall continue to serve until their successors have been elected and assumed office. All Trustees must be Owners of Units in the subdivision. Members in good standing may nominate other members in good standing to serve on the Board. A member in good standing may also self nominate for a position on the Board.

3.3 **Quorum.** A quorum at a Board meeting will consist of a simple majority of the Board. Board members may be counted as present if they are participating in the meeting by telephone. No proxies will be given among board members. Actions of the Board may only be taken by formal action of the Board, and no individual Trustee shall have the authority to act on behalf of the Association unless the Board of Trustees has granted such power.

3.4 **Deadlock.** In the event of a deadlock on the Board, the Board shall immediately call for a special meeting of the Members and, at the direction of the President of the Board, either call for the election of a new board, or submit the matter to the Members for determination.

3.5 **Compensation.** The Board of Trustees shall serve without compensation, provided that their reasonable out of pocket expenses for Association business may be reimbursed by the Association.

3.6 **Resignations or Removal**. Any Trustee may resign at any time. A Trustee is deemed to have resigned when he or she sells (or otherwise is divested of) his or her Unit and therefore ceases to be a Member of the Association. Any Trustee may be removed prior to the end of his or her term of office by an affirmative vote of more than 50% of the eligible (Owners in arrears are not eligible) Members of the Association at a regular or special meeting called for that purpose. Any Trustee deemed in arrears on the payment of Common Area Regular/Reserve/Special Assessments will be immediately suspended from the Board, and immediately removed from the Board if in arrears 90 days or more at which point a new Board member may be appointed.

3.7 **Vacancies**. Vacancies on the Board of Trustees will be filled by appointment of a successor by the President of the Board, provided that any such appointee will be confirmed or rejected at the next regular meeting of the Members. Any such Trustee is to fill the balance of the vacant term, which he or she has filled, and will stand for election at the expiration of that term.

3.8 **Informal Action by Trustees**. The Trustees may take any action they could take in a formal meeting without a formal meeting, provided that the action is authorized in advance in writing signed by a majority of the Board, and further provided that all of the Trustees must have been given an opportunity to approve or reject the action. The Trustees may waive notice of meetings by signing written waivers at the time of the meeting. Minutes of all board meetings will be kept, and when a meeting is held without prior notice, the minutes will reflect the written waiver of notice.

#### **Article IV Officers**

4.1 **Number**. The officers of the Association shall consist of at least a President, Vice President, and a Secretary/Treasurer. The Board may establish such other officers, as it deems appropriate.

4.2 **Appointment/Tenure**. The Board of Trustees at their annual meeting will appoint the officers, and all officers serve at the pleasure of the Board and may be removed by a majority vote of the Board in a meeting called for that purpose. All officers must be Members of the Association.

4.3 **Duties of the President**. The president shall preside at meetings of the Board of Trustees and at meetings of Members. He shall sign, on behalf of the Association, all legal documents approved by the Board. The president shall supervise and be primarily responsible for the day-to-day operation of the Association's affairs, including the firing and termination of employees and subordinates. The President shall perform such other duties as assigned by the Board.  
The Board of Trustees may delegate any of the above duties to the contracted property manager.

4.4 **Duties of the Vice President**. The Vice President will perform the duties of the President If he or she is not available, and shall perform such other duties as designated by the Board.

4.5 **Duties of the Secretary/Treasurer**. The secretary/treasurer is responsible to keep accurate records of the Members of the Association and the transfer of their interests to others, to keep minutes at the meetings of the Association Members and the Trustees, and cause notice of any meetings to be issued as called for in these by-laws, to file annual reports, and to perform all other assignments of the Board. The Board of Trustees may delegate any of the above duties to the contracted property manager.

4.6 **Compensation**. The officers will serve without compensation, provided that their reasonable out of pocket expenses in performing their duties for the Association will be reimbursed. The Board may fix such other compensation as it finds appropriate given the responsibility of the officers.

## Article V Indemnification

5.1 **Indemnification Against Third Party Actions.** The Association may defend and indemnify the officers and Trustees against all actions, claims, and suits brought by third parties against them individually, which arise from the exercise of their obligations and duties as officers and Trustees. This shall include all civil, administrative, criminal, or investigative actions whether brought by an individual or a governmental agency. The indemnification shall extend to the payment of reasonable attorneys fees incurred in the defense of such action, including fees for independent counsel, and the payment of any fine, settlement, or judgment. This indemnity is limited in scope to those acts or omissions arising from the good faith exercise of the authority of the office held, or the discharge of the duties as a Trustee on behalf of the Association.

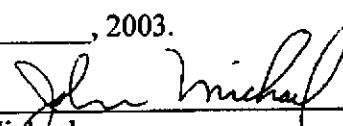
5.2 **Indemnification Against Member Actions.** The Association may defend and indemnify the officers and Trustees against all actions, claims, and suits brought by Members of the Association against them individually which arise from the exercise of their obligations and duties as officers and Trustees. This shall include all civil, administrative, criminal, or investigative actions whether brought by an individual or a governmental agency. The indemnification shall extend to the payment of reasonable attorneys fees incurred in the defense of such action, including fees for independent counsel, and the payment of any fine, settlement, or judgment. This indemnity is limited in scope to those acts or omissions arising from the good faith exercise of the authority of the office held, or the discharge of the duties as a Trustee on behalf of the Association.

5.3 **Request for Indemnification.** When any officer, Trustee or employee of the Association receives notice of any action referred to above, he or she must give notice to the President and to the Board of Trustees, stating the nature of the claim, the claimant, and providing all pertinent information about the claim. The Board, in the case of an action against an officer or employee, or against a single Trustee, may vote to indemnify the officer, employee or Trustee. In the event that the action is against the Board of Trustees as a whole, or names more than a single Trustee individually, and the claim is entirely covered by and within the policy limits of the Association's insurance coverage, the Board may vote to indemnify itself and the individuals named. In the event that the claim exceeds the limits of any insurance coverage, or is not covered, the Board may not agree to indemnify itself without presenting the matter to the Association for a vote at a special meeting called for that purpose.

## Article VI Amendment

6.1 Amendment. The Members of the Association from time to time may amend these by-laws as the Members see fit by a majority vote at a meeting called for that purpose.

Adopted this 20<sup>th</sup> day of November, 2003.

  
John Michael  
President, The Cove @ Sun Peak Homeowners' Association (aka Winter Park at Sun Peak Homeowners' Association)

Attest:



Barry Campbell, Secretary/Treasurer, The Cove @ Sun Peak Homeowners' Association (aka Winter Park at Sun Peak Homeowners' Association)

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## **EXHIBIT B**

Units 100, 101, 102, 200, 201, 202, 300, 301 and 302, in Building A (South), Bear Lodge Condominiums, according to the official plat thereof on file and of record in the Summit County Recorder's Office.

Tax ID Numbers: BL-100-A, BL-101-A, BL-102-A, BL-200-A, BL-201-A, BL-202-A, BL-300-A, BL-301-A, and BL-302-A

Units 103, 104, 105, 203, 204, 205, 303, 304 and 305, in Building B (North), Bear Lodge Condominiums, according to the official plat thereof on file and of record in the Summit County Recorder's Office.

Tax ID Numbers: BL-103-B, BL-104-B, BL-105-B, BL-203-B, BL-204-B, BL-205-B, BL-303-B, BL-304-B, and BL-305-B