

**ASSIGNMENT OF DECLARANT'S RIGHTS AND  
AGREEMENT REGARDING CO-DECLARANTS' RIGHTS**

[Empire Pass]

**THIS ASSIGNMENT OF DECLARANT'S RIGHTS AND AGREEMENT REGARDING CO-DECLARANTS' RIGHTS** (this "Assignment and Agreement") is entered into this 31 day of January, 2018 (the "Effective Date") by and between **REDUS PARK CITY LLC**, a Delaware limited liability company (referred to herein as "REDUS" or "Assignor"), and **STORIED DEER VALLEY, LLC**, a Delaware limited liability company (referred to herein as "Assignee") (collectively, Assignor and Assignee shall be referred to herein as the "Parties" or each, individually, as a "Party") as set forth hereinbelow.

**R E C I T A L S**

**A.** Pursuant to the terms and conditions of that certain Assignment of Declarant's Rights, dated November 17, 2015, and recorded in the Office of the Recorder of Summit County, Utah on October 3, 2016, Assignor is the current Declarant under that certain Amended and Restated Master Declaration of Covenants, Conditions and Restrictions, dated December 10, 2004, and recorded in the Office of the Recorder of Summit County, Utah on December 14, 2004, as certified by that certain Certificate of Amendment, dated December 10, 2004, and recorded in the Office of the Recorder of Summit County, Utah on December 14, 2004 as Entry No. 00719855 (as the same may be modified, supplemented or amended from time to time, the "Master Declaration"). Capitalized terms not otherwise defined herein shall have the meanings given them in the Master Declaration.

**B.** The real property which is currently encumbered by the Master Declaration is defined as the Property under the Master Declaration and is legally described on Exhibit "A" thereto, and such Property includes those certain real properties more commonly known as Lots 1 & 2 and Lot 9, each of which is more particularly described on Exhibit "A", attached to this Assignment and Agreement and made a part hereof. The Master Declaration further provides for the addition of certain "Additional Land", as defined in the Master Declaration, that may be encumbered by the Master Declaration in accordance with the terms thereof, and which Additional Land includes those certain real properties commonly known as Marsac Horseshoe and Site 4 (Lots 1 & 2, Lot 9, Marsac Horseshoe and Site 4, collectively the "Empire Pass Properties").

**C.** Assignor has conveyed to Assignee, and Assignee has taken from Assignor, title to the Empire Pass Properties for the purposes of Assignee continuing to develop, in phases, portions of that certain planned community more commonly known under the Master Declaration as Empire Pass which consists, in part, of all or portions of the Empire Pass Properties.

**D.** Assignor is retaining control over certain portions of the Additional Land which may be subject to the Master Declaration following the recording of a Supplemental Declaration, including that certain real property currently owned by Assignor and more commonly known as the B2 East Parcel (the "B2 East Parcel") which is more particularly described on Exhibit "B", attached to this Assignment and Agreement and made a part hereof, and that certain real property

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currently owned, or in the future to be owned, by Assignor and located within the area referred to as "Flagstaff Mountain" (and now known generally as Empire Pass), as more particularly described in Exhibit A to the Amended and Restated Development Agreement recorded with Summit County Recorder on March 2, 2007 as Entry No. 00806100, and land adjacent thereto (the "Flagstaff Properties"), all or a portion of which Assignor intends to, or may in the future decide to, develop and which Assignor may desire to annex into the Property pursuant to a Supplemental Declaration to be filed and recorded at a later date (the B2 East Parcel and the Flagstaff Properties being collectively referred to herein as the "Retained Property").

E. For both Assignor and Assignee to realize their development plans as to their respective properties, the Retained Property and the Empire Pass Properties, the Parties desire to share in the exercise of the special Declarant rights over all of the Property, pursuant to the terms and conditions of this Assignment and Agreement, and the Master Declaration and Bylaws adopted in tandem therewith.

F. Pursuant to *Section 19.1* of the Master Declaration, Assignor has the right, as Declarant, to assign all or a portion of its Declarant's special rights under the Master Declaration to Assignee contemporaneously with the conveyance of the Empire Pass Properties to establish Assignee as co-Declarant under the Master Declaration for all or any purposes pursuant to a written instrument signed by Assignor and recorded in the Office of the Recorder of Summit County, Utah.

#### ASSIGNMENT AND AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the Parties hereby agree as follows:

1. The *Recitals A* through *F* are incorporated herein and made a part hereof.
2. Pursuant to *Section 19.1* of the Master Declaration, and subject to the express reservations set forth in Section 3 below, Assignor hereby assigns and transfers to Assignee, and Assignee hereby accepts, all of the special rights as Declarant with respect to the Property under the Master Declaration and the Bylaws, and as Co-Declarant with Assignor, for Assignee and Assignor to be deemed collectively as Declarant for all purposes under the Master Declaration and the Bylaws adopted therewith, which special rights may not be exercised by one without the written consent of the other, such consent which may not be unreasonably withheld, conditioned or delayed, and which exercise of such special rights shall be subject to the additional agreements and understandings by the Parties set forth under the terms and conditions in this Assignment and Agreement (the "Co-Declarant Rights").
  - (a) Dispute Resolution. Decisions by the Parties in the exercise of the Co-Declarant Rights shall be made by unanimous consent. If either Party does not agree with the other regarding any matter for which the Parties' consent shall be required, the Parties shall first make a good faith attempt to resolve the dispute through informal negotiations not to exceed three days (3) from the date on which the Parties are unable to reach a decision. In the event that a resolution of the dispute may not be reached through informal methods, the Parties shall resolve the dispute through a decision by a qualified

individual with knowledge of the property chosen as a tiebreaker (the “**Tiebreaker**”) in the manner and to act as follows:

(i) Unless the Parties are able to both agree to the selection of a particular individual as the Tiebreaker during the informal negotiations, each Party shall select an individual, which individual shall then select a third individual as the Tiebreaker, which Tiebreaker shall issue his or her decision as to the dispute;

(ii) The Tiebreaker selected shall issue a written decision no later than two (2) days after review of the materials and positions presented in writing to support the respective differing decisions of the Parties, which shall be provided to the Tiebreaker upon selection; and

(iii) The total time period to reach consent through the Tiebreaker, if necessary, shall not to exceed five days (5) from the date on which the Parties are unable to reach a decision.

(b) The Parties shall be bound by the decision of the Tiebreaker unless the decision of the Tiebreaker is in direct contravention of applicable laws, rules or regulations (including the Master Declaration) applicable to and affecting the property.

(c) The fees and expenses, if any, of the Tiebreaker shall be borne equally by the Parties.

3. The Parties hereby reserve, each to itself, the right to exercise, in each Party’s sole discretion and without the consent or approval of the other Party, the following Declarant rights, the Assignor as to the Retained Property and the Assignee as to the Empire Pass Properties (collectively, the Retained Property and the Empire Pass Properties shall be referred to herein as the “**Unrestricted Property**”):

(a) The right to subject the Unrestricted Property or any portion thereof, from time to time, to the Master Declaration in accordance with a Supplemental Declaration, including the right to designate Land Use Classifications and each Party’s unilateral modification of the Master Land Use Plan, if needed, in connection with those portions of such Unrestricted Property being added to the Property;

(b) The right to remove all or any portion of the Unrestricted Property from the Property and from being subject to the Master Declaration following its inclusion;

(c) The right to approve Lots and Plats on the Unrestricted Property (including easements and further subdivision of any Lot, Unit or Parcel located thereon);

(d) The right to identify, create and or reconfigure boundaries of any Parcel within the Unrestricted Property;

(e) The right to dedicate or convey portions of the Unrestricted Property for roads, or other uses (other than Lots, Units or Parcels);

- (f) The right to approve Private Amenities on the Unrestricted Property;
- (g) The right to create, designate, approve, terminate and relocate easements for utilities on the Unrestricted Property;
- (h) The right to permit horses to be maintained on the Unrestricted Property;
- (i) The right to designate Nondisturbance Areas on the Unrestricted Property;
- (j) The right to maintain and relocate, as applicable, sales offices, management offices, signs advertising the development and models in any areas of the Unrestricted Property;
- (k) The right to sell or lease one or more Parcels on the Unrestricted Property to individual Merchant Builders who will construct Improvements with respect to such a Parcel in accordance with a specific Neighborhood Declaration or Supplemental Declaration; and
- (l) The right to approve and locate Timeshare/Fractional Share Development on the Unrestricted Property.

4. Notwithstanding anything under this Assignment and Agreement and the Master Declaration to the contrary, the Parties hereby also agree that at such time as Assignor no longer owns any portion of the Retained Property, Assignor is and shall no longer be entitled to hold any rights as Declarant under the Master Declaration, and Assignee shall become the sole Declarant thereunder. At such time, if required by Assignee, Assignor shall execute a written instrument reflecting the termination of Assignor's rights as Declarant (and as Assignee's Co-Declarant) under the Master Declaration and record the same in the Office of the Recorder of Summit County, Utah.

5. Assignor represents and warrants to Assignee that Assignor has taken no material actions as Declarant under the Master Declaration with respect to the Empire Pass Properties other than exercising Declarant's right to appoint the Board members of the Master Association and to appoint the Design Review Board members in accordance with the terms of the Master Declaration. The foregoing representations and warranties shall survive for a period of one (1) year after the Effective Date.

6. Neither Assignor nor Assignee shall assign its Co-Declarant Rights under this Assignment and Agreement to any individual or entity without the other's consent, evidenced by a written instrument executed and acknowledged by the Parties and recorded in the Office of the Recorder of Summit County, Utah. Each of Assignor and Assignee agree not to unreasonably withhold, condition or delay such consent. The foregoing is not intended to limit the right to assign certain rights to Merchant Builders in accordance with the terms and conditions of the Declaration. Any assignment of the Co-Declarant Rights under this Assignment and Agreement, by operation or law or otherwise, shall constitute a default under this Assignment and Agreement and shall result in an immediate termination of such defaulting party's Co-Declarant Rights without any further action on the part of the non-defaulting party.

7. This Assignment and Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one instrument.

8. In the event the terms and provisions of this Assignment and Agreement conflict with the terms and provisions of the Master Declaration, the terms and provisions of this Assignment and Agreement shall control. This Assignment and Agreement shall also constitute an amendment to the Master Declaration to the extent required by the foregoing sentence.

*(Signature(s) and following Page(s))*

WITNESS, the following signatures.

**ASSIGNOR:**

**REDUS PARK CITY LLC,**  
a Delaware limited liability company

By: REDUS Properties, Inc.,  
a Delaware corporation

Its: Manager

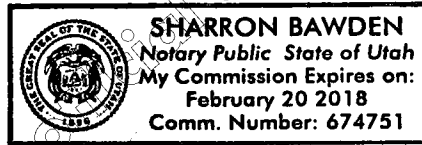
By:   
David Ash, Senior Vice President

STATE OF UTAH                    )  
                                                  : ss  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of January, 2018 by David Ash as the Senior Vice President of REDUS PROPERTIES, INC., a Delaware corporation, as manager of REDUS PARK CITY LLC, a Delaware limited liability company.

  
Notary Public

Residing at: Salt Lake County, UT  
My Commissions Expires: 2/20/2018





**EXHIBIT "A"**  
**EMPIRE PASS PROPERTIES**

**Marsac Horseshoe:**

**PARCEL 6 (SUMMIT COUNTY):**

Lot 1, Village at Empire Pass North Subdivision, according to the official plat recorded January 23, 2018, as Entry No. 1085414 in the Summit County Recorder's Office.

(Part of Tax Serial No. S-98, and Tax Serial Nos. PCA-S-98-BB and PCA-S-98-SD-6)

**Site 4:**

**PARCEL 7 (SUMMIT COUNTY):**

Lot 2, Village at Empire Pass North Subdivision, according to the official plat recorded January 23, 2018, as Entry No. 1085414 in the Summit County Recorder's Office.

(Part of Tax Serial Nos S-98 and Tax Serial Nos. PCA-S-98-DD, PCA-S-98-SD-7 and PCA-S-98-SD-8)

**Lots 1 and 2:**

**PARCEL 8 (SUMMIT COUNTY):**

ALL OF LOTS 1 AND 2, THE VILLAGE AT EMPIRE PASS, PHASE I, ACCORDING TO THE OFFICIAL PLAT FILED NOVEMBER 24, 2004, AS ENTRY NO. 718034 IN THE OFFICE OF THE SUMMIT COUNTY RECORDER.

(Tax Serial No. VEMP-1-1 and VEMP-1-2)

**Lot 9:**

**PARCEL 9 (SUMMIT COUNTY):**

AMENDED LOT 9, THE VILLAGE AT EMPIRE PASS PHASE 1 FIRST AMENDMENT, according to the official plat thereof on file and of record in the Summit County Recorder's Office.

(Tax Serial No. VEMP-1-9-1AM)



**EXHIBIT "B"**  
**B2 EAST PARCEL**

All of Lot 1 and Parcel A, B2 East Subdivision, recorded, or to be recorded with the Summit County Recorder's Office.

TAX SERIAL NO. PCA-S-98-GG-1