

WHEN RECORDED RETURN TO:

Jennifer Cook Purcell
DLA PIPER LLP
401 Congress Avenue, Suite 2500
Austin, TX 78701

ENTRY NO. 01109650

04/25/2019 03:07:12 PM B: 2505 P: 1386

Declaration PAGE 1/4

RHONDA FRANCIS, SUMMIT COUNTY RECORDER

FEE 16.00 BY JENNIFER COOK PURCELL



Affecting Parcel No. VEPNS-1

**AMENDED AND RESTATED SUPPLEMENTAL DECLARATION TO
AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS OF EMPIRE PASS**

[Marsac Horseshoe]

THIS AMENDED AND RESTATED SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF EMPIRE PASS (this "**Supplemental Declaration**"), is made effective as of January 31, 2018 (the "**Effective Date**"), but dated as of April 24 2019 (the "**Amendment Date**"), by **STORIED DEER VALLEY, LLC**, a Delaware limited liability company ("**Storied**").

RECITALS:

A. United Park City Mines Company, a Delaware corporation ("**UPCM**"), is the original "**Declarant**" under that certain Amended and Restated Master Declaration of Covenants, Conditions and Restrictions of Empire Pass dated December 10, 2004, and recorded on December 14, 2004 in the Office of the Recorder of Summit County, Utah, as Entry No. 719855 in Book 1666 at Pages 1054 through 1155, as amended by that certain Supplemental Declaration to the Certificate of Amendment and Amended and Restated Master Declaration of Covenants, Conditions and Restrictions of Empire Pass dated January 31, 2005 and recorded on February 4, 2005 in the Office of the Recorder of Summit County, Utah, as Entry No. 725523 in Book 1677 at Pages 360 through 365 (as amended, the "**Declaration**"). All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Declaration.

B. UPCM assigned all of its rights, title and interest as "**Declarant**" under the Declaration to Wells Fargo Bank National Association ("**Wells Fargo**"), pursuant to that certain Assignment of Declarant's Rights dated October 26, 2015 made by UPCM in favor of Wells Fargo.

C. Wells Fargo assigned all of its rights, title and interest as "**Declarant**" under the Declaration to Redus Park City LLC, a Delaware limited liability company ("**Redus**") pursuant to that certain Assignment of Declarant Rights dated November 17, 2015 and recorded on October 3, 2016 as Entry No. 01054950 in Book 2375 at Page 172.

D. The Declaration provides that Declarant shall have the right and option, from time to time and at any time, to amend the provisions of the Declaration and to subject additional property to the Declaration by the recordation of a Supplemental Declaration, which shall be effective when it is recorded, unless otherwise provided therein.

E. Pursuant to the provisions of Article XVI of the Declaration, Redus as "**Declarant**" amended the Declaration and subjected the real property located in Summit County, Utah (the "**Property**"), more particularly described on Schedule 1 attached hereto and made a part hereof, to the provisions of the Declaration, by that certain Supplemental Declaration to Amended and Restated Master Declaration of Covenants, Conditions and Restrictions of Empire Pass dated as of January 31, 2018 and recorded with the

Summit County Recorder on January 31, 2018 as Entry No. 01085832 in Book 2448 at Page 0532 (the "Original Supplemental Declaration").

F. Redus subsequently conveyed the Property to Storied, and pursuant to that certain Assignment of Declarant's Rights and Agreement Regarding Co-Declarant's Rights dated January 31, 2018 and recorded with the Summit County Recorder on January 31, 2018 as Entry No. 01085839 in Book 2448 at Page 0542 (the "Co-Declarant Agreement") Redus assigned to Storied and Storied accepted all the special rights as "Declarant" with respect to the Property as a Co-Declarant with Redus. Storied is sometimes referred to herein as "Co-Declarant".

G. Co-Declarant desires to amend, restate, supersede, and replace in its entirety the Original Supplemental Declaration as set forth herein.

DECLARATION

NOW, THEREFORE, in consideration of the foregoing premises, Co-Declarant hereby declares and states as follows:

1. **Recitals.** Co-Declarant hereby affirms the accuracy of the Recitals.
2. **Amended and Restated.** This Supplemental Declaration amends, restates, supersedes, and replaces in its entirety the Original Supplemental Declaration.
3. **Property Made Subject to Declaration.** The Property is hereby made subject to the Declaration, and shall be held, conveyed, transferred, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or developed, in whole or in part, subject to the Declaration, as amended or modified from time to time, which provisions are hereby ratified, approved, confirmed and incorporated herein, with the same force and effect as if fully set forth herein and made again as of the date hereof.
4. **Land Use Classification.** Pursuant to Section 4.1 of the Declaration, and subject to the Declaration of Development Covenants [Marsac Horseshoe] dated January 31, 2018 and recorded with the Summit County Recorder on January 31, 2018 as Entry No. 01085832 in Book 2448 at Page 0495 (the "Development Covenant"), the Property is hereby designated with the Land Use Classification of **Residential Condominium Development Use.**
5. **Entitlement.** Storied shall have the right to develop no more than **thirty-one (31) Unit Equivalents**, as that term is defined in that certain Amended and Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, The 20-Acre Quinn's Junction Parcel and Iron Mountain dated March 2, 2007 ("**2007 Development Agreement**"), to be located within a maximum of **eight (8) Planned Unit Development units**, as defined in the 2007 Development Agreement, on the Property.
6. **Covenant Running with Land.** The provisions of this Supplemental Declaration shall run with the Property and shall be binding upon all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

[Signature Page Follows]

**SCHEDULE 1
TO
AMENDED AND RESTATED SUPPLEMENTAL DECLARATION FOR MARSAC
HORSESHOE**

The real property referred to in this Supplemental Declaration as the Property is located in Summit County, Utah and is more particularly described as follows:

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.

(Parcel No. VEPNS-1)