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DOC # 20080049226

Amended Restrictive Covenants
Russell Shirks, Washington County Recorder
12/31/2008 01:20:17 PM Fee \$ 82.00
By PETERSON, STEVEN

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Assessor Parcel No.
See Exhibit "C" attached hereto

AFTER RECORDING, PLEASE RETURN TO:
Stephen D. Peterson
Ballard Spahr Andrews and Ingersoll, LLP
One Utah Center, Suite 600
201 South Main Street
Salt Lake City, UT 84114

**WITHDRAWAL AMENDMENT
TO
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
FOR**

**THE CONDOMINIUMS AT RED MOUNTAIN,
A CONDOMINIUM DEVELOPMENT**

(To Deannex and Withdraw a portion of Phase II of the Project and Related Improvements associated with that portion of Phase II)

THIS WITHDRAWAL AMENDMENT to the Amended and Restated Declaration of Condominium for The Condominiums at Red Mountain, a Condominium Development ("Withdrawal Amendment") is made and executed by Pivotal Mark II, L.L.C., an Arizona limited liability company ("Declarant") pursuant to the provisions of the Utah Condominium Ownership Act, Title 57, Chapter 8, as amended, Utah Code Ann. ("Condominium Act"), and the provisions of that certain Declaration found in Recital "B" below.

RECITALS:

A. The Condominium Association is the association of condominium unit owners at The Condominiums at Red Mountain situated in Washington County, Utah ("Project") located on the real property described in the Amended Maps described in Recital D below and incorporated herein by this reference.

B. On February 11, 2003, Declarant recorded with the office of the County Recorder for Washington County, State of Utah, an Amended and Restated Declaration of Condominium for The Villas at Red Mountain, a Condominium Development, in Book 1521

at Pages 2439 through 2517, with recorder's entry number 803265 ("Declaration") covering the Project. In connection with the recording of the Declaration, Declarant also recorded a Record of Survey Map ("Map") for Phase I of the Project with the office of the County Recorder for Washington County, State of Utah, a reduced copy of such Map was attached as Exhibit D in the Declaration.

C. On March 25, 2003, Declarant and the Condominium Association recorded with the office of the County Recorder for Washington County, State of Utah, a First Amendment to Amended and Restated Declaration of Condominium for The Villas at Red Mountain, a Condominium Development, in Book 1532, at Pages 514 through 522, with recorder's entry number 810382 ("First Amendment"), exercising Declarant's Option to Expand the Project and making certain other amendments to the Declaration. In connection with the recording of the First Amendment, Declarant also recorded a supplemental Record of Survey Map for Phase II of the Project with the office of the County Recorder for Washington County, State of Utah, a reduced copy of such Map was attached as Exhibit B in the First Amendment.

D. Declarant and the Condominium Association previously recorded with the office of the County Recorder for Washington County, State of Utah, a Second Amendment to Amended and Restated Declaration of Condominium for The Condominiums at Red Mountain, a Condominium Development (f/k/a/The Villas at Red Mountain) ("Second Amendment"), to change the name of the Project from "The Villas at Red Mountain, a Condominium Development" to "The Condominiums at Red Mountain, a Condominium Development" and making certain other amendments to the Declaration. In connection with the recording of the Second Amendment, Declarant also recorded an amended Map for Phases I and II of the Project with the office of the County Recorder for Washington County, State of Utah.

E. Declarant and the Condominium Association also recorded with the office of the County Recorder for Washington County, State of Utah, a Third Amendment to Amended and Restated Declaration of Condominium for The Condominiums at Red Mountain, a Condominium Development (f/k/a/The Villas at Red Mountain) ("Third Amendment"), to amend the Declaration to permit the use of certain Units for operation of a fractional club or other shared ownership program, to establish a unilateral option to remove land from the Project ("the Option to Contract") and to set forth various other changes relating to Declarant's right to make Unilateral Amendments to the Declaration and to make various changes to the manner in which the Association can be funded.

F. Pursuant to Section 12.5 of the Declaration, Declarant reserved the right to unilaterally deannex a portion of the Project prior to the sale of a Unit in a subsequent phase of the Project ("Option to Contract"). Declarant hereby exercises its unilateral right to withdraw and deannex a portion of that real property located in Washington County, Utah, more particularly described in Exhibit "B" ("the Contraction Parcel") attached hereto and incorporated herein by this reference. Declarant is the sole fee simple and equitable owner of

the Contraction Parcel and it has not conveyed any Units in that Parcel to any third-party person or entity. As a result of the exercise of the Option to Contract, the land remaining in the Project is described in Exhibit "A" attached hereto and incorporated herein by this reference.

G. Pursuant to Section 12.5 of the Declaration, Declarant hereby exercises its unilateral right to execute and record this Withdrawal Amendment for the purpose of exercising its Option to Contract the Project to withdraw the Contraction Parcel, and for such other purposes set forth and described in this Withdrawal Amendment.

NOW, THEREFORE, Declarant hereby unilaterally exercises its Option to Contract the Project to withdraw the Contraction Parcel, and unilaterally amends the Declaration as follows:

1. Defined Terms; Amended and Restated Definition; Status of Recitals. Capitalized terms used and not otherwise defined in this Withdrawal Amendment shall have the meaning or meanings given to them in the Declaration. The Recitals set forth above shall constitute a portion of the terms of this Withdrawal Amendment and are hereby incorporated by this reference.

2. Exercise of Option to Contract. Declarant hereby exercises its Option to Contract the Project pursuant to Section 12.5 of the Declaration, and unilaterally withdraws from the Project the Contraction Parcel, together with the improvements located thereon or to be located thereon. Declarant hereby declares that from and after the date that this Withdrawal Amendment is recorded in the Office of the County Recorder of Washington County, Utah ("Effective Date"), the Contraction Parcel is no longer submitted to, nor governed by, the provisions of the Declaration, or any amendments or supplements thereto.

2.1 No Further Encumbrance. From and after the Effective Date, the Contraction Parcel shall be treated as if the Declaration had never encumbered such parcel of real estate and shall not be subject to Assessments or any other obligations under the Declaration. Moreover, from and after the Effective Date, title to the Contraction Parcel shall remain vested in and held by Declarant, and none of the Owners and Mortgagees, nor the Association, the Management Committee, or any other person or entity having any right or interest in all or any portion of the Project shall have any claim, occupancy rights or title to or interest in the Contraction Parcel. The real property subject to this Option to Contract consists only of the Contraction Parcel. Other than the Contraction Parcel, no other Parcels within the boundaries of the Project shall be subject to this Option to Contract.

2.2 No Consent Required; Designation of Withdrawable Land. Each Owner, by execution of a contract for deed or the acceptance of a deed to a Unit in the Project, or a portion thereof or an interest therein, shall be deemed to have consented to all provisions of this Section 2 and Section 12.5 of the Declaration. Declarant is not required to obtain the consent of any Owners, Mortgagees, the Association, the Management Committee or of any other person or entity having any right or interest in

all or any portion of the Project prior to or subsequent to the recordation of this Withdrawal Amendment.

2.3 Revised Exhibit "A" to Declaration. Exhibit "A" to the Declaration, describing the real property included within the Project, is hereby restated in its entirety and replaced by Exhibit "A" to this Withdrawal Amendment.

3. Reservation of Declarant Rights. Pursuant to the Declaration, all Declarant Rights concerning the Project reserved to the Declarant in the Declaration are hereby incorporated and reserved to Declarant with respect to the Contraction Parcel. The exercise of Declarant Rights concerning land remaining in the Project shall be governed by the same terms, provisions and limitations set forth in the Declaration regarding the exercise of Declarant Rights.

4. Additional Documents. Declarant reserves the right to unilaterally execute and deliver such additional documents and do such other acts as may be reasonably necessary to fully implement the intent of this Withdrawal Amendment and to perfect and preserve the rights and interests of Declarant hereunder and the priority thereof, including but not limited to any Supplemental Record of Survey Map or Supplemental Condominium Plat deemed necessary by Declarant.

5. No Waiver. No failure or delay on the part of Declarant in exercising any right, power or remedy under the Declaration or the other Governing Documents in connection with the Project shall operate as a waiver thereof.

6. Declaration Remains in Effect. This Withdrawal Amendment shall be considered supplemental to the Declaration and, when recorded, shall be binding upon the entire Project and all persons and entities having an interest therein. Except as expressly amended by the foregoing, and notwithstanding anything contained in the Declaration to the contrary, which provisions, if any, are hereby amended to be consistent with this Withdrawal Amendment, the Declaration and the Plat shall remain in full force and effect and shall not be canceled, suspended or otherwise abrogated by the recording of this Withdrawal Amendment.

7. Effective Date. As defined in Section 2 above, this Withdrawal Amendment shall be effective as of the date of its recordation in the real property records of the Official Records of Washington County, Utah.

8. Authority. Declarant hereby certifies that Declarant may execute this Withdrawal Amendment without the consent or signature of any other party or Owner as provided in Sections 12.5 of the Declaration

[Signature appears on following page.]

EXHIBIT "A"

Amended and Restated Project Legal Description

Beginning at a point on the southerly line of The Condominiums at Red Mountain, Phase 2, Amended, said point being South 88°43'01" East 0,015.76 feet along the section line and North 152.25 feet from the North Quarter Corner of Section 4, Township 42 South, Range 16 West, Salt Lake Base & Meridian, and running;

thence northwesterly the following (9) courses along the boundary of The Condominiums at Red Mountain, Phase 2, Amended

thence North 88°47'01" West 337.98 feet;

thence North 01°09'20" West 136.34 feet;

thence North 14°23'16" West 97.83 feet;

thence South 75°36'44" West 106.14 feet;

thence South 71°17'25" West 30.00 feet;

thence North 18°42'35" West 4.34 feet;

thence northerly 67.24 feet along an arc of a 1,414.00 foot radius curve to the left (center bears South 71°17'25" West long chord bears North 20°04'19" West 67.23 feet with a central angle of 02°43'28");

thence northerly 195.86 feet along an arc of a 402.24 foot radius curve to the right (center bears North 68°33'57" East long chord bears North 07°29'07" West 193.93 feet with a central angle of 27°53'53");

thence South 83°32'09" East 30.00 feet;

thence southerly 146.91 feet along an arc of a 372.24 foot radius curve to the left (center bears South 83°32'09" East long chord bears South 04°50'32" East 145.96 feet with a central angle of 22°36'45");

thence North 57°01'52" East 73.56 feet;

thence South 61°23'18" East 54.95 feet;

thence North 28°36'42" East 52.94 feet;

thence North 79°38'00" East 75.81 feet;

thence South 84°12'35" East 83.72 feet;

thence North 69°30'12" East 73.42 feet;

thence South 20°29'48" East 240.38 feet;

thence southeasterly 71.22 feet along an arc of a 45.00 foot radius curve to the right (center bears South 04°25'20" West long chord bears South 40°14'12" East 64.02 feet with a central angle of 90°40'57");

thence South 87°10'10" East 19.01 feet;

thence South 01°12'59" West 128.93 feet to the Point of Beginning.

Together with:

All of the final plat of The Condominiums at Red Mountain, Phase 1, Amended, as found on file at the Washington County Recorder's Office, as Entry No. 916419.

Contains 198,991 sq. ft., 4.57 acres

EXHIBIT "B"

Deannexed and Withdrawn Land ("Contraction Parcel") Legal Description

Beginning at a point on the southerly line of The Condominiums at Red Mountain, Phase 2, Amended, said point being South 88°43'01" East 1,015.76 feet along the section line and North 152.25 feet from the North Quarter Corner of Section 4, Township 42 South, Range 16 West, Salt Lake Base & Meridian, and running;

thence North 01°12'59" East 128.93 feet;
thence North 87°10'10" West 19.01 feet;
thence northwesterly 71.22 feet along an arc of a 45.00 foot radius curve to the left (center bears North 84°53'43" West long chord bears North 40°14'12" West 64.02 feet with a central angle of 90°40'57");
thence North 20°29'48" West 240.58 feet;
thence South 69°30'12" West 73.42 feet;
thence North 84°12'35" West 83.72 feet;
thence South 79°38'00" West 75.81 feet;
thence South 28°36'42" West 52.94 feet;
thence North 61°23'18" West 54.95 feet;
thence South 57°01'52" West 73.56 feet;
thence northerly 146.91 feet along an arc of a 372.24 foot radius curve to the right (center bears North 73°51'06" East long chord bears North 04°50'32" West 145.96 feet with a central angle of 22°36'45") to the northerly line of The Condominiums at Red Mountain, Phase 2, Amended;
thence southeasterly the following (7) courses along the boundary of The Condominiums at Red Mountain, Phase 2, Amended:
thence South 83°32'09" East 105.73 feet;
thence North 77°28'56" East 141.13 feet;
thence North 43°53'57" East 134.43 feet;
thence South 88°47'01" East 294.62 feet;
thence South 40°00'00" East 499.17 feet;
thence South 01°13'26" West 194.51 feet;
thence North 88°47'01" West 431.30 feet to the Point of Beginning.

Containing 279,935 square feet or 6.43 acres.

EXHIBIT "C"

**Condominiums at Red Mountain
 Tax Parcel Assessor Numbers**

Parcel Number	Amendment	Parcel
I-CRMT-1- M1		A
I-CRMT-1- M2		A
I-CRMT-1- M3		A
I-CRMT-1- M4		A
I-CRMT-2- N1		A
I-CRMT-2- N2		A
I-CRMT-2- N3		A
I-CRMT-2- N4		A
I-CRMT-2- O1		B
I-CRMT-2- O2		B
I-CRMT-2- O3		B
I-CRMT-2- O4		B
I-CRMT-2- P1		B
I-CRMT-2- P2		B
I-CRMT-2- P3		B
I-CRMT-2- P4		B
I-CRMT-2- Q1		B
I-CRMT-2- Q2		B
I-CRMT-2- Q3		B
I-CRMT-2- Q4		B
I-CRMT-2- R1		B
I-CRMT-2- R2		B
I-CRMT-2- R3		B
I-CRMT-2- R4		B
I-CRMT-2- S1		B
I-CRMT-2- S2		B
I-CRMT-2- S3		B
I-CRMT-2- S4		B
I-CRMT-2- T1		B
I-CRMT-2- T2		B
I-CRMT-2- T3		B
I-CRMT-2- T4		B
I-CRMT-2- U1		B
I-CRMT-2- U2		B
I-CRMT-2- U3		B
I-CRMT-2- U4		B
I-CRMT-2- V1		A
I-CRMT-2- V2		A
I-CRMT-2- V3		A

**Condominiums at Red Mountain
Tax Parcel Assessor Numbers**

Parcel Number	Amendment Parcel
I-CRMT-2- V4	A
I-CRMT-2- W1	A
I-CRMT-2- W2	A
I-CRMT-2- W3	A
I-CRMT-2- W4	A
I-CRMT-2- X1	A
I-CRMT-2- X2	A
I-CRMT-2- X3	A
I-CRMT-2- X4	A
I-CRMT-2- Y1	A
I-CRMT-2- Y2	A
I-CRMT-2- Y3	A
I-CRMT-2- Y4	A