

**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 27th day of October, 2010.

THE COVE AT SUN PEAK
HOME OWNERS ASSOCIATION

By: 
Laurie Garland, President

{Acknowledgement on Following Page}

EXHIBIT A

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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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REQUEST: COVE AT SUN PEAK

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34 AMENDED AND RESTATED

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

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

55 B. The provisions of this Declaration are intended to be equitable servitudes that run with
56 the land for the mutual benefit of the owners of each of the Units created within the
57 project.
58

59 C. The Cove at Sun Peak (also known as Winter Park at Sun Peak) Subdivision Plat and the
60 Bear Lodge (currently known as the Lillehammer Lodges) Condominiums Condominium
61 Plat for the Cove at Sun Peak has been recorded in the office of the Summit County
62 Recorder on June 12, 1996 as Entries Number 456153 and 456154
63 and are not altered or amended by this First Amended Declaration.
64

65 D. The Cove at Sun Peak Subdivision (aka, Winter Park Subdivision) is a part of the Master
66 Planned Community of Sun Peak. To that end, The Cove (aka, Winter Park) at Sun Peak
67 is subject to all of the terms and conditions of that certain Master Declaration of
68 Conditions and Restrictions for Sun Peak, Summit County, Utah.
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70 Now, therefore, in furtherance of the overall construction of the Project, the Declarant adopts the
71 following declaration of condominium:
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ARTICLE I
DEFINITIONS

1. When used in this Declaration, these defined terms shall have following meaning, unless 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.
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1.23 **“Eligible Votes”** shall mean and refer to those votes available to be cast on any issue before the Association or the Board of Trustees. A vote, which is for any reason suspended, is not an “eligible vote”.

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

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

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

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

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

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

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

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

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

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

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

1.34 “Person” shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

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

1.36 “Property” shall mean the land on which the Project is constructed. The boundaries of the Project include the land described on Exhibit A.

1.37 “Record of Survey Map” or “Map” shall mean the official Record of Survey Map now known under the Act as the Condominium Plat

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

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

1.40. “Single Family Residence” shall mean and refer to both the architectural style of a Unit and the nature of the residential use permitted.

1.41 “Survey Map” shall mean and refer to the Condominium Plat on file in the office of the County Recorder of Summit County, Utah.

1.42 “Twin Homes” shall mean the duplexes.

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

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

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

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

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

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

ARTICLE II

SUBMISSION TO THE ACT

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

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

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

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

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

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

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.
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ARTICLE III

ELEMENTS OF THE PROJECT

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 343 **3.** The Project is divided into Units, Common Areas, and Limited Common Areas. The
 344 nature of each of these areas is described below:
 345

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

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361 "The Lillehammer Lodges" units shall share in the ownership of the common space but
 362 be subject to their own-recorded *Supplemental Declaration of Protective Covenants and*
 363 *Restrictions*. (iii.) The Estate Home Sites referred to as "The Cove (aka, Winter Park) @
 364 Sun Peak Estates" will consist of nine lots on a private street and shall share in the
 365 ownership of the common space but be subject to their own recorded *Supplemental*
 366 *Declaration of Protective Covenants and Restrictions*.
 367

368 3.2 Easement for Exterior Maintenance. Notwithstanding the inclusion of the exterior
 369 surfaces of the buildings as part of the Unit, the Association shall have a perpetual
 370 easement over the exterior wall surfaces, siding, roofing, and other exterior surfaces; and
 371 the foundations, load bearing walls, joists, trusses, and other load bearing or structural
 372 elements of each Unit for the purposes of maintenance. The costs of any maintenance or
 373 repairs carried out under this easement shall be assessed as Common Area Expenses.
 374 Under the terms of this easement, the Association shall:
 375

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

380 (b) Repair and restore any structural damage to the foundations, columns, load
 381 bearing walls, joists, rafters, trusses or other structural elements necessary for the
 382 support of the structures following damage by fire, storm, or other casualty or
 383 failure.
 384

385 3.3 Exterior Modifications. Without the prior written consent of the Association, no
 386 Owner will make exterior modifications to siding, roofing, exterior doors or windows, or
 387 to structural elements of the Units within the Project.
 388

389 3.4 Common Areas. Unless included in the Unit, the remainder of the Project is
 390 Common Area. Common Areas specifically include:
 391

392 (a) The land not included within the Units and not dedicated as public streets,
 393 and improvements on that land including landscaping and sprinklers, lighting, and
 394 other improvements that were made by the Declarant or have been or may later be
 395 installed by the Association.
 396

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

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

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

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

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

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

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

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

(d) That portion of the Property of up to a maximum of 12 feet from the rear wall at the rear yard of the twin home units is deemed as Limited Common Area. The individual Owners can partition this Limited Common Area into rear yards 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

446 Assessment of views, the utility of the yard area and the efficient layout of the
 447 space and must be approved at the sole discretion of the Association. The
 448 Association, with approval of the affected Owners, may approve adjustments in
 449 the locations of these areas without a formal amendment of the Map or adjustment
 450 of the percentage of Common Area Ownership. When so approved by the
 451 Association, this area shall be designated and function as the private back yard of
 452 the Unit. Within this Limited Common Area, it is anticipated that there will be
 453 some elements that are the maintenance obligation of the Association, and other
 454 elements or improvements that are the sole obligation of the Owner. No fencing
 455 shall be permitted within the Limited Common or Common Areas.
 456

457 (e) After application, the Unit Owner may make improvements, with the
 458 express prior written approval of the Board of Trustees, within the Limited
 459 Common Area described in (d), as provided in this Declaration. The Unit Owner
 460 is solely responsible for the initial construction costs, maintenance, insurance, and
 461 operation of any improvements installed by the Unit Owner (or by a prior Owner)
 462 including hot tubs, spas, planters, landscaping, or other improvements permitted
 463 by this Declaration.
 464

465 (1) No Waiver of Future Approvals. The approval of the Board of
 466 Trustees of any proposals or plans and specifications or drawings for any
 467 work done or proposed, or in connection with any other matter requiring
 468 the approval and consent of such Board of Trustees, shall not be deemed to
 469 constitute a waiver of any right to withhold approval or consent as to any
 470 similar proposals, plans and specifications, drawings or matters whatever
 471 subsequently or additionally submitted for approval or consent.
 472

473 (2) Variance. The Board of Trustees may authorize variances from
 474 compliance with any of the provisions of the design guidelines when
 475 circumstances such as topography, natural obstructions, hardship,
 476 aesthetic, or environmental considerations require, but only in accordance
 477 with its duly adopted rules and regulations. Such variances may only be
 478 granted, however, when unique circumstances dictate and no variance
 479 shall (a) be effective unless in writing, (b) be contrary to the restrictions
 480 set forth in the body of this Declaration, or (c) stop the Board of Trustees
 481 from denying a variance in other circumstances. For purposes of this
 482 Section, the inability to obtain approval of any governmental agency, the
 483 issuance of any permit or the terms of financing shall not be considered a
 484 hardship warranting a variance.
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486 (3) Limitation of Liability. Neither the Board of Trustees nor any of
 487 its employees, agents, or consultants shall be responsible in any way for
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any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. In all events, the Board of Trustees and its members shall be defended and indemnified by the Association as provided herein.

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

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

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

ARTICLE IV

OWNERS ASSOCIATION

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

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

556 (1) from time to time during reasonable hours and after reasonable notice to the
557 occupant of the Unit being entered, as may be necessary for the maintenance,
558 repair or replacement of any of the Common Areas and Facilities; or (2) for
559 making emergency repairs necessary to prevent damage to the Common Areas and
560 Facilities or to another Unit or Units, provided that a reasonable effort is made to
561 provide notice to the occupant of the Unit prior to entry.
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(b) Grant Easements. The authority, without the vote or consent of the

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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.

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

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

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

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

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

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

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

595 (k) Meetings. The authority to establish procedures for the conduct of its
 596 meetings, including but not limited to the power to decide what portion of the
 597 meeting shall be open or closed to Owners or Occupants not on the Board of
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Trustees, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of Board of Trustees meetings.

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

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

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

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

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

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

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

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

680 ii. The premiums for insurance required by the Act,
 681 including by way of illustration but not limitation the
 682 property insurance, liability insurance, directors and
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officers insurance, and a fidelity bond;

iii. Maintenance, repair, and replacement of Common Area improvements, including by way of illustration but not limitation the irrigation and watering systems, mowing, edging and trimming of the grass and other care of the landscaping;

iv. Utility charges for power, gas, water, sewer, garbage collection or other common utilities used in conjunction with Common Area and Facilities

v. Project administrative costs, including mailing, office expenses, bookkeeping, accounting, legal and other professional services required, bank charges, and other administrative expenses for the efficient management of the project;

vi. Cash reserves for Repairs and Capital Improvements

vii. Other items of Common Expense as required by law,

(b) **Additional Twin Home and Lodge Condominium Owners Area of Responsibilities:** The following items of maintenance, repair and replacement and operating expenses are applicable to the twin home and Lodge condominium units exclusively (the "Twin Home and Condominium Owners Area of Responsibility") and are not to be considered an Area of Common Responsibility or Common Expense of The Cove (aka, Winter Park) @ Sun Peak Estates' Homeowners Association and are to be paid through the Association as an Exclusive Benefit Expense solely by the Twin Home and Lodge Condominium Owners; (See Exhibit B, Column F).

(1) Cash reserves for periodic Repair, maintenance or replacement of capital assets, such as roofs, exterior painting, etc.;

(2) Structural Repair, maintenance or replacement of the buildings, including by way of illustration but not limitation the re-staining or painting of exterior surfaces (including exterior doors, garage doors), and siding; provided, however, such maintenance must be pre-approved in writing by the Board of Trustees. In addition, Owners are responsible for maintaining, repairing or replacing exterior doors and garage doors if

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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 considered areas of

Personal Responsibility by the Estate Lot Owners;

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- (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.
- (d) **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

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

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

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

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

(e) Increase of Association Obligations. The Association may, by Majority vote of the Owners, change an item included in the Area of Personal Responsibility to the Area of Common Responsibility and to 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.

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

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 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 affect 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.

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 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.

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

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 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.

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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.

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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.

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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.

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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:

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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.

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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.

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988 Failure of the Board of Trustees to exercise its authority under this Section shall not be
 989 grounds for any action against the Association or the Board of Trustees and shall not
 990 constitute a waiver of the Board of Trustees' right to exercise its authority under this
 991 Section in the future with respect to any expenses, including an expense for which the
 992 Board of Trustees has not previously exercised its authority under this Section.
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 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.
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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.
 1034

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.
 1040

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.
 1044

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.
 1055

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

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

1074 Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner
 1075 hereby transfers in trust to said Trustees 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 qualify, 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

14026 4.26 Certain Work Prohibited. No Unit Owner shall do any work or make any
 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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE V

RESTRICTIONS ON THE USE OF UNITS

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

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

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

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

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

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

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

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

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

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

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

(b) Subdivision or partition of a Unit;

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

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

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

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

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

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

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

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

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

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

(d) Excessive exterior lighting;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.
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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 1st and
 1616 should be removed by March 30th.
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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.
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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.

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

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

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

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

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

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

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

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

ARTICLE VI

DESTRUCTION OR TERMINATION OF CONDOMINIUM

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

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

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

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

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

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

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

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

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

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

(i) "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the 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.

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 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

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

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

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

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

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

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

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

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1816 **ARTICLE VII**

1817 **AMENDMENT**

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1819 7. This Declaration may be amended from time to time by the affirmative vote of the
 1820 eligible Owners (Owners in arrears are not eligible) representing more than 50% of the undivided
 1821 ownership interest, based on the number of eligible Owners. The right to amend this Declaration
 1822 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.
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ARTICLE VIII

MORTGAGEE PROTECTION

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 1860 8. To facilitate financing for the Units in the Project, the following provisions for the
 1861 protection of Mortgagees shall apply:
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1863 8.1 Subordination of Lien. The Association hereby subordinates its lien for Common
 1864 Area Assessments to the first lien purchase money mortgage on each Unit. In the event
 1865 that a mortgagee take title to any Unit through trustees sale, foreclosure or a deed in lieu
 1866 of foreclosure or sale, the Association will waive the right to a lien for accrued but unpaid
 1867 Common Area Assessments. The mortgagee will take title free of the lien for unpaid
 1868 Common Area Assessments accrued prior to the date of possession. The Mortgagee in
 1869 possession will, however, be subject to the Common Area Assessments accruing from the
 1870 date it takes possession.
 1871

1872 8.2 Statement of Account. The association will give any Owner, prospective
 1873 purchaser, or Mortgagee or prospective Mortgagee a written statement of account for the
 1874 Unit in question, showing the balance owing, if any, for Common Area Assessments. The
 1875 Association may charge a fee of \$25 for each such statement to cover its costs of
 1876 preparation. Prospective purchasers and Mortgagees will be entitled to rely on the
 1877 accuracy of that statement of account, and amounts not shown will be deemed waived as
 1878 to the new Owner or Mortgagee.
 1879

1880 8.3 No Release of Prior Owner. The obligation to pay Common Area Assessments is
 1881 personal, and despite subordination or waiver for the benefit of a Mortgagee or new
 1882 Owner, the Association may reserve its rights to proceed against the prior Owner to
 1883 collect any amounts due.
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1885 8.4 Mortgagee Protection. The lien or claim against a Unit for unpaid Assessments

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

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

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

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

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

- (1) Either party may terminate the contract with cause upon at least thirty (30) days prior written notice to the other party; and
- (2) No contract may be for an initial term greater than one (1) year.

(e) Eligible Mortgagee Designation. Upon written request to the Board of Trustees or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or 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:

(1) Condemnation Loss or Award. Any condemnation loss or any
 1934 casualty loss which affects a material portion of the Project or any Unit on
 1935 which there is a Mortgage held, insured, or guaranteed by such Eligible
 1936 Insurer or Guarantor.

(2) Delinquency. Any delinquency in the payment of Assessments
 1937 owed by an Owner of a Unit subject to a Mortgage held, insured or
 1938 guaranteed by such Eligible Insurer or Guarantor, which delinquency
 1939 remains uncured for a period of sixty days.

(3) Lapse of Insurance. Any lapse, cancellation, or material
 1940 modification of any insurance policy or fidelity bond maintained by the
 1941 Board of Trustees or the Association.

(4) Consent Required. Any proposed action, which would require the
 1942 consent of a specified percentage of Eligible Mortgagees.

(f) Approval of Proposed Action or Transaction. Any Mortgagee who
 1943 receives, by certified or registered mail, a written request, with a return receipt
 1944 requested, to approve any act, transaction or amendment to the Declaration, and
 1945 who does not return a negative response within thirty (30) days shall be deemed to
 1946 have approved such request. If financing has been provided by any of the
 1947 following agencies, such action or transaction must be approved in writing by the
 1948 Department of Veterans Affairs (VA) pursuant to CFR, Title 38, Section
 1949 36.4357(b)(4) and, if any financing or the guaranty of any financing of a Unit is
 1950 provided by the Federal Housing Administration of the United States Department
 1951 of Housing and Urban Development (FHA), the Federal Home Loan Mortgage
 1952 Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage
 1953 Association (FNMA), Government National Mortgage Association (GNMA), by
 1954 such agencies.

ARTICLE IX
ENFORCEMENT

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

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

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

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

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

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

recreational facilities, the manager or Board of Trustees shall give written notice to the owner in the manner provided in the declaration, bylaws, or association 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

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the tenant. This notice shall:

- (1) Provide notice to the tenant that full payment of remaining lease payments will commence with the next monthly or other periodic payment unless the assessment is received within the time period provided in the declaration, bylaws, or association rules;
- (2) State the amount of the assessment due, including any interest or late payment fee;
- (3) State that any costs of collection, not to exceed \$150, and other assessments that become due may be added to the total amount due; and
- (4) Provide the requirements and rights described herein.

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

- (1) That due to the owner's failure to pay the assessment within the time period allowed, the owner has been notified of the Board of Trustees' intent to collect all lease payments due to the association pursuant hereto.
- (2) That until notification by the association that the assessment due, including any interest or late payment fee, has been paid, all future lease payments due to the owner are to be paid to the association; and
- (3) Payment by the tenant to the association in compliance herewith will not constitute a default under the terms of the lease agreement. If payment is in compliance with this Subsection (6) suit or other action may not be initiated by the owner against the tenant for failure to pay.

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

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

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

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

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

Effective this 20th day of November, 2003

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DECLARANT:

The Cove @ Sun Peak Homeowners' Association
(aka Winter Park @ Sun Peak Homeowners'
Association)

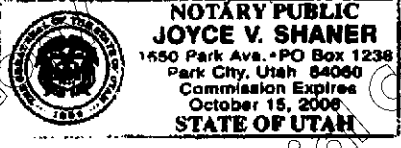
By: John R. Michael
John R. Michael,
President, The Cove @ Sun Peak Homeowners'
Association (aka Winter Park @ Sun Peak HOA)

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

State of Utah
County of Summit

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

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



Joyce V. Shaner
Notary Public
Residing at: 2122 E. 1st Co

My Commission expires: October 15, 2006

EXHIBIT A

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

Exhibit A - Pages 105 3
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 $00^{\circ}04'26''$ 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 $00^{\circ}04'26''$ 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 $00^{\circ}00'06''$ 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 $02^{\circ}58'33''$ West 317.95 feet; 2) North $20^{\circ}08'22''$ 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 $00^{\circ}04'26''$ 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 $28^{\circ}04'25''$ West 96.50 feet; 2) South $14^{\circ}54'41''$ 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 $12^{\circ}51'34''$; 3) thence continuing along said curve to the left from which the radial line bears South $73^{\circ}15'54''$ East 2949.79 feet, a distance of 662.05 feet; 4) South $04^{\circ}38'59''$ 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 $12^{\circ}00'00''$; 5) thence continuing along said curve to the left from which the radial line bears North $89^{\circ}52'32''$ East 2959.79 feet, a distance of 619.90 feet; 6) thence South $09^{\circ}59'04''$ 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 $00^{\circ}04'26''$ 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 $00^{\circ}04'26''$ 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 $00^{\circ}00'06''$ 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 $71^{\circ}29'19''$ West 599.49 feet; 2) South $31^{\circ}11'25''$ West 1130.08 feet to the Northerly boundary of the Cedar Draw Estates Subdivision; thence continuing along said Northerly boundary North $58^{\circ}48'34''$ West 381.55 feet to the Easterly boundary of the Cedar Draw Estates II Subdivision; thence continuing along said boundary North $02^{\circ}58'33''$ West 960.76 feet; thence leaving said boundary East 1529.99 feet to the point of beginning.

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 71°59'00" 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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NORTHEAST CORNER OF THE COVE AT SUN PEAK SUBDIVISION

P.O.B.

WEST 178.92'

EXISTING PUMP STATION BUILDING

HIGHWAY RIGHT OF WAY

S08°28'30"E 13.18'

EXISTING GUY WIRE

PROPOSED HIGHWAY TRAIL

EXISTING POWER POLE

EXISTING GUY WIRE

PROPOSED COVE CANYON DRIVE

STATE HIGHWAY 224

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EXHIBIT B

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

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Winter Park at Sun Peak Condominiums - Ownership Interests

A	B	C	D	E	F	G	H	I
Developer Unit Number	Plat Bldg. No. Street Address	Unit No. Unit Type	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
1	1A 5090CC	A The Innsbruck	A	1983	1.06	1.24	1	0.94
2	1A 5090CC	B The Innsbruck	B	2023	1.06	1.26	1	0.96
3	2A 5100CC	A The Innsbruck	A	1888	1.01	1.18	1	0.90
4	2A 5100CC	B The Innsbruck	B	1896	1.01	1.18	1	0.90
5	3A 5110CC	A The Innsbruck	A	1983	1.06	1.24	1	0.94
6	3A 5110CC	B The Innsbruck	B	2023	1.06	1.26	1	0.96
7	4A 5120CC	A The Innsbruck	A	2023	1.06	1.26	1	0.96
8	4A 5120CC	B The Innsbruck	B	1983	1.06	1.24	1	0.94
9	1B 5121CC	A The Calgary	A	2259	1.21	1.41	1	1.07
10	1B 5121CC	B The Calgary	B	2259	1.21	1.41	1	1.07
11	2B 5131CC	A The Calgary	A	2259	1.21	1.41	1	1.07
12	2B 5131CC	B The Calgary	B	2259	1.21	1.41	1	1.07
13	5A 5130CC	A The Innsbruck	A	1888	1.01	1.18	1	0.90
14	5A 5130CC	B The Innsbruck	B	1896	1.01	1.18	1	0.90
15	6A 5140CC	A The Innsbruck	A	1983	1.06	1.24	1	0.94
16	6A 5140CC	B The Innsbruck	B	2023	1.06	1.26	1	0.96
17	7A 5150CC	A The Innsbruck	A	2023	1.06	1.26	1	0.96
18	7A 5150CC	B The Innsbruck	B	1983	1.06	1.24	1	0.94
19	3B 5141CC	A The Calgary	A	2259	1.21	1.41	1	1.07
20	3B 5141CC	B The Calgary	B	2259	1.21	1.41	1	1.07
21	4B 5151CC	A The Calgary	A	2259	1.21	1.41	1	1.07
22	4B 5151CC	B The Calgary	B	2259	1.21	1.41	1	1.07
23	5B 5161CC	A The Calgary	A	2259	1.21	1.41	1	1.07
24	5B 5161CC	B The Calgary	B	2259	1.21	1.41	1	1.07
25	1C 5171CC	A The St. Moritz	A	2419	1.29	1.51	1	1.15
26	1C 5171CC	B The St. Moritz	B	2419	1.29	1.51	1	1.15
27	2C 5181CC	A The St. Moritz	A	2250	1.20	1.41	1	1.07
28	2C 5181CC	B The St. Moritz	B	2250	1.20	1.41	1	1.07
29	3C 5191CC	A The St. Moritz	A	2419	1.29	1.51	1	1.15
30	3C 5191CC	B The St. Moritz	B	2419	1.29	1.51	1	1.15
31	4C 5201CC	A The St. Moritz	A	2419	1.29	1.51	1	1.15
32	4C 5201CC	B The St. Moritz	B	2419	1.29	1.51	1	1.15
33	5C 5211CC	A The St. Moritz	A	2250	1.20	1.41	1	1.07
34	5C 5211CC	B The St. Moritz	B	2250	1.20	1.41	1	1.07
35	6B 5180BR	A The Calgary	A	2259	1.21	1.41	1	1.07
36	6B 5180BR	B The Calgary	B	2259	1.21	1.41	1	1.07
37	7B 5190BR	A The Calgary	A	2259	1.21	1.41	1	1.07
38	7B 5190BR	B The Calgary	B	2259	1.21	1.41	1	1.07
39	8B 5200BR	A The Calgary	A	2259	1.21	1.41	1	1.07
40	8B 5200BR	B The Calgary	B	2259	1.21	1.41	1	1.07
41	8A 5195BR	A The Innsbruck	A	1983	1.06	1.24	1	0.94
42	8A 5195BR	B The Innsbruck	B	2023	1.06	1.26	1	0.96
43	9A 5205BR	A The Innsbruck	A	1888	1.01	1.18	1	0.90
44	9A 5205BR	B The Innsbruck	B	1896	1.01	1.18	1	0.90
45	10A 5215BR	A The Innsbruck	A	1983	1.06	1.24	1	0.94
46	10A 5215BR	B The Innsbruck	B	2023	1.06	1.26	1	0.96
47	9B 5210BR	A The Calgary	A	2259	1.21	1.41	1	1.07
48	9B 5210BR	B The Calgary	B	2259	1.21	1.41	1	1.07
49	6C 5221CC	A The St. Moritz	A	2250	1.20	1.41	1	1.07
50	6C 5221CC	B The St. Moritz	B	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	1.15
57	11A 5252CC	A	The Innsbruck	1983	1.06	1.24	1	0.94
58	11A 5252CC	B	The Innsbruck	2023	1.08	1.26	1	0.99
59	12A 5254CC	A	The Innsbruck	1888	1.01	1.18	1	0.90
60	12A 5254CC	B	The Innsbruck	1898	1.01	1.18	1	0.90
61	13A 5256CC	A	The Innsbruck	1983	1.06	1.24	1	0.94
62	13A 5256CC	B	The Innsbruck	2023	1.08	1.26	1	0.99
63	5133CC	100	Lillehammer #1	1419	0.76	0.89	1	0.68
64	5133CC	101	Lillehammer #1	1604	0.86	1.00	1	0.76
65	5133CC	102	Lillehammer #1	1419	0.76	0.89	1	0.68
66	5135CC	103	Lillehammer #2	1419	0.76	0.89	1	0.68
67	5135CC	104	Lillehammer #2	1604	0.86	1.00	1	0.76
68	5135CC	105	Lillehammer #2	1419	0.76	0.89	1	0.68
69	5133CC	200	Lillehammer #1	1268	0.68	0.79	1	0.60
70	5133CC	201	Lillehammer #1	1455	0.78	0.91	1	0.69
71	5133CC	202	Lillehammer #1	1268	0.68	0.79	1	0.60
72	5135CC	203	Lillehammer #2	1268	0.68	0.79	1	0.60
73	5135CC	204	Lillehammer #2	1455	0.78	0.91	1	0.69
74	5135CC	205	Lillehammer #2	1268	0.68	0.79	1	0.60
75	5133CC	300	Lillehammer #1	1501	0.80	0.94	1	0.71
76	5133CC	301	Lillehammer #1	1577	0.84	0.99	1	0.75
77	5133CC	302	Lillehammer #1	1501	0.80	0.94	1	0.71
78	5135CC	303	Lillehammer #2	1501	0.80	0.94	1	0.71
79	5135CC	304	Lillehammer #2	1577	0.84	0.99	1	0.75
80	5135CC	305	Lillehammer #2	1501	0.80	0.94	1	0.71
				Total Square Footage	180066	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 6.04, 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.
 Average Unit Size 2161.67

ss:.....Votes1231WPOWNINT HOA

BK1602 PG1705

March, 1999

(all amounts in \$)

Winter Park at Sun Peak Condominiums - Dues Structure

A			B		C		D		E		F		G	
Develop Unit Number	Flat Bldg. No.	Street Address	Unit No.	Unit Type	Unit Square Foot	Project Common Area Ownership %	Condominium Common Area Ownership %							
1	1A	5090CC	A	The Innsbruck	1983	1.08	1.24							
2	1A	5090CC	B	The Innsbruck	2023	1.08	1.26							
3	2A	5100CC	A	The Innsbruck	1888	1.01	1.18							
4	2A	5100CC	B	The Innsbruck	1888	1.01	1.18							
5	3A	5110CC	A	The Innsbruck	1983	1.08	1.24							
6	3A	5110CC	B	The Innsbruck	2023	1.08	1.26							
7	4A	5120CC	A	The Innsbruck	2023	1.08	1.26							
8	4A	5120CC	B	The Innsbruck	1983	1.08	1.24							
9	1B	5121CC	B	The Calgary	2259	1.21	1.41							
10	1B	5121CC	A	The Calgary	2259	1.21	1.41							
11	2B	5131CC	B	The Calgary	2259	1.21	1.41							
12	2B	5131CC	A	The Calgary	2259	1.21	1.41							
13	5A	5130CC	A	The Innsbruck	1888	1.01	1.18							
14	5A	5130CC	B	The Innsbruck	1888	1.01	1.18							
15	6A	5140CC	A	The Innsbruck	1983	1.08	1.24							
16	6A	5140CC	B	The Innsbruck	2023	1.08	1.26							
17	7A	5150CC	A	The Innsbruck	2023	1.08	1.26							
18	7A	5150CC	B	The Innsbruck	1983	1.08	1.24							
19	3B	5141CC	B	The Calgary	2259	1.21	1.41							
20	3B	5141CC	A	The Calgary	2259	1.21	1.41							
21	4B	5151CC	B	The Calgary	2259	1.21	1.41							
22	4B	5151CC	A	The Calgary	2259	1.21	1.41							
23	5B	5161CC	B	The Calgary	2259	1.21	1.41							
24	5B	5161CC	A	The Calgary	2259	1.21	1.41							
25	1C	5171CC	B	The St. Moritz	2419	1.29	1.51							
26	1C	5171CC	A	The St. Moritz	2419	1.29	1.51							
27	2C	5181CC	B	The St. Moritz	2250	1.20	1.41							
28	2C	5181CC	A	The St. Moritz	2250	1.20	1.41							
29	3C	5191CC	A	The St. Moritz	2419	1.29	1.51							
30	3C	5191CC	B	The St. Moritz	2419	1.29	1.51							
31	4C	5201CC	A	The St. Moritz	2419	1.29	1.51							
32	4C	5201CC	B	The St. Moritz	2419	1.29	1.51							
33	5C	5211CC	A	The St. Moritz	2250	1.20	1.41							
34	5C	5211CC	B	The St. Moritz	2250	1.20	1.41							
35	6B	5190BR	B	The Calgary	2259	1.21	1.41							
36	6B	5190BR	A	The Calgary	2259	1.21	1.41							
37	7B	5190BR	B	The Calgary	2259	1.21	1.41							
38	7B	5190BR	A	The Calgary	2259	1.21	1.41							
39	8B	5200BR	A	The Calgary	2259	1.21	1.41							
40	8B	5200BR	B	The Calgary	2259	1.21	1.41							
41	8A	5195BR	A	The Innsbruck	1983	1.08	1.24							
42	8A	5195BR	B	The Innsbruck	2023	1.08	1.26							
43	9A	5205BR	A	The Innsbruck	1888	1.01	1.18							
44	9A	5205BR	B	The Innsbruck	1888	1.01	1.18							
45	10A	5215BR	A	The Innsbruck	1983	1.08	1.24							
46	10A	5215BR	B	The Innsbruck	2023	1.08	1.26							
47	9B	5210BR	A	The Calgary	2259	1.21	1.41							
48	9B	5210BR	B	The Calgary	2259	1.21	1.41							
49	6C	5221CC	A	The St. Moritz	2250	1.20	1.41							
50	6C	5221CC	B	The St. Moritz	2250	1.20	1.41							

BK1602 PG1705

Winter Park at Sun Peak Condominiums - Dues Structure

A	B	C	D	E	F	G	
Dev Unit	Blg. No.	Street Address	Unit No.	Unit Type	Unit Square Feet	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	1.29	1.51
54	8C	5241CC	B	The St. Moritz	2419	1.29	1.51
55	9C	5251CC	A	The St. Moritz	2419	1.29	1.51
56	9C	5251CC	B	The St. Moritz	2419	1.29	1.51
57	11A	5252CC	A	The Innbruck	1883	1.08	1.24
58	11A	5252CC	B	The Innbruck	2023	1.08	1.26
59	12A	5254CC	A	The Innbruck	1885	1.01	1.18
60	12A	5254CC	B	The Innbruck	1885	1.01	1.18
61	13A	5258CC	A	The Innbruck	1883	1.08	1.24
62	13A	5258CC	B	The Innbruck	2023	1.08	1.26
63		5133CC	100	Lillehammer #1	1418	0.78	0.89
64		5133CC	101	Lillehammer #1	1604	0.88	1.00
65		5133CC	102	Lillehammer #1	1418	0.78	0.89
66		5135CC	103	Lillehammer #2	1418	0.78	0.89
67		5135CC	104	Lillehammer #2	1604	0.88	1.00
68		5135CC	105	Lillehammer #2	1418	0.78	0.89
69		5133CC	200	Lillehammer #1	1288	0.68	0.79
70		5133CC	201	Lillehammer #1	1455	0.78	0.91
71		5133CC	202	Lillehammer #1	1288	0.68	0.79
72		5135CC	203	Lillehammer #2	1288	0.68	0.79
73		5135CC	204	Lillehammer #2	1455	0.78	0.91
74		5135CC	205	Lillehammer #2	1288	0.68	0.79
75		5133CC	300	Lillehammer #1	1501	0.80	0.84
76		5133CC	301	Lillehammer #1	1577	0.84	0.88
77		5133CC	302	Lillehammer #1	1501	0.80	0.84
78		5135CC	303	Lillehammer #2	1501	0.80	0.84
79		5135CC	304	Lillehammer #2	1577	0.84	0.88
80		5135CC	305	Lillehammer #2	1501	0.80	0.84
Total Square Footage of:					180068		100.00%
Estate Homesite:							
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	
					187068	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, 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.
 Average Unit Size 2101.87

sa:...Notue123WPDUE81.HOA

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 1
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.

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.

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(b) The owner of a Unit who is in arrears on the payment of 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.

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**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 20th 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