

**When Recorded Mail To:**  
Wrona Gordon & Dubois, PC  
Attn.: Joseph Wrona  
1745 Sidewinder Drive  
Park City, Utah 84060

**ENTRY NO. 01003841**

09/26/2014 01:48:29 PM B: 2258 P: 1638

Easements PAGE 1/12

MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

FEE 73.00 BY WRONA GORDON & DUBOIS PC



**RECIPROCAL EASEMENT AGREEMENT**

**THIS RECIPROCAL EASEMENT AGREEMENT** (“Easement Agreement”) is made and entered into as of the 23<sup>rd</sup> day of September, 2014, by and between **THE PRESERVE HOMEOWNERS ASSOCIATION**, a Utah non-profit corporation (“The Preserve”) and **OUTBOARD LLC** (“Outboard”).

The Preserve

**RECITALS**

**A.** The Preserve owns and/or controls common areas and private roads located within the development known as The Preserve, located in Summit County, Utah, which is more particularly described in **Exhibit A** hereto (the “The Preserve Property”).

**B.** Outboard owns Lots RRH-4 (1928 W. Red Hawk Trail) and RRH-34 (9125 N. Red Hawk Trail), located in Summit County, Utah, which is more particularly described in **Exhibit B** (collectively, the “Outboard Property”). Outboard desires to obtain an easement over The Preserve Property to access RRH-34 and RRH-4 via Quail Ridge Lane and other connected private The Preserve Property roads for the benefit of the Outboard Property for the development, use and enjoyment of the Outboard Property.

**C.** Outboard wishes to grant The Preserve and Mountain Regional Water Special Service District (“Mountain Regional”) an easement over that portion of Quail Ridge Lane located on RRH-34 for the purpose of accessing, maintaining and repairing Quail Ridge Lane and the existing water tank, booster station and related equipment and water lines located on RRH-34 and RRH-4.

**D.** The parties desire to grant such easement on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the covenants, promises, obligations, and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

**1. EASEMENT IN FAVOR OF OUTBOARD.**

**1.1 Grant of Easement.** The Preserve, as to its interest in The Preserve Property and on behalf of the owners and members of The Preserve, hereby grants to Outboard, its successors in interest, guests, invitees and licensees, a perpetual, non-exclusive easement (the “Easement”) on, across, under and over the Preserve Property described and/or depicted on **Exhibit A**, and

specifically over Quail Ridge Lane for the development, use and enjoyment of the Outboard Property and for the maintenance, repair and replacement of improvements on the Outboard Property described and/or depicted on **Exhibit B** or within the easement area, including without limitation the construction of a driveway access (the "Driveway Access") to the Outboard Property. The Easement and rights of Outboard in this Agreement may be further specifically conveyed by recorded easement to any future, third-party purchaser/owner of RRH-4 together with an easement over RRH-34.

**1.2 Grant of Temporary Construction Easement.** The Preserve, as to its interest in the Preserve Property, hereby grants to Outboard temporary non-exclusive construction easements (the "Temporary Construction Easements") for the installation of the driveway access within the Easement and construction access for development and construction on the Outboard Property. The Easement and the Temporary Construction Easement are referred to herein as the "Easements." In the event Outboard shall desire to alter the location of the Driveway Access in the easement area after completion of the initial installation, then Outboard shall be required to negotiate and secure a new Temporary Construction Easement from The Preserve.

**1.3 Approval and Location of Driveway Access.** Outboard must obtain the approval of The Preserve's design review committee for the driveway access design, including location and construction materials, prior to commencing construction on the Driveway Access, which approval shall not be unreasonably withheld, conditioned or delayed. A review fee will be determined by the Preserve's board for the review and approval of the Driveway Access. Prior to commencement of construction Outboard will stake the centerline of the Driveway Access and the location of the Driveway Access as staked on the ground shall conform to the design approved by The Preserve's design review committee. During the course of construction, Outboard and its contractor may make minor variations in the locations of the Driveway Access as construction conditions may require; however, variations exceeding 10 feet in any direction from the location in the approved design shall require Outboard to seek the approval of The Preserve's design review committee for such variation. The final easement area for the Driveway Access shall be the actual as built Driveway Access.

**1.4 Construction.** Outboard shall construct and install the driveway access and improvements on the Outboard Property in a manner so as to reasonably minimize the disturbance of Preserve Property and owners in The Preserve. Areas disturbed by construction shall be protected against unnecessary erosion. Prior to commencing construction of the Driveway Access Outboard shall: (1) pay a non-refundable construction monitoring fee of \$1,500.00 to The Preserve; and (2) provide a refundable bond for construction in the amount of \$15,000.00 to The Preserve. Outboard shall also provide a construction general liability insurance policy insuring against property damages or bodily injury claims arising from its activities on The Preserve Property with policy limits of not less than \$1 million per occurrence and in the aggregate. The policy shall be endorsed to include The Preserve as an additional named insured. Outboard shall cause the insurer to issue certificates to the additional insureds indicating that the required coverages are in place. The insurance policy shall include a provision to the effect that the additional insured shall be given not less than thirty (30) days prior written notice of any change that affects the coverage, and any certificate provided to the additional insured shall recite such provisions. Furthermore, Outboard hereby covenants and agrees that during construction it will abide and cause its contractors to abide by the general

construction rules and regulations referenced in The Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Preserve, recorded on March 28, 2008 as Entry No. 840887 in the official records of Summit County (the "CC&Rs") and pursuant to existing Preserve rules and regulations; provided, however, that any improvements constructed on the Outboard Property shall not be governed by the architectural, design or similar requirements of the CC&Rs or other design standards applicable to improvements constructed within The Preserve. All permits for erosion and storm water control and any others required by Summit County and the State of Utah will be obtained prior to construction of any improvements. Prior to commencement of construction, Outboard shall request a preconstruction meeting with The Preserve design review committee. Upon completion of construction all surplus materials and debris shall be removed and the Outboard Property and The Preserve Property shall be left in a clean and orderly condition.

**1.5 Restoration of The Preserve Property.** Outboard shall use and cause its contractors to use their best efforts not to unreasonably disturb or damage The Preserve Property or improvements thereon, and upon completion of construction all portions of The Preserve Property disturbed by construction activity shall be immediately restored to the condition it was in prior to the commencement of construction. Any damage to fences, gates or other improvements on the Preserve Property shall be immediately repaired or replaced at the expense of Outboard.

**1.6 Outboard's Service Connections.** Unless agreed to in writing, evidenced by a recorded amendment to this Easement Agreement, all utility or service connections servicing the Outboard Property and improvements located thereon shall be connected to utilities servicing The Ridge At Red Hawk development.

**1.7 Release and Indemnity.** Outboard agrees to use The Preserve Property at its own risk and hereby releases and forever discharges any claims, demands, or causes of action it might have against The Preserve, its officers, directors and employees, arising out of Outboard's use of or actions upon The Preserve Property unless the claim, demand or cause of action arises by reason of the negligence or intentional conduct of The Preserve. Outboard agrees to indemnify and hold The Preserve, and The Preserve's officers, directors and employees, harmless from and against any loss, damage, liability, claims, demands, or causes of action of every kind and character (including any amount of judgment, penalties, interest, court costs, and legal fees incurred by an indemnitee in defense of same) arising in favor of any third party, including governmental agencies, on account of claims, debts, personal injuries, death, or damages to property, and all other claims or demands of every character, occurring, or in any way incident to, in connection with, or arising directly or indirectly out of Outboard's activities on or use of the Preserve Property except to the extent caused by the negligent or intentional conduct of the indemnitee seeking indemnification.

**1.8 Annual Fees, Lien Rights, Voting.** Outboard covenants and agrees to pay, in exchange for the easement rights granted herein, a portion of the normal annual maintenance of the roadways within the Preserve Property used to access the Outboard Property. The annual fee to be paid by Outboard to The Preserve shall be an amount equal to 60% of the average annual assessment paid by other owners in The Preserve for such maintenance, including annual increases in such assessments and special assessments for the repair of The Preserve roads used

by Outboard. In the event that Outboard fails to pay the agreed upon annual fee to The Preserve when due and payable, The Preserve shall have the right to place and foreclose upon a lien on the Outboard Property and improvements in accordance with the same lien and foreclosure rights contained in the CC&Rs applicable to lots in The Preserve. The Preserve and Outboard acknowledge and agree that this Easement Agreement shall not bestow upon Outboard any membership or voting rights in the The Preserve Homeowners Association.

**1.9 Condition of Property.** The Preserve makes no representation or warranty as to the condition or safety of The Preserve Property or as to the suitability of The Preserve Property for Outboard's use.

**1.10 Abandonment.** In the event Outboard shall abandon the Driveway Access installed in the Easement, then Outboard shall give written notice of abandonment to the then owner of The Preserve Property (herein "the Property Owner"); shall execute and deliver to said Property Owner a good and sufficient release and reconveyance of the easement, in recordable form, as the same relates to The Preserve Property, and all right, title and interest in and to the driveway access located within The Preserve Property shall thereupon revert to the Property Owner.

## **2. EASEMENT IN FAVOR OF THE PRESERVE & MOUNTAIN REGIONAL.**

**2.1 Grant of Easement.** Outboard hereby grants to The Preserve and to Mountain Regional, their respective successors in interest and contractors, a perpetual, non-exclusive easement (the "Quail Ridge Lane Easement") on, across, under and over that portion of Quail Ridge Lane located on RRH-34 and RRH-4 for the access, improvement, maintenance, repair and replacement of Quail Ridge Lane and the existing Mountain Regional water tank, booster station and related equipment and water lines located on RRH-34. This easement shall be 100' in width (50' on each side of the center line of Quail Ridge Lane.

**2.2 Restoration of RRH-34.** The Preserve shall use and cause its contractors to use their best efforts not to unreasonably disturb or damage RRH-34 or RRH-4 or improvements thereon as a result of their use of the Quail Ridge Lane Easement. Any disturbance of or damage to RRH-34 or RRH-4 or its improvements shall be immediately restored to the condition it was in prior to the disturbance or damage caused by The Preserve, Mountain Regional or their respective contractors.

**2.3 Release and Indemnity.** By using the Quail Ridge Lane Easement, The Preserve and Mountain Regional shall be deemed to have agreed to use the Quail Ridge Lane Easement at their own risk and release and forever discharge any claims, demands, or causes of action they might have against Outboard, its officers, members, directors and employees, arising out of their use, or use by their contractors, of or actions upon RRH-34 or RH-4 unless the claim, demand or cause of action arises by reason of the intentional misconduct of Outboard. The Preserve agrees to indemnify and hold Outboard, and Outboard's officers, members, directors and employees, harmless from and against any loss, damage, liability, claims, demands, or causes of action of every kind and character (including any amount of judgment, penalties, interest, court costs, and legal fees incurred by an indemnitee in defense of same) arising in favor of any third party, including governmental agencies, on account of claims, debts, personal injuries, death, or damages to property, and all other claims or demands of every character, occurring, or in any

way incident to, in connection with, or arising directly or indirectly out of The Preserve or Mountain Regional's activities on or use of the Quail Ridge Lane Easement except to the extent caused by the intentional misconduct of the indemnitee seeking indemnification.

**2.4 Condition of Property.** Outboard makes no representation or warranty as to the condition or safety of the Quail Ridge Lane Easement or as to the suitability of the Quail Ridge Lane Easement for The Preserve or Mountain Regional's use.

**2.5 Abandonment.** In the event The Preserve and Mountain Regional shall abandon the Quail Ridge Lane Easement, then The Preserve shall give written notice of abandonment to the then owner of RRH-34; shall execute and deliver to said owner of RRH-34 a good and sufficient release and reconveyance of the easement, in recordable form, as the same relates to RRH-34, and all right, title and interest in and to the Quail Ridge Lane Easement shall thereupon revert to the owner of RRH-34.

**2.6 Consent to Be Bound.** Use of the Quail Ridge Lane Easement by The Preserve, Mountain Regional, or their respective contractors is expressly conditioned upon and constitutes their binding agreement to abide by and be bound by the terms of this Agreement.

### **3. GENERAL.**

**3.1 Notices.** All notices and other communications provided for in this Easement Agreement shall be in writing and shall be sufficient for all purposes if (i) sent by fax to the fax number set forth below or at such other numbers as the respective party may designate by notice as provided herein, and concurrently sent by 1<sup>st</sup> Class U.S. Mail, (ii) personally delivered, or (iii) sent by certified or registered U.S. Mail, return receipt requested, postage prepaid, and addressed to the respective party at the address set forth below or at such other address as such party may hereafter designate by written notice to the other parties as herein provided.

**To Outboard:**

Outboard LLC  
c/o Joseph Wrona  
1745 Sidewinder Dr.  
Park City, Utah 84060  
Fax: 435-649-5959

**To The Preserve:**

The Preserve  
Cedar Jordan  
2812 S. 2520 E.  
Salt Lake City, UT  
84109

If personally delivered, notices and other communications under this Easement Agreement shall

be deemed effective upon delivery. If sent by fax and mail in the form specified in this section, notices and other communications under this Easement Agreement shall be deemed effective when faxed or deposited in the U.S. Mail, whichever shall last occur. If sent by certified or registered mail, notice or other communications under this Easement Agreement shall be deemed effective upon delivery, evidenced by the return or certified mail receipt.

**3.2 Costs.** Except as otherwise specifically provided in this Easement Agreement, The Preserve and Outboard each shall pay their own costs and expenses incurred in preparation, review, execution of and performance under this Easement Agreement.

**3.3 Entire Agreement.** This Easement Agreement (including the exhibits attached hereto and incorporated herein by reference) constitutes the entire agreement between the parties hereto relative to the subject matter hereof. This Easement Agreement may not be amended or modified except in writing executed by all of the parties hereto. The parties further agree to execute and record or cause to be executed and recorded any additional documents reasonably requested by the other party necessary to fulfill the terms of this Agreement.

**3.4 Interpretation.** This Easement Agreement shall be governed by and construed in accordance with the internal laws of the state of Utah. This Agreement shall bind and inure to the benefit of the parties hereto and to The Preserve' respective successors and assigns.

**3.5 Counterparts and Facsimile Signatures.** This Easement Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, binding between the executing parties, and all of which shall together constitute one and the same instrument. Original, facsimile or power of attorney signatures shall be binding upon the executing party.

**3.6 No Waiver.** Acceptance by either party of any performances less than required hereby shall not be deemed to be a waiver of the rights of such party to enforce all of the terms and conditions hereof. Except as otherwise expressly provided herein, no waiver of any such right hereunder shall be binding unless reduced to writing and signed by the party to be charged therewith.

**3.7 Covenants Run With the Land.** Each right and obligation in this Easement Agreement (whether affirmative or negative in nature) (a) shall constitute a covenant running with the land; (b) shall benefit and bind every person or entity having any fee, leasehold or other interest in the Preserve Property and the Outboard Property, (c) shall benefit and be binding upon any person whose title is acquired by voluntary conveyance, judicial foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise. The Preserve shall not have any obligations under this Easement Agreement after it has transferred its interest in The Preserve Property.

**3.8 Public Benefit.** Nothing contained in the Easement Agreement shall be deemed a gift or dedication or any portion of The Preserve Property to or for the general public or for any public purpose.

**3.9 Attorneys' Fees.** In the event of any legal, equitable or administrative action or proceeding brought by any party against any other party under this Easement Agreement, the


prevailing party shall be entitled to recover the reasonable fees of its attorneys, and any costs incurred in such action or proceeding including costs of appeal, if any, in such amount as the court or administrative body having jurisdiction may award.

**3.10 Authority.** Any individual person signing this Easement Agreement for or on behalf of an entity, represents and warrants by doing so that the individual is the duly authorized and empowered signatory for such entity with full power and authority to bind such entity hereto.

**IN WITNESS WHEREOF**, the parties hereto have executed this Easement Agreement as of the day and year first above written.

**THE PRESERVE:**

**THE PRESERVE HOMEOWNERS ASSOCIATION,**

By:   
Its: PRESIDENT 9/25/14

**OUTBOARD:**

**OUTBOARD LLC**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**ACKNOWLEDGEMENTS**

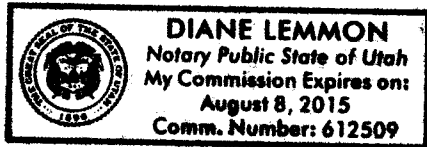
STATE OF UTAH )

: ss.

COUNTY OF SUMMIT )

On this 25 day of September, 2014 before me personally appeared John Rusterer, who being by me duly sworn, acknowledged to me that he/she signed the foregoing instrument, as the duly appointed and authorized signatory of **The Preserve Homeowners Association**, a Utah non-profit corporation.

Diane Lemmon  
Notary Public



STATE OF UTAH )

: ss.

COUNTY OF SUMMIT )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014 before me personally appeared \_\_\_\_\_, who being by me duly sworn, acknowledged to me that he/she signed the foregoing instrument, as the duly appointed and authorized signatory of **Outboard LLC**.

\_\_\_\_\_  
Notary Public



**3.10 Authority.** Any individual person signing this Easement Agreement for or on behalf of an entity, represents and warrants by doing so that the individual is the duly authorized and empowered signatory for such entity with full power and authority to bind such entity hereto.

**IN WITNESS WHEREOF,** the parties hereto have executed this Easement Agreement as of the day and year first above written.

**THE PRESERVE:**

**THE PRESERVE HOMEOWNERS ASSOCIATION,**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**OUTBOARD:**

**OUTBOARD LLC**

By: Wron \_\_\_\_\_

Its: Its Attorney-in-fact for  
Outboard, LLC and for  
Mark Larkin, its Manager

ACKNOWLEDGEMENTS

STATE OF UTAH )  
 : ss.  
COUNTY OF SUMMIT )

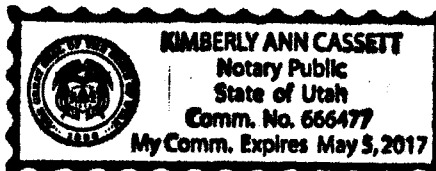
On this \_\_\_\_\_ day of \_\_\_\_\_, 2014 before me personally appeared \_\_\_\_\_, who being by me duly sworn, acknowledged to me that he/she signed the foregoing instrument, as the duly appointed and authorized signatory of **The Preserve Homeowners Association**, a Utah non-profit corporation.

\_\_\_\_\_  
Notary Public

STATE OF UTAH )  
 : ss.  
COUNTY OF SUMMIT )

On this 24<sup>th</sup> day of September, 2014 before me personally appeared Joe WRona, who being by me duly sworn, acknowledged to me that he/she signed the foregoing instrument, as the duly appointed and authorized signatory of **Outboard LLC**.

K.A. Cassett  
Notary Public



## **EXHIBIT A**

### **The Preserve Property**

Land located in Sections 31 and 32, Township 1 South, Range 4 East, Salt Lake Base and Meridian.

Those areas designated as private roads, streets or common areas , including without limitation Preserve Drive, Blue Grouse Lane, Eagle Crest Lane, Raven Way, Quail Ridge Lane, Mountain Bluebird Lane, North Red Hawk Trail, Red Hawk Trail, as shown within The Preserve Phase 3 Subdivision according to the official plat thereof as recorded in the office of the county recorder for Summit County, State of Utah.

Tax Parcel Nos.:       PRESRV-3-OS-1,2,3  
                              PRESRV-3-51 THRU 87

**EXHIBIT B**

**Outboard Property**

LOTS 4 and 34 THE RIDGE AT RED HAWK SUBDIVISION; ACCORDING TO THE  
OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDER'S OFFICE

Tax Parcel Nos.:     RRH-4  
                          RRH-34