WHEN RECORDED
RETURN TO:

Iron Mountain Associates, L.L.C.
2455 White Pine Canyon Road
Park City, Utah 84060



AMENDED AND RESTATED DECLARATION
of
COVENANTS, CONDITIONS AND RESTRICTIONS
for
THE COLONY AT WHITE PINE CANYON

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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE COLONY AT WHITE PINE CANYON

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE COLONY AT WHITE PINE CANYON ("Declaration") is made and executed by Iron Mountain Associates, L.L.C., a Utah limited liability company ("Declarant"), for itself, its successors and assigns.

RECITALS

A. Declarant executed that certain Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated September 24, 1998, and recorded in the office of the Summit County recorder on September 24, 1998, as Entry No. 518327, in Book 1185, starting at Page 93, and that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated September 14, 1999, and recorded in the office of the Summit County recorder on September 15, 1999, as Entry No. 548586, in Book 1287, starting at Page 726, and that certain Second Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated December 28, 2000, and recorded in the office of the Summit County recorder on December 29, 2000, as Entry No. 579435, in Book 1347, starting at Page 691, and that certain Third Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated December 27, 2001, and recorded in the office of the Summit County recorder on December 28, 2001, as Entry No. 607116, in Book 1424, starting at Page 853, and that certain Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated June 25, 2002, and recorded in the office of the Summit County recorder on June 25, 2002, as Entry No. 623050, in Book 1456, starting at Page 1196, and that certain Fifth Amendment Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated April 10, 2003, and recorded in the office of the Summit County recorder on April 11, 2003, as Entry No. 654475, in Book 1525, starting at Page 1675, and that certain Sixth Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated June 19, 2003, and recorded in the office of the Summit County recorder on June 25, 2003, as Entry No. 663160, in Book 1545, starting at Page 1199, and that certain Seventh Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated January 26, 2004, and recorded in the office of the Summit County recorder on January 26, 2004, as Entry No. 687136, in Book 1595, starting at Page 1632, and that certain Eighth Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated February 28, 2006, and recorded in the office of the Summit County recorder on March 1, 2006, as Entry No. 770214, in Book 1774, starting at Page 848, and that certain Ninth Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated August 23, 2006, and recorded in the office of the Summit County recorder on August 24, 2006, as Entry No. 788380, in Book 1812, starting at Page 698, and that certain Tenth Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated September 20, 2007, and recorded in the office of the Summit County recorder on September 21, 2007, as Entry No. 826011, in Book 1890, starting at

Page 295, and that certain Eleventh Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated April 28, 2009, and recorded in the office of the Summit County recorder on April 29, 2009, as Entry No. 871064, in Book 1979, starting at Page 1129, and that certain Twelfth Amendment to the Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon, dated March 15, 2010, and recorded in the office of the Summit County recorder on March 15, 2010, as Entry No. 894024, in Book 2024, starting at Page 658 (collectively, the "Original Declaration").

B. Pursuant to Section 10.2.2 of the Original Declaration, Declarant may unilaterally amend the Original Declaration prior to the completion of the development of The Colony. As of the date of this Declaration, The Colony is still in development. Declarant now desires to exercise its unilateral right to amend and restate the Original Declaration and hereby certifies that it may execute this Declaration without the consent or signature of any other party, including without limitation the Association or any Owner, as provided in Section 10.2.2 of the Original Declaration.

C. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits attached hereto and incorporated herein by this reference shall be enforceable equitable covenants and equitable servitudes and shall run with the land. This Declaration amends in its entirety, restates, supersedes and completely replaces the Original Declaration. Notwithstanding the foregoing, it is the intent of Declarant to maintain the priority established by the Original Declaration.

D. Each of the Recitals A through C is incorporated into and made a part of this Declaration for all purposes.

ARTICLE 1
DECLARATION - PURPOSES

1.1. Declaration. This Declaration is a declaration of covenants, conditions and restrictions for The Colony at White Pine Canyon ("The Colony") as more particularly described in Exhibit A. The Colony is a residential subdivision with recreational amenities being developed in five (5) or more phases as part of The Canyons Specially Planned Area ("The Canyons SPA") as further described in Section 1.4 below. This Declaration shall be binding and effective as to all phases of The Colony. The final subdivision plats for several of the phases have been recorded and the final subdivision plats for the additional phases will be recorded in the future ("collectively, the "Final Subdivision Plats"). As the Final Subdivision Plats for each subsequent phase are recorded, or at such other times as permitted by this Declaration and/or as the Declarant may deem appropriate, this Declaration shall be amended to make necessary and desired changes and to add all the property located within each new phase to the property covered by this Declaration.

1.2. General Purposes. Declarant is the developer of a private gated residential community known as The Colony at White Pine Canyon or The Colony. Declarant intends that all owners, trust deed beneficiaries, mortgagees and any other persons or entities now or hereafter acquiring any interest in The Colony shall hold such interest subject to all the rights, privileges, obligations and restrictions set forth in this instrument. In addition, Declarant has

created a homeowners association as a Utah non-profit corporation to be called The Homeowners Association for The Colony at White Pine Canyon (the "Association") that shall govern the operation of The Colony, shall perform certain tasks and fulfill certain obligations described herein and shall own, hold, operate and manage the property of the Association for the common benefit of all owners of The Colony.

1.3. Continuing Effect of this Declaration. To further the purposes herein expressed, the Declarant, for itself, its successors and assigns, with respect to all of the property to be included in The Colony, including but not limited to all Common Areas and proposed or designated open space, hereby declares that all said property shall at all times be owned, held, used and conveyed subject to the terms, provisions, conditions and restrictions, and the same shall constitute covenants running with the land and shall be binding upon and inure to the benefit of Declarant, the Association and all owners of residential lots and/or other property interests, trust deed beneficiaries and mortgagees with property interests in The Colony as to their respective interests and to any person or legal entity acquiring any interest in or to any of said property.

1.4. Development Agreement with Summit County. Declarant has entered into that certain Development Agreement for The Canyons Specially Planned Area (SPA) Plan with Summit County (the "Development Agreement"). The Development Agreement was made pursuant to the Snyderville Basin General Plan and the Snyderville Basin Development Code which permit the establishment of Special Planning Area (SPA) zones. The Colony is included in one such SPA zone. The Summit County Board of County Commissioners adopted Summit County Ordinance No. 333 on July 6, 1998, which rezoned the property included within The Colony from "Sensitive Lands" and "Developable Lands" to a SPA zone referred to as "The Canyons Zone District." The rezone was subject to the adoption of the Development Agreement, which was adopted by the Summit County Board of County Commissioners as Summit County Ordinance No. 334 on July 6, 1998, and which was recorded in the Office of the Summit County Recorder in Coalville, Utah, on July 28, 1998, as Book 00168, Pages 00082-00106. Declarant has entered in that certain Amended and Restated Development Agreement for The Canyons Specially Planned Area (SPA) with Summit County dated November 15, 1999 ("The Canyons SPA Development Agreement") which amends, restates and supersedes the original Development Agreement with Summit County. References in this Declaration to the "Development Agreement", shall mean The Canyons SPA Development Agreement as the same has been and may yet be amended from time to time.

ARTICLE 2
DEFINITIONS AND AREA DESIGNATIONS

2.1. Annual Assessments means the regular assessments of the Association which are comprised of the Common Expenses consisting of charges levied and assessed by the Association each year against a Homestead pursuant to Section 5.2 of this Declaration for the purpose of funding the required maintenance, operational and administrative costs and/or other purposes provided for in this Declaration.

2.2. Articles means Articles of Incorporation of the Association and any amendments thereto.

2.3. Assessment means any Annual Assessments, Special Assessments, Compliance Assessments, and/or such other assessment and/or charges as the same are or may be established and collected by the Association in accordance with the provisions of this Declaration.

2.4. Assessment Lien means a lien filed by the Association on a Homestead which relates to any unpaid or uncollected Assessment, including penalties.

2.5. Association means The Homeowners Association for The Colony at White Pine Canyon, a Utah nonprofit corporation, which has been formed and incorporated and which shall constitute the Association to which reference is made in this instrument, the purpose of which is to maintain the Association Property and to further, by regulations and restrictions consistent with this Declaration, the common interests of Owners of all Homesteads within The Colony.

2.6. Association Property means any property granted to the Association that may consist of Common Areas, Property Conveyed by Declarant, and certain Easements (excluding specifically those easements herein reserved to and owned by the Declarant) designated on the Final Subdivision Plats and all improvements thereon and any other property that is transferred or granted to the Association, including but not limited to associated embankment slopes, storm drains, utilities and the like, as well as any private trails created and maintained by the Association, but not including private trails created or maintained by individual Owners. Association Property shall not include any Ski Run, Perpetual Open Space, Ski Easement, or Lift and Ski Easement unless specifically transferred or granted to the Association by the Declarant, which property is reserved and owned by the Declarant as provided in Section 8.13 below.

2.7. Board or Board of Trustees means the governing board of the Association.

2.8. Common Area(s) means all property designated on the Final Subdivision Plats as Common Area which is created by the Declarant or by the Association for the common benefit of all Owners within The Colony.

2.9. Common Expenses means estimated and actual expenditures made or to be made by or on behalf of the Association, including, but not limited to, expenditures for the maintenance of Association Property, together with all allocations to reserve or capital funds, which Common Expenses are to be funded from the proceeds of Assessments.

2.10. Compliance Assessment means an Assessment made by the SARC and/or the Board for all costs and expenses, including reasonable attorneys fees and costs, incurred by the SARC and/or the Board to cause non-complying improvements to be removed or a noncompliance to be cured, as provided in Section 4.11 below.

2.11. Conservation Easement means easements granted to an eligible agency under applicable federal and/or state laws for the preservation and protection of open space and the use and maintenance of open space in accordance with the policies and standards of said laws and with the policies and standards of agencies which are eligible and qualified to receive the conservation easements.

2.12. County means Summit County, Utah.

2.13. Declarant means Iron Mountain Associates, L.L.C., a Utah limited liability company and any party designated as a successor or assign of the Declarant by a written instrument duly recorded in the real estate records of Summit County, Utah, which instrument, to be effective, need only be signed by Declarant. Such instrument may specify the extent and portion of the rights or interests being assigned by Declarant, in which case Declarant shall retain all other rights of Declarant not so assigned.

2.14. Declaration means this Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon as recorded in the real estate records of Summit County, Utah, and as amended from time to time. This Declaration shall at all times and for all purposes be relied upon by Declarant, the Association, any Owner of a Homestead or other property interest, Member, Mortgagee, or any prospective purchaser of a Homestead or other property interest in The Colony and any title company insuring any owner, mortgagee or any other property interest in The Colony.

2.15. Development Envelope means one or more areas referred to in the Design and Development Guidelines within which principal development activity may occur. Procedures are set forth in Sections 7.4 and 7.5 below whereby the Owner of a Homestead shall select and/or modify a particular Development Envelope.

2.16. Design and Development Guidelines means the development criteria adopted and, from time to time, amended by the Declarant or the Board of Trustees and implemented by the Site and Architectural Review Committee to provide design and development guidelines for the construction of homes and other improvements, and/or carry on any other development activity in The Colony.

2.17. Easements means those areas designated as easements as described and defined in Article 8 and any other easement granted or received by Declarant or the Association for the common benefit of all Owners within The Colony.

2.18. Eligible Mortgage Holder means the holder of any Mortgage encumbering a Homestead that has (1) given written notice to the Association of said Mortgage, which notice shall include the name, mailing address, phone number, and contact person of such Mortgage holder, and shall be accompanied by a true copy of the Mortgage bearing the recording information; and (2) provides proof of the existence of an impound or escrow account for the payment of any Assessment with respect to the subject Homestead ensuring that such Assessments are paid in a timely manner.

2.19. Final Subdivision Plats means the subdivision plats for each phase of The Colony which have been approved by the Snyderville Basin Planning Commission and the Summit County Board of County Commissioners, or the Summit County Council, and recorded in the Office of the Summit County Recorder.

2.20. Homestead or Homesteads means any subdivided parcel or parcels of land designated and approved for residential development, owned in fee and designated by a number and an address on the Final Subdivision Plat recorded for each of the phases of The Colony, excluding any parcel owned in fee and designated on a Final Subdivision Plat as Common Area,

Ski Run or Perpetual Open Space. For conveyancing, platting, and other purposes, a Homestead may be referred to as a "Lot."

2.21. Joint Operating Agreement means that certain agreement required in The Canyons SPA Agreement dated November 15, 1999, and executed by and among the Association, ASC Utah, Inc. (owner of The Canyons resort), and the RVMA (composed of owners of development entitlements adjacent to the Canyons Resort) for the purpose of regulating and enforcing certain standards and levels of: (a) management of the open space, environmental and wildlife enhancement programs and transportation matters, and (b) maintenance of all buildings, roads, forests, and landscaping within all areas of The Canyons SPA, and for the purpose of sharing the costs associated with those tasks.

2.22. Member or Members means either: (a) the Owner(s) of a Homestead(s) in The Colony who, by virtue of such ownership, is/are a Member(s) of the Association and who is/are entitled to a Class "A" membership(s) in the Association, or (b) the holder of a Class "B" membership in the Association, all as provided in Section 3.5 below.

2.23. Mortgage means any mortgage, deed of trust, or other security instrument creating a real property security interest in any Homestead, excluding any statutory, tax, or judicial liens.

2.24. Mortgagee means any grantee or beneficiary of a Mortgage.

2.25. Mortgagor means any grantor or trustor of a Mortgage.

2.26. Owner means the person or persons or legal entity holding record fee simple title to a Homestead. Declarant and the Association shall be entitled to treat the record title holder of a Homestead as the Owner thereof for all purposes.

2.27. Primary Access means access to The Colony from State Highway 224 to the north boundary of the subdivision.

2.28. Property Conveyed by Declarant means any real or personal property which Declarant sells, grants, assigns, or conveys to the Association including, but not limited to, Common Areas, Easements, storm drains, Roads, trails, utilities, water rights, buildings, signage, security gates, equipment, inventory, furniture, fixtures, fences, lighting, trucks or other vehicles, and any other improvements. The Association shall be obligated to and shall accept title to or interests in any property which may be sold, assigned, granted, or conveyed to the Association by Declarant. All property to be sold, assigned, granted, or conveyed by Declarant to the Association will be an outright conveyance, sale, assignment, grant, or conveyance of all the interest of Declarant therein, subject only to such reservations, restrictions and conditions as Declarant may reasonably provide. None of such property, to the extent owned by Declarant, will be leased to the Association.

2.29. Property Manager means a person or other entity who may or may not be an employee of the Association who shall be primarily responsible for the operation of The Colony, which operation may include, but not be limited to, stewardship of open space and Common Areas, maintenance and repair of Association Property, Roads, bridges, and buildings and who may provide other services which the Association may, from time to time, desire.

2.30. Roads means the roadways and associated improvements within those areas designated on the Final Subdivision Plats as Road Easements and Driveway Easements which are intended to serve more than one (1) Homestead, and the embankment slopes (whether inside or outside the Road or Driveway Easements) which were created by the construction of said roadways.

2.31. RVMA means the Resort Village Management Association or The Canyons Resort Village Association, Inc. The Association has entered into the Joint Operating Agreement with the RVMA.

2.32. Site and Architectural Review Committee, also referred to as the SARC, means either the Board of Trustees or a committee appointed by the Board of Trustees of the Association as hereafter provided for the purpose of reviewing and approving any improvements on or changes to lands within The Colony.

2.33. Special Assessments means any special or extra-ordinary assessment levied and assessed pursuant to Section 5.3 below.

2.34. Subsidiary means a non-profit corporation or other entity that is a subsidiary of the Association to which Association Property and/or other rights, property interests or appurtenances in The Colony owned by the Association may be leased or transferred and thereafter held, owned, operated, leased, managed, or otherwise dealt with by such subsidiary in furtherance of the interests of The Colony.

2.35. The Colony means The Colony at White Pine Canyon, which includes all the property shown on the recorded Final Subdivision Plats and certain unplatted land as more particularly described in Exhibit A. It shall also include any Association Property, Conservation Easements and/or other open space areas granted to the Association by the Declarant whether or not included within the boundary of any Final Subdivision Plat.

ARTICLE 3
ASSOCIATION MEMBERSHIP

3.1. Formation of Association. The Association is a nonprofit Utah corporation charged with the duties and invested with the powers prescribed by law and as set forth in its Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws of the Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

3.2. Board of Trustees and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with its Articles and Bylaws as the same may be amended from time to time. The Association by and through the Board shall: (a) govern and manage all Property Conveyed by the Declarant and any other Association Property and (b) enforce the provisions of this Declaration. The initial Board shall be composed of five (5) members. The Board also may appoint various committees. The Board will employ or otherwise contract with the Property Manager who shall, subject to the direction of the Board or the terms of the Property Manager's contract, be responsible for the operation of The Colony. The Board shall determine the compensation to be paid to the Property Manager or

any employee of the Association. The Declarant shall have the right to appoint and remove members of the Board until the sooner of: (i) the sale of fifty one percent (51%) of the Homesteads in The Colony, or (ii) five (5) years after the sale of the first ten (10) Homesteads by Declarant. By instrument signed by Declarant and duly recorded in the real estate records of Summit County, Utah, Declarant may elect to relinquish this right to appoint and remove members of the Board sooner than provided above.

3.3. Association Rules. The Association may from time to time adopt, amend, and repeal rules and regulations to be known as the "Homeowners Association Rules" by a majority vote of the Board. The purpose of the Association Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration. The Homeowners Association Rules shall not be inconsistent with this Declaration.

3.4. Limited Liability. Neither the Association, nor any Subsidiary, nor any of their past, present, or future officers or directors, employees, agents, or committee members, nor the Property Manager (but only in the case where the Property Manager is an employee of the Association) shall be liable to any Owner or to any other person for any damage, act, omission to act, simple negligence, or other matter of any kind or nature, except for gross negligence. As to employees of the Association, including the Property Manager (but only in the case where the Property Manager is an employee of the Association) or employees of any Subsidiary, the limits of liability set forth in the sentence immediately preceding shall only apply where: (i) such persons were employees of the Association or Subsidiary (as opposed to independent contractors) at the time of alleged damage, act, omission to act, simple negligence, or other matter of any kind or nature, except gross negligence and, (ii) said employee was acting within the scope of his or her job or responsibility. Without limit to the foregoing, neither the Association, the Board, any Subsidiary, nor any board of a Subsidiary shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice.

3.5. Membership. This Association shall be a membership association without certificates or shares of stock. The Members of the Association shall be: (a) those persons or entities, including Declarant, who are the Owners, from time to time, of Homesteads in The Colony as shown on the Final Subdivision Plats, and (b) Declarant, as to a special membership, after it shall cease to be the Owner of any Homesteads in The Colony. Other than Declarant, membership in the Association shall automatically terminate when an Owner of one of the Homesteads or any adjacent property ceases to be an owner of such Homestead or adjacent property. There shall be two classes of membership in the Association: (i) Class "A" voting Members, which shall be the Owners of Homesteads, and (ii) Class "B" non-voting Member, which shall be the Declarant. The Class "B" membership shall be activated at such time as Declarant, or its successors or assigns, ceases to be the Owner of any Homesteads and may be relinquished at any time thereafter upon written notice to the Association.

3.6. Voting. Except as otherwise provided in this Declaration, a Class "A" Member shall have one (1) vote for each Homestead owned. The affirmative vote of a majority of the Members entitled to vote on any matter, present in person or by written proxy when a quorum

has been established at any meeting of the Members for purposes of such vote, shall constitute approval of such matter, except for matters which specifically require some other vote or level of approval under the terms of this Declaration or under the Bylaws of the Association or otherwise by law, in which case the specifically identified voting requirements shall apply. Where there is more than one record Owner of a Homestead, the several record Owners of such Homestead collectively shall have only one vote, and shall be required to designate, by prior written notice to the Association, the particular Owner who shall cast the one vote appurtenant to that Homestead. If the several Owners of any Homestead are unable or unwilling to designate a particular Owner to vote, then the membership appurtenant to that Homestead shall not be entitled to vote on any Association affairs until such designation is made. Subject to the right of Declarant to appoint and remove members of the Board, as set forth in Section 3.2 above, in any election of the Board, every Owner entitled to vote (multiple Owners of one Homestead being entitled collectively to one vote) shall have a number of votes for each Homestead owned times the number of Board members to be elected; provided, however, that cumulative voting is not allowed. For example, if three Board members are being elected, an Owner of a single Homestead has three votes, and each vote must be cast for a separate and distinct candidate. The candidates receiving the highest number of votes, up to the number of Board members to be elected, shall be deemed elected. At any regular or special meeting of the Members of the Association, a quorum shall be present for voting purposes when Owners entitled to vote are present in person or by written proxy representing at least a majority of the total Homesteads. If no quorum is present, meetings may be postponed and rescheduled for future time(s) when a quorum is present.

3.7. Binding Effect. Each Owner, his lessees, their families and guests, the heirs, successors or assigns of an Owner, or any Mortgagee, and any other persons using or occupying a Homestead, shall be bound by and shall strictly comply with the provisions of this Declaration, the By-laws, the Articles, any deed restrictions and covenants, and all rules, regulations, and agreements lawfully made by the Association.

3.8. Enforcement. The Association and Declarant shall each have the right and power to bring suit in their respective names for legal or equitable relief for any lack of compliance with any provisions of this Declaration or rules promulgated by the Board or SARC. In addition, the Board shall have the right to adopt from time to time penalties and/or a schedule of monetary fines relative to violations or any lack of compliance with provisions of this Declaration or rules or regulations promulgated by the Board or SARC, impose such penalties and/or monetary fines on any Owner, and obtain all appropriate legal and/or equitable relief with respect thereto; such fines may be collected as an Assessment Lien as more fully described in Section 5.1 below. The failure of the Association or Declarant to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or a relinquishment for the future of any such provision or the enforcement thereof. Any Owner aggrieved by a lack of compliance by another Owner may also bring suit for legal and equitable remedies against the non-complying Owner. In no event shall any Owner be permitted to bring suit for legal or equitable remedies directly against the Association, the Board, the SARC, or any member or agent thereof, for lack of enforcement, but rather such legal action by an aggrieved Owner is strictly limited to legal action against the non-complying Owner. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to

reimbursement of its costs and expenses, including reasonable attorneys' fees, in connection therewith.

3.9. Power of the Association. The Association has all the powers granted to it by this Declaration and by the Utah Revised Nonprofit Corporation Act and Community Association Act and any amendments thereto or replacements thereof. Such powers shall include, without limitation, all of the following:

3.9.1. levying Assessments against Owners;

3.9.2. imposing a lien on Homesteads for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens;

3.9.3. enforcing any deed restrictions and covenants;

3.9.4. acquiring, holding, owning, leasing, mortgaging and disposing of property (except as such disposing of property may be limited in accordance with Section 3.14 below);

3.9.5. adopting rules and regulations;

3.9.6. defending, prosecuting or intervening in litigation on behalf of all Members;

3.9.7. borrowing money for Association purposes and the right to pledge future income in order to secure such borrowings, which right to "pledge future income" shall include the right to impose a Special Assessment for repayment of such borrowings and to assign such Special Assessment (and all lien and collection rights appurtenant thereto) to the lender as security for repayment thereof, provided, however, the right to impose a Special Assessment hereunder shall at all times be subject to the limitations of Section 5.3 of this Declaration;

3.9.8. exercising any other right, power or privilege given to it expressly by this Declaration, the Articles and By-laws, or by law, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege; Association functions and assets may be held, owned, operated, performed, or carried out by one or more Subsidiaries; provided, however, any acts, operations, or activities of any Subsidiary shall at all times be in compliance with this Declaration; and

3.9.9. promulgating reasonable rules and regulations regarding guests which balance the rights of Owners to the full use and benefit of their property against the objective of preserving The Colony as an exclusive private community with reasonably restricted access; to this end, the Association may, when necessary to prevent interference with other Owners' use and enjoyment of their property, adopt reasonable rules and regulations which:

3.9.9.1. control the use by guests of: (a) Common Area facilities, and (b) Easements across other Homesteads; and/or

3.9.9.2. limit the number of guests and the duration of their stay on The Colony over extended periods of time; provided, however, that no limits on the number of guests or the duration of their stay shall be enacted or revoked unless approved by seventy-five (75%) percent of the Members of the Association present in person or by written proxy when a quorum has been established at any regular or special meeting of the Members of the Association.

3.10. Other Association Functions. The Association may undertake, to the extent the Board in its sole discretion so elects, to provide functions or services for the benefit of all, or some, Members on such basis as the Board may reasonably determine. Such functions may be provided by the Association's employees or an independent contractor retained by the Association. With respect to any functions or services, the Board may establish "cost centers" for the operation thereof. A "cost center" shall mean the identification and aggregation of all costs reasonably estimated by the Board to be attributable to a particular function or service. Where cost centers are established, the Board shall have the discretion, based on benefits received, to determine which Members shall be charged for such benefits and what amounts shall be paid by each such Member. No Owner shall, without the consent of such Owner having been first obtained, be charged a disproportionate or unequal share for any cost center functions or services greater than what such share would have been if the cost center function was charged equally to all Owners.

3.11. Notice to Maintain. An Owner shall immediately report to the Association, in writing, the need for any maintenance, repair or replacement of any improvement within The Colony which is the responsibility of the Association to provide. In the event of any disagreement as to the need for, or the responsibility of, the Association to provide the said maintenance, repair, or replacement, the good faith decision of the Board shall be final.

3.12. Mechanics' Liens. Declarant shall be responsible for the release of all mechanics' liens filed with respect to the Association Property, or any part thereof, if any such liens arise or are alleged to arise from labor performed or materials furnished at the direction of Declarant, its agents, contractors or subcontractors. Except as the result of labor performed or materials furnished at the direction of the Board, no labor performed or materials furnished with respect to Association Property or any Homestead shall be the basis for filing a lien against any Association Property. No labor performed or materials furnished at the direction of the Board shall be the basis for filing a lien against any Homestead.

3.13. Ownership, Operation, and Maintenance of Association Property. The Association Property, shall, at all times, be owned, operated, and maintained by the Association or a Subsidiary consistent with the provisions of this Declaration and the Development Agreement in trust for the use, benefit and enjoyment of the Owners of all Homesteads in The Colony and their family members, guests and invitees.

3.14. Special Provisions Regarding Association Property. To the fullest extent permitted by law, the holder of any lien, mechanics lien, judgment, or any other creditor of the

Association or any Subsidiary, in the event such creditor becomes the owner of any Association Property or the property of any Subsidiary, shall have no right to cause such property to be utilized, appropriated, consumed or otherwise used, except to the benefit of The Colony and in accordance with this Declaration. There shall be no sales, leases or other dispositions of Association Property, and no amendment to this Declaration may repeal or change this requirement, except upon the written consent of all Members and all Eligible Mortgage Holders. However, notwithstanding this provision, dispositions by the Association of worn, obsolete or damaged property, dispositions pursuant to a threat of condemnation (as provided in Section 11.1 below), transfers or leases to, from, or among Subsidiaries, or any other sale or leases performed in the ordinary course of operations at The Colony are permitted.

3.15. Removal of Board Members by Dispute Resolution Board. Declarant, the Association and others have entered into an Infrastructure Remediation Agreement ("IRA") with an effective date of August 4, 2009. Under the terms of the IRA a Remediation Escrow Account ("REA") has been established, into which certain funds are to be deposited and from which certain disbursements are to be made. Also under the terms of the IRA, a Dispute Resolution Board ("DRB") will be established to resolve disputes by binding arbitration. Pursuant to Section 2.5 of the IRA, Declarant and others have agreed with the Association that, until the termination of the REA, they will use reasonable and diligent efforts, acting under the Declaration, the Bylaws of the Association, and Utah law to preserve an Association Board that consists only of members who are independent of Declarant, any affiliated entities and their principals, as specified in the IRA. Authority and power are hereby given to the DRB, until the termination of the REA, to remove members of the Board of the Association whom the DRB determines, in binding arbitration between Declarant and the Association, are not independent. Under Section 2.5.5 of the IRA, "independent" means: (a) a person who is not a principal, officer, director, partner, or member of Declarant or any of the entities who are members of Declarant, or is an employee of or a person or entity acting under a written contract of agency for Declarant or any of the persons or entities who are members of Declarant; or (b) not related by blood or marriage to any of the persons identified in the preceding subsection (a).

ARTICLE 4
ARCHITECTURAL CONTROLS

4.1. Site and Architectural Review Committee. The SARC shall be composed of at least three (3), but no more than seven (7) natural persons appointed by the Board. Persons serving on the SARC shall serve at the pleasure of the Board. The Board may remove a member of the SARC and appoint a new member at any time, provided that at all times there shall be at least three (3) persons serving, and provided that any time that more than five (5) members are serving on the SARC, at least two (2) of those persons shall be Members of the Association. Except as provided in the preceding sentence, members of the SARC may or may not be Board members or Members of the Association and may include one or more paid professionals, such as an architect, landscape architect, builder, developer, engineer and the like to perform such services. The SARC shall have and shall exercise all the powers, duties and responsibilities set out in this Declaration. The SARC may hire a secretary or other personnel to perform administrative, clerical and other functions. The operating costs of SARC, including the services of its planning consultants, professionals and other staff, shall be covered through a fee paid to SARC by Owners applying for plan review and approval. SARC shall make available to all

Owners a current fee schedule. The Design and Development Guidelines shall also set forth the fee schedule, and the fee schedule may be modified from time to time in accordance with the provisions herein for the amendment and updating of the Design and Development Guidelines. Fees must be paid in full before any review by SARC commences and the unused portion of any fee is refundable.

4.2. Authority. Except as otherwise provided in this Declaration, no improvements of any kind or changes in the natural condition of any property shall be erected, altered or permitted to remain on any Homesteads or elsewhere in The Colony unless complete architectural plans, specifications and site plans showing the location and orientation for such construction, alteration or landscaping are approved by the SARC prior to the commencement of the work. Work subject to SARC approval may include, but is not limited to, the construction of dwellings or other structures (including but not limited to outbuildings, well enclosures and pipelines), fences, grading, planting, ponds, parking areas, walls, garages, roads, driveways, antennae, satellite dishes, flag poles or the like, any renovation, expansion or refinishing of the exterior of an existing structure, and any excavating, clearing, landscaping or other site alterations. Any work performed by or on behalf of Declarant to any of the property within The Colony, including, but not limited to, the construction of amenities, subdivision infrastructure, and the like, shall not require approval of the SARC.

4.3. The SARC Review Process. The process for reviewing development applications is defined by the rules adopted by the Association and the SARC. Development applications for individual Homesteads submitted by Owners and development applications for improvements to all other property in The Colony shall be in substantial conformance with the following provisions:

4.3.1. The Pre-Planning Meeting. The SARC review process shall commence with an informal work session with the SARC board, SARC's designated planning consultants, the Owner and the Owner's architect or design professional. The purpose of this meeting is to agree on basic parameters for development of the Homestead that fully respond to the desires of the Owner and the land use philosophy and operating policies of The Colony and the global principles of The Canyons Specially Planned Area to which The Colony is subject (see The Canyons Specially Planned Area Development Agreement). The primary focus of the work session will be an in-depth analysis of the Owner's site, its physical constraints, and the particular visual and environmental sensitivities that must guide its development. SARC will review the Design and Development Guidelines with participants, discuss how they apply to the project at hand, and explain the reasoning that determined the Development Envelope on the Owner's Homestead. It is very important that this meeting be scheduled *after* the Owner has selected a design team so that all of those who will be involved in the planning of the site may attend. Also, it is important that the meeting take place *before* any conceptual plans are drawn for the Owner. However, it is recommended that the Owner prepare for the meeting by completing a certified site survey, by gathering images that illustrate the style of building contemplated and by making a preliminary list of the facilities and building elements to be constructed on the site. The outcome of the work session will be a mutual understanding of the site constraints, the design opportunities unique to the site, the potential visual impacts on neighboring homesteads, the possibility

of environmental impacts that may require mitigation, and any other site-specific concerns that the SARC may have. It is expected that this early dialogue will give the Owner constructive input when he is most able to use it and, in this way, will avoid the adversarial and potentially expensive effort that often attends conventional design and review procedures. At the discretion of SARC, the requirement for this meeting may be waived for applications that concern minor changes to existing structures or landscape.

4.3.2. Conceptual Design Review. Formal SARC review begins with the Owner's submittal of conceptual site and building plans. Conceptual review is intended to provide more detailed direction and guidance to the Owner and the Owner's design team by the specific identification of any site or development issues and concerns that, in the opinion of SARC, must be resolved. Owners or other entities who anticipate constructing improvements on lands within The Colony shall submit preliminary sketches with a site plan of such improvements to the SARC for informal and preliminary approval or disapproval. Conceptual drawings typically indicate overall design and site planning directions, but are not intended to fully resolve all technical or design issues. They illustrate: (1) the siting of conceptual building program elements; (2) the preliminary resolution of building form and massing; (3) the Owner's general thoughts about architectural character, style, and materials; (4) the visual and functional linkages; (5) the view of relationships with neighboring sites; (6) the grading required for driveway access and the siting of the building; and (7) the general extent of site disturbance. The Design and Development Guidelines shall provide additional specific requirements for the submission of conceptual plans. Persons contemplating the purchase of any Homestead may submit preliminary sketches with site plans for purposes of obtaining an informal approval hereunder. The SARC shall not be committed or bound by any preliminary or informal approval or disapproval. Upon request of an Owner, a conceptual review meeting of SARC may be scheduled with three weeks advance notice. The conceptual review is an open meeting. At least fourteen (14) days prior to the meeting, individual notices will be sent to all adjacent property Owners and a general notice will be posted inviting any interested property owner in The Colony. Although not required to do so, the Owner and his design representative are strongly encouraged to make an informal presentation at the meeting to outline the development program and design goals. Feedback from SARC members will be more substantive if the underlying rationale for the applicant's design decisions is well articulated. SARC will evaluate the conceptual plans for conformity with the Design and Development Guidelines and the concepts discussed during the pre-planning meeting. Within one week following the conceptual review meeting, SARC shall issue a written response to the applicant that records outstanding issues and concerns and summarizes SARC members' comments. If unresolved issues appear to warrant it, SARC may recommend an interim meeting with the applicant before his plans are finalized and submitted for final review.

4.3.3. Final Plan Review. Final plan review cannot occur prior to the completion of conceptual design review. Upon request by an Owner, and with at least four (4) weeks advance notice, an on-site field visit and a final review meeting of SARC will be scheduled. The final review by SARC is an open meeting. At least fourteen (14) days prior to the meeting, individual notices will be mailed to all adjacent property Owners and a general notice will be posted inviting any interested Owner. A complete

package of final plans must be submitted to SARC no later than one week prior to the scheduled meeting. It is strongly recommended that the Owner's design team attend the final plan review to present the plans. SARC will review the construction drawings and final site plans for conformity with the Design and Development Guidelines and determine that all outstanding issues discussed in previous review sessions have been resolved. The SARC shall adopt additional specific requirements for the submission of final plans. All copies of the complete plans and specifications shall be signed for identification by the Owner or his architect. The SARC shall have the right to request whatever additional specific information, plans, specifications, reports and the like it deems necessary to evaluate the development proposal throughout the approval and construction process. The SARC shall certify to the Owner, in writing, when the submittal is complete. The majority vote of the members of the SARC shall be required for approval of the plans. Within fourteen (14) days of the meeting, SARC in its sole discretion, shall either approve, approve with conditions or disapprove the final plan in writing. Written notice of approval will be sent to the applicant and to the Summit County Community Development Department. If an application is denied, the applicant may resubmit a revised plan at any time. Subsequent review may be subject to the payment of an additional fee. In the event the SARC fails to take any action within sixty (60) days after the submittal of a complete package of final plans has been certified in writing by the SARC as complete, all of such submitted architectural plans shall be deemed to be approved. The SARC shall not unreasonably disapprove architectural plans. The SARC shall disapprove any architectural and site development plans submitted to it which do not contain sufficient information for it to exercise the judgment required of it by these covenants. If the plans are approved, written notice of the approval will be sent to the applicant and to the Summit County Building Department. If an application is denied, the applicant may resubmit a revised plan at any time, with review subject to payment of an additional fee.

4.4. Homestead Zones. Each Homestead is comprised of three (3) zones: (1) the Development Envelope; (2) the Driveway Access Corridor; and (3) the Natural Open Space Zone. On some Homesteads, there may be more than one location identified as a possible Development Envelope. Ultimately, however, only one Development Envelope shall be selected. The Design and Development Guidelines shall set forth design standards which shall apply to the final Development Envelope and the other zones and the permitted uses within each zone, provided the standards are consistent with this Declaration and the Development Agreement.

4.5. Building Permit. An Owner may apply for a building permit from the County at any time after final approval of the Owner's plans has been given by the SARC; provided, however, the plans submitted to the County shall not differ in any way from the plans approved by the SARC. If the plans submitted to the County differ in any way from the plans approved by the SARC, all approvals of the SARC shall be deemed automatically revoked. An Owner shall not submit to the County any application for a building or site modification permit within The Colony before SARC has reviewed plans and determined that they comply with the Design and Development Guidelines. SARC approval is necessary prior to the filing of a building permit or site modification permit application with the County. The issuance of a building permit by the County for any plans not finally approved by SARC shall not in any way negate, waive or limit

the requirement for final approval of all plans by SARC before any development activity can occur on any Homestead in The Colony.

4.6. SARC Approval of Water Service Connection. In order to enforce the provision of this Declaration as it relates to the review of development applications within The Colony, no application for water service will be accepted by the applicable water service provider unless and until it has been signed by an authorized representative of the Association or the SARC (see Section 8.15 below). A building permit will not be issued to any applicant by Summit County unless the Owner can confirm that he has an approved water service connection. As such, an Owner within The Colony will not be able to obtain a building permit from Summit County unless the SARC has approved his development application and signed the water service connection application.

4.7. General Standards. The SARC shall evaluate, among other things: (i) the materials to be used on the outside of buildings or structures, (ii) exterior colors, (iii) harmony of architectural design with other structures within The Colony, (iv) height and other design features, (v) location with respect to topography and finished grade elevations, and (vi) harmony of landscaping with the natural setting and native vegetation, and (vii) consistency with the Design and Development Guidelines.

4.8. Rules and Regulations. The SARC may promulgate, adopt, amend and/or replace rules and regulations necessary to implement these covenants by the affirmative vote of a majority of the SARC. Rules and regulations may include submission requirements concerning the type of information, reports, plans and specifications and the like which need to be submitted with any application, site specific limitations or restrictions for each Homestead, and may also include guidelines governing the development of each Homestead. These rules and regulations need not be uniform for each Homestead and shall take into account the unique character of each Homestead. By way of illustration only and without requirement to do so, the SARC rules and regulations may address, and the SARC shall have the power and authority to regulate, any or all of the following: application procedures and processing fees; charges by any outside professionals or other costs incident to evaluating any application, security deposits or other financial arrangements which are required of an Owner who is developing a Homestead to guarantee the repair of any damage to Roads or other subdivision infrastructure and for revegetation and restoration of lands; colors and materials, including, but not limited to, roofs, chimneys, siding, masonry and glazing; setbacks, height limitations, building profiles and driveway locations; construction staging, construction hours which may be controlled during certain times of the year, storage for construction materials, location of temporary construction facilities such as trailers, dumpsters and toilets; routing of utility extensions; drainage, grading and erosion control; landscape and vegetation, fencing, lighting, signage, and trails; concerns or objectives regarding maintenance of agricultural lands and preservation of wildlife; and privacy and visual characteristics.

4.9. Site and Architectural Review Committee Not Liable. Neither the SARC, the Board, the Association nor any of its Members shall be liable for damages to any person submitting any plans for approval, or to any Owner or owners of lands within The Colony, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such plans. The SARC shall have no liability or responsibility for any representations

made to any Owner or prospective owner by any third parties. The decision of the SARC shall be governed by these covenants and any rules or regulations duly adopted by the SARC pursuant to these covenants.

4.10. Written Records. The SARC shall keep and safeguard complete and permanent written records of all approved applications, including one set of the finally approved architectural and site development plans, and of all actions of approval or disapproval and all other formal actions taken by it under the provisions of this instrument. The records of the SARC shall be maintained by the Association at a location which it designates within The Colony.

4.11. Inspection and Compliance. The SARC shall have no duty or obligation to make inspections of any construction; however, nothing herein shall prevent the SARC from making inspections prior to, during, or after construction. Upon the completion of any work for which approved plans and specifications are required, the Owner shall give written notice of completion to the SARC. Within thirty (30) days after receipt of such notice, the SARC may inspect the work to determine its compliance with the approved plans. If the SARC finds that the work was not done in substantial compliance with the approved plans or any construction or change in natural conditions on any Homestead was undertaken without first obtaining approval from SARC, written notice shall be sent by the SARC to such Owner specifying the noncompliance and requiring the Owner to cure such noncompliance within thirty (30) days or any extension thereof granted. If the Owner fails to cure the noncompliance or to enter into an agreement to cure on a basis satisfactory to SARC within said thirty (30) day period or any extension thereof as may be granted, the Board may, at its option, cause the non-complying improvement to be removed or the noncompliance to be cured. Upon demand, the Owner shall reimburse the Association for all costs and expenses incurred by the SARC and/or the Board in taking corrective action, plus all costs incurred in collecting amounts due, including reasonable attorneys' fees and costs (the "Compliance Assessment"). The Owner shall be personally liable for all such costs and expenses, and the Association also shall have a lien against the non-complying Homestead for the amount of all such costs and expenses. Any amounts not paid, without waiver of any other right or remedy, may be collected as an Assessment Lien. Such lien shall be: (i) evidenced by a statement executed by the Association and recorded in the real estate records of Summit County, Utah, (ii) subordinate only to the first Mortgage, and (iii) subject to foreclosure in the manner provided by Utah law for mortgages upon real property. Notwithstanding any other provision hereof, the SARC shall not be responsible for: (a) determining that any construction or construction documents conform to applicable building codes, zoning, or other land use regulations, (b) the accuracy or content of any construction documents or specifications prepared by any architect, engineer, or any other person, (c) construction means, methods, techniques, sequences, or procedures, safety precautions, or subsequent loss, damage, or failures due to soil or any other natural or man-made conditions that may exist, or (d) any failure to carry out any construction in accordance with plans or specifications.

ARTICLE 5
ASSESSMENTS

5.1. Purpose of Assessments: Assessment Lien. All Members of the Association hereby covenant and agree, and each Owner by acceptance of a deed to a Homestead, including trustee's deed or sheriff's deed, is deemed to covenant and agree, to pay to the Association all Annual Assessments, Special Assessments, Compliance Assessments and such other assessments and charges which may be established and collected, as hereinafter provided. Assessments, together with interest, costs, and reasonable attorneys' fees, if unpaid or uncollected, shall be secured by a lien (the "Assessment Lien") on the Homestead to which they relate in favor of the Association, and shall be a continuing servitude and lien upon the Homestead against which each such Assessment or charge is made. The Assessment Lien shall be a charge on the Homestead, shall attach from the date when the unpaid Assessment or charge shall become due, shall be a continuing lien upon the Homestead, together with interest, costs and reasonable attorneys' fees, and shall be the personal obligation of the Owner of such Homestead at the time the Assessment became due. Where there is more than one Owner, each shall be jointly and severally liable for all Assessments. The Assessment Lien may be foreclosed by the Association in the same manner as a mortgage on real property upon the recording of a Delinquency Notice defined in Section 5.6 hereof. The Association shall be entitled to purchase the Homestead at any foreclosure sale. The grantee of any Homestead (i.e., purchaser or other transferee) shall be jointly and severally liable with his grantor (i.e., seller or other transferor) for all unpaid Assessments or other proper charges due the Association prior to, as well as subsequent to, the date of the recording of the conveyance without prejudice to the rights of said grantee to recover from grantor any Assessments paid. Notwithstanding the preceding, no Mortgagee shall be personally liable for any Assessment or other proper charges due the Association, except in the event such Mortgagee shall acquire title to the Homestead through a foreclosure or deed in lieu of foreclosure or otherwise. Any Mortgagee who so acquires title also shall be liable for Assessments or other proper charges due the Association arising on or subsequent to the date such Mortgagee became the record owner of the Homestead. From time to time Declarant has deleted and may delete Homesteads after such Homesteads have been included in a Final Subdivision Plat. If Declarant intends to delete a Homestead, and notifies the Association in writing of its intent, Declarant shall not be entitled to a refund of Assessments previously paid, but said Homestead shall not thereafter be subject to Assessments; provided, however, if Declarant later decides not to delete the Homestead, and the Homestead is sold, Declarant shall pay to the Association, at the time of the sale, all past, unpaid Assessments that would otherwise have been made against said Homestead, together with interest at the rate of three percent (3%) for the first 90 days, and one and one-half percent (1.5%) per month thereafter, from the date of the earlier deletion through the date of the sale.

5.2. Annual Assessments. An Annual Assessment shall be made against each Homestead based upon an annual budget approved by the Board for the purpose of paying Common Expenses, cost center functions, or services allocated to certain or all Homesteads, including but not limited to, reserves for operating deficiencies, a fund for capital improvements or any other matters reasonably determined by the Board to be the subject of an Annual Assessment. Homesteads owned by Declarant shall be liable for annual assessments when the Final Subdivision Plat for the Phase in which the Homesteads are located has been recorded, and fifty-one percent (51%) of the Homesteads in that Phase have been sold. Entitlements to receive

twelve (12) Transfer of Development Rights ("TDR") Homesteads belong to: Walter J. Brett (3), Colony Realty Associates, LLC (8), and Colony Venture, LLC (1), as of November 1, 2009 ("Insider TDRs"). Conveyance of Homesteads to satisfy the Insider TDRs will be considered sold Homesteads when the 51% calculations are made under this Section 5.2. Entitlements to receive three (3) TDR Homesteads belong to Work Boots, LLC as of November 1, 2009 ("Babcock TDRs"). Conveyance of Homesteads to satisfy the Babcock TDRs will not be considered sold Homesteads when the 51% calculations are made under this Section 5.2; in other words, they will not be included in the numerator or the denominator of the ratio of Homesteads sold to Homesteads platted in the Phase when the calculation is made.

5.3. Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, in any Assessment period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of fulfilling any unbudgeted obligation pursuant to the Joint Operating Agreement, the cost of any construction, reconstruction, repair or replacement of a capital improvement, or for other extraordinary expenses, provided that any Special Assessment in excess of Thirty-Five Thousand and no/100 Dollars ($35,000.00), other than a Special Assessment pursuant to Section 5.9 hereof, shall have the approval of eighty percent (80%) of the Owners who vote in person or by proxy at a meeting duly called for such purpose (except in the event of an emergency where there shall be no such limit). For purposes of this Section, the term "emergency" shall mean any loss or damage, actual or threatened, to persons or property. Except in emergencies, the limit on the amount of the Special Assessment that may be levied by the Association without obtaining approval of the Owners (i.e. $35,000.00) is defined as the sum of the total assessments to be levied on all Homesteads and not the amount of the assessment applicable to each Homestead. Prior to adopting any emergency Special Assessment, the Association shall make reasonable efforts, via telephone or facsimile, to notify each Owner of the amount and purpose of the emergency Special Assessment to be levied.

5.4. Rate of Assessment. Except as otherwise provided herein, Assessments shall be fixed based on the amount of the Assessment divided by the number of Homesteads that are obligated to pay Assessments, and may be collected on a yearly basis or more often as the Board so determines.. Where special cost centers are established as described in Section 3.10 above, Assessments will be charged to Homesteads participating in or receiving benefits on such basis as the Board may determine. The Class "B" membership reserved to Declarant shall not have any obligation to pay Assessments.

5.5. Establishment of Annual Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year. From time to time, the Board in its sole discretion may change the Assessment Period. The Board shall fix the amount of the Annual Assessment against each Homestead at least thirty days in advance of the end of each Assessment Period. Written notice of the Annual Assessment shall be sent to each Member. Failure of the Association to fix the Annual Assessment or to send a bill to any Member in a timely manner shall not relieve any Member of liability for payment of any Assessment or charge. The due dates for payment of any Assessments shall be established by the Board. The Board shall have the discretion and ability to bill and collect the Annual Assessment from the Owners on an annual, semi-annual, quarterly or monthly basis.

5.6. Effect of Nonpayment. Any Assessment or charge or installment thereof not paid when due shall be deemed delinquent and, in the discretion of the Board, may be subject to (a) interest charges from and after the due date until paid at a rate set by the Association, subject only to any applicable usury laws or other limitations placed by law on the Association's ability to fix such interest rate, and/or may be subject to a schedule of late charges and/or (b) penalties which the Board may adopt from time to time. The delinquent Member also shall be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting a delinquent Assessment. The Board may also record a notice of delinquent assessment or charge against any Homestead as to which an Assessment or charge is delinquent ("Delinquency Notice"). The Delinquency Notice shall be executed by an officer of the Board, shall set forth the amount of the unpaid Assessment or other charge, the name of the delinquent Owner, and a description of the Homestead and shall, upon recording, constitute an Assessment Lien. The Board may, but shall not be required to, establish a fixed fee to reimburse the Association for the Association's cost in preparing and recording the Delinquency Notice, processing the delinquency, and recording a release of said lien, which fixed fee shall be treated as part of the delinquent Assessment secured by the Assessment Lien. The Association may bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Homestead. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use of the benefits derived from Assessments or abandonment of his Homestead. No delinquent Member shall be entitled to vote on any Association matters until the assessment due, including any interest and/or other costs, shall have been paid in full. Where assessments due from any Member are more than six (6) months delinquent, the Association may temporarily cut off any or all Association services or benefits to such Homestead, until all delinquent assessments are fully paid.

5.7. Priority of Lien. The Assessment Lien provided for herein shall be subordinate to:

5.7.1. Liens for taxes and other public charges.

5.7.2. Any first Mortgage lien.

5.7.3. Except as set forth in Sections 5.7.1 and 5.7.2 above, no sale or other transfer of any Homestead shall affect, extinguish, or terminate an Assessment Lien.

5.8. Statement From Association. Upon written request and payment of such reasonable fee as may be set by the Association, the Association shall issue a written statement to any grantee or Mortgagee verifying the status of all Assessments or charges affecting the Homestead. Any statement as to the existence or amount of any delinquencies, absent manifest error, conclusively shall bind the Association.

5.9. Assessments for Tort Liability. In the event of any tort liability against the Association which is not covered completely by insurance, only those Owners, if any, directly responsible for the negligent or willful acts or omissions giving rise to such tort liability shall be obligated to contribute for the payment of such excess liability as a Special Assessment. Owners, if any, liable for a Special Assessment hereunder may be assessed by the Association in the same or different proportions based on legal and equitable principals regarding liability for

negligent or willful acts or omissions and any such Special Assessments shall not be subject to the monetary limitations set forth in Section 5.3 hereof. For acts or omissions of the Association and its Subsidiaries and their officers, directors, agents and employees, the insurance carried by the Association and/or its Subsidiaries shall be primary with regard to any other insurance.

5.10. Limitation on Assessments on Ski Runs and Perpetual Open Space. The owner of a Ski Run and/or Perpetual Open Space (as those terms are defined in Article 8 below) shall not be required to pay any Common Expenses of the Association, and a Ski Run and/or a Perpetual Open Space shall not be subject to any Assessments, including but not limited to, Annual Assessments, Special Assessments, or Compliance Assessments and shall not be subject to any Assessment Lien.

5.11. Limitation on Assessments on Ski Easements and Lift and Ski Easements. The holder of a Ski Easement and/or a Lift and Ski Easement (as those terms are defined in Article 8 below) shall not be subject to the levy of any Assessment by the Association, including but not limited to Annual Assessments, Special Assessments, or Compliance Assessments and shall not be subject to any Assessment Lien.

ARTICLE 6
INSURANCE

6.1. Types of Insurance. The Association shall obtain and keep in full force and effect the following insurance coverage:

6.1.1. Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, on Property Conveyed or leased by Declarant or any other Association Property. The total amount of insurance, after application of deductibles, shall be 100% of the replacement value of the insured property exclusive of land, foundations, and other items normally excluded from property policies.

6.1.2. Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the ownership, operation, maintenance, or other use of Association Property. This policy shall also cover operation of automobiles or other vehicles or equipment on behalf of the Association. The minimum public liability insurance to be carried by the Association shall be Ten Million Dollars and No Cents ($10,000,000.00) and limits of coverage shall be reviewed annually to determine whether the Association should carry public liability insurance in excess of this minimum amount. The maximum deductible amount for the insurance required by this Section 6.1.2 shall be $25,000.00.

6.1.3. Workmen's compensation and employer's liability insurance in the amounts and in the forms required by law, unless the Association has no employees which would require such coverage.

6.1.4. Fidelity coverage in the minimum amount of $250,000 against the dishonesty of employees, destruction or disappearance of money or securities, and forgery. This policy shall also cover persons who serve the Association without compensation.

6.1.5. Coverage of any person(s) who is or was a member of the Board, officer, employee, fiduciary or agent of the Association against any liability asserted against or incurred by such person in that capacity or arising from such person's status as a director, officer, employee, fiduciary or agent, whether or not the Association would have the power to indemnify such person under the applicable provisions of any State of Utah statute, and against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.

6.1.6. Coverage against such other risks of a similar or dissimilar nature as the Board deems appropriate.

6.1.7. With respect to Subsidiaries, any or all of the insurance coverage described in this Section 6.1

6.1.8. Notwithstanding the preceding, the Association shall be permitted to omit any of the coverage described in 6.1.4 above where premiums are unreasonably expensive or the coverage is not available in this geographic area or the coverage is not offered by a carrier of sufficient credit rating.

6.2. Named Insured(s) and Interests. The Association and, where appropriate, Subsidiaries of the Association, shall be the named insured(s) under each of said policies. Where appropriate, the named insured(s) may also be the officers and directors of the Association. Policies of insurance also shall name Declarant as an insured so long as it shall retain any interest in The Colony. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon request, to Declarant and to any Owner who is a named insured or to any Eligible Mortgage Holder. Provided that such arrangements can be made with the Association's insurers and provided further there shall be no additional cost to the Association (other than a nominal cost not to exceed $100.00 per policy annually) each policy shall provide that twenty (20) days written notice will be given to each Owner prior to any cancellation of such policy. The Association shall promptly report, in writing, to all Owners any claims made against the Association, which report shall contain the name of the claimant, date the Association received notice of the claim, amount of the claims, if known, and a brief description of the nature of the claim. Notwithstanding the provisions of Section 10.2 of this Declaration, Section 5.9, the last sentence of Section 6.1.2, Section 6.1.5 and the fourth and sixth sentences of this Section 6.2 shall not be amended without the prior written consent of all Owners having been first obtained.

6.3. Insurance Proceeds. The Association shall receive the proceeds of any settlements resulting from any insurance purchased by the Association. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Association shall promptly cause such reconstruction to occur. If the

insurance proceeds are not sufficient for such purpose, the Association may levy a Special Assessment against the Owners for such deficiency.

6.4. Indemnification of Members of the Board. The Association shall indemnify the directors of the Association in all cases in which a corporation or association may indemnify a director under applicable statutes. The Association shall consider and act as expeditiously as possible upon any and all requests by a director for indemnification or advancement of expenses.

6.5. Indemnification of Officers, Employees and Agents Who are Not Members of the Board. The Board may indemnify and advance expenses to any officer, employee or agent of the Association who is not a director of the Association to any extent consistent with public policy, as determined by the general and specific actions of the Board.

6.6. Indemnification of Owners. The Association shall indemnify each Owner regarding any claims of liability that are asserted against that Owner to the extent that such liability is attributable to the fact that a portion of the trail system and other recreational amenities within The Colony (other than private trails which have been constructed and/or maintained without any involvement or approval of the Association) is physically located on that Owner's Homestead, provided that Owner has not engaged in any conduct giving rise to a Special Assessment against that Owner with respect to such liability pursuant to Section 5.9 hereof.

ARTICLE 7
GENERAL RESTRICTIONS

7.1. Residential Uses. Each Homestead shall be used only for residential purposes and such accessory or incidental uses thereto as may be permitted within The Colony Zone District and the Development Agreement, now or hereafter in effect, and applicable zoning or recreation easements which are consistent with this Declaration. No commercial activities may be conducted on any Homestead. On each Homestead there may be constructed only one single family residence and one guest house or caretaker dwelling. Permitted uses also include, when approved by SARC or the Board, barns and accessory out-buildings and such accessory or incidental structures as may be permitted by Summit County under the Development Agreement.

7.2. Community Character. In order to preserve the character and residential quality of the community it is the intention of the Association that The Colony at White Pine Canyon shall continue to be maintained as a highly desirable luxury single family residential community.

7.2.1. Use Restrictions. No Homestead, whether leased or owned, shall be used:

7.2.1.1. For the operation of a timesharing, interval ownership, private residence club, vacation club or similar program, whereby the rights to exclusive use of the Homestead rotates among participants in the program, regardless of whether such program utilizes a fixed or floating schedule, a first come-first served reservation system or any other arrangement; or

7.2.1.2. For the operation of a reservation or time-use system among co-owners of a Homestead, regardless of whether or not any co-owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating, if one or more of the following conditions exist:

(a) Ownership in such Homestead is marketed for sale to the public subject to such system; or

(b) The co-owners are or were required to submit their ownership interest to a pre-determined reservation or time-use system among co-owners, as a condition of purchase of the ownership in such Homestead.

7.2.1.3. In the marketing, offering or selling of any club membership interest, limited liability company interest, limited partnership interest, program interest or other interest, whereby the interest-holder acquires a right to participate in a reservation or time use system among the interest-holders, or among the interest-holders and others, involving the Homestead, or involving the Homestead and other alternate or substitute properties, regardless of whether such interest is equity or non-equity, or whether or not any interest-holder may later opt out of such system and regardless of whether the reservation or time-use system is recorded or not, fixed or floating (such interest referred to herein as an "Interest"), if one or more of the following conditions exist:

(a) The Interest is marketed for sale to the public, or

(b) The Interest-holders are or were required, as a condition of purchase of the Interest, to be subject to a pre-determined reservation or time-use system among Interest-holders, or among Interest-holders and others.

All of the foregoing uses, systems or programs described in this Section 7.2.1, are hereinafter called a "Timeshare Program."

7.2.2. Residential Living. Homesteads shall be occupied only for residential living activities, and not for any commercial or business purpose. Notwithstanding anything in the Declaration to the contrary, a single family residence cannot be utilized for any business or commercial purpose, and any activity requiring a business license shall be deemed to be commercial in nature. A business or commercial purpose includes, without limitation: (a) bed and breakfast inn, (b) clubhouse, (c) lodge, (d) meeting house, (e) conference center, (f) hospitality center, (g) restaurant, (h) reception center, (i) corporate retreat, or (j) promotional house. The term "promotional house" means a single family residence operated for the purpose of marketing, advertising, hospitality, or other promotional use. This restriction on the use of a "promotional house" shall not preclude the complimentary use of a model home, temporary lodging for sales or marketing purposes, or temporary club facility by Declarant or an affiliate in connection with the

marketing of Homesteads or residences within The Colony. Any rental of such a "promotional house" involving the actual payment of rent can only be done if it is in full compliance with this Declaration, the Bylaws and the Association Rules and Regulations concerning the rental and leasing of Homesteads in The Colony.

7.2.3. Leases. Owners who lease their Homestead shall be responsible to assure the occupant(s) complies with this Declaration, the Bylaws and the Association Rules and Regulations. Failure by an Owner to take action against the occupant(s) who is/are in violation of this Declaration, the Bylaws or the Association Rules and Regulations within ten (10) days after written demand from the Board, shall entitle the Association, through the Board, to pursue any and all legal or equitable remedies available under the laws of the State of Utah.

7.2.4. Ownership Arrangements. Mere co-ownership of a Homestead or ownership of a Homestead by an entity shall not create a Timeshare Program, unless it meets any of the conditions described above in Section 7.2.1. All use and occupancy arrangements falling within the definition of "timeshare interests" under the Utah Timeshare and Camp Resort Act (Utah Code Annotated § 57-19-1, *et seq.* as amended) ("Timeshare Act") shall be considered Timeshare Programs. "Timeshare interest" under the Timeshare Act, is defined as a right to occupy accommodations during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land. It includes what is commonly known as a "Timeshare estate," which is a small undivided fractional fee interest in real property by which the purchaser does not receive any right to use accommodations except as provided by contract, declaration, or other instrument defining a legal right. A determination that any use and occupancy arrangements are exempt from the Timeshare Act or do not constitute a "timeshare interest" under the Timeshare Act shall not be determinative of whether such arrangements constitute a Timeshare Program hereunder. It is intended that the definition of "Timeshare Program" hereunder shall be broader than, and not limited by, the definition of "Timeshare Interest" in the Timeshare Act.

7.2.5. Title to Homestead. Title to a Homestead may be held or owned by a person or an entity, or any combination thereof, and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common, but no Homestead shall be owned legally or beneficially by more than four (4) distinct families. A family is defined as any number of individuals living as a single housekeeping unit who are related by blood, legal adoption, marriage or conservatorship.

7.3. Development Envelope. No development activity or changes in natural conditions of any lands shall occur outside any Development Envelope except as may be approved in writing by the SARC consistent with the Design and Development Guidelines and as otherwise specifically permitted in this Declaration and the Development Agreement. With regard to all Homesteads in The Colony, all development activity shall occur within the Development Envelope selected, and, with regard to driveways, within the Driveway Access Corridor. The only development activity which will be permitted in the Natural Open Space

Zone shall be: (a) land, forest and/or ranch management, (b) maintenance of roads and common facilities, and (c) utility construction, maintenance, repair or replacement.

7.4. Selection of Development Envelopes. The construction of a residence within a particular Development Envelope shall constitute the irrevocable and exclusive selection by the Owner of the Homestead of that particular Development Envelope. The location of the proposed Development Envelope for each Homestead in each Phase of The Colony shall be approved by the SARC as provided in the Design and Development Guidelines as development plans are processed by each Owner.

7.5. Relocation of Development Envelopes. Subject to the requirement to obtain any requisite approvals from the County under the terms of the Development Agreement, Declarant reserves the right as to any Homestead owned by Declarant to relocate a Development Envelope, delete any existing Development Envelope or designate a new Development Envelope, including access thereto. All Owners of Homesteads in The Colony and SARC: (i) hereby consent to said relocation, deletion or designation of new Development Envelopes by Declarant or any access thereto, and (ii) waive and relinquish any right to oppose, directly or indirectly, any land use application processed by Declarant for the approval of any relocation or deletion of a Development Envelope or the designation of a new Development Envelope or access thereto, as the case may be. Owners of Homesteads also shall have the right to obtain any requisite approvals from the County to relocate, delete, or designate new Development Envelopes; provided, however: (a) the SARC shall first approve, in writing, such proposed relocation, deletion or designation of a new Development Envelope, and (b) Owners of Homesteads adjacent to the Owner desiring to obtain such approvals shall not be deemed to have waived or relinquished any right to oppose any land use application filed by such Owner, and (c) no land use application filed by an Owner may change, relocate, or in any way interfere with The Colony Roads, including access to Development Envelopes on other Homesteads, or interfere with utilities or trails.

7.6. Pet Restrictions. Uncontrolled pets have long been recognized as a significant source of disturbance and animal mortality in human-occupied wildlife habitats. Dogs frequently harass and kill wildlife, including game, and domestic cats are a significant source of mortality for songbirds. Similarly, wild animals are often the cause of mortality to domestic dogs and cats. Consequently, dogs and cats will be permitted in The Colony, but must be controlled by Owners and will not be allowed to roam free. Secure containment facilities not exceeding 1,000 square feet must be located immediately adjacent to the primary residence on a Homestead and within the Development Envelope. If facilities are inadequate to contain domesticated pets, then the pets must be removed from the Homestead until adequate facilities have been constructed. Owners will be required to control their dogs at all times. Outside the Owner's property boundary, dogs must be controlled by a leash of not more than 12 feet in length, under the direct control of the Owner or authorized representative. Visitors should not be encouraged to bring dogs and cats on-site. Guests of Owners, contractors, subcontractors, service and delivery people, and the like shall comply with all pet control measures. The Association shall be responsible for enforcing pet control regulations. Owners not in compliance with these covenants will be responsible for any and all enforcement costs incurred by the Association. The Association, from time to time, shall adopt penalties and a schedule of fines relative to violations of the covenants regarding pets, including the requirement for removal of

unrestrained pets from The Colony. Non-payment of a fine or failure to remove unrestrained pets shall be considered a separate violation for each day the pet remains unrestrained. Owners are prohibited from feeding dogs and other pets outside their homes, including decks and similar enclosures, to avoid attracting nuisance wildlife or predators.

7.7. Other Pets. Pets, other than dogs and cats, shall be permitted subject to obtaining the prior approval of the Association, which approval may include conditions or rules as to maintaining such pets. The Association may prohibit altogether the maintenance of certain pets within The Colony.

7.8. Horses. On certain Homesteads, horses may be permitted if it is determined by the Declarant and/or the Association that the presence of horses will not negatively effect neighboring lots. At the time the Declarant first offers for sale the Homesteads in any phase of The Colony, the Declarant shall designate the Homesteads on which horses shall be permitted. In any phase of The Colony, the Association may designate, in addition to those designated by the Declarant, other Homesteads on which the keeping of horses may be permitted, provided the additional designation is made prior to the recording of a plat for that phase. Following the recording of the Final Subdivision Plat for each phase of The Colony, the Association shall cause this Declaration to be amended to reflect the Homesteads designated for the keeping of horses by the Declarant and the Association. The following Homesteads have been designated for the keeping of horses:

Phase I:	Homesteads 1,4,7,19, and 27.
Phase II:	Homesteads 33, 52, 61A, 61B, and 80.
Phase 3A:	Homesteads 108 and 113.
Phase 3B:	Homesteads 114, 115, and 116.
Phase 3C:	Homesteads 125, 126, 127, 134, 135, 140, and 141.
Phase 4A:	Homesteads 155, 156, 158, 159, 161, 163, 168, 169, and 174.
Phase 4B:	Homesteads 182, 186, and 215.
Phase 4D:	Homesteads 208, 209, 254, and 256.

The Homesteads on which the keeping of horses may be permitted will be limited generally to: (a) those Homesteads on the perimeter of any phase or those Homesteads which are adjacent to areas designated as Common Area or Perpetual Open Space, and (b) where there is direct access to trails designated for equestrian use. Once a Homestead has been designated for the keeping of horses, final approval may be given by the SARC only after it has determined that each and every portion of a barn, corral or grazing area intended for the use of horses is not less than 500 lineal feet from the center of the Development Envelop of any other Homestead. The Development Envelop shall be as that term is described in this Declaration and in the Design and Development Guidelines for The Colony. Further, the center of the Development Envelop used to make the above measurements shall be the same as that shown on the original Site Analysis Diagram prepared by the Declarant. No Homestead which has been designated for the keeping of horses shall have its designation disqualified by the act of an Owner of an adjoining Homestead who has voluntarily sought to alter his Development Envelop from that proposed by the Declarant. In each and every case the designation of any Homestead for the keeping of horses shall be considered a conditional use which shall be subject to the conditions which the Association, pursuant to a recommendation by the SARC, may determine are reasonably

required to mitigate any possible impacts resulting from the designation. For any Homestead which has been designated for the keeping of horses, if the Board reasonably determines that the lack of proper maintenance by the Owner makes the presence of horses a nuisance to surrounding Owners, it may, by majority vote, revoke the designation and require the horses to be removed. The Association shall adopt specific rules and regulations concerning the keeping and riding of horses within The Colony, and all Owners, their guests and invitees, and all members of the public (where permitted) shall be bound and governed by said rules and regulations. The Association shall strictly limit the number of horses permitted on any Homestead, which number may vary depending on the size, location and special circumstances relating to the specific Homestead involved. The riding of horses shall be permitted only on trails and in other areas which this Declaration specifically designates, or which from time to time the Association may designate, for such use.

7.9. Other Livestock. No livestock, other than horses, shall be permitted on any Homestead without first obtaining the approval of the Association. Nothing herein shall obligate the Association to approve livestock, other than horses, on any Homestead. Any approval granted by the Association shall be subject to such conditions as the Association may reasonably determine.

7.10. Further Subdivision. Except as allowed by the Development Agreement, or in Sections 7.11 or 7.12 below, no Homestead shown on the Final Subdivision Plats shall ever be subdivided by an Owner into smaller parcels or conveyed or encumbered in any portion less than the full dimensions shown on the Subdivisions Plat Maps; provided, however, conveyances, easements or dedications for utilities may be granted over portions of a Homestead. Notwithstanding the preceding, there is reserved to Declarant, in Section 7.12 below, the right to further subdivide, convey or encumber in less than full dimensions any Homestead in The Colony owned by Declarant; provided, however, no such subdivision or conveyance may increase the development density above that allowed under the Development Agreement.

7.11. Boundary Line Adjustments by Owners. The following boundary line adjustments shall be permitted:

7.11.1. Notwithstanding the provisions of Section 7.10 above, a boundary line adjustment by Owners between two Homesteads shall be permitted provided that:

7.11.1.1. The approval of the Association, the SARC and the County is first obtained;

7.11.1.2. No Development Envelope is affected; and

7.11.1.3. The Owners desiring such adjustment shall pay all reasonable costs incident thereto, including preparation, approval and recording of an amended plat as may be required by the County and Declarant.

7.11.2. Boundary line adjustments between Homesteads and the Common Areas shall also be permitted; provided, however, there is compliance with Sections 7.11.1.1, 7.11.1.2, and 7.11.1.3 above and said adjustment has been approved in writing by the Declarant.

In the event of any boundary line adjustments as permitted in this Section or under Section 7.12 below, and subject to requirements of Section 8.13, if applicable, it shall be sufficient for any amended Final Subdivision Plat to be signed solely by the Owners of the properties whose boundaries are affected thereby and any Eligible Mortgage Holders and in the case of any property adjacent to The Colony lands, the owner thereof and any lien holder affecting such adjacent property.

7.12. Boundary Line Adjustments by Declarant. Notwithstanding the provisions of Sections 7.10 and 7.11 above, the following boundary line adjustments by Declarant shall be permitted:

7.12.1. As between the boundary of any Homesteads owned by Declarant;

7.12.2. As between the boundary of any Homestead owned by Declarant and any Common Area; or

7.12.3. As between the boundary of any Homesteads owned by Declarant and property adjacent to The Colony lands abutting such Homesteads.

As to any boundary line adjustment under this Section 7.12, Declarant shall obtain any requisite approvals required by the County and shall pay all reasonable costs incident thereto, including preparation, approval, and recording of an amended plat.

7.13. Utilities. With respect to development by Owners on any Homestead, all domestic water, electrical, telephone, and other utility pipes or lines shall be buried underground and shall not be carried on overhead poles or above the surface of the ground. Any areas of natural vegetation or terrain disturbed by the burying of utility lines shall be revegetated to SARC standards by and at the expense of the Owner causing the installation of the utilities no later than the next growing season following such installation. Notwithstanding any other provision hereof, there is reserved to Declarant the right to temporarily install overhead poles, towers, or above ground pipes for utilities required during construction of infrastructure improvements, but shall be obligated to remove them once construction has been completed.

7.14. Enclosure of Unsightly Facilities and Equipment. All unsightly facilities, equipment and other items, including, but not limited to those specified below, shall be enclosed within a covered structure. Any motor home, trailer, boat, truck, tractor, garden equipment, and any similar items shall be kept at all times, except when in actual use, in an enclosed garage. Any refuse or trash containers, utility meters or other facilities, service areas, or storage piles shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the SARC and adequate to conceal the same. No lumber, metals, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Homestead, except building materials utilized during the course of construction and only for such reasonable periods of time as is necessary prior to their collection or disposal.

7.15. Satellite Dishes. Satellite dishes shall be permitted on Homesteads subject to obtaining any requisite or applicable County approvals. Owners desiring to install satellite, relay, uplink or other communication dishes or facilities shall first obtain approval from the SARC. Any proposal for a dish or other facilities more than four feet in diameter by Owner shall also

include a plan for berming, screening, fencing and planting so as to conceal the dish or other facilities. Plans for any dish or other facilities shall include details as to location, size, color, installation, maintenance, and other specifications as the SARC may reasonably require.

7.16. Hunting and Firearms. The discharge or shooting of firearms and all types of hunting on property included within The Colony is prohibited. The Property Manager and its official agents and/or other employees or agents of the Association shall be permitted to use firearms anywhere within The Colony, including on any Homestead, only in connection with wildlife management or predator control; provided, however, that any Owner shall be given reasonable notice of entry, except in the case of emergency.

7.17. Drainage and Erosion Control. No Owner shall do anything which shall impair or adversely affect the natural drainage on any Homestead, or divert drainage or irrigation water onto another Homestead, or deprive any other Homestead of its natural drainage course. No Homestead improvements may cause new erosion or exacerbate existing erosion or draining patterns where such changes are, in the opinion of the Association, detrimental to The Colony lands. Each Owner shall install culverts or other structures where driveways cross drainage ways as required by the SARC. The minimum size of any culvert and the construction methods utilized in installing any drainage structure shall also be approved by the SARC. The Association retains the right over and across all Homesteads, other than Development Envelopes, to engage in any drainage, soil, or erosion control activities.

7.18. Pest Control. No Owners may engage in any pest control activities outside of residences or other structures without having first obtained the written approval of the Association. The Association, consistent with this Declaration, may grant or withhold any such approvals. In the granting of any approval, the Association may impose conditions on any pest control, including the techniques, devices or chemicals that may be employed. All pest control shall be implemented at the expense of such Owner. Further, any pest control techniques inconsistent with any wildlife management and enhancement plan required by the Development Agreement adopted by the Board shall be prohibited. None of the foregoing restrictions shall apply to pest control activities contained wholly within residences or other structures.

7.19. Noxious or Offensive Activity and Nuisance. No noxious or offensive activity or sound shall be conducted on any portion of The Colony at any time, nor shall anything be done or permitted which may become a nuisance to, or unreasonably disturb, Owners of other Homesteads, or be injurious to the reputation of The Colony.

7.20. No Mining Drilling or Quarrying.

7.20.1. Mining, quarrying, tunneling, excavating, or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock, and earth, shall not be permitted within the limits of The Colony except as allowed by this Section 7.20.

7.20.2. Drilling for water by Declarant its successors and/or assigns, for domestic, agricultural, or recreational purposes is hereby expressly permitted within the limits of The Colony, excluding Development Envelopes.

7.20.3. Drilling of individual water wells shall be permitted by Owners of Homesteads in accordance with the provisions of Section 9.5 below.

7.20.4. Excavation of rock or earth shall be permitted by Declarant or the Association to the extent necessary in the performance of their respective obligations under this Declaration and in the case of Declarant with respect to the construction and installation of The Colony infrastructure and amenities or as otherwise required by the Development Agreement.

7.21. Completion of Construction. Any construction activity on any Homestead in The Colony shall be completed and fully cleaned up within eighteen (18) months from its commencement or a variance shall be obtained from the SARC to allow for a longer period of construction upon proof of due diligence.

7.22. Driveways.

7.22.1. Driveway design, location, surfacing material and construction methods including without limitation, application of an approved dust suppressant, shall be approved by the SARC and shall be in accordance with the requirements of the Development Agreement. The design and construction of driveways shall comply with County standards and specifications as applicable governing driveways.

7.22.2. Each Owner shall be responsible for ongoing dust control of private driveways which are not paved.

7.22.3. All access driveways which serve only one (1) Homestead shall be constructed at the expense of the Owner whose Homestead is being served by that particular driveway. Provided that the access driveway is constructed to SARC approved standards, the Owner may request that the Association include the snowplowing of such driveway in the general snowplowing operation for The Colony. The Association shall be allowed to subcontract to others the snowplowing operations. Costs of snowplowing access driveways shall be charged as a special cost center to Owners based on the length of the driveway and other conditions peculiar to each such driveway. Except as to snowplowing, Owners shall remain responsible for the maintenance and repair of access driveways to their individual Homesteads.

7.22.4. Driveway Easements shown on the Final Subdivision Plat shall also include, by extension, the necessary slope rights to construct the same.

7.22.5. Declarant shall construct, and the Association shall permanently maintain, all Driveway Easements shown on the Final Subdivision Plat and all embankment slopes created by construction of the improvements within said Driveway Easements.

7.23. Trees and Landscaping. Owners may not cut, remove, relocate, or alter trees, bushes, or natural vegetation except with the approval of the SARC. The cutting, removal, relocation, or alteration of trees, bushes, or natural vegetation by the Association or Declarant may occur in a manner consistent with the Development Agreement, as necessary for Declarant

to construct infrastructure improvements, or as necessary for the general operations, uses or activities described in this Declaration, or as hereafter agreed and entered into by the Association.

7.24. Damage by Owners. Each Owner is responsible for any damage caused to Roads, ditches, fences, trails, natural draining courses, utilities, Association Property, or to other Homesteads or property thereon during the construction of improvements upon his Homestead or by any vehicle belonging either to him or any one using the Roads of The Colony while engaged in any activity benefiting the Owner. Each Owner shall also be responsible for any damage caused by utility cuts in Roads, washouts, and runoff damage caused by failure to properly install culverts, and to repair any such damage in a timely manner. From time to time, the Association may adopt rules and regulations to enforce the provisions of this Section 7.24, including the requirement for financial arrangements or other deposits payable at the time of approval by the SARC to ensure the repair of any damage caused to The Colony infrastructure during construction activity performed at the direction of any Owner.

7.25. Fences. All fences to be erected by Owners within Development Envelopes shall: (a) be approved by SARC; (b) be in harmony with the nature, setting and surroundings of The Colony and the development on said Homestead; and (c) adhere strictly to the Design and Development Guidelines. Notwithstanding the preceding, the Declarant or the Association may maintain or construct permanent or temporary fences as part of The Colony operations, on all lands in The Colony, other than Development Envelopes, which are consistent with the Development Agreement. In addition to all the foregoing, any fencing of lands within The Colony, whether within or outside Development Envelopes, shall be consistent with this Declaration and the Design and Development Guidelines. Notwithstanding the preceding, dog kennels meeting the requirements of the rules and regulations adopted by the Association shall be permitted subject only to an approval of the kennel design by SARC.

7.26. Secondary Access Limitations. No construction, maintenance, or service traffic, other than Association maintenance traffic, shall be allowed on any Secondary Access unless specifically approved in writing by the Association and the SARC or in the event of an emergency. All construction, maintenance, or service traffic to The Colony lands, other than Association maintenance traffic, shall use the Primary Access or other access approved by the Board or the SARC.

7.27. Sewage Disposal Systems. All building sites within all Phases of The Colony will be served by a sanitary sewer system. Homestead Owners will be required to pay the requisite sewer connection fees imposed by the Snyderville Basin Water Reclamation District.

7.28. Limits on Certain Vehicles. The operation of snowmobiles within The Colony is strictly prohibited except when approved by the Board for: (i) wintertime land and trail management and maintenance purposes, or (ii) organized operations in designated open space areas, and only when any associated impacts can be adequately mitigated. Pedal bicycles, mountain bikes, motorcycles, all terrain vehicles (ATV's), other off-road vehicles, and all means of transport whatsoever shall be allowed only on The Colony Roads, specified trails and driveway access. Subject to the foregoing, the Board shall have the authority: (a) to prohibit entirely from The Colony certain motor vehicles that may be considered to emit noise or other

pollution in excess of levels or standards promulgated by the Board, and (b) to promulgate such other rules and regulations as it deems appropriate with respect to the operation of motor vehicles, non-motor vehicles, and all other means of transport of whatever nature on The Colony lands.

7.29. Signs. The Association shall have the right to post signs on any Homestead prohibiting trespassing or hunting, to protect boundary lines or for any other purposes consistent with The Colony operations. Owners may not post, maintain, or permit on any Homestead "for sale" or "for rent" signs or signs advertising names of contractors, landscapers, brokers, lenders, or the like. Except as provided herein, all other signs, including specifically, permanent or temporary address and/or owner identification signs, shall be approved, in writing, by the SARC prior to being erected and shall conform to the Design and Development Review Guidelines for such signs. Notwithstanding the foregoing, Declarant shall be permitted to maintain temporary signs for general construction and marketing purposes.

7.30. Ponds. Subject to the provisions of this Declaration and the requirement to obtain any County land use approvals, as applicable, Owners of Homesteads may, at their expense, construct, operate, and maintain ponds. Such ponds may be established provided they are consistent with all provisions of the Development Agreement and the Design and Development Guidelines. Prior to any development, the location, size, construction specifications, and operational plans for such ponds must be approved by the SARC. The SARC shall establish rules and regulations as to the size of the ponds and the water sources which will be utilized to fill the ponds. Owners shall be solely responsible for the cost and the acquisition of any water rights and permits and for the drilling and operating of any well for any such on-site ponds.

7.31. Camping. The Board shall have the authority to adopt from time to time such rules and regulations as it deems appropriate regarding overnight camping anywhere on The Colony lands, whether by means of tent, recreational vehicle, or otherwise, which authority shall specifically include, but shall not be limited to, the right to prohibit camping anywhere with The Colony.

7.32. Fires. No open fires or burning, including, but not necessarily limited to, bonfires, camp fires, the burning of yard trimmings, construction waste, or other materials, will be permitted anywhere on The Colony without the prior written approval of the Board or by the Property Manager if so authorized by the Board. The Board shall have the authority to adopt from time to time such rules and regulations as it deems appropriate regarding open fires or burning, which authority shall specifically include, but shall not be limited to, the right to prohibit open fires or burning anywhere within The Colony, including penalties and monetary fines for unauthorized burning in addition to the cost of any actual damage resulting therefrom.

ARTICLE 8
EASEMENTS AND RIGHTS RESERVED

8.1. Existing Easements Within The Colony and Reservation of Right to Grant Additional Easements. The lands within The Colony are subject to all easements of record which affect said lands at the time of the recording of this Declaration, whether or not said easements are described or otherwise reflected in this Declaration or on the Final Subdivision

Plats including, but not limited to, all easement rights and obligations set forth in that certain "Declaration and Grant of Reciprocal Easements and Agreement" between Declarant, ASC, Utah Inc., and the State of Utah School and Institutional Trust Lands Administration which was recorded September 10, 1998, as Entry No. 517321, Book 1181, Page 190, in the Office of the Recorder of Summit County, Utah, and any other easements which are not of record, but which may hereafter be determined by a court to affect land within The Colony. The Declarant reserves the right to grant easements to other land owners in the White Pine Canyon area adjacent to The Colony, over the Easements described in this Declaration which Declarant in its sole discretion may deem necessary or desirable.

8.2. Development of The Colony. Declarant reserves the right for itself (and to the extent necessary, such right is hereby extended to the Association and its Subsidiaries) its agents, employees and contractors, to enter upon any Common Area, Easement, or any Homestead, Association Property, or Property Conveyed by Declarant and to do whatever Declarant deems necessary or advisable in connection with construction or other work to be performed by Declarant for the development of The Colony subdivision improvements, including, but without limitation, the construction and installation of a domestic water system, fire protection, drainage, irrigation and water storage facilities, the installation of all utilities, the construction of all Roads, grading and landscaping, the construction of all buildings and other improvements to be constructed by Declarant, including amenities, the erection or placement of such temporary structures as may be reasonably necessary to facilitate such development, and the placement of such sign or signs as Declarant may deem advisable in connection with the construction of the subdivision improvements and with the sale of the Homesteads. The foregoing rights shall remain in Declarant and may also be exercised by Declarant as to any Property Conveyed by Declarant notwithstanding such conveyance to the Association. No rights reserved in this Section 8.2 shall extend into any Development Envelopes on any Homestead after the closing on the sale to an Owner other than Declarant.

8.3. Utility Easements. Declarant and the Association hereby reserve the right: (a) to grant non-exclusive easements at any time for utilities, ditches, irrigation, and drainage purposes, including, without limitation, for the installation, relocation, operation, maintenance, repair, and replacement of utility and service lines and systems, including without limitation water, sewer, gas, telephone, electricity, television cable, and communication lines and systems, pumps, pipes, transformers, towers, tanks, wires, conduits, culverts, ditches, ponds, and other necessary facilities or systems, and for ingress and egress to and from the same over and across any portions of The Colony including any Homestead, except across any Development Envelope; and (b) without extinguishing the aforementioned general easement, from time to time to substitute one or more specific easements for the use by utility companies or others by recording of an instrument in the real estate records of Summit County, Utah. Unless the written consent of Declarant or the Association is first obtained, utility companies shall have no right to use easements over The Colony lands to serve properties adjacent to The Colony lands. If Declarant shall grant any easements to utility companies to serve properties adjacent to The Colony, Declarant shall be entitled to receive any consideration paid by such adjacent property owner or the utility company for such easement. When necessary, Declarant shall have the right, without obtaining the consent of any Owner, Mortgagee, or the Association to amend the Final Subdivision Plats as applicable to reflect any relocations of existing easements shown thereon or the granting of new easements for any of the purposes permitted hereunder. Declarant is

responsible for the installation of the domestic water system and shall also make necessary arrangements with utility companies to provide electric, gas, telephone, and television cable service to The Colony; provided, however, the domestic water system and electric, gas, telephone, and television cable service may be extended to The Colony in phases. Accordingly, utilities may not be available to all Homesteads at the same time and any Owner, prior to the purchase of a Homestead, shall be responsible for obtaining from Declarant a schedule for the phasing of utilities.

8.3.1. "Utility Easement" means those areas depicted on the Final Subdivision Plats as Utility Easements, Additional Utility Easements, Existing Utility Easements, or Utility/Sewer Easements, and are non-exclusive easements for the benefit of utility service providers, for the purposes of installing, maintaining, and operating equipment for utilities above and below ground and for all other related facilities as may be necessary or desirable in providing utility services, including the right of access to such facilities and the right to require removal of any obstructions including structures, trees and/or vegetation that may have been placed within the easement. At no time may any permanent structures be placed within a Utility Easement or any other obstruction which interferes with the use of the easement without the prior written approval of the utility service provider with facilities in the easement.

8.3.2. "Sewer Easement" means those areas depicted on the Final Subdivision Plats as Sewer Easements, Utility/Sewer Easements, Sanitary Sewer Easements, Public Sewer Easements, Public Sanitary Sewer Easements, Existing Sewer Easements, Sanitary Sewer Mainline Easements, SBWRD Sewer Easements, or Existing SBWRD Sewer Easements, and are non-exclusive easements for the benefit of sewer service providers, for the purpose of installing, maintaining, and operating sewer lines and pipes and related equipment above and below ground and for all other related facilities as may be necessary or desirable in providing such services, including the right of access to such facilities and the right to require removal of any obstructions including structures, trees and/or vegetation that may have been placed within the easements.

8.3.3. "Sewer Access Easement" means those areas depicted on the Final Subdivision Plats as Sewer Access Easements, SBWRD Sewer Access Easements, or SBWRD Access Easements, and are non-exclusive easements for the benefit of sewer service providers, for the purpose of access to and from the sewer system provided to The Colony and facilities associated with such system.

8.3.4. "Sewer Lateral Easement" means those areas depicted on the Final Subdivision Plats as Sewer Lateral Easements, Sanitary Sewer Lateral Easements, Existing Sewer Lateral Easements, and Private Sewer Easements, and are non-exclusive easements for the benefit of individual Owners and sewer service providers, for the purpose of installing, maintaining, and operating lateral sewer lines.

8.4. Operations Easements. There is hereby reserved to Declarant and the Association the right from time to time to enter upon Common Areas, Easements, or any Homestead, Association Property, Property Conveyed by Declarant, or any other portions of The Colony to perform or carry out any of The Colony operations, drainage or fence maintenance, repair or

operation of the water or utility systems, or any other actions reasonably required to implement wildlife, agricultural, weed control or livestock control (including controlled burning or cutting to enhance wildlife habitat), or other operations approved by the Association.

8.5. Emergency Service Access Easement. A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, trash collection, mail service, and other similar emergency and service agencies or persons, now or hereafter servicing The Colony and its residents and to Declarant, the Association or its Subsidiaries, the Property Manager or any of their employees, to enter upon all Roads and driveways located in The Colony and on any Homesteads or other property in The Colony in the lawful performance of their duties. Private security contracts or other security arrangements made by Owners must first be approved by the Association.

8.6. Agricultural Operations. There are hereby reserved to the Association perpetual easements over and across all Homesteads for the purposes of conducting agricultural activities. Unless the written consent of the Owner of the affected Homestead is first obtained, agricultural activities shall be limited to the growing, irrigating and cutting of hay or grass, weed control, and maintaining or enhancing existing meadow vegetation.

8.7. The Colony Private Trail Easement. There is hereby created a private trail easement for the use and enjoyment of Declarant, the Association, and Owners and their guests over and across all of The Colony, excepting only Development Envelopes. Said easement is for the purpose of trails and a trail system as presently located or as hereafter located or relocated, constructed, and/or enlarged for purposes of hiking, biking, horseback riding, jogging, cross-country skiing, snow shoeing, and other activities consistent with this Declaration (the "Private Trail Easement"). Use of the Private Trail Easement by the public is prohibited. The Colony trail system within the Private Trail Easement shall be constructed by either Declarant or the Association and thereafter maintained and operated by the Association as a Common Expense. Construction and operation of the trail system may include cutting, clearing, stabilizing or maintaining trails, the posting of signs, and erosion control. The use of the trail system shall be subject to such rules and regulations as the Association shall from time to time establish. The Association shall indemnify Owners of Homesteads subject to the Private Trail Easement in regard to any injury or death to persons or damage to property occurred by use of the trails. The Association shall have authority to establish trail set-backs from Development Envelopes. Each Owner, members of their families, and their guests or invitees assume all risk in connection with use of the trails. Unless the prior written consent of all Owners is first obtained, no amendment to this Section 8.7 shall be adopted which would limit or impair the right of any Owner to use the Private Trail Easement for hiking, biking, horseback riding, cross country skiing, or other purposes as allowed in this Declaration together with the right to enter upon other Homesteads in The Colony for such purposes; provided however, Declarant and/or the Association may modify or relocate specific trail locations on any Homestead to accommodate the Owner thereof.

8.7.1. "Private Trail Easement" means those areas depicted on the Final Subdivision Plats as Private Trail Easements or Private Hiking Trail Easements, and on those trails that may be subsequently created by Declarant or the Association pursuant to Section 8.7.

8.7.2. "Special Use Trail Easement" means those areas depicted on the Final Subdivision Plats as Special Use Trail Easements, and on those special use trails that may be subsequently created by Declarant or the Association pursuant to Section 8.7, and such non-exclusive easements shall be for the use of all Owners, their licensees and invitees, only for the purposes as specifically set forth on the Final Subdivision Plats and/or posted on the Special Use Trail Easement. All Owners, their licensees and invitees using a Special Use Trail Easement shall at all times comply with such use restrictions and may be subject to fines and penalties as set forth by the Association for failure to comply.

8.8. The Colony Public Trail System. Within The Colony there will be a public trail system which shall be reflected on the Final Subdivision Plats, and shall be maintained by the Association, the RVMA and/or the Snyderville Basin Recreation District (the "Recreation District"). The Association shall have the responsibility to notify the County when violations occur in the terms and conditions under which the rights to the public trail system are granted. If the terms and conditions are not properly enforced by the Recreation District, the use of the trails may be suspended by the Declarant or the Association.

8.8.1. "Public Trail Easement" means those areas depicted on the Final Subdivision Plats as Public Trail Easements or Public Hiking Trail Easements, and such non-exclusive easements shall be for the use of Declarant, the Association, all Owners, their licensees and invitees, as well as the public, for the purposes of hiking, biking, horseback riding, jogging, cross-country skiing, and snow shoeing, except that any such use may be prohibited by the Association by the posting of signs and/or notices on or near a Public Trail Easement, and all Owners and members of the public using a Public Trail Easement shall at all times comply with such signs and notices and may be subject to fines and penalties for failure to comply.

8.9. Road Easements. By separate grant of easement, Declarant shall grant to the Association permanent, perpetual, and non-exclusive access easements for the purpose of providing access to all Homesteads within all phases of The Colony (the "Grant of Easement"), and all access easements created thereby, or as created on the Final Subdivision Plats, shall be for the use, benefit and enjoyment of all Owners, their family members, guests, and invitees and for use of the Association, its officers, employees, agents, contractors, and or its Subsidiaries. Said easements shall be located under, over, along, and across those areas designated as Road Easement, Private Road Easement, Driveway Easement, Private Driveway Easement, or Additional Driveway Easement on the Final Subdivision Plats (collectively the "Access Easements") and shall include all embankment slopes created by the construction of the improvements within the Road Easements, all drainage structures, utilities, walls, bridges, and other structures appurtenant to the Roads, whether located inside or outside the Access Easements (the "Road Improvements"). The Declarant shall construct and the Association shall permanently operate, maintain, repair, and replace the Road Improvements within the Access Easements, and may in the future construct, install, operate, maintain, repair, or replace other Road Improvements within the Access Easements for any purpose consistent with this Declaration. Road Improvements which may be constructed by Declarant and/or the Association within the Access Easements and the Commons Areas adjacent thereto, may include, but shall not be limited to, security and entry gates, security gate house, development and sales office, fences, signage, speed bumps or dips, drainage structures, guard rails, and the like. There is

further reserved to Declarant the right to increase the width of any Access Easements shown on the Final Subdivision Plats, provided that such widening does not encroach into any Development Envelope. With respect to all Homesteads, no increased road width shall exceed forty (40') feet on either side of the centerline thereof as such centerlines are shown on the Final Subdivision Plats or as-built if the as-built location shall vary from the Final Subdivision Plats. In the event Declarant shall determine to increase the width of any Road, Declarant shall have the right, but not the obligation, to amend the Final Subdivision Plats for that purpose without requirement to obtain the consent of any Owner, Mortgagee, or the Association. The width of any Access Easements may be increased for Road purposes or to accommodate a security gatehouse as long as the width of such enlargement does not exceed the maximum widths set forth herein.

8.9.1. "Road Easement" means those areas depicted on the Final Subdivision Plats as Road Easements or Private Road Easements, and such non-exclusive easements shall be for the use of Declarant, the Association, and all Owners, their licensees and invitees, for the purpose of vehicular and pedestrian access on, over, and across such Road Easement; Road Easements are also created as non-exclusive easements for vehicular and pedestrian ingress and egress for utility service providers and emergency service providers for use in connection with the provision of such services.

8.9.2. "Public Road Easement" means that area of White Pine Road depicted on the Final Subdivision Plats that has been separately dedicated to the public.

8.9.3. "Driveway Easement" means those areas depicted on the Final Subdivision Plats as Driveway Easements, Private Driveway Easements, or Additional Driveway Easements, and such non-exclusive easements shall be for the use of Declarant, the Association, and those Owners, their licensees and invitees for which such easement is necessary to access such Owner's Lot, for the purpose of vehicular and pedestrian access on, over, and across such Driveway Easement to and from such Owner's Lot; Driveway Easements are also created as non-exclusive easements for vehicular and pedestrian ingress and egress for utility service providers and emergency service providers for use in connection with the provision of such services.

8.10. Secondary Access Easement. By separate grant of easement, which may include without limitation a grant on the Final Subdivision Plats, Declarant shall grant permanent, perpetual and non-exclusive Secondary Access Easements for vehicular and pedestrian ingress and egress for Declarant, the Association, Owners, utility service providers, and emergency service providers for use in connection with the provision of such services, to the extent necessary to provide such services or access where access via an Access Road Easement is insufficient.

8.10.1. "Secondary Access Easement" means those areas depicted on the Final Subdivision Plats as Secondary Access Easements, Secondary Road Easement, Emergency Access Easements, Private Access Corridors, or Lot Access Easements. Use of a Secondary Access Easement is limited according to the terms and conditions of any deed, grant of easement, or other agreement creating such easements, matters of record,

applicable land use approvals, or other restrictions as set forth in this Declaration or as posted from time to time on said Secondary Access Easements.

8.11. Private Ski Trail Easements. The right to grant private trail easements to facilitate private ski access to and from Homesteads within The Colony is hereby reserved by the Declarant, which right, in the sole discretion of the Declarant, may be assigned to the Association (the "Private Ski Trail Easements"). Private Ski Trail Easements may be located in those areas shown on the Final Subdivision Plats or as hereafter located or relocated, and shall be used for winter time ski and snowboarding access only and shall not be used for summer time hiking, biking, or other recreation. Use of a Private Ski Trail Easement by the public is prohibited. The width of the trail shall be the minimum necessary to permit safe ski access as determined by the SARC. The clearing of vegetation for the establishment of a private ski trail shall be the minimum necessary to provide access, the intent being that such trails shall consist of "gladed" vegetation and shall not be clear cut. The cost of constructing such private ski trails shall be the responsibility of the Owner of the Homestead which is benefited by the Private Ski Trail Easement.

8.11.1. "Private Ski Trail Easement" means those areas depicted on the Final Subdivision Plats as Private Ski Trail Easements, Private Ski Easements, or Lift Access Easements, and such non-exclusive easements shall be for the use of those Owners, their licensees and invitees for which such easement is necessary to access a Ski Run or Ski Easement from such Owner's Homestead, for the purpose of winter time ski and snowboard access on, over, and across such Private Ski Trail Easement to and from such Owner's Homestead.

8.12. Easements for Water System. Easements are reserved by Declarant and the Association, and for the benefit of the water service provider, under, over, along, and across all Water System Easements, Common Areas, Road Easements, Driveway Easements, Association Property, and Property Conveyed by Declarant whether or not shown on the Final Subdivision Plats for purposes of installing, constructing, maintaining, repairing and operating the primary water system for The Colony, including but not limited to, pumps, pipes, lines, tanks, fire hydrants, and the like. It shall be the responsibility of each Owner to install, in accordance with specifications approved by the SARC, water service lines from the meter attached to the primary water system and assigned to each Homestead. All water service lines installed by an Owner on the Homestead side of the meter connecting such water service lines to the primary water system, along with the meter itself shall be operated, maintained, repaired, or replaced by such Owner at such Owner's own expense.

8.12.1. "Water System Easement" means those areas depicted on the Final Subdivision Plats as Water System Easements, Water Tank and Pipeline Easements, Water Tank Easements, Water Line Easements, or Waterline Easements, and are non-exclusive easements for the benefit of water service providers, and shall include the right of access to any and all water service facilities and the right to require removal of any obstructions including structures, trees and/or vegetation that may have been placed within the easements. At no time may any permanent structures be placed within a Water System Easement or any other obstruction which interferes with the use of the easements

without the prior written approval of the water service provider with facilities in the easement.

8.12.2. "Water System Access Easement" means those areas depicted on the Final Subdivision Plats as Water System Access Easements or Water Tank Access Easements, and are non-exclusive easements for the benefit of water service providers, for the purpose of access to and from the water system provided to The Colony and facilities associated with such water system.

8.13. Ownership of Easements. Any easements or rights reserved by Declarant in this Article 8 shall remain vested in Declarant until such time as Declarant has executed and delivered an instrument in writing transferring the same to the Association or a Subsidiary, or any successor or assign of Declarant. Where the instrument recites it is a complete transfer of a particular easement or right, Declarant shall be relieved from all continuing responsibilities therefore. With respect to any easements created within The Colony by this Declaration and with respect to any easements hereafter granted by Declarant or the Association that benefit the Owner of any Homestead such as Roads, utilities, drainage ditches and trails, no such easements may be vacated, extinguished, impaired, or limited (other than temporary limitations for maintenance, repair, or replacement), except upon the written consent of the Owner of such Homestead and any Eligible Mortgage Holder thereon, and notwithstanding the provisions of Section 10.2 below, no amendment to this Declaration may repeal or change this requirement except upon the written consent of all Owners and all Eligible Mortgage Holders.

8.14. Performance Standards, Indemnification. Notwithstanding the provisions of Section 3.4 of this Declaration, all activities undertaken by Declarant, the Association or their assigns within or in connection with the easements and reservations described in this Article 8 shall be performed in a good and workmanlike manner and as expeditiously as possible, and shall at all times be in complete compliance with all applicable construction, health, safety, and other laws, regulations, and codes. Natural vegetation shall be disturbed as little as possible, and any disturbed areas shall be re-graded and revegetated to the extent reasonably necessary to restore the same to an aesthetic and stabilized condition. All such activities shall be performed at the sole cost and expense of Declarant, the Association, or their assigns, and all areas subject to said easements shall be kept free from mechanics' or materialmen's liens of any kind and which may rise from the aforementioned activities. Nothing herein shall limit the ability of the Association as provided in this Declaration to assess Owners for costs of activities undertaken in connection with the easements and reservations described in this Article 8. Declarant, the Association, and their respective assigns shall indemnify, defend (including reasonable attorney's fees and costs), save, and hold harmless any Owners and such Owner's partners and their respective affiliated companies, employees and agents, from and against any and all losses, liabilities, damages, expenses, claims, or demands for personal injury, death, property damage, or any other form of loss or damage suffered by any person or persons (collectively "Liabilities") arising from the exercise by Declarant or the Association, as the case may be, or their respective assigns of any of the easement rights created in this Article 8, and for claims covered by insurance, to the extent of such insurance coverage, this indemnification shall apply even if any of such Liabilities arise from or are attributable to the concurrent negligence of any Owner. The insurance coverage required under Section 6.1.2 shall include Broad Form Contractual Liability specifically in support of, but not limited to, the indemnity contained herein. The liability of the

Association and Declarant under this indemnification shall be several and separate, it being understood that Declarant shall not indemnify Owners for activities of the Association and the Association shall not indemnify Owners for activities of Declarant. Further, neither the Association nor Declarant shall be liable under this indemnification for the exercise of such easements or reservations by third parties such as police, fire protection, utility, or other approved uses of the easements.

8.15. Utility Access Easement. The Declarant, by separate grant of easement, shall grant to the Association, and the Association shall own, a utility access easement one foot wide on each side of every Easement, and on each side of every Common Area and Ski Run shown on the Final Subdivision Plats. The purpose for the utility access easement shall be to assure compliance with all of the requirements of this Declaration and the Design and Development Guidelines before a water or other utility connection can be obtained for the construction of a residence or other permitted structures on any Homestead in The Colony. No water connections or other utility hook-ups shall be allowed to cross the utility access easement until and unless the Association grants a specific, recorded easement to the Owner of the Homestead across the utility access easement for those purposes, after compliance with the requirements of the Declaration and the Design and Development Guidelines. If some requirements cannot be met until during or after construction, the easement across the utility access easement may be made conditional upon the completion of all such requirements during and after construction.

8.16. Rights to Establish Conservation Easements. The Declarant hereby reserves to itself and to the Association the right to convey Conservation Easements on all of the open spaces in The Colony, including but not limited to those areas designated as Perpetual Open Space, Proposed Perpetual Open Space, Ski Run, Perpetual Open Space Easement, Ski Easement, Lift and Ski Easement, or Lift Easement (as those terms are defined herein) on any Final Subdivision Plat and/or on an exhibit or attachment to any Final Subdivision Plat, by conveying a Conservation Easement to an eligible entity under applicable Federal and Utah law for the establishment of such easements; provided, however, the conveyance of a Conservation Easement shall not materially impair the uses permitted by the sale, grant, transfer, or assignment of an easement(s) by the Declarant or its successors and assigns in any of the above open space designations, and/or negatively affect the property rights of a grantee(s) of any such easement. The Declarant shall have the additional right to convey similar Conservation Easements over all or any portion of each Homestead in The Colony designated as the Natural Open Space Zone. This type of Conservation Easement may be conveyed by Declarant at any time after the recording of the Final Subdivision Plat for each Phase of The Colony. In some cases, the Owners of a Homestead will have more than one Development Envelope site to choose from on their Homestead. Once the final Development Envelope has been selected, the Declarant may grant a Conservation Easement over all or any portion of each Homestead designated as the Natural Open Space Zone. Declarant intends to create contiguous, meaningful Conservation Easements on contiguous parcels and Homesteads within The Colony, but the granting of Conservation Easements hereunder shall not be required in each or every instance to be in such an order or pattern as to require a common boundary with a contiguous parcel or Homestead. The location and extent of the Conservation Easements shall be determined in the sole discretion of the Declarant and/or the Association. The right to grant Conservation Easements reserved herein is permissive and not mandatory. Nothing in this Declaration shall require the Declarant and/or the Association to establish a Conservation Easement, but either the Declarant or the

Association, in its sole discretion, shall have the right to do so if it considers such action to be in the best interests of all the Owners of land in The Colony.

8.17. Ski Run. For the purposes of this Declaration, a "Ski Run" is a platted area of fee ownership depicted as Ski Run or Private Ski Run on the Final Subdivision Plats. Each Ski Run shall be used, developed and operated for the benefit, use and enjoyment of the Declarant, its officers, members, employees, agents, contractors, suppliers, licensees, concessionaires, tenants, subtenants, patrons, invitees, successors, and assigns according to the provisions of this Section 8.17.

8.17.1. Right of Declarant to Transfer. Declarant shall have the right to sell, grant, transfer, assign, and/or lease: (a) a Ski Run, and/or (b) non-exclusive easements over, under, along, and across all or any portion of a Ski Run, together with any or all the rights and obligations of the Declarant set forth in this Section 8.17 which Declarant may elect to confer with any such sale, grant, transfer, assignment or lease, to any individual or entity and/or owner or operator of ski resort facilities within The Colony.

8.17.2. Use Regulations on Ski Runs. All Ski Runs shall be owned, used, developed and operated subject to the terms and conditions of The Canyons SPA Development Agreement and the following use and development regulations:

8.17.2.1. Ski Resort Uses. The use, development and operation of an alpine ski resort, which use, development and operation may include the following (collectively the "Ski Resort Uses"):

(a) skiing and snowboarding during any periods in which the ski resort is open to the public during the skiing and snowboarding season;

(b) constructing, operating, installing, maintaining, managing, repairing, replacing, inspecting, and protecting the following (collectively the "Ski Run Improvements"):

(i) ski lifts and related improvements (which shall be operated only during periods in which the ski resort is open to the public during the skiing and snowboarding season, except as may be necessary for normal, off-season maintenance, repairs and improvements);

(ii) ski runs and ski trails;

(iii) temporary ski fences and barricades;

(iv) safety devices;

(v) snow-making facilities, including pipes, lines, nozzles, and related infrastructure and improvements required for the operation of such facilities, which improvements shall include

state-of-the-art noise-reducing technology to the greatest extent possible; and

(vi) day lodges, warming huts and other buildings associated with the improvements described in this Section 8.17.2.1. The day lodges may contain any of the uses that are customary for such facilities at the finest ski resorts in the United States, but the number of day lodges shall be limited to the greatest extent reasonably possible consistent with providing a premier, world class ski resort experience; and

(c) the right of reasonable ingress to and egress from all Ski Runs as reasonably may be necessary to facilitate access for all the uses, activities, improvements and development rights permitted in this Section 8.17.2.1.

8.17.2.2. Other Ski Run Uses. The use, development and operation of other commercial and non-commercial activities, which use, development and operation may include, but shall not be limited to, the following (collectively the "Other Ski Run Uses"):

(a) skiing and snowboarding, provided: (i) in any period that the ski resort is open to the public during the skiing and snowboarding season, such activities are conducted in accordance with any rules and regulations imposed by the owner or operator of the alpine ski resort; and (ii) any use of a ski lift or other ski resort facilities shall only be conducted with the purchase of a lift pass from, or the permission of, the owner or operator of said lift and facilities;

(b) all other recreational activities not included in Section 8.17.2.2(a) above, including but not limited to, nordic and cross-country skiing, snow shoeing, snowmobiling, hiking, jogging, biking, and horseback riding;

(c) the operation of ski lifts for commercial and other purposes, including, but not limited to, transporting hikers, bikers and other persons during periods when the ski resort is not open to the public during the skiing and snowboarding season;

(d) the use, development and operation of any roads, driveways, secondary access roads, utilities and infrastructure improvements of any kind or nature whatsoever, over, under, along and across a Ski Run as may be approved by the Declarant to meet the development requirements of The Colony, the ski resort, the Association and/or any individual Homestead Owner (the "Infrastructure Improvements"). Road, driveway and secondary access road construction shall include, but may not be limited to, grading, paving, and the building

of bridges, tunnels, or other structures deemed necessary by the Declarant to accommodate the Infrastructure Improvements. If the construction or installation of any such Infrastructure Improvements damages or disturbs any existing improvements which may have been constructed by a purchaser, grantee, transferee, assignee, and/or lessee of a Ski Run, the party causing the damage or disturbance shall restore said existing improvements as near as reasonably possible to the condition which existed prior to the construction or installation of the Infrastructure Improvements;

(e) buildings and other structures, amenities and/or facilities for the private use of the Declarant, the Association, and its Members, and as to each of them, their guests, invitees, successors, and assigns, but not the general public, directly related to and associated with Sections 8.17.2.2(a)-(d) above and with the use, development and operation of The Colony as a private, large lot, single-family, residential subdivision;

(f) the right of reasonable ingress to and egress from all Ski Runs as reasonably may be necessary to facilitate access to a Ski Run for all the permitted uses, activities, improvements, and development rights permitted in this Section 8.17.2.2;

(g) any additional activities, improvements and/or real estate development which may be consistent with The Canyons SPA Development Agreement as that agreement may be amended from time to time; and

(h) except for the uses permitted under Section 8.17.2.2(a), the use, development, and operational rights granted under this Section 8.17.2.2 shall not include the right to use, develop, or operate any of the Ski Resort Uses. In addition, the Other Ski Run Uses shall be permitted only at such times, in such manner, and in such locations that will not adversely impact, or conflict or interfere with, the Ski Resort Uses.

8.17.3. Planning Controls. All uses, activities, improvements, and development within a Ski Run shall conform with the planning and design criteria and programs established by this Declaration, the Design and Development Guidelines, and The Canyons SPA Development Agreement, as each may be amended from time to time.

8.17.4. Grant of Ski Run Easement to the Association. By separate grant of easement, Declarant shall grant to the Association permanent, perpetual, non-exclusive easements over, under, along, and across the Ski Runs for the following uses, activities, improvements, and development purposes:

8.17.4.1. Recreational uses and activities, and improvements related thereto, which may include, but may not be limited to, alpine skiing and snowboarding, cross-country skiing, snow shoeing, hiking, jogging, biking, and/or

horseback riding. All such non-exclusive recreational easements granted by the Declarant to the Association shall be for the use, benefit and enjoyment of: (i) the Association, its officers, employees, agents, contractors, and/or Subsidiaries, (ii) all Homesteads within all phases of The Colony, and (iii) all Homestead Owners, their family members, guests, and invitees. No interpretation of the uses, activities, improvements, and development purposes granted by the Declarant to the Association pursuant to this Section 8.17.4.1 shall be made which would entitle any person to the use of a ski lift, or other ski resort facilities without the purchase of a lift pass from or the permission of the owner or operator of said lifts and facilities.

8.17.4.2. Infrastructure Improvements which the Declarant, in its sole and absolute discretion, may approve, pursuant to the provisions of Section 8.17.2.2(d) above. All such non-exclusive infrastructure easements granted by the Declarant to the Association shall be for the use, benefit and enjoyment of: (i) the Association, and (ii) those particular Homestead Owners, their family members, guests, and invitees, and those particular Homesteads that are to be serviced by the Infrastructure Improvements constructed within said infrastructure easements.

8.17.4.3. The uses, activities, improvements, and/or development purposes granted by the Declarant to the Association pursuant to this Section 8.17.4 shall only be permitted at such times, in such manner, and in such locations that will not adversely impact, or conflict or interfere with, the Ski Resort Uses.

8.17.5. Alterations to Land Within a Ski Run. Any alteration to the land within a Ski Run, including but not limited to the removal of vegetation, grading, or construction, even if said alteration may be performed pursuant to a permitted use, activity, or improvement, shall not be permitted without the prior agreement of the Declarant, which agreement the Declarant, in its sole and absolute discretion, may approve or deny.

8.18. Perpetual Open Space. For the purposes of this Declaration, "Perpetual Open Space" is a platted area of fee ownership depicted as Perpetual Open Space, Proposed Perpetual Open Space, or Open Space Easement on the Final Subdivision Plats. Each Perpetual Open Space shall be used, developed and operated for the benefit, use and enjoyment of the Declarant, its officers, members, employees, agents, contractors, suppliers, licensees, concessionaires, tenants, subtenants, patrons, invitees, successors, and assigns, according to the provisions of this Section 8.18.

8.18.1. Right of Declarant to Transfer. Declarant shall have the right to sell, grant, transfer, assign, and/or lease: (a) an area of Perpetual Open Space, and/or (b) non-exclusive easements over, under, along, and across all or any portion of an area of Perpetual Open Space, together with any or all the rights and obligations of the Declarant set forth in this Section 8.18 which Declarant may elect to confer with any such sale, grant, transfer, assignment, or lease, to any individual or entity and/or owner or operator of ski resort facilities within The Colony.

8.18.2. Use Regulations on Perpetual Open Space. All Perpetual Open Space shall be owned and operated subject to the terms and conditions of The Canyons SPA Development Agreement and the following use and development regulations:

8.18.2.1. Ski Resort Uses. The use, development and operation of an alpine ski resort, which use, development, and operation may include the Ski Resort Uses described in Section 8.17.2.1 above.

8.18.2.2. Other Perpetual Open Space Uses. The use, development, and operation of other commercial and non-commercial activities, which use, development, and operation may include, but shall not be limited to, the following (collectively the "Other Perpetual Open Space Uses"):

(a) skiing and snowboarding, provided: (i) in any period that the ski resort is open to the public during the skiing and snowboarding season, such activities are conducted in accordance with any rules and regulations imposed by the owner or operator of the alpine ski resort; and (ii) any use of a ski lift or other ski resort facilities shall only be conducted with the purchase of a lift pass from, or the permission of, the owner or operator of said lift and facilities;

(b) all other recreational activities not included in Section 8.18.2.2(a) above, including but not limited to, nordic and cross-country skiing, snow shoeing, snowmobiling, hiking, jogging, biking, and horseback riding;

(c) the operation of ski lifts for commercial and other purposes, including, but not limited to, transporting hikers, bikers, and other persons during periods when the ski resort is not open to the public during the skiing and snowboarding season;

(d) the use, development, and operation of any Infrastructure Improvements and related provisions as defined in Section 8.17.2.2 above;

(e) buildings and other structures, amenities, and/or facilities for the private use of the Declarant, the Association, and its Members, and as to each of them, their guests, invitees, successors, and assigns, but not the general public, directly related to and associated with Sections 8.18.2.2(a)-(d) above and with the use, development, and operation of The Colony as a private, large lot, single-family, residential subdivision;

(f) the right of reasonable ingress to and egress from all Perpetual Open Spaces as reasonably may be necessary to facilitate access to a Perpetual Open Space for all the permitted uses, activities, improvements and development rights permitted in this Section 8.18.2.2;

(g) any additional activities, improvements, and/or real estate development which may be consistent with The Canyons SPA

Development Agreement as that agreement may be amended from time to time; and

(h) except for the uses permitted under Section 8.18.2.2(a), the use, development, and operational rights granted under this Section 8.18.2.2 shall not include the right to use, develop, or operate any of the Ski Resort Uses. In addition, the Other Perpetual Open Space Uses shall be permitted only at such times, in such manner, and in such locations that will not adversely impact, or conflict or interfere with the Ski Resort Uses.

8.18.3. Planning Controls. All uses, activities, improvements, and development within a Perpetual Open Space shall conform with the planning and design criteria and programs established by this Declaration, the Design and Development Guidelines, and The Canyons SPA Development Agreement, as each may be amended from time to time.

8.18.4. Grant of Perpetual Open Space Easement to the Association. By separate grant of easement, Declarant shall grant to the Association permanent, perpetual, non-exclusive easements over, under, along, and across the Perpetual Open Spaces for the following uses, activities, improvements, and development purposes:

8.18.4.1. Recreational uses and activities, and improvements related thereto, which may include, but may not be limited to, alpine skiing, snowboarding, cross-country skiing, snow shoeing, hiking, jogging, biking, and/or horseback riding. All such non-exclusive recreational easements granted by the Declarant to the Association shall be for the use, benefit, and enjoyment of: (i) the Association, its officers, employees, agents, contractors, and/or Subsidiaries, (ii) all Homesteads within all phases of The Colony, and (iii) all Homestead Owners, their family members, guests, and invitees. No interpretation of the uses, activities, improvements and development purposes granted by the Declarant to the Association pursuant to this Section 8.18.4.1 shall be made which would entitle any person to the use of a ski lift or other ski resort facilities without the purchase of a lift pass from or the permission of the owner or operator of said lifts and facilities.

8.18.4.2. Infrastructure Improvements which the Declarant, in its sole and absolute discretion, may approve, pursuant to the provisions of Section 8.18.2.2(d) above. All such non-exclusive infrastructure easements granted by the Declarant to the Association shall be for the use, benefit, and enjoyment of: (i) the Association, and (ii) those particular Homestead Owners, their family members, guests, and invitees, and those particular Homesteads to be serviced by the Infrastructure Improvements constructed within said infrastructure easements.

8.18.4.3. The uses, activities, improvements, and/or development purposes granted by the Declarant to the Association pursuant to this Section 8.18.4 shall only be permitted at such times, in such manner and in such locations that will not adversely impact, or conflict or interfere with, the Ski Resort Uses.

8.18.5. Alterations to Land Within a Perpetual Open Space. Any alteration to the land within a Perpetual Open Space, including but not limited to the removal of vegetation, grading, or construction, even if said alteration may be performed pursuant to a permitted use, activity, or improvement, shall not be permitted without the prior agreement of the Declarant, which agreement the Declarant, in its sole and absolute discretion, may approve or deny.

8.19. Ski Easement. For the purposes of this Declaration, a "Ski Easement" is a platted easement depicted as Ski Easement or Ski Resort Easement on the Final Subdivision Plats. Each Ski Easement shall be used, developed, and operated for the benefit, use and enjoyment of the Declarant, its officers, members, employees, agents, contractors, suppliers, licensees, concessionaires, tenants, subtenants, patrons, invitees, successors, and assigns according to the provisions of this Section 8.19.

8.19.1. Right of Declarant to Transfer. Declarant shall have the right to sell, grant, transfer, assign, and/or lease non-exclusive easements over, under, along, and across all or any portion of a Ski Easement for any or all of the uses enumerated below in Section 8.19.3, together with any or all of the rights and obligations of the Declarant and subject to the limitations in this Section 8.19, which Declarant may elect to confer with any such sale, grant, transfer, assignment, or lease, to any individual or entity and/or owner or operator of ski resort facilities within The Colony.

8.19.2. Use Regulations in Ski Easements. All Ski Easements shall be held and operated subject to the terms and conditions of The Canyons SPA Development Agreement and the following use and development regulations:

8.19.2.1. Ski Easement Uses. The use, development, and operation of an alpine ski resort, which use, development, and operation may include the following (collectively the "Ski Easement Uses"):

(a) skiing and snowboarding during any period in which the ski resort is open to the public during the skiing and snowboarding season;

(b) constructing, operating, installing, maintaining, managing, repairing, replacing, inspecting, and protecting the following (collectively the "Ski Easement Improvements"):

(i) ski runs and ski trails;

(ii) temporary ski fences and barricades;

(iii) safety devices; and

(iv) snow-making facilities, including pipes, lines, nozzles, and related infrastructure and improvements required for the operation of such facilities, which improvements shall include state-of-the-art noise-reducing technology to the greatest extent possible; and

(c) the right of reasonable ingress to and egress from all Ski Easements as reasonably may be necessary to facilitate access for all the uses, activities, improvements, and development rights permitted in this Section 8.19.2.1.

8.19.2.2. Other Ski Easement Uses. The use, development, and operation of other commercial and non-commercial activities, which use, development and operation may include, but shall not be limited to, the following (collectively the "Other Ski Easement Uses"):

(a) skiing and snowboarding, provided: (i) in any period that the ski resort is open to the public during the skiing and snowboarding season, such activities are conducted in accordance with any rules and regulations imposed by the owner or operator of the alpine ski resort; and (ii) any use of a ski lift or other ski resort facilities shall only be conducted with the purchase of a lift pass from, or the permission of, the owner or operator of said lift and facilities;

(b) all other recreational activities not included in Section 8.19.2.2(a) above, including but not limited to, nordic and cross-country skiing, snow shoeing, snowmobiling, hiking, jogging, biking, and horseback riding;

(c) the use, development and operation of any Infrastructure Improvements and related provisions as set forth in Section 8.17.2.2(d) above;

(d) the right of reasonable ingress to and egress from all Ski Easements as reasonably may be necessary to facilitate access for all the permitted uses, activities, improvements, and development rights permitted in this Section 8.19.2.2; and

(e) except for the uses permitted under Section 8.19.2.2(a), the use, development and operational rights granted under this Section 8.19.2.2 shall not include the right to use, develop, or operate any of the Ski Easement Uses. In addition, the Other Ski Easement Uses shall be permitted only at such times, in such manner and in such locations that will not adversely impact, or conflict or interfere with, the Ski Easement Uses.

8.19.3. Grant of Ski Easement to the Association. By separate grant of easement, Declarant shall grant to the Association permanent, perpetual, non-exclusive easements over, under, along, and across the Ski Easements for the following uses, activities, improvements, and development purposes:

8.19.3.1. Recreational uses and activities, and improvements related thereto, which may include, but may not be limited to, alpine skiing and snowboarding, nordic and cross-country skiing, and snow shoeing. All such non-

exclusive recreational easements granted by the Declarant to the Association shall be for the benefit of all Homesteads within all phases of The Colony, and for the use, benefit, and enjoyment of: (i) the Association, its officers, employees, agents contractors, and/or Subsidiaries, (ii) all Homesteads within all phases of The Colony, and (iii) all Homestead Owners, their family members, guests, and invitees. No interpretation of the uses, activities, improvements, and development purposes granted by the Declarant to the Association pursuant to this Section 8.19.3.1 shall be made which would entitle any person to the use of a ski lift or other ski resort facilities without the purchase of a lift pass from or the permission of the owner or operator of said lifts and facilities.

8.19.3.2. Infrastructure Improvements which the Declarant, in its sole and absolute discretion, may approve, pursuant to the provisions of Section 8.19.2.2(d) above. All such non-exclusive infrastructure easements granted by the Declarant to the Association shall be for the use, benefit, and enjoyment of: (i) the Association, and (ii) those particular Homestead Owners, their family members, guests, and invitees, and those particular Homesteads that are to be serviced by the Infrastructure Improvements constructed within said infrastructure easements.

8.19.3.3. The uses, activities, improvements and/or development purposes granted by the Declarant to the Association pursuant to this Section 8.19.3 shall only be permitted at such times, in such manner, and in such locations that will not adversely impact, or conflict or interfere with, the Ski Resort Uses.

8.19.4. Other Uses Retained by Fee Owner. All other uses of the fee owned land within a Homestead that contains a Ski Easement and that are permitted by this Declaration and by The Canyons SPA Development Agreement, other than the uses specifically reserved to the Declarant and/or granted by the Declarant to the Association, are retained by the fee owner of the Homestead in which a Ski Easement is located; provided such other uses do not interfere with or adversely impact the Ski Easement Uses and the Other Ski Easement Uses.

8.19.5. Planning Controls. All uses, activities, improvements and development within a Ski Easement shall conform with the planning and design criteria and programs established by this Declaration, the Design and Development Guidelines, and The Canyons SPA Development Agreement, as each may be amended from time to time.

8.19.6. Structures and Improvements Within a Ski Easement. Any structures or other improvements that are proposed by the Declarant or the fee owner of land in which a Ski Easement is located and that are approved by the Association and the SARC, shall be constructed at the cost of the Declarant or the fee owner of the land (whoever is the proponent of the improvements) and not at the cost of the holder of the Ski Easement. The costs of any such proposed improvements shall include the cost of re-routing any permitted infrastructure facilities previously constructed by the holder of the Ski Easement. Further, neither such proposed improvements nor the construction thereof shall alter the land in such a way as to prevent or unreasonably impact the use of a Ski Easement for the Ski Easement Uses. By way of example, but not by way of limitation, if

the Declarant or the fee owner of land desires to construct improvements, such as a driveway or road, through a Ski Easement, the fee owner shall be required to construct facilities, such as a bridge or tunnel, to accommodate the full, practical, and safe uses permitted within the Ski Easement, and, in addition, shall either pay for the cost of re-routing any infrastructure facilities previously constructed, and/or provide additional easements, if reasonably required, for the routing of permitted infrastructure facilities that subsequently cannot be accommodated within the Ski Easement due to the construction of the structures or improvements.

8.19.7. Alterations to Land Within a Ski Easement. Any alteration to the land within a Ski Easement, including but not limited to the removal of vegetation, grading, or construction, even if said alteration may be performed pursuant to a permitted use, activity, or improvement, shall not be permitted without the prior agreement of the Declarant, which agreement the Declarant, in its sole and absolute discretion, may approve or deny.

8.20. Lift and Ski Easement. For the purposes of this Declaration, a "Lift and Ski Easement" is a platted easement depicted as Lift and Ski Easement on the Final Subdivision Plats. Each Lift and Ski Easement shall be used, developed and operated for the benefit, use and enjoyment of the Declarant, its officers, members, employees, agents, contractors, suppliers, licensees, concessionaires, tenants, subtenants, patrons, invitees, successors, and assigns according to the provisions of this Section 8.20.

8.20.1. Right of Declarant to Transfer. Declarant shall have the right to sell, grant, transfer, assign, and/or lease non-exclusive easements over, under, along, and across all or any portion of a Lift and Ski Easement for any or all of the uses enumerated below in Section 8.20.3, together with any or all of the rights and obligations of the Declarant and subject to the limitations in this Section 8.20, which Declarant may elect to confer with any such sale, grant, transfer, assignment, or lease, to any individual or entity and/or owner or operator of ski resort facilities within The Colony.

8.20.2. Use Regulations in Lift and Ski Easements. All Lift and Ski Easements shall be held and operated subject to the terms and conditions of The Canyons SPA Development Agreement and the following use and development regulations:

8.20.2.1. Lift and Ski Easement Uses. The use, development, and operation of an alpine ski resort, which use, development, and operation may include the following (collectively the "Lift and Ski Easement Uses"):

(a) skiing and snowboarding during any period in which the ski resort is open to the public during the skiing and snowboarding season;

(b) constructing, operating, installing, maintaining, managing, repairing, replacing, inspecting, and protecting the following (collectively the "Lift and Ski Easement Improvements"):

(i) ski lifts and related improvements (which shall be operated only during periods in which the ski resort is open to the

public during the skiing and snowboarding season, except as may be necessary for normal, off-season maintenance, repairs, and improvements);

(ii) ski runs and ski trails;

(iii) temporary ski fences and barricades;

(iv) safety devices; and

(v) snow-making facilities, including pipes, lines, nozzles, and related infrastructure and improvements required for the operation of such facilities, which improvements shall include state-of-the-art noise-reducing technology to the greatest extent possible; and

(c) the right of reasonable ingress to and egress from all Lift and Ski Easements as reasonably may be necessary to facilitate access for all the uses, activities, improvements, and development rights permitted in this Section 8.20.2.1.

8.20.2.2. Other Lift and Ski Easement Uses. The use, development and operation of other commercial and non-commercial activities, which use, development and operation may include, but shall not be limited to the following (collectively the "Other Lift and Ski Easement Uses"):

(a) skiing and snowboarding, provided: (i) in any period that the ski resort is open to the public during the skiing and snowboarding season, such activities are conducted in accordance with any rules and regulations imposed by the owner or operator of the alpine ski resort; and (ii) any use of a ski lift or other ski resort facilities shall only be conducted with the purchase of a lift pass from, or the permission of, the owner or operator of said lift and facilities;

(b) all other recreational activities not included in Section 8.20.2.2(a) above, including but not limited to, nordic and cross-country skiing, snow shoeing, snowmobiling, hiking, jogging, biking, and horseback riding;

(c) the operation of ski lifts for commercial and other purposes, including, but not limited to, transporting hikers, bikers, and other persons during periods when the ski resort is not open to the public during the skiing and snowboarding season;

(d) the use, development and operation of any Infrastructure Improvements and related provisions as set forth in Section 8.17.2.2(d) above;

(e) the right of reasonable ingress to and egress from all Lift and Ski Easements as reasonably may be necessary to facilitate access for all the permitted uses, activities, improvements, and development rights permitted in this Section 8.20.2.2; and

(f) except for the uses permitted under Section 8.20.2.2(a), the use, development, and operational rights granted under this Section 8.20.2.2 shall not include the right to use, develop, or operate any of the Lift and Ski Easement Uses. In addition, the Other Lift and Ski Easement Uses shall be permitted only at such times, in such manner, and in such locations that will not adversely impact, or conflict or interfere with, the Lift and Ski Easement Uses.

8.20.3. Grant of Lift and Ski Easement to the Association. By separate grant of easement, Declarant shall grant to the Association permanent, perpetual, non-exclusive easements over, under, along, and across the Lift and Ski Easements for the following uses, activities, improvements, and development purposes:

8.20.3.1. Recreational uses and activities, and improvements related thereto, which may include, but may not be limited to, alpine skiing and snowboarding, nordic and cross-country skiing, and snow shoeing. All such non-exclusive recreational easements granted by the Declarant to the Association shall be for the use, benefit, and enjoyment of: (i) the Association, its officers, employees, agents contractors, and/or Subsidiaries, (ii) all Homesteads within all phases of The Colony, and (iii) all Homestead Owners, their family members, guests, and invitees. No interpretation of the uses, activities, improvements, and development purposes granted by the Declarant to the Association pursuant to this Section 8.20.3.1 shall be made which would entitle any person to the use of a ski lift and other ski resort facilities without the purchase of a lift pass from or the permission of the owner or operator of said lifts and facilities.

8.20.3.2. Infrastructure Improvements which the Declarant, in its sole and absolute discretion, may approve, pursuant to the provisions of Section 8.20.2.2(d) above. All such non-exclusive infrastructure easements granted by the Declarant to the Association shall be for the use, benefit, and enjoyment of: (i) the Association, and (ii) those particular Homestead Owners, their family members, guests, and invitees, and those particular Homesteads that are to be serviced by the Infrastructure Improvements constructed within said infrastructure easements.

8.20.3.3. The uses, activities, improvements, and/or development purposes granted by the Declarant to the Association pursuant to this Section 8.20.3 shall only be permitted at such times, in such manner, and in such locations that will not adversely impact, or conflict or interfere with, the Ski Resort Uses.

8.20.4. Other Uses Retained by Fee Owner. All other uses of land within a Homestead that contains a Lift and Ski Easement and that are permitted by this Declaration and by The Canyons SPA Development Agreement, other than the uses

specifically reserved to the Declarant and/or granted by the Declarant to the Association, are retained by the fee owner of the Homestead in which a Lift and Ski Easement is located; provided such other uses do not interfere with or adversely impact the Lift and Ski Easement Uses and the Other Lift and Ski Easement Uses.

8.20.5. Planning Controls. All uses, activities, improvement, and development within a Lift and Ski Easement shall conform with the planning and design criteria and programs established by this Declaration, the Design and Development Guidelines, and The Canyons SPA Development Agreement, as each may be amended from time to time.

8.20.6. Structures and Improvements Within a Lift and Ski Easement. Any structures or other improvements that are proposed by the Declarant or the fee owner of land in which a Lift and Ski Easement is located and that are approved by the Association and the SARC, shall be constructed at the cost of the Declarant or the fee owner of the land (whoever is the proponent of the improvements) and not at the cost of the holder of the Lift and Ski Easement. The costs of any such proposed improvements shall include the cost of re-routing any permitted infrastructure facilities previously constructed by the holder of the Lift and Ski Easement. Further, neither such proposed improvements nor the construction thereof shall alter the land in such a way as to prevent or unreasonably impact the use of a Lift and Ski Easement for the Lift and Ski Easement Uses. By way of example, but not by way of limitation, if the Declarant or the fee owner of land desires to construct improvements, such as a driveway or road, through a Ski Easement, the fee owner shall be required to construct facilities, such as a bridge or tunnel, to accommodate the full, practical and safe uses permitted within the Ski Easement, and, in addition, shall either pay for the cost of re-routing any infrastructure facilities previously constructed, and/or provide additional easements, if reasonably required, for the routing of permitted infrastructure facilities that subsequently cannot be accommodated within the Ski Easement due to the construction of the structures or improvements.

8.20.7. Alterations to Land Within a Lift and Ski Easement. Any alteration to the land within a Lift and Ski Easement, including but not limited to the removal of vegetation, grading, or construction, even if said alteration may be performed pursuant to a permitted use, activity, or improvement, shall not be permitted without the prior agreement of the Declarant, which agreement the Declarant, in its sole and absolute discretion, may approve or deny.

8.20.8. Lift Easement. All of the rights and restrictions set forth in this Section 8.20 shall apply equally to "Lift Easements," which shall include those areas depicted on the Final Subdivision Plats as Lift Easements, Ski Lifts, or Ski Lift Easements, except that the uses set forth in Sections 8.20.2.1(a), 8.20.2.1(b)(ii), 8.20.2.2(a), and 8.20.2.2(b) shall be prohibited on, over, and across a Lift Easement.

8.21. Right of Association to Restore. In addition to the provisions of Sections 8.17.5, 8.18.5, 8.19.7, and 8.20.7, in the event an Owner either (i) alters the land within an easement over such Owner's Lot, which easement has been granted for the purpose of permitting any of the Ski Resort Uses, Perpetual Open Space Uses, Ski Easement Uses, or Lift and Ski Easement

Uses ("Easement Uses"), and the alteration either inhibits the use of such land for the S Easement Uses or creates a danger in connection with such use; or (ii) the Owner otherwise interferes with the Easement Uses, the Association shall immediately cause such land to be restored to its condition immediately preceding such alteration, including, if required, the removal of any improvements installed or constructed thereon or shall take such action against the Owner as is necessary to stop the interference with the Easement Uses. The Owner responsible for the alteration or interference shall reimburse the Association for the entire cost of the restoration of the land or for other costs incurred in eliminating the interference with the Easement Uses. The Association, in accordance with Section 5.6 of this Declaration, may enforce such reimbursement obligation in the same manner as an Assessment.

ARTICLE 9
OPERATION OF THE COLONY

9.1. Water Distribution System. Domestic water shall be provided to all Homesteads through a water system which will be constructed pursuant to the terms and conditions of a water service agreement by and between the Declarant and Mountain Regional Water Special Service District or such other water service agreement(s) as Declarant may enter into, from time to time (collectively the "Water Agreement"), with other water service district(s) (collectively the "Service District"). Each and every Owner, by the acceptance of a deed to a Homestead in The Colony, shall waive any objections to annexation into a Service District. Distribution lines will generally, but not necessarily be installed in the Easements and in those areas designated on the Final Subdivision Plats as Common Areas and Ski Runs for purposes of supplying domestic/culinary water, firefighting water, and limited irrigation water to the Homesteads and the Common Areas. The Declarant, pursuant to Article 8, reserves the right to grant an easement across any portion of a Homestead which is outside the Development Envelope if it is needed to complete the water system.

9.2. Water Connection and Development/Impact Fees. For each user connection in The Colony under the Water Agreement, certain connection fees and development or impact fees must be paid in order for the Homestead to be connected to the water system. Each Owner shall be responsible for the payment of the connection fees and the development or impact fees assessed under the Water Agreement. In addition to applying to the County for building permits for the construction of buildings and other improvements on each Homestead, each Owner shall also be required to apply to the Service District for a water connection.

9.3. Payment for Water Usage. Payment for water usage from the water system in The Colony shall be made by each Owner to the Service District, and shall be billed by the Service District to the Owners in accordance with the billing policies of the Service District. The Association shall not be involved in the operation of the water system, or the billing and collection of money for water usage.

9.4. Limitation on Water Usage. Under the terms of the Water Agreement, it is intended that the maximum annual water consumption for each Homestead in The Colony shall not exceed two (2) acre feet, or such other usage limitation as may be established by the Service District from time to time. The Design and Development Guidelines shall include provisions for water conserving plumbing fixtures and water conserving irrigation systems in an attempt to

reduce actual consumption to less than two (2) acre feet per connection per year. Any Homestead Owner who consumes more than two (2) acre feet of water per year shall be subject to regulatory restrictions, fines, and penalties consistent with the general policies of the County governing excessive water consumption. In the event of drought conditions, limits on peak source capacity may require restrictions on all water users within the County and the Service District, and those restrictions will apply to water users within The Colony. This provision concerning restrictions during drought conditions, however, shall not limit the right of Homestead Owners to obtain water connections under the terms of the Water Agreement.

9.5. Individual Wells. Subject to the provisions hereof and the Water Agreement, and to all applicable provisions of Utah law concerning the drilling of private water wells, and subject to the availability of well water, the Declarant, the Association or any Owner may drill and operate private water wells. The Owner of a Homestead shall be allowed to drill and operate no more than one (1) private water well on a Homestead for any on-site pond purpose permitted by law, if approved by the Utah State Engineer. Any Owner desiring to drill an individual well shall be responsible for obtaining all water rights, state and local permits and approvals for such wells and shall also be responsible for the payment of all costs associated with the drilling, development, operation, repair, maintenance, and replacement of such a well. Declarant makes no representation or warranty that water for such wells is available on any particular Homestead or, if available, the depth at which it may be found or the quality or quantity of water that may be available. No drilling or operation of any well shall occur until the location, specifications, design, and proposed use shall have been approved by the SARC and the State Engineer. In connection with any approval, SARC shall have the right to prohibit clustering of wells and to establish such other restrictions or prohibitions on the drilling or operation of wells as shall be necessary to prevent injury to any other water sources.

9.6. No Impairment of Water Rights by Owners. Notwithstanding that Owners of Homesteads are entitled to develop individual wells or thus obtain individual water rights appurtenant thereto, in no event shall Owners be entitled to have any standing, by virtue of ownership of said individual wells and water rights appurtenant thereto, to object to any application for a well permit, any water rights applications, including but not limited to, a change of water right, approval of any augmentation plans or new water right that may be filed by Declarant or the Association or their assigns. Each Owner hereby irrevocably constitutes and appoints Declarant or the Association as its attorney-in-fact to file, join in, or object or to not file, join in, or object as Declarant or the Association deems appropriate, in its sole discretion, to any water rights application affecting any The Colony lands.

ARTICLE 10
TERM, AMENDMENT AND TERMINATION OF COVENANTS

10.1. Term. The term of this Declaration shall be perpetual.

10.2. Amendments. The following provisions shall apply to amendments of this Declaration:

10.2.1. Written Consent of Declarant Required. No Amendments to this Declaration that affect in any way the rights of the Declarant, its successors and assigns,

to own, use, develop, or operate any Ski Run, Perpetual Open Space, Ski Easement, and/or Lift and Ski Easement in The Colony, including but not limited to provisions relating to Ski Resort Uses, Ski Easement Uses, and Lift and Ski Easement Uses, or any other uses retained by the Declarant shall be made without the written consent of the Declarant and the owner of said Ski Run and Perpetual Open Space, or the holder of said Ski Easement and/or Lift and Ski Easement, which consent shall not be unreasonably withheld.

10.2.2. Declarant's Unilateral Amendment Rights. Except for the provisions of Section 10.2.1 above, nothing in this Section 10.2 shall limit the absolute right of Declarant, acting alone and/or on behalf of the Association, to amend at any time prior to the completion of the development of The Colony any provisions of this Declaration (except as limited by Sections 3.14, 6.2 and 8.13), and the related Grant of Easements (as the same may be amended from time to time), which Declarant believes are reasonably necessary to accommodate the development of The Colony, including but not limited to, the addition of any future phase of The Colony in a way that is consistent with the overall objectives of this Declaration and said Grant of Easements; provided, that such amendment shall not adversely affect marketability of title to any Homestead or materially diminish the value of any Homestead. In cases where any amendment does adversely affect marketability of title or materially diminish the value of a Homestead, such amendment may nevertheless be adopted by Declarant as allowed in the sentence immediately preceding so long as at the time such amendment becomes effective: (i) Declarant shall be record owner of the Homestead so affected and the affected Homestead is not the subject of any contract for sale, or (ii) the written consent of the Owner (if other than Declarant) or contract vendee has been obtained.

10.2.3. Amendment by Owners. Following the completion of the development of The Colony by the Declarant, or the earlier written relinquishment by the Declarant, if any (see Section 10.2.4 below), or with the written approval of the Declarant, except as limited by Sections 3.14, 6.2 and 8.13, this Declaration may be amended by a vote of two-thirds (2/3) of the Owners of all Homesteads; provided that such amendment shall not adversely affect marketability of title or materially diminish the value of a Homestead. Amendments to this Declaration by the Owners of Homesteads may only be made at a meeting called for that purpose, and within six (6) months after the date of such meeting there shall be recorded in the real estate records of Summit County, Utah, an instrument evidencing such amendment.

10.2.4. Relinquishment of Declarant Rights to Amend. By instrument signed by Declarant and duly recorded in the real estate records of Summit County, Utah, Declarant at any time may relinquish its right to amend this Declaration or make interpretations thereto as permitted in Section 12.1 below.

10.2.5. No Consent of Mortgagees. Except as provided in Sections 3.14 and 8.13, consent of Mortgagees shall not be required in order to amend this Declaration.

10.2.6. No Amendment Inconsistent with Declarant Rights. Any instrument amending this Declaration shall be duly executed by the Declarant or the

President and Secretary of the Association, as the case may be. Notwithstanding the preceding, no amendment shall be permitted that is inconsistent with any of the rights granted, retained, or reserved to Declarant hereunder or which attempts to enlarge or expand any obligation of Declarant hereunder unless such amendment is consented to in writing by Declarant. Further, where any amendment is not considered by Declarant, in its reasonable judgment, to be a material change to any provision of this Declaration, such as the correction of a technical, drafting, or typographical error, correction of some obvious omission, resolution of any conflict with applicable law, the Development Agreement, or County requirements, clarification of any ambiguous statement, or the like, such amendment may be made at any time by Declarant, without requirement to obtain the consent of any Owner or Eligible Mortgage Holder.

10.3. Rule against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations, or obligations created by this Declaration shall be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing like or similar time limits, such provision shall continue only for the period of the lives in being at the date of the recording of this Declaration plus twenty-one (21) years.

10.4. Termination. This Declaration may be terminated only if all the Owners and Eligible Mortgage Holders agree to such termination by an executed acknowledged instrument duly recorded in the real estate records of Summit County, Utah. This Declaration shall also terminate in the event of the taking of all of The Colony by condemnation or eminent domain.

10.5. Disbursement of Proceeds. Upon the termination of this Declaration all property owned by the Association shall be sold by the Association either in whole or in parcels as the Board may deem appropriate. The funds shall be disbursed without contribution from one Owner to another by the Association for the following purposes and in the following order:

10.5.1. payment of all customary expenses of the sale;

10.5.2. payment of all applicable taxes and special Assessment Liens in favor of any governmental authority;

10.5.3. payment of the balance of any liens encumbering Association Property;

10.5.4. payment of any unpaid costs, expenses, and fees incurred by the Association; and

10.5.5. payment of any balance to the Owners in the same proportion that they pay Association Assessments; provided, however, there shall be deducted from any share due an Owner any delinquent and unpaid Association Assessments.

ARTICLE 11
CONDEMNATION

11.1. Condemnation of Association Property. If any Association Property is taken or condemned by any authority having the power of eminent domain, all compensation and damages on account of the taking of the Association Property, exclusive of compensation for consequential damages to affected Homesteads, shall be payable to the Association and such proceeds shall be used promptly by the Association to the extent necessary for repair and reconstruction of remaining Association Property in as substantial compliance to the original plan of development as possible. If there is an award in excess of the amount necessary to so substantially repair or reconstruct such remaining Association Property, the Board, in its sole discretion, shall determine if the excess is to be refunded to the Members or retained by the Association for such uses as it deems appropriate.

ARTICLE 12
GENERAL PROVISIONS

12.1. Interpretation of the Covenants. Excepting for judicial construction, Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration until the sooner of: (i) the sale of fifty one percent (51%) of the Homesteads in The Colony, or (ii) five (5) years after the sale of the first ten (10) Homesteads in The Colony. Thereafter, the exclusive right to construe and interpret this Declaration shall rest with the Association acting by and through its Board. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the construction or interpretation of the provisions hereof by Declarant and thereafter the Association shall be final, conclusive and binding as to all persons and property benefited or bound by this Declaration and provisions hereof. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development, operation. and maintenance of The Colony.

12.2. Claims Regarding Declarant. The Association and all Owners shall have a period of two (2) years from the date Property Conveyed by Declarant is actually granted, assigned or conveyed to the Association, within which to assert by legal action or otherwise any claim, demand, cause of action or lawsuit against Declarant with regard to said Property Conveyed by Declarant however arising and for whatever cause or reason whatsoever. Nothing herein shall be construed to limit, impair, diminish or bar any claim by the Association, Owners, Mortgagees, Declarant, or any other person with standing to bring such claim to ever assert by legal proceedings or otherwise any claim, demand, cause of action, or lawsuit against any engineer, architect, contractor, subcontractor, supplier, materialman, or other person involved in the design, installation, manufacture, assembly, construction, operation, maintenance, repair, or replacement of any Property Conveyed by Declarant.

12.3. Sales Activity. Declarant may conduct sales activities within The Colony, including, but not limited to: (i) the showing of Homesteads by Declarant or any sales agents, (ii) maintaining sales and/or management offices; (iii) conducting promotional and marketing events and activities; and (iv) constructing, maintaining, and operating model homes, lodging facilities for sales and marketing purposes, and club facilities. Declarant may also maintain signs advertising The Colony.

12.4. Conflict with Plats. In the event of any conflict or inconsistency between the provisions of this Declaration and the Final Subdivision Plats affecting The Colony, including the plat notes thereon, the provisions of said plats or plat notes, as the case may be, shall govern and control and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said plats, including any plat notes.

12.5. Rights of Eligible Mortgage Holders. Any Eligible Mortgage Holder shall be entitled to:

12.5.1. upon request, inspect the books and records of the Association during normal business hours;

12.5.2. receive written notice of meetings of the Association where the consent of any Eligible Mortgage Holder is required;

12.5.3. upon request, obtain copies of Association financial statements;

12.5.4. receive written notice of condemnation proceedings affecting any Association Property;

12.5.5. receive written notice of the lapse of any insurance that the Association is required to maintain under this Declaration; and

12.5.6. where the Owner of any Homestead shall be deemed delinquent in the payment of any Assessment, any Eligible Mortgage Holder of said Homestead shall be given written notice of such delinquency by the Association, provided the Eligible Mortgage Holder shall have been notified by the Association of its lien.

12.6. Provisions Incorporated in Deeds. Each provision contained in this Declaration shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any Homestead is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

12.7. Number and Gender. Unless the context shall otherwise provide, a singular number shall include the plural, a plural number shall include the singular, and the use of any gender shall include all genders.

12.8. No Dedication. Unless expressly provided, nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of The Colony to the public or for any public use.

12.9. Notices. Any notice permitted or required to be delivered as provided in this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) days after a copy of the same has been posted in the United States mail, postage prepaid for first class mail and addressed to the receiving party at the address last given by such party to the Association. Any notice to the

Association shall be sent to such address as it may from time to time designate in writing to each Owner.

12.10. Utah Law. The interpretation, enforcement or any other matters relative to this Declaration shall be construed and determined in accordance with the laws of the State of Utah.

12.11. Disclaimer. No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees, in connection with The Colony, or any portion thereof, or any improvement thereon, its physical condition, zoning, compliance with applicable laws, fitness or intended use or operation, cost of maintenance or taxes except as expressly set forth in this Declaration or except as set forth in any Disclosure Statement required to be given under applicable rules of the Utah Division of Real Estate.

12.12. Designation of Successor. For purposes of this Declaration and the easements, dedications, rights, privileges, and reservations set forth herein, a successor and assign of Declarant shall be deemed a successor and assign only as specifically designated by Declarant by instrument recorded in the real estate records of Summit County, Utah, and only with respect to the particular rights or interests specifically designated therein.

12.13. Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof. Where any provision of this Declaration is alleged to be or declared by a court of competent jurisdiction to be unconscionable, Declarant shall have the right by amendment to this Declaration to replace such provision with a new provision, as similar thereto as practicable, but which in Declarant's reasonable opinion would be considered not to be unconscionable.

12.14. Run with the Land. Declarant, for itself, its successors and assigns, hereby declares that all of The Colony shall be held, used and occupied subject to the provisions of this Declaration, and to the covenants, conditions and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in The Colony.

12.15. Restatement of Declaration. To assure uniformity and ease in determining what provisions of this instrument apply, Declarant shall have the right, from time to time, to incorporate cumulatively into one document all prior amendments and to publish and adopt a restatement of this Declaration (the Second, Third, Fourth Amended and Restated Declaration as the case may be).

12.16. Recording References. All references in this Declaration to maps, plats, agreements, instruments or other documents of record shall mean and refer to recordings with the Office of the Recorder of Summit County, Utah.

12.17. Payment of Rollback Taxes. The land which comprises The Colony has been a working sheep ranch for many decades and has qualified for an agricultural (greenbelt) exemption as it relates to general property taxes on the land. Conversion of the land to residential uses triggers a "rollback" tax which consists of a one-time tax payment. Each of the Owners of a Homestead shall be obligated to either pay the taxing entity or reimburse Declarant

for the amount of the rollback tax at the time they close their purchase of their Homestead in The Colony.

12.18. Property Conveyed to the Association by Declarant. The Association shall be obligated to and shall accept title to or interests in any property which may be sold, assigned, granted, or conveyed to the Association by Declarant. All property to be sold, assigned, granted, or conveyed by Declarant to the Association will be an outright conveyance, sale, assignment, grant, or conveyance of all the interest of Declarant therein, subject only to such reservations, restrictions, and conditions as Declarant may reasonably provide and none of such property, to the extent owned by Declarant, will be leased to the Association.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon this 9th day of June, 2010.

IRON MOUNTAIN ASSOCIATES, L.L.C.
a Utah limited liability company,

By: WPA, LTD, a Utah limited partnership, its Manager

By: White Pine Associates, Inc., a Utah Corporation, its General Partner

By: _____
Walter J. Brett, President

ACKNOWLEDGMENT PAGE TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE COLONY AT WHITE PINE CANYON

STATE OF UTAH)
ss
COUNTY OF SUMMIT)

The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Colony at White Pine Canyon was acknowledged before me this 9th day of June, 2010, by Walter J. Brett, for and on behalf of Iron Mountain Associates, L.L.C., a Utah limited liability Company.

SEAL:

REVA HAZELRIGG
NOTARY PUBLIC - STATE OF UTAH
2455 WHITE PINE CANYON RD.
PARK CITY, UT 84060
My Comm. Exp. 12/07/2011

Reva Hazelrigg
NOTARY PUBLIC

EXHIBIT "A"

LEGAL DESCRIPTION

All of The Colony at White Pine Canyon – Phase I Final Subdivision Plat, according to the official plat therefore, recorded in the official records of Summit County, Utah, on September 24, 1998 as Entry No. 518278, as amended by that certain The Colony at White Pine Canyon – Phase I Amended Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on March 26, 1999 as Entry No. 534009, and as amended by that certain The Colony at White Pine Canyon Phase 1 Amendment to Lot 7 and Entry Area, according to the official plat thereof, recorded in the official records of Summit County, Utah, on September 20, 2007 as Entry No. 825919.

All of The Colony at White Pine Canyon, Phase 1B Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on January 21, 2004 as Entry No. 686710.

All of The Colony at White Pine Canyon, Phase 1C, Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on August 16, 2006 as Entry No. 787053.

All of The Colony at White Pine Canyon – Phase II Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on September 10, 1999 as Entry No. 548270, as amended by that certain The Colony at White Pine Canyon Amended Phase II Final Subdivision Plat Adjusting the Boundaries of Lots 52, 53, 54 and 55 Only, according to the official plat thereof, recorded in the official records of Summit County, Utah, on October 6, 2006 as Entry No. 793142.

All of The Colony at White Pine Canyon – Phase 3A Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on December 29, 2000 as Entry No. 579433, as amended by that certain The Colony at White Pine Canyon Phase 3A Final Subdivision Plat Amendment to Lots 110, 111 and Common Area, according to the official plat thereof, recorded in the official records of Summit County, Utah, on March 23, 2007 as Entry No. 807898.

All of The Colony at White Pine Canyon – Phase 3B Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on December 24, 2001 as Entry No. 606728.

All of The Colony at White Pine Canyon – Phase 3C Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on June 10, 2002 as Entry No. 621557, as amended by that certain The Colony at White Pine Canyon First Amended Phase 3C Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on September 20, 2007 as Entry No. 825934.

All of The Colony at White Pine Canyon Phase 4A Final Subdivision plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on March 1, 2006 as Entry No. 770208, as amended by that certain The Colony at White Pine Canyon Phase 4A

Amendment to Lots 161 & 163, according to the official plat thereof, recorded in the official records of Summit County, Utah, on May 6, 2008 as Entry No. 843740, and as amended by that certain The Colony at White Pine Canyon Phase 4A Amendment to Lots 155, 158, 159, & Parcel A, according to the official plat thereof, recorded in the official records of Summit County, Utah, on August 20, 2008 as Entry No. 852909, and as amended by that certain The Colony at White Pine Canyon Phase 4A Amendment to Combine Lots 158 & 160, according to the official plat thereof, recorded in the official records of Summit County, Utah, on September 11, 2009 as Entry No. 882141.

All of The Colony at White Pine Canyon Phase 4B Final Subdivision Plat, according to the official plat thereof, recorded in the official records of Summit County, Utah, on September 20, 2007 as Entry No. 825931, as amended by that certain The Colony at White Pine Canyon Phase 4B Subdivision Amendment to Lots 220 & 221, according to the official plat thereof, recorded in the official records of Summit County, Utah, on June 27, 2008 as Entry No. 848394, and as amended by that certain The Colony at White Pine Canyon Phase 4B Subdivision Amendment to Lots 206, 207 & 214, 215, according to the official plat thereof, recorded in the official records of Summit County, Utah, on August 20, 2008 as Entry No. 852910, and as amended by that certain The Colony at White Pine Canyon Phase 4B Subdivision Amendment to Lots 182 & 183, according to the official plat thereof, recorded in the official records of Summit County, Utah, on August 5, 2009 as Entry No. 879569.

All of The Colony at White Pine Canyon Phase 4D Subdivision, according to the official plat thereof, recorded in the official records of Summit County, Utah, on March 15, 2010 as Entry No. 894023.

CWPC-1-AM
CWPC-1-A-AM
CWPC-2-AM
CWPC-3-AM
CWPC-5-6-AM
CWPC-6-5-AM
CWPC-5-AM
CWPC-6-AM
CWPC-7-EA-7-AM
CWPC-7-EA-A-AM
CWPC-7-EA-B-AM
CWPC-7-EA-C-AM
CWPC-7-EA-D-AM
CWPC-7-EA-E-AM
CWPC-8-AM
CWPC-9-AM
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CWPC-29-AM
CWPC-29-A-AM
CWPC-30-AM
CWPC-30-A-AM
CWPC-CA-IMP
CWPC-SKI-AM
CWPC-A
CWPC-IB-6B
CWPC-IB-6C
CWPC-IB-SKI
CWPC-IC-6A

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CWPC-II-31
CWPC-II-32
CWPC-II-33
CWPC-II-33-A
CWPC-II-34
CWPC-II-35
CWPC-II-36
CWPC-II-37
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CWPC-II-79
CWPC-II-80
CWPC-II-OS
CWPC-II-SKI
CWPC-II-SKI-1
CWPC-II-SKI-1-AM
CWPC-II-SKI-2

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CWPC-3A-81
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CWPC-3A-83
CWPC-3A-84
CWPC-3A-85
CWPC-3A-86
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CWPC-3A-110-A
CWPC-3A-111
CWPC-3A-111-AM
CWPC-3A-112
CWPC-3A-113
CWPC-3A-A-AM
CWPC-3A-SKI

CWPC-3B-114
CWPC-3B-115
CWPC-3B-116
CWPC-3B-117
CWPC-3B-117-A
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CWPC-3B-121
CWPC-3B-122
CWPC-3B-123

CWPC-3C-124-1AM
CWPC-3C-126-1AM
CWPC-3C-127-1AM
CWPC-3C-128-1AM
CWPC-3C-128-ADJ
CWPC-3C-130-1AM
CWPC-3C-131-1AM
CWPC-3C-132-1AM
CWPC-3C-135-1AM
CWPC-3C-136-1AM

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CWPC-3C-137-1AM
CWPC-3C-138-1AM
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CWPC-3C-141-1AM
CWPC-3C-142-1AM
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CWPC-3C-B-1AM

CWPC-4A-154
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CWPC-4A-181
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CWPC-4A-A-AM
CWPC-4A-B

CWPC-4B-182
CWPC-4B-182-AM
CWPC-4B-183
CWPC-4B-184
CWPC-4B-185
CWPC-4B-186
CWPC-4B-187
CWPC-4B-206
CWPC-4B-206-AM
CWPC-4B-207
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CWPC-4B-212
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CWPC-4B-219
CWPC-4B-220
CWPC-4B-220-AM
CWPC-4B-221
CWPC-4B-221-AM
CWPC-4B-A
CWPC-4B-B

CWPC-4D-208
CWPC-4D-209
CWPC-4D-210
CWPC-4D-253
CWPC-4D-254
CWPC-4D-256