

DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS

FOR

PINEBROOK SUBDIVISION NO. 15 (EAGLE RIDGE)

A WALDEN CUSTOM HOMES, NEW HOME COMMUNITY

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ALAN SPRIGGS, SUMMIT COUNTY RECORDER
1996 FEB 23 10:35 AM FEE \$160.00 BY DMG
REQUEST: FIRST AMERICAN TITLE CO UTAH

Return Recorded Documents to:
Pinebrook 15 L.C.
2469 East Fort Union Blvd. #105.
Salt Lake City, Utah 84121

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DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS

FOR

PINEBROOK SUBDIVISION NO. 15 EAGLE RIDGE

A WALDEN CUSTOM HOMES, NEW HOME COMMUNITY

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this 12 day of Feb, 1996, by Pinebrook 15 L.C., 2469 East Fort Union Blvd. #105, Salt Lake City, Utah 84121 (hereinafter referred to as "Declarant").

RECITALS

1. WHEREAS, Declarant, is the owner of the following described real property situated in Summit County, State of Utah, more particularly described in Exhibit "A" attached hereto and incorporated herein; and

2. WHEREAS, Declarant intends to subdivide, record and establish a subdivision within the boundaries of the above property to be known as Pinebrook Subdivision No. 15 (hereinafter referred to as "Eagle Ridge"); Eagle Ridge is part of a larger residential, commercial and recreational development known as PINEBROOK situated in Summit County, State of Utah (hereinafter referred to as the "Development") which now includes and will in the future include several residential subdivisions, multi-family dwelling communities, commercial areas and other resort and recreational facilities. The Development is described in Exhibit "B", attached hereto and by reference made a part hereof; and

3. WHEREAS, Declarant desires to place certain conditions, covenants and restrictions on Eagle Ridge as part of the plan for the improvement and for the benefit of the development and Eagle Ridge and for the protection and benefit of Declarant and any and all future owners in Eagle Ridge or the Development; and

4. WHEREAS, Declarant may desire to expand Eagle Ridge development to include additional land and areas beyond the boundaries of the property described herein and include such expansions under this Declaration; and

5. WHEREAS, Declarant intends to execute, acknowledge and record in the office of the County Recorder of Summit County, State of Utah, a certain survey and plat map pertaining to Eagle Ridge, entitled "Pinebrook Subdivision No. 15 (Eagle Ridge)".

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NOW THEREFORE, Declarant hereby declares that Eagle Ridge is held and shall be held, conveyed hypothecated, encumbered, leased, rented, used, occupied, or improved subject to the following limitations, restrictions, covenants, conditions, and easements, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of Eagle Ridge and expansions thereof and the Development, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of Eagle Ridge, any expansions of Eagle Ridge,

the Development and every part thereof. These limitations, restrictions, covenants, conditions and easements shall run with Eagle Ridge and any additions or expansions thereto, and shall be binding on all parties having or acquiring any right title or interest in Eagle Ridge or any part thereof shall inure to the benefit of each Owner thereof and to the benefit of Declarant or its successors or assigns any future owners of Eagle Ridge or the Development. The limitations, restrictions, covenants, conditions and easements shall further constitute a servitude in favor of each parcel of land included within Eagle Ridge or within the Development as the dominant tenement or tenements, except as otherwise provided herein.

ARTICLE I

DEFINITIONS

Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings as set forth in this Article I.

1.1 Declarant shall mean Pinebrook 15 L.C. and/or any of its successors or assigns which may acquire ownership of Eagle Ridge or any parts thereof and where Pinebrook 15 L.C. delegates or otherwise assigns its rights hereunder.

1.2 Development shall mean certain land situated in Summit County, State of Utah, and more particularly described in Exhibit "B" hereof.

1.3 Grantee shall mean any person receiving a conveyance, whether as an owner, lessee or mortgagee, of any lot or parcel of land within Eagle Ridge or any additions thereto.

1.4 Lot shall mean any parcel of property shown as a separate numbered lot on any recorded Plat of Eagle Ridge, or any addition thereto and any other parcels referred to therein.

1.5 Mortgage shall mean any mortgage, deed of trust, or other security instrument by which a Lot or any parcel within Eagle Ridge is encumbered.

1.6 Mortgagee shall mean (a) any person named as the mortgagee, beneficiary, or secured party under any Mortgage by which the interest of any Owner is encumbered, or (b) any successor to the interest of such person under such Mortgage.

1.7 Owner shall mean and refer to the person or persons (including Declarant) whether one or more person or entities, owning in fee simple any Lot or parcel of land which is a part of Eagle Ridge, including contract sellers and buyers, as such ownership is shown by the records of the County Recorder of Summit County, State of Utah, but excluding those having such interest solely as security for the performance of an obligations.

1.8 Residence shall mean any single-family dwelling unit

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constructed and maintained on a Lot within Eagle Ridge in compliance with the standards as set forth herein.

1.9 Eagle Ridge shall mean the property described in the above Recitals, Recital No. 1, and any additional subdivisions or parcels designated by Declarant in a recorded instrument to be a part of Eagle Ridge and subject to this declaration, and including any property annexed under the provisions of Article IV herein.

ARTICLE II

FUTURE DEVELOPMENT

2.1 Consent and Acknowledgement of Consent Agreement and Zoning Changes. The property to be conveyed for Eagle Ridge will be comprised of one or more subdivision projects which will be located within the Development. The developers of the land described in Exhibit "B", (surrounding Eagle Ridge) intend the development of single-family dwellings, multiple-family dwellings, commercial areas including but not limited to duplexes, four-plexes, apartments, condominiums, motels, hotels shopping centers, retail outlets, service stations, theaters, restaurants, professional buildings, and the like, all within the Development. The acceptance by any Grantee of a Lot or any part or parcel of Eagle Ridge after recording of this Declaration shall constitute a covenant and agreement by such Grantee to execute any and all instruments requested by Declarant, its successors or assigns, or other owners within the Development to obtain zoning changes needed for such development and Grantee shall not object to any zoning change requested.

2.2 Changes in Plans of Declarant. Declarant reserves the right to change at any time its plans and uses for Eagle Ridge, and the bounds and area of property within Eagle Ridge, provided such change will not adversely affect the access to Eagle Ridge and that such change will be approved by and is in accordance with, the various county, state, and/or federal regulations controlling use of the Development.

2.3 No Amendment. The conditions and covenants set forth in this Article II may be amended, changed or waived only by the express written action of Declarant or its successors or assigns, notwithstanding any other provision of this Agreement.

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ARTICLE III

COVENANTS TO RUN WITH LAND, AMENDMENTS

3.1 Binding Effect. The limitations, restrictions, covenants and conditions set forth herein shall run with Eagle Ridge and shall be binding on any Grantee acquiring any interest in Eagle Ridge or any part thereof for the benefit of all Grantees acquiring any interest in Eagle Ridge or any part thereof and for the benefit of Declarant and its successors and assigns.

3.2 Period of Effectiveness. The covenants, conditions, and restrictions described herein shall be binding for a period of forty (40) years from the date hereof at which time said conditions, covenants, and restrictions shall be automatically renewed for successive periods of ten (10) years unless prior to any automatic renewal date, by a vote of a majority of the then Owners of Eagle Ridge, it is agreed to change any of said restrictions, covenants, and conditions in whole or in part. The above time limitation shall not apply to any easements to be retained or reserved herein by Declarant, which easements, with all of their terms and conditions to use and maintenance shall run with Eagle Ridge as a permanent servitude.

3.3 Right to Amend. For so long as Declarant owns at least one-ninth (1/9) of all the Lots or other parcels within Eagle Ridge, including any additions thereto and any property properly annexed, Declarant retains the right to waive or amend any restriction, covenant, condition or easement, in its absolute discretion, including rights to enforce such restrictions, covenants, conditions or easements. Declarant shall have the right to assign this right to waive or amend to any of its successors or assigns by a written Declaration recorded with the Summit County Recorder's Office, and this right shall continue for so long as such successors or assigns shall continue to own the foregoing proportionate interest in Eagle Ridge. Such waiver or amendment shall be in writing and may be recorded. No amendment placed into effect by Declarant shall create additional limitations, restriction, covenants, conditions or easements.

ARTICLE IV

ANNEXATION OF ADDITIONAL PROPERTY

4.1 Annexation Without Approval and Pursuant to General Plan. Any property within the Development may be annexed to and become part of Eagle Ridge and subject to this Declaration without the approval, consent or vote of any Owner, Grantee, Mortgagee, or Lessee providing and on condition that a Supplementary Declaration of Restrictive Covenants and Conditions describing the property to be annexed shall be executed and recorded by Declarant, or its successors and assigns, and/or the owner of the property to be annexed. The recordation of said Supplementary Declaration with the Summit County Recorder shall constitute and effectuate the annexation of the property described therein, making said property subject to his Declaration and all of its restrictions, covenants, conditions and easements.

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4.2 Annexation Pursuant to Approval. Upon approval in writing of the Owners within Eagle Ridge, including Declarant, pursuant to a two-thirds majority vote of those present at a meeting for this purpose that has been duly called, any owner or owners of single-family residential property and/or property for the common use of owners of such residential property who desire to add such property to this Declaration and to subject such property to this Declaration, may file or record a Supplementary Declaration describing the property to be annexed; except that, for so long as Declarant owns at least one-ninth (1/9) of all the Lots or other parcels within Eagle Ridge, including any additions thereto and any property properly annexed, Declarant,

its successors or assigns, shall also have the right to file, of record, a Supplementary Declaration.

4.3 Supplementary Declarations. The additions authorized under the foregoing Sections shall be made by filing of record a Supplementary Declaration of Restrictive Covenants and Conditions, or similar instrument, with respect to the additional property which shall extend the plan and covenants and restrictions of this Declaration to such property.

Such Supplementary Declarations contemplated above may contain such complementary additions and modifications of the Declaration as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplementary Declaration revoke, modify or add to the covenants, conditions, or restrictions established by this Declaration for Eagle Ridge, except as herein otherwise provided.

The recording of said Supplementary Declaration with the Summit County Recorder shall constitute and effectuate the annexation of the property described therein, and shall cause such property to be subject to this Declaration.

ARTICLE V

EASEMENTS AND RESERVATIONS

5.1 Utility. Declarant intends to retain in all future conveyances by Declarant, by reference to this Declaration of Restrictive Covenants, and Conditions, and easement for the use and benefit of Declarant, successors or assigns, providing for the installation, construction, maintenance and repair of utilities, including but not limited to, electrical power, gas, sewer, storm drainage, water, water lines, waterways, cable communication, transmission lines, telephone lines, pipelines and all other utility easements over, under or across all areas of Eagle Ridge wherever any such easement may be designated in the recorded plat for Pinebrook Subdivision No. 15 (Eagle Ridge).

5.2 Term for Easements. Notwithstanding the time limitations found elsewhere in this Agreement, Declarant or successors or assigns, shall retain and hold the above-described easements for an unlimited period of time, unless otherwise released and such easements shall constitute a permanent servitude on the land encumbered thereby.

5.3 Maintenance of Easements. Within the easement areas described herein, no structure, planting or other materials shall be placed, constructed, or permitted to remain by any Owner or Grantee, which may change the direction of, or retard the flow of drainage channels in the easement or interfere with the construction or maintenance of improvements within the easement. The easement area across each Lot or other parcel of land shall be maintained by the Owner, except for improvements for which a public authority or utility company is responsible.

5.4 Reservation of Mineral Rights. All oil, gas, coal and other

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minerals and mineral rights on or under Eagle Ridge, together with the right of ingress and egress to prospect for, mine, drill and remove any and all such minerals have been reserved and retained by Gorgoza Pines Ranch, Inc., a Utah Corporation, and all conveyances within Eagle Ridge are and shall be subject to such reservations.

ARTICLE VI

USE RESTRICTIONS

6.1 Intend of Restrictions, Covenants, and Conditions. It is the intend of Declarant that Eagle Ridge is to be conveyed to Grantees for the ownership and maintenance of single-family residential homes. Compliance of all owners with this Declaration is essential to the continued development of Eagle Ridge and the Development and to the maintenance of property values within Eagle Ridge and the Development. It is intended to create an attractive environment for family living with quiet residential streets, well-kept lawns, trees and other landscaping.

6.2 Residential Uses. Each Lot shall be used exclusively for one private, single-family residence and shall be restricted to such use. No Lot shall be used for any business, industrial, or commercial purpose; provided, however, that (a) Declarant or its successors or assigns, may use any Lot or building thereon for sales models, sales offices, or property managements offices, and (b) Owners may rent or lease their lots in accordance with the provisions of this Declaration.

6.3 Restriction on Leasing. No Owner shall lease or rent any Lot with a single family residence thereon for transient or hotel purposes, nor shall any Owner lease less than the entire family residence. If an Owner leases such Owner's single family residence, then the lease shall include or be deemed to include a covenant on the part of the tenant substantially as follows: "Tenant agrees with the landlord and with and for the benefit of Declarant hereunder and all Owners that during the term of this lease, tenant and tenant's family and guests from time to time will use and occupy the premises and all parts of Eagle Ridge in strict compliance with this Declaration, and all rules and regulations from time to time adopted by the Architecture Committee as fully as if tenant were an Owner." As used in this section, the term lease shall include a lease, rental arrangement, license, or other arrangement for third-party use of a Lot and single family residence. The OWNER also agrees to pay all costs incurred by a tenant for water used during the full term of a lease; it being the intend to encourage the tenant to use sufficient water to keep the landscaping well maintained.

6.4 Restriction on Residents. No Lot or single-family residence within Eagle Ridge shall at any time be occupied by more than two (2) persons for each finished bedroom on the main or upper floors within such residence, provided that in no case shall such residence be occupied by more than four (4) adult residents (except this amount may exceeded if such residents include unmarried adult children of the Owner). For purposes of this section, the term resident means any person who resides or occupies a residence for more than

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thirty (30) days in any ninety (90) day period; and the term adult means any person over the age of eighteen (18) years.

6.5 Zoning Regulations. The Lots and other land within Eagle Ridge shall not be occupied or used for any purpose or in any manner which is contrary to the zoning regulations applicable thereto.

6.6 Building Types. The following restrictions shall apply with respect to types of buildings to be erected on Lots or parcels in Eagle Ridge.

(a) Except as provided at paragraph (d) herein, no building shall be erected, altered, placed or permitted to remain on any Lot or parcel other than one detached single-family dwelling.

(b) No single-story dwelling shall be erected or placed on any Lot in the subdivision with floor space in said dwelling of less than 1000 square feet on the ground level, excluding basement, garage, carport and patio.

(c) Two-story dwellings shall have at least 550 square feet on the ground floor level, exclusive of basement, garage, carport and patio, and at least 500 square feet on the second floor level.

(d) All single-family dwellings may include only the following accessory buildings and structures not used for residential occupancy: greenhouses for private use only; private swimming pools; pergolas and arbors; storage shed containing not more than 100 square feet of floor space.

(e) Every single-family dwelling must have a minimum of a two-car garage, which may be attached to or detached from the main residence as approved by the Architecture Committee.

(f) Driveways for single-family dwellings must be large enough to accommodate at least two parked automobiles.

(g) Front yard landscaping and fences shall be consistent with structures existing at the time of conveyance of a residence by Declarant or as approved by the Architecture Committee, which shall include, but shall not be limited to, front and side yard lawns, flower beds, trees and shrubs.

6.7 Building Location. No building shall be located on any Lot nearer than 20 feet to the front Lot line or nearer than 12 feet to the rear Lot line, nor nearer than 12 feet to any side Lot line except by approval of the Architecture Committee, or as may be allowed or restricted by Summit County.

6.8 Height Requirements. No single-family dwelling shall be erected to a height greater than thirty (30) feet as measured from natural grade to peak of roof, for all structures, subject to the developer being able to demonstrate that view corridors are being maintained through appropriate densities and site layout.

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6.9 Recontouring. No lot shall be recontoured in excess of two feet without prior written approval of the Architecture Committee, after the residence has been built on the Lot.

6.10 Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any Owner within Eagle Ridge or to Declarant. No automobile or other vehicle shall be parked in front of, or at the side of any Lot unless it is in running condition, properly licensed, inspected, and regularly used.

6.11 Temporary Structures. No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently. No temporary structure, housetrailer, mobile home, camper, or non-permanent outbuilding shall ever be placed or erected on any Lot except with the approval of the Architecture Committee and only then during construction of a house on a Lot. No residence on any Lot shall be occupied in any manner prior to its completion without the written approval of the Architecture Committee or Declarant. No old or secondhand structures shall be moved onto any of the Lots, it being the intention hereof that all dwellings and other buildings to be erected on the Lots, or within Eagle Ridge, shall be new construction of good quality workmanship and materials. ~~No structure may remain unfinished and under construction for more than 18 months.~~

6.12 Overnight Parking. No vehicle of any kind, including but not limited to, automobiles, trucks, buses, tractors, trailers, camping vehicles, boats, boat trailers, snowmobiles, mobile homes, two and three wheeled motor vehicles, or other wheeled vehicles shall be permitted to be parked on any public street within Eagle Ridge between the hours of 12:00 midnight and 10:00 a.m. of any morning or at any other time when it is snowing within Eagle Ridge.

6.13 Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes. ~~No dog, cat or other household pet shall be allowed to travel within Eagle Ridge except when accompanied by an Owner and on leash or other appropriate restraint. No more than two household pets of any type shall be allowed. Any household pet which shall become annoying or offensive to residence nearby shall be removed upon order of Declarant or the Architecture Committee.~~

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6.14 Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five square feet advertising the Lot for sale or rent, or signs used by a builder or Declarant to advertise the Lot or Lots during any construction and sales period.

6.15 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral

excavations or shafts be permitted upon or in any Lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

6.16 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Such trash, rubbish, garbage or other waste shall not be kept except in sanitary containers and shall be kept out of sight of neighboring Residences. Trash shall be removed on a regular basis. No rubbish, trash, papers, junk or debris shall be burned upon any Lot except that trash may be burned inside Residences that are properly equipped with inside incinerator units.

6.17 Sewage Disposal and Water Supply. No individual sewage-disposal system or water supply system shall be permitted on any Lot.

6.18 No Re-Subdivisions. No Lot shall be re-subdivided, and only one single family residence shall be constructed or allowed to remain on any Lot.

6.19 Underground Utility Lines. All water, gas, electrical, telephone and television cables, other electronic pipes and lines and all other utility lines within the limits of Eagle Ridge must be buried underground and may not be exposed above the surfaces of the ground unless otherwise directed by Declarant in the recorded Plats for Eagle Ridge as provided under Article V of this Declaration.

6.20 Maintenance of Landscaping. All Lots and all improvements on any Lot shall be kept and maintained by the Owner thereof in clean, safe, attractive and slightly condition and good repair. This shall include re-painting all exterior wood surfaces once every 24 months. All landscaping, grass, trees and shrubs shall be maintained in a clean, safe attractive and groomed condition. All Lots must be fully landscaped including an automatic sprinkling system within 24 months after completion of the residence.

6.21 No Hazardous Activities. No activities shall be conducted on any Lot and no improvements constructed on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot, and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit which is attended and in use for cooking purposes.

6.22 Dwelling Construction and Fence Restrictions. In order to promote a harmonious community development and protect the character of the neighborhood, all construction in Eagle Ridge shall conform to the following guidelines:

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(a) Dwelling style, design, alterations or additions will conform to standards determined by the Architecture Committee.

(b) Exterior construction materials will be limited to stone, stone veneer, reformed natural stone, brick or brick veneer, wood siding, manufactured wood siding, stucco or aluminum. Specifications regarding the

color, texture, finish and quality for the above may be posted and made available by the Architecture Committee or determined at the time plans are reviewed.

(c) Roof design shall be limited to a minisua of 4/12 pitch.

(d) All storage or utility buildings, garbage and refuse containers, air conditioning equipment, clothes drying lines, and utility pipes, etc. must be located at the rear of the dwelling and located on the Lot in such a manner as not to be conspicuous from the frontage street.

(e) Any lights to be installed by an Owner and used to illuminate garages, patios, parking areas or for any other purpose shall be arranged as to reflect light way from adjacent Residences and away from the vision of passing motorists.

(f) Fences and walls shall be of wood or brick. No fence or walls of chain link, wire mesh or unpainted concrete block shall be allowed. Fences, walls or hedges shall not exceed six feet. All lots with fences backing Pinebrook Road shall not have gated access to Pinebrook Road and are responsible for maintenance by homeowner. Grass clippings, Christmas trees or other rubbish shall not be placed over fence.

6.23 Off Road Vehicles. No automobiles, trucks, motorcycles, trail bikes, snowmobiles, four wheel drive vehicles or vehicles of any kind shall be operated on any Lot or on any of Declarant's property wherever the same may be situated on any place on Eagle Ridge or within the Development other than on the public roadways.

6.24 Private Area Uses, Restrictions. The Architecture Committee or its duly authorized agents, shall have the right, at any time, and from time to time, without any liability to the Owner for trespass or otherwise, to enter upon any private area for the purpose (a) of removing any improvement constructed, reconstructed, refinished, altered, or maintained upon such private area in violation of these covenants, (b) of restoring or otherwise reinstating such private areas, and (c) of otherwise enforcing without any limitation, all of the restrictions set forth in this Declaration. No improvement, excavation or other work which in any way alters any Lot or Residence from its natural or improved state existing on the date such Lot or Residence was first sold to an Owner by Declarant or its successors and assigns shall be made or done except upon strict compliance with this Declaration.

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6.25 Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Lots as adopted from time to time by the Architecture Committee. No such rules and regulations shall be established which violate the intention or provisions of this Declaration or which shall unreasonably restrict the use of any Lot by the Owner thereof.

6.26 Construction Practices. It is agreed between the developer of Eagle Ridge, and the Eagle Ridge Home Owners Association, that the following construction and development practices shall prevail:

(a) Portable toilet facilities will be available and construction workers will be encouraged to use those facilities.

(b) Dust control measures will be taken as required, i.e., periodic street sweeping, road spraying as water is available, secondary construction access into development site.

(c) Fencing along Pine Brook Road, and the sideyard fencing between homes be continued with the same design and color, to provide the uniformity and consistency of a well designed neighborhood. That fencing along Pinebrook Road be landscaped by the developer on the street side of the fence, and that the fence is to be maintained by the individual lot owner whose lot backs onto the fence, and the landscaping on the road side of the fence is to be maintained by the Home Owners Association.

(d) The builder shall develop and maintain until the last home in Pinebrook 15 is sold and closed to the buyer, a pocket park as per the plans and specifications filed with Summit County. At the conclusion of the last closing of the last lot in Pinebrook 15 to a retail buyer, the Home Owners Association shall be responsible for the maintenance and upkeep of the pocket park.

(e) The developer will establish a formal entrance into the Eagle Ridge Community at the intersection of Pine Brook Road and Springshire Drive.

(f) The developer will strive to evolve new home plans that will be consistent with the present community, that will also allow for home and garage placement that will eliminate new homes being excessively higher than neighboring homes.

(g) The developer will establish a refuse system for each home under construction and will endeavor to bring each subcontractor into compliance with the proper use of that system, thus eliminating most debris that can and does accumulate in finished yards and common areas.

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(h) Subcontractors will be instructed that (1) their dogs are prohibited in the community; (2) foul and abusive language will not be tolerated; (3) they are responsible for waste left on the job site, including lunchwrappers, etc., and shall have monetary deductions from their contracts for offenses; (4) Sunday work is undesirable; (5) Excessive noise will not be tolerated before 9:00 AM on Saturday; (6) Heavy land development equipment shall work consistently only Monday through Friday 8:00 AM to 5:00 PM, and on Saturdays only in emergency situations, and never past 5:00 PM on any day without prior notification giving the reasons and duration of operation to the Architectural Committee (This precludes the occasional operation of light backhoes and tractors used in the home construction business, however every attempt will be made to limit their use as outlined above); (7) Any blasting that will be necessary will be noticed with signs in the community, the Architectural Committee will be notified, and shortly before any blast, a siren will be operated to notify residents of the eminent blast. All blasting will be performed by licensed and bonded individuals who are trained and inspected by state agencies; (8) to use the construction entrance whenever possible and

when driving through the community, to drive slowly and safely.

ARTICLE VII

ARCHITECTURE CONTROL

7.1 Architecture Committee. In order to minimize the disruption to the natural land forms and vegetation cover, and to provide harmony in the design, contour, shape and general character of improvements, both within Eagle Ridge and within the Development, and to provide that the landscape and the improvements on Eagle Ridge be maintained for the preservation of a clean, attractive and safe environment, an Architecture Committee may be established by Declarant or successors which it may appoint in accordance with this Declaration of Restrictive Covenants and Conditions, and upon written notice of the creation thereof to Owners. The Architecture Committee, if established, shall consist of three (3) members. Members of the Architecture Committee need not be Owners. Prior to establishment of the Architecture Committee, Declarant shall have all powers granted herein to the Architecture Committee.

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7.2 Approval of Architecture Committee. As a further restriction on the use of Lots and other property within Eagle Ridge, and notwithstanding any other provision of this Declaration, no improvements of any kind, including but not limited to, swimming pools, ponds, parking areas, fences, walls, tennis courts, garages, storage sheds, drives, antennae (including satellite dishes), flag poles, curbs, walks, landscaping, utilities, or any other improvement of whatever nature, shall ever be installed, constructed, rebuilt, modified, removed, replaced, or permitted to remain on or in any part of Eagle Ridge nor shall any excavating, clearing, removal of trees, or shrubs, or landscaping be performed on or in any part of Eagle Ridge, unless the complete plans and specifications therefor are approved by Declarant, or successors it may designate, or by the Architecture Committee, if established, prior to the commencement of such work. However, approval shall not be required for any improvements of landscaping or other such work unless the cost of such work shall exceed the sum of \$200 so long as this exclusion is not used to circumvent the general terms of this Declaration of Restrictive Covenants and Conditions. In deciding whether to grant such approval, Declarant, or successors it may designate, or the Architecture Committee, if established, shall consider the structures, including exterior colors, harmony of external design with existing structures, within Eagle Ridge and the Development, location with respect to topography and finished grade elevations and harmony of landscaping with the natural setting and surrounding landscape, and shall ascertain whether the architecture, design and specifications of the proposed modifications of improvements to be constructed or installed on the premises and whether all such improvements, modifications, removals or replacements are consistent with the original design for and appearance of Eagle Ridge and the Development and consistent with all governmental regulations. To obtain

such approval, one complete copy of the plans and specifications shall be signed for identification and delivered to the Declarant, or successors it may designate, or to the Architecture Committee, if established. In the event the Declarant, or successors it may designate, or the Architecture Committee, if established, fails to take any such action within twenty-one (21) days after complete plans for such work have been submitted to it, then all of such submitted plans shall be deemed to be approved.

7.3 Deviations From Standards. The Architecture Committee, if established, or if not established then the Declarant, or successors it may designate, in its absolute discretion, shall have the authority to deviate from the requirements contained herein in extenuating circumstances, when following these covenants would create an unreasonable hardship or burden for any Owner of part or all of Eagle Ridge. An affirmative vote of a majority of the members of the Architecture Committee must be obtained for a variance to be granted or to approve any plans submitted to it. The Architecture Committee shall not vote to allow deviation beyond governmental restrictions.

7.4 Insufficient Plans. Declarant or the Architecture Committee, if established, may disapprove any plans submitted to it which are not sufficient to allow for review and evaluation of the proposed project in terms of the restrictions and covenants set forth in this Declaration.

7.5 Liability of Architecture Committee. Neither Declarant nor the Architecture Committee shall be liable in damages to any person submitting any plans for approval, or to any Owner by reason of its action, failure to act, approval, disapproval, or failure to approval or disapprove, any such plans submitted to it with regard to the enforcement of the provisions of this Declaration. Any Owner who submits plans to Declarant, or successors it may designate, or the Architecture Committee if established, for approval, by so doing shall be deemed to have agreed and covenanted that such person or entity will not bring any action or suit to recover damages against Declarant, its successors, or the Architecture Committee, if established, its members as individuals, or its advisors, employees, or agents. The decision of the Architecture Committee shall be final, binding and conclusive on all of the parties affected thereby.

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7.6 Change of Boundaries. Declarant reserves the right to change at any time the bounds and area of any Lot owned by it provided such change does not adversely affect the access to any Lot sold to a third party, and that such change has been approved by and is in accordance with, the various county, state and/or federal regulations controlling Eagle Ridge.

7.7 Non-Waiver. The approval of the Architecture Committee of any plans, drawings or specifications for any work done or proposed, or in connection with any other matter, requiring the approval of the Architecture Committee under these restrictions, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additionally submitted for approval. Upon approval or disapproval of the plans by the Architecture Committee, one set of plans shall be retained by the Architecture Committee.

7.8 Architecture Committee Rules. The Architecture Committee may, from time to time and in its sole discretion adopt, amend and repeal by majority vote, rules and regulations to be known as "Architecture Committee Rules" which, among other things interpret or implement the provisions of this Article VII. A copy of the Architecture Committee Rules as they may from time to time be adopted, amended or repealed, certified by any member of the Architecture Committee shall be available from the Architecture Committee.

7.9 Expenses of Committee. The Architectural Committee may set any charges or fees as it may deem reasonable which shall be paid by any Owner requesting a review of plans or specification in advance. Such charges or fees shall pay for the time of committee members and/or any professionals engaged to review plans and specifications.

7.10 Actions of committee. All actions taken by members of the Architectural Committee shall be by majority vote of committee members unless otherwise provided herein.

7.11 Establishment of Committee and Meetings. For so long as Declarant owns one-ninth (1/9) or more of the Lots or other parcels of land within Eagle Ridge, Declarant shall have the right to elect at least two of the members of the Architectural Committee. Declarant may act for and in behalf of the Home Owners Association to enforce the terms of this Declaration at any time for so long as Declarant owns any interest in Eagle Ridge or the Development. The Architectural Committee shall be elected by a majority of votes of Owners appearing in person or by proxy at a meeting called for that purpose. Members of the Architectural Committee shall serve for a period of two (2) years or until their successors are elected. Members of the association may be removed at any time by a majority of votes of Owners appearing in person or by proxy at a meeting called for that purpose; provided, that a member of the Architectural Committee may not be removed against the wishes of Declarant, if Declarant, pursuant to this Section 7.11 could elect said member.

A meeting of Owners may be called at any time by Declarant, the Architectural Committee or Owners of at least ten percent (10%) of the Lots within Eagle Ridge, upon fifteen (15) days written notice to all Owners and to Declarant and the Home Owners Association. Notice may be given by mail or by personal delivery to each Lot or to the residence of each Owner.

7.12 Rights of Architectural Committee to Enforce. Declarant, or the Architectural Committee, if established, shall have the right to act as attorney-in-fact for all Owners and to enforce all rights, duties and powers of Owners or Declarant under this Declaration. Declarant, or the Architectural Committee, if established, shall have the power to make assessments and create liens against the Lots where appropriate and in accordance with this Declaration.

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ARTICLE VIII

COVENANT FOR MAINTENANCE ASSESSMENTS

8.1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner, by acceptance of a real estate contract or deed for any Lot, whether or not it shall be so expressed in any such contract or deed, is deemed to covenant and agree to pay such assessments as may be fixed, established and collected from time to time as hereinafter provided. The assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment was made. The personal obligation shall not pass to Owner's successors in title unless expressly assumed by them.

8.2 Purpose of Assessments. The assessments levied hereunder shall be used exclusively for the purpose of promoting the health, safety and welfare of the Owners and Declarant, in particular, for the continued maintenance of Lots within Eagle Ridge, and services and facilities devoted to this purpose. Assessments may be made against Owners for services provided for the maintenance of any Lot where such Owner fails to maintain the Lot or any improvements thereon in accordance with this Declaration. Any costs or expenses incurred by Declarant, the Home Owners Association, or any Owner, including attorney's fees, may be assessed by the Home Owners Association against the Lot and Owner as provided herein, where such costs or expense was incurred in enforcing the provisions of this Declaration, and the Owner to whom the assessment was made was in breach of this Declaration.

8.3 Assessments. This amount and time of payment of assessments shall be determined by the Home Owners Association after giving due consideration to the current maintenance costs and needs and the specific maintenance problems to be dealt with. Written notice of the amount of an assessment shall be sent to the Owner or Owners affected thereby and the due date for the payment of same shall be set forth in said notice.

ARTICLE IX

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NON-PAYMENT OF ASSESSMENTS

9.1 Delinquency. Any assessment provided for in this Declaration, which is not paid when due, shall be delinquent. If any such assessment is not paid within fifteen (15) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twenty-one percent (21%) per annum, and a late charge shall be assessed equal to five percent (5%) of the assessment. The Home Owners Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or, upon compliance with the notice provisions set forth in Section 9.2 hereof, to foreclose the lien (provided for in Article VIII hereof) against the Lot, and there shall be added to the amount of such assessment the late charge, interest, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee, together with the costs of action.

Each Owner vests in the Home Owners Association or its assigns, the right and power to bring all actions at law or in equity or lien foreclosure against all proper parties for the collection of such delinquent assessments.

9.2 Notice of Lien. No action shall be brought to foreclose said assessment lien or to proceed under the power of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered to the Owner of said Lot.

9.3 Foreclosure Sale. Any such foreclosure and subsequent sale provided for above is to be conducted in accordance with the laws of the State of Utah relating to the foreclosure of mortgages. The Home Owners Association, through its duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

9.4 Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was filed by the Home Owners Association, the Home Owners Association is hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Home Owners Association, to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred to that date and to pay for time spent by members of the Home Owners Association up to the time of cure.

9.5 Cumulative Remedies. The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Home Owners Association and all Owners may have hereunder and by law, including a suit to recover a money judgement for unpaid assessments, as above provided.

ARTICLE X

MORTGAGEE PROTECTION

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10.1 Notice to Mortgagee. From and after the time a Mortgagee makes written request to the Home Owners Association therefor, the Home Owners Association shall notify such Mortgagee in writing in the event that the Owner of the Lot encumbered by the Mortgage held by such Mortgagee neglects for a period of sixty (60) days or more to cure any failure on the part of such Owner to perform any of Owner's obligations under this Declaration.

10.2 Subordination of Assessment Lien. The lien or claim against a Lot for unpaid assessments or charges levied by the Home Owners Association pursuant to this Declaration shall be subordinate to a prior recorded Mortgage affecting such Lot. A Mortgagee who comes into possession of the Lot pursuant to a Mortgage or a deed or assignment in lieu of foreclosure shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges

which accrue after recordation of the Mortgage and prior to foreclosure of the Mortgage, exercise of power of sale available thereunder, or deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not a burden to a Mortgagee coming into possession pursuant to his Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced against a Mortgagee, a successor in title to a Mortgagee, or the lot affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in such Lot).

ARTICLE XI

WATER COMPANY ASSESSMENTS

11.1 Creation of the Lien for Water Company and Personal Obligation for Water Assessments. Each Owner or the Owner's successors and assigns, by acceptance of a real estate contract or deed for a Lot, whether or not it shall be so expressed in any such contract or deed, is deemed to covenant and agree to pay the Gorgoza Mutual Water Company hereafter "Water Company" or its successors or assigns: (a) regular assessments or charges for water services; (b) special assessments for capital improvements and other purposes, such assessments to be fixed, established and collected from time to time as hereinafter provided, and (c) other expenses incurred by the Water Company. The regular and special assessments and expenses together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment or charge fell due. The personal obligation shall not pass to such Owner's successor in title unless expressly assumed by them and approved by the Water Company. No membership in the Water Company may be transferred to a subsequent Lot Owner until all due charges, assessments, interest and penalty charges have been paid in full.

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11.2 Purpose of Assessments. The assessments levied by the Water Company shall be used for providing potable water to the Owners and to construct, build and maintain an adequate supply and an adequate water system for the health, safety, security and welfare of the Owners, including, but not limited to, water for fire protection and the like.

11.3 Regular Assessments. The amount and time of payment of regular assessments shall be determined by the Board of Directors of the Water Company pursuant to the Bylaws, costs, and future needs of the Water Company. Written notice of amount of an assessment, regular or special, shall be sent to every Owner, and the due date for the payment of same shall be set forth in said notice, in accordance with the provisions of Utah law regarding assessable stock.

11.4 Special Assessments for Capital Improvements. In addition to the regular assessments, the Water Company may levy in any fiscal year, special assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement within the water system.

11.5 Uniform Rate of Assessment. Except as otherwise provided herein, both regular and special assessments shall be fixed at a uniform rate for each Lot, plus an additional charge based upon actual usage of water by an Owner, and may be collected on a monthly, quarterly or annual basis as determined by the Board of Directors of the Water Company. Declarant or its successor in interest, for all purposes shall not be considered an Owner unless or until Declarant actually constructs a building on a Lot which becomes occupied by residents and shall not be subject to assessment by the Water Company until considered an Owner.

11.6 Date of Commencement of Regular Assessments and Fixing Thereof. The regular assessments provided for herein shall commence as to all Lots on the first day of the month following the closing of the first Lot sold by Declarant or its successors or assigns.

11.7 Certificate of Payment. The Water Company shall, upon demand, furnish to any Owner liable for said assessments, a certificate in writing signed by an officer of the Water Company, setting forth whether the regular and special assessments on a specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

11.8 Assessments and Liens Not Exclusive. The right of assessment and lien provided herein shall not be the exclusive remedy of the Water Company nor shall these provisions limit or restrict the rights of the Water Company to make other charges, assessments or perform its services in any degree. This shall not impose a continuing duty on the Water Company to provide water service or any specific level or degree of service. Simultaneous with its assessment or charge of lien, the Water Company may pursue the sale of membership stock, personal actions against the Owner and the remedies provided herein until obligations to the Water Company are fully satisfied.

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11.9 Delinquencies and Method of Payment. Any assessments and charges allowed under this Article XI shall be paid in accordance with the rules, regulations, Bylaws and assessments of the Water Company. The Water Company may include in such assessments a date for delinquency, late payment charges, interest charges at rates it shall determine, and its costs and expenses incurred in collection of delinquent amounts, including attorney's fees.

11.10 Notice of Lien. No action shall be brought the Water Company to foreclose any assessment lien or to proceed under the power of sale herein

provided less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, addressed to the Owner of said Lot and such notice is recorded in the Summit County Recorder's Office.

11.11 Foreclosure Sale. If the unpaid charges are not paid within the cure period provided for in Section 11.10 above, foreclosure of the lien against the Lot or other property shall be allowed. Any such foreclosure and subsequent sale provided for is to be conducted in accordance with the laws of the State of Utah relating to foreclosure of mortgages. The Water Company, through its duly authorized agents, shall have the power to bid on the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

11.12 Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was filed by the Water Company, the officers of Water Company are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting owner of a reasonable fee to be determined by the Water Company to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

11.13 Subordination of Assessment and Charge Liens. If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a first mortgage or first deed of trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such first mortgage or first deed of trust; and (2) the foreclosure of the lien of a first mortgage or deed of trust shall extinguish the lien of assessments which were due and payable prior to such foreclosure or conveyance in lieu of foreclosure. However, no foreclosure or acceptance of a deed in lieu of foreclosure shall relieve the new Owner, whether it be the former beneficiary of the first encumbrance or another person, for liability for any assessments thereafter becoming due, or from the lien thereof.

ARTICLE XII

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EAGLE RIDGE HOME OWNERS ASSOCIATION

12.1 Membership. Each owner of a Lot within Pinebrook Subdivision No.15 (Eagle Ridge) (sometimes hereinafter referred to collectively as "Eagle Ridge"), shall be deemed to be a member (hereinafter referred as "Member"), of the Eagle Ridge Home Owners Association (hereinafter referred as "Association"). Memberships in the Association shall not be assignable except to the successor in interest of the Lot(s) and memberships in the Association shall be appurtenant to and may not be separated from the fee ownership of the Lot(s). Ownership of a Lot shall be the sole qualification for membership in the Association. The Association membership held by any Owner of a Lot shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of said Lot, and then only to the purchaser or purchasers of said Lot. Any attempt to make prohibited transfer is void and

will not be reflected upon the books and records of the Association. In the event of an Owner of a Lot shall fail or refuse to transfer the membership registered in this name to the purchaser of the said Lot, upon the transfer of fee title thereto, the Board of Trustees of the Association shall have the right to record the transfer upon the books of the Association.

12.2 Voting. Each Member shall be entitled to one (1) vote for each Lot owned by said Member. When more than one (1) person holds such interest or interests in any Lot ("Co-Owner"), all such Co-Owners shall be members and may attend any meetings of the Association, but only one such Co-Owner shall be entitled to exercise the vote to which the jointly owned Lot is entitled. Such Co-Owners may, from time to time, designate in writing one of their number to vote. The vote for each Lot shall be exercised, if at all, as a unit. Where no voting Co-Owner is designated or if such designation has been revoked, the votes for such Lot shall be exercised as the majority of the Co-Owners of the said Lot mutually agree. Unless the Board of Trustees of the Association receive a written objection from a Co-Owner, it shall be conclusively presumed that voting Co-Owner is acting with the consent of his or her Co-Owner. No votes shall be cast for any Lot where the majority of the Co-Owners of said parcel present in person or by proxy cannot agree to said votes or other action. The non-voting Co-Owner or Co-Owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or by the Bylaws of the Association shall be deemed to be binding on all Owners, their successors and assigns. Said voting rights shall be subject to the restrictions and limitations provided in the Declaration and the in Articles and Bylaws of the Association.

12.3 Notice and Quorum. Written notice of any meeting called for the purpose of taking any action by the Members authorized herein shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of the Members or of proxies entitled to cast fifty-one (51%) of all votes eligible to be cast at said meeting shall constitute a quorum. If the required quorum is not present, another meeting may be called, and the required quorum at the subsequent meeting shall be twenty-five percent (25%) of the voting power of the Association. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

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12.4 Powers and Duties of Association. The Association, acting through its Board of Trustees, shall also have the power and duty to:

(a) take such actions as will promote the health, safety and welfare of the Owners and Declarant, and for the continued maintenance of Lots within Eagle Ridge, and for such services and facilities, as may be necessary, in order for the Association to accomplish these duties, and as may be created as a result of the participation, if any, of Eagle Ridge in the master planned residential, commercial and recreational development known as PINEBROOK.

(b) maintain and repair such portions of Eagle Ridge as are jointly owned and used, in common, by the Association, if any, including any facilities, parks, Master Home Owners Association Parks, or other recreational facilities improvements and landscaping thereon as provided herein.

(c) maintain such policy or policies of liability and fire insurance with respect to any commonly owned property(ies), if any, owned by the Association as provided herein.

(d) levy and collect all assessments ("Common Assessments"), as provided herein, in sufficient quantity to enable the Association to adequately perform its duties hereunder.

(e) grant easements and rights of way for sewer, water, electricity, telephone and natural gas lines and similar utilities and uses beneath, along and traversing any commonly owned property(ies), if any, owned by the Association, as provided herein.

(f) such additional powers as shall be reasonable and necessary for the Association to accomplish the purposes of its creation.

12.5 Liability for Assessments. Each Owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed is deemed to covenant and agree to pay the Association:

(a) Common Assessments for common expenses as are defined in the preceding subsection 6.5.

(b) Capital Improvement Assessments, to be established and collected as herein provided.

Such assessments, together with interest, costs and reasonable attorneys fees for the collection thereof, shall be a charge and continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

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12.6 Use of Assessments. Assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation and welfare of the Owners/Members of the Association, as provided herein. The assessments shall also be for an adequate reserve in the event of any emergency, as may be determined by the Board of Trustees.

12.7 Common Assessments. The total Common Assessments against all of the Lots shall be based upon advance estimates of annual cash requirements by the Association to provide for payment of all estimated expenses growing out of or connected with the maintenance and operation of the common facilities which estimates may include, among other things, expenses of taxes, special assessments, premiums for all insurance which the Association is required or permitted to retain pursuant hereto, repairs and maintenance, wages for Association employees, legal and accounting fees, the

creation of a reasonable contingency reserve, surplus and or sinking funds, and any other expenses and liabilities which may be incurred by the Association. Common Assessments shall be made on a calendar year basis. The amount of the Common Assessments shall be initially proposed by the Board, and presented to a meeting of the Owners for approval. Notice of the proposed assessment for the ensuing year shall accompany the notice of the meeting and shall be mailed to each Member no later than thirty (30) days prior to the date set for said annual meeting.

12.8 Capital Improvement Assessments. In addition to the Common Assessments authorized above, the Association may levy a Capital Improvement Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a Capital Improvement, which is defined as those facilities, improvements and landscaping, if any, owned in common by the Association, provided that any such assessment in excess of One Thousand Dollars (\$1,000), must have the affirmative vote or written assent of Members entitled to cast a majority of the votes eligible to be cast with relation to such assessments.

12.9 Allocation of Assessments. Each Lot, including Lots owned by Declarant, shall bear an equal share of each Common and Capital Improvement Assessment.

12.10 Enforcement of Assessment Obligation; Priorities; Discipline. If any part of any Assessment is not paid and received by the Association or its designated agent within ten (10) days after the due date, an automatic late charge of Ten Dollars (\$10.00) shall be assessed and additional Ten Dollars (\$10.00) sums shall be assessed for each month or fraction thereof from the due date until the Assessment and all late charges are paid. Each unpaid Assessment shall constitute a lien on each respective Lot prior and superior to all other liens except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (ii) the lien or charge of any first mortgage of record made in good faith and for value. Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized by this Declarations or by law to make the sale, after failure of the Owner to pay such Assessment, in accordance with the provisions of Utah law applicable to the exercise of powers of sale in deeds of trust, or by judicial foreclosure as a mortgage, or in any other manner permitted by law. The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting Owner as allowed by law. Suit to recover a money judgement for unpaid Assessments, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys fees and costs and may temporarily suspend the Association membership rights of a Lot Owner who is in default in payment of any Assessment, after notice and hearing according to the Bylaws.

12.11 Liability for Willful or Negligent Damage. Maintenance, repair or replacement of all or any part of common facilities arising out of or caused by the willful or negligent act of a Member, his family, guests or

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invitees shall be done at said Member's expense or a Special Assessment therefore shall be made against his Lot.

ARTICLE XIII

GENERAL PROVISIONS

13.1 Enforcement. Declarant, the Architecture Committee, any Owner, the Eagle Ridge Home Owners Association or Summit County, Utah, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Architecture Committee or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

13.2 Equitable Remedies. It is hereby acknowledged and agreed that many of the restrictions, covenants and conditions expressed herein benefit Declarant and Owners in such a way that specific enforcement of such restrictions, covenants and conditions is necessary in nearly all cases of enforcement. Therefore, mandatory or prohibitive injunctive relief and other equitable remedies are expressly provided for, in addition to any action for damages, assessments, costs or fees and any action at law.

13.3 Severability. Invalidation of any one of these covenants by judgement or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

13.4 Amendment. Except as may be otherwise provided at Article III, Section 3.3 herein, at any time while any provision, covenant, condition or restriction contained in this Declaration or amendment thereto, is in force and effect, it may be amended or repealed by the recording of a written instrument specifying the amendment or repeal, executed by Owners representing a majority vote; provided that, no such amendment may be made except with the consent of Declarant for so long as Declarant or its successor or assigns own any interest in Eagle Ridge or the Development. No amendment placed into effect hereunder shall create additional limitations, restrictions, covenants, conditions or easements without the unanimous consent of all Owners.

13.5 Limited Liability. **00448736 Bk00946 Pa00474** Neither Declarant, the Architecture Committee, nor any member, agent, representative, officer, director, or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter pertaining to or contemplated by this Declaration.

13.6 Nuisance. The result of every act or omission, whereby any provision, conditions, restriction, covenant, easement or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Architecture

EXHIBIT "A"

BEGINNING at a point on the North line of Pinebrook Road, said point being North 1627.69 feet along the section line and West 1809.19 feet to the Southeast Corner of EAGLE RIDGE AT PINEBROOK, PINEBROOK SUBDIVISION, NO. 14, a portion of PINEBROOK PLANNED UNIT DEVELOPMENT, as recorded in the Summit County Recorder's Office and South 63°30'00" West 305.00 feet along the South line to the Southwest Corner of said subdivision from the Southeast Corner of Section 11, Township 1 South, Range 3 East, Salt Lake Base and Meridian, and running South 63°30'00" West 406.20 feet along the North line of Pinebrook Road; thence South-westerly 106.73 feet along the arc of a 1500.00 foot radius curve to the left, (center bears South 26°30'00" East and long chord bears South 61°27'42" West 106.71 feet, with a central angle of 4°04'37") along the North line of said Pinebrook Road; thence North 30°34'37" West 129.10 feet; thence North 52°00'00" West 465.00 feet; thence North 01°00'00" East 105.00 feet to the extended North line of said PINEBROOK SUBDIVISION, NO. 14; thence North 45°17'52" East 58.74 feet along the extended North line to the Northwest Corner of said subdivision; thence South 77°44'29" East 166.40 feet along the South line of said subdivision; thence North 89°17'47" East 62.30 feet along the South line of said subdivision; thence South 72°08'26" East 110.00 feet along the South line to the Southwest Corner of said subdivision; thence North 10°04'37" East 37.00 feet along the South line of said subdivision; thence North 56°25'55" East 87.00 feet along the South line of said subdivision; thence North 68°59'41" East 61.54 feet along the South line of said subdivision; thence North 55°53'10" East 90.95 feet along the South line of said subdivision; thence South 33°21'18" East 35.60 feet along the West line of said subdivision; thence South 38°14'12" East 118.00 feet along the West line of said subdivision; thence South 43°26'39" East 192.00 feet along the West line of said subdivision; thence South 35°26'37" East 60.74 feet along the West line of said subdivision; thence South 26°30'00" East 100.00 feet along the West line of said subdivision to the point of beginning.

(The above legal description will also be known as EAGLE RIDGE AT PINEBROOK SUBDIVISION, NO. 15 upon official approval and recordation of said Plat of Subdivision.)

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