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WHEN RECORDED RETURN TO:
Ivory Development, LLC,
A Utah limited liability company
1544 North Woodland Park Drive, #300
Layton, Utah 84041
(801) 775-8853

Date: 3.29.2007 Entry: 2256884
Submitted by: Cottonwood Title Ins. Agency, Inc.

**FIRST SUPPLEMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR COLDWATER CREEK PHASE 2 SUBDIVISION**

This First Supplement to the Declaration of Covenants, Conditions and Restrictions for Coldwater Creek Phase 2 Subdivision. Phase 2, is made and executed by Ivory Development, LLC., a Utah limited liability company, of 1544 North Woodland Park Drive, #300, Layton, Utah 84041 (the "Declarant").

RECITALS

Whereas, the Declaration of Covenants, Conditions and Restrictions for Coldwater Creek Phase 2 Subdivision was recorded in the office of the County Recorder of Davis County, Utah (the "Declaration").

Whereas, the related Plat Map for Phase 1 of the Coldwater Creek Subdivision have also been recorded in the office of the County Recorder of Davis County, Utah.

Whereas, under Section 3 of the Declaration, Declarant reserved the unilateral right to expand the subdivision to annex additional land and expand the application of the Declaration.

Whereas, Declarant is the fee simple owner of record of that certain real property located in Layton City, Davis County, Utah and described with particularity on Exhibit "A-2" attached hereto and incorporated herein by this reference (the "Phase 2 Property").

Whereas, Declarant desires to expand the subdivision by creating on the Phase 2 Property 40 additional Lots, numbered 201-240.

Whereas, Declarant now intends that the Phase 2 Property shall become subject to the Declaration.

NOW, THEREFORE, for the reasons recited above, and for the benefit of the subdivision and the Lot Owners thereof, Declarant hereby executes this First Supplement to the Declaration of Covenants, Conditions and Restrictions for Coldwater Creek Phase 2 Subdivision Phase 2.

1. **Supplement to Definitions.** Article I of the Declaration, entitled "Definitions," is hereby modified to include the following supplemental definitions:

- a. **Phase 2 Map** shall mean and refer to the Plat Map of Phase 2 of the Project, prepared and certified to by Gary L. Newman, a duly registered Utah Land Surveyor holding Certificate No. 4778, and filed for record in the Office of the County Recorder of Davis County, Utah concurrently with the filing of this First Supplemental Declaration.
- b. **First Supplemental Declaration** shall mean and refer to this First Supplement to the Declaration of Covenants, Conditions and Restrictions for Coldwater Creek Phase 2 Subdivision.

Except as otherwise herein provided, the definition of terms contained in the Declaration are incorporated herein by this reference.

2. **Legal Description.** The real property described in Exhibit A-2 is hereby submitted to the provisions of the Declaration and said land shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration as it may be supplemented or amended from time to time.

3. **Annexation.** Declarant hereby declares that the Phase 2 Property shall be annexed to and become subject to the Declaration, which, upon recordation of this First Supplemental Declaration, shall constitute and effectuate the expansion of the Project, making the real property described in Exhibit A-2 subject to this Declaration and the functions, powers, rights, duties and jurisdiction of the Association.

4. **Description of Property and Total Number of Units Revised.** Phase 1 contained 38 Lots numbered 101-138, inclusive, and other improvements of a less significant nature. Phase 2 will contain 40 new Lots, numbered 201-240, inclusive, and other improvements of a less significant nature. Upon the recordation of the Phase 2 Map and this First Supplemental Declaration, the total number of Lots in the Project will be 78. The additional Lots (and the homes to be constructed therein) are or will be substantially similar in construction, design and quality to the Lots and homes in the prior Phase.

5. **Easements and Rights of Way.** Declarant hereby reserves to itself and grants to the Association a nonexclusive, perpetual right-of-way and easement over, across and through the Tract, together with the right to use, operate, maintain, repair and replace the Common Areas and Facilities, subject to all of the terms, covenants, conditions and restrictions set forth herein.

5.2 **Common Use of Easement.** Said easement is to be used in common by the Declarant, Association and Owners, subject to all of the terms, covenants, conditions and restrictions set forth herein.

5.3 Private Easement. The easement created is intended to be used as a private non-exclusive easement for the exclusive use and benefit of Declarant, Association and Owners.

5.4 Benefited Expense Regarding Landscaping. Each Phase is hereby empowered to and may, with the prior written consent of the Association, elect, at its sole expense and for its benefit, to upgrade its Phase, or any part thereof (the "Benefited Expense"), although such Benefited Expense shall not be considered part of the Master Operating Expenses.

5.5 Encroachments. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Lot or Dwelling Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Lot or Dwelling Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Lot or Dwelling Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Lots or Dwelling Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

5.6 Improvements. Improvements, including Lots or Dwelling Units, and/or Common Areas and Facilities constructed as subsequent phases of the Project may encroach upon portions of the Common Areas and Facilities of earlier phases of the Project. A perpetual easement for such encroachment and this Declaration necessary to repair, maintain and operate such improvements is hereby granted.

5.7 Rights of Access. Each Owner shall have the right to ingress and egress over, upon and across the Common Area and Facilities as necessary for access to the Lot or Dwelling Unit he is occupying and to any Limited Common Areas and Facilities appurtenant to his Lot or Dwelling Unit, and he shall have the right to the horizontal, vertical and lateral support of his Lot.

5.5 Declarant's Easement. The Association hereby grants and conveys to the Declarant an exclusive easement to make such use of the Common Areas and Facilities, as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the Common Areas and Facilities for use by the Owners, Members, and the MHOA.

5.9 Construction Easements. The Declarant hereby reserves for itself and its affiliates and assignees a temporary construction easement over the Common Areas and Facilities for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project including all physical improvements as well

as all Lots, Dwelling Units, and Common Areas and Facilities. The Owners of Lots do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their Lots, Units or the Common Areas and Facilities appurtenant thereto until all improvements are complete, and such Owners do hereby waive any right to object to such construction activity; provided, however, Declarant shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owners. Declarant's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the Use Restrictions.

5.10 Locations Facilities Easements. Declarant reserves a non-exclusive easement for itself and its affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities, including but not limited to roof antennas, within suitable locations for such facilities (the "Locations of Facilities") within the Project. Declarant further reserves a right of access to the Locations of Facilities over, across, and through all other Common Areas and Facilities of the Project in order to access the Locations of Facilities to exercise the rights established herein. Declarant reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Declarant may exercise all of such rights unilaterally and without the consent of any Owner, Mortgagee or the Association. The Association, on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by Declarant documenting the rights hereunder, in form satisfactory to the Declarant, and any assignee of its rights hereunder.

✓ **5.11 Entry Monument Easement.** Easements the Entry Monument and corresponding utility and drainage systems and facilities, and irrigation are reserved hereby and on the recorded Plat. An Owner may not do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the installation and maintenance of utilities, Entry • Monument, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. If a drainage channel is altered by an Owner, the Declarant and/or the Association expressly reserve the right to enter onto the property to restore the area at the cost of the Owner, and without being guilty of a trespass. In addition, the easement and right of way area of or on each Lot, including by way of illustration but not limitation, the Entry Monument, in whole or in part, utilities, drainage systems and facilities, and irrigation, and all improvements within said area shall be maintained continuously by the Owner of the property, at his sole expense, excepting those improvements for which a public authority or utility company is expressly responsible.

Drainage Flow

5.12. Joint or Common Utility Easements with Neighboring Subdivisions or Developments. The Declarant for itself and/or its successors in interest (including but not limited to the Association), hereby reserves the irrevocable and exclusive right, without any additional consent required, to enter into easement agreements with or to convey to owners or Declarants of adjoining subdivisions, projects or developments any and all reasonable and necessary utility easements or rights of way for access, ingress, egress, transportation, cable,

utilities, gas, water, power, sewer, storm drain systems, and so forth under, over, across or through Coldwater Creek Subdivision.

6. Article IV of the Declaration is amended to add the following new subsections:

32. **Entry Monument.** If an Owner purchases a Lot which includes a common improvement, including by way of illustration but not limitation an Entry, Entry Monument, planter-, planter box, -planter-strip; -perimeter fence, wall, street light, exterior lighting or other landscaping treatment of any kind, shall, at his sole expense, maintain such common elements in good condition, and may not improve his property or place any plant, hedge, tree, bush, shrub or object, natural or artificial, behind, to the side or in front of such improvement or feature or so as to impair, obstruct, block or impede the view or purpose of the Entry, Entry Monument or other improvement, planter box, landscaping strip, or any such special landscaping feature.

33. **Chimes and Musical Sound Makers.** Chimes, dream catchers, bells tubes or other objects hung vertically outside the Dwelling Unit which ring, strike or otherwise produce musical sounds or harmony heard by other residents are prohibited.

34. **Owner-Occupied.** In order to maintain the value of the purchased property and subdivision, a Dwelling Unit must be owner-occupied for a period of at least one (1) year after closing. The term "owner-occupied" shall mean a Unit occupied by one of the following: (a) The vested owner (as shown on the records of the Davis County Recorder); (b) The vested owner and/or his spouse, children or siblings; or (c) The shareholder, partner, member, trustor, beneficiary or other legal representative of an institutional owner (provided, such person holds a beneficial interest in such legal entity of at least 50.0%) and/or his spouse, children or parents,

35. **Leases.** Each Owner agrees, by the acceptance of a deed or other document of conveyance to a Lot, that in order to maintain the value of the purchased property and the subdivision, the leasing and renting of Dwelling Units is subject to the following covenants, conditions and restrictions:

a. **Rental Rules.** Renting rules and regulations adopted by the Management Committee, as they may be amended from time to time.

b. **Rental Moratorium..** No Owner may lease or rent his Dwelling Unit for a period of one (1) year from the date of closing.

c. **Short Term Rentals.** No Owner shall be permitted to lease his Dwelling Unit for short term, transient, hotel, vacation, seasonal or corporate use purposes, For purposes of this section the term "short term" shall be considered to be any rental with an initial term of less than six (6) months. Daily or weekly rentals are expressly prohibited. No Owner may lease individual rooms to separate Persons or less than his entire Dwelling Unit, including

by way of illustration but not limitation letting a room to domestic help or a caretaker, without the prior express written consent of the Management Committee.

d. **Signage.** "For Rent" or "For Lease" signs are prohibited.

e. **Approvals.** The Management Committee must approve in writing all lease and rental agreements as to form. Any lease or rental agreement not approved or in violation of the Project Documents shall be "non-conforming" and, as such, voidable by the Management Committee.

f. **Rental Agreements.** The Association may, also require that Owners use lease forms or addenda, such as the Crime Free Addendum or the Project Addendum, approved by the Association (or include specific terms in their leases); and the ARC may impose a review or administration fee on the lease or transfer of any Lot.

g. **No Other Restrictions.** Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to his Dwelling Unit.

36. **Transfer Fee.** Each Owner agrees, by the acceptance of a deed or other document of conveyance to a Lot, that in order to maintain the value of the purchased property and the subdivision, to pay to the Association a sum equal to five percent (5%) of the gross sales price on the Lot as a transfer fee if his Lot is sold or if he enters into a lease/option or other similar agreement on the Lot during the initial one (1) year period after the date of closing. *Transfer Fee if sold in First year.*

37. **View Impairment.** Neither the Developer nor the ARC guarantees or represents that any view over and across any property, including any Lot or Building will be preserved without impairment. Neither the Developer nor the ARC shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. *ARC View Easement*

6. **Incorporation of Original Declaration as Supplemented and Amended.** It is expressly agreed by the parties that this document is supplemental to the Declaration which is by reference made a part hereof, and all of the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to the Phase 2 Property and are made a part of this document as though they were expressly rewritten, incorporated and included herein.

7. **Conflict.** In the event of any conflict, inconsistency or incongruity between the provisions of the Declaration, as supplemented or amended, and the First Supplement, the latter shall in all respects govern and control:

8. **Effective Date.** The effective date of this First Supplemental Declaration and the Phase 2 Map shall be the date on which said instruments are filed for record in the Office of the County Recorder of Davis County, Utah.

EXHIBIT "A-2"
LEGAL DESCRIPTION
COLDWATER CREEK PHASE 2 SUBDIVISION PROPERTY

The Property referred to in the foregoing document as the Cold Water Creek Phase 2 Subdivision Property is located in Davis County, Utah and is described more particularly as follows:

BOUNDARY DESCRIPTION

A part of the Southwest Quarter of Section 19, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at /he Southeast corner of the Southwest Quarter of said Section 19; and running thence South 89°55'40" West 198.00 feet along the South line of said Section 19; thence North 0°14'50" East 330.00 feet; thence South 89°55'40" West 132.00 feet; thence South 0°14'50" West 330.00 feet to a point on said South line; thence South 89°55'40" West 316.33 feet along said South line; thence North 0°00'46" West 1195.83 feet to the Southwest corner of Coldwater Creek Phase 1 a subdivision In lay/on City, Davis County, Utah; thence seven (7) courses along the South boundary line of said Coldwater Creek Phase No.1 as follows: North 89°55'41" East 125.90 feet; North 87°52'38" East 60.04 feet; North 89°55'41" East 136.43 feet; North 0°04'16" West 2.83 feet; North 89°55'41" East 136.45 feet; North 89°30'36" East 66.00 feet and North 89°55'41" East 127.00 feet to a point on the Quarter Section line; thence South 0°14'50" West 1201.31 along said Quarter Section line to the point of beginning.

Contains 16.866 Acres