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Box. 10226  
Zephyr Cove nv  
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this 17 day of JUNE, 2002, by ELK POINT, LLC (hereinafter referred to as "Declarant"), with reference to the following facts:

1. Declarant owns those certain pieces and parcels of real property (hereinafter referred to as "Parcel" or "Parcels"), more particularly described on Exhibit "A," attached hereto, which Exhibit is incorporated herein as if set forth herein verbatim.

2. It is the desire and intention of Declarant to bind and subject said Parcels to certain covenants, conditions, restrictions, limitations, liens and charges between said Parcels of real property, and the owners or users thereof, as hereinafter set out.

NOW, THEREFORE, Declarant hereby declares that the Parcels and any improvements located thereon shall be held, conveyed, encumbered, hypothecated, leased, rented, used, occupied and improved only upon and subject to the following uniform covenants, conditions, restrictions, limitations, charges and liens (hereinafter collectively referred to as "Covenants, Conditions and Restrictions," or "CC&R's," or "Declaration"), all of which are hereby declared:

1. To be for the benefit of Declarant and the owner or owners of the Parcels.
2. To run with the land and be binding upon all parties having or acquiring any right, title or interest in the Parcels or any portion thereof.
3. To inure to the benefit to each Parcel and the owners thereof.
4. To inure to the benefit of and be binding upon each successor and assignee in interest of each owner of any Parcel or Parcels. The provisions of this Declaration shall be enforceable by Declarant, or any other owner of the Parcels or any Parcel thereof.

SECTION ONE

ADOPTION OF COVENANTS, CONDITIONS AND RESTRICTIONS

1.1. Purpose of Covenants, Conditions and Restrictions. The Parcels are and shall be subject to the protective Covenants, Conditions, Restrictions, and charges herein contained to provide a well-planned and controlled residential area; to set quality standards for all improvements to be constructed on each Parcel; and, for the preservation of value, and for the benefit of each and every Parcel and any owner thereof.

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## SECTION TWO

### COVENANTS AND USE RESTRICTIONS

2.1. Residential Use. Each Parcel may only be used for one (1) single-family residence, and for conforming outbuildings and related facilities only, and for no other purpose. Conforming outbuildings shall include, but shall not necessarily be limited to a guest house, caretaker's quarters, barns, workshops, well houses, and equipment storage facilities. No such outbuilding shall be used for rental purposes.

2.2. Leasing. An owner is permitted to rent or lease his or her Parcel and the improvements located thereon upon the following terms:

(i) Each lease or rental agreement shall be in writing, and any tenant shall abide by and be subject to all of the terms and provisions of this Declaration, which lease agreement shall further specify that failure to abide by the CC&R's shall be a default under the lease or rental agreement.

(ii) Only one (1) family may occupy the Parcel.

(iii) The lease term must be for a minimum of six (6) months.

2.3. Offensive Conduct / Nuisance. No obnoxious or offensive activities, including, but not limited to, repair of automobiles or other motorized vehicles (including ATV's and motorcycles), shall be conducted on a Parcel, except within an enclosed workshop or garage. Nothing shall be done on or within a Parcel that may be, or may become, an annoyance or nuisance to the residents of any other Parcel, or that in any way interferes with the quiet enjoyment of any other Parcel by any other residents.

2.4. Business Use. No Parcel shall be used directly or indirectly for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purpose, except those businesses that can be done by phone, e-mail or fax machine.

2.5. Antennas. The installation of one (1) television dish or one (1) television or radio antenna (only one per house) not exceeding five (5) feet in height above any roofline is permitted. No other antennas are permitted, unless approved by architectural committee.

2.6. Signage. No billboards or signs of any character shall be permitted on any Parcel, except one (1) sign of not more than five (5) square feet advertising the property for sale, or a double-faced sign with not more than ten (10) square feet per face, used by a builder to advertise the sale of the Parcel and house during the construction period and thereafter. All signs must be professionally or commercially lettered.

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2.7. Animals / Pets.

(i) Dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided they do not become a nuisance to any other Parcel owner. A total of no more than four (4) dogs or cats shall be kept on any one Parcel, and the number of dogs shall not exceed two (2). Reasonable exceptions to this provision will be allowed following the births of litters pending disposition of puppies or kittens.

(ii) No more than two (2) horses are permitted on the Parcels. No barns or corrals are permitted on the front half of any of the California Parcels. Corrals and barns shall be permitted on the western or rear property line on California lots; on the southerly boundary of APN 19-310-25; and the northerly boundary of APN 19-310-28.

(iii) All pets or animals shall be controlled and restrained so as not to run at large or become a nuisance or annoyance to the owners of any other Parcel.

2.8. Automobile / Truck / Trailer / Boat Storage.

(i) The storage of wrecked or junked automobiles, appliances, or other similar machinery shall not be permitted on any Parcel, except within a covered and enclosed structure.

(ii) The storage of a motor home, trailer, boat, piece of farm equipment (not exceeding a total of four), may be stored at the rear or side of any home behind opaque fences or landscape screening. The storage of unlicensed vehicles or boats is prohibited, except within an enclosed and covered structure.

2.9. Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers. No owner of a Parcel shall permit or cause any trash or refuse to be kept within any portion of the Parcel, other than in customary receptacles.

SECTION THREE

UTILITIES

3.1. All utility connections and service lines installed to each Parcel, and to any structure or improvement to be built on any such Parcel, shall be installed underground, including electric service, community antenna cable, and telephone cable in accordance with accepted construction and utility standards. Each owner of a Parcel shall be responsible for the operation and maintenance of a domestic water supply and storage facilities, which shall be located on said Parcel. Each owner of a Parcel shall be responsible for the operation and maintenance of a septic tank and leach field facility, which shall be located on said Parcel.

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## SECTION FOUR

### CONSTRUCTION / IMPROVEMENTS

4.1. Architectural Committee. There is hereby created for the protection of the Parcels an Architectural Committee, which will review and approve any structures or improvements to be made on any Parcel of property. So long as the Declarant owns any Parcel of real property, then the Architectural Committee shall consist of Wally Burgess. Once all of the Parcels are no longer owned by the Declarant, then the Architectural Committee shall consist of two (2) persons, being the first two (2) persons purchasing one of the Parcels, unless they decline, in which event the owner of the next Parcel purchased shall be a member of the Architectural Committee. No improvement or structure, including outbuildings or fences, or modification thereof (except as hereinafter provided), may be constructed on any Parcel without the prior approval of the Architectural Committee having been first had and obtained.

4.2. Architectural Committee Procedures. The Architectural Committee's approval or disapproval as required in this Declaration shall be in writing. In the event the Committee fails to approve or disapprove any proposed improvement or structure or remodeling of the same within thirty (30) days after such plans and specifications have been submitted to the Committee it will be deemed approved, and this Declaration shall be deemed to have been fully complied with.

4.3. Architectural Committee Liability. No member of the Architectural Committee shall be liable for damages to any person or entity or Parcel owner submitting any architectural plans for approval by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove architectural plans and specifications.

4.4. Conformity of Design. The Architectural Committee shall exercise its best judgment to see that all improvements, structures, construction methods and materials, landscaping; fencing and alterations on each Parcel are in conformance with and are harmonious with the exterior design, materials, color, siding, height, topography, grade, landscaping, and fencing with existing structures located on any other Parcel or Parcels.

4.5. Commencement of Construction. No improvement, structure, garage, fence, wall, retaining wall, outbuilding or any type of construction activity, including grading and/or removal of natural or other ground cover, shall be commenced or placed upon any Parcel until two (2) complete sets of architectural plans and specifications thereof, which shall include a plot plan indicating and establishing the exact location of all structures, a foundation plan, a floor plan for each floor, and, where applicable, a basement, front, side and rear elevations, sections, exterior color samples, and landscape and fence plans and details, shall have been first submitted to the Architectural Committee for approval, and said approval shall have been obtained as herein provided for.

4.6. Major Remodeling. If any redecorating or alteration involving the exterior of any existing structure is proposed which involves remodeling, a structural change, or a change in existing exterior finish materials, it shall be necessary for the Parcel owner to submit architectural plans and specifications and exterior color samples showing such changes in order to receive written approval from the Architectural Committee prior to commencing said work.

4.7. Minor Remodeling. It shall not be necessary to obtain the approval of the Architectural Committee for minor remodeling or redecorating not involving remodeling, a structural change, or a change in existing exterior finish materials.

4.8. Architectural Committee Disapproval. Approval by the Architectural Committee of any plans, specifications, alterations or changes may be withheld due to non-compliance with any of the specific requirements of this Declaration, or due to the Architectural Committee's disapproval of the location of the building site upon any Parcel, of a structure's appearance, of the construction materials proposed, of the proposed Parcel grading, or the failure of any proposed structure to be harmonious with any existing homes or structures on any other Parcel.

## SECTION FIVE

### ARCHITECTURAL STANDARDS

5.1. Building Locations / Material. No building shall be located on any Parcel nearer to the front property line, or nearer to the side property line, or nearer to the rear property line than the minimum building setback lines set forth by the governmental entity which has jurisdiction over the particular Parcel of property in question. For the purpose of this Declaration, eaves, steps, and open porches shall not be considered as being part of a structure. There shall be no metal outbuildings on any Parcel.

5.2. Residence Size.

(i) Two-story residences are permitted on the Parcels located in both Nevada and California. If a two-story residence is approved, the ground floor square footage shall contain not less than 1,600 square feet, exclusive of a garage, and also exclusive of porches, patios and terraces. No more than a two-story residence shall be allowed. Minimum floor area exclusive of garage shall be at least 2,600 square feet.

(ii) Each single-family residence must have not less than 2,600 square feet, exclusive of porches, patios, terraces and a garage.

(iii) Every residence constructed on a Parcel shall have on the same Parcel covered and enclosed automobile storage spaces (garages) for at least three (3) automobiles.

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5.3. Fences. No front yard fence within thirty (30) feet of a road shall exceed four (4) feet in height. No side yard or rear yard property fence shall exceed six (6) feet in height. Barbed wire or concertina wire fences will not be permitted on any Parcel.

5.4. Landscaping. All brush or other combustible materials within thirty-five (35) feet of the perimeter of any structure shall be cleared, and the area shall be suitably landscaped. If native brush is removed from any other location, appropriate replacement ground cover shall be installed immediately. To the maximum extent consistent with good landscape architecture, the planting of trees on locations not obstructing views from adjacent Parcels shall be encouraged. Landscaping must be completed within ninety (90) days of the issuance of a Certificate of Occupancy, weather permitting.

5.5. Parcel Access. The Parcels can only be accessed by the common driveway serving said Parcels, and in accordance with the Driveway Maintenance Agreement that has been approved by the Declarant and recorded simultaneously with this Declaration. Any driveway encroachments shall, where necessary, include culverts of a suitable size, or other approved means of accommodating runoff drainage.

5.6. Maintenance. All structures erected on any Parcel shall be constructed in a good and workmanlike manner, and shall be maintained in good condition. Each owner of a Parcel shall maintain the Parcel and all structures and improvements located thereon in a neat, orderly, sightly and well-groomed manner.

5.7. Excavations. No excavations shall be permitted on any Parcel, except in connection with grading and preparing a building site, driveway, utility service and related activities, or in connection with the construction of buildings, structures and facilities which have been approved by the Architectural Committee.

## SECTION SIX

### SUBSURFACE MINERAL RIGHTS

6.1. Prohibited Activities and Equipment. Exploration for any minerals, including oil drilling, oil development and mining operations, drilling for any materials, mining of any materials, or quarrying of any rock, minerals, soil or material of any nature, shall not be permitted on any Parcel. No derrick or other structures designed for use in boring for oil, natural gas or other minerals may be maintained or permitted upon any Parcel.

## SECTION SEVEN

### ENFORCEABILITY

7.1. Enforcement of Covenants, Conditions and Restrictions. The Covenants, Conditions and Restrictions herein contained shall bind and inure to the benefit of, and

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be enforceable by, the Declarant, its successors and assigns, and by the future owner or owners of any Parcel.

7.2. Violation of Covenants, Conditions and Restrictions. The Architectural Committee, or any owner or owners of any Parcel may institute and prosecute any proceeding at law or in equity against any person, firm or other entity, violating or threatening to violate, any of the Covenants, Conditions and Restrictions herein contained. Any such action may be maintained for the purpose of stopping and/or preventing a violation, to recover damages for a violation, or for both such purposes.

7.3. Failure to Enforce. The failure of Declarant, its successors or assigns, or of any owner of any Parcel to enforce any of the Covenants, Conditions and Restrictions herein contained shall not be deemed a waiver of a right to enforce them thereafter.

7.4. Application of Remedy. Nothing herein shall be construed as preventing the application of any remedy given by law against a nuisance, public or private, the application of which shall be in addition to any other remedy or remedies now or hereafter provided by law.

7.5. Mortgage Right. A breach of any of the foregoing Covenants, Conditions and Restrictions, or the re-entry by reason of any such breach, shall not defeat or render the lien of any mortgage or Deed of Trust made in good faith and for value as to said premises, or any part thereof, but these Covenants, Conditions and Restrictions shall be binding upon the owner whose title to a Parcel is acquired under foreclosure, trustee's sale, or otherwise, and shall be binding upon the party so acquiring title.

7.6. Remedies.

(i) If any owner of a Parcel in the Parcel maps shall fail to comply with any of the provisions of the Declaration of Covenants, Conditions or Restrictions, the Architectural Committee or any other Parcel owner(s) shall have full power and authority to enforce compliance with this Declaration in any manner provided for herein by law or in equity, including, without limitation, bringing (a) an action for damages; (b) an action to enjoin any violation or specifically enforce any provision of this Declaration; and (c) an action to enforce any lien provided for herein or provided for by law.

(ii) In the event the Architectural Committee or any Parcel owner shall employ an attorney to enforce any provision(s) of this Declaration, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

(iii) All enforcement powers of the Architectural Committee or a Parcel owner shall be cumulative.

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SECTION EIGHT

MISCELLANEOUS

8.1. Duration. This Declaration of Covenants, Conditions and Restrictions shall run with the land, and shall bind the Declarant, its successors and assigns, and all future owners of the Parcels or any part thereof, for and during the period from the date of recording of this Declaration, and for a period of thirty (30) years thereafter. After that time, this Declaration and all of its covenants and other provisions shall automatically extend for successive ten-year periods, unless this Declaration is revoked by an instrument executed by the owners of the Parcels and their respective institutional mortgagees, of not less than three-quarters (3/4) of the Parcels.

8.2. Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any Mortgage or Deed of Trust that encumbers all or a portion of a Parcel. If a Parcel is encumbered by a Mortgage or Deed of Trust, the foreclosure of any lien created by any provision set forth in a Mortgage or Deed of Trust shall not invalidate the provisions of this Declaration.

8.3. Amendment. This Declaration can only be amended upon the approval of seventy-five percent (75%) of the owners of the Parcels encumbered by this Declaration.

8.4. It is hereby declared that venue for any Court action brought to enforce this Declaration or any covenant or provision hereof is proper if commenced in the Ninth Judicial District Court of the State of Nevada, including actions involving the California parcels.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Covenants, Conditions and Restrictions this 27 day of JUNE, 2002.

ELK POINT, LLC:

By Walter Burgess  
MANAGING PARTNER  
Walter Burgess

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ACKNOWLEDGMENT

STATE OF Nev )  
 ) ss.  
COUNTY OF DOUGLAS )

On the 27TH day of JUNE, 2002, before me,  
DANA R. BACKUS, a Notary Public,  
personally appeared WALTER BURGESS,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be  
the person whose name is subscribed to the within instrument, and acknowledged to  
me that they executed the same in their authorized capacity, and that by their signature  
on this instrument, the person, or the entity upon behalf of which the person acted,  
executed this instrument.

WITNESS my hand and official seal.

**DANA R. BACKUS**  
Notary Public - State of Nevada  
Appointment Recorded In Douglas County  
No: 99-58168-5  
Expires 10-31-2003

Dana R. Backus  
NOTARY PUBLIC

REQUESTED BY  
Steve Holton  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2002 JUL 11 AM 9:04

LINDA SLATER  
RECORDER

\$22.00 PAID bc DEPUTY

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