

OFFICIAL RECORD

Requested By:

CHERI A GLASSICK

APN: 1420-35-311-002  
1420-35-311-003

Douglas County - NV  
Werner Christen - Recorder

Page: 1 Of 9 Fee: 22.00  
BK-0606 PG- 4254 RPTT: 0.00



**RECORDING REQUESTED BY, AND  
WHEN RECORDED, RETURN TO:**

✓ Syncon Homes,  
Attn: Cheri Glassick, Esq.  
2221 Meridian Boulevard, #A  
Minden, Nevada 89423

**DRAINAGE FACILITY MAINTENANCE AGREEMENT**

This Drainage Facility Maintenance Agreement ("Agreement") is made as of the date of its recordation in the Official Records of Douglas County, Nevada ("Effective Date"), by and between Skyline Ranch III, LLC, a Nevada limited liability company ("SRIII"), and Skyline Ranch Association, a Nevada nonprofit corporation (the "Association"). SRIII and the Association are individually referred to herein as "Party" and collectively as "Parties".

This Agreement, is made with reference to the following facts and is as follows:

**RECITALS**

A. SRIII is the owner of that certain real property located in Douglas County, Nevada, described as lots 106 and 107 (the "Lots"), as shown on the Final Subdivision Map FSM#94-04-03 for Skyline Ranch, Phase 3, filed for record in the Office of the Douglas County Recorder on July 5, 2005, in Book 0705, at Page 1491, as File Number 648689 (the "Map").

B. The Lots are located within that certain residential common-interest community in Douglas County, Nevada, arising under that certain Declaration of Covenants Conditions and Restrictions for Skyline Ranch, Douglas County, Nevada, recorded in the Office of the Douglas County Recorder on June 13, 2001, in Book 0601, as Document Number 0516290 (which, together with all supplements, amendments, and re-recordings thereof—including, without limitation, that re-recording in the Office of the Douglas County Recorder on June 13, 2001, in Book 0601, as Document Number 0516290—is referred to herein as the "Declaration"), which community is commonly known as Skyline Ranch.

C. The Association is the homeowners association for Skyline Ranch, as provided for in the Declaration.

D. By virtue of its location within Skyline Ranch, the Lots are subject to and under the jurisdiction of both the Association and the Declaration.

E. The Lots, as improved by SRIII, include or will include a drainage basin and other related drainage facilities (the "Drainage Facilities") on that portion of the Lots more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area"). Both SRIII and the Association acknowledge that the Drainage Facilities provide water (including storm water) drainage and detention that generally benefits the single-family lots within the Skyline Ranch and, thereby, the Association's members.

F. Article VII of the Declaration provides the Association with the authority to levy assessments against individual single-family lots within Skyline Ranch as is necessary to cover the costs associated with the maintenance of drainage facilities within Skyline Ranch. Furthermore, the Map provides for the Association's maintenance of certain drainage facilities within Skyline Ranch.

G. In order to fairly allocate the burden for the maintenance of the Drainage Facilities, in light of their benefit to Skyline Ranch generally, and to assure that such maintenance will be conducted consistently and appropriately for the benefit of all owners within Skyline Ranch over time, SRIII and the Association desire to document (i) certain easement rights of the Association over the Lots, (ii) the responsibility for maintaining the Drainage Facilities, and (iii) the responsibility for costs arising in connection therewith, all as specified in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, SRIII and the Association hereby agree as follows:

### AGREEMENT

**I. Reservation of Easements.** SRIII hereby grants to the Association (i) a perpetual, appurtenant, non-exclusive easement over and upon the Easement Area, for the use, maintenance, replacement, and repair of the Drainage Facilities, as well as for the installation, use, maintenance, replacement, and repair of any drainage facilities and/or improvements the Association hereafter elects to place upon the Easement Area; and (ii) a perpetual, appurtenant, non-exclusive easement over and upon the Easement Area for such access as the Association may need to enjoy the foregoing rights, or to enjoy similar rights held by the Association on other single-family residential lots or common area within Skyline Ranch.

**II. Maintenance Obligations.** The Association hereby covenants to maintain the Drainage Facilities, and all improvements related thereto, in good order and repair, and to undertake such maintenance, replacements, and repairs as are necessary to comply with the foregoing standard. The Association shall carry out its obligations hereunder promptly and in a manner reasonably designed to minimize any adverse impact on the Lots. Without limiting the generality of the foregoing two sentences, the Association shall (i) have a licensed, certified and insured, civil or soils engineer inspect the Drainage Facilities at least once per year and following any significant storm event (that is, a storm event that produces a flow depth of one (1) foot in

any channel); (ii) remove, at each inspection, woody plant species within immediate channel flowlines and basins; (iii) remove, at each inspection, debris, such as branches and trash, from all Drainage Facilities in order to reduce the potential for the clogging and/or obstruction of the Drainage Facilities; (iv) remove from channels and basins, sediment and silt deposits in excess of one-half (1/2) foot in depth, which removal, if required or recommended by the soils or civil engineer, shall conform to the original geometric section of the channel or basin and any removal should take place under the observation or guidance of the soils or civil engineer; (v) undertake any necessary repairs or restoration recommended by the soils or civil engineer upon inspection. Any deposit or erosion to be remedied in accordance with subsections (iv) and (v) above shall be addressed as soon as the channel or basin has dried sufficiently to allow maintenance equipment to operate within the channel or basin in an efficient manner so as to minimize channel or basin disturbances. Notwithstanding the foregoing, should the degree of deposit or erosion be such that channel or basin integrity is compromised in a manner that imperils public health, safety, and welfare, remedial measures to restore the channel or basin shall be taken immediately, whether during or after a storm event, to keep flows confined within the Drainage Facilities.

**III. Power to Maintain; Indemnification of the Association.** The Association shall be solely responsible for, and SRIII shall not be responsible for and shall not have control or charge over, the means methods, techniques, or procedures used in connection with the Association's discharge of its obligations under Section 2. Furthermore, SRIII hereby covenants that neither SRIII nor any of its guests, tenants, agents, or invitees shall in any way interfere with or damage the Drainage Facilities, and SRIII shall indemnify, defend and hold harmless the Association on any claims arising from the negligence or willful misconduct of SRIII, its guests, tenants, agents, or invitees for damages sustained on the Drainage Facilities, except to the extent any such claims arise from the negligence or willful misconduct of the Association, and SRIII shall promptly reimburse the Association for the costs associated with any damage to the Drainage Facilities caused by the negligence or willful misconduct of SRIII, its guests, tenants, agents, or invitees. Notwithstanding anything else herein to the contrary, nothing herein shall restrict or prohibit SRIII from taking such action upon or in relation to the Drainage Facilities as is necessary to protect the Lots, or other persons or property in the event of an emergency or failure to act by the Association.

**IV. Cost of Maintenance.** The Association shall be solely responsible for all costs and expenses associated with the maintenance of the Drainage Facilities and the discharge of its obligations under Section 2, except as provided under Section 3. Nothing herein shall be deemed to exempt SRIII from the payment of assessments levied by the Association under the Declaration, including, without limitation, assessments levied for the purpose of covering the costs associated with the Association's maintenance of the Drainage Facilities.

**V. SRIII Indemnity.** The Association hereby agrees to indemnify, defend and hold SRIII and its constituent partners, directors, officers, members, shareholders, agents and employees harmless from and against any and all losses, claims, damages, liabilities, costs and expenses (including, without limitation, attorney's fees, investigative and discovery costs), and any and all other sums which SRIII may pay, or be obligated to pay, or incur, on account of any

and all demands or claims, or assertions of liability, or any claim or action of any type founded thereon, arising, or alleged to have arisen, out of, in whole or in part, any act, omission, negligence or willful misconduct of the Association, its architects, members, engineers, invitees or licensees.

**VI. Mechanics' Liens.** The Association shall pay when due all costs, fees or other expenses associated with work undertaken hereunder, and shall indemnify, defend and hold harmless SRIII from any mechanics' liens, actions or liabilities arising from non-payment of such costs, fees or other expenses for such work; provided, however, in the event the Association shall have a bona fide dispute with the architect, engineer, contractor or other person or entity performing work, the Association may withhold payment pending resolution of such dispute, and may engage counsel and undertake such action as is reasonably necessary to resolve such dispute at the earliest possible date. If, by reason of the withholding of any payment pending resolution of a bona fide dispute, any mechanics' liens are filed against the Lots, the Association shall, upon written demand of SRIII, post such surety bond as is necessary to release such mechanics' lien(s) from the Lots.

**VII. Miscellaneous.**

A. Attorney's Fees. In the event of any legal or equitable action, arbitration or proceeding between the Parties hereto arising out of this Agreement, the prevailing Party shall be awarded reasonable attorneys' fees and court or arbitration costs in addition to any other judgment or award.

B. No Third Party Rights. No provision of this Agreement shall confer upon any person or persons not a party hereto any rights hereunder, nor shall any provision hereof establish a trust or other fund for the benefit of any such person or persons, nor shall any such person or persons be construed as a third party beneficiary of any term, covenant or condition hereof.

C. No Partnership. The provisions of this Agreement do not create any partnership, joint venture, or other legal entity between the Parties hereto.

D. Property Taxes and Assessments. Nothing in this Agreement shall be deemed to create in the Association an obligation to pay any property taxes or assessments charged against the Lots or any other property owned by SRIII.

E. Covenants and Servitudes. All provisions of this Agreement shall be binding upon the successors and assigns of SRIII and the Association, and, as to SRIII and the Lots, shall be deemed to run with the Lots as covenants running with the land or as equitable servitudes, as the case may be, and shall constitute benefits and burdens to the Lots, as provided herein, and to all persons hereafter acquiring or owning any interest in the Lots individually, however such interest may be obtained. Notwithstanding anything else herein to the contrary, any person or entity who a Lots (including, without limitation, SRIII), upon transfer of all of its



interest in that Lot, is relieved of all liability with respect to the obligations of SRIII under this Agreement to performed on or after the date of transfer.

F. Authority to Execute. Each person executing this Agreement on behalf of a Party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to so bind and that such entity has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

G. Time. Time is of the essence. Each Party shall perform its obligations hereunder in a prompt and timely manner.

H. Force Majeure. The performance by either Party of its obligations under this Agreement shall be excused during any period of delay caused at any time by reason of acts of God or civil commotion, riots, strikes, picketing, or other labor disputes shortages of materials or supplies, or damage to work in process by reason of fire, floods, earthquake, or other casualties, restrictions imposed or mandated by governmental or quasi-governmental entities (including, without limitation, new or supplementary environmental regulations), third party litigation, act or neglect of the other Party, or any other cause beyond the reasonable control of a Party ("Force Majeure"). Each Party shall give written notice to the other Party of any delay hereunder as soon as reasonably possible after the same has been ascertained.

I. Further Assurances. Each Party shall, whenever and as often as it shall be reasonably requested by the other Party, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such further instruments and documents and take such further actions as may be reasonably necessary in order to carry out the intent and purpose of this Agreement.

J. Entire Agreement. This Agreement supersedes all other agreements, whether oral or written, between the Parties with respect to the subject matter hereof and this Agreement shall not be modified by either Party by oral representation made before or after the execution of this Agreement, and all modifications shall be in writing signed by each of the Parties hereto.

K. Waivers. No waiver by any Party of any term, covenant or condition hereof shall bind any other Party hereto, nor shall such waiver be deemed a waiver or any other term, covenant or condition hereof, or of any subsequent performance of the same term, covenant or condition.

L. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but, if any provision of this Agreement shall be invalid or prohibited thereunder, such invalidity or prohibition shall be construed as if such invalid or prohibited provision had not been inserted herein and shall not affect the remainder of such provision or the remaining provisions of this Agreement.



M. Interpretation. The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning. This Agreement shall be construed as if all Parties jointly prepared this agreement and any uncertainty and ambiguity shall not be interpreted against any one Party. Section headings of this Agreement are solely for convenience of reference and shall not govern the interpretation of any of the provisions of this Agreement. References to "sections" are to sections of this Agreement, unless otherwise specifically provided. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and neuter, and vice versa.

N. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, without giving effect to the conflicts of law principles of said state.

O. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original but all of which together shall constitute one and the same document.

Dated as of 6/13/ 2006.

**SRIII:**

**SKYLINE RANCH III, LLC,  
a Nevada limited liability company**

**By: SYNCON HOMES,  
a Nevada limited liability company**

**Its: Manager**

**By:** Craig Sigler  
Craig Sigler

**Its:** CEO

**THE ASSOCIATION:**

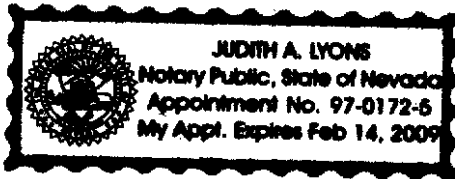
**SKYLINE RANCH ASSOCIATION,  
a Nevada nonprofit corporation**

**By:** Andrew W. Mitchell  
Andrew W. Mitchell

**Its:** Pres

STATE OF NEVADA )  
 )  
COUNTY OF DOUGLAS )

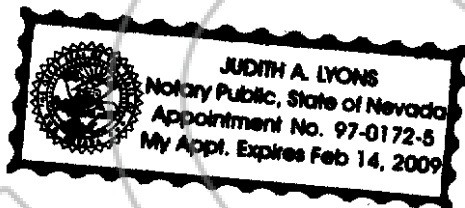
This instrument was acknowledged before me on June 13, 2006, by Craig Sigler as CFO of Syncon Homes, a Nevada corporation, as Manager of Skyline Ranch III, LLC, a Nevada limited liability company.



Judith A Lyons  
Notary Public  
My Commission Expires: Feb 14, 2009

STATE OF NEVADA )  
 )  
COUNTY OF DOUGLAS )

This instrument was acknowledged before me on June 13, 2006, by Andrew W. Mitchell as President of Skyline Ranch Association, a Nevada nonprofit corporation.



Judith A Lyons  
Notary Public  
My Commission Expires: Feb 14, 2009

A.P.N. 1420-35-311-002 (Portion)  
A.P.N. 1420-35-311-03 (Portion)

**EXHIBIT 'A'**

**LEGAL DESCRIPTION  
(Maintenance Access and Drainage Easement)**

Being a portion of the Southwest  $\frac{1}{4}$  of Section 35, Township 14 North, Range 20 East, M.D.B. & M., in the County of Douglas, State of Nevada being more particularly described as follows:

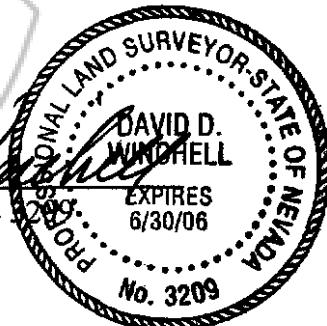
Those portions of Lot 106 and 107 as said lots are shown on the Final Subdivision Map, FSM #94-04-03, for Skyline Ranch Phase 3, recorded in Book 0705 at Page 1491 as File No. 648689 in the Official Records of said Douglas County described as follows:

Beginning at the Northwesterly corner of said Lot 107; thence Easterly along the Northerly line of said Lot 107, N.  $89^{\circ} 58' 22''$  E., 132.72 feet; thence S.  $57^{\circ} 53' 34''$  E., 44.58 feet to the beginning of a curve concave to the Southwest and having a radius of 44.00 feet; thence Southeasterly along said curve through a central angle of  $82^{\circ} 08' 40''$  an arc distance of 63.08 feet to a point of compound curvature, a radial line through said point bears S.  $65^{\circ} 44' 53''$  E/, said compound curve being concave to the Northwest and having a radius of 365.00 feet; thence Southwesterly along said curve through a central angle of  $32^{\circ} 47' 28''$  an arc distance of 208.89 feet to the end of said curve, a radial line through said point bears S.  $32^{\circ} 57' 25''$  E.; thence S.  $89^{\circ} 54' 37''$  W., 77.61 feet to a point on the Westerly line of said Lot 106; thence Northerly along the Westerly line of said Lots 106 and 107, N.  $0^{\circ} 05' 23''$  W., 200.42 feet; thence N.  $89^{\circ} 58' 22''$  E., 25.00 feet; thence N.  $0^{\circ} 05' 23''$  W., 35.00 feet to the Point of Beginning.

Said Parcel Contains 39,706 square feet (0.91 acres), more or less.

Per NRS 111.312, this legal description was prepared by Western Engineering & Surveying Services, whose mailing address is 3032 Silver Sage Drive, Carson City, Nevada 89701.

By: David D. Winchell  
David D. Winchell, PLS



Date: 6/13/06



