

When recorded mail to:  
Round Ridge Homeowners Association  
c/o Kern & Associates, Ltd.  
5421 Kietzke Lane, Suite 200  
Reno, NV 89511



KAREN ELLISON, RECORDER

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

**FIRST AMENDED AND RESTATED**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**ROUND RIDGE TOWNHOUSES, NO. 1**  
**DOUGLAS COUNTY**

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**FIRST AMENDED AND RESTATED**  
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**ROUND RIDGE TOWNHOUSES, NO. 1**  
**DOUGLAS COUNTY**

**RECITALS**

**R1.** Whereas, Round Ridge Homeowners Association is a Nevada non-profit corporation existing as a common-interest community under the laws of the State of Nevada (hereinafter "Association");

**R2.** Whereas, the *Declaration of Covenants, Conditions and Restrictions Round Ridge Townhouses No. 1 Douglas County, Nevada* was recorded on January 24, 1966, as Document No. 30823, in the Official Records of the County of Douglas, State of Nevada *Amendment Number 1 to the Declaration of Covenants, Conditions and Restrictions of Round Ridge Townhouses No. 1* was recorded December 22, 1983 as Document No. 093077;

**R3.** Whereas, the above-referenced documents, collectively the "Declaration" established a plan of common-interest ownership with certain limitations, easements, covenants, restrictions, conditions, the Lien and charges which run with and are binding upon all parties having or acquiring any right, title or interest in that certain parcel of real property consisting of eighteen (18) Units and various Common Elements located in the County of Douglas, State of Nevada, and more particularly described on the map filed in the County Recorder of Douglas County, Nevada, on the 21<sup>st</sup> day of December 1965, hereinafter referred to as the Subdivision;

**R4.** Whereas, this common interest community is governed by the laws of the State of Nevada and particularly Chapter 116 of the Nevada Revised Statutes which was originally enacted in 1991 and amended through the years, which amendments require the amendment or override of various provisions of Round Ridge's current Declaration and therefore this revision is to bring the Governing Documents into compliance and conformance with the changes in Chapter 116 through the years the Association has been in existence;

**R5.** Whereas, the Members of the Association, constituting at least seventy-five percent (75%) of the total voting power of the Association as required by the Declaration, desire to restate and amend the limitations, easements, covenants, restrictions, conditions, the Lien and charges which run with and are binding upon all parties having or acquiring any right, title or interest in that certain parcel of real property;

**R6.** It is further hereby declared that all of the real property described herein is held and owned and shall be held, owned, operated, managed, conveyed, assigned, rented, hypothecated, encumbered, leased, used, occupied and improved subject to the

following Restated Declaration of Covenants, Conditions and Restrictions, all of which are declared and agreed to be in furtherance of a plan and purpose of protecting, preserving and enhancing the value, desirability and attractiveness of the real property and every part thereof and of fostering the Subdivision, management, improvement, enjoyment, use and sale of the real property and any part thereof;

**R7.** It is further hereby declared that all of the Covenants, Conditions and Restrictions herein set forth shall constitute enforceable equitable servitudes as defined in Nevada law and shall constitute covenants that shall run with the real property and shall be binding upon and inure to the benefit of each Owner of any portion of the real property or of any interest therein, each party having or acquiring any right, title or interest in and to the real property or any part thereof and their heirs, successors and assigns; and

**R8.** It is further hereby declared that each Owner, by acceptance of a deed to a Unit, shall be deemed to have agreed, for any and all purposes, for Owner and Non-Owner Occupants to abide by, and to be bound by, each and every provision of this Restated Declaration which subjects such Owner or other person to a contractual, fiduciary or other duty, obligation or agreement for the benefit of other Owners or occupants of the Round Ridge Subdivision, either individually or as a class, or Round Ridge Homeowners Association, regardless of whether the deed refers specifically to this Restated Declaration or to any such duty, obligation or agreement.

#### **ARTICLE 1: DEFINITIONS.**

**Section 1.1. "Action of the Association"** means and includes, other than actions required by the Restated Declaration or Governing Documents to be accomplished by vote of the Owner membership, an action by the Board, or if lawfully delegated by action of the Board, action of: a) the executive committee or other committee constituted by the Board, Restated Declaration or Governing Documents, b) the Association's officers or single officer, c) Association management, or d) any combination thereof so designated.

**Section 1.2. "Articles"** means the Articles of Incorporation of Round Ridge Home Owners Association, filed in the Office of the Secretary of State of Nevada, as such Articles may be amended.

**Section 1.3. "Assessment"** means Regular, Reserve, Special, or Special Individual Assessment assessed by the Association against Owners and their Unit in accordance with Article 5 of this Restated Declaration.

**Section 1.4. "Association"** means Round Ridge Homeowners Association, a Nevada nonprofit mutual benefit corporation. Round Ridge Homeowners Association is an "Association" as defined in NRS 116.011 or superseding statute.

**Section 1.5. "Board"** means the body designated in this Restated Declaration to act on behalf of the Association. The Board may act on behalf of the Association unless any action is specifically reserved to the Members or as required by NRS 116. NRS 116 references an executive board and this is the same as the Board.

**Section 1.6. "Bylaws"** means the Bylaws of the Association, including any subsequent revisions as they may be amended from time to time.

**Section 1.7 "Common Area"** means any portion of the Subdivision owned by the Association or owned by the members as undivided interests or depicted on any recorded map as Common Area.

**Section 1.8. "NRS 116"** means Chapter 116 of the Nevada Revised Statutes as existing and as may be amended from time to time.

**Section 1.9. "Common Elements"** means any real estate and the improvements thereon within the Subdivision other than a Unit. It includes all of the Limited Common Elements.

**Section 1.10. "Common Expense"** means any use of common funds authorized by Article 5 hereof and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Elements that the Association is obligated to maintain or repair; (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board; (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Elements the Association is obligated to maintain or replace, and for nonpayment of any Assessments; (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents; and (e) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Limited Common Elements as may be required by this Restated Declaration and/or NRS 116.

**Section 1.11. "Designated Parking"** means certain designated parking areas.

**Section 1.12.** The "**Lien**" means the lien created by and perfected by the *Declaration of Covenants, Conditions and Restrictions Round Ridge Townhouses No. 1 Douglas County, Nevada* was recorded on January 24, 1966.

**Section 1.13. "Limited Common Element"** means the portion of the Common Elements which are for the exclusive use of one or more but less than all Units, including but not limited to decks and garages. The term also includes any improvement specifically authorized by the Board as a Limited Common Element for one Unit or for

more than one Unit but less than all Units. Limited Common Elements are subject to applicable provisions of Article 6.

**Section 1.14. "Maintenance"** means the exercise of reasonable care to keep buildings, landscaping, lighting, Common Elements, Limited Common Elements, Improvements, Units, and/or real or personal property in which the Association or an Owner holds an interest in a state similar to their original condition, normal wear and tear excepted.

**Section 1.15 "Map"** means the map for the Roundridge Townhouses recorded in the office of the County Recorder of Douglas County, Nevada, on August 14, 1967 as Document No. 37524.

**Section 1.16. "Member"** means an "Owner" as defined in Section 1. . . , below. When more than one person is an Owner of a Unit, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Unit nor more than one Member of a Unit be eligible to serve on the Board of Directors, except as may be allowed by NRS 116.

**Section 1.17. "Mortgage" or "Deed of Trust"** means any security device encumbering any Unit or any portion of the Subdivision including any deed of trust. The terms mortgage and deed of trust may be used interchangeably. **"First Mortgage"** means a mortgage having priority over all other Mortgages (except as provided by Section 5.10). **"Mortgage Lien"** means the lien or charge or equivalent security interest of any mortgage or deed of trust. **"Mortgagor"** shall refer to the trustor under a deed of trust, as well as a mortgagee. **"Mortgagee"** shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense. **"First Mortgagee"** means any person or entity, including, but not limited to, banks, savings and loan associations, insurance companies and other financial institutions, holding a recorded mortgage which constitutes an encumbrance upon one or more Units first in priority of lien (except as provided by Section 5.10) over all other encumbrances upon the Unit(s) securing payment of money other than this Restated Declaration and liens for real estate taxes and assessments.

**Section 1.18. "Non-Owner Occupant"** means tenant, lessee, guest, agent, employee, invitee, licensee, contract purchaser or other person occupying or present at an Unit.

**Section 1.19. "Owner"** means an "Owner of a Unit" as defined in NRS 116.095 or superseding statute. **"Owner of Record"** and/or **"Member of the Association"** includes an Owner and means any person, firm, corporation, trust, limited liability company or other entity in which title to a Unit is evidenced by a recorded deed or recorded installment land contract or recorded contract of sale according to Association records.

For purposes of requiring compliance with the obligations hereunder and where the context requires, and not to change the preceding paragraph, the term "**Owner**" includes Non-Owner Occupants as defined in Section 1.18.

**Section 1.20. "Regular Assessment"** means an Assessment levied on Owners and their Lots in accordance with Section 5.2 hereof.

**Section 1.21. "Reserve Assessment"** means a regular Assessment levied on Owners and their Units to fund the Reserve Account in accordance with a reserve study in accordance with Section 5.2 hereof.

**Section 1.22. "Residential Use"** means occupation and use of a Unit for Residential dwelling purposes in conformity with this Restated Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of Persons who may occupy Residential dwellings. "**Resident**" means any Person who resides in an Individual Unit.

**Section 1.23. "Restated Declaration"** means this First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Round Ridge Homeowners Association, recorded in the Office of the County Recorder of Douglas, Nevada as such may be amended.

**Section 1.24. "Super-Priority Lien"** shall mean that portion of the Lien equal to an amount equal to nine months or any greater period allowed by law of any assessments made plus any abatement assessments plus any construction penalties plus attorney's fees, costs, late charges, interest, collection fees and costs, foreclosure costs – all of which added together shall be the Super-Priority Lien.

**Section 1.25. "Unit Building"** means a building that includes one or more Units.

**Section 1.26. "Unit"** means a parcel in the Subdivision as shown on the recorded map for the Roundridge Townhouses recorded in the office of the County Recorder of Douglas County, Nevada, on August 14, 1967 as Document No. 37524 and which has been conveyed to its Owner.

## **ARTICLE 2: OWNERS' PROPERTY RIGHTS & OBLIGATIONS.**

**Section 2.1. Elements of Separate Interest.** Ownership of each separate interest within the Subdivision includes:

(a) **Unit.** A separate parcel as defined, depicted and described herein and identified by number on the Map.

**(b) Nonexclusive Easements.** Nonexclusive easements appurtenant to the Unit for the use and enjoyment of the Common Elements and as more particularly described in Section 2.2.

**(c) Limited Common Elements.** Limited Common Elements, as defined in Section 1.13.

The Limited Common Elements are set aside for the exclusive use and enjoyment of the Owners and occupants of the appurtenant Unit and the non-exclusive easements are subordinate to and must not interfere with the Limited Common Elements. The Limited Common Elements appurtenant to a Unit must not unreasonably interfere with Limited Common Elements appurtenant to another Unit or the Common Elements not set aside for exclusive use and enjoyment.

**Section 2.2. Owners' Nonexclusive Easements of Enjoyment to Common Elements; Waiver of Individual Owner's Right to Sever.** Subject to the provisions of this Restated Declaration, the Common Elements shall be held, maintained and used to meet the common interests of the Owners as provided in the Governing Documents. There shall be no use of the Common Elements except by the Owners or as may be delegated by Owners pursuant to Section 2.4 below. No Owner, or other person, may by conveyance, transfer or any other action, including an action at law for partition, sever any Unit from the Common Elements or from the Association. Each Owner, by acceptance of a deed to a Unit hereby expressly waives all rights to do so.

**Section 2.3. Persons Subject to Governing Documents.** All present and future Owners and/or Non-Owner Occupants of Units within the Subdivision (on behalf of themselves, their Family, guests, invitees, agents, employees, licensees and/or any other persons that might use the facilities of the Subdivision in any manner, etc.) shall be subject to, and shall comply with the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, Non-Owner Occupants, etc.).

**Section 2.4. Delegation of Use.**

**(a) Delegation of Use and Membership Rights and the Leasing or Sale of a Unit.** Any Members who delegate use of their Unit or membership rights to Non-Owner Occupants, or who leases to or contracts with another person or entity for the use of their Unit shall post or make a copy of the Association Rules reasonably accessible within their Unit for the review by any such person.

**(b) No Timeshare, Interval Ownership Purposes or Transient Commercial Use.** No Owner shall offer or sell any interest in any Unit under a "timesharing" or "interval ownership" plan as provided in Chapter 119A of the Nevada Revised Statutes. No Owner shall offer or rent any interest in any Unit for transient commercial use as defined by NRS 116.340(4)(b). Commencing one year from the date



of the recording of this Restated Declaration, no Owner shall offer or rent any interest in any Unit for a term less than three (3) months.

**Section 2.5. Obligations of Owners.** Owners shall be subject to the following:

(a) **Maintenance by Owner.** Each Owner shall have maintenance responsibilities for their Unit, garage, deck and other Limited Common Elements.

(b) **Owner's Duty to Notify Association of Sale, Contract Purchasers or change in Non-Owner Occupants.** Owners shall provide information to the Association regarding the name and mailing address of any person obtaining record ownership of the fee interest of a Unit or a change in Non-Owner Occupants of any Unit.

(c) **Payment of Assessments and Compliance Association Rules.** Each Owner shall pay when due each Regular, Reserve, Special and Special Individual Assessment levied against the Owner and his or her Unit and shall observe, comply with and abide by any and all Governing Documents for the purpose of protecting the interests of all Owners or protecting the Common Elements.

(d) **Responsibility for Conduct of Others.** Owners are fully responsible for informing Non-Owner Occupants of the provisions of the Governing Documents and shall be fully responsible for any violation of the provisions of the Governing Documents by Non-Owner Occupants. Each Owner shall further be fully responsible for the conduct and activities of Owner's pets and the pets of Non-Owner Occupants.

(e) **Indemnification for Damage & Injury.** Owners are liable to the remaining Owners and the Association for any damage to the Common Elements or Limited Common Elements that result by reason of the willful misconduct, or negligent act or omission of the Owner or Non-Owner Occupant (to the extent any such damage is not covered by insurance or subject to a deductible). Each Owner and Non-Owner Occupant shall indemnify each and every other Owner and/or the Association against, and hold them harmless from, and defend them against, any claim of any person for personal injury or property damage occurring within the Subdivision due to the willful misconduct, negligent act or omission of the Owner and/or Non-Owner Occupant, unless the injury or damage incurred is fully covered by insurance. Any deductible or uncovered loss is the responsibility of the Owner.

(f) **Obligation To Permit Entry by Association and/or Adjacent Owners.** Each Owner shall be obligated to permit the Owners of adjacent Units to enter the Owner's Unit for purposes of performing installations, alterations or repairs to mechanical or electrical services which are reasonably necessary for the use and enjoyment of his or her Unit, provided that the adjacent Owner furnishes the Owner whose Unit is being entered upon with at least seventy-two (72) hours written notice of their intent to enter the Unit, specifying the purpose and scheduled time of such entry and shall make every reasonable effort to perform the use and schedule the entry in a manner that respects the privacy of the Residents of the Unit and the convenience of the Owner.

Each Owner shall also honor the right of the Association and its agents to enter Units as may be necessary to meet the obligations of the Association.

**ARTICLE 3: RESTRICTIONS OF OCCUPANCY OF PROPERTY.**

In addition to the restrictions established by law or set forth in the other Governing Documents, the following restrictions are hereby imposed upon Owners.

**Section 3.1. Residential Use.** Each Unit shall be used exclusively for residential purposes.

**Section 3.2 Rental Restriction.** Leasing a Unit shall not be considered a violation of this single family residential restriction, subject to the restrictions in Section 2.4(b) and Section 3.3.

**Section 3.3 Lease – Terms.** Commencing one year from the date this Restated Declaration is recorded, no lease or rental agreement of a Unit shall be executed that provides for a tenancy of less than three (3) months.

**Section 3.4. Restriction on Businesses.** No commercial activity or business of any kind shall be established, maintained, operated, permitted or conducted within the Subdivision except home offices and/or such professional or administrative businesses. There shall be no posted external evidence of such business/home office, including, but not limited to, no signs, no increased pedestrian and/or vehicular traffic, no activities that are apparent or detectable by sight, sound or smell from outside of the Unit, no activities that increase Association's insurance obligations and/or premiums, and/or no activities are inconsistent with Residential nature of the Subdivision. Even if allowed by local ordinances, no commercial day care shall be allowed.

**Section 3.5. Restriction on Temporary Residency.** No overnight, temporary or permanent occupancy within any motor home, recreational vehicle, camper, trailer, or boat or any other temporary residency shall be allowed on any portion of the Subdivision.

**Section 3.6. Offensive Conduct, Nuisance, Obstructions, or Hazards.** The following activities are prohibited and shall not be performed on, upon or within the Subdivision:

(a) Activities which are noxious, harmful or offensive as determined by the Board;

(b) Activities which are nuisances, harassment, annoy or cause unreasonable embarrassment, disturbance or annoyance to any Residents of the Subdivision, Owners, Board Members and/or Association agents, service providers and/or employees or which shall, in any way, interfere with Residents' use and enjoyment of their Units, Limited Common Elements, and/or the Common. When determining if any activity is a nuisance, the Board may adopt Rules establishing such

activities and in any event, shall exercise reasonable discretion based on an objective standard of what is normally and usually considered to be a nuisance or a material impact which reduces any other Member's right or rights of use or enjoyment of their Unit or the Common Elements;

(c) Activities which will increase the rate of insurance or result in the cancellation of insurance under any insurance policy obtained by the Association;

(d) Activities which are in violation of any governmental statute, ordinance, rule and/or regulation;

(e) Use of machinery or equipment of any kind, except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a Unit;

(f) Activities which will obstruct entryways or roadways located in or upon the Subdivision or interfere with the free use thereof, except such obstruction as may reasonably be required in connection with repairs and maintenance to an affected Unit;

(g) Activities which impede, alter or otherwise interfere with the drainage patterns or facilities in, over, under, across and through the Subdivision, without the prior written consent of the Board;

(h) Activities or conditions which would induce, breed, or harbor infectious plant diseases, noxious insects, rodents and/or vermin;

(i) Any excavation, improvement or similar work which in any way alters any Common Elements or Limited Common Elements from its existing state on the date such Common Element or Limited Common Element was originally constructed shall not be made or done except by the Association and, then, only in strict compliance with the provisions of the Governing Documents;

(j) Emission of unreasonable levels of exhaust fumes, noise, and parking dilapidated, unlicensed, unregistered, non-operational and/or disabled vehicles on Common Area;

(k) Division of Units in any manner, including into two or more apartments;

(l) Any improvement or alteration without all required governmental permits and approvals or other actions; and

(m) Any noise, sound(s) or sight(s) which would unreasonably disturb another's enjoyment of his or her Unit and/or the Common Elements.

**Section 3.7. Regulation of Owner Activity.** In order to promote the Owners' use and enjoyment of the Subdivision and the esthetic and recreational purposes thereof, there are certain activities that may be regulated, prohibited or limited. In addition, the Board, in its Rules, shall be entitled to set forth additional provisions that regulate or limit, subject to legal limitations, any activities identified in this Restated Declaration including the activities in this Section 3.7.

(a) The Board may regulate the color and type of all drapes, blinds, curtains, shades, shutters or other window coverings visible to the Common Elements and/or another Unit. No tin foil, sheets, or other "non-window" covering shall be placed on any windows except as approved by the Board. No addition, alteration or modification, including but not limited to, shutters, including shutters or window hangings that may be seen from the exterior of any Unit, may be installed by an Owner unless prior written authorization is received in accordance with any Rules or Regulations adopted by the Board.

(b) The decorations, furnishing, landscaping or embellishment of Units that are visible to the Common Elements and/or another Unit are subject to removal if determined by the Board.

(c) Except as provided herein, no placement or display of signs of any kind on or from any Unit shall be allowed. The Board shall not prohibit such signs as are required to be allowed by law. No Owner may place signs in or on the Common Elements except as approved by the Board or a "For Sale" or "For Rent" sign as long as it is no greater than two (2) feet square.

(d) There shall be no display or flying of flags, windsocks and/or similar items within the public view from any portion of the Subdivision, except that this limitation shall not prohibit or prevent the flying of a flag of the United States or Nevada, as specifically allowed by law.

(e) There shall be no breeding of any animals of any kind. There shall be no keeping or maintaining of animals such as livestock, reptiles or rodents. However, each Owner may keep in the Unit not more than a total of two (2) domestic dogs, cats and other customary household pets, provided that the dog, cat, or other household pet is not kept, bred, or maintained for any commercial purposes. The Board may adopt size or other reasonable limitations. Service dogs are allowed in compliance with State and Federal laws.

While in the Common Elements, all dogs must be on a leash, or otherwise controlled by a responsible person. Pet owners are responsible for the removal and/or proper disposal of their pet's bodily wastes and, while in the Common Elements, must always have a bag or utensil with them to remove or dispose of the waste. No pets are permitted to be in or on any entry, deck, porch or patio unattended.

The Board has the right to prohibit the maintenance or presence of any animal within the Subdivision. In particular, no aggressive, dangerous and/or attack trained dogs or animals are permitted in the Subdivision.

Any person whose pet or animal causes injury to another Owner or guest shall be solely liable to such Owner or guest and shall indemnify the Association for any responsibility or damages, including attorney fees and costs, arising out of any such incident or occurrence.

(f) There shall be no use of power equipment, hobby/shop and/or wood-working equipment within the Subdivision unless this use is inside the Unit, within reasonable hours, and without undue noise or nuisance to neighboring Owners.

(g) Except as written approval is given, there shall be no modification or improvement of the exterior of any Unit or related Limited Common Elements, including, but not limited to, awnings, patio covers, or other exterior modifications.

(h) No Unit shall be modified in any manner to permit the occupancy by more than one family. No form of communal living or time share shall be allowed and no "Common Kitchen Concept" shall be permitted.

(i) Except as required by law, no solar heating devices or panels of any kind shall be allowed unless written approval by the Board is given.

(j) Refuse, garbage and trash shall not be kept except in covered, sanitary containers designated for refuse, garbage and trash. No garbage or refuse or trash shall be stored in such a manner as to attract bears, dogs or other animals.

(k) No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere, and no odor shall be permitted to arise therefrom so as to render any portion of the Subdivision unsanitary, unsightly, or offensive.

**Section 3.8 Parking Enforcement & Vehicle Maintenance.** As long as applicable ordinances and laws are observed, including but not limited to NRS 116.3102(1)(s), NRS 487.038 or comparable superseding statute, the Board may cause the removal of any vehicle which is in violation of the Governing Documents.

Each parking space or garage may be used only for the parking of registered, insured and operable vehicles as shall be permitted by the Rules, so long as the vehicle can fit within the dimensions of the parking space. The use of parking areas and roads shall be subject to such Rules as the Board may adopt. The Board may adopt Rules to control parking in any way the Board deems appropriate.

Motorcycles of any type or kind, inclusive of motorized bicycles, go-carts or mopeds that are not "muffled down" shall not be operated on any portion of the Subdivision.

No vehicle may be parked within the Subdivision except within parking areas designated by the Board.

No Owner may use more than one guest parking spot in any forty-eight (48) hour period.

Only two vehicles per Unit will be allowed during times when there is no snow removal.

There shall be no parking on driveways during winter snow removal and during this period there shall only be one vehicle per Unit allowed in the Subdivision at the same time. No parking is allowed anywhere in the subdivision during snow removal except in designated areas. No parking in driveways at any time it is snowing. Any vehicle parked in a driveway during these times shall be towed at the vehicle owner's expense. Any parking in the driveways shall be done at the vehicle owner's risk of damage. Snow storage areas are all ends of driveways. No parking in any location that would interfere with the snow storage. Any vehicles parked that interfere with snow removal in any way shall be towed at the owner's expense.

No parking is allowed in front of the garages.

No parking anywhere that would prevent access for emergency vehicles. Any vehicle may be towed immediately.

Non-passenger vehicles, campers, trailers (of any kind), boats, recreation vehicles, commercial vehicles, or similar vehicles are permitted, for a limited basis of not more than forty-eight (48) hours within the Subdivision for:

- (a) Loading and unloading only;
- (b) Deliveries, the construction, repair, refinishing, or maintenance of any part of the Subdivision; and
- (c) Moving furnishings, equipment, or supplies into or out of the Subdivision;
- (d) Other purposes approved by the Board.

**Section 3.9. Enforcement of Property Occupancy Restrictions.** The objective of this Restated Declaration shall be to promote and seek voluntary compliance by Owners and other Residents with the environmental standards and property occupancy restrictions contained herein. Accordingly, in the event that the Board becomes aware of an architectural or property infraction that does not necessitate immediate corrective action, the Owner responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the non-complying

condition, request that the Owner or Non-Owner Occupant correct the condition within a reasonable time specified in the notice, and advise the Owner or Non-Owner Occupant of his or her appeal rights. However, the Board shall have the discretion to decide whether or not it is in the Association's best interest to pursue any enforcement action, including taking into consideration the potential benefits to the Association (and/or its Members) resulting from any such enforcement action as compared with the anticipated financial costs and may decide that analysis of these factors requires immediate or prompt corrective action. In the event that corrective action is necessary and it is not practical or timely to give written notice to solve the problem in that health, safety, public appearance or other need makes earlier action necessary, the Board may act so long as written notice is given as soon as possible to the Owner and a hearing is allowed in a reasonable time shortly thereafter.

#### **ARTICLE 4: HOMEOWNERS ASSOCIATION.**

**Section 4.1. Association Membership.** Every record Owner is a Member of the Association. The Owner(s) of a Unit will hold jointly one membership in the Association for each Unit owned. The membership will be appurtenant to each Unit and may not be separated from ownership of the Unit to which it relates. Persons who hold an interest in a Unit merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Unit through foreclosure or deed. Non-Owner Occupants who are delegated rights of use do not thereby become Members, although the Non-Owner Occupant and members of the Non-Owner Occupant's family will, at all times, be subject to the provisions of all Governing Documents.

Membership in the Association will not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Unit to which it is appurtenant and then only to the purchaser. In the case of a sale, membership passes automatically to the purchaser upon recording of a deed evidencing transfer of title to the Unit.

Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of their Unit, the Board will have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller will be null and void.

**Section 4.2. Voting.** Only one vote may be cast for each Unit owned by a Member, as more particularly set forth in the Bylaws. When more than one person holds an interest in any Unit, all such persons will be Members, although in no event may more than one vote be cast with respect to any Unit.

#### **Section 4.3. Powers and Authority of the Association.**

**(a) Powers Generally.** The Board will have the responsibility of managing and maintaining the Common Elements and will discharge all duties and responsibilities imposed on the Association by the Governing Documents and applicable

law. In the discharge of such responsibilities and duties, the Association and its Board will have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of Nevada, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.

The Association and its Board will have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the Owners. The specific powers of the Association and the limitations thereon will be as set forth in the Governing Documents and NRS 116.

**(b) Association's Limited Right of Entry.** The Board will have the right, when necessary, to enter any Unit or Limited Common Element, to perform the Association's obligations under this Restated Declaration, including: (i) exterior maintenance or repair obligations; (ii) any obligations with respect to construction, maintenance and repair of adjacent Common Elements, utilities and/or other services; or (iii) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association property or the Owners in common.

The Association's rights of entry under this subsection (b) are immediate in case of an emergency originating in or threatening the Unit where entry is required, or any adjoining Units or Common Elements, and the Association's work may be performed under such circumstances whether or not the Owner or Non-Owner Occupant is present. In all non-emergency situations, the Board must furnish the Owner or Owner's Non-Owner Occupant with at least seventy-two (72) hours written notice or other method authorized by law of the Board's intent to enter the Unit, specifying the purpose and scheduled time of such entry and will make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of residents.

The Board's rights of entry under this subsection (b) will expressly include the right to transfer said rights of entry to others (including, but not limited to employees, contractors and/or service providers retained by the Association) by permit, license, easement, or otherwise, for the benefit of the Subdivision and the Owners therein.

**(c) Association as Attorney-in-Fact for Owners.** Without limiting the generality of the foregoing, the Association is hereby irrevocably appointed as the attorney-in-fact for the Owners to (i) manage, control and deal with the interest of such Owners in the Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder; (ii) deal with the Subdivision upon its destruction or obsolescence as hereinafter provided; and (iii) deal with and handle insurance and insurance proceeds. The acceptance by any person or entity of any interest in any Unit will constitute an appointment of the Association as the Owner's attorney-in-fact as provided above.



**Section 4.4. Board.** The affairs of the Association will be managed by or under the direction of the Board. The number and qualifications of the Directors will be as established in the Bylaws.

**(a) Powers of the Board.** The Board will have all of the powers and duties set forth in the Governing Documents and NRS 116, including:

**(i) Exclusive Power.** Except as expressly otherwise provided herein, the powers and duties of the Association which the Governing Documents do not reserve to the Members will be exclusively exercised and performed by the Board (or such Committees or officers as the Board may establish, elect or appoint pursuant to the provisions of the Bylaws). Any power to be exercised or duty to be performed by the Association may not be exercised or performed by any Owner without the written consent of the Board.

**(ii) General Powers of the Board.** Without limiting any powers of the Board conferred elsewhere in the Governing Documents or NRS 116, the Board will have the following powers.

**(A)** To call meetings of the Members.

**(B)** To appoint and remove at pleasure all officers, committees or committee members, agents and employees of the Association, prescribe their duties, fix their compensation, and may require of them such fidelity bonds as it may deem appropriate.

**(C)** To establish, fix, levy, assess and collect Assessments against the Owners of Units within the Subdivision and to enforce payment of such Assessments in accordance with Article 5 of this Restated Declaration. Any Assessments levied by the Association on its Members will be levied in accordance with and pursuant to the provisions of the Governing Documents.

**(D)** To authorize and cause the Association, subject to Section 4.5, to: (1) enter into management contracts and contracts for the day-to-day operation of the Association and the discharge of its responsibilities and obligations or (2) enter into lease, license or other agreements for the use of property or facilities not a part of the Common Elements.

**(E)** To adopt, amend, and repeal Association Rules consistent with this Restated Declaration. The Association Rules may not be inconsistent with or materially alter any provision of the other Governing Documents or the rights, preferences and privileges of Members thereunder. In the event of any material conflict between any Association Rule and any provision of the other Governing Documents, the conflicting provisions contained in the other Governing Documents will be deemed to prevail over those in the Association's Rules.

After adoption of a Rule or Rules, the Board shall provide the Rules to the Members in accordance with NRS 116.

(F) To delegate its powers to committees, officers, agents or employees of the Association.

(G) To incur debt for the purpose of replacing, maintaining and improving the Common Elements, and to encumber the Subdivision, including specifically member Assessments, of the Association as security for the repayment of such debt.

(H) To grant easements on, over, under, across, and through the Subdivision for public utility and other purposes consistent with the provisions of this Restated Declaration.

(I) Except as expressly otherwise provided herein, the Board will have the exclusive right and obligation to manage and administer the Common Elements and to contract for all goods, services and insurance, payment for which is to be made from the Assessments.

(J) Open and maintain bank or other financial accounts on behalf of the Association and designate the signatories as required or prudent for such bank accounts.

(K) Subject to the requirements of NRS 116.31088 and any superseding statute, bring and defend actions on behalf of the Association to protect the interests of the Members or the Association as long as the action is pertinent to the operations of the Association, and to assess the Members for the cost of such litigation. However, the Board will have the sole discretion to decide whether or not it is in the Association's best interest to pursue any such enforcement action, taking into consideration the potential benefits to the Association (and/or its members) resulting from any such enforcement action as compared with the anticipated financial costs.

(iii) **No Active Business.** Nothing contained in this Restated Declaration, however, may be construed to give the Board authority to conduct an active business for profit on behalf of the Association, all of the Owners, or any of them. The Board will have no such power. However, this subsection (iii) will not prohibit the Association and/or its Board from acquiring, owning, leasing and/or selling any Unit or Common Element or Limited Common Element within the Subdivision.

**(b) Duties of the Board.**

(i) **Association Duties.** The Board shall perform all duties imposed on the Association by Governing Documents.

**(ii) Records.** The Board shall keep a complete record of all its acts and corporate affairs, and prepare budgets and financial statements for the Association.

**(iii) Supervise.** The Board shall supervise all officers, agents and employees of the Association and to see that their duties are properly performed.

**(iv) Assessments.** With reference to Assessments of the Association, the Board shall:

**(A)** Fix, levy and collect Assessments pursuant to the provisions of Article 5 of this Restated Declaration;

**(B)** Approve the annual operating and reserve budgets and fix the amount of the Assessment against each Member for each Assessment period in compliance with Nevada law;

**(C)** Prepare a roster of the Members and Assessments applicable thereto;

**(D)** Send written notice of each Assessment to every Member subject thereto; and

**(E)** Issue statements and/or certificates as required by Section 5.11.

**(v) Insurance.** Contract for casualty, liability, employees practices, and other insurance, sureties and/or bonds (including indemnity or fidelity bonds) on behalf of the Association with such coverages and in such amounts as required by this Restated Declaration and as deemed necessary by the Board in its sole discretion or as may be required by law.

**(vi) Vacancies.** Fill a vacancy or vacancies on the Board in a timely and prudent manner.

**(vii) Discharge of Liens.** Pay any amount necessary to bond or discharge any claim which may be or become a lien or encumbrance levied against the Subdivision as a whole or any part thereof which constitutes a lien against the Common Elements, rather than merely against the interest therein of particular Owners; provided, however, that where one or more Owners are responsible for the existence of such lien, they will jointly and severally be liable for the cost of discharging it, and any costs incurred by the Association by reason of said lien or liens will be assessed against each such Owner and the Unit provided in Section 5.4.

**(viii) Enforcement.** Commence and maintain actions for damages arising from, or to restrain and enjoin, or to take any reasonable action

necessary to prevent, any actual or threatened violation of the provisions of the Governing Documents, the orders and awards of arbitration, or resolutions of the Board, or to enforce, by injunction or otherwise, the provisions of the foregoing.

The Board will have the sole discretion to decide whether or not it is in the Association's best interest to pursue any such enforcement action, including taking into consideration the potential benefits to the Association (and/or its members) resulting from any such enforcement action as compared with the anticipated financial costs.

If legal action is instituted or legal advice is sought by the Board pursuant to this section, any judgment rendered in any such action must include all costs of collection, arbitration costs, mediation costs, court costs and reasonable attorneys' fees or the Board may assess any attorney's fees and costs incurred, with or without a judgment, as permitted by law.

**(ix) Operating Requirements.** Obtain any other material, supplies, furniture, property, labor, services, maintenance, repairs, construction, reconstruction, structural alterations, insurance, taxes, or assessments which the Association is required to secure or pay by law, local requirement, or pursuant to the terms of this Restated Declaration, or as is necessary for the operation of the Subdivision, or for the enforcement of this Restated Declaration; provided, however, that if any such materials, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are provided for particular Units, the costs thereof will, as is reasonable, be assessed to such Units and the Owners thereof as provided in Section 6.3 or as provided in the Bylaws.

**(x) Personal Property.** All property owned by the Association shall be evidenced by a written inventory and retained as a part of the records of the Association.

**Section 4.5. Limitations on Powers of the Association.** Neither the Board nor the Association will have the power to take, and both are hereby expressly prohibited from taking, any of the following actions without the vote or written assent of a majority of the voting power of the Association's Members.

**(a)** Selling, during any fiscal year, property of the Association having an aggregate fair market value greater than five percent (5%) of the budget, excluding any reserve budget, of the Association for that fiscal year.

The Board shall not convey, exchange, mortgage, encumber, transfer upon trust or otherwise dispose of any of the real property of the Association without the affirmative vote or written consent except as provided herein of at least a majority of the Members. No proxy vote shall be counted upon such issue at either an annual or special meeting unless the meeting notice shall have stated specifically that such a transaction would be considered and shall set forth the details thereof.

(b) The Board shall not pay compensation to Directors or officers of the Association for services performed, except that the Board may authorize reimbursement to a Director or officer for expenses incurred in carrying on the business of the Association.

**Section 4.6. Nonliability of Officers.** Neither a Director, officer, Committee of the Association or Member of a Committee of the Association, nor the Board (collectively and individually referred to as the "Released Party"), may be liable to any Member, Owner, the Association or any other party for any damage, loss, claim, liability or prejudice suffered or claimed on account of any decision, approval, disapproval, course of action, act, inaction, omission, error, negligence or the like made in good faith subject to the business judgment rule and which such person or entity reasonably believed to be in the interests of the Association. No Released Party shall ever be liable to any Owner or the Association for exemplary or punitive damages, regardless of the basis of any claim.

Without limiting the generality of the foregoing, this standard of care and limitation of liability will extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Elements and enforcement of the Governing Documents.

The maximum indemnification rights (including the right to advancement of expenses) of Directors, Officers, employees and/or agents will be governed by Nevada law.

The provisions of this section are intended to reflect the protections accorded to volunteer directors and officers of common interest communities under Nevada law. In the event that Nevada law is amended, this section will be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor code provision.

## **ARTICLE 5: ASSESSMENTS.**

### **Section 5.1. Assessments Generally.**

(a) **Covenant to Pay Assessments.** Except as provided herein, each Owner, by acceptance of a deed or other conveyance therefore (whether or not it will be so expressed in such deed or conveyance), covenants and agrees to pay to the Association: (i) Regular Assessments, (ii) Special Assessments, (iii) Reserve Assessments, and (iv) Special Individual Assessments levied by the Association as hereinafter provided, together with all additional charges for each Unit owned. Such deed or conveyance will be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board may deem necessary or appropriate for the collection of such Assessments and charges and for the enforcement of the Liens hereinafter provided for. All Assessments specifically include any charge, claim, fine,

fee, cost, collection expense, attorney's fee, and other charge or amount converted to such an Assessment. No Owner may convey any interest in any Unit unless all Assessments are paid in full prior to such conveyance.

Each such Assessment will be established and collected as hereinafter provided. No Owner may waive or otherwise escape liability for any Assessment provided for herein by nonuse of the Common Elements or by abandonment.

**(b) Extent of Owner's Personal Obligation for Assessments.** The obligation to pay Assessments and charges and the right and power of the Board to initiate all actions and procedures for collection will run with the land, so that each successive Owner or Owners of record within the Subdivision will, in turn, become liable to pay all Assessments and charges assessed during the time they are a record Owner. All Assessments permitted or required herein, together with late charges, interest, costs, collection expenses, fines other charges, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, will be a separate, distinct and personal debt and a personal obligation of the Person who was the Owner at the time the Assessment was levied. The Owner will ensure that any outstanding charge, cost or obligation whatsoever, whether of a monetary, Lien or other nature, will be satisfied prior to sale.

Any Grantee and/or Owner who acquires title to a Unit (whether at judicial sale, trustee's sale or otherwise) will be personally liable only for Assessments attributable to the Unit so purchased which become due and payable after the date of such sale, and will not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability and the Association agrees to such assumption. The Unit however, will be subject to the Lien as allowed by law and / or provided for in this Restated Declaration.

After record Owners transfer any Unit they own, they will not be liable for any Assessments levied after the transfer with respect to that Unit only if the Assessments or other claims, charges, obligations or Liens have been fully paid or satisfied or if an express written assumption has been accepted by the Association prior to the transfer or any related close of escrow. If, for any reason whatsoever, an Assessment is unpaid after transfer and not assumed by the new Owner in a manner acceptable to the Association, any unpaid Assessment of a previous Owner will remain the debt of such previous Owner against whom assessed and the previous Owner will remain personally liable until paid or arrangements acceptable to the Association for full payment or satisfaction have been agreed to. A contract seller of any Unit will continue to be liable for all Assessments and charges until a conveyance by deed of such Unit is recorded in the Office of the County Recorder of Douglas County and only if any Assessments or other claims, charges, obligations, fines or Liens have been fully paid or satisfied or if an express written assumption has been accepted by the Association.

**(c) Authority of Board.** The Board will have the power, duty and authority to levy Regular, Reserve, Special and Special Individual Assessments sufficient to meet the Association's obligations under the Governing Documents and applicable

law. Except for a fine or construction penalty, the Board may not levy or collect an Assessment or fee that exceeds the amount necessary to defray the costs for which it is levied. The Board will also have the power and authority to levy Special Individual Assessments against Owners.

**(d) Creation of Assessment Lien.** Since January 24, 1966, when the *Declaration of Covenants, Conditions and Restrictions Round Ridge Townhouses No. 1 Douglas County, Nevada* was recorded in the Official Records of the County of Douglas, State of Nevada, all Assessments, together with late charges, interest, fines and reasonable costs (including reasonable attorneys' fees) for the collection thereof, have been, and continue to be, charges on the Units and the Restated Declaration has been, and continues to be, a continuing Lien upon the Unit against which such Assessment is made. The Lien is subject to foreclosure as provided in Section 5.9(b) hereof and NRS 116. The Lien will continue to secure all Assessments, together with late charges, interest, costs, collection expenses, fines, other charges and reasonable costs (including reasonable attorneys' fees) for the collection thereof, made on any Unit notwithstanding the transfer of record title to such Unit, and any such transfer will be subject to the Lien.

**(e) No Avoidance of Assessment Obligations.** No Owner may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Unit or other property owned by them from the Lien and charges hereof, by waiver of the use and enjoyment of the Common Elements or any facilities thereon or by abandonment or non-use of their Unit or any other portion of the Subdivision.

**(f) Offsets.** All Assessments levied by the Association will be payable in the full amount specified, including any additional charges imposed as provided for by the Governing Documents. No offsets against any such Assessment will be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Governing Documents.

## **Section 5.2. Regular, Reserve, Insurance and Emergency Assessments.**

**(a) Purpose of Regular Assessments.** All Regular Assessments levied by the Association will be used exclusively for the maintenance, operation and improvement of the Association, Units, Common Elements, and any real or personal property in which the Association holds an interest. Regular Assessments include Reserve Assessments.

**(b) Annual Budget; Regular Assessments, Reserve Assessments & Board Authority.** In accord with the timing provisions of NRS 116.31151 (or comparable superseding statute, if any) the Board must estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year, prepare, and adopt then distribute to all Members a proposed budget.

**(c) Membership Approval Requirements.** Within sixty (60) days after adoption of the proposed budget, the Board must provide the budget or a summary of the

budget to all Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the budget or summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, or is not timely ratified, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

**(d) Assessments to Address Emergency Situations.** In the event of an emergency situation, the Board may impose an Assessment without ratification of a budget including such Assessment. An emergency situation is any of the following:

(i) An extraordinary expense required by an order of a court.

(ii) An extraordinary expense necessary to repair or maintain the Common Elements or any portion of the separate interests which the Association is obligated to maintain where a threat to personal safety is discovered.

(iii) An extraordinary expense necessary to repair or maintain the Common Elements or any portion of the separate interests which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subsection (a), above, provided that, prior to the imposition or collection of an Assessment under this subsection (d)(iii), the Board will pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution will be distributed to the Members together with the notice of Assessment.

(iv) An extraordinary expense necessary to make up any shortfall or deficiency in insurance proceeds in the event of damage or destruction of one or more Units or the Common Elements or Limited Common Elements.

**(e) Allocation of Regular, Reserve or Emergency Assessment.** The total estimated Common Expenses, determined in accordance with subsections (a) and (b), above, will be divided and then allocated equally among, assessed against, and charged to each Owner/Unit, in that each Unit will pay the same amount as each and every other Unit upon which the Assessment is imposed.

**(f) Failure to Make Estimate.** If, for any reason, the Board fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year will be automatically assessed against Owners and their Units on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment will be payable on the regular payment dates established by the Association.



The failure of the Board to fix Regular Assessments hereunder before the expiration of any year, for that or the next year, is not a waiver or modification in any respect of the provisions of this Restated Declaration or a release of the Owner from the obligation to pay the Assessments, or any installment thereof for that or any subsequent year. Failure to provide a copy of the budget to any Owner will not affect the validity of Assessments based thereon so long as that Owner receives reasonable notice before the Board commences any action or proceeding to enforce collection thereof.

**(g) Assessment Due Date, Installment Payments & Delinquency.** The Regular Assessments levied annually against Owners and their Units for the current fiscal year may be divided into monthly, quarterly, semi-annual or annual installments so long as the respective Owner is not in default (i.e., current on all Assessments). Each installment is due and must be paid on the first day of the period in which it becomes due or in such other manner and/or on such other date or dates as may be established from time to time by the Board. To encourage prompt payment or early receipt of Assessments, the Board may assess a late fee in an amount determined by the Board and may also assess interest. All late fees and interest are part of the Assessment.

Installments of Regular Assessments will be late if: (a) not actually received by the Association or its designated agent by the tenth (10th) day of the month in which the Assessment is due; or (b) sent with visible official postmark or date of the transmission on or before the fifth (5th) day of the month in which the Assessment is due. In the event of a default in the payment of any installment, the Board may pursue the remedies set forth in Sections 5.8 and 5.9, below, as to the late payment. Interest, late fees and other charges shall be assessed effective the 1<sup>st</sup> of the month such Assessments are due.

### **Section 5.3. Special Assessments.**

**(a) Purposes for Which Special Assessments May Be Levied.** Subject to the membership approval requirements set forth in subsection (b), below, the Board may have the authority to levy Special Assessments against the Owners and their Units for the following purposes:

**(i) Capital Improvements.** The Board may also levy Special Assessments for additional Capital Improvements within the Common Elements (i.e., improvements not in existence on the date of this Restated Declaration).

**(ii) Special Projects.** The Board may also levy Special Assessments for Special Projects that the Board determines would enhance the Project in the Board's discretion. The Board's Assessment authority pursuant to this Section 5.3 (a)(ii) will be subject to membership approval requirements described in Section 5.3 (b).

**(b) Membership Approval.** In order for the Board to levy Special Assessments described in Section 5.3(a)(i), and (ii) hereof, the Board must adopt a

proposed budget, and within thirty (30) days after adoption of the proposed budget with respect to the Special Assessment, the Board must provide a summary of the budget to all Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Owners reject the budget that includes the Special Assessment the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the Special Assessment shall not be imposed.

**(c) Allocation and Payment of Special Assessments.** When levied by the Board and approved by the Members as provided above, the Special Assessment will be divided among, assessed against and charged to Owners and their Units in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 5.2(e), above and except as may be applicable to the Annexed Lot Owners. Notice of the Special Assessment so levied must be mailed to each Owner.

Unless the time for payment is extended by the Board, payment of all Special Assessments will be due no sooner than thirty (30) days after the Board gives the Owners written notice thereof.

The Board may, in its discretion, prorate the amount of any Special Assessment over any calendar period, proscribe frequency of payment and impose a late fee or offer a discount.

Installments of Special Assessments will be late if: (a) not actually received by the Association or its designated agent by the tenth (10th) day of the month in which the installment is due; or (b) sent with visible official postmark or date of the transmission on or before the fifth (5th) day of the month in which the installment is due. In the event of a default in the payment of any installment, the Board may pursue the remedies set forth in Sections 5.8 and 5.9, below, as to the late payment. Interest, late fees and other charges shall be assessed effective the 1<sup>st</sup> day of the month such installment is due.

#### **Section 5.4. Special Individual Assessments.**

**(a) Circumstances Giving Rise to Special Individual Assessments.** In addition to the Special Assessments levied against all Owners in accordance with Section 5.3, above, the Board may impose Special Individual Assessments against an Owner in any of the following circumstances: damage to Common Elements; expenses incurred for a Unit; expenses incurred in gaining Owner compliance; required maintenance; diminution in insurance proceeds; increase in insurance burden; payment of insurance deductible; payment of fines; reimbursement of expenses.

**(b) Levy of Special Individual Assessment and Payment.** Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed in Section 5.4(a), notice thereof will be mailed to the affected Owner and the Special Individual Assessment will thereafter be

due as a separate debt of the Owner payable in full to the Association to be (a) received within ten (10) days after the mailing of notice of the Assessment, or (b) sent with visible official postmark or date of the transmission on or before the fifth (5th) day of the month in which the Assessment is due.

Installments of Special Individual Assessments will be delinquent if not received by the Association or its designated agent (a) within ten (10) days from the due date, or (b) sent with visible official postmark or date of the transmission on or before the fifth (5th) day of the month in which the Assessment is due. In the event of a default in the payment of any Special Individual Assessment, the Board may declare that Owner's Special Individual Assessment to be in default and pursue the remedies set forth in Sections 5.8 and 5.9, below, as to the late payment.

**Section 5.5. Reasonableness of Assessments.** Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation of the Owner against which the Assessment is imposed that will be binding on the Owner's heirs, successors and assigns, provided that the personal obligation of each Owner for delinquent Assessments will not pass to the Owner's successors in title unless expressly assumed by them with the express approval of the assumption by the Association.

**Section 5.6. Maintenance of Assessment Funds.**

**(a) Bank Accounts.** All sums received or collected by the Association from Assessments, together with any interest or other charges thereon, must be promptly deposited in insured checking, savings or money market accounts in a bank, savings and loan association or other financial institution selected by the Board which has offices located within the United States of America or as required by applicable state law, which accounts will be clearly designated as either an "operating" or "reserve" account or other accounts so designated by the Association.

**(b) Separate Accounts & Commingling of Funds.** Except as provided below, the proceeds of each Assessment will be used only for the purpose for which such Assessment was made, and such funds will be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the amount required to accomplish the purpose for which such Assessment was levied, such surplus may, in the Board's discretion, be returned proportionately to the contributors thereof, reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, underfunded or credited proportionately on account of the Owners' future Regular Assessment obligations.

**(c) Checks.** All checks (or other demands for payments of Association money) and/or notes of the Association must be signed by the President or by such other

Directors and/or Officers or such other person or persons as the Board may from time to time designate. Notwithstanding the foregoing, any withdrawal of funds from Association accounts will require the signatures of two Directors or an Officer (who is not a Director) and a Director.

**Section 5.7. Collection of Assessments; Enforcement of the Lien.**

**(a) Late Assessments.** If any payment of a Regular, Reserve, Special (installment or lump sum), or Special Individual Assessment assessed to any Owner is not received by the Association or its designated agent after the same becomes due, such payment will be late and the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law beginning from the due date until the same is paid, and be subject to a late charge approved by the Board for any late Assessments, such late charge to be applied for each thirty day period any Assessment remains unpaid.

**(b) Effect of Nonpayment of Assessments.**

**(i) Remedies Available to the Association to Collect Assessments.** In the event of default in payment of any Assessment, the Board may commence any procedure for collection. In addition to any other remedies herein or by law provided, the Board may enforce each such obligation by doing both or either of the following: initiating a legal action, assessing any and all late charges, fees, interest, Liens and loss of access to Common Elements against the Owner personally obligated to pay the late Assessment and/or foreclosing the Lien against the subject Unit (or accepting a deed in lieu of foreclosure at the sole discretion of the Board). The Board may authorize judicial or nonjudicial foreclosure in accordance with NRS 116.3116 et seq. Any charges made or incurred shall be deemed part of the Assessment and shall be due as part of the Lien, super-priority lien or any other operation of law.

**(ii) Nonjudicial Foreclosure.** Each of the Owners, by acceptance of a deed to a Unit, gives the Board the power to appoint a trustee or attorney to enforce and to foreclose the Lien by private power of sale, and/or in accordance with NRS 116.3116, et seq., or superseding statutes, and further grants to the Board the authority and power to sell the subject Unit of such defaulting Owner, or any part thereof to satisfy the Lien, for lawful money of the United States to the highest bidder. The Board may employ the services of a title insurance company or attorney or other responsible company authorized to serve on behalf of the Association in nonjudicial foreclosure proceedings to act as an agent on behalf of the Association in commencing and prosecuting any nonjudicial foreclosure hereunder. So long as the law so provides, the Association may not foreclose a Lien based on a fine for violation of the Governing Documents unless the violation threatens the health, safety, or welfare of the Residents of the Subdivision. In the event of a nonjudicial foreclosure, whether completed or not, the Association shall recover all costs of collection, foreclosure expenses, attorney's fees, costs, expenses, interest or charges of any kind.

**(iii) Judicial Foreclosure.** In the event that foreclosure is by action in court, reasonable costs, including all attorneys' fees, shall be allowed to the Association.

**(iv) Actions for Money Judgment.** In the event of a default in payment of any Assessment, or any other amount owing, the Association, in its name but acting for and on behalf of all other Owners, may initiate legal action, in addition to any other remedy provided herein or by law, to recover a money judgment or judgments for unpaid Assessments, or any other amount owing and attorneys' fees without foreclosure or waiver of Assessments.

**Section 5.8. Transfer of Unit by Sale or Foreclosure.** The following will govern the Association's rights to enforce its Assessment collection remedies following the sale or foreclosure of a Unit.

**(a)** Except as provided in subsection (b), below, the sale or transfer of any Unit will not affect the requirement and obligation with respect to the Unit of the payment of Assessments before the sale or transfer, and the Board can continue to foreclose the Lien in spite of the change in ownership.

**(b)** A holder of a prior encumbrance is responsible to pay Assessments, late charges, fines, transfer fees, interest, and costs of collection incurred before the sale or transfer of a Unit under a foreclosure or deed-in-lieu of foreclosure.

**(c)** No sale or transfer of a Unit as the result of foreclosure, exercise of a power of sale, or otherwise, will relieve the new Owner of that Unit (whether it be the former beneficiary of the First Mortgage or other prior encumbrance, or a third party acquiring an interest in the Unit) from liability for any Assessments thereafter becoming due or that became due prior to foreclosure and in the maximum amount allowed by law, whether it be six, nine or some other period of months allowed by law.

**(d)** No sale or transfer of a Unit as the result of foreclosure, exercise of a power of sale, or otherwise, will affect the Board's right to maintain an action against the foreclosed previous Owner of the Unit personally to collect the delinquent Assessments, late charges, fines, interest, and associated costs of collection incurred by that prior Owner prior to the sale or transfer.

**(e)** The Board may require a transfer fee be paid upon the conveyance, sale, transfer, rental, or lease of any kind, whether consensual or not, in an amount to be determined by the Board, but in no event less than \$25.00 nor greater than \$500.00.

**Section 5.9. Priorities.** Assessments are prior to all other liens and encumbrances on a Unit except: (a) liens and encumbrances recorded before the recordation of the original Declaration and liens and encumbrances which the Association creates, assumes or takes subject to; (b) a first security interest on the Unit

recorded before the date on which the Assessment sought to be enforced became delinquent, except that Assessments, late charges, collection costs, fines, any assessments made, attorneys fees and costs, are prior to all such first security interests to the extent of the amount of Assessments which would have become due in the absence of acceleration in the maximum amount as allowed by law; and (c) liens for real estate taxes and other governmental assessments or charges against the Unit. This section does not affect the priority of mechanics' or material men's liens, or the priority of other Assessments made by the Association.

**ARTICLE 6: MAINTENANCE RESPONSIBILITIES.**

The Subdivision must be maintained in an attractive and sanitary condition and in a good state of repair.

**Section 6.1. Association Maintenance Responsibility.**

**(a) Common Elements.** Except as is provided in this Section 6.1 and Section 6.2(a), the Association is solely responsible for all maintenance, repair, and replacement within the Common Areas, Common Elements and by way of example:

**(i)** All Private Streets, common parking areas, common driveways, curbs and berms, striping, surface sealing, signs and traffic control devices.

**(ii)** All electrical lighting and electrical equipment and services of every kind in the Common Area.

**(iii)** All sprinkler-irrigation systems and controls.

**(iv)** All storm drains and drainage devices not including any storm drains and drainage devices from any Unit onto the Common Area.

**(v)** Any and all erosion control devices and walls related to the protection of either the Common Areas or a Unit Building or both.

**(vi)** All exterior walls, and roofs.

**(vii)** Painting of exterior of Unit Buildings.

**(viii)** Recreational facilities.

**(ix)** All Common Area plumbing of every kind, including main sewer collection lines and fire hydrants.

**(x)** All Common Area living and growing plants, trees, shrubs, grass and all forms of vegetation.

(xi) The Association, through its Board, shall provide snow and ice removal as it deems necessary and prudent.

(b) **Repair and Maintenance.** The Board shall determine which, when and what cycles for the provisions herein to be applied with respect to the routine maintenance of any Unit Buildings and the frequency thereof.

(c) **Limited Common Elements.** Any maintenance, repair, and replacement performed by the Association shall be assessed to the benefitted Owner and such Owner must pay within thirty (30) days of such assessment.

Only the Association may construct, reconstruct, refinish, alter or maintain any Improvement upon, or will create any excavation or fill or change the natural or existing drainage of any portion of the Common Elements or Limited Common Elements. No person may remove any vegetation from, or plant any vegetation upon the Common Elements, without the Board's express written approval.

(d) **Unit.** The Association is not responsible to maintain, repair, or replace Limited Common Elements or any portion of a Unit except as provided in this Restated Declaration. Pursuant to Sections 4.3(b) and 5.4(a)(v), above, the Association may, when necessary, enter any Unit to perform the Association's obligations under this Restated Declaration, including making necessary repairs that an Owner has failed to perform under Section 6.2, below, and/or perform work because a Unit or any part thereof has become a nuisance, fire or safety hazard and then recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner.

## **Section 6.2. Owner Maintenance Responsibilities.**

(a) **Interiors within the Unit.** The exclusive right and obligation at his or her sole cost and expense to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors and the walls of his or her Unit and the bearing or other walls located within the Unit and the surfaces of any other finishes owned by the Owner. The Owner shall have the exclusive right to substitute new finished surfaces for the finished surfaces then existing on interior ceilings, floors and walls, including, substitution to paint for paper or paper for paint, substitution of any type of paneling for plaster or plaster for paneling, substitution of tile for paneling or paneling for tile, substitution of wood for linoleum or tile, or linoleum or tile for wood. Owners and their agents have the exclusive right to maintain, repair, paint, finish, alter, substitute, add or remove any fixture attached to the ceilings, floors or interior walls. This paragraph shall not be construed as permitting any interference with or damage to the structural integrity of the building. Any other proposed change regarding any floor, ceiling, roof, or any wall, or crawl space whether interior or not, whether believed to be load bearing or not, will require submission of such proposed change to the Board and no changes may be made without written approval. Any proposed change to any Limited Common Element will require submission of such proposed change to the Board and no changes may be

made without written approval. After obtaining written approval from the Board, the Owner shall be responsible for obtaining governmental approval for all such changes and they must comply with the then-applicable building code. All such changes shall be the sole responsibility of the Owner for maintenance, repair and damages resulting therefrom. Any crawl spaces shall be the sole responsibility of the Owner for maintenance, repair and damages resulting therefrom. If any change or alteration creates any instability or damage, the Board shall require the original condition be restored at the sole discretion of the Board and at the sole expense of the Owner. No Owner may take any action that will negatively impact an adjacent Owner

Except for any maintenance done by the Association, the Owner is solely responsible for the expenses to maintain all portions, exterior and interior, of any improvements, additions or other changes to the Unit.

Each Owner is responsible for maintenance, repair, expense or costs of any water infiltration within the Unit, unless the sole cause of the water infiltration was a result of the action of the Association.

**(b) Walls, Footings, and Foundation.** Each owner shall maintain the walls, footings and foundations within the Unit and all applicable requirements as provided for under 6.3(b) must be met.

The cost of repair of a wall, footing and foundation shall be borne by the Owner of the Unit.

In the event the Owner shall fail to undertake or to pay for the repair of walls, footings or foundations, Association may undertake and pay for such corrective work and shall fix and establish a Special Individual Assessment as provided for in Article 5 of this Restated Declaration.

**(c) Pipes.** The Owner is solely responsible for all pipes servicing the Unit. Such pipes include water from the meter to the Unit and sewage from the Unit to Association sewer collection line. Any pipe repair or replacement for water, gas or sewer attached to but outside any Unit of an owner will require Board approval and in some cases access to a neighbors Unit, in addition, all applicable requirements as provided for under 6.3(b) must be met. Each Owner grants to the Association a reciprocal non-exclusive easement to enter upon that portion of a Unit or Residence Building as necessary for inspection, maintenance, preservation, repair or replacement of any portion of a pipe. The Association grants each Owner a reciprocal non-exclusive easement to enter upon the Common Elements as necessary for inspection, maintenance, preservation, repair or replacement of any portion of a pipe. No Owner may take any action that will negatively impact an adjacent Owner.

**(d) Decks.** Owners shall be responsible to maintain the deck, garage, garage door, fencing on deck, and sidewalk entry steps in accordance with standards set by the Board.



**(e) Common Elements and Limited Common Elements.** Owners are solely responsible and liable for the costs incurred in order to repair or replace any portion of the Common Elements that is due to or caused by the willful or negligent act/omission of an Owner, unless such repair or replacement is covered by insurance carried by the Association. If the repair or replacement is covered by insurance carried by the Association, then the Association is only responsible to the extent of such insurance coverage, and the Owner whose willful or negligent act or omission caused the repair or replacement is responsible to pay the insurance deductible and the amount in excess of insurance coverage.

Owners are responsible to maintain, repair, and replace the components which are within their Units.

Owners are responsible for maintenance or repair of any improvements made to any Limited Common Element of their Unit.

**(f) Exteriors.** In addition to the obligations set forth herein, Owners are responsible to maintain, repair, and replace any air conditioning component, hot tub, or other improvement, including pads and mounts, which are installed on the exterior of the buildings.

Owners are responsible to keep in a clean and neat condition front entry ways, rear patios, decks, porches and areas under the decks, which are appurtenant to their Unit.

Owners are responsible to keep in a clean, neat, repaired and well-maintained condition, all doors, garage doors, and windows. Any changes or replacement is subject to prior written approval by the Board.

**(g) Care of Interiors.** Each Owner of a Unit, including, but not limited to, Non-Owner Occupants, shall keep the interior of their Unit in good order and repair at their own expense. Window glass shall be replaced or repaired at Owner's expense. The Association is not responsible for any form of interior maintenance. Its responsibility is limited to exterior matters as set forth in this Restated Declaration.

Each Owner shall not do, or permit, or suffer anything to be done in an Owner's Unit or within a Unit Building, or upon any portion of the Subdivision which will, or may have, a tendency to either vitiate or increase the rates of fire or hazard insurance, or impair the valuation of any Unit, Unit Building or the Subdivision.

**(h) Units.** Each Owner will be responsible for any and all maintenance, repair and replacement of the Owner's Unit including all responsibilities provided in Section 2.5, excluding those utility facilities maintained by utility companies or agencies. During those months when a danger of freezing exists, Owners must maintain a temperature in the Unit to preclude freezing and breakage of water lines.

(i) **Personal Property.** Except for a leak from a sprinkler system or underground street storm drain maintained by the Association, the duty to maintain, repair, or replace personal property and components and fixtures within Units that is due to and/or results from water infiltration and/or water leaks from any pipes, drains, conduits, appliances and/or equipment; and/or from outside any Unit or any part of a building; and/or any other place or cause, will be borne by the Owner of the personal property, components, and fixtures. Persons bound by this Restated Declaration agree to bear the risk of any such loss and that the Association will not be liable to reimburse them for property damage that is not covered by the Association's insurance.

(j) **Improvements or other additions.** The duty to maintain, repair, or replace and keep in quiet and good working order any Improvements made by an Owner or prior Owner will be borne by the Owner.

### **Section 6.3. Recovery of Costs of Certain Repairs and Maintenance.**

(a) In the event that the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder, is caused through the willful or negligent acts or omissions of an Owner and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs will be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Section 5.4.

(b) In the event that an Owner fails to perform maintenance functions for which Owner is responsible, the Board may give written notice to the offending Owner with a request to correct the failure within thirty (30) days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance within the allotted time, the Board may exercise its rights under Sections 4.3(b) and 5.4(a)(iii) to enter the Owner's Unit and perform the repair or maintenance so long as the Owner has been given notice. In no event shall the Association have a duty to do so.

**Section 6.4. Cooperative Maintenance Obligations.** To the extent necessary or desirable to accomplish the maintenance obligations hereunder, individual Owners and the Board will cooperate in the performance of maintenance work.

## **ARTICLE 7: INSURANCE.**

**Section 7.1. Types of Insurance Coverage.** Subject to such insurance coverage being "reasonably available," the Board shall purchase, and maintain, with the premiums therefore being paid out of Association funds, the following insurance. Insurance is deemed to not be reasonably available if: (1) such insurance is not available from a reputable insurance company; or (2) if such insurance is available only at an unreasonable cost. If the Board determines that any coverage will not be maintained because it is not reasonably available, there is no requirement to secure such coverage

and there shall be no liability imposed on the Association or its Board for failure to obtain any required coverage or for any loss or damage resulting from such failure.

(a) **Insurance as required by NRS 116.3113.** The Board shall purchase and maintain policies which include: (1) property insurance on the common elements and Units, but need not include improvements and betterments installed by Owners, at not less than 80 percent of the actual cash value of the insured property; (2) commercial general liability insurance; (3) crime insurance.

(b) **Directors & Officers Insurance.** The Board shall purchase and maintain a policy of directors' and officers' errors & omissions insurance naming the Association's directors and officers as insured parties. The limits of such insurance will not be less than one million dollars (\$1,000,000.00). Directors' and officers' errors & omissions insurance must insure against claims arising out of or based upon negligent acts, errors, omissions, or alleged breaches of duty of any Director or officer, whether elected or appointed, while acting in his or her capacity as such.

(c) **Workers Compensation/Employers Liability and Employment Practices Liability Coverage.** If the Association has employees, the Board shall purchase and maintain a policy of workers compensation/employers liability insurance and employment practices insurance.

(d) **Personal Property Insurance.** The Board shall obtain and maintain such insurance on personal property owned by the Association and any other insurance, including directors and officers liability insurance, that it deems necessary or desirable.

**Section 7.2. Owners Right to Copies of Policies & Notice of Significant Changes in Coverage.** Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) will be retained by the Association and will be available for inspection by Members at any reasonable time.

**Section 7.3. First Mortgagees' Minimum Coverage Requirements & Right to Obtain Copies of Policies.** A First Mortgagee for a Unit may supply the Association with its minimum insurance requirements. If the Association's insurance policies do not currently meet the minimum requirements of those First Mortgagees who have provided minimum requirements to the Association, the First Mortgagees can request that the Association increase its coverage to match those minimum insurance requirements. The requesting First Mortgagees must pay any increase in the Association's insurance premiums due to the request. All First Mortgagees for any Unit in the Subdivision have the right, upon written request, to obtain copies of current insurance policies and/or satisfactory evidence of the Association's payment of premiums, for which a reasonable fee may be charged.

**Section 7.4. Individual Fire & Casualty Insurance.** The Association shall not be held responsible for insuring those portions of the Subdivision which are not included within the portions of the Subdivision that the Association is responsible to maintain,

repair and/or replace pursuant to Article 6 of this Restated Declaration. Notwithstanding anything contained in the Governing Documents to the contrary, Owners shall be responsible for obtaining the following insurance: their own personal liability insurance; insurance on the personal property contents of their Unit; insurance for those portions of the Subdivision which pursuant to Article 6 of this Restated Declaration are the responsibility of the Owners to maintain, repair, and/or replace; insurance for improvements to the crawl spaces; insurance on the following types of property contained within a Unit, regardless of ownership: fixtures, Improvements, and alterations that are part of the building or structure, and appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping, upgraded windows and upgraded doors; and the insurance for any additions to or alterations that the Owners may make which increases the value of the Subdivision or Unit above the value of the Subdivision or Unit as originally constructed, or otherwise increases the risk to the Subdivision. To the extent allowed by NRS 116, Owner and Owner's insurance company hereby waive any recovery of damages against the Association, its directors, officers and employees for loss of damage to Owner's property.

**Section 7.5. Adjustment of Losses.** The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Section 10.1. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

**Section 7.6. Owner's Insurance.** Each Owner and /or Occupant shall provide his or her own insurance for personal liability and for furniture and other contents within the Unit and for any other peril, not covered by the policies provided by the Association. Except as set forth in this Article 7, Owners may carry whatever additional insurance with respect to their Unit that they desire.

**Section 7.7. Independent Contractor.** Independent contractors and management firms acting under contract with the Association shall provide, at their own expense, general liability coverage for limits of not less than \$1,000,000.00 combined single limit, bodily injury and property damage, owners and contractors protective, personal injury and completed operations; vehicle liability for \$1,000,000.00 combined single limit bodily injury and property damage on all owners, non-owned and hired vehicles; Employee dishonesty coverage, providing for the dishonest acts of independent contractor's employees of not less than \$25,000.00; and worker's compensation in accordance with the laws of the State of Nevada.

The Board may require independent contractors to provide the Board with a Certificate of Insurance evidencing these coverages, and naming the Association as an additional insured with a 30 day notice of cancellation to the Association (the endeavor wording on the Certificate shall be deleted) and a hold harmless agreement clause/endorsement.

**Section 7.8. Deductibles/Costs in Excess of Insurance Proceeds.** Except in situations where the insurance proceeds are used 100% for Common Elements, Owners shall be responsible for payment of all deductibles and/or costs in excess of insurance proceeds.

**ARTICLE 8: DAMAGE OR DESTRUCTION.**

**Section 8.1. General Provisions.** In the event of damage by fire or other casualty, the Board will have exclusive authority to negotiate losses/insurance proceeds or settlement of any matter.

**Section 8.2. Minor Deficiency in Insurance Proceeds.** If the available proceeds of the insurance maintained pursuant to Article 7 are sufficient to cover not less than seventy percent (70%) of the costs of repair and reconstruction, the Improvements will be promptly rebuilt unless, within ninety (90) days from the date of destruction, eighty percent (80%) of the total voting power and every Owner of a Residence that will not be rebuilt determine, in accordance with the procedures set forth in Section 11.3, below, that such repair and reconstruction will not take place. If repair and reconstruction is to take place, the Board will be required to execute, acknowledge and record in the office of the County Recorder, not later than 120 days from the date of such destruction, a certificate declaring the intention of the Members to rebuild.

**Section 8.3. Major Deficiency in Insurance Proceeds.** If Section 11.2 is not applicable, then:

(a) **Insurance Proceeds.** As diligently as possible, the Board will determine the total amount of insurance proceeds which will be available for repair and rebuilding.

(b) **Contract Award.** Unless the Members vote as provided in Section 11.2 that the repair and reconstruction will not take place, the Board must award the repair and reconstruction work to the most reasonable and best value, not necessarily the lowest bidder, or to such other bidder that the Board determines is more favorable.

**Section 8.4. Emergency Repairs.** Without waiting to obtain insurance settlements or bids, the Board may undertake such emergency repair work after a casualty as the Board may deem necessary or desirable under the circumstances, and the Board may charge the maintenance fund for the costs thereof where such repairs are done prior to settlement of insurance claims.

**Section 8.5. Termination of Partition Waiver.** The prohibition against judicial partition of the Subdivision will terminate upon the recordation of a certificate not to rebuild as described and required in Section 11.1(b). Upon final judgment of a court of competent jurisdiction decreeing a partition, the proceeds or property resulting from the partition will be distributed to and among the respective Owners and their Mortgagees, as

their interests appear, as follows: The Board will select an independent appraiser who will determine the relative fair market values of the Units. The proceeds or property will then be apportioned among the Owners, and their respective Mortgagees, according to such relative values. Such relative values will be determined as of a date immediately prior to any sale, taking or destruction of the Subdivision. The covenants, conditions and restrictions of the Restated Declaration will then terminate.

#### **ARTICLE 9: BREACH & DEFAULT.**

**Section 9.1. Remedy at Law Inadequate.** Any Owner or the Association may enforce, by any proceeding at law or in equity, the provisions of the Governing Documents against any Owner. The failure of any Owner to strictly comply with any provision of the Governing Documents will be grounds for: (1) an action to recover sums due for damages; and/or (2) an action to enjoin by appropriate legal proceedings instituted by any Owner or the Association; and/or (3) fines or other appropriate action by the Association, and their conversion to Special Individual Assessments in accordance with Section 5.4.

Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, Liens, charges or equitable servitudes contained in the Governing Documents is inadequate.

**Section 9.2. Nuisance.** Without limiting the generality of Section 9.1, the result of every act or omission whereby any covenant contained in the Governing Documents is violated, in whole or in part, is hereby declared to be a nuisance. In addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association or any Owner. Every remedy against nuisance, either public or private, will be applicable against every such act or omission. The Board will not be obligated to take action to abate or enjoin a violation if, in the discretion of the Board, the Board determines that acting to abate or enjoin the violation is not likely to protect the interests of the Association and its Members or some other alternative is more favorable to the interest of the Association.

**Section 9.3. Violation of Law.** Any violation of any governmental law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Subdivision is hereby declared to be a violation of this Restated Declaration and subject to any and all of its enforcement procedures.

**Section 9.4. Cumulative Remedies.** The respective rights and remedies provided by this Restated Declaration or by law will be cumulative, and not exclusive. The exercise of any one or more of such rights or remedies will not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any

Owner or others to perform or observe any provision of this Restated Declaration or any of the Governing Documents.

**Section 9.5. Failure Not a Waiver.** The failure of any Owner or the Association to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, Liens, charges or equitable servitudes contained in the Association's Governing Documents will not constitute a waiver of the right to enforce the same thereafter, nor will such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

**Section 9.6. Rights and Remedies of the Association.**

(a) **Rights Generally.** The decision of whether it is appropriate or necessary for the Association to initiate enforcement or disciplinary action in any particular instance will be within the sole discretion of the Board. If the Board declines to take action in any instance, any Owner will have such rights of enforcement as may exist by virtue of Nevada law.

(b) **Schedule of Fines.** The Board may, but is not obligated to, adopt, implement and amend from time to time by majority vote a schedule of reasonable fines and penalties for particular offenses, including violations of the Association Rules and Governing Documents for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). Once imposed, a fine or penalty may be collected as a Special Individual Assessment and will be enforceable as a Special Individual Assessment pursuant to Section 5.4. If the Board adopts a policy imposing fines, the Board must, as required by law, e-mail, hand-deliver or send by United States mail to each Owner, a schedule of the fines, as it may be revised from time to time.

**Section 9.7. Joint and Several Liability of Co-Owners.** If a Unit is owned jointly by two (2) or more persons, the liability of each Owner thereof in connection with the obligations of Owners imposed by this Restated Declaration will be joint and several.

**Section 9.8. Costs and Attorneys' Fees.** If the Association takes any action because of any breach or default of any Owner or other party hereto under the Governing Documents (whether or not any legal proceeding, including an arbitration, is initiated) the Association will be entitled to recover from that Owner (or other party) the costs, including attorneys' fees, the Association incurred as a result of the breach or default. The Association's remedies to recover its costs and attorneys' fees will include, but are not limited to, the imposition of a Special Individual Assessment pursuant to Section 5.4.

If an action (including an arbitration) is brought by a Member (or other individual with the right to enforce the Governing Documents) because of any alleged breach or default by any party hereto under the Governing Documents, the court may award to the prevailing party in any such action attorneys' fees and other costs, including, but not

limited to, court costs and experts' fees, incurred in connection therewith as the court deems just and reasonable.

**ARTICLE 10: AMENDMENT OF RESTATED DECLARATION.**

**Section 10.1. Amendment in General.** This Restated Declaration may be amended or revoked in any respect by the vote or assent by written ballot of Members representing at least a majority of all eligible Owners. Notwithstanding the foregoing, the percentage of the Members necessary to amend a specific clause or provision of this Restated Declaration shall be at least the percentage of affirmative votes prescribed in said clause or provision.

**Section 10.2. Effective Date of Amendments.** Any amendment to this Restated Declaration will be effective upon the recording in the Office of the Recorder of Douglas County a Certificate of Amendment, duly executed and certified by the president and secretary of the Association setting forth in full the amendment so approved and that the approval requirements of Section 10.1, above, have been duly met.

Notwithstanding anything to the contrary herein contained, no such amendment will affect the rights of the holder of any first deed of trust or Mortgage recorded prior to the recording of such amendment if such holder of any first deed of trust or Mortgage provided written request for notice of any amendments or if such amendment adversely affects any holder of a first deed of trust or Mortgage.

**Section 10.3. Reliance on Amendments.** Any amendments made in accordance with the terms of this Restated Declaration will be presumed valid by anyone relying on them in good faith.

**ARTICLE 11: RIGHTS AND DUTIES OF FIRST MORTGAGEES WHO HAVE, IN WRITING, REQUESTED NOTICE.**

**Section 11.1. General.** Unless at least sixty percent (60%) of the first mortgagees, who have submitted a request, in writing, to receive information under Article 11, based upon one vote for each first mortgage owned, or owners other than the sponsor, developer, or builder of the Units have given their prior written approval, the Association shall not be entitled to:

- (a) By act or omission, seek to abandon or terminate the project;
- (b) Change the pro rata interest or obligations of any individual Unit for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds, or determining the pro rata share of ownership of each Unit in the Common Elements;
- (c) Partition or subdivide any Unit;



(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Association shall not be deemed a transfer within the meaning of this clause; and/or

(e) Use hazard insurance proceeds for losses to any property whether to Units or to Common Elements for other than the repair, replacement or reconstruction, except as provided by statute in case of substantial loss to a Unit and/or Common Elements of the Subdivision.

In no event shall the Association be obligated to seek prior written approval from any first mortgagee who has not requested, in writing, to be notified by the Association of any action by the Association.

**Section 11.2. Subordination.** Except for the Super-Priority Lien any Lien created or claimed under the provision of this Restated Declaration is expressly made subject and subordinate to the rights of an institutional first Mortgagee with a trust deed or mortgage upon any Unit therein, made in good faith and for value.

**Section 11.3. Amendment.** No amendment to this Restated Declaration shall affect the rights of the Mortgagee who has, in writing, requested notice of any amendments under a trust deed made in good faith and for value, and recorded prior to the recordation of such amendment, unless said Mortgagee shall either join the execution of such amendment, or approve the same in writing as part of such amendment.

**Section 11.4. Default.** In the event of a default by any Owner in the payments due upon a promissory note secured by trust deed to his/her individual Unit, the Mortgagee under the trust deed shall have the right, upon giving written notice to the defaulting Owner, and filing for record a notice of default, to exercise the vote of such Owner of any regular or special meeting of the Owners held during such time as the default may continue. No breach of any provisions of this Restated Declaration shall invalidate the lien of any deed of trust made in good faith to the maximum extent allowed by law and for value, but all of the Covenants, Conditions and Restrictions shall be binding upon any Owner whose title is derived through foreclosure of trustee sale or otherwise. In addition, Mortgagee shall have the right to cure default in taxes, insurance premiums and other charges against the Common Elements.

**Section 11.5. Notice.** A Mortgagee that has requested, notice in writing, shall receive written notification from the Association of any default in the performance by an Owner of any obligation which is not cured within sixty (60) days.

**Section 11.6. Right.** Upon the Mortgagee's acquisition of a Unit, the Association shall have no right to first refusal or other restriction on sale, lease or rental of same. It is intended that any loan to facilitate the resale of any Unit after foreclosure

or deed in lieu of foreclosure is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Mortgagees.

**Section 11.7. Assessments.** It is specifically understood that any Mortgagee shall be liable for all such Assessments during the actual period of time that such Mortgagee holds title to a Unit and for the Super-priority Lien. Except as provided herein, the sale or transfer of any Unit which is subject to any deed of trust, pursuant to a decree of foreclosure, including sale under a deed of trust, shall extinguish any Lien of an Assessment which became a Lien prior to such sale or transfer, except as to the Super-priority Lien. Such sale or transfer shall not release such Unit from liability from any Assessments thereafter becoming due or from the Lien or from the Super-priority Lien thereof.

**Section 11.8. Meetings.** Any Mortgagee may appear, but may not vote, at meetings of the Owners and/or the Board to draw attention to violations of this Restated Declaration of Restrictions which have not been corrected or made the subject of remedial proceeding or Assessments.

**Section 11.9. Information.** A Mortgagee is authorized to furnish information to the Board concerning the status of any loan encumbering a Unit.

**Section 11.10. Books and Records.** If recorded notice is made, a Mortgagee shall have the right to examine the books and records of the Association.

**Section 11.11. Insurance.** All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses naming the Mortgagees who encumber Units by deed of trust as their interest may appear.

## **ARTICLE 12: GENERAL PROVISIONS.**

**Section 12.1. Effective Date.** This Restated Declaration will become effective upon its recordation in the Official Records of the County of Douglas, State of Nevada.

**Section 12.2. Term.** The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, the Lien, charges and equitable servitudes contained in this Restated Declaration will run with, and will benefit and burden the Units and the Common Elements as herein provided, and will inure to the benefit of and be binding upon the Owners, the Association, its Board, and its officers and agents, and their respective successors in interest, for the term of sixty (60) years from the date of the recording of this Restated Declaration, after which time the same will be automatically extended for successive terms of ten (10) years each unless, within six (6) months prior to the expiration of any term (initial or successive), a recordable written instrument, approved by a majority of all Owners terminating the effectiveness of this Restated Declaration will be filed for recording in the Office of the County Recorder of Douglas County, Nevada.

### **Section 12.3. Construction of Restated Declaration.**

**(a) Restated Restrictions Construed Together.** All of the covenants, conditions, and restrictions of this Restated Declaration will be liberally construed together to promote and effectuate the fundamental concepts of the Subdivision as set forth in the Recitals of this Restated Declaration.

Failure to enforce any provision hereof will not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

**(b) Restrictions Severable.** Notwithstanding the provisions of subsection (a) above, the covenants, conditions, and restrictions of this Restated Declaration will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof will not affect the validity or enforceability of any other provision which will remain in full force and effect.

**(c) Singular Includes Plural/Gender.** The singular will include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter will each include the masculine, feminine and neuter, as the context requires.

**(d) Captions.** All captions, titles or headings used in this Restated Declaration are intended solely for convenience of reference and will not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Restated Declaration.

**(e) Conflicts.** In the event of any conflict between any of the provisions of this article and any other provisions of this Restated Declaration, the provisions of this article will control. In the event of any conflict between any of the provisions of this Restated Declaration and any other provisions of the Governing Documents, the provisions of this Restated Declaration will control.

Further, neither the Articles nor the Bylaws will be restated so as to be inconsistent with this Restated Declaration. In the event of any inconsistency, the provisions of this Restated Declaration will control.

**(f) Exhibits.** All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.

**Section 12.4. Power of Attorney.** To the extent necessary to carry out and enforce the provisions of this Restated Declaration and the Governing Documents in general, an irrevocable power of attorney coupled with an interest is granted to the Association by the Owners.

**CERTIFICATION AND SIGNATURES ON FOLLOWING PAGE**

