

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

Leisha Ehlert
Clear Creek Residential, LLC
199 Old Clear Creek Road
Carson City, Nevada 89705

The undersigned hereby affirm(s) 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)

**AMENDED AND RESTATED SECOND AMENDMENT TO
MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RESERVATION OF EASEMENTS FOR CLEAR CREEK TAHOE**

This Amended and Restated Second Amendment to Master Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Clear Creek Tahoe ("Amendment"), which shall be effective as the date it is Recorded in the office of the County Recorder of Douglas County, Nevada, is made by Clear Creek Tahoe Community Association, a Nevada non-profit corporation (the "Association"), with reference to the following:

RECITALS

A. Reference is hereby made to that certain Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Clear Creek Tahoe, which document was Recorded on September 27, 2016, as Document No. 2016-888265 (such Declaration, together with all amendments, supplements, annexations, and addenda thereto, is herein referred to as the "Declaration"). Any capitalized term used herein not otherwise defined herein shall have the meaning assigned thereto in the Declaration.

B. The Declaration creates a common-interest community upon the Property, which common-interest community is known as the Clear Creek Tahoe Community.

C. Section 16.1 (a) of the Declaration provides that, except in certain circumstances not applicable to this Amendment, the Declaration may be amended by vote or agreement of a majority of the Voting Power of the Association.

D. The undersigned hereby acknowledge and certify that, by vote or agreement, a majority of the Voting Power of the Association desires to amend the Declaration as set forth in this Amendment.

NOW, THEREFORE, the Declaration is amended as follows:

1. **Recitals Incorporated.** The Recitals above are incorporated into this Amendment.
2. **Amendment to Article 2.** Article 2 of the Declaration is hereby amended as follows:

(i) The definition of the terms "**Club**" and "**Club Membership Policies**" are hereby amended by replacing the terms "Recreational Facilities" with "Recreation Facilities" therein.

(ii) The definition of "**Common Expense Allocation Commencement Date**" is hereby deleted in its entirety and replaced with the following language:

"Common Expense Allocation Commencement Date": For all Units created on a particular Plat, the first day of the calendar month following the date on which is closed and Recorded the first sale to a non-Declarant Owner of any Unit shown on that Plat; except that, as to the Recreation Unit, its Common Expense Allocation Commencement Date shall be on an incremental basis as follows:

(a) On the first day of the calendar month following the date on which is closed and Recorded the seventy seventh (77th) sale of a Residential Unit to a non-Declarant Owner, the Recreation Unit Owner shall pay the equivalent of ten (10) Annual Assessments;

(b) On the first day of the calendar month following the date on which is closed and Recorded the one hundred fifty fourth (154th) sale of a Residential Unit to a non-Declarant Owner, the Recreation Unit Owner shall pay the equivalent of twenty (20) Annual Assessments;

(c) On the first day of the calendar month following the date on which is closed and Recorded the two hundred thirty first (231st) sale of a Residential Unit to a non-Declarant Owner, the Recreation Unit Owner shall pay the equivalent of thirty (30) Annual Assessments;

(d) On the first day of the calendar month following the date on which is closed and Recorded the three hundred eighth (308th) sale of a Residential Unit to a non-Declarant Owner, the Recreation Unit Owner shall pay the equivalent of forty (40) Annual Assessments; and

(e) On the first day of the calendar month following the date on which is closed and Recorded the three hundred eighty fourth (384th) sale

of a Residential Unit to a non-Declarant Owner, the Recreation Unit Owner shall pay the equivalent of fifty (50) Annual Assessments.

The Recreation Unit Owner, in its discretion, may commence payment of Annual Assessments sooner than the benchmark sales noted above, but may not delay the commencement of payments as noted above.

(iii) The definition of "**Golf Course**" is hereby deleted in its entirety and replaced with the following language:

"Golf Course": Any recreational golf facility located upon the Recreation Unit, as now or hereafter developed or modified, which facility may include a variety of services and amenities, including, without limitation, one or more golf courses, golf practice facilities, and golf teaching facilities, if any.

(iv) The definition of "**Resident Membership**" is hereby deleted in its entirety and replaced with the following language:

"Resident Membership": A membership in the Club in the social use category as set forth in the Club Membership Policies consisting of: (a) a license to use the food and beverage facilities operated by Club Operator at the Recreation Facilities; (b) a license to use the meeting spaces, events room, patios and terraces within the main clubhouse at the Recreation Facilities; (c) a license to use any tennis courts, swimming pool, children's play area, workout facility, and restroom facilities, within or a party of the main clubhouse at the Recreation Facilities; (d) the opportunity to participate in such social activities as the Club Operator may sponsor and designate from time to time for Resident Members; and (e) such additional privileges, if any, as the Club Operator may specify. A Resident Membership expressly DOES NOT INCLUDE any right or privilege to use any of the Golf Course located on the Recreation Unit or operated as part of the Club; provided, however, that nothing herein shall prevent an Owner and the Club Operator from entering into a separate, written agreement providing such Owner with additional rights and privileges beyond the Resident Membership, including, without limitation, use of Golf Course located on the Recreation Unit.

(v) The following defined terms are hereby added in the appropriate alphabetical order:

"AAA": As defined in Section 14.5(b).

"Claim" or **"Claims"**: As defined in Section 14.5(a).

"Claimant": All Owners (excluding Declarant and each Participating Builder), the

Association, each Additional Association, and their respective successors, heirs, assigns, subsequent Owners, and any third party claiming any right or interest in the Property through the foregoing.

“Construction Industry Rules”: As defined in Section 14.5(b).

“Developing Party”: Declarant, each Participating Builder, any contractor, supplier, subcontractor, or design professional (in each case as defined in NRS 40.600 to NRS 40.695, as amended from time to time), and their respective predecessors, successors, subsidiaries, and/or affiliated corporations, parent companies, sister companies, divisions, or other entities, partners, joint venturers, affiliates, owners, officers, directors, employees, shareholders, agents, and assigns.

“NRCP”: As defined in Section 14.5(b).

3. Amendment to Section 5.4(c). Section 5.4(c) of the Declaration is hereby amended by adding the following sentence at the end of said Section: “After termination of the Declarant Control Period, a Member may appeal the DRC’s decision to the Board as provided in the Bylaws.”

4. Amendment to Section 7.2. Section 7.2 of the Declaration is hereby amended by replacing the next to last sentence thereof with the following language: “Except for the members of the Board appointed by Declarant prior to Declarant’s Control Termination Date, the Board shall be composed of Class A Members only.”

5. Amendment to Section 7.3(c)(ii)(B). Section 7.3(c)(ii)(B) of the Declaration is hereby deleted in its entirety and replaced with the following language:

(B) Recreation Unit. The Recreation Unit shall hold one (1) vote for each equivalent Annual Assessment it is allocated pursuant to the definition of “Common Expense Allocation Commencement Date”. For example, when the Recreation Unit Owner pays the equivalent of ten (10) Annual Assessments, ten (10) votes shall be allocated to the Recreation Unit, and so on and so forth.

6. Amendment to Section 9.5. Section 9.5 of the Declaration is hereby deleted in its entirety and replaced with the following language:

9.5 Subsidy Agreements. Notwithstanding anything else herein to the contrary, the Association, through the Board, is specifically authorized and empowered to enter into a subsidy agreement or other similar agreements with Declarant, Recreation Unit Owner, and/or a Participating Builder, whereby assessments otherwise payable by Declarant, Recreation Unit Owner, or such Participating Builder on Units owned by Declarant, Recreation Unit Owner, or such Participating Builder, respectively, are deemed satisfied in exchange for the payment by Declarant, Recreation Unit Owner, or such Participating Builder of

shortfalls in the Association's operating expenses or the provision of maintenance of the Common Elements, the Association's easements and improvements upon the Areas of Common Responsibility, and/or the performance of certain other services which are Common Expenses of the Association.

7. Amendment to Section 10.2(a). The heading of Section 10.2(a) of the Declaration is hereby amended by deleting the text "Error! Bookmark not defined."

8. Amendment to Section 11.7(f)(i). Section 11.7(f)(i) of the Declaration is hereby deleted in its entirety and replaced with the following language:

(i) **Generally**. Each Owner, by accepting title to a Residential Unit, covenants and agrees to pay to the Club Operator annual dues, which shall not exceed Five Thousand and No/100ths Dollars (\$5,000.00) per Resident Membership during the calendar year 2017. Such annual dues shall be payable annually in advance on or before January 31 of each year, unless otherwise provided by the Club Operator, subject to proration from the date of issuance of a Resident Membership after January 1 through the remainder of the calendar year. Thereafter, the Club Operator shall establish the annual dues, subject to change from time to time at the Club Operator's discretion; provided, the annual dues for a Resident Membership shall not be increased by more than fifteen (15) percent over the previous year without the approval of a majority of the Resident Memberships.

Notwithstanding any of the above, nothing herein shall require Club Operator to charge all Resident Membership dues at the maximum rate authorized in this Article, and Club Operator may waive, discount, or charge a lesser amount to any holder of a Resident Membership in its sole discretion.

9. Amendment to Section 11.7(i). Section 11.7(i) of the Declaration is hereby amended by replacing "2019" with "2034".

10. Amendment to Section 14.2(b)(iv). The initial paragraph of Section 14.2(b)(iv) of the Declaration is hereby deleted in its entirety and replaced with the following language:

(iv) **Civil Actions**. Prior to commencing any civil action, whether or not related to a Bound Party's default hereunder, the Association shall comply with the applicable provisions of NRS Chapter 38 and NRS Section 116.31088 (each as amended or superseded). Additionally, in connection with any Major Controversy (again, whether or not related to a Bound Party's default hereunder), prior to seeking the vote or written agreement of a majority of the Voting Power of the Association, the Board shall first comply with the following provisions, the intent of which is to ensure voluntary and well-informed consent and clear and

express authorization by the Owners:

11. Addition of Section 14.5. The following language is hereby added as a new Section 14.5 of the Declaration:

14.5 Mandatory Arbitration Provisions.

(a) **Arbitration of Disputes.** Notwithstanding any other provision herein to the contrary, each Owner, the Association, each Additional Association, and Declarant hereby covenant and agree that any claim, controversy, cause of action, claim for relief, liability or dispute between any Claimant or Claimants, on the one hand, and a Developing Party or Developing Parties, on the other hand, arising out of or relating in any way to the Property, including, without limitation, claims for breach of contract, express or implied, breach of warranty, strict liability, negligence, nuisance, statutory violation, misrepresentation and fraud (including claims in any manner relating to or arising out of a constructional defect as defined in NRS 40.615, or otherwise subject to the provisions of NRS 40.600 to NRS 40.695, as amended from time to time) (each, a "Claim" and collectively, the "Claims"), shall first be submitted to mediation (including mediation under NRS 40.680 in the event such claim involves a constructional defect subject to NRS Chapter 40, but only to the extent such provisions of NRS 40.680 do not conflict with the terms of this Section 14.5) and, if not settled during mediation, shall thereafter be resolved, as such Claimant's sole and exclusive remedy, by submitting such Claim to binding arbitration pursuant to (i) the Federal Arbitration Act (9 U.S.C. §1, *et seq.*), and, (ii) only to the extent not inconsistent with the Federal Arbitration Act, the Uniform Arbitration Act of 2000 as adopted in Nevada as NRS 38.206 through 38.248, inclusive. Each Claimant hereby waives any right such Claimant may have to bring an action in court on any Claim, including, but not limited to, any such right of Claimant under NRS 40.680, and any right Claimant may have to become a party to a class action claim.

(b) **Rules for the Arbitration Proceeding.** Claims shall be resolved in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association ("AAA"), the AAA's supplementary procedures for consumer/residential construction disputes (collectively, the "Construction Industry Rules") and the terms of this Section 14.5. In the event the provisions of this Section 14.5 are inconsistent with the Construction Industry Rules, the Construction Industry Rules shall control. If the matter proceeds to arbitration, discovery shall be allowed pursuant to the Nevada Rules of Civil Procedure ("NRCP"). In the event any provision of NRCP pertaining to discovery is inconsistent with the Construction Industry Rules, such provisions of NRCP shall prevail. Arbitration of any matter pursuant to this Section 14.5 shall not be deemed a waiver of the attorney/client or attorney/work product privilege in any

manner.

(c) **Right to Repair.** Nothing set forth in this Section 14.5 is intended to affect or limit a Developing Party's rights under NRS Chapter 40 to repair any constructional defect.

(d) **Arbitrator.** The dispute constituting a Claim shall be heard and determined by a single neutral arbitrator who has expertise in the area of the dispute. The arbitrator shall be appointed within sixty (60) days from the date one party receives a request from the other party to arbitrate the Claim. In selecting the arbitrator, the provisions of the Construction Industry Rules shall apply.

(e) **Joinder of Parties.** The parties may join other parties as provided in the Construction Industry Rules. For example, a Developing Party may include other Developing Parties, such as its contractor and any and all subcontractors and suppliers, in the arbitration.

(f) **Location of Arbitration.** The venue of the arbitration shall be in a location in Washoe County, Nevada. Unless the parties agree otherwise, the arbitration shall commence, be conducted, and conclude promptly in accordance with the Construction Industry Rules.

(g) **Award.** The arbitrator is authorized to provide all recognized remedies available in law or in equity for the Claims, except that the arbitrator shall have no authority to award punitive or consequential damages. The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law, and shall include a written summary of the issues in controversy, a description of the award and an explanation of the reasons for the award. The arbitrator's award shall be final and judgment and may be confirmed, entered and enforced in any court having jurisdiction over the matter.

(h) **Strict Confidentiality.** Except as may be required by law or for confirmation of the award, neither of the parties nor the arbitrator may disclose the existence, content or results of the arbitration hearing without the prior written consent of both parties and such content and results are strictly confidential.

(i) **Arbitration Costs and Attorneys Fees.** Any costs to initiate arbitration shall be advanced by the party initiating the arbitration, but the costs of arbitration shall ultimately be borne by the losing party and, if there is more than one losing party, in such proportions as the arbitrator may determine. The prevailing party or parties in such arbitration shall be entitled to recover reasonable attorneys' fees from the losing party or parties in such amounts as the arbitrator shall determine

(j) **Statute of Limitations.** The arbitration must be filed within the statute of limitations applicable to the relevant Claim.

(k) **Covenant Running with the Land.** The arbitration provisions set forth in this Section 14.5, as with all other terms and provisions of this Declaration, shall run with the Property and every portion thereof or interest therein as a covenant running with the land and an equitable servitude and shall benefit and be binding upon the Owners, Declarant, the Association, any Additional Association, and their successors and assigns.

(l) **Third Party Beneficiaries.** Notwithstanding anything else herein to the contrary, each Developing Party not otherwise bound by this Declaration shall be deemed an intended third party beneficiary of the terms of this Section 14.5.

(m) **Notice.** Each Claimant, by agreeing to have any Claim decided by arbitration as provided by in this Section 14.5 is giving up any rights such Claimant might possess to have the Claim litigated in a court, including a jury trial, as well as rights to appeal and to join with others Claimants in a class action. If a Claimant refuses to submit to arbitration, such Claimant may be compelled to arbitrate under applicable law. Each Claimant, by acceptance of ownership of a portion of the Property, agrees for such Claimant and such Claimant's heirs, personal representatives, successors and assigns, to keep, observe, comply with and perform all of the provisions of this Declaration, including this Section 14.5, and specifically authorizes this Section 14.5, and acknowledges its agreement thereto, in accordance with NRS 597.995 (as amended, and to the extent applicable).

12. **Amendment to Section 15.3.** In the heading of Section 15.3 of the Declaration, the word "ockery" is hereby replaced with the word "Rockery".

13. **Amendment to Section 16.1(b).** Section 16.1(b) of the Declaration is hereby deleted in its entirety and replaced with the following language:

(b) Declarant shall have the right to amend this Declaration unilaterally through recordation of Supplemental Declarations, as allowed pursuant to the terms hereof or otherwise in accordance with the Act, and Club Operator shall have the right to effect an amendment of this Declaration by cancellation of Section 11.7 through recordation of the Notice of Cancellation in accordance with Section 11.7(i);

14. **Amendment to Section 16.1(e).** Section 16.1(e) of the Declaration is hereby deleted in its entirety and replaced with the following language:

(e) No amendment to this Declaration may remove, revoke, or modify any right or privilege of Declarant, a Participating Builder, or the Recreation Unit Owner without the respective prior written consent of Declarant, Participating Builder, or the Recreation Unit Owner, as applicable;

15. Addition of Section 16.1(h). The following language is hereby added as a new Section 16.1(h) of the Declaration:

(h) Section 14.5 may not be amended or deleted at any time without the express prior written approval of both: (1) Members representing not less than seventy-five percent (75%) of the Voting Power of the Association, and (2) Declarant; and any purported amendment or deletion of said Section, or any portion hereof, without both of such express prior written approvals shall be void.

16. Amendment and Restatement. Reference is hereby made to that certain Second Amendment to Master Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Clear Creek Tahoe, which document was Recorded on July 31, 2017, as Document Number 2017-902099, and re-Recorded on January 16, 2018, as Document Number 2018-909226 (the "Original Second Amendment"). The Original Second Amendment is completely amended, restated, and superseded in all respects by this Amendment.

17. Ratification of Declaration. Except as expressly provided in this Amendment, the Declaration shall remain in full force and effect, unmodified hereby.

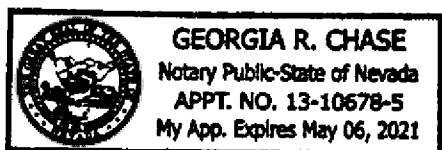
18. Governing Law; Effective Date. This Amendment shall be subject to and enforced in accordance with the laws of the State of Nevada, and shall be effective when Recorded.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has executed this Amendment as of the date of notarization of its authorized representative's signature below. The undersigned hereby certifies that this Amendment was provided to the Members for action, that as of the date hereof the total number of votes allocated to all Units in the Community pursuant to Section 7.3(c)(ii) is [177], and that by vote or agreement the Members holding [135] of these votes, constituting a majority of the Voting Power of the Association, approved of this Amendment.

Association:

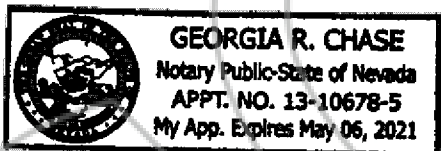
**CLEAR CREEK TAHOE
COMMUNITY ASSOCIATION,
a Nevada nonprofit corporation**




By: 
Its: **Frank Savoy
Secretary/Treasurer**

Clear Creek Golf, LLC, a Delaware limited liability company, is executing this Amendment for the express purpose of evidencing its consent to and approval of all the terms and conditions hereof.

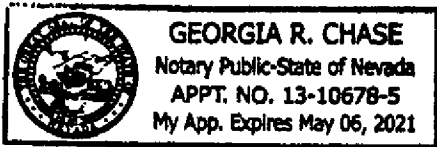
**CLEAR CREEK GOLF, LLC, a
Delaware limited liability company**



By: 
Leisha Ehlert, Authorized Representative

STATE OF Nevada)
)ss.
COUNTY OF Douglas)

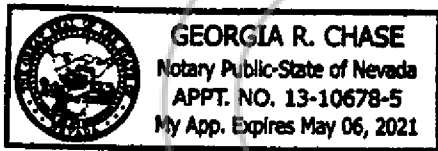
This instrument was acknowledged before me on June 27, 2018, by Frank Savoy as Secretary/Treasurer of Clear Creek Tahoe Community Association, a Nevada nonprofit corporation.



Georgia Chase
Notary Public
My commission expires: May 06, 2021

STATE OF Nevada)
)
COUNTY OF Douglas)

This instrument was acknowledged before me on June 27, 2018, by Leisha Ehlert as Authorized Representative of Clear Creek Golf, LLC, a Delaware limited liability company.



Georgia Chase
Notary Public
My Commission Expires: May 06, 2021