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Storey County - NV

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



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 DECLARATION  
OF THE COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR RAINBOW BEND PLANNED UNIT DEVELOPMENT**

This First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rainbow Bend Planned Unit Development ("Restated Declaration") is made effective October 18<sup>th</sup>, 2013, and certified by the President and Secretary of the Rainbow Bend Homeowners Association, Inc., a Nevada non-profit corporation (the "Association").

**RECITALS:**

A. Owners are the members of the Association and are the owners of that certain real property situate in the County of Storey, State of Nevada, which is described in Exhibit "A" hereto and by this reference incorporated herein ("the Property").

B. Association is a common-interest community as defined in Chapter 116 of the Nevada Revised Statutes ("NRS Chapter 116") and the lots therein are subject to the covenants, conditions, restrictions, equitable servitudes and charges set forth herein which establish a general plan of improvement for the benefit of all of the lots. The common-interest community is a planned community as defined in NRS Chapter 116. The name of the planned community is "Rainbow Bend".

C. The *Declaration of Covenants, Conditions and Restrictions of Rainbow Bend* ("Declaration") was recorded on December 17, 1992, in Book 93, Page 29, as Document No. 70661, in the Official Records of the County of Storey, State of Nevada.

D. The *First Amendment to Declaration of Covenants, Conditions and Restrictions of Rainbow Bend* was recorded on June 18, 1993, in Book 95, Page 724 as Document No. 71798, in the Official Records of the County of Storey, State of Nevada.

E. The *Second Amendment to Declaration of Covenants, Conditions and Restrictions of Rainbow Bend* was recorded on February 14, 2003, in Book 160, Page 137 as Document No. 93513, in the Official Records of the County of Storey, State of Nevada.

F. The *Third Amendment to Declaration of Covenants, Conditions and Restrictions of Rainbow Bend* was recorded on October 27, 2004, as Document No. 99077, in the Official Records of the County of Storey, State of Nevada.

G. The *Fourth Amendment to Declaration of Covenants, Conditions and Restrictions of Rainbow Bend* was recorded on April 28, 2006, as Document No. 103855, in the Official Records of the County of Storey, State of Nevada.

H. 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 four hundred and two (402) Units and various Common Elements located in the County of Storey, State of Nevada, and more particularly described as set forth in Exhibit "A" attached hereto.

I. This Rainbow Bend 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 of or override various of the provisions of Rainbow Bend's current Declaration and therefore this revision is to bring our governing documents into compliance and conformance with the changes in Chapter 116 through the years Rainbow Bend has been in existence.

J. The Members of the Association, constituting not less than a majority of the total voting power of the Association 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.

K. It is hereby declared that all of the real property described herein is held and owned and shall be held, owned, operated, managed, conveyed, assigned, occupied, 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 development, management, improvement, enjoyment, use and sale of the real property and any part thereof.

L. It is 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.

M. It is hereby declared that each Owner, by acceptance of a deed to a Lot, shall be deemed to have agreed, for any and all purposes, for Owner and for the members of Owner's

family, Owner's contract purchasers, tenants or lessees, guests, invitees and/or licensees 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 Rainbow Bend Development, either individually or as a class, Rainbow Bend Homeowners Association or the public generally, regardless of whether the deed refers specifically to this Restated Declaration or to any such duty, obligation or agreement.

N. Not less than a majority of the voting power of the Association approved this Restated Declaration as hereinafter set forth.

### DECLARATION:

NOW, THEREFORE, Owners hereby declare that the Property shall continue to be held, conveyed, sold, encumbered, leased, rented, used, occupied, improved, or otherwise affected in any manner, subject to the declarations, limitations, easements, covenants, conditions and restrictions set forth in this Restated Declaration, all of which are hereby declared to be in furtherance of a general plan for the development, improvement, and sale of the Property, and are further declared to be for the purpose of enhancing, maintaining and protecting the value and attractiveness thereof. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes, or as liens, as the case may be, and shall constitute benefits and burdens to the Owners and their successors and assigns and to all parties hereafter acquiring or owning any interest in the Property in whatever manner such interest may be obtained.

### ARTICLE I DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the meanings set forth in this Article.

1.1 "Annexed Property" means any or all of the property described in Exhibit "B" hereto, with respect to which a Supplemental Declaration is recorded causing an annexation of such property pursuant to the provisions of Article X below.

1.2 "Architectural Review Board" or "ARB" means the three (3) member Committee charged with the responsibility of regulating the external design, appearance, use, location and maintenance of the properties as set forth in Article X.

1.3 "Architectural Review Board Rules" means the rules adopted by the ARB.

1.4 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association.

1.5 “Association” means the Rainbow Bend Homeowners Association, a Nevada non-profit corporation.

1.6 “Association Property” means all common area within the Property and all personal property now or hereafter owned by or leased to the Association or in which the Association has a recognizable legal or equitable present or future interest.

1.7 “Beneficiary” means a beneficiary under a deed of trust or a mortgagee under a mortgage, and/or the assignee of such beneficiary or mortgagee.

1.8 “Board” or “Board of Directors” means the Board of Directors of the Association.

1.9 “Bylaws” means the Bylaws of the Association.

1.10 “Common Area” or “Common Elements” means that portion of the Property which is designated as Common Area on a Final Subdivision Map and which is owned or to be owned in common by the Lot Owners or by the Association, together with all Improvements constructed or to be constructed thereon, including, but not limited to, any recreational facilities.

1.11 “Common Expenses” shall have the meaning set forth in paragraph 6.4.1 hereof.

1.12 “Deed of trust” means a deed of trust or a mortgage encumbering any portion or all of the Property.

1.13 “Eligible Insurer” means an insurer or guarantor of a First Deed of Trust which has requested notification pursuant to the provisions of paragraphs 9.5 and 11.5 hereof.

1.14 “Eligible Mortgage Holder” means the holder of a First Deed of Trust which has requested notification pursuant to the provisions of paragraphs 9.5 and 11.5 hereof.

1.15 “Final Subdivision Map” means the Final Subdivision Map for the Property which was recorded on November 6, 1992, in the office of the County Recorder of Storey County, Nevada, under Document No. 70473 and by this reference incorporated herein.

1.16 “First Deed of Trust” means a Deed of Trust having priority over all other Deeds of Trust encumbering the same portion of the Property.

1.17 “Foreclosure” means a foreclosure under a Deed of Trust by judicial action or exercise of power of sale.

1.18 “Front Yard” means that portion of a Lot that fronts on the street lying between the curb and a line even with the front of the house, including a side yard on corner Lots.



1.19 “Improvements” means all structures and works of improvement of every type and kind, including but not limited to, buildings, outbuildings, garages, carports, roads, driveways, parking area, fences, screening walls, retaining walls, stairs, decks, patios, landscaping, sprinklers, hedges, windbreaks, planting, planted trees, shrubs, poles, signs, free standing lighting fixtures, exterior air conditioning and water softener fixtures or equipment, which have been or will be constructed on the Community.

1.20 “Living Unit” means and refers to any structure situated upon the Properties designed and intended for use and occupancy as a residence by a single family.

1.21 “Lot” means each portion of the Property which is designated as a numbered lot or parcel on the Final Subdivision Map (excluding the Common Area and excluding Lots A, B, C and D except where the context requires otherwise) and intended for improvement with a single family residence, whether or not the lot is so improved, the boundaries of each Lot and the number identifying the Lot are set forth on the Final Subdivision Map.

1.22 “Manager” means the person or entity designated by the Board to manage the affairs of the Association and to perform various other duties assigned by the Board and by the provisions of this Restated Declaration.

1.23 “Member” or “Association Member” means every person or entity including Declarant who holds a membership in the Association pursuant to the provisions of this Restated Declaration, the Articles and the Bylaws.

1.24 “Owner” means a person or entity, including Declarant, holding a fee simple interest in a Lot, or a person who is the buyer of a Lot under a recorded contract of sale, in which case the seller under such recorded contract of sale shall cease to be an Owner unless and until such contract is terminated.

1.25 “Plan” means those items set forth in NRS 116.2109, including drawings of Improvements which are filed with agencies which issue permits for the Community, and which are by this reference incorporated herein.

1.26 “Plat” means the map of the Property recorded November 6, 1992 as Document No. 70473, Official Records of Storey County, Nevada and any map recorded depicting the property described as Exhibit B should such property be annexed to the Property.

1.27 “Property” or “Community” means the Property, together with all Improvements now or hereafter located thereon, and together with all easements, rights and appurtenances belonging thereto.

1.28 “Rules and Regulations” means such rules and regulations as the Board from time to time may adopt pursuant to the terms of this Restated Declaration concerning the use of the Community or any part thereof.



1.29 “Restated Declaration” means this instrument entitled “Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rainbow Bend”, and any and all amendments thereto.

1.30 The phrase “visible from neighboring property” means, with respect to any given subject, that such object is or would be visible to a person six feet (6’) tall standing on an assumed floor elevation two feet (2’) above the highest ground surface of any neighboring property.

## ARTICLE II COMMON AREA

2.1 Ownership of Common Area. All of the Common Area is or will be owned in undivided interests by each of the Lot Owners. Initially, each Lot Owner will own an undivided 402nd interest in the Common Area. The Common Area shall remain private property of the Lot Owners unless dedicated to a public authority pursuant to the provisions hereof and nothing contained herein shall be construed as a dedication to the public of the Common Area or any portion thereof. The Common Area consists of the parks, tennis courts, clubhouse, Lot D (Recreational Vehicle Parking), and parking area next to the clubhouse.

2.2 Encumbrances Against Common Area. Title to the Common Area is or may be subject to the following encumbrances (“Existing Encumbrances”):

(a) An easement for water course over that portion which lies within the Creek as it formerly existed or now exists: Creek: Lagomarsino-Murphey Ditch.

(b) Any adverse claim based upon the assertion that: (i) “Said land or any part thereof is now or at any time has been below the ordinary high water mark of the Truckee River”; (ii) “Some portion of said land has been created by artificial means or has accreted to such portion so created”; (iii) “Some portions of said land has been brought within the boundaries thereof by an avulsive movement of the Truckee River, or has been formed by accretion to any such portion”.

(c) The fact that a portion of said land may be affected by the right of way for the Central Pacific Railroad Company.

(d) An easement for water conduit 100 feet in width in favor of J. F. Bowes, recorded August 14, 1911, in Book 56 of Deeds, Page 629, Storey County Records.

(e) An easement for pole lines in favor of Sierra Pacific Power Company and Bell Telephone Company of Nevada, recorded March 10, 1949, Book V, Page 21 of Miscellaneous, Storey County Records.



(f) An easement for pole lines in favor of Sierra Pacific Power company and Bell Telephone Company of America, recorded March 15, 1949, Book V, Page 23 of Miscellaneous, Storey County Records.

(g) An easement for pole lines in favor of Sierra Pacific Power company, recorded November 26, 1952, Book V, Page 242 of Miscellaneous, Storey County Records.

(h) An easement for pole lines in favor of Sierra Pacific Power Company, recorded April 13, 1956, Book V, Page 398 of Miscellaneous, Storey County Records.

(i) An easement for right of way in favor of Southern Pacific Pipe Lines, Inc. recorded June 21, 1956, Book V, Page 417 of Miscellaneous, Storey County Records.

(j) An easement for the right to construct, place, inspect, maintain and replace thereon and thereunder, underground conduits, pipes, manholes, wires, cables and fixtures in favor of Bell Telephone Company of Nevada, recorded June 27, 1963, Book V of PofA, Page 351, Storey County Records.

(k) An easement for the right, privilege and authority to construct, operate and maintain a communication and electric power line, and the right to place, inspect, maintain and replace thereon, terminal boxes, service lines, fixtures, anchors, guys and other appurtenances, all hereinafter referred to as facilities, and to keep the same free of foliage with the right to trim and remove limbs, brush and timber which may interfere with the operation of said line, in favor of Sierra Pacific Power Company and Bell Telephone Company of Nevada, recorded September 3, 1966, Book X of PofA, Page 245, Storey County Records.

(l) An easement for the right, privilege and authority to construct, operate, maintain a communication and electric power line, and the right to place, inspect, menadione and replace thereon, poles, crossarms, wires, cables, braces, transformers, terminal boxes, service lines, fixtures, anchors, guys and other appurtenances, all hereinafter referred to as facilities, and to keep the same free of foliage with the right to trim and remove limbs, brush and timber which may interfere with the operation of said line, recorded May 14, 1970, Book Y of PofA, Page 184, Storey County Records.

(m) An easement for the right from time to time to construct, maintain and remove communication facilities consisting of aerial wires and cables with associates poles, crossarms, anchors, guys, fixtures, and appurtenances, together with a right of way thereof and with the right of ingress thereto and egress therefrom, in favor of Bell Telephone Company of Nevada, recorded September 27, 1976, Book 5, Page 159, Storey County Records.

(n) Easements and dedication as provided for or delineated on Record of Survey filed in the office of the County Recorder of Storey County, Nevada on June 16, 1978 as File No. 42094.



(o) An Easement Agreement between DH Land Company and Joseph Pen, James Pen and Louise Peri recorded July 11, 1980, as Document No. 47076, Book 23, Page 319, Storey County Official Records.

(p) A reservation of an easement over the northerly 80 feet of said land reserved by DH Land Company, recorded October 3, 1980, as Document No. 47796, Book 25, Page 98, Storey County Official Records.

(q) An easement to construct, operate and maintain an overhead aerial electric power line in favor of Sierra Pacific Power Company, recorded November 6, 1982, as Document No. 52060, Book 35, Page 553, Storey County Official Records.

(r) An easement and incidents thereto for the right to transport water over the Lagomarsino-Murphy Ditch, in favor of Pen, et al., recorded July 23, 1986, Book 53, Page 526, Storey County Official Records.

(s) Covenants, Conditions and Restrictions recorded June 16, 1978 as Document No. 42095, in Book 11, Page 6, Official Records, Storey County, Nevada, as modified by a document recorded October 3, 1980 as Document No. 47795, in Book 25, Page 95, Official Records of Storey County, Nevada.

(t) An easement for overhead and underground electric power and communication lines, in favor of Sierra Pacific Power Company, recorded June 3, 1986, as Document No. 58037, Book 53, Page 54, Storey County Official Records.

(u) An easement for underground gas pipeline in favor of Sierra Pacific Power company recorded July 22, 1986, as Document No. 58209, Book 53, Page 414, Storey County Official Records.

(v) Any and all easements in favor of Canyon General Improvement District;

(w) The obligations imposed, directly or indirectly, by virtue of any statute, law, ordinance, resolution, or regulation of the United States of America, the State of Nevada, County of Storey, or any other political subdivision or public organization having jurisdiction over the Property, or by virtue of any organization or political body created pursuant to any such statute, law, ordinance or regulation;

(x) Any and all easements and other rights shown on the Final Subdivision Map;

(y) All easements and other rights and obligations created by this Restated Declaration;

(z) Any other lien, encumbrance, or defect of title of any kind whatsoever (other than of the type that would at any time or from time to time create a lien upon the





Common Area to secure an obligation to pay money) that would not materially and actually prejudice Owners in their use and enjoyment of their Lots and the Common Area.

2.3 Owners' Easements of Enjoyment. Except as otherwise expressly provided elsewhere in this Restated Declaration, each Owner shall have, and the Association hereby grants to each Owner, a non-exclusive easement of use and enjoyment in, to, and throughout the Common Area and for ingress, egress, and support over and through the Common Area. Each such easement shall be appurtenant to and pass with title to each Lot, subject to the following rights and restrictions:

2.3.1 The Association shall have the right to adopt, amend, and enforce Rules and Regulations affecting use of the Common Area; provided, however, that such Rules and Regulations shall not be in conflict with the provisions of this Restated Declaration or any ordinances of Storey County, or of any other governmental entity.

2.3.2 The Association shall have the right to suspend the right to use any recreational facilities within the Common Area by an Owner, his family and guests for any period during which any Assessment against such Owner remains unpaid for a period of thirty (30) days by so notifying the Owner of such suspension; provided, however, that if such Owner files a written objection with the Board within ten (10) days after such suspension notice is deemed to have been received by Owner pursuant to the provisions hereof, then such Owner shall be given an opportunity to be heard in the manner provided in paragraph 3.2.6 below.

2.3.3 The Association shall have the right to limit the number of guests of an Owner utilizing the Common Area.

2.3.4 The Association shall have the right to charge reasonable admission and other fees for the use of any recreational facility situate upon the Common Area.

2.3.5 The Association shall have the right to assign, rent, grant licenses, or otherwise designate and control the use of any parking or storage spaces within the Common Area.

2.4 Use of the Common Area.

2.4.1 General. Except as otherwise expressly provided in this Restated Declaration, the Common Area shall be used for vehicular and pedestrian access to, from, over and across the Property as designated on the Final Subdivision Map or as otherwise designated by the Association from time to time, and for open space or recreational purposes, and no persons other than the Owners, their family members, guests and invitees shall be allowed to in any manner use or occupy the Common Area. Any Owner may extend his rights of use and enjoyment in the Common Area, including any recreational facilities, to such Owner's family members, guests, and invitees, subject, however, to the provisions of this Restated Declaration and the Rules and Regulations. Each Owner shall notify the secretary of the Association of the names of any occupants of such Owner's Lot. Each Owner also shall notify the secretary of the



Association of the names of all persons to whom such Owner has extended any rights of use and enjoyment in the Common Area and the relationship that each such person bears to the Owner. All permitted rights of use and enjoyment of the Common Area are subject to suspension as set forth in paragraph 2.3.2 above. Each Owner shall at all times be responsible for any and all activities of his occupants, guests and invitees using the Common Area. No Improvements within the Common Area shall be altered or removed, except at the express direction of the Association.

2.4.2 Association Use of Clubhouse. The portion of the Clubhouse constituting Common Area shall be used solely for recreation for the benefit of Owners, Lessees and their guests. No commercial use shall be made of such area. Except as hereafter provided, no wagering, gambling, gaming or gaming devices, including slot machines and poker machines, shall be allowed on the premises. Private card playing for money, bingo games when run by the Association or social club, personal bets, and athletic pool bets may be allowed in accordance with rules established by the Association. The bar in the Clubhouse shall be operated by the Association or its designee on a not-for-profit basis only.

2.5 Rights of Association to Grant Easements over Common Area. The Association shall be entitled to exercise the rights to grant easements over common area, provided that at least sixty-seven percent (67%) of the voting power of the Association has approved such action.

### ARTICLE III USE RESTRICTIONS, MAINTENANCE OBLIGATIONS, AND PRIVATE EASEMENTS

#### 3.1 Use Regulations.

3.1.1 Residential Use. No Lot shall be improved or used for any purpose other than single family residential use. There shall be no more than one (1) dwelling unit per Lot. No dwelling unit on a Lot shall be occupied as living quarters until a final certificate of occupancy for such dwelling unit has been issued by the appropriate governmental authority. No Owner shall rent or lease the dwelling unit on such Owner's Lot except to a member of the Owner's immediate family and the Owner shall provide the Association with documentation deemed sufficient by the Association that proves that the dwelling is occupied by an immediate family member. No Lot shall be subdivided in any manner.

3.1.2 Improvements and Alterations; Architectural Control. No Improvement, construction, repair, painting, excavation, fill, removal of rocks, shrubs or natural vegetation, or other work that alters the land or the exterior appearance of any Improvement upon any Lot shall be made, done, or permitted to be done unless approval therefore is first obtained from the ARB in accordance with the Restated Declaration of Protective Covenants and the procedures established by the ARB Rules, and from the appropriate governmental authority, if required.



3.1.3 Homes. Each numbered Lot shall be occupied by a single family, single story, manufactured or site built home approved by the "ARB" (Architectural Review Board). All manufactured homes shall be new (never lived in) and not less than twenty four (24) feet in width nor less than forty (40) feet in length and certified as built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. § 5401 et seq.). No home shall be less than nine hundred and sixty (960) square feet exclusive of garage. All homes must have sixteen (16) inch eaves and overhang. All window and door casing must be anodized white, brown, or other color approved by the "ARB". All electrical service connections and meter boxes for manufactured homes must be factory mounted on the home. All homes will have one car or two car garage except existing carports. No home may have a basement or room below grade. No wood shake or wood shingle roofs are allowed. Siding and roofs may be updated according to new material available on the market and approved by the ARB and RBHOA Board of Directors. Any decision of the RBHOA Board of Directors will be final.

3.1.4 Use of Residential Lots. No temporary house, and no temporary or permanent storage building, shack, church, mobile home, tent, barn or other outbuilding shall be erected or placed upon said Lots to be used for residential purposes. No streets, roads, or driveways shall be opened through side lots to serve adjoining property except as might have been previously provided for by plat or survey duly recorded or as might hereinafter be specified except as approved in writing by the ARB as hereinafter described.

3.1.5 Setback Restrictions. No single family building shall be located nearer to a street line than ten (10) feet on the front or five (5) feet on the side, nor nearer to an interior side lot line than five (5) feet unless waived by the ARB. For the purpose of this covenant, eaves, steps and open porches not covered by a roof structure shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of the building or construction on any Lot to encroach upon another Lot. This provision shall not apply to any homes in existence as of the date of this Restated Declaration.

Except as approved by the ARB, nothing shall be erected, placed or altered on any Lot nearer to any street than the building set back lines unless the same be retaining walls of masonry construction which do not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced, or stabilized. The exposed part of retaining walls shall be made of brick, natural stone, or veneered with brick or natural stone or other material approved in writing by the ARB.

3.1.6 Masonry. Whenever buildings erected on any Lot or parcel are constructed in whole or in part of concrete, concrete blocks, cinder blocks or other fabricated masonry block units, the entire surface of such blocks exposed above finish grade shall be veneered with brick, natural stone, stucco approved by the ARB or other material approved by the ARB.

3.1.7 Fences. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points ten (10) feet from the intersection of the street lines. The same sight



lines limitation shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such triangular area unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines. No perimeter fence may be over six (6) feet high. Perimeter fences must be constructed within two (2) inches of the property line and may be constructed out of such material deemed suitable, by the ARB and approved by the Board of Directors.

3.1.8 Commercial Use. Except as otherwise provided in this Restated Declaration or approved by the ARB, no part of the Community shall be used or caused, allotted, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose. Any existing commercial use may be continued but may not be expanded without consent of the ARB.

Lot A and the north portion of the Clubhouse building thereon may be used for commercial, recreation, retail, wholesale or storage purposes. It may not be used for industrial or manufacturing purposes. Lot B may be used as a parking lot for the benefit of any activities on Lot A. Lot C shall be used for a sewer treatment plant. In the event that the treatment plant should be moved from Lot C so that Lot C is no longer needed to provide sewer services for Rainbow Bend, then the property shall revert to the homeowners of Rainbow Bend and become Common Area. Lot D shall be used for Recreational Vehicle Storage.

3.1.9 Appearance of Unit. Each Owner shall keep his Lot and the Improvements thereon in a clean and attractive condition. Except for neatly stacked firewood, any patio or deck areas shall not be used for storage of items not to be used in such balcony or patio areas, including but not limited to boxes, bicycles, and other unsightly items. Each Owner shall have complete discretion as to the choice of furniture, furnishings, and interior decorating. No plastic or aluminum foil coverings may be placed in or on the windows.

3.1.10 Parking Restrictions. Unless otherwise permitted by the Board, no automobile shall be parked or left within the Community other than in a parking area designated by the Board for the parking and storage of such vehicles. However, parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Rules and Regulations. Parking spaces shall be used for parking automobiles only and shall not be converted for other storage or recreational activities. All vehicles parked within the community that are not parked within a garage must be licensed, insured and operable.

3.1.11 Trailers, Boats, and Motor Vehicles. The Board may enact reasonable Rules and Regulations governing the storage and operation of trailers, boats, other recreational vehicles and motor vehicles within the Community, including the exclusion of same from the Community. The Association shall have the right to direct the removal of vehicles improperly parked on the Common Area pursuant to NRS 487.038. No boat, truck, trailer, camper, recreational vehicle, or tent shall be used as a living area while located in the Community.



3.1.12 Parking. Each Owner shall park only in parking areas or spaces, as designated by the Rules and Regulations from time-to-time, and in accordance with such Rules and Regulations.

3.1.13 Front Yards. All front yards shall be improved with landscaping, trees and a irrigation system as approved by the ARB.

3.1.14 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any Lot except such and customary in connection with and during the use, maintenance, or construction of a residence or other structure. No equipment for cooling, heating, fuel storage or other uses shall be installed or maintained outside of or protruding through the walls, windows, or roof of any building in the Community except for such equipment as is initially constructed by Declarant or thereafter as approved by the ARB.

3.1.15 Barbecues. There shall be no exterior fires except barbecue fires contained within receptacles designed for such purpose or outside fireplaces approved by the ARB.

3.1.16 Animals. No animals or fowl, including without limitation, horses, cows, sheep, goats, pigs and chickens, except for a reasonable number of recognized house or yard pets, shall be allowed or maintained on or in any Lot. The permitted house or yard pets shall be kept, , or raised solely as household pets for private use and not for commercial purposes. No animal or fowl shall be allowed to make an unreasonable amount of noise or shall otherwise be allowed to become a nuisance. No animal shall be permitted outside of the Lot of the Owner of such animal unless such animal is under the control of a responsible person by means of a leash or other reasonable restraint and such person shall immediately clean up and remove any feces or other matters left by such animal. Upon request of an Owner, the Board, in its sole discretion, shall determine for the purpose of this Section whether a particular animal or fowl shall be considered as a house or yard pet, whether it is a nuisance, and whether the type or number of animals or fowl on or in any Lot is reasonable. The Rules and Regulations may include other rules and regulations pertaining to animals and fowl as may be adopted from time to time.

3.1.17 Garbage and Refuse Disposal. There shall be no exterior burning of trash, garbage or other refuse upon any portion of the Community, nor shall any Owner accumulate on such Owner's Lot any litter, refuse or garbage, except in receptacles provided for such purposes. All Owners shall pay for regular refuse collection service no less frequently than weekly. Every receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from neighboring property or from any road or Common Area within the Community, except at the times when refuse collections are made.

3.1.18 Diseases and Insects. No Owner shall permit any thing or condition to exist upon his Lot that shall induce, breed, or harbor infectious plant or tree diseases or noxious insects.



3.1.19 Exterior Sound Devices. No exterior speakers, or other sound devices except security devices used exclusively for security purposes shall be located, used, or placed on a Lot or Improvement without the prior written approval of the ARB.

3.1.20 Awnings and Screens. No awnings, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Community except those that are installed in accordance with the original construction of the Community, and their replacements, or as are authorized and approved by the ARB.

3.1.21 Outside Installations. No clothes lines, television antennas, satellite dishes, wiring, installation of air conditioning or solar heating equipment, or other equipment or items of any kind, including, without limitation, sports equipment, shall be installed on the exterior of the building or be allowed to protrude through the walls, the windows, the roof of any building or the balconies, unless the prior written approval of the ARB is obtained.

3.1.22 Signs. No sign of any kind shall be displayed so as to be visible from neighboring property or within public view without the approval of the Board, with the exception of for sale or political signs as expressly allowed by Nevada law. A modest sign advertising that a unit is for sale may be placed upon approval of the ARB. Political and for sale signs may not be larger than 24 inches by 25 inches. The Board of Directors may, in its discretion, implement rules regarding the placement of political and for sale signs.

3.1.23 Mineral Development. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on or in the Community, and no oil wells, tanks, tunnels or mineral excavations or shafts shall be permitted on the surface of the Community or within 500 feet below the surface of the Community. No derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, maintained, or permitted on the Community.

3.1.24 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate in the Community; and no odors shall be permitted to arise from the Community so as to render any portion of the Community unsanitary, unsightly, offensive, or detrimental to any other portion of the Community in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Community so as to be offensive or detrimental to any other portion of the Community in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security systems, used exclusively for security purposes) shall be located, used, or placed on the Community without the prior written approval of the Board. No noxious or offensive activities, including but not limited to, repair of automobiles or other motorized vehicles, shall be conducted within the Community that may be or may become an annoyance or nuisance to the residents of the Community, or that in any way interferes with the quiet enjoyment of occupants of Lots. Unless otherwise permitted by the Rules and Regulations, no Owner shall serve food or beverages,



cook, barbecue, or engage in similar activities, except within such Owner's Lot, or in Common Areas where such activities are allowed.

3.1.25 Compliance with Laws; Prohibition of Certain Activities. No Owner shall permit anything to be done or kept in his Lot that violates any law, ordinance, statute, rule, or regulation of any local, county, state, or federal body. No Owner shall allow furniture, furnishings, or other personal Community belonging to such Owner to remain within any portion of the Common Area except as permitted by the Board. Without prior written consent from the Board, nothing shall be done or kept in any Lot or in the Common Area, or any part thereof, which would result in the cancellation of the insurance on the Community or any part thereof or increase the rate of insurance on the Community or any part thereof over what the Association would pay but for such activity. No Owner shall permit any thing or condition to exist upon his Lot that shall induce, breed, or harbor infectious plant or tree diseases or noxious insects.

3.1.26 Rules and Regulations. No Owner shall violate the Rules and Regulations as adopted from time to time by the Board of Directors.

### 3.2 Maintenance Obligations.

3.2.1 Common Area and Front Yards. The Common Area and the Improvements thereon shall be the obligation of the Association. The Association shall maintain and manage the Common Area and all Improvements thereon. The front yard lawns of all improved or occupied Lots, shall be mowed, fertilized and treated for weeds by the Association. The Association shall maintain all utility, water and sewer lines, equipment and other apparatus within the Common Area, unless such item of maintenance is the obligation of a utility company, the Canyon General Improvement District or other governmental entity.

3.2.2 Lots and Improvements Thereon. Except for the front lawn maintenance as described in section 3.2.1 provided by the Association, each Owner shall have the obligation to repair and maintain such Owner's Lot and the Improvements thereon, at such Owner's sole cost, including, but not limited to, the following; all plumbing, electrical and as lines, equipment and facilities, television cable, and all other utility facilities within such Owner's Lot, all water and sewer lines within such Owner's Lot, the exterior of the dwelling unit within such Owner's Lot, including exterior walls and roofs, and the interior and exterior of all windows and skylights, and all other Improvements on such Owner's Lot. There is no obligation on a Lot Owner to repair or maintain common utility facilities which may be under or across any Lot. Each Owner shall keep all shrubs, trees, grass and plantings on such Owner's Lot neatly trimmed, properly cultivated, and free from trash, weeds, debris and other unsightly material. No approval from the ARB shall be necessary for the performance of normal maintenance and repair work.

3.2.3 Common Utility Lines. As used herein "Common Utility Lines" shall mean sewer, water, electrical, plumbing or other utility lines, equipment or apparatus which are shared by the Owners of two (2) or more Lots (sometimes referred to as "shared Common Utility



Lines”) or which provide service to one Lot and are partially or completely within the residence or Lot of another Owner.

### 3.2.4 Common Owner Fences and Utility Lines.

(a) Repair of Common-Owner Fences. Any two (2) Owners which share a fence which is constructed on the common boundary line between such Lots (a “Common Owner Fence”) shall bear the cost of repair, upkeep, replacement, and maintenance of the Common Owner Fence, as follows: Each Owner of a Common Owner Fence shall have the obligation for the repair, upkeep and replacement of both sides of the ‘right half’ of the fence, which ‘right half’ is that half of the fence which is to the Owner’s right if he is standing on his own Lot facing the fence.

(b) Dispute Resolution. In the event of a dispute between the Owners of the two (2) Lots sharing the Common Owner Fence, any one of such Owners may file an Owner Complaint with the Board. A hearing shall then be held and the matter decided as provided in paragraph 3.2.6(b).

(c) Right of Access. Each Owner sharing with other Owner(s) a Common Utility Line or Common Owner Fence shall allow such other Owners reasonable access to such Owner’s residence or Lot at reasonable times and upon reasonable notice as the circumstances warrant, for the purpose of making necessary repairs, alterations or replacements. In the event any Owner experiences a disruption of such Owner’s utility service and it is necessary to enter the residence or Lot to reconnect such utility service, then such situation shall be deemed to be an emergency and the Owner experiencing such disruption shall have such right of entry without prior notice.

(d) Restoration. In the event any work performed by an Owner or the Association pursuant to this paragraph 3.2.4 involves entry upon another Owner’s Lot or involves alteration of any portion of the Common Area, then the Owner(s) responsible for the repairs, shall be liable for the cost of restoring any damaged or altered area to substantially its condition prior to the event necessitating the repair. In the event the Owners responsible for the damage fail to so repair the damaged or altered area, then the Owner suffering such damage or alteration may file an Owner Complaint with the Board against such Owners as set forth in paragraph 3.2.6 hereof, or the Association may issue a Maintenance Violation as provided in such paragraph 3.2.6.

(e) Performance of Work by Licensed Contractor. Any and all work performed pursuant to this paragraph 3.2.4 other than painting or other cosmetic work or the construction of fences shall be performed by a licensed contractor and shall be performed in accordance with the provisions of this Restated Declaration and County building, health, fire and safety codes.

3.2.5 Owner’s Obligation to Rebuild After Damage or Destruction to Lot Improvements. No Owner shall do any act or work that will impair the structural soundness or





safety of any Improvement located on such Owner's Lot. Each Owner shall carry casualty insurance insuring the dwelling unit on such Owner's Lot with coverage for all hazards, except earthquakes and floods and other acts of God which are normally excluded from standard form coverage policies ("Excluded Hazard"), which insurance shall be maintained in an amount equal to the full replacement cost of such dwelling unit. The Association shall have no duty to enforce the foregoing provision of this Restated Declaration; provided, however, that if a dwelling unit is damaged or destroyed and the event causing the damage or destruction was not an Excluded Hazard, then the Owner(s) of the dwelling unit shall be jointly and severally liable to the Association and to the other Owners to rebuild the dwelling unit to substantially its condition immediately prior to the event causing the damage or destruction. Prior to commencement of work to repair or reconstruct a damaged Improvement the Owner(s) of the Lot on which such Improvement is located shall submit the plans and specifications for the repair or reconstruction to the ARB and shall have received written approval thereof prior to the commencement of any work of repair or reconstruction. In the event a holder of a Deed of Trust exercises its right to apply all or substantially all of the insurance proceeds to the indebtedness secured by the Deed of Trust, then the Owner shall be obligated to remove all debris from the Lot and to restore the Lot to its natural state or to a state that is not offensive to the general appearance of the Community, which restoration plan shall be submitted to, and approved by, the ARB prior to commencement of the restoration work. In the event the Owner of the damaged or destroyed dwelling unit fails to commence repair or reconstruction of the dwelling unit within the longer of one hundred twenty (120) days after the event causing the damage or destruction, or forty-five (45) days after the insurance proceeds are made available for reconstruction purposes, then the failure to commence repair or reconstruction shall be deemed to be a Maintenance Violation as set forth in paragraph 3.2.6 below.

### 3.2.6 Maintenance Violations and Association's Right to Correct Maintenance Violations.

(a) Maintenance Violation Notice. If any Owner allows, permits, or causes any condition to exist on such Owner's Lot which in the sole reasonable discretion of the Board is unsightly, unsanitary, or hazardous (including, but not limited to, a condition which causes dust to carry to another Owner's Lot), or fails to perform such Owner's maintenance obligations in accordance with the provisions of this Restated Declaration (herein collectively "Maintenance Violation"), then except as otherwise provided in paragraph 3.2.8 hereof in the case of an emergency, the Association shall give the Owner of the Lot on which such condition exists, written notice ("Maintenance Violation Notice") specifying the nature of the Maintenance Violation and a reasonable time period within which the Owner(s) must correct such Maintenance Violation, which Maintenance Violation Notice shall specify the time period within which such Owner(s) shall correct such Maintenance Violation as the Board determines is reasonably required, which notice period shall be no less than thirty (30) days.

(b) Owner's Right to File an Objection. The Owner of the Lot to whom a Maintenance Violation Notice is given shall have the right to file a written objection thereto with the Association within ten (10) days after such Owner is deemed to have received such Maintenance Violation Notice (as provided in paragraph 3.2.6(a) above). In the event such



an objection is filed, within thirty (30) days after the objection is filed the Board shall appoint a committee of at least three (3) Board members (“the Arbitration Panel”) to hold a hearing regarding such Maintenance Violation. Notice of such hearing and the time and place thereof, shall be given to the Owner to whom the Maintenance Violation Notice is given and any other Owners who have filed Owner Complaints (defined below) at least five (5) business days prior to the date set for such hearing. The Arbitration Panel shall give written notice of its decision to the Owner against whom the Maintenance Violation Notice was given as to whether or not a Maintenance Violation exists and the nature of such violation. Copies of such decision shall be mailed to all persons who filed an Owner Complaint. The decision of the Arbitration Panel shall be conclusive as to whether or not a Maintenance Violation in fact exists. The notice period within which a Maintenance Violation must be cured shall be tolled from the date of filing such objection until the date the Arbitration Panel notifies the Owner in writing of its decision.

(c) Association’s Right to Correct Maintenance Violation or Assess Liquidated Damages as a Construction Penalty. If the Owner fails to correct a Maintenance Violation within the period specified in the Maintenance Violation Notice (as such period may have been tolled by the filing of an objection), then the Association, acting through the Board, shall have the right either (i) to levy a Violation Assessment against the defaulting Owner(s) in an amount equal to the cost of the corrective work, and, at such time as the Violation Assessment is fully paid, to undertake and perform such work through its agents and employees as the Board may deem necessary or desirable to remedy the Maintenance Violation; or (ii) to assess the defaulting Owner(s) liquidated damages in the amount of \$100.00 per day commencing the day after the expiration of the cure period as specified in the Violation Notice, which assessment shall be levied as a Violation Assessment pursuant to subparagraph (e) hereof. The parties bound by this Restated Declaration agree that the damages suffered by the Community, the other Owners and the Association in the event of an uncured Maintenance Violation will be difficult or impossible to ascertain and that liquidated damages in the sum of \$100.00 per day is a reasonable estimate of such damages. Any liquidated damages assessed shall be deemed a Construction Penalty.

(d) Procedure for Filing Owner Complaints. In the event that the Board fails to give a Maintenance Violation Notice to an Owner who has defaulted in his maintenance obligation hereunder, then upon the filing with the Board of a written complaint (herein “Owner Complaint”) executed by the Owners of any two (2) of the Lots, the Board shall have the obligation to give such Maintenance Violation Notice.

(e) Procedure for Association’s Correction of Maintenance Violation.

(i) Bids. In the event the Association elects, or is required by the terms of this Restated Declaration, to correct a Maintenance Violation, then prior to commencement of work to correct the Maintenance Violation and promptly after the expiration of the cure period afforded a defaulting Owner, the Board shall obtain three (3) written bids where practicable to perform the required work and shall mail the bids to the Owner(s) of the Lot on which a Maintenance Violation exists. Such Owner shall have the right to select a bid by notifying the Board in writing within fourteen (14) days after the bids are mailed by the Board to



the Owner. In the event the Owner fails to select a bid within such time period, the Board shall select the bid.

(ii) Violation Assessment. When the bid has been selected as set forth in subparagraph (i) above, the Board shall levy a Violation Assessment against the Owner(s) of the Lot on which a Maintenance Violation exists to pay for the cost of correcting the Maintenance Violation.

(iii) Performance of Corrective Work by Association. The Board may, at its sole option and discretion, elect to cause the corrective work to be commenced promptly after the Violation Assessment has been levied against the defaulting Owner, or elect to postpone the corrective work until after the Violation Assessment has been collected in full. Neither the Association, the Board, nor any of the Association's agents, or employees shall be liable for any damage which may result from any work performed by the Association to cure a Maintenance violation.

3.2.7 Association's Right of Entry for Repair. Maintenance and Emergencies. Each of the Owners hereby grants to the Association and its duly authorized agents, representatives, employees and contractors, the right of entry onto such Owner's Lot, and within the Improvements thereon, which right shall be irrevocable, to make such repairs and perform such maintenance work which the Association is required or entitled to do pursuant to the provisions of this Restated Declaration. Except as provided herein below with respect to emergencies, such right of entry shall be exercised only during reasonable hours and after reasonable notice.

3.2.8 Emergencies. In the event any officer of the Association believes, in his or her sole reasonable discretion, that an emergency situation exists within a Lot or within any Improvements thereon, and that immediate repairs are necessary to prevent or mitigate damage to any Lot, including the Improvements thereon, such officer shall have the right to exercise the Association's right of entry without notice. If after gaining entry, any officer of the Association still believes in his or her sole reasonable discretion, that immediate repairs are necessary to prevent or mitigate damages to any Lot or any Improvements thereon, then the Association shall have the right to make such repairs without notice to the Owner of the Lot, and hearing as required by paragraph 3.2.6 above, and without obtaining competitive bids as provided in subparagraph 3.2.6(e) above. The Association shall levy a Violation Assessment against the Owner(s) of the Lot in which the repairs were made pursuant to subparagraph 3.2.6(e) hereof, in the amount of the cost of the corrective work and all costs and expenses incurred by the Association incident thereto. Neither the Association, nor the Board, nor any of the Association's agents or employees, nor any person hired by the Association to perform the corrective work, shall be liable for any damage which may result from any work so performed on behalf of the Association.

3.2.9 Entry by Court Order. In the event any Owner(s) prevents representatives of the Association accompanied by a member of the Board from gaining access to any portion of such Owner(s) Lot (including the Improvements thereon) for the purpose of correcting a



Maintenance Violation or for the purpose of attending to an emergency situation, all Owner(s) of such Lot shall be jointly and severally liable to the Association for attorneys' fees and court costs incurred by the Association for the purpose of gaining such entry and all other costs and expenses incident thereto, and such attorneys' fees, court costs and incidental expenses shall be assessed to such Owners as a Violation Assessment pursuant to paragraph 3.2.6 hereof. In the event any officer of the Association believes, in his or her sole reasonable discretion, that an emergency situation exists and that immediate repairs are necessary to prevent or mitigate damage to the Common Area, the Common Area Improvements or to the dwelling unit or Lot of another Owner, then such officer shall have the right to exercise such right of entry without notice.

### 3.3 Easements.

#### 3.3.1 Utility Easements.

(a) General Easements. There is hereby created a blanket easement upon, across, over, through, and under the above described premises for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephones, electricity, television, cable or communication lines and systems. By virtue of this easement it shall be expressly permissible for the Canyon General Improvement District, or the providing utility or service company to install and maintain facilities and equipment on said property, to excavate for such purposes and to affix and maintain wires, circuits, and conduits on, in and under the roofs and exterior walls of said residences providing such company restores disturbed areas to the condition in which they were found. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utility service lines or facilities for such utilities may be installed or relocated on said premises except as programmed and approved by the Declarant prior to the conveyance of the first Lot in a Parcel to an Owner or by the ARB thereafter. This easement shall in no way affect any other recorded easements on said premises. This easement shall be limited to improvements as originally constructed.

#### (b) Specific Easements.

(i) Easements for underground and overhead electric power and communication lines and the right to maintain, inspect, repair and replace such lines have been granted to Sierra Pacific Power Company by Document No. 58037, Official Records of Storey County, Nevada, and, easements for underground gas pipelines have been granted to Sierra Pacific Power Company by Document No. 88209, Official Records of Storey County, Nevada. Such easements occupy the front 7-1/2 feet of each Lot.

(ii) An easement for public utilities is reserved in the front 7-1/2 feet of each Lot and 5 feet in width centered on each side lot line and 10 feet in width centered on the rear lot line of each Lot. This easement is for the benefit of Declarant and for any entity which may provide sewer, water, television, or telephone service to any portion of the Community.



3.3.2 Drainage Easement. There is hereby granted a private drainage easement 5 feet in width centered on each side lot line and 10 feet in width centered on the rear lot line for drainage. All Lot drainage, including swales and berms, shall be perpetuated and maintained by the Lot Owner.

#### ARTICLE IV THE ASSOCIATION

4.1 Formation. The Association is a nonprofit corporation formed under the laws of the State of Nevada. The Articles of Incorporation have been filed with the Secretary of State of

the State of Nevada. The Association shall be charged with the duties and invested with the powers set forth in the Articles, Bylaws, and this Restated Declaration. The Association is not authorized to have and shall not issue any capital stock.

4.2 Association Action: Board of Directors and Officers: Members' Approval. Except as to matters requiring the approval of members as set forth in the Articles, Bylaws, this Restated Declaration, or Chapters 81, 82 and 116 of the Nevada Revised Statutes, the affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with this Restated Declaration or the Bylaws, or their amendments. The Board shall have five (5) members but the number of members may be modified by amendment to the Articles of Incorporation. The Board shall be composed of Members only. All members of the Board must be at least eighteen (18) years of age. The Annual meeting shall be called, noticed and conducted in accordance with the Articles and the Bylaws. Except as otherwise provided in the Articles, Bylaws, this Restated Declaration, or Chapters 81, 82 (or other applicable corporate statute) or 116 of the Nevada Revised Statutes, all matters requiring the approval of Members shall be deemed approved if Members holding a majority of the total voting power assent to them by written consent as provided in the Bylaws or if approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws.

#### 4.3 Membership.

4.3.1 Membership Qualifications. The Members of the Association shall be the Owners of the Lots. The Owner(s) of each Lot shall have one (1) membership in the Association. The number of memberships in the Association shall be equal to the number of Lots within the Property.

4.3.2 Members Rights and Duties. As used in this Restated Declaration, the term "Member" shall refer to the Owner of a Lot if there is one Owner, or collectively to all of the Owners of a Lot if there is more than one Owner. Each Member shall have the rights, duties and obligations set forth in this Restated Declaration, the Articles, Bylaws, and Rules and Regulations, as the same may from time to time be amended. The respective interests of each of the Members shall be equal.



#### 4.3.3 Voting.

(a) There shall be one vote for each Lot which shall be cast in accordance with the desires of the majority of the Owners of the Lot. No vote for any Lot owned by the Association may be cast.

(b) Appointment and Removal of Members of Board and Officers of Association shall be in accordance with the Bylaws and Chapter 116.

(c) Persons Entitled to Serve on the Board. All members of the Board shall be Members of the Association. In all events where the person serving or offering to serve as an officer of the Association or member of the Board is not the record Owner, such person shall file proof of his or her authority in the records of the Association.

4.3.4 Exercise of Voting Right. In the case of a Lot owned by two (2) or more persons or entities, the voting power shall be exercised by one person designated by the Owners. Such voting member must be designated in writing to the Board by all Owners of such Lot, and the Association may preclude the vote for any such Lot by any Owner other than such designated Owner. If there is no such designation, then such Lot shall have no vote until such designation is made.

4.4 Transfer of Membership. The Association membership of the Owner(s) of a Lot shall be appurtenant to such Lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except a transfer of title to such Lot, and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title or interest to a Lot shall operate automatically to transfer the appurtenant membership rights in the Association to the new owner(s). Prior to any transfer of title to a Lot (including the sale of a Lot under a recorded contract of sale), either the transferring owner or the acquiring owner shall give notice to the Board of such transfer, including the name and address of the acquiring owner and the anticipated date of transfer.

The Association shall have the right to charge a reasonable transfer fee payable to the Association on the date of transfer of title to the Lot, which transfer fee shall be assessed against the Lot as an Assessment if not paid when due.

## ARTICLE V POWERS AND DUTIES OF THE ASSOCIATION

5.1 Powers. The Association shall have all the powers of a non-profit corporation organized under the laws of the State of Nevada and the powers conferred upon it pursuant to Chapters 81 (or other applicable corporate statute) and 116 of the Nevada Revised Statutes, subject only to such limitations on the exercise of such powers as are set forth in the Articles, the Bylaws, and this Restated Declaration. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under this Restated Declaration,



the Articles, and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including, without limitation, the following:

5.1.1 Assessments. The Association shall have the power to establish, fix, and levy assessments as set forth in Articles III and VI hereof (herein collectively 'Assessments') and to enforce payment of such Assessments in accordance with the provisions of this Restated Declaration.

5.1.2 Right of Enforcement.

(a) General. The Association in its own name and on its own behalf, or on behalf of the Owners of two (2) or more Lots who consent, any Member on its own behalf (as provided in paragraph 11.3.1 hereof) and Declarant on its own behalf, shall have the power and authority to commence and maintain actions for damages, or to restrain and enjoin any actual or threatened breach of any provision of this Restated Declaration, the Articles, Bylaws, Rules and Regulations, or any resolutions of the Board, to enforce by mandatory injunction, or otherwise, all of these provisions, to intervene in litigation or administrative proceedings on matters affecting the Community. The Court or Arbitrator in any such action may award the successful party reasonable expenses in prosecuting such action, including reasonable attorneys' fees.

(b) Suspension of Voting Rights: Fines. The Association shall have the power and authority to suspend the voting rights, or can assess monetary penalties against any Owner of a Lot or other person entitled to exercise such Owner's rights or privileges for any violation of this Restated Declaration or the Articles, Bylaws, or Rules and Regulations. However, any such suspension of use privileges cannot exceed a period of thirty (30) days for any one violation; and any monetary penalty cannot exceed \$100.00 for any one violation. In the event that the violation threatens the health, safety or welfare of any person or the Community, the monetary penalty may exceed \$100.00 and shall be commensurate with the severity of the violation. Before invoking any such suspension or fine, the Board shall give such Owner or other person notice and opportunity to be heard in the manner provided in paragraph 3.2.6 hereof for Maintenance Violations; and in the event it is determined that such violation exists, the Board may impose a Violation Assessment against such Owner in the manner provided in paragraph 6.6 hereof to collect any fine which remains unpaid for a period of ten (10) days or more. If the violation remains, continuing fines may be assessed without further notice and with no maximum amount that may be assessed. The Association does not have the power or authority to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of such Owner's Lot if the Owner does not comply with provisions of this Restated Declaration or of the Articles, Bylaws, or Rules and Regulations, except when the loss or forfeiture is the result of a court judgment, arbitration decision, or a foreclosure or sale under a power of sale based on failure of the Owner to pay assessments levied by the Association. The Association does have the power to revoke use of the Common Areas.

5.1.3 Delegation of Powers: Professional Management: Other Services. The Association, acting by and through the Board, can delegate its powers, duties and responsibilities



to committees of Members, employees, agents and independent contractors, including a professional community managing agent. The Association may obtain and pay for legal, accounting, and other services necessary and desirable in connection with the operation of the Community and the enforcement of this Restated Declaration.

5.1.4 Personal Property. The Association may acquire and hold for the use and benefit of all the Owners tangible and intangible personal property, and may dispose of the same by sale or otherwise.

5.1.5 Rules and Regulations. The Board shall have the power to adopt, amend, and repeal the Rules and Regulations regulating the use of the Common Area and for such other purposes as are expressly allowed by this Restated Declaration. However, the Rules and Regulations shall not be inconsistent with or materially alter any provisions of this Restated Declaration, the Articles, or the Bylaws. A copy of the Rules and Regulations as adopted, amended, or repealed, shall be mailed or otherwise delivered to each Member. In case of any conflict between any provision of the Rules and Regulations and any provisions of this Restated Declaration, the Articles, or Bylaws, the conflicting provision of the Rules and Regulations shall be superseded by the provisions of this Restated Declaration, the Articles or the Bylaws.

5.1.6 Other Services and Properties. The Association shall have the power to obtain or pay for, as the case may be, any other property, services, taxes, or assessments which the Association or the Board is required to secure or pay for pursuant to the terms of this Restated Declaration, the Articles, or bylaws, including security services for the Community generally, or which, in its opinion, shall be necessary or proper for the operation of the Association, and to incur liabilities and make contracts respecting the same.

5.2 Duties of the Association. In addition to the duties delegated to it by its Articles or the Bylaws, and without limiting their generality, the Association, acting by and through the Board, or persons or entities described in paragraph 5.1.3, has the obligation to conduct all business affairs of common interest to all Members and to perform each of the following duties:

5.2.1 Professional Management. The Association may engage the services of a professional community manager to manage the Community.

5.2.2 Taxes and Assessments. The Association shall pay all taxes and assessments levied against all Association Property or against the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

5.2.3 Insurance. The Association shall obtain and maintain, from reputable insurance companies, the insurance described in Article VII.

5.2.4 Enforcement of Restrictions and Rules. The Association shall perform such other acts, whether or not expressly authorized by this Restated Declaration that may be





reasonably necessary to enforce any of the provisions of this Restated Declaration, the Articles, Bylaws, Rules and Regulations, or Board resolutions. There is hereby reserved to the Association such easements as are necessary to perform its duties and obligations or to exercise its rights as set forth in this Restated Declaration, the Bylaws, Articles, or the ARB Rules.

5.2.5 Operation and Maintenance of Common Property and Front Yards. The Association shall operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of any and all Association Property, including, but not limited to, any Common Area and all its facilities, improvements, and landscaping, including, but not limited to, any and all private driveways and private streets, and any other property owned in common or acquired by the Association, including personal property. Such operations and management shall be conducted in a first-class manner, and the Common Property shall be maintained in a good state of repair. In this connection, the Association may enter into contracts for services or materials for the benefit of the Common Property.

5.2.6 Other. The Association shall carry out the other duties of the Association set forth in this Restated Declaration, Articles, Bylaws and Governing Documents and applicable Nevada law.

5.3 Limitations on Authority of Board. Except with the vote or written consent of Members of the Association holding fifty-one percent (51%) of the voting rights the Board shall not pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business. However, the Board may cause a member of the Board or an officer to be reimbursed for expenses incurred in carrying on the business of the Association without a vote of the membership.

5.4 Personal Liability. No member of the Board, or of any committee of the Association, or any officer of the Association, or any Manager, shall be personally liable to any Member, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such person or entity if such person or entity has, on the basis of such information as may be possessed by him or it, acted in good faith without willful or intentional misconduct.

5.5 Meetings of Members. Meetings of Members shall be noticed and held as provided in the Articles, Bylaws, and this Restated Declaration.

5.6 Association Books and Records and Association Property. Right of Inspection. Financial records, and minutes of meetings of the Members, the Board (unless meeting in executive session as per NRS 116.31085 or superseding statute), and committees of the Board, and all other books, documents and records of the Association not deemed confidential by Chapter 116, and the physical properties of the Association, shall be made available for inspection by any Member of the Association, or his, her or its duly appointed representative, or any mortgagee, at any reasonable time and for a purpose reasonably related to membership in the Association, at the office of the Association or at such other place as the Board prescribes. The right of inspection shall include the right to make copies of documents allowed by Chapter 116.



The Board shall establish by resolution reasonable rules with respect to (a) notice to be given to the custodian of the records of the Association by the Member representative, or mortgagee desiring to make an inspection, (b) hours and days of the week when an inspection may be made, and (c) payment of the cost of reproducing copies of documents requested by a Member or by a representative or mortgagee and payment of a reasonable fee as permitted by NRS 116.31175 (5) or superseding statute.

## ARTICLE VI ASSESSMENTS

6.1 Agreement to Pay. Each Owner for each Lot owned by such Owner hereby covenants and agrees to pay to the Association such Assessments as are made pursuant to paragraphs 6.4 and 6.5 of this Restated Declaration.

6.2 Personal Obligations. Each Assessment or installment thereof, together with any late charges, interest, collection costs, and reasonable attorneys' fees, shall be the personal obligation of the person or entity who is the Owner of the Lot at the time such Assessment (or installment) became due and payable. If more than one person or entity is the Owner of the Lot, the personal obligation to pay such Assessment (or installment) respecting such Lot shall be both joint and several. Subject to the provisions of paragraph 9.3 hereof, a purchaser of a Lot shall be jointly and severally liable with the seller for all unpaid Assessments against the Lot, up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such Assessments. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosure or waiver of the lien securing the same. No Owner may avoid or diminish such personal obligation by non-use or abandonment of his Lot.

6.3 Purpose and Amount of Assessments. The Assessments levied by the Association shall be the amount estimated to be required, and shall be used exclusively, to promote the health, safety, and welfare of the Members of the Association, for the performance of the duties of the Association as set forth in this Restated Declaration, and for the repair, maintenance and upkeep of the Common Area and any other Association Property.

### 6.4 Annual Assessments.

6.4.1 Definitions. As used herein, "Annual Assessment" means the amount of the Association budget ("Budget") for each fiscal year to pay the Common Expenses (defined below) as established pursuant to the provisions of this Article. As used herein, "Common Expenses" means the expenditures made by the Association in the performance of its obligations hereunder, and the financial liabilities of the Association during the applicable fiscal year, including an allocation to reserves, and shall include, but are not limited to, expenditures for the following purposes: (i) to operate, manage, maintain and repair the Common Area and other Association Property, and to administer the operation of the Association; (ii) to provide for reasonable reserves consistent with sound business practice for the repair and replacement of Improvements to the Common Area and any Association Property, and for such other purposes



as are consistent with good business practice; (iii) to provide for the possibility that some Assessments may not be paid on a current basis; and (iv) to provide for the payment of the fee of a professional manager.

Without limiting the generality of the foregoing, Common Expenses shall include: all charges, costs, and expenses whatsoever incurred by the Association for or in connection with the Association administration, including, but not limited to, the maintenance of the Common Area; any taxes and assessments assessed against Association Property, any taxes assessed against the Association itself, insurance premiums, including fire and other casualty insurance, liability insurance, workman's compensation insurance, and other insurance obtained pursuant to this Restated Declaration; payment of any liability of the Association whatsoever for loss or damage arising out of or in connection with the Common Area or any fire, accident, or nuisance occurring within the Common Area; the cost of repair, rebuilding and replacement of the Improvements to the Common Area; the cost of all utility services to the Common Area, including water, electricity, refuse removal, landscape maintenance services, and any other similar service attributable to the Common Area; the unpaid share of any Assessment levied during the previous fiscal year against any Owner who has defaulted in payment thereof to the extent that the same becomes uncollectible; accounting and legal fees, management fees, and cleaning, janitorial and lawn care fees, and other necessary expenses of upkeep, maintenance, management and operation incurred with respect to the Common Area and the Improvements thereon.

6.4.2 Procedure for Establishing Annual Assessments. Not-less-than ninety (90) days before the beginning of each fiscal year of the Association, the Board shall meet for the purpose of preparing the Proposed Budget of the Common Expenses (defined below) for the next succeeding fiscal year and establishing the Annual Assessment for such fiscal year. Within thirty (30) days after adoption of the Proposed Budget by the Board for such fiscal year, the Board shall 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, which date shall be 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 vote to reject the Proposed Budget, the Budget shall be deemed ratified by the Owners, whether or not a quorum is present at such meeting. If the Proposed Budget is so rejected, the Budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent Budget proposed by the Board.

6.5 Special Assessments. If the Board determines that the estimated total amount of funds necessary to defray the Common Expenses for a given fiscal year is or will become inadequate to meet the Common Expenses for any reason, including, but not limited to, delinquencies in the payment of Assessments, then the Board shall determine the approximate amount of such shortfall, shall provide a summary thereof to all of the Owners with the Board's recommendation for a special assessment ("Special Assessment") to meet such shortfall, and shall set a date for a meeting of the Owners which is not-less-than fifteen (15) nor more than sixty (60) days after the mailing of the summary. Unless at that meeting a majority of all Owners votes to reject the proposed Special Assessment, the proposed Special Assessment shall be deemed ratified by the Owners, whether or not a quorum is present at such meeting, and shall



become a Special Assessment against, and allocated equally to, the Owners of the Lots. The Board may, in its discretion, provide for payment of any Special Assessment in any number of installments or provide that it is payable in one (1) installment within such time period as the Board deems reasonable.

6.5.1 Reserve Assessments. Assessments to fund the Reserve Account(s) may be assessed by the Board of Directors without ratification of the membership.

6.6 Violation Assessments. Subject to the provisions of paragraph 3.2.6 hereof, the Board may levy a violation assessment against the Owners of a Lot ("Violation Assessment"): (i) to pay for the cost of curing any Maintenance Violation of such Owners and/or any other work performed by the Association for such Owners' account pursuant to the provisions of this Restated Declaration, and any costs or expenses incident thereto, including but not limited to attorneys' fees and court costs, and (ii) to collect liquidated damages and fines levied by the Association pursuant to the terms of this Restated Declaration and any and all attorneys' fees and arbitration costs and court costs.

6.7 Assessment Period. The Annual Assessment period shall coincide with the fiscal year of the Association, which shall commence on January 1 of each year and shall terminate on December 31 of such year. Annual Assessments shall be payable in equal monthly installments payable on the first day of each month unless the Board adopts some other basis for collection.

6.8 Notices of Assessments: Delinquencies. Any Assessment installment hereunder which is not paid within fifteen (15) days following the date it is due as specified in the notice of such assessment given in the manner specified in this paragraph 6.8 and in paragraph 11.5 of this Restated Declaration shall be deemed delinquent. All delinquent Assessments may bear interest at the rate of twelve percent (12%) per annum or lesser amount as may be required by Nevada law from the date the Assessment becomes delinquent hereunder until paid, and, in addition, a late charge of \$25.00 shall be due for each delinquent installment. The Association shall give written notice of all Assessments, except Violation Assessments to the Owners of all Improvements of the Lots, which notice shall specify the amount of the Assessment and the date or dates payment of the same is due and shall be given in the manner provided in paragraph 11.5 hereof. Notice of a Violation Assessment is required to be given only to the Owners of the Lot against whom the Violation Assessment is made in the manner provided in paragraph 11.5 hereof. Nothing contained herein shall be construed so as to require the Association to give periodic notices of the same Assessment. One notice of an Assessment shall be sufficient to meet the requirements of this paragraph, even though the Assessment may be payable in installments. Failure of the Association to give notice of any Assessment shall not affect the liability of the Owners of the Lot for such Assessment; provided, however, that the date when payment of the first installment of such Assessment shall become due in such a case shall be deferred to a date fifteen (15) days after such notice shall have been given, and the first installment of such Assessment shall not be deemed delinquent, until fifteen (15) days after such deferred due date.

6.9 Statement of Account. Upon payment of a reasonable fee, and upon written request of any Owner the Association shall issue a written statement setting forth the amount of



the unpaid Assessments, if any, with respect to such Lot, the amount of the current periodic assessment, and the date that such assessment becomes or became due, and if there is any credit for advance payments. Unless corrected before payment in full of the amount of the Statement, such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

6.10 Collection of Assessments. The right to collect and enforce Assessments is vested in the Board acting for and on behalf of the Association. The Board or its authorized representative, including any Manager, can enforce the obligations of the Owners to pay Assessments, collection costs, attorney's fees and costs provided for in this Restated Declaration by commencement and maintenance of a non-judicial foreclosure as provided by Chapter 116 of the Nevada Revised Statutes or a suit at law or in equity; or the Board may enforce by judicial proceedings or, to the extent permitted by applicable law, through the exercise of the power of sale granted to the Board pursuant to applicable statutes and laws, and paragraph 6.12 below to enforce the lien rights created. Suit to recover a money judgment against an Owner for unpaid assessments together with all other amounts due hereunder shall be maintainable together with all other amounts due hereunder without first foreclosing against the Lot which is subject to the lien or such assessment or waiving the lien rights granted hereby.

6.11 Lien for Assessments: Priority. All sums assessed to any Lot pursuant to this Restated Declaration, and all fines assessed by the Association against the Owners of a Lot, together with interest thereon, costs of collection, attorney's fees and costs as provided herein, shall be secured by a lien on such Lot in favor of the Association from the date the Assessment or fine or other costs become due. If an Assessment or fine is payable in installments, the full amount of the Assessment or fine or other costs is a lien from the time the first installment thereof becomes due. Such lien shall be prior to all other liens and encumbrances on such Lot, except for: (a) valid tax and special assessment liens in favor of any governmental assessing authority; (b) liens and encumbrances recorded before the recordation of the Restated Declaration; and (c) a First Deed of Trust recorded before the date on which the Assessment or fine sought to be enforced became delinquent. The lien created by this Restated Declaration for unpaid Assessments of any kind, costs of collection, attorney's fees and costs, late fees, transfer fees, buy-in fees or any other amounts assessed by the Association is also prior to a First Deed of Trust to the extent of the amount of such Annual Assessments which would have become due during the nine (9) month period immediately preceding institution of an action to enforce the lien. If Nevada law allows for a longer period, the longer period shall apply but in no event shall it be less than nine (9) months.

#### 6.12 Enforcement of Lien.

6.12.1 Notice of Delinquent Assessment and Notice of Default. The Association may foreclose its lien by sale pursuant to NRS Chapter 116 after:

(a) The Association has caused to be recorded with the Storey County Recorder ("the County Recorder"), a notice of delinquent assessment and claim of lien (herein "Notice of Delinquent Assessment"), which states the amount of the Assessments or fines which



are due together with all interest and late charges thereon in accordance with the provisions of this Restated Declaration, a description of the Lot against which the lien is imposed, and the name of the record Owner of the Lot; and

(b) The Association or other person conducting the sale has executed and caused to be recorded with the County Recorder, a notice of default and election to sell the Lot to satisfy the lien ("Notice of Default"), which shall contain the same information as the Notice of Delinquent Assessment, but which shall also describe the deficiency in payment and the name and address of the person authorized by the Association to enforce the lien by sale; and

(c) The Owners of the Lot or their successors in interest have failed to pay the amount of the lien, including interest and late charges, and costs, fees and expenses incident to its enforcement for a period of ninety (90) days which commences on the first day following the later of:

(i) The day on which the Notice of Default is so recorded; and

(ii) The day on which a copy of the Notice of Default is mailed by certified or registered mail, return receipt requested, to the Owners of the Lot or their successors in interest at their address if known, or otherwise to the address of the Lot.

6.12.2 Notice of Sale. The Association or other person conducting the sale shall, at any time after the expiration of such ninety (90) day period and before selling the Lot, give notice of the time and place of the sale ("Notice of Sale") in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the Notice of Sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the Owners of the Lot or their successors in interest at their address if known, or otherwise to the address of the Lot. Such sale shall be conducted in any manner permitted by law. Each Owner who is liable for payment of the Assessment shall be required to pay the costs and expenses of such foreclosure proceeding including, but not limited to; the cost of preparation of all notices (whether or not such notice has been given to the Owners at the time payment is made), reasonable attorneys' fees, and title insurance costs.

All such costs and expenses of the foreclosure shall be secured by the lien being foreclosed. Each Owner who is liable for payment of the Assessment shall be required to pay to the Association any and all Assessments against such Owner which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, encumber, use, and otherwise deal with the Improved Lot. The Association shall be entitled to bid on credit up to and including the amount secured by the lien being foreclosed.

A further notice stating the satisfaction and release of any such lien shall be executed by the Association and recorded in the Storey County, Nevada real estate records upon payment of all sums secured by such lien.



Any encumbrance holding a lien on a Lot may, but shall not be required to, pay any amounts secured by a lien for unpaid assessments, and upon such payment, such encumbrance shall be subrogated to all rights of the Association with respect to such lien, including rights of priority.

6.13 Reserve and Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of reserves as determined by the Board must be paid to the Owners in proportion to their liabilities for Common Expenses or credited to them to reduce their future assessments for Common Expenses. No funds collected by the Association for reserves for maintenance, repairs, taxes, or any other item, except when collected specially for attorney's fees, may be used or expended for attorney's fees or costs of litigation.

## ARTICLE VII INSURANCE

7.1 Insurance to be Obtained. The Association shall obtain and maintain in full force and effect at all times insurance coverage, provided by companies duly authorized to do business in Nevada, generally as set forth in this Article, and specifically as required by the Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), United States Department of Veterans Affairs ("VA" and the United States Department of Housing and Urban Development ("HUD") if the Community has been, or is intended to be, qualified with such entities.

7.2 Casualty Insurance. The Association shall obtain a master policy of insurance equal to full replacement value (i.e., 100% of current "replacement cost" exclusive of land, foundation, excavation, and other items normally excluded from coverage) on all insurable Improvements upon the Common Area and any other Improvements under the control of the Association (including all building service equipment and the like and any fixtures or equipment within such improvements) and all other personal property commonly owned by the Owners. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association shall comply with the above requirements by the purchase of a policy containing such coverage with "deductible" provisions as in the Association's opinion are consistent with good business practice, provided that in no event shall such deductible be in an amount greater than the lesser of \$10,000.00 or one percent (1%) of the face amount of such policy.

7.3 Liability Insurance. The Association shall purchase broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Such coverage shall be in an amount generally required by private institutional mortgage investors for Communities similar in construction, location, and use, and in no event shall be less than \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage shall include, without limitation, liability



for personal injuries, operation of automobiles on behalf of the Association and activities in connection with the ownership, operation, maintenance, and other use of the Community. The liability insurance shall name as separately protected insured the Association, the Board, and their community managers, representatives, members, and employees, with respect to any liability arising out of the maintenance or use of any Association property. Every policy of insurance obtained by the Association shall contain an express waiver, if available, of any and all rights of subrogation against Declarant, the Board, and their representatives, members, and employees.

7.4 Workmen's Compensation and Employer's Liability Insurance. The Association shall purchase workmen's compensation and employer's liability insurance and all other similar insurance in respect of employees of the Association in the amounts and in the forms now or hereafter required by law.

7.5 Fidelity Insurance. The Association shall purchase insurance covering officers and employees of the Association and employees of any manager or managing agent, whether or not any such persons are compensated for their services, against dishonest acts on their part, or in lieu thereof, a fidelity bond, naming the Association as insured, written in an amount equal to at least the estimated maximum of funds, including reserves in the custody of the Association or the management agent at any given time during the term of the fidelity bond. However, the bond shall not be less than assume equal to three (3) months aggregate assessments on all Units, plus reserve funds.

7.6 Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Community, including personal property of the Association located thereon. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for PUD Communities established by FNMA and/or FHLMA, as applicable, so long as either or both of them are a mortgagee or Owner of a Lot except to the extent such coverage is not available or has been waived in writing by FNMA or FHLMC, as the case may be.

7.7 Premiums and Reviews. Except as provided above, premiums for all of the foregoing insurance carried by the Association shall be a common expense and shall be included in the assessments or charges made by the Association. The Board shall review the limits of all insurance policies of the Association at least once a year and adjust the limits as the Board deems necessary or appropriate.

7.8 Form. Casualty insurance shall be carried in a form or forms naming the Association the insured. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after ten (10) days' written notice is first given to the Association and to each first mortgagee. All policies of insurance shall provide for a waiver of subrogation by the insurer as to claims against the Association, the Board, employees, and agents, and against each Owner and each Owner's employees, agents and guests, and shall provide that the insurance cannot be canceled, invalidated or suspended on account of the



conduct of the Association, the Board, employees and agents or of any Owner or such Owner's employees, agents, or guests and shall provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or mortgagee and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or mortgagee.

7.9 Owner's Insurance Responsibilities. The following insurance coverages shall be the responsibility of each respective Owner: insurance on furnishings initially placed in an Improvement by Declarant; insurance on items of personal property placed in an Improvement by Owner; insurance for casualty and public liability coverage within each Lot; and insurance coverage for activities of the Owner, not acting for the Association, with respect to the Common Area.

## ARTICLE VIII DAMAGE, DESTRUCTION OR CONDEMNATION

8.1 Duty and Authority to Rebuild. Any portion of the Common Area which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) The common-interest community created by this Restated Declaration is terminated, in which case NRS Sections 116.2118, 116.21183 and 116.21185 and paragraph 11.1 of this Restated Declaration apply;

(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(c) Eighty percent (80%) of the voting power of the Association vote not to rebuild.

The Association shall have the authority and the duty to repair or reconstruct all Improvements to the Common Area which are damaged or destroyed, which authority and duty shall be exercised in accordance with the provisions of this Article.

8.2 Estimate of Costs: ARB Approval. As soon as practicable after an event causing damage to, or destruction of, any Improvements to the Common Area, the Association shall obtain estimates that it deems reliable and complete of the costs of repair or reconstruction of that part of the property damaged or destroyed. No reconstruction or repair of damaged or destroyed Common Area Improvements shall commence until approval has been obtained from the ARB in accordance with its guidelines.

8.3 Funds for Reconstruction. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction of Association Property. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, then the Board, pursuant to Article VI hereof, shall levy in advance a Special



Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction.

8.4 Repair or Reconstruction. Except as otherwise provided herein, as soon as practicable after receiving the estimates, the Board shall diligently pursue to complete the repair or reconstruction of the damaged or destroyed Common Area Improvements. The Association may take all necessary or appropriate action to effect repair or reconstruction. Such repair or reconstruction shall be in accordance with the original plans and specifications; provided, however, with the approval by a vote of fifty-one percent (51%) of the Members and by the ARB, the repair or reconstruction may be in accordance with different plans and specifications.

8.5 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the Assessments provided for in paragraph 8.3 constitute a fund for the payment of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions by each Owner to the Association.

8.6 Decision Not to Rebuild. In the event of a determination not to rebuild, the damaged or destroyed facilities shall be cleared; and the land shall be landscaped in a manner ensuring the existence of adequate rights-of-way and legal access over and to the area. The cost of removal and landscaping shall be paid for with insurance proceeds; and the remaining proceeds shall be retained by the Association in its general or other funds or allocated or distributed as determined appropriate by the Board, provided that any such distribution of insurance proceeds shall be proportionate to the interests of all Members.

8.7 Condemnation. If at any time all or any portion of the Community, or any interest therein, be taken for any public or quasi-public use, under any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, then the entire award for such taking shall be paid to the holder or holders of the fee title to such area as their interests may appear.

## ARTICLE IX PROTECTION OF LENDERS

9.1 Encumbrance of Parcels Permitted. Any Owner may encumber such Owner's Lot with a Deed of Trust.

9.2 Subordination. Except as provided otherwise by NRS Chapter 116 or Article VI hereof, any lien created or claimed under Article VI of this Restated Declaration is subject and subordinate to the lien of any First Deed of Trust encumbering any Lot, unless the priority of such First Deed of Trust is expressly subordinated to such assessment lien by a written instrument duly recorded.

9.3 Non-Liability for Unpaid Assessments. Except as provided in this Restated Declaration, any beneficiary of a First Deed of Trust who acquires title to a Lot pursuant to the judicial or non-judicial foreclosure remedies provided in the Deed of Trust shall take the Lot free of any claims for unpaid assessments or Association charges against the encumbered Lot that accrue prior to the time such beneficiary so acquires ownership of the Lot; provided, however, after the foreclosure of any such Deed of Trust, such Lot shall remain subject to the Restated Declaration; and the amount of all regular and special assessments, to the extent they relate to expenses incurred subsequent to such foreclosure sale, shall be assessed hereunder to the grantee or purchaser there under.

9.4 Breach of Covenants. A breach by an Owner of any of the provisions of this Restated Declaration, shall not defeat or render invalid the lien of any Deed of Trust made in good faith and for value as to the Community or any portion thereof; provided, however, the provisions of this Restated Declaration shall be binding upon the Owners whose title thereto is acquired under foreclosure, trustee's sale, or otherwise.

9.5 Notices to Eligible Mortgage Holders, Insurers and Guarantors. The holder of any First Deed of Trust shall be entitled to become an "Eligible Mortgage Holder" pursuant to the provisions of this Restated Declaration and any insurer or guarantor of a First Deed of Trust shall be entitled to become an "Eligible Insurer" hereunder by notifying the Association of its name, address and the address of the Lot encumbered by the First Deed of Trust which it holds or insures in the manner provided in paragraph 11.5 below. Such notification shall be deemed to be a request with respect to such Lot for written notice from the Association of: (i) any default in the payment of Assessments which remains uncured for a period of sixty (60) days; (ii) any condemnation or casualty loss that affects a material portion of the Community or the Lot; (iii) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (iv) any proposed action described in paragraph 9.9 below. The Association shall give written notice to Eligible Mortgage Holders in accordance with the provisions of this paragraph 9.5 and in the manner prescribed in paragraph 11.5 below. Any holder of a First Deed of Trust encumbering any Lot or any portion of the Property who does not so request notice, shall not be deemed to be an Eligible Mortgage Holder under the terms of this Restated Declaration. Unless and until notice is given to the Association as provided in this Restated Declaration by a mortgage holder, insurer or guarantor, such mortgage holder, insurer or guarantor shall not be entitled to notice of default, nor to any right, distribution or notice pursuant to this Restated Declaration.

9.6 Insurance Proceeds and Condemnation Awards. No provision of this Restated Declaration or the Articles shall give an Owner, or any other party, priority over any rights of the holders of First Deeds of Trust in the case of a distribution to Owners of insurance proceeds or condemnation awards.

9.7 Appearance at Meetings. Because of its financial interest in the Community, any beneficiary of a First Deed of Trust may appear (but cannot vote) at meetings of the Members and the Board, and may draw attention to violations of this Restated Declaration that have not been corrected or made the subject of remedial proceedings or Assessments.



9.8 Examination of Records. The holders of First Deeds of Trust shall have the right to examine at reasonable times the books and records of the Association and can require the submission of financial data concerning the Association, including annual audit reports and operating statements as and when furnished to the Owners.

9.9 Prior Approvals. Unless at least sixty-seven percent (67%) of the Eligible Mortgage Holders have given their prior written approval (each Eligible Mortgage Holder having one vote for each Lot encumbered by it), neither the Association nor any Member shall do the following:

- (a) Change the voting rights as set forth herein with respect to any Member of the Association or any Eligible Mortgage Holder;
- (b) Change the pro-rata interest or obligations of any Lot for purposes of levying Assessments;
- (c) Change the subordinate priority of the provisions of this Restated Declaration relating to allocation of hazard insurance proceeds or condemnation awards as set forth in paragraph 9.6 hereof in relation to the holders of First Deeds of Trust;
- (d) Fail to maintain the insurance required by paragraph 7.2 hereof;
- (e) Establish self-management when professional management has been required previously by this Restated Declaration; or
- (f) Take any action to terminate the legal status of the Community or the continued existence of this Restated Declaration after substantial destruction or condemnation occurs.

In the event any Eligible Mortgage Holder is notified in the manner provided in paragraph 11.5 below and at the address designated by such Eligible Mortgage Holder to the Association in the manner provided in such paragraph 11.5, of any proposed decision or action described in subparagraphs (a) through (g) inclusive, above, and fails to submit a written response within thirty (30) days after notice of such proposed decision or action, then such Eligible Mortgage Holder shall be deemed to have given its approval of such decision or action and such implied approval shall be conclusive as to all persons relying thereon in good faith.

## ARTICLE X ARCHITECTURAL REVIEW BOARD

10.1 Organization. There shall be an Architectural Review Board ("ARB") comprised of three (3) people. Each member shall hold office for a period of three (3) years and until his successor is appointed. The ARB shall be appointed by the Board and shall have staggered terms.



10.2 Duties. It shall be the duty of the ARB to consider and act upon such proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Review Board Rules, to perform other duties delegated to it by the Association, and to carry out all other duties imposed upon it by this Restated Declaration.

10.3 Meetings. The ARB shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the ARB unless the unanimous decision of its members is otherwise required by this Restated Declaration. The ARB may charge a filing fee to be used to pay an architect, who may or may not be a member of the ARB, to review the submitted plans and specifications. The Board may reimburse members for reasonable expenses incurred by them in the performance of any ARB function.

10.4 Architectural Review Board Rules. The ARB shall from time to time and in its sole discretion adopt, amend, and repeal by unanimous vote rules and regulations to be known as "Architectural Review Board Rules" interpreting and implementing the provisions of this Restated Declaration and setting forth fees to be charged and procedures, and design, and construction criteria to be followed in submitting proposals to the ARB. A copy of the ARB Rules, as they may from time to time be adopted, amended, or repealed, certified by any member of the ARB, shall be maintained by the office of the Association and shall be available for inspection and copying by any Owner at any reasonable time during the business hours of the Association. The following minimum standards and restrictions shall apply to any construction work performed on the Community:

10.4.1 Compliance with Laws. All Improvements shall be constructed in full compliance with all applicable zoning laws, building codes, and other laws, ordinances, and regulations applicable to the construction, use, and occupancy of the Improvements.

10.4.2 Building Site. The placement of Improvements on a Lot, the type of roofs, exterior materials, and building shapes shall be established in such a manner as to be determined reasonable in the sole discretion of the ARB, taking into account the need to maintain a certain level of uniformity within the Community and other aesthetic considerations.

10.4.3 Roofs. Roofing materials and colors must be submitted and approved by the ARB with the construction drawings. All roofing materials must comply with applicable fire protection district codes.

10.4.4 Exterior Walls and Trim. Exterior colors must harmonize with the surrounding landscape; all colors and trim must be approved by the ARB. All reflective metal, such as flashings, exhaust vents and pipes must be painted to match or blend with the surrounding materials. Aluminum windows, door frames, solar panels and skylights must be a compatible color as provided in paragraph 3.1.3. Steel window and door frames must be painted to match or blend with surrounding materials. The use of solar panels will be subject to the approval of the ARB, in accordance with applicable Nevada laws.



10.4.5 Construction Procedures. Prior to the commencement of any construction activity on any Lot, the Owner thereof or such Owner's contractor shall rope off those areas not intended for actual construction to protect the site from unnecessary damage to the existing foliage and to reduce dust and erosion. The building site must be kept clean and in an orderly condition at all times. The contractor must have approved sanitary facilities on the site as well as a garbage dumpster or other suitable device for regular disposal and removal of trash. No construction materials may be dumped or stored on roadways, pathways, trails, open areas or any portion of the Common Area. Construction work hours are limited and shall be from 7:00 a.m. to 6:00 p.m., Monday through Saturday.

10.5 Application for Approval of Plans and Specifications. Any Owner of a Lot proposing to make any Improvements to a Lot or to perform any work that requires the prior approval of the ARB shall apply to the ARB for approval by notifying the ARB of the nature of the proposed work. Prior to the commencement of construction on a Lot, the Owner of the Lot shall submit to the ARB for its review and approval not less than three (3) sets of the following: (a) a plot plan of the Lot showing the location of all existing and proposed Improvements, (b) floor plans, and front, rear and side elevation drawings, (c) plans and specifications showing the color and composition of all exterior materials to be used, (d) the Owner's proposed construction schedule, and (e) any and all other information which the ARB shall reasonably require. All such plans and drawings shall be prepared by a licensed architect or licensed residential building designer, and shall be submitted in a form reasonably satisfactory to the ARB. The ARB may require that the application for approval in connection with any Improvements be accompanied by a reasonable fee to cover the cost of review by a licensed architect of the final plans and specifications of the Improvements to be constructed. The minimum fee for reviewing plans and specifications shall be \$50.00 for reviewing plans and specifications in connection with remodeling. Such fees shall be payable at the time the plans and specifications are submitted to the ARB. No building permit shall be obtained by an Owner without obtaining the prior final approval of the ARB as described herein.

10.6 Basis for Approval of Improvements. The ARB shall grant the required approval only if:

10.6.1 The Owner(s) have strictly complied with the provisions of paragraph 11.5; and

10.6.2 The ARB finds that the plans and specifications conform to this Restated Declaration and to the Architectural Review Board Rules in effect at the time such plans were submitted to the ARB; and

10.6.3 Two (2) of the three (3) members of the ARB in their reasonable discretion determine that the proposed Improvements would be compatible with the other property in the Community and the purposes of the Restated Declaration as to the quality of workmanship and materials, as to harmony of external design with existing structures.



10.7 Basis for Disapproval of Improvements. The ARB may disapprove any application on aesthetic grounds, and more specifically: (a) because of the reasonable dissatisfaction of the ARB with the Improvement proposed to be erected, because of the materials of which it is to be built, the harmony thereof with its surroundings, and the effect of the building or other structures as planned on the view from the adjacent or neighboring Lots or Common Area; or (b) because of non-compliance with any of the specific conditions and restrictions contained in this Restated Declaration or with reasonable guidelines that the ARB may from time to time adopt.

10.8 Form of Approval. All approvals or disapprovals given under paragraphs 10.6 or 10.7 shall be in writing; provided, however, any request for approval which has not been rejected within sixty (60) days from the date of submission thereof to the ARB shall be deemed approved. The approval may be conditioned upon the deposit by the Owner of a performance bond, cash deposit, or other undertaking to assure completion of the approved Improvement in accordance with the terms of the approval once construction thereof is commenced.

10.9 Proceeding With Work. Upon receipt of approval from the ARB pursuant to section 10.8, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations and excavations pursuant to the approval. Construction of the approved Improvements shall commence, in all cases, within one year from the date of such approval. If the Owner shall fail to comply with this paragraph, any approval given pursuant to paragraph 11.8 shall be deemed revoked unless the ARB, upon written request of the Owner made prior to the expiration of the one-year period, extends the time for such commencement. No such extension shall be granted except upon a finding by the ARB that there has been no change in the circumstances upon which the original approval was granted.

10.10 Failure to Complete Work. The Owner shall in any event complete the construction, reconstruction, refinishing, or alteration of any such Improvement within one year after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or his agents. If the Owner fails to comply with this paragraph, the ARB shall notify the Board of such failure; and the Board may proceed in accordance with the provisions of paragraph 10.11 as though the failure to complete the Improvement where a noncompliance with approved plans, or if a bond, deposit, or undertaking was given, may pursue its rights hereunder.

10.11 Inspection of Work and Noncompliance. Inspection of work and correction of defects therein shall proceed as follows:

10.11.1 Upon the completion of any construction or refinishing of any Improvements for which approval of the ARB is required or was obtained, and after all construction debris and materials have been removed from the site, the Owner shall give written notice thereof to the ARB.



10.11.2 Within sixty (60) days thereafter, the ARB, or its duly authorized representative, may (but shall not be obligated to) inspect such Improvement to determine whether it was completed according to the approved plans. If the ARB finds that such construction or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) day period, specifying particulars of noncompliance, and shall require the Owner to remedy such noncompliance.

10.11.3 If upon the expiration of sixty (60) days from the date of such notification, the Owner shall have failed to remedy such noncompliance, the ARB shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing date shall be not more than sixty (60) days nor less than fifteen (15) days after notice of the noncompliance is given to the Board by the ARB. Notice of the hearing date shall be given at least ten (10) days in advance thereof by the Board to the Owner, the ARB, and, in the discretion of the Board, to any other interested party.

10.11.4 At the hearing, the Owner, the ARB, and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board's ruling. If the Owner does not comply with the Board's ruling within such period or within any extension of such period that the board, in its discretion, any grant, then the Board, at its option, may remove the non-complying Improvement or remedy the noncompliance, and/or fine the Owner pursuant to paragraph 5.1.2(b). Thereafter, the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a special reimbursement assessment against such Owner pursuant to paragraph 6.5 hereof.

10.11.5 If for any reason the ARB fails to notify the Owner of any noncompliance within ninety (90) days after receipt of the notice of completion from the Owner, then the Improvement shall be deemed to be constructed in accordance with the approved plans.

10.12 Non-compliance with Article III. In addition to the procedures set forth in paragraph 10.11, if any Owner constructs or causes to be constructed an Improvement on any Community Lot without the approval of the ARB as set forth in this Article, then the ARB may notify in writing such Owner of such noncompliance and demand the Owner to remove such Improvement within ten (10) days. If the Owner fails to comply with the demand of the ARB, then the Board shall hold a hearing upon notice to the Owner of at least five (5) days. At the hearing, the Owner, the ARB, and, in the Board's discretion, any other interested person, may present information relevant to the question of the Owner's noncompliance with the procedures set forth in this Article or the noncompliance of the Improvement. After considering all such information, the Board shall determine whether the Owner failed to comply with the procedures





set forth in this Article and whether the Improvement is in noncompliance with the ARB Rules. If the Board finds that the Owner failed to comply, the Board may fine the Owner pursuant to paragraph 5.1.2(b) and may require the Owner to remove the Improvement. If the board finds that the Improvement is in noncompliance, then the Board may require the Owner to remedy or remove the Improvement within a period of not less than fifteen (15) days of the Board's ruling. If the Owner does not comply with the Board ruling within such period or within any extension of such period as the board, in its discretion, may grant, then the Board, at its option, may remove the non-complying Improvement or remedy the noncompliance, and/or fine the Owner pursuant to paragraph 5.1.2(b). Thereafter, the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a special reimbursement assessment against such Owner pursuant to paragraph 6.5 hereof.

10.13 Waiver. The approval by the ARB of any plans, drawings, or specifications for any work done or proposed or for any other matter requiring the approval of the ARB under the Restated Declaration or Supplemental Declaration shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval.

10.14 Estoppel Certificates. Within thirty (30) days after written demand is delivered to the ARB by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Association), the ARB shall record an estoppel certificate executed by any two of its members or alternates certifying with respect to such Owner's Lot that as of the date thereof either: (a) all Improvements made and other work done upon or within the Community Lot comply with the Restated Declaration; or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the non-complying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner or from anyone deriving any interest in the Lot through such Owner shall be entitled to rely on the certificate with respect to the matters therein set forth, and such matters shall be conclusive as between the Association, and all Owners and such persons deriving any interest through them.

10.15 Liability. Provided that the ARB or a particular member of the ARB has acted in good faith on the basis of the information as may be possessed by the ARB or the member, as the case may be, then neither the ARB nor any member thereof shall be liable to the Association, to any Owner, or any other person for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specification, whether or not defective, with respect to the construction or performance of any work, whether or not such performance complied with approved plans, drawings, and specifications; (b) the development of any property subject to this Restated Declaration; or (c) the execution and filing of an estoppel certificate pursuant to paragraph 10.14, and whether or not the facts therein are correct. Without limiting the generality of the foregoing, the ARB and any member thereof may, but it is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the ARB.



ARTICLE XI  
MISCELLANEOUS PROVISIONS

11.1 Duration. The provisions of this Restated Declaration shall continue and be effective for a period of fifty (50) years from the date of recordation hereof and shall be automatically extended for successive periods of ten (10) years each until (i) the Owners of at least eighty percent (80%) of the Lots within the Community shall execute a written instrument, which may be executed in counterparts, in recordable form, declaring that the provisions of this Restated Declaration shall terminate, and (ii) such written instrument is recorded in the office of the Recorder of Storey County Nevada.

11.2 Amendment. Except as otherwise provided in NRS Chapter 116.2117 and below, this Restated Declaration may be amended by vote or agreement of not less than fifty-one percent (51%) of the voting power of the Association. All such amendments must be in writing, and prepared, executed, recorded and certified on behalf of the Association by the President of the Association. Such amendment shall be recorded in the office of the County Recorder of Storey County. Any substantive amendment to any of the following described provisions of this Restated Declaration requires the written consent of fifty-one percent (51%) of the Eligible Mortgage Holders (except items (a), (b), (e), (g) and (h) which require a sixty-seven percent (67%) approval):

- (a) Voting rights;
- (b) Assessments, assessment liens, or the priority of assessment liens;
- (c) Reserves for maintenance, repair, and replacement of the Common Area Improvements which the Association is required to maintain pursuant to the provisions of this Restated Declaration;
- (d) Responsibility for maintenance and repairs;
- (e) Insurance or fidelity bond provisions;
- (f) Imposition of any restrictions on a Owner's right to sell or transfer such Owner's Lot;
- (g) Any provision that expressly benefits mortgage holders or mortgage insurers or guarantors; or

(h) Provisions pertaining to termination of this Restated Declaration. In the event any Eligible Mortgage Holder is notified in 'the manner provided in paragraph 11.5 below and at the address designated by such Eligible Mortgage Holder to the Association in the manner provided in such paragraph 11.2, of any proposed substantive amendment to this Restated Declaration in the nature of the amendments described in subparagraphs (a) through (h), inclusive, above, and fails to submit a written response within thirty (30) days after notice of

such proposed amendment, then such Eligible Mortgage Holder shall be deemed to have given its approval of such amendment and such implied approval shall be conclusive as to all persons relying thereon in good faith. A certificate signed by the Secretary of the Association as to any Eligible Mortgage Holder's failure to so respond shall be deemed to be sufficient evidence of such approval.

### 11.3 Enforcement and Waiver.

11.3.1 Owner's Right of Enforcement. In addition to the rights of enforcement granted to the Association pursuant to the provisions of paragraph 5.1.2 hereof, any Owner shall have the rights (but not the duty) to enforce any and all of the covenants, conditions and restrictions now or hereafter imposed by this Restated Declaration upon the Owners or upon any of the Property. Nothing herein shall be construed as creating a third party beneficiary contract in favor of parties who are not Owners or Eligible Mortgage Holders.

11.3.2 Violations and Nuisance. Every act or omission whereby a covenant, condition or restriction of the Restated Declaration is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action.

11.3.3 Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any portion of the Property is hereby declared to be a violation of this Restated Declaration and subject to any or all of the enforcement procedures herein set forth.

11.3.4 Remedies Cumulative. Each remedy provided by the Restated Declaration is cumulative and not exclusive.

11.3.5 Non-waiver. The failure to enforce the provisions of any covenant, condition or restriction contained in this Restated Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provisions of this Restated Declaration.

11.4 Termination of Former Owner's Liability for Assessments. Upon the conveyance, sale, assignment, or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any Assessments levied with respect to such Lot after notification of the Association of such transfer in the manner provided in paragraphs 4.4 and 10.5 hereof and the payment of a transfer fee as provided in paragraph 4.4 hereof. No person, after the termination of his status as an Owner and prior to his again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under this Restated Declaration.

11.5 Notices. All notices hereunder to the Association or the Board shall be sent by regular mail or registered or certified mail, return receipt requested, addressed to the Board at the address of the Manager, or to such other place as the Board may designate from time to time by notice in writing to the Owners of all of the Lots.



All notices given by the Association to any Owner shall be sent by regular mail, or by registered or certified mail, return receipt requested, to such Owner's Lot address or to such other address as may be designated by such Owner from time to time, in writing, to the Board. All notices to Eligible Mortgage Holders shall be sent by regular mail, or registered or certified mail, return receipt requested, at the address to which such Eligible Mortgage Holder has last requested that notice be sent by notifying the Association in the manner provided in this paragraph 11.5. All notices shall be deemed to have been received within seventy-two (72) hours after the mailing thereof, except notices of change of address which shall be deemed to have been given when actually received.

11.6 Approvals. Any consent or approvals by the Board or ARB shall be in writing.

11.7 Construction and Severability: Singular and Plural: Titles.

11.7.1 Restrictions and Easements Construed Together. All of the covenants, conditions, restrictions and easements of this Restated Declaration shall be liberally construed together to promote the purposes of this Restated Declaration as set forth herein.

11.7.2 Restrictions and Easements Severable. The covenants, conditions, restrictions and easements contained in this Restated Declaration shall be deemed independent and severable; and the invalidity or partial invalidity of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

11.7.3 Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine, or neuter shall each include the masculine, feminine and neuter, as the context requires.

11.7.4 Captions. All captions or titles used in this Restated Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions of any paragraph.

CERTIFICATION, SIGNATURES AND NOTARIES ON THE FOLLOWING PAGE





## EXHIBIT A

All those certain Lots numbered 1 through 418 and 1000 through 1011, except Lots 13, 27, 80, 96, 103, 108, 113, 122 129, 154, 164 187, 190, 246, 258, 281, 308, 311, 337, 344, 362, 381, 385, 392, 398, 401, 407, and 416 which have been deleted, resulting in a net of 402 residential Lots; all Common Areas; Recreation Areas; and Lots A, B, C, and D, all as shown on that certain Map entitled Rainbow Bend Subdivision, a Planned Unit Development recorded November 6, 1992 under File No. 70473, Official Records of Storey County, Nevada.

EXHIBIT A TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
RAINBOW BEND  
Planned Unit Development



## EXHIBIT B

All of that portion of Parcel B lying west of State Route 45 (Canyon Way) as described on that certain Record of Survey for DH Land Company recorded June 16, 1978, under File No. 42094, Official Records of Storey County, Nevada, consisting of approximately 33 acres. The property is directly across the street, to the west of the property described in Exhibit A, at a distance of approximately 125 feet.

EXHIBIT B TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
RAINBOW BEND  
Planned Unit Development