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**CREEKSIDE WEST ASSOCIATION  
RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

Prepared by and when recorded, return to:

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## **CREEKSIDE WEST ASSOCIATION**

### **RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made by CREEKSIDE WEST ASSOCIATION ("Association").

REFERENCE IS MADE to that certain Declaration of Covenants, Conditions and Restrictions (the "Original Declaration") recorded by Chamberlin & Beem, Inc. ("Declarant"), on \_\_\_\_\_, 1965, in Book \_\_\_\_\_ as Instrument No. \_\_\_\_\_, in the Office of the County Recorder, Washoe County, Nevada, and any amendments thereto now of record, all of which are incorporated herein by reference as though fully set forth herein, and encumbering that certain real property located in the City of Incline Village, County of Washoe, State of Nevada, which is more particularly described in the attached Exhibit A.

NOW THEREFORE, the Original Declaration is hereby RESTATED in order to conform to the Act, and the Association DOES HEREBY DECLARE, FIX AND ESTABLISH a general plan for the development, improvement, protection and maintenance of the property subject to this Declaration, and DOES HEREBY DECLARE, FIX AND ESTABLISH the covenants, conditions, restrictions, reservations, liens and charges upon and subject to which all of the property subject to this Declaration, and all parts or portions thereof, improvements thereon and interests therein, shall be held, used, occupied, leased, sub-leased or otherwise transferred; all of which are for the benefit of said property and each person having any interest therein as owner or lessee or sublessee, and the same and each of same shall inure to and be binding upon each and every successive successor in interest of each such person, and the same and each of same is hereby imposed upon said property as a servitude in favor thereof and each and every portion thereof and interest therein as the dominant tenement or tenements, to wit:

#### **ARTICLE I.**

##### **PROPERTY DESCRIPTION**

The property subject to this Declaration, hereinbefore and hereinafter referred to as "subject property," is situated in the County of Washoe, State of Nevada, and is particularly described as that certain real property described upon the attached Exhibit A, excluding present or future improvements thereupon.



## ARTICLE II.

### DEFINITIONS

Unless the context clearly indicates a different meaning therefor, the following words, phrases or terms as hereinafter used in this Declaration (regardless of the tense or person in which the same may be used) shall be deemed to mean and shall be defined as hereinafter in this Article II set forth:

2.1. Articles of Incorporation and By-Laws.

“Articles of Incorporation and By-Laws” shall mean the Articles of Incorporation or By-Laws, as the case may be, of the Association as the same may be amended from time to time.

2.2. Association.

“Association” shall mean the Creekside West Association, a Nevada non-profit corporation, the members of which shall be all of the several owners of the subject property hereinafter described.

2.3. Community Facilities.

“Community Facilities” shall mean all facilities placed or erected on the community site, and all facilities serving more than one residence site or one owner and including drives, walks, parking areas, sewers, electrical, water, gas, television and telephone services and fixtures, storage and equipment areas or enclosures, parks, open spaces, planted and landscaped areas, sprinkling systems, and recreation areas,

2.4. Community Sites.

“Community Sites” shall mean those portions of the subject property upon which community facilities have been or will be erected excluding residence sites.

2.5. Declarant.

“Declarant” shall mean Chamberlin & Beem, Inc., a Nevada corporation, the Declarant hereof and owner of the subject property as of the date hereof, and such person or persons shown of record from time to time to be the successive successors or assigns of David L. Chamberlin and Beth L. Chamberlin.

2.6. Declaration.

“Declaration” shall mean this Declaration as the same may be amended, changed or modified from time to time.



2.7. Individual Residence.

“Individual Residence” shall mean the living facilities for a single family containing living quarters, kitchen and bath facilities, and patios, being part of a residence building, and being bounded on one or more sides by a party wall, and, conveyed to an owner in fee together with an undivided interest in the whole of subject property.

2.8. Notice, Declaration, Certification, Approval, Consent, Authorization.

“Notice, Declaration, Certification, Approval, Consent, Authorization” shall mean and be effective as such only when in writing.

2.9. Owner.

“Owner” shall mean any person or persons who or which has a fee interest in any part or portion of or interest in subject property, and the successive successors, assigns, heirs, devisees, or personal representatives of such person or persons.

2.10. Party Wall.

“Party Wall” shall mean a wall erected upon the boundary line of a residence site, the center lines of which being such boundary line, and being the wall separating two individual residences one from the other; or a wall erected upon the boundary line of a residence site, being the end wall of a residence building.

2.11. Record, Recordation.

“Record, Recordation” shall mean that an instrument has been or is to be duly acknowledged and filed for recording, and in applicable instances has been recorded, in a public record in the office of the County Recorder of Washoe County, Nevada.

2.12. Residence Building.

“Residence Building” shall mean a building structure on subject property containing two or more individual residences.

2.13. Residence Site.

“Residence Site” shall mean an entire numbered parcel as shown on the Record of Survey Map of subject property upon which one individual residence has been or will be erected.

2.14. Structure.

“Structure” shall mean any and every improvement in, on, under or upon subject property or in the public parkways adjacent thereto.



2.15. Subject Property.

“Subject Property” shall mean that certain parcel of land, excluding present or future improvements thereupon, situated in Washoe County, Nevada and more particularly described upon the attached Exhibit A.

2.16. Transfer.

“Transfer” shall mean a transfer of any and every kind or nature whatsoever of any right, title or interest in. subject property or in a residence site or any part or portion thereof or interest therein or improvement thereon or appurtenant thereto, including a transfer by deed of trust or mortgage, and also including, but not limited to, a sale, assignment, gift, lease or sublease.

2.17. Utility.

“Utility” shall mean electricity, gas, water, telephone, television, trash pickup and like services whether or not provided or supplied by a public utility company.

**ARTICLE III.**

**INCORPORATION OF EXISTING RESTRICTIONS**

To the extent that all or any portion of the subject property shall heretofore have been made subject to any conditions or restrictions of use by a recorded instrument or instruments the Association and each member shall abide by any such conditions or restrictions. Nothing herein contained is intended to abrogate any existing valid restrictions or covenants concerning subject property.

**ARTICLE IV.**

**OCCUPANCY**

4.1. Limitations.

Except upon express written consent of the Association given and evidenced in the manner provided for leasing and transfer of ownership in Article V, no individual residence shall be occupied by any person or persons other than the owner and owner’s immediate family, his casual guests, and his domestic employees or servants.

4.2. Conduct.

An owner shall not interfere with the rights of other owners or the Association nor intentionally or unintentionally annoy any of such or any of the occupants of subject property by unreasonable noises, offensive odors, improper neighborly conduct or otherwise. An owner shall



obey and comply with all public laws, ordinances, rules and regulations and all ground rules now or hereafter promulgated as provided for in this Declaration. No owner shall do or allow to be done any act which causes, or threatens to cause any damage, encroachment, or disrepair to the subject property, community facilities, any party wall, any residence building, or the residence site of any other owner.

4.3. Care of Interiors.

Each owner shall keep the interior of the individual residence upon his residence site and all fixtures, fences, appliances and appurtenances therein or thereto in good order and repair and shall not do or permit or suffer anything to be done in such individual residence or on subject property which will or may have a tendency to vitiate or to increase the rate of fire or any other insurance on any residence building or any other structure on subject property or the contents thereof.

**ARTICLE V.**

**LEASING OR TRANSFER**

5.1. Rights of Association.

In the event of a sale, lease or a sublease of any residence site or any portion thereof, the Association has and shall have the option to purchase, rent, or lease the same on the same terms and conditions as are offered to the owner. Any attempted sale or lease or sublease of any residence site, without prior offer to the Association, shall be wholly null and void and shall confer no title or interest whatsoever to the intended purchaser, tenant or sublessee.

5.2. Notices and Conditions.

Should an owner wish to sell, lease or rent his interest in any residence site, or any part thereof, he shall, before accepting any offer to sell, purchase, lease or rent any such interest, deliver to the Association written notice of his intent to sell, lease or rent, which notice shall contain a true copy of any instrument containing the terms of any such offer. The Association shall, within seven (7) days after receiving such notice, either consent to the transaction specified in said notice or, by written notice delivered to owner's residence site, indicate the Association's intention to purchase, lease or rent the owner's interest upon the same terms and conditions specified in owner's notice to Association. The Association shall have fourteen (14) days after the giving of its notice to owner to perform the duties and obligations and to make the payments provided to be performed and to be made by the prospective buyer, tenant or sublessee in owner's notice to Association. Within the same fourteen (14) day period, owner may, without prejudice, withdraw his offer to sell, lease or sublet all or any portion of his residence site. Failure of the Association to indicate by notice to owner its intention to buy or lease, as may be, owner's interest in his residence site as set forth in owner's notice within the seven (7) day period following owner's notice to Association, or failure of the Association to perform as provided in said notice within fourteen (14) days after receipt by owner of Association's notice, shall be deemed a consent by the Association to the transaction specified in owner's notice. An



owner shall have no right to sell, lease or rent any interest in any residence site or any part thereof except as expressly provided in this Article. The sub-limitations as are applicable to the leasing or renting thereof. The liability of an owner under these covenants shall continue, notwithstanding that he may have leased or rented said interest as provided herein.

5.3. Fees to be Paid.

All fees, charges, assessments, interest, penalties, and special assessments levied against the residence site proposed by any owner to be transferred or leased as provided in this Article shall be fully paid to the Association to the extent that the same has not been waived by the Association before any transfer, lease or sublease shall be effective,

5.4. Exceptions.

The provisions of this Article shall not apply to (a) the leasing or transfer of ownership by the owner of any residence site to a member of his immediate family; or (b) if ownership be held jointly or in common with others, the leasing or transfer of ownership of a residence site by one of such joint or common owners to another joint or common owner; or (c) the leasing or transfer of ownership by the owner of one or more residence sites to the owner of another residence site in the subject property; or (d) the granting by an owner to a friend or relative of the limited license, upon the receipt of no consideration by way of rent or otherwise, to use and to occupy a residence site for a term of not longer than four (4) weeks; provided, however, that an owner shall give the Association two (2) weeks notice in writing of the intended license and of the name and address of the licensee; or (e) the leasing or renting of any residence site by the Declarant, prior to the sale of all residence sites in subject property by Declarant to third persons.

5.5. Rule Against Perpetuities.

Unless sooner terminated as elsewhere herein provided, the provisions of this Article shall terminate and be of no further force and effect 21 years after the death of the survivor of the following named living persons who are the children of Queen Elizabeth II of England and of her Consort, Prince Phillip of Edinburgh, Prince Andrew, Princess Anne and Prince Edward.

5.6. Non-Waiver.

Regardless of any prior consent theretofore given, no owner of a residence site nor his executor, administrator or personal representative, nor any trustee or receiver of the property of such owner, nor anyone to whom the interest of such owner shall pass by law shall be entitled to lease or transfer the ownership or any interest therein of any residence site except upon full compliance with the provisions of this Article.

5.7. Mortgage Protection.

Should the interest in any residence site become subject to a mortgage or deed of trust given as security, in good faith and for value, the holder thereof, upon becoming the owner of such interest through whatever means, or the seller at any sale under a power of sale therein contained, shall have the unqualified right to sell, lease or otherwise dispose of said interest and



the fee ownership of said residence site, without offer to the Association, notwithstanding the provisions of this Article.

## ARTICLE VI.

### ASSOCIATION

#### 6.1. Powers and Duties.

The Creekside West Association, a non-profit corporation organized under the laws of the State of Nevada, shall have the rights and powers as set forth in its Articles of Incorporation and By-Laws, together with its general policies as a non-profit corporation, and it shall perform each and every duty required of it by this Declaration.

#### 6.2. Maintenance.

The Association shall maintain the community facilities, the landscape set-backs, the exteriors (including roofs), and the foundations of the residence buildings, and shall engage and pay for all labor and materials as may be reasonably necessary for such maintenance. The Association and such persons as may be engaged by the Association for maintenance purposes shall have the right to enter upon the exteriors of any residence site for the performance of maintenance but they shall not have the right to enter a residence unit without permission of the owner of such residence unit.

#### 6.3. Operations and Expenses.

The Association shall establish such committees as may be provided for in its By-Laws, shall engage a manager, secretaries, engineers, auditors, legal counsel, and other employees or consultants as may be reasonably necessary for the discharge of its duties hereunder. The expenses of committees, the salaries of a manager and other employees, and the fees of consultants shall be established and paid for by the Association. The Association shall pay all other expenses necessary or incidental to the conduct or carrying on of its business.

#### 6.4. Enforcement.

The Association shall have the duty to enforce each and every of the provisions of this Declaration, including the duty to commence and maintain an action to enjoin any breach or threatened breach of any of the provisions hereof, and to pay all costs of any such action or other enforcement procedure.

#### 6.5. Taxes.

The Association shall have the authority and conditional duty to pay all taxes and assessments levied against its interest (if any) in subject property. In the event that any owner shall suffer taxes levied by Washoe County, Nevada for assessments made upon owner's undivided interest in subject real property and his several interest in a residence site to become



and remain delinquent for a period of ninety (90) days, the Association shall have the continuing affirmative duty to pay said taxes, including penalties and interest thereupon in full, and the Association shall and may levy a special assessment as provided in Article VII therefor and shall have the lien as provided in Article VII in the amount so paid.

6.6. Utilities.

The Association shall have the authority and duty to pay the water charges, refuse collection charges, and other charges for utilities required for the common benefit of all owners.

**ARTICLE VII.**

**ASSESSMENTS AND LIENS**

7.1. General Assessment.

Each owner shall pay to the Association monthly in advance, on the first day of every calendar month, one-twelfth (1/12) of the annual assessment which shall be established by the Association for the operation of the Association and the operation, maintenance, care and improvement or subject property. Each individual residence and residence site within subject property shall be subject to a lien to secure the payment of the assessment established against it.

7.2. Special Assessments.

The Association may, from time to time, at a regular meeting or a special meeting called upon notice, establish a special assessment to be levied equally against each residence site for the operation or the Association and the operation, maintenance, care and improvement of such property. In addition, the Association shall have the authority to establish and fix a special assessment on any residence site to secure the liability of the owner of such residence site to the Association for any breach by such owner of any of the provisions of this Declaration, which breach shall require an expenditure by the Association for repair or remedy. Any special assessment shall become a lien against each individual residence and residence site in the same manner otherwise provided in this Article. Any special assessment shall be payable in full on the first day of the second calendar month next following the date that the same shall be established by the Association.

7.3. Collection and Expenditure.

The Association shall have the sole authority to collect and enforce the collection of all general and special assessments provided for in this Declaration, and may in addition to such assessments, charge and assess costs (including reasonable attorney's fees), penalties, and interest for the late payment or nonpayment thereof. The Association shall have the authority to expend all moneys collected from such assessments, costs penalties and interest for the payment of expenses and costs in carrying out the duties, rights and powers of the Association and provided for in this Declaration and in the Articles of Incorporation and By-Laws of the Association.



7.4. Delinquency.

Thirty (30) days after any general or special charge and assessment shall be due and payable, and unpaid or not otherwise satisfied, the same shall be and become delinquent, and shall so continue until the amount of said charge and assessment together with all costs, penalties and interest as herein provided, have been fully paid or otherwise satisfied.

7.5. Notice of Delinquency.

At any time after any general or special charge and assessment against any residence site has become a lien and delinquent, the Association may record a Notice of Delinquency as to such residence site, which Notice shall state therein the amount of such delinquency and that it is a lien, and the interest, costs (including attorney's fees) and penalties which have accrued thereon., a description of the apartment site against which the same has been assessed, and the name of the record or reputed record owner thereof, and such notice shall be signed by an officer of the Association. Upon the payment or other satisfaction of said assessments, interest, penalties and costs in connection with which notice has been recorded, the Association shall record a further notice stating the satisfaction and the release of the lien thereof.

7.6. Enforcement of Liens.

Each lien established pursuant to the provisions of this Declaration by the recording of a Notice of Delinquency as hereinabove provided, maybe foreclosed as and in the same manner as is provided for the foreclosure of a lien upon real property by the laws of Nevada at the date of the commencement of such foreclosure action. In any action to foreclose any such lien the Association shall be entitled to costs, including reasonable attorney's fees, and such penalties for delinquent charges and assessments as shall have been established by the Association.

7.7. Reservation of Liens.

Declarant, as to the property covered by this Declaration and each residence site embraced therein, has established and does hereby establish, reserve and impose a lien thereon securing each assessment provided for by this Declaration, together with said costs, penalties and interest, and Declarant does hereby assign to the Association the right to collect and enforce the collection of the same in accordance with and subject to the limitations contained in each of the provisions of this Declaration.

7.8. Subordination to Mortgages.

Each and every assessment and lien, together with any costs, penalties or interest, established, reserved or imposed under this Declaration shall be subordinate to any valid bona fide mortgage or trust deed (and the lien and/or title thereof) which has been or may hereafter be given in good faith and for value on any interest of any owner covered by this Declaration. Any subsequent owner of any residence site purchased at foreclosure shall be bound by the restrictions, conditions, covenants, reservations, assessments and liens set out in this Declaration, not including, however, any assessment or lien arising prior to the foreclosure sale.



**ARTICLE VIII.**

**PARTY WALLS**

8.1. Maintenance.

A party wall is erected for the benefit of the owner of the residence sites on either side of the center line of such wall, and each such owner shall maintain that portion of such party wall or party walls within the boundaries of his residence site at all times in good order and repair, and no party wall, its footings or any portion thereof, shall be removed, damaged, injured, or destroyed, nor shall the same be altered, added to, enlarged or extended except only for the purpose of maintaining or repairing the same, unless upon the prior consent of the Association or of Declarant, in the event of the failure of any owner or owners properly to maintain a party wall, the Association may and shall maintain the party wall and perform all works of restoration and repair as may be necessary in its sole discretion.

8.2. Cost of Repair.

The cost of repair or re-erection of a party wall shall be borne by the owners of the residence sites on either side thereof proportionately, based upon the extent and nature of such repair or re-erection, and in the event of a dispute between the responsible parties as to the apportionment of such costs, the Association shall fix and apportion them to and between the responsible parties and the determination of the Association shall be conclusive and binding.

8.3. Assessment for Repair.

In the event that any responsible party should fail to pay for such repair or re-erection or his proportionate share thereof as provided above (whether such repair or re-erection was done or caused to be done by the responsible party or parties or by the Association), the residence site of the responsible party or parties shall be subject to and the Association shall fix and establish a special charge and assessment for the payment of such costs and provided in Article VII of this Declaration.

8.4. Easement.

In the event that there shall be located within any party wall pipes, vents, outlets or other structures serving more than one residence site, the owner of each residence site so served shall have and enjoy a perpetual easement to the maintenance and use of any such pipe, vent, outlet or other structure.

8.5. Foundations.

Should the foundation or footings, supporting any party wall be damaged or destroyed the repair and restoration thereof shall be the exclusive responsibility of the Association, as more fully provided in Article X of this Declaration.



## ARTICLE IX.

### INSURANCE

#### 9.1. Duties of Association.

The Association shall have the duty to purchase, carry and at all times to maintain in force insurance covering all of the subject real property, the improvements thereon and appurtenant thereto, for the interest of the Association and of all owners and their mortgages, as their interests may appear, in such amounts and with such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location and use to subject property or as otherwise required by Nevada law. Such insurance shall include, but need not be limited to:

(a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the insurance carrier.

(b) Public liability and property damage insurance on a broad form basis, including, including insurance for medical payments, in an amount determined by the Board, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and, in cooperatives, also of all units.

(c) Fidelity bond for all officers and employees of the Association having control over the receipt or disbursement of funds in such penal sums as shall be determined by the Association in accordance with its By-Laws.

Insurance policies carried pursuant to this section 9.1 must provide to the extent reasonably available that:

(a) Each unit's owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;

(b) The insurer waives its right to subrogation under the policy against any unit's owner or member of his household;

(c) No act or omission by any unit's owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and



(d) If, at the time of a loss under the policy, there is other insurance in the name of a unit's owner covering the same risk covered by the policy, the association's policy provides primary insurance.

9.2. Proceeds.

Proceeds of insurance shall be disbursed by the insurance carrier as follows:

(a) For any loss, damage, or destruction affecting any individual residence unit of one owner only, the proceeds shall be paid to such an owner with an affirmative duty on such owner to rebuild or repair his residence unit.

(b) For any loss, damage, or destruction affecting more than one individual residence or owner, the proceeds shall be paid to the Association with as affirmative duty on the Association to rebuild or repair the damage to which said insurance proceeds relate.

The Association and the owners shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of subject property.

9.3. Insufficient Proceeds.

If the insurance proceeds are insufficient to repair or replace any loss or damage, for the repair of which the Association is bound hereunder, the Association shall levy a special assessment as provided for in Article VII of this Declaration to cover the deficiency. If the insurance proceeds are insufficient to repair or replace any loss or damage for which an owner is bound hereunder, such owner shall, as his undivided responsibility, pay any excess costs of repair or replacement.

9.4. Mortgage Protection.

There shall be attached to all policies of insurance against loss or damage by fire and other hazards, a mortgagee or lenders loss payable clause; provided, however, that amounts payable upon such clause to the mortgagee shall be paid to the Association to hold for the payment of all costs of repair or replacement.

9.5. Total Destruction.

In the event of total destruction or of substantial total destruction or destruction affecting all of the individual residences, it shall be a duty of the Association to obtain bids for reconstruction and to proceed with reconstruction as set forth in Article X of this Declaration; unless there shall have been a unanimous decision of all owners not to rebuild, in which event, the Association, as agent for all owners coupled with its own interest, shall be granted the power to sell the entire property in its then present condition. The proceeds of sale, together with any



available insurance proceeds, shall then be distributed to the owners and their mortgagees as their interests may then appear of record.

## ARTICLE X.

### REPAIR AND RESTORATION

#### 10.1. General.

Notwithstanding that the placing, carrying and maintaining in force of insurance against all loss, damage and destruction is provided for in this Declaration, the Association and the owners shall have the affirmative obligation for repair and restoration as set forth in this Article.

#### 10.2. Individual Residence.

Should any individual residence or any part thereof, including windows, be damaged or destroyed by fire or other casualty or by intentional mischief, the owner of the residence site upon which the same is situated shall, at his own cost and expense, repair and restore the same or cause the same to be repaired and restored substantially in accordance with the original plans and specifications for subject property which are on file with the Building Department, County of Washoe. All such repair and restoration work and the plans and specifications therefor shall be approved, done and performed in accordance with all applicable laws, ordinances, regulations and building codes.

#### 10.3. More than One Individual Residence.

Should more than one individual residence or any parts thereof, including windows, be damaged or destroyed by fire or other casualty or by intentional mischief, the owners of each of the residence sites upon which such damage or destruction has occurred shall bear the cost of the same proportionately based upon the nature and extent of same as it affects the individual residence of each such owner. In the event of a dispute between the responsible parties as to the apportionment of such costs, the Association shall fix and apportion them to and between the responsible parties and the determination of the Association shall be conclusive and binding.

#### 10.4. Community Facilities.

Should any community facilities or any part or portion thereof, or any foundations or footings of a residence building be damaged or destroyed by fire or other causality or by intentional mischief, the Association shall be responsible for the cost and expense of repair and restoration, and the same shall be done substantially in accordance with the original plans and specifications for the improvement of subject property which are on file with the Building Department, County of Washoe.



10.5. Timing and Completion.

The repair and restoration work referred to in this Article X shall be commenced within thirty (30) days after the happening of the destruction or damage occasioning the same. Time is of the essence and once commenced, the same shall be pursued diligently to completion. Should the same not be timely commenced, the Association may, by notice to the responsible party, elect to repair or restore the same or cause the same to be repaired or restored on behalf of and at the cost and expenses of the responsible party or parties, and in that event all insurance proceeds collected and any additional amount of cost and expense in excess thereof shall be forthwith paid over to the Association to be used by or to reimburse it for such repair or restoration.

10.6. Approval of Plans.

No work provided for in this Article or elsewhere in this Declaration shall be commenced and no structure shall be painted or repainted on the exterior thereof or constructed, altered or repaired until complete plans and specifications for the work, including color schemes, shall have been submitted to and approved by the Association and by any governmental body having jurisdiction over the work.

10.7. Mechanics' Liens.

All work of whatever nature on subject property when commenced shall be done, performed, expeditiously pursued and completed in accordance with the approval given. Neither the Association nor any owner who or which performs any work, or causes any work to be performed, on subject property shall suffer or permit any mechanics', laborers', materialmen's, contractors', subcontractors' or other such or similar liens arising from any claim for damages or growing out of any work, or any other claim or demand howsoever the same may arise, to be enforced against subject property or any part or portion thereof, but the Association or such owner as the case may be, shall pay or cause to be paid all such liens, claims and demands before any action is brought to enforce the same against any part or portion of subject property and the Association and each such owner each separately but jointly and severally, covenants to indemnify all owners of the subject property and hold them free and harmless from all liability for any and all such liens, claims or demands, together with all costs and expenses in connection therewith. If the Association or any such owner, as the case may be, shall in good faith contest the validity of any such lien, claim or demand, then the Association or such owner, as the case may be, shall, at its own expense defend itself and other owners against the same and shall pay and satisfy any adverse judgment that may be rendered before the recordation thereof against any owner of the subject property.

10.8. Acceptable Completion.

No work on subject property which requires the approval of the Association pursuant to this Declaration shall be deemed completed until the Association shall have issued its Certificates of Acceptable Completion. The Association shall issue such Certificate upon written request therefor or shall set forth in writing its specific objections to work as not completed or complying. If the Association fails to issue a Certificate of Acceptable Completion (or its written



specific objections) within sixty (60) days after a request in writing for the same has been made to it, acceptable completion of the work shall be presumed.

10.9. Waiver of Approval.

The approval by the Association of any plans and specifications, plot plan, grading, or any other plan or matter requiring approval under this Declaration shall not be deemed to be a waiver of any right to withhold approval as to a similar or any other feature or element embodied therein when subsequently or additionally submitted for approval by the same or any other owner or by the Association.

10.10. Non-liability of Association.

Neither the Association, nor any member thereof, shall be responsible or liable for any loss or damage whatsoever to any owner or any person or persons whatsoever for any error or defect in any structure which may or may not be shown on any plans and specifications, or on any plot or grading plan or in any structure or part or portion thereof, nor for any work done in accordance with any such plans and specifications or plan, nor for any error or defect, nor for any act or omission, nor for creating or maintaining drainage channels, diversions or facilities, nor in any instance whatsoever for developing or maintaining subject or adjoining property, nor in connection with any other matter whether or not the same was or was not submitted to or approved by the Association or any member thereof.

**ARTICLE XI.**

**EASEMENTS**

11.1. Reservation.

There are hereby specifically reserved for the benefit of the Association, for the owners, in common and for each owner severally, as their respective interest shall obtain, the easements, reciprocal negative easements, secondary easements and rights of way as particularly identified in this Article.

11.2. Utilities.

There is reserved for the benefit of each residence site and individual residence, as dominant tenement, an easement for utility services over, under and through subject property and each other residence site, jointly as the servient tenement.

11.3. Encroachments.

There is reserved for the benefit of each residence site and individual residence, as dominant tenement, an easement for encroachment, occupancy and use of such portion of the subject property and each other residence site, jointly as the servient tenement, as shall be encroached upon, used and occupied by the owner of the dominant tenement as a result of any



alluvian, accretion, erosion, addition, subsidence, landslide or collapse, deterioration, decay, construction errors, movement or subsidence of a residence building or structure or any portion thereof. The easement of encroachment here reserved shall continue notwithstanding that the encroachment may be cured by repair and restoration of a structure as provided in Article X of this Declaration.

11.4. Rights of Association.

There is reserved to the Association as an easement in gross of which the subject property and all residence sites and individual residences shall be jointly the servient tenement, an easement of entry and of access for the installation and maintenance of utility lines, utility meter boxes, landscaping and community facilities as defined in this Declaration, and for the performance generally of its rights and duties as provided in this Declaration.

**ARTICLE XII.**

**WAIVER OF PARTITION**

Each owner, and the successors of each owner, whether by deed, gift, devise or operation of law, do by their respective acceptance of the covenants herein contained, for their own benefit and for the benefit of their respective, residence units and for the benefit of other owners and for the benefit of other residence units, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common of subject property and do further promise and covenant that no action for a judicial partition, of the common tenancy interest of the subject property shall be instituted, prosecuted or reduced to judgment earlier than the limitation contained in this Article. The waiver and abandonment here covenanted shall be operated and in force until twenty-one years after the death of the survivor of the persons named in Article V, "Rule against Perpetuities."

**ARTICLE XIII.**

**MISCELLANEOUS**

13.1. Acceptance of Provisions by Grantees.

The Association and each grantee hereafter of any part or portion of the property covered by this Declaration and any purchaser under any grant contract of sale or any lessee under any lease covering any part or portion of such property, accepts the same subject to all of the restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers of the Association and Declarants provided for in this Declaration.



13.2. Conclusiveness of Records.

A certificate of the Secretary of the Association, or, in his absence, of any two members of the Association shall be conclusive proof of all matters contained in the certificate when the certificate shall relate to acts or non-acts of the Association, its Board of Directors or any committee or agent of the Association and when the certificate shall be prepared for or delivered to any title insurer or land abstractor for use in a search, in preparing an abstract or in insuring title in any residence site or interest therein, or lien thereupon. For the same purposes a certificate of any office of Declarants shall be conclusive proof of its contents.

13.3. Interpretation of Restrictions.

In interpreting and applying the provisions of this Declaration they shall be held to be minimum requirements adopted for the promotion of the health, safety, comfort, convenience and general welfare of the owners and occupants of said property. It is not the intent of this Declaration to interfere with any provisions of any law or ordinance or any rules, regulations or permits previously adopted or issued or which may be adopted or issued pursuant to law relating to the use of buildings or premises, nor is it the intent of this Declaration to interfere with or abrogate or annul easements, covenants or other agreements, between parties, provided, however, that where this Declaration imposes a greater restriction upon the use or occupancy of any apartment site or upon the construction of buildings or structures, or in connection with any other matters than are imposed or required by such provisions of law or ordinances or by such rules, regulations or permits or by such easements, covenants and agreements, then in that case the provisions of this Declaration shall control.

13.4. Construction and Validity of Restrictions.

All of said restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together, but if it shall at any time be held that any one or more of such restrictions, conditions, covenants, reservations, liens or charges, or any part thereof, is invalid or for any reason becomes unenforceable, no other restriction, condition, covenant, reservation, lien or charge, or any part thereof, shall be thereby affected or impaired.

13.5. Assignment of Powers.

Any and all rights, and powers of Declarant provided for in this Declaration and any modification or amendment hereof, may be delegated, transferred, assigned, conveyed or released by Declarant to the Association, and the Association shall accept the same upon the recording of a notice thereof, and the same shall be effective for the period and to the extent stated therein.

13.6. Waiver and Exemptions.

The failure by the Association or of Declarant or of any Owner of any apartment site included in said property or any other person, to enforce any of the restrictions, conditions, covenants, reservations, liens, or charges to which said property or any part thereof is subject, shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other restrictions, conditions, covenant, reservation, lien or charge.



13.7. Titles.

All titles used in this Declaration, including those of articles, sections and subsections, are intended solely for convenience of reference, and the same shall not, nor shall any of them, affect that which is set forth in such article, section or subsection nor any of the terms or provisions of this Declaration nor the meaning thereof.

13.8. Singular and Plural, Masculine and Feminine.

The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter as the context requires.

13.9. Successors in Interest.

Reference herein to either the Association or Declarant shall include each successor to the affairs of such, and each such successor shall succeed to the rights, powers and authority hereunder of such to whose affairs it succeeds.

13.10. Amendments.

No modification, repealer or amendments of this Declaration shall be effective or binding upon any party or upon any real property subject hereto or benefited hereby unless an instrument in writing shall be duly recorded and unless it be executed by the Association, and by not less than seventy-five percent (75%) of the members.



**EXHIBIT A**

**PROPERTY DESCRIPTION**

All that certain real property being a portion of the Southeast quarter of Section 16, T16N, R18E, MDB&M, Washoe County, Nevada, and more particularly described as follows:

Commencing at the Northwest corner of Lot 7, Block K, Lakeview Subdivision as said lot and block are shown on the map of said Lakeview Subdivision, filed in the office of the County Recorder of Washoe County, Nevada, on February 27, 1961 File #33, 315, and running thence, along the Northerly boundary of said Lakeview Subdivision, S 69°24'25" E-172.86 feet to the true point of beginning for the herein described parcel; thence from said point of beginning and following the northerly boundary of said Lakeview Subdivision, S 69°24'25" E-187.14 feet; thence N 6°30'52" E-339.17 feet to the southerly line of the Southwood Boulevard; thence along said southerly line of Southwood Boulevard, N 77°07'39" W-147.88 feet to the Northeast corner of Southwood Pines Condominium File Number 10645, Washoe County Official Records; thence along the Easterly line of said Southwood Pines, S 12°52'21" W-311.95 feet to the true place of beginning for the herein described parcel.



IN WITNESS WHEREOF, the undersigned, being the President of the Board of Directors of the Creekside West Association, has executed this Restated Declaration of Conditions, Covenants and Restrictions on the 20 day of Nevada, 2004.



CREEKSIDE WEST ASSOCIATION

John Osko

By: JOHN OSKO  
(print name)

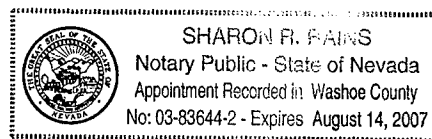
Its: PRESIDENT

STATE OF NEVADA        )  
  )  
  )        ss:  
COUNTY OF WASHOE    )

On this 20 day of February 2004, before me, the undersigned Notary Public in and for said County and State, personally appeared John Osko, who acknowledged herself/himself to be the President of Creekside West Association and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself/himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Sharon Rains  
NOTARY PUBLIC





### CERTIFICATION

I, the undersigned, do hereby certify as follows:

1. That I am the Secretary of the Creekside West Association, a Nevada non-profit corporation;
2. That the foregoing Restated Declaration of Covenants, Conditions and Restrictions was adopted to comply with the provisions of Nevada Revised Statutes Chapter 116; and

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 24 day of FEBRUARY, 2004.



*Laurie Wilkins*  
By: Laurie Wilkins  
(print name)  
Its: SECRETARY

STATE OF NEVADA            )  
  ): ss  
COUNTY OF WASHOE        )

This instrument was acknowledged before me on the 24 day of FEBRUARY, 2004,  
by Laurie Wilkins  
(print name of Secretary)

*Sharon R. Rains*  
NOTARY PUBLIC