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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

THE LAS VEGAS CAY CLUB CONDOMINIUMS

RECORDER'S MEMO

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND RESERVATION OF EASEMENTS

FOR

THE LAS VEGAS CAY CLUB CONDOMINIUMS

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION GRANTS OF EASEMENTS FOR
THE LAS VEGAS CAY CLUB CONDOMINIUMS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR THE LAS VEGAS CAY CLUB CONDOMINIUMS (this "*Declaration*") is dated for reference purposes only as of _____, 2005 and is made by Flamingo Palms Villas, LLC, a Nevada limited liability company ("*Declarant*").

Preliminary Statements

A. Declarant is the owner of certain developed real property located at 4200 South Valley View Blvd., Las Vegas, Clark County, Nevada as more particularly described on Exhibit A attached hereto (the "Property") certain portions of which are or may become subject to this Declaration as part of a planned community project.

B. It is the desire and intention of Declarant, through this Declaration, to create within a portion of the Property a "common interest community" as defined in Section 116.021 of the Nevada Revised Statutes ("NRS") which will be a "condominium" as defined in NRS Section 116.027, and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of the Condominium Project (as hereinafter defined).

C. Declarant declares that all of the Property which is or will be subject to this Declaration is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the limitations, restrictions, reservations rights, easements, conditions and covenants contained in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the protection, maintenance, improvement and sale of the Condominium Project for the purpose of enhancing the value, desirability and attractiveness of the Condominium Project. All provisions of this Declaration including, without limitation, the easements, uses, obligations, covenants, conditions and restrictions hereof, are hereby imposed as equitable servitudes upon the Condominium Project. All of the limitations, restrictions, reservations, rights, easements, conditions and covenants in this Declaration shall run with and burden the Condominium Project and all Persons (as hereinafter defined) having or acquiring any right, title or interest in the Condominium Project, or any part thereof, and their successive owners and assigns. The development plan of the Condominium Project shall be consistent with the overall development plan, if any, submitted to VA and/or HUD.

D. Declarant, its successors, assigns and grantees, covenant and agree that the undivided interest in the Common Elements (as hereinafter defined), the Membership (as hereinafter defined), any easements conveyed therewith and the fee title to each respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, Membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit. Any conveyance by an Owner (as hereinafter defined) of a Unit, or any portion thereof, shall be presumed to convey the entire Unit, together with the Allocated Interest (as hereinafter defined) and Membership.

ARTICLE I DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used herein shall have the following specified meaning:

"Act" shall mean and refer to the Uniform Common-Interest Ownership Act as set forth in NRS Chapter 116, as it may be amended from time to time, or any portion thereof.

"Allocated Interest" shall mean and refer to the interest allocated to each Unit for (i) the Limited Common Elements, if applicable; (ii) an undivided interest in Common Elements, easements and licenses within the Condominium Project; (iii) liability for Common Expenses; and (iv) a Membership right including, without limitation, one vote in the Membership. Except for the voting rights set forth in the preceding sentence and the Allocated Interest in the Limited Common Elements as set forth in this Declaration, the remaining Allocated Interest of each Unit in the Common Elements, easements and licenses within the Condominium Project and liability for Common Expenses will be a fraction, the numerator of which will be the total number of square feet of the Unit and the denominator of which will be the total number of square feet of all Units in the Condominium Project. Accordingly, an Owner owning one Unit will have one vote in the Association, but will have liability for Common Expenses based upon the total number of square feet of such Owner's Unit as it relates to the total number of square feet of all Units in the Condominium Project. As Units are added or withdrawn from the Condominium Project, the number which is the denominator of the fraction shall be adjusted to reflect such additions and/or withdrawals.

"Allowable Cost" shall have the meaning ascribed to such term in Section 10.5 of this Declaration.

"Annexable Area" shall mean all portions of the Property not comprising the Condominium Project and/or any other real property Declarant later acquires that is adjacent to the Property, all or any portion of which may from time to time be made subject to this Declaration pursuant to the provisions of Article 14 hereof. At no time shall any portion of the Annexable Area be deemed to be a part of the Condominium Project or otherwise part of the common interest community created by this Declaration until such portion of the Annexable Area has been duly annexed pursuant to Article 14 hereof.

"Annual Assessment" shall mean a charge against a particular Owner and Unit representing a portion of the Common Expenses which are to be levied as and when determined by Declarant in its sole discretion among all Owners and their Units in the manner and proportions provided in this Declaration.

"Articles" shall mean the Articles of Incorporation of the Association as filed or to be filed in the office of the Secretary of State of the State of Nevada, as such Articles may be amended from time to time.

"Assessments" shall mean Annual Assessments, Capital Improvement Assessments, Special Assessments, and any other assessments which may be properly levied by the Association pursuant to the Association Governing Documents.

"Association" shall mean Las Vegas Cay Club Homeowners' Association, a Nevada nonprofit corporation organized under NRS Chapter 82, its successors and assigns. The Association is an "association" as defined in NRS Section 116.011.

"Association Governing Documents" shall mean this Declaration, the Bylaws, the Articles, the Rules and Regulations and other documents that govern the operation of the Association, as they may be amended from time to time.

"Association Maintenance Funds" shall mean the accounts created for receipts and disbursements of the Association pursuant to Section 6.1 of this Declaration.

"Beneficiary" shall mean a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee or Beneficiary.

"Board" shall mean the board of directors of the Association. The Board is an "executive board" as defined in NRS Section 116.045.

"Budget" shall mean a written, itemized budget for the daily operation of the Association and a budget to maintain an adequate reserve, funded on a reasonable basis for the repair, replacement and restoration of the major components of the Common Elements.

"Bylaws" shall mean the Bylaws of the Association, as they may be amended from time to time.

"Building" shall mean one of the structures comprising the Condominium Project and containing Units as more specifically set forth on Exhibit B.

"Capital Improvement Assessment" shall mean a charge which the Board may from time to time levy against Owners and their Units for costs to the Association for installation or construction of any Improvements on any of the Common Elements which the Association may authorized from time to time pursuant to this Declaration.

"Close of Escrow" shall mean the date on which a deed is recorded conveying a Unit from Declarant to a person other than Declarant.

"Club" shall mean the "Las Vegas Cay Club" which shall consist of that certain real property with any improvements thereon which comprises all or a portion of the Annexable Area as may be determined by Declarant in its sole discretion and which may or may not be annexed into the Condominium Project in the sole discretion of Declarant. The Club may contain certain recreational and other facilities.

"Club Membership" shall mean a membership which entitles certain Persons to utilize facilities located at the Club in accordance with the rules and regulations as established by the Club owner.

"Common Elements" shall mean all that portion of the Condominium Project described below:

(a) The Buildings (including, but not by way of limitation, the foundation, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, stairs, patios, balconies, entrances and exits, and the mechanical installations of a Building consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, and heating and central air conditioning which exist for use by one or more of the Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility installations used in connection therewith), and specifically excluding the Units; and

(b) The easements on the Condominium Project and the Property for ingress and egress to and from the Buildings for the use of one or more Owners; and

(c) The pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, and equipment of Buildings existing for the use of one or more of the Owners; and

(d) In general, all other parts of the Condominium Project designated by Declarant as Common Elements or Limited Common Elements and existing for the use of one or more of the Owners.

Except to the extent that they constitute Limited Common Elements, in which case the particular rules of the Declaration pertaining to Limited Common Elements shall apply, the Common Elements shall be owned by the Owners of the Units, each Owner of a Unit having an undivided interest in the Common Elements as provided in this Declaration.

The Common Elements specifically do not include the area referenced and shown as "Common Element 9.44 Acres" and building "A" on the Final Map recorded on April 6, 2005, on file in Book 123, Page 58 of Plats in the Official Records.

"Common Expenses" shall mean those expenses or financial liabilities for the operation of the Condominium Project together with any allocations to reserves and shall include:

(a) expenses of administration, insurance, operation, maintenance, repair or replacement of the Common Elements except to the extent such repairs and replacements are the responsibility of a particular Owner pursuant to the terms of this Declaration;

(b) expenses declared to be Common Expenses under the Association Governing Documents or the Act;

(c) sums lawfully assessed against the Units by the Board;

(d) expenses agreed upon as Common Expenses by the Owners (including without limitation the painting and maintenance of the exterior or the perimeter walls);

(e) reserves established by the Association for repair, replacement and restoration of the major components of the Common Elements; and

(f) expenses, fees and other charges imposed upon the Association by any governmental entity because the Condominium Project is a common interest community pursuant to the Act.

"Condominium" shall have the same meaning as set forth in NRS Section 116.021.

"Condominium Project" shall mean the condominium common-interest community which is created by this Declaration consisting of the Units and the Common Elements as restricted by this Declaration. The Condominium Project is a "common-interest community" as defined in NRS Section 116.021.

"Co-Owners" shall have the meaning ascribed to such term in Section 2.6 of this Declaration.

"Declarant" shall mean Flamingo Palms Villas, LLC, a Nevada limited liability company, its successors, and any Person to which it shall have assigned any of its rights hereunder by an express written assignment.

"Declarant's Period of Control" shall mean that period of time set forth in Section 2.7 of this Declaration during which Declarant has the right to appoint and remove officers of the Association or members of the Board, whether Declarant exercises the right.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Las Vegas Cay Club Condominiums, as may be amended from time to time.

"Deed of Trust" shall mean a Mortgage.

"Development Rights" shall have the meaning ascribed to such term in Section 14.1 of this Declaration.

"Eligible Insurer" shall mean an insurer or guarantor of an obligation secured by a first position Deed of Trust or Mortgage on a Unit. An Eligible Insurer shall notify the Association in writing of its name and address and inform the Association that it has insured or guaranteed an obligation secured by a first position Deed of Trust or Mortgage on a Unit and must provide the Association with the Unit number and address of the Unit on which it is the insurer or guarantor. Such notice shall include a request that the Eligible Insurer be given the notices and other rights described in Article XI.

"Eligible Mortgagee" shall mean the Beneficiary of a Deed of Trust or Mortgagee of a Mortgage, on a Unit in first lien position, which has requested notification pursuant to the provisions of Section 11.1 of this Declaration.

"Fiscal Year" shall mean the fiscal accounting and reporting period of the Association as determined by the Board from time to time.

"FNMA" shall mean the Federal National Mortgage Association.

"FHLMC" shall mean the Federal Home Loan Mortgage Corporation.

"HUD" shall mean the U.S. Department of Housing and Urban Development.

"Improvements" shall mean any construction, structure, fixture or facilities of every type and kind existing or to be constructed on the real property which is included in the Condominium Project, including, but not limited to buildings, gates, utility wires, pipes and walls, block walls, retaining walls, awnings, stairs, decks, antennae, the exterior surfaces of any visible structure and the paint on such surfaces, signs, and water softener fixtures or equipment.

"Limited Common Elements" shall mean those portions of the Common Elements over which exclusive easements are reserved for the benefit of one or more but fewer than all of the Owners, which may include, but are not limited to, the balconies, terraces, roof top terraces, elevator lobbies and storage lockers, if any, servicing a Unit as described in Section 3.3 of this Declaration.

"Manager" shall mean the Person, who may be an affiliate of Declarant, employed by the Association to provide management services for the Condominium Project in accordance with this Declaration and the Act.

"Membership" shall mean the property, voting and other rights and privileges of Owners as members of the Association as provided in this Declaration, together with the correlative duties and obligations contained in the Association Governing Documents.

"Mortgage" shall mean any Recorded mortgage or deed of trust relating to one or more Units to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance. The term "Mortgage" shall not include any judgment lien, mechanic's lien, tax lien or other similarly involuntary lien or encumbrance on a Unit.

"Mortgagee" shall mean a Person to whom a Mortgage is made and shall include the Beneficiary of a Deed of Trust.

"Notice and Hearing" shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person or by counsel, at the Owner's expense, in the manner further provided in the Bylaws.

"Notice of Addition" shall mean a document Recorded pursuant to Article 14 of this Declaration by which real estate is added to the Condominium Project.

"Notice of Default" shall have the meaning ascribed to such term in Section 6.6(b)(ii) of this Declaration.

"Notice of Delinquency" shall have the meaning ascribed to such term in Section 6.6(b)(i) of this Declaration.

"Notice of Release" shall have the meaning ascribed to such term in Section 6.6(c) of this Declaration.

"NRS" shall mean the Nevada Revised Statutes, as amended from time to time.

"Operating Fund" shall have the meaning ascribed to such term in Section 6.1 of this Declaration.

"Owner" shall mean the Person or Persons, including Declarant, holding fee simple interest to a Unit. The term "Owner" shall include a seller under an executory contract of sale but shall exclude Mortgagees.

"Person" shall mean a natural individual or any form of legal or commercial entity.

"Phase" shall mean that portion of the Annexable Area or other real estate owned by Declarant including any Unit and any Common Elements and/or Limited Common Elements covered by a Notice of Addition Recorded pursuant to Article 14 of this Declaration.

"Plat and Plans" shall mean the Final Map of Flamingo Palms Villas, recorded April 6, 2005, on file in Book 123, Page 58 of Plats, in the Official Records of the County Recorder, Clark County Nevada, together with such other diagrammatic plans and information regarding the Condominium Project as may be required by the Act or other applicable law, or as may be included in the discretion of Declarant, as each may be amended and supplemented from time to time, and all as Recorded, together with any diagrams, maps, or legal descriptions attached to and made a part of this Declaration or any amendment hereto.

"Purchaser" shall mean a Person who purchases fee interest of a Unit from an Owner.

"Record, Recorded, Recordation" shall mean, with respect to any document, the recordation or filing of such document in the Official Records of the County Recorder, Clark County, Nevada.

"Remaining Units" shall have the meaning ascribed to such term in Section 10.1 of this Declaration.

"Reserve Fund" shall have the meaning ascribed to such term in Section 6.1 of this Declaration.

"Rules and Regulations" shall mean the rules and regulations adopted by the Board pursuant to this Declaration or the Bylaws, as such Rules and Regulations may be amended from time to time.

"Special Assessment" shall mean a charge against a particular Owner and its Unit, levied by the Board after Notice and Hearing, which is directly attributable to, or reimbursable by that Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, including, if applicable, the amount of any deductible payable in connection with an insured loss or a reasonable fine or penalty assessed by the Board, in accordance with NRS Section 116.31031, plus int

"Special Development Rights" shall have the meaning ascribed to such term in Article XV of this Declaration.

"Unit" shall mean a "unit" as defined in NRS Section 116.093 which is a part of the Condominium Project and all appurtenances thereto. The boundaries of a Unit shall be as set forth on the attached Exhibit C. Each Unit shall be a separate freehold estate, as separately shown, numbered and designated on the Plats and Plans.

"VA" shall mean and refer to the U.S. Department of Veterans Affairs.

ARTICLE II THE ASSOCIATION

Section 2.1 ORGANIZATION OF THE ASSOCIATION

The Association is or shall be, no later than the Close of Escrow on the first Unit, incorporated under the name of "Las Vegas Cay Club Homeowners' Association," as a nonprofit corporation organized under the provisions of NRS Chapter 82.

Section 2.2 DUTIES AND POWERS OF THE ASSOCIATION

The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with the general and implied powers of an "association" as defined in NRS 116.011 and a nonprofit corporation generally, to do any and all things that a nonprofit corporation may lawfully do which are necessary or proper, in operating for the general welfare of the Owners, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. Neither the Articles nor the Bylaws shall for any reason be amended or otherwise changed so as to be inconsistent with this Declaration. If there should exist any ambiguity in any provision of the Articles or Bylaws, then such provision shall be consistent with the provisions in this Declaration. The Association shall further have the right to install or construct Improvements on the Common Elements. The Association may at any time, and from time to time reconstruct, replace or refinish any Improvement or portion thereof upon the Common Elements. The Association may employ personnel necessary for the effective operation and maintenance of the Common Elements, including the employment of legal, management and accounting services and/or other professionals. The Association shall additionally have the power but not the duty to enter into contracts with Owners or other persons to provide services or to maintain and repair Improvements within the Condominium Project and elsewhere which the Association is not otherwise required to provide or maintain pursuant to this Declaration; provided however, that

any such contract shall provide for the payment to the Association for the costs of providing such services or maintenance.

Section 2.3 MEMBERSHIP IN THE ASSOCIATION

A Person becomes a member of the Association upon becoming an Owner of a Unit and shall remain a member in the Association until the Person is no longer an Owner, at which time the Person's Membership shall automatically cease. Ownership of a Unit shall be the sole qualification for Membership in the Association. Membership shall not be assignable except to the Person to which title to the Unit has been transferred, and every Membership shall be appurtenant to and may not be separated from the fee ownership of a Unit. The rights, duties, privileges and obligations of all Owners shall be as provided in the Association Governing Documents.

Section 2.4 TRANSFER OF MEMBERSHIP

The Membership shall not be transferred, pledged or alienated in any way, except upon the sale of a Unit, and then only to the Purchaser. A prohibited transfer is void and will not be reflected upon the books and records of the Association. If the Owner fails or refuses to transfer Membership to the Purchaser of the Unit upon transfer of fee title thereto, the Board shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of the transfer has been presented to the Board, the Purchaser shall not be entitled to vote at meetings of the Association. The Association may levy a reasonable transfer fee against a Purchaser and his or her Unit (which fee shall be added to the Annual Assessment chargeable to such Purchaser) to reimburse the Association for the administrative cost of transferring the Membership to the Purchaser on the records of the Association provided such fee does not exceed the Association's actual cost involved in changing its records of ownership.

Section 2.5 CLASSES OF MEMBERSHIP

The Association shall have one class of voting Membership. Each Owner shall be a member of the Association. Subject to Declarant's right to appoint and remove officers of the Association and members of the Board during Declarant's Period of Control, each Unit, through its Owner(s), shall be entitled to one vote on each item brought before the Membership. The vote for a Unit shall be exercised in accordance with Section 2.6 of this Declaration, but in no event shall more than one vote for any Unit be cast on any item brought before the Membership.

Section 2.6 VOTING RIGHTS

All voting rights shall be subject to the Association Governing Documents. Owners shall be entitled to one vote for each Unit in which they hold the interest required for Membership. When more than one Person holds such interest or interests in any Unit ("Co-Owners"), all such Co-Owners shall be members of the Association and may attend any meeting of the Association, but only one such Co-Owner shall be entitled to exercise the single vote on each item brought before the Membership to which the Unit is entitled. If only one of several Co-Owners of a Unit is present at a meeting of the Association, that Co-Owner is entitled to cast the one vote allocated

to that Unit. Co-Owners owning the majority interests in a Unit may from time to time designate in writing to the Association one Co-Owner to vote. Fractional voting shall not be allowed, and the vote for each Unit shall be exercised, if at all, as a unit. Where no voting Co-Owner is designated or if the designation has been revoked, the vote for the Unit shall be exercised as the Co-Owners owning the majority interests in the Unit mutually agree. Unless the Board receives a written objection in advance from an absent Co-Owner, it shall be conclusively presumed that the corresponding voting Co-Owner is acting with the consent of all Co-Owners. No vote shall be cast for any Unit if the Co-Owners present in person or by proxy owning the majority interests in such Unit cannot agree to said vote or other action. The nonvoting Co-Owner or Co-Owners shall be jointly and severally liable for all of the obligations imposed upon the jointly owned Unit and shall be entitled to all other benefits of ownership. All agreements and determination lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws, shall be deemed to be binding on all Owners (including all Co-Owners), their successors and assigns.

Section 2.7 DECLARANT'S PERIOD OF CONTROL

(a) Notwithstanding anything contained in this Declaration to the contrary, Declarant shall have the right to appoint and remove officers of the Association and members of the Board until the first to occur of the following events:

(i) sixty (60) days after the Close of Escrow of seventy-five percent (75%) of the Units that may be created by Declarant, as set forth in Section 14.7 of this Declaration;

(ii) five (5) years after Declarant has ceased to offer Units for sale in the ordinary course of business; or

Declarant, in its sole and absolute discretion, may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before any of the events enumerated above occur and upon doing so Declarant may require, for the duration of Declarant's Period of Control, that specified actions of the Association or the Board as described in a Recorded instrument executed by Declarant be approved by Declarant before they become effective. Notwithstanding the foregoing, no later than sixty (60) days after the conveyance of twenty-five (25%) of the Units that may be created by Declarant as set forth in Section 14.7 of this Declaration to Owners other than Declarant, at least one (1) member of the Board and not less than twenty-five percent (25%) of the Board must be elected by Owners other than Declarant and that no later than sixty (60) days after the conveyance of fifty percent (50%) of the Units that may be created by Declarant as set forth in Section 14.7 of this Declaration to Owners other than Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Board must be elected by Owners other than Declarant.

(b) Not later than the termination of Declarant's Period of Control, each member of the Board must have been elected by the Owners as provided by the Bylaws.

(c) Notwithstanding any provision of this Declaration to the contrary, the termination of Declarant's Period of Control shall not affect Declarant's rights as an Owner to exercise the vote allocated to Units which Declarant owns.

(d) During Declarant's Period of Control, the following actions will require the prior approval of the FNMA, FHLMC, VA or HUD to the extent necessary to meet any FNMA, FHLMC, VA or HUD requirements which are applicable to the Condominium Project: any merger or consolidation of the Association, any Special Assessment, mortgaging of the Common Elements, dedication of the Common Elements, any amendment of the Declaration, any amendment to the Bylaws, and the removal of any portion of the Common Elements. Additional limitations on the right of Declarant to exercise Development Rights may be found in Article 11 of this Declaration.

Section 2.8 REPAIR AND MAINTENANCE BY THE ASSOCIATION

(a) *Maintenance Standards.* Subject to Articles 9 and 10 of this Declaration, the Association shall have the right, but not the obligation, to paint, maintain, repair and replace the Common Elements and Improvements and personal property located thereon or shall contract for such maintenance, repair and replacement to assure maintenance of the Common Elements and Improvements thereon in a clean, sanitary and attractive condition reasonably consistent with prudent property management practices and the Budget. However, the Association shall not be responsible for or obligated to perform those items of maintenance, repair or improvement of the Units of which is the responsibility of the Owners as provided in Section 2.10 of this Declaration. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Elements. During Declarant's Period of Control, Declarant reserves the right, without the obligation, to make any alteration of the Common Elements.

(b) *Maintenance Items.* Association maintenance and repairs shall include, without limitation, the right, without the obligation, to perform (i) all corrective janitorial, and repair work on or within any Unit if the Owner fails to repair it and if such non-repair affects the Common Elements; (ii) the repair and payment for all utilities, water charges, and mechanical and electrical equipment serving the Common Elements; and (iii) payment of all charges for all utilities which serve individual Units but which are subject to a common meter. The Association shall be responsible to maintain, repair and/or replace the Limited Common Elements as required by the Board and the Association may enter upon the Limited Common Elements and make any necessary repairs and charge the Owner(s) of the appurtenant Unit(s) for all costs involved in making such repairs as a Special Assessment.

(c) *Charges to Owners.* All such costs of maintenance, repairs and replacements for the Condominium Project shall be paid for as Common Expenses out of the Association Maintenance Funds as provided in this Declaration. The Board may cause the Condominium Project to be inspected by a designee who may be a hired professional, for any violation thereof. The cost of any maintenance, repairs or replacements by the Association which is not the responsibility of the Association or which arises out of, or is caused by, the act of an Owner or such Owner's family, tenants, guests, invitees, or agents shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner.

Section 2.9 UNSEGREGATED REAL PROPERTY TAXES

To the extent not assessed to the Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Condominium Project. In addition, if more than one Unit is taxed under a blanket tax bill, each Owner shall pay the proportionate share of any installment due under the blanket tax bill to the Association at least ten (10) days prior to the delinquency date. The Association shall transmit the taxes to the appropriate tax collection agency on or before the delinquency date. Blanket taxes shall be allocated among the Owners and their Units proportionately, based upon the total number of square feet that each such Unit bears to the total number of square footage in all of the Units covered by any particular blanket tax bill. The Association shall, at least forty-five (45) days prior to the delinquency date of any blanket tax installment, deliver to each Owner subject thereto a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay the proportionate share of the tax installment and the potential additional charges to the Owner for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay the proportionate share of such tax bill. The Association shall add to the Annual Assessment of a delinquent Owner the amount of any sum advanced, plus interest at the rate of eighteen percent (18%) per annum (but in no event more than the maximum rate permitted by law) and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the blanket tax bill, which late charge results from the failure of the delinquent Owner to make timely payment of the proportionate share of the taxes. Until the Close of Escrow for the sale of ninety percent (90%) of the Units which may be created by Declarant as set forth in Section 14.7 of this Declaration, the foregoing provisions relating to the collection of taxes in connection with a blanket tax bill on all or any portion of the Condominium Project may not be amended without the express written consent of Declarant.

Section 2.10 ALTERATION, REPAIR AND MAINTENANCE BY OWNERS

Each Owner shall maintain, repair, replace, paint, paper, plaster, tile, finish and restore or cause to be so maintained, repaired, replaced and restored, at such Owner's sole expense, all portions of such Owner's Unit, as well as the windows, doors, light fixtures actuated from switches controlled from, or separately metered to, such Owner's Unit, and the interior surfaces of the walls, ceilings, floors, permanent fixtures and firebox in the fireplace, if any, in a clean, sanitary and attractive condition. The fireplace, if any, in each Unit is a non-wood-burning, natural gas fireplace, and any damage resulting to the chimney or other part of the Unit which results from burning items other than natural gas shall be sole responsibility of such Unit Owner. No bearing walls, ceilings, floors or other structural or utility bearing portions of any Building (each of which are Common Elements) shall be pierced or otherwise altered or repaired, without the prior written approval of the plans for the alteration or repair by the Board in accordance with this Declaration. It shall further be the duty of each Owner, at such Owner's sole expense, to keep any Limited Common Element appurtenant to such Owner's Unit free from debris and reasonably protected against damage. Owners shall not make any structural changes to the Limited Common Elements, and further no Owner shall make any aesthetic changes to the Limited Common Elements without first obtaining the approval of the Board. It shall further be the duty of each Owner to pay when due all charges for any utility service which is separately metered to such Owner's Unit. If any Owner fails to maintain or repair such Owner's Unit or any

Limited Common Element as required by this Section 2.10, the Association shall have the right to perform such maintenance and repair and to levy a Special Assessment against such Owner.

Section 2.11 UTILITIES

Association Pays NON CIRCLED could be paid by, Owners.
To the extent reasonably available to the Association, utility services including, but not limited to, electricity, water, sewer, trash removal, cable television, telephone and monitoring systems, may be provided to the Owners through the Association. If these utilities are not available to the Association and only to the Owners, the Association shall have no obligation to provide these utilities and Owners shall arrange the utility installation and billing separately. Declarant reserves the right to own and install a master antenna television system or duly franchised cable television system for the entire Condominium Project or any portion thereof at the Association's or the Owners' expense.

Section 2.12 MANAGER

The Board, on behalf of the Association, may contract with a Manager for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as the Board may determine. Each such contract with a Manager shall provide for its termination by the Association without cause and without payment of a termination fee upon no more than ninety (90) days written notice to the other party.

Section 2.13 LIMITATION ON LIABILITY OF ASSOCIATION

Notwithstanding the duty of the Association to maintain and repair portions of the Condominium Project, the Association shall not be liable to Owners, their families, guests, agents or invitees for injury or damage caused by any latent condition of the Condominium Project. Furthermore, the Association shall not be liable for any injury or damage caused by defects in design or workmanship or any reason connected with any additions, alterations or improvements or other activities done by or on behalf of any Owner regardless of whether the Association has approved the additions, alterations or improvements. The Association also shall not be liable to any Owner, family member, guest, invitee or agent of an Owner for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carry insurance with a particular deductible amount) to any particular matter where such insurance is not required hereby or the Association could not obtain such insurance at reasonable costs or upon reasonable terms.

ARTICLE III OWNERS' PROPERTY RIGHTS

Section 3.1 LEGAL DESCRIPTION OF REAL ESTATE

The components of the real estate owned by each Owner shall be substantially as follows:

PARCEL NO. 1: Fee title to the applicable Unit described in accordance with NRS Section 116.2104.

- PARCEL NO. 2: An undivided interest in the Common Elements.
- PARCEL NO. 3: An exclusive easement appurtenant to the Unit over any Limited Common Element allocated to such Unit.
- PARCEL NO. 4: Non-exclusive easements for access, ingress, egress, use, enjoyment, and other purposes, all as described in this Declaration and in any applicable Notice of Addition.

Section 3.2 PARTITION

As provided in NRS Section 116.2107(6), there shall be no judicial partition of the Common Elements, or any part thereof, nor shall Declarant, any Owner or any other Person acquiring any interest in any Unit seek any such judicial partition. Any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void.

Section 3.3 LIMITED COMMON ELEMENTS

Assigned Limited Common Elements. The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(a) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving one or more Units is a Limited Common Element, allocated solely to the Units served thereby, the use of which is limited to those Units, and any portion serving more than those Units constitutes a part of the Common Elements.

(b) To the extent any hot water heater or tank and any of its related equipment, pipes or conduit, lies partially within and partially outside the designated boundaries of a Unit, to the extent that it serves one or more Units, it shall be a Limited Common Element, allocated solely to the Units served thereby, the use of which is limited to those Units, and any portion serving more than those Units constitutes a part of the Common Elements.

(c) Any shutters, awnings, window boxes, doorsteps, storage areas, entry areas, stoops, porches, balconies, patios and exterior doors and windows or other fixtures designed to serve a single Unit, including any such identified on the Plat and Plans as Limited Common Areas, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and the use of such Limited Common Elements is limited to that Unit.

(d) Entry areas, stairs, stoops, steps and walls above door openings at the entrances to each Building providing access to less than all Units constitute Limited

Common Elements allocated exclusively to the Units served thereby and the use of such Limited Common Elements is limited to such Units.

(e) Exterior surfaces, trim, siding, doors and windows will be Limited Common Elements allocated to the Units sheltered or served thereby.

(f) Mailboxes, name plates and exterior lighting affixed to the Building will be Limited Common Elements allocated to the Units served thereby.

(g) Any porch or balcony appurtenant to a Unit shall be a Limited Common Element of the Unit(s) to which it is adjacent and accessible. The Association shall be responsible for the maintenance of the structural and mechanical elements of any such Limited Common Elements, except to the extent arising from or necessitated by the negligence, misuse or neglect of a specific Unit Owner, in which case such cost and expense shall be paid solely by such Unit Owner, with the owner of the Unit to which they are appurtenant responsible for the costs of same and, directly, for the general cleaning, plant care and the upkeep of the appearance of the area(s).

ARTICLE IV EASEMENTS

The following easements are hereby created in addition to any easements which are or may be Recorded against the Condominium Project.

Section 4.1 EASEMENTS OF RECORD

The Condominium Project is presently subject to all easements and licenses of record, including any shown on the Plats and Plans or otherwise contained herein.

Section 4.2 EASEMENTS OF THE ASSOCIATION

The Association shall have an easement over the Condominium Project for performing its duties and exercising its powers described in this Declaration.

Section 4.3 DECLARANT'S EASEMENTS

Declarant expressly reserves for the benefit of Declarant and its affiliates, agents, officers and employees, non-exclusive easements over the Condominium Project:

(a) *Construction; Maintenance.* A right to enter the Condominium Project and take all other action necessary or convenient for the purpose of exercising the Development Rights and special rights set forth respectively in Articles 14 and 15 of this Declaration and undertaking and completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and/or any Improvements to be located adjacent thereto and/or for repair, replacement and maintenance or warranty purposes or where Declarant, in its sole discretion, determines that it is required or desires to do so.

(b) *Sales Activity.* For as long as Declarant owns any Unit the right to use any such Units and parts of the Common Elements or the Condominium Project for guest accommodations, model suites and sales and construction offices, to show model suites and the Condominium Project to prospective Purchasers, and to erect on the Condominium Project signs and other promotional material to advertise, among other things, Units for sale or lease.

(c) *Support of Adjacent Structures.* If any structure(s) is constructed so as to be connected in any manner to a Building, then there shall be (and there is hereby declared) an easement of support for such structure(s) as well as for the installation, maintenance, repair and replacement of all utility lines and equipment serving the adjacent structure which are necessarily or conveniently located within the Condominium Project.

(d) *Warranty.* For as long as Declarant remains liable under any warranty, whether statutory, express or implied, for act or omission of Declarant in the design, development, construction, sale and marketing of the Condominium Project or any part thereof, then Declarant and its contractors, agents and designees shall have the right, in Declarant's sole discretion and from time to time, to enter the Condominium Project for the purpose of inspecting, testing and surveying same to determine the need for repairs, improvements and/or replacements, and effecting same, so that Declarant can fulfill any of its warranty obligations. Nothing contained in this Section 4.2(d) shall be deemed or construed as Declarant making or offering any warranty.

(e) *Club Facilities' Access.* The Club shall have an easement over the Condominium Project to the extent reasonably required for ingress and egress development, maintenance, use and operation.

Section 4.4 SUPPORT

Each Unit, each Building and each Improvement shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units, the Common Elements, and any other structure or Improvement which abuts any Unit, Building or any Improvement.

Section 4.5 UTILITY AND OTHER SERVICES

Easements are reserved under, through and over the Condominium Project as may be required from time to time for utility, cable television, communications and monitoring systems and other services and drainage in order to serve the Owners, Association or Declarant. No Owner shall do anything that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, or other service or drainage facilities or the use of these easements.

Section 4.6 ADDITIONAL EASEMENTS

Declarant expressly reserves for itself the right to grant additional easements and rights-of-way over the Condominium Project to utility companies and public agencies, as necessary or desirable, for the proper development and disposal of the Condominium Project.

Section 4.7 ENCROACHMENTS

Declarant, the Association and Owners of contiguous Units shall have a reciprocal easement appurtenant to each of the Units, over the Units and the Common Elements for the purpose of (i) accommodating any encroachment of any wall of any Improvement, and (ii) maintaining the same and accommodating authorized construction, reconstruction, repair, shifting, movement or natural settling of the Improvements or any other portion of the Condominium Project. Easements and reciprocal negative easements for utility services and repairs, replacement and maintenance of the same over all of the Common Elements are specifically reserved for the benefit of the Owners. Declarant expressly reserves for the benefit of the Condominium Project, the Common Elements, and for the benefit of, the Owners and the Association, reciprocal non-exclusive easements for drainage of water over, across and upon the Common Elements.

Section 4.8 NO LEASE OF COMMON ELEMENTS

Except as may be otherwise provided in this Declaration, no portion of the Common Elements including, without limitation, amenities contemplated as a part of the Condominium Project, are proposed to be leased by Declarant to the Owners or to the Association.

Section 4.9 RIGHTS OF ENTRY

The Association shall have a limited right of entry in and upon the Common Elements and the Units for the purpose of inspecting the Condominium Project, and taking whatever maintenance and/or corrective action may be deemed necessary or proper by the Board, consistent with the provisions of this Declaration. However, such entry upon the Units shall be made, except to effect emergency repairs or other emergency measures (which may be performed without notice); only after three days prior written notice to the Owner of such Unit and after authorization of a majority of the Board. In case of an emergency, such right of entry by or on behalf of the Association shall be immediate. Nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property or Improvements required to be maintained or repaired by the Owners. Nothing in this Article 4 shall in any manner limit the right of an Owner to exclusive occupancy and control over the interior of such Owner's Unit. However, each Owner shall permit a right of entry to the Association or any other Person authorized by the Association as required by this Section 4.9. Any damage caused to a Unit by such entry by the Association or by any Person authorized by the Association shall be repaired by the Association as a Common Expense of the Association.

Section 4.10 OWNERS' EASEMENT

(a) *Access.* Declarant expressly reserves for the benefit of the Owners, reciprocal, non-exclusive easements for access, ingress and egress over all of the Common Elements.

(b) *Limited Common Elements.* Subject to the rights of Declarant, and the Association, Declarant expressly reserves for the benefit of certain Owners and their Units, exclusive easements over the Limited Common Elements.

(c) *Common Elements.* Subject to the provisions of this Declaration, each Owner and such Owner's family, guests and invitees, shall have a non-exclusive easement of access, ingress, egress, use and enjoyment of, in and to the Common Elements, and such easements shall be appurtenant to and shall pass with title to each Unit.

(d) *Extent of Owners' Easements.* The rights and easements of use and enjoyment of the Common Elements by the Owners created by this Declaration shall be subject to the Association Governing Documents which restrictions include, without limitation, the following:

(i) the right of the Association to consent to or otherwise cause the construction of additional Improvements on the Common Elements and to consent to or otherwise cause the alteration or removal of any existing Improvements on the Common Elements;

(ii) the right of the Association acting through the Board and pursuant to an agreement executed by Owners to whom a majority of the Association's voting power is allocated, including a majority of the voting power not allocated to Declarant, which agreement must be Recorded and which must specify a date after which the agreement will be void unless Recorded, to convey the Common Elements or to subject the Common Elements to a Mortgage;

(iii) the right of the Association, acting through the Board, to grant easements, leases, licenses and concessions through or over the Common Elements;

(iv) subject to the provisions of this Declaration, the right of each Owner to the exclusive use and occupancy for the purposes designated in this Declaration or in any Recorded Notice of Addition of the Limited Common Elements allocated to each Owner's Unit;

(v) the rights and reservations of Declarant as set forth in this Declaration;

(vi) the right of the Association, acting through the Board, to reasonably restrict access to maintenance and similar areas of the Condominium Project and to easements for which the Association is responsible for maintenance;

(vii) the conveyance of the Common Elements;

(viii) the right of the Association to reasonably limit the number of guests and tenants of the Owners using the Common Elements;

(ix) the right of the Association, acting through the Board, to establish uniform rules and regulations for the use of the Units and the Common Elements and to regulate the use, maintenance, repair, replacement and modification of the Common Elements; and

(x) the rights and reservations of Declarant set forth in this Declaration.

(e) *Delegation of Use by Owner.* Any Owner entitled to the right and easement of use and enjoyment of the Common Elements may delegate such right and easement to such tenants or prospective Purchasers (pursuant to an executory contract of purchase and sale of a

Unit) who reside in such Owner's Unit, subject to reasonable regulation by the Board. Said delegation must be in writing and delivered to a member of the Board. If an Owner delegates such rights as set forth herein, such Owner shall not be allowed the use and enjoyment of the Common Elements during the term of such delegation, but shall be liable for all charges and Assessments attributable to such Owner's Unit.

Section 4.11 DAMAGE BY OWNER

To the fullest extent permitted by Nevada law, each Owner shall be liable to the Association for any damage to the Common Elements not fully reimbursed to the Association by insurance if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any Improvement by such Owner, such Owner's family members, guests, tenants or invitees, or any other Persons deriving their right and easement of use and enjoyment of the Common Elements from such Owner. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right, after Notice and Hearing as provided in the Bylaws, to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Owner or the Person for whom the Owner may be liable as described above. In the case of joint ownership of a Unit, the liability of the Co-Owners shall be joint and several, except to the extent that the Association shall have previously contracted in writing with the Co-Owners to the contrary. After Notice and Hearing as provided in the Bylaws, the cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against such Owner's Unit and may be enforced as provided herein.

Section 4.12 ANNEXABLE AREA EASEMENTS

(a) *Access Easement.* Declarant grants to the Association and each Owner a non-exclusive easement for (i) vehicular traffic over, across and through the driveway areas of the Annexable Area as the same may from time to time be constructed, maintained and designated for such use by Declarant, to facilitate ingress to and egress from the Condominium Project; and (ii) the passage and accommodation of pedestrians over and across the parking, driveways and sidewalk areas of the Annexable Area, as the same may from time to time be constructed, maintained and designated for such use by Declarant, to facilitate ingress to and egress from the Condominium Project (the "Access Easement").

(b) *Parking Easement.* Declarant grants to the Association a non-exclusive easement for the parking of motor vehicles in parking areas and spaces as specifically designated therefore by Declarant within the Annexable Area such that there shall be maintained at all times a sufficient number of vehicular parking spaces to meet existing governmental rules, regulations and/or ordinances related to parking for the Condominium Project (the "Parking Easement"). No oversized trucks, commercial vehicles, motorhomes, boats, personal watercraft, campers or trailers may be parked in any parking space within the Parking Easement. Notwithstanding the foregoing, such vehicles may be parked within the Parking Easement for the limited purpose of loading and unloading passengers and personal property. No inoperable vehicles or unregistered vehicles of any kind may be parked anywhere within the Parking Easement.

(c) *Easement Modification.* The location of the Access Easement or the Parking Easement may be changed, altered or modified by Declarant from time to time provided such change, alteration or modification does not materially impact the use and enjoyment of the Condominium Project by the Owners or the ability of the Association to carry out its obligations under the Association Governing Documents and provided Declarant shall at least thirty (30) days prior to making any such change, alteration or modification deliver to the Association copies of plans therefor.

(d) *Indemnification.* Each Owner and the Association shall hold harmless, and the Association shall indemnify and defend, Declarant and its officers, directors, agents, partners, members, employees, successors and assigns from and against any and all liabilities and claims arising from or related to use by the Association or any Owner, or any of their tenants, licensees, employees or invitees of the Access Easement or the Parking Easement, including but not limited to, any damage to property or injury to or death of any person, except to the extent due to the negligence or willful misconduct of Declarant. The indemnity shall cover the costs and expenses of Declarant including reasonable attorneys' fees and costs related to any actions, suits or judgments incident to any of the matters covered by such indemnity.

(e) *Maintenance.* Declarant shall maintain or cause to be maintained the Access Easement and Parking Easement areas in a sightly, litter-free, safe condition, and good state of repair in compliance with all applicable laws, rules, regulations, orders and ordinances, including, but not limited to the following:

(i) Maintaining all paved surfaces and curbs in a smooth and evenly covered condition, including, without limitation, replacement of base, skin patch, resealing and resurfacing.

(ii) Periodic removal of all papers, debris, filth, refuse, including vacuuming and broom sweeping to the extent necessary to keep the Access Easement and Parking Easement area in a first-class, clean and orderly condition.

(iii) Maintaining, cleaning any appropriate directional, stop or handicapped parking signs; restriping lots and drive lanes as necessary to maintain parking space designation direction; and keeping clearly marked fire lanes, loading zones, no parking pedestrian crosswalks.

(iv) Maintaining, cleaning and replacing the Access Easement and Parking Easement area facilities, including light standards, wires, conduits, lamps, ballasts and clocks and circuit breakers.

(v) Maintaining and replacing of all landscaping in an attractive and thriving condition, trimmed and weed free and operating, maintaining and replacing, if necessary, all automatic sprinkler systems.

(vi) Maintaining, cleaning and replacing of all sidewalks. Sidewalks shall be cleaned regularly and swept at appropriate intervals.

(f) *Maintenance Costs.*

(i) The Association shall reimburse Declarant for the costs incurred by Declarant in connection with the maintenance and repair of the Access Easement and Parking Easement areas (the "Maintenance Costs"). To the extent any Maintenance Costs are not billed separately to Declarant but are included as part of costs incurred by Declarant in connection with Declarant's general maintenance and repair of the Annexable Area ("Annexable Area Costs"), Declarant shall allocate to the Association as Maintenance Costs a percentage of such Annexable Area Costs based upon the number of total square feet the Access Easement and Parking Easement areas bear to the total number of square feet of the Annexable Area used for similar purposes. All such Maintenance Costs shall be paid for as Common Expenses out of the Association Maintenance Funds as provided for in this Declaration.

(ii) The Association shall pay to Declarant in equal monthly payments, in advance, the estimated annual Maintenance Costs. Declarant shall reasonably estimate the Maintenance Costs for the partial year during which the maintenance obligations commence and the Association shall make its first payment one (1) month following Declarant's undertaking of such maintenance and repair of the Access Easement and Parking Easement areas. Within ninety (90) days after the end of each calendar year, Declarant shall provide the Association with a statement, together with copies of invoices and other materials setting forth the actual Maintenance Costs incurred by it for maintenance and repair of the Access Easement and Parking Easement areas. If the amount paid by the Association for such calendar year shall have exceeded the actual Maintenance Costs, Declarant shall refund the excess to the Association at the time such statement is delivered, or if the amount paid by the Association for such year shall be less than the actual Maintenance Costs, the Association shall pay the balance to Declarant within thirty (30) days after receipt of such statement.

(iii) Within three (3) months after receipt of any such statement, the Association shall have the right to audit Declarant's books and records pertaining to the maintenance and repair of the Access Easement and Parking Easement areas for the calendar year covered by such statement. The Association shall notify Declarant of its intent to audit at least thirty (30) days prior to the designated audit date. In the event that such audit shall disclose any error in the determination of the Maintenance Costs or in the allocation thereof to the Association, an adjustment shall be made forthwith. The cost of any audit shall be assumed by the Association unless the Association shall be entitled to a refund in excess of three (3%) percent of the amount calculated by Declarant for the calendar year, in which case Declarant shall pay the cost of such audit.

ARTICLE V BUDGET

Section 5.1 INITIAL YEAR OF OPERATIONS

The Annual Assessment for each Unit for the first Fiscal Year of the Association shall be as set forth in the initial Budget adopted by the Board. If, during the first Fiscal Year of the Association, the Board determines that the Annual Assessment should be increased, the Board

shall provide a summary of the increased Budget to all Owners and shall call a meeting of the Owners to consider ratification of the increased Budget. The date of such meeting shall be not less than fourteen (14) nor more than thirty (30) days after the date of mailing of the increased Budget summary. Unless Owners controlling a majority of the voting power of the Association reject the increase, the increase shall be deemed ratified, whether or not a quorum is present at said meeting. The Budget, as ratified, shall be binding on all Owners.

Section 5.2 SUBSEQUENT FISCAL YEARS

The Board shall annually prepare and distribute to the Owners not less than thirty (30) nor more than sixty (60) days prior to the expiration of the current Fiscal Year, a proposed Budget or summary thereof for the upcoming Fiscal Year. Within thirty (30) days after the adoption of the Budget, the Board shall provide a copy of the Budget or a summary of the Budget, accompanied by a written notice of where the Budget is available for review and that copies of the Budget may be obtained upon request, to all Owners and shall call a meeting of the Owners to consider ratification of the Budget. The date of such meeting shall not be less than fourteen (14) nor more than thirty (30) days after the date of mailing of the Budget summary. Unless Owners controlling a majority of the voting power of the Association reject the Budget; the Budget shall be deemed ratified; whether or not a quorum is present at said meeting. If the Budget is rejected, then the Budget last ratified shall be continued until such time as a new proposed Budget is ratified. If during such upcoming Fiscal Year the Board determines that the Annual Assessment should be increased above the amount reflected in the Budget then in effect for such Fiscal Year, the Board shall provide a copy or a summary, accompanied by a written notice of where the Budget is available for review and that copies of the Budget may be obtained upon request, of the increased Budget to all Owners and the provisions set forth above concerning a meeting of the Owners to ratify a new Budget shall be applicable to such proposed increase. The Budget, as ratified, shall be binding on all Owners.

ARTICLE VI ASSESSMENTS; LIENS

Section 6.1 ASSOCIATION MAINTENANCE FUNDS

The Board shall establish no fewer than two separate Association Maintenance Fund accounts, into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (i) an operating fund (the "*Operating Fund*") for current Common Expenses of the Association, (ii) an adequate reserve fund (the "*Reserve Fund*") for capital improvements, replacements, restoration, painting and repairs of the Common Elements (which cannot normally be expected to occur on an annual or more frequent basis), and (iii) any other funds which the Board may establish to the extent necessary under the provisions of this Declaration. Nothing contained herein shall limit, preclude or impair the establishment of additional Maintenance Funds by the Board, so long as the amounts assessed to, deposited into, and disbursed from any such fund are earmarked for specified purposes authorized by this Declaration. Any surplus funds of the Association

remaining after payment of or provision for Common Expenses and any prepayment of reserves or any other fund established by the Board must be paid to the Owners in proportion to their liability for Common Expenses or credited to them in proportion to their liability for Common Expenses to reduce their future Assessments for Common Expenses.

Section 6.2 PURPOSE OF ASSESSMENTS

The Assessments levied by the Association shall be used to promote the recreation and welfare of the Owners and for the operation, replacement, improvement and maintenance of the Common Elements, and to discharge any other obligations of the Association under this Declaration. Disbursements from the Operating Fund shall be made by the Board or its designated agent, for such purposes as are necessary for the discharge of its responsibilities herein, other than those purposes for which disbursements from the Reserve Fund are to be used. Disbursements from the Reserve Fund shall be made by the Board only for the purposes specified in Section 6.1 of this Declaration. Annual Assessments shall be used to satisfy Common Expenses of the Association and to build reserve accounts, as provided in this Declaration and in the Bylaws.

Section 6.3 PERSONAL OBLIGATION OF ASSESSMENTS

Each Owner, by acceptance of a deed to a Unit, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all Assessments to be established and collected as provided in this Declaration. All Assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the Unit against which such Assessment is made. Each such Assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of the Unit at the time when the Assessment fell due. This personal obligation cannot be avoided by abandonment of the Unit or by an offer to waive use of the Common Elements. The personal obligation for delinquent Assessments shall not pass to any Purchaser unless expressly assumed by the Purchaser, provided however, that the delinquent Assessment shall still remain a charge against the Purchaser's Unit.

Section 6.4 ANNUAL ASSESSMENTS; COMMENCEMENT; COLLECTION

Annual Assessments shall commence on all Units as determined by Declarant at its sole discretion. Until the Association makes an Annual Assessment, Declarant shall pay all Common Expenses. All Annual Assessments shall be assessed against the Owners and their Units based upon their Allocated Interest. Annual Assessments for fractions of any month involved shall be prorated. From time to time and consistent with NRS Section 116.3114 and this Article 6, the Board may determine that all excess funds in the Operating Fund be retained by the Association and used to reduce the following year's Annual Assessments. Upon dissolution of the Association incident to the abandonment or termination of the Condominium Project, any amounts remaining in any of the Association Maintenance Funds shall be distributed to or for the benefit of the Owners in the same proportions as such monies were collected from the Owners, subject to the rights of any creditors of the Association as set forth in NRS Sections 116.21183 to 116.21119, inclusive. Each Owner shall pay to the Association the Annual Assessment in

installments at such frequency and in such amounts as established by the Board. Each installment of Annual Assessments may be paid by the Owner to the Association in one check or in separate checks as payments attributable to deposits into specified Association Maintenance Funds. If any installment of an Annual Assessment payment is less than the amount assessed and the payment does not specify the Association Maintenance Fund or Funds into which it should be deposited, the receipt by the Association from that Owner shall be credited in order of priority first to the Operating Fund, until that portion of the Annual Assessment has been satisfied, and second to the Reserve Fund.

Section 6.5 DELINQUENCY

Any installment of an Assessment provided for in this Declaration shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. Upon such delinquency, the full amount of the Assessment remaining in any given year (*i.e.*, not simply the delinquent installment) shall become due and payable. The Board shall be authorized to adopt a system pursuant to which the full amount of any Assessments not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges as provided herein, shall bear interest commencing thirty (30) days from the due date until paid at the rate of up to eighteen percent (18%) per annum, but in no event more than the maximum rate permitted by law. The Board may also require the delinquent Owner to pay a late charge. The Association need not accept any tender of a partial payment of an installment of an Assessment and all costs and attorneys' fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payments thereafter.

Section 6.6 LIENS

(a) *Creation of Lien.* All sums assessed and fines imposed in accordance with the provisions of this Declaration shall constitute a lien upon each Unit (except for those Units owned by Declarant) from the time such sums become due, prior and superior to all other liens and encumbrances thereon except (i) liens and encumbrances Recorded before Recordation of this Declaration; (ii) a Mortgage in first lien position on a Unit Recorded before the date on which the Assessment sought to be enforced becomes delinquent, except a lien imposed by the Association in accordance with this Declaration shall have priority for six (6) months of Association Assessments pursuant to NRS Section 116.3116(2); and (iii) liens for real estate taxes and other governmental assessments or charges against all Units except those Units owned by Declarant.

(b) *Enforcement of Liens.* The Association may enforce a lien upon a Unit after:

(i) the Association has mailed or caused to be mailed by certified or registered mail, return receipt requested, to the Owner or the Owner's successor-in-interest, at the Unit Owner's last known address and the address of the Unit, a Notice of Delinquent Assessment (a "*Notice of Delinquency*") which states (A) the amount of the Assessment and other authorized charges and interest; (B) a sufficient description of the Unit(s) against which such charges have been assessed; and (C) the name of the Owner(s) thereof;

(ii) the Association or other Persons conducting the sale has caused to be Recorded a Notice of Default and Election to Sell (a "*Notice of Default*") the Unit(s) to satisfy the lien, signed by any officer or authorized agent of the Association, which contains the same information as the Notice of Delinquency plus a description of the deficiency in payment and the name and address of the Person authorized to enforce the lien by sale and has mailed the Notice of Default in accordance with NRS Section 116.31163; and

(iii) the Owner or the Owner's successor-in-interest has failed to pay the amount of the lien (including costs, fees and expenses incidental to the enforcement of the lien) for sixty (60) days following the later of (A) the date of which the Notice of Default is Recorded, or (B) the day on which a copy of the Notice of Default is mailed by certified or registered mail, return receipt requested, to the Owner or the Owner's successor-in-interest at the address of such Person, if known; and to the address of the Unit.

The Association or other Person conducting the sale shall also, after the expiration of the sixty (60) day period and before selling the Unit, give notice of the time and place of the 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 Owner or the Owner's successor-in-interest at the address of such Person, if known, and to the address of the Unit and to the other Persons as required by NRS Section 116.311635(2). The lien shall relate only to the Unit against which the Assessment was levied and not to the Condominium Project as a whole.

(c) *Release of Lien.* Upon payment to the Association of the full amount claimed in the Notice of Delinquency, or other satisfaction thereof, the Board shall cause to be Recorded a Notice of Satisfaction and Release of Lien (a "*Notice of Release*") stating the satisfaction and release of the amount claimed. The Board may demand and receive from the applicable Owner a reasonable charge, to be determined by the Board, for the preparation and Recordation of the Notice of Release as a condition to Recording the Notice of Release. Any Purchaser or encumbrancer who has acted in good faith and extended value may rely upon the Notice of Release as conclusive evidence of the full satisfaction of the sums stated in the Notice of Delinquency. A lien for unpaid Assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the Assessment becomes due.

(d) *Sale of Property.* It shall be the duty of the Board to enforce the collection of any amounts due under this Declaration by one or more of the alternative means of relief afforded by this Declaration or in any other matter permitted by law. The lien on the Unit may be enforced by sale, in the county in which the Unit is situated, by the Association, the Association's attorneys, any title insurance company authorized to do business in Nevada, or other persons authorized to conduct the sale as a trustee, or in any other manner permitted by law, after failure of the Owner to pay any Assessments, or installments thereof, as provided herein. The sale shall be conducted in accordance with the provisions of the Act, or in any other manner permitted by law. The Association, through its agents, shall have the power to enter a credit bid on the Unit at a foreclosure sale and to acquire, hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiving

any lien securing the same, but this provision or any institution of suit to recover a money judgment shall not constitute an affirmation of the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section 6.6 may include reasonable attorneys' fees as fixed by the court.

Section 6.7 CAPITAL CONTRIBUTION TO THE ASSOCIATION

Upon acquisition of record title to a Unit from Declarant, each Owner shall contribute to the capital of the Association an amount equal to three (3) monthly installments of Assessments attributable to such Owner's Unit. This amount shall be deposited by the Purchaser into the purchase and sale escrow and disbursed therefrom to the Association or to Declarant to be used for any Association related expenses or expenses Declarant incurs or incurred in maintaining the Common Elements or providing services or subsidies in connection with the Condominium Project.

Section 6.8 WAIVER OF USE

No Owner may be exempt from personal liability for Assessments duly levied by the Association, or effect the release of such Owner's Unit from the liens and charges thereof, by waiving or delegating use and enjoyment of the Common Elements as set forth in this Declaration or by abandoning such Owner's Unit.

ARTICLE VII USE RESTRICTIONS

All of the Condominium Project shall be held, used and enjoyed subject to the following limitations and restrictions and the exemptions of Declarant set forth in this Declaration.

Section 7.1 RULES AND REGULATIONS

In addition to the restrictions set forth in this Article 7, the Board may, from time to time, adopt, amend and enforce Rules and Regulations relating to the governance of the Condominium Project and the use of the Common Elements and Units. Such Rules and Regulations shall become effective ten (10) days after they are distributed to an Owner. The Association shall also distribute to each Owner any rules and regulations adopted by the Association.

Section 7.2 OCCUPANCY

Each Unit shall be used as a single family residence only, except as otherwise herein provided. A Unit owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following Persons, and such Persons' Families: (i) the individual Owner, (ii) an officer, director, stockholder, employee or designee of such corporation, (iii) a partner, employee or designee of such partnership, (iv) the fiduciary or beneficiary of such trust or (v) occupants under a lease or other rental agreement in accordance with Section 7.13 of this Declaration. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. The Board shall have the power to authorize the occupancy

of a Unit by Persons in addition to those set forth above. The provisions of this Section 7.2 shall not be applicable to Units used by Declarant for model apartments, sales office, manager's apartment or for the use of prospective Purchasers. As used in this Section 7.2, "*guests*" or words of similar import shall include only those Persons who have a principal residence other than the Unit. Children shall be permitted to reside in Units, subject to the above provisions and provided that children under the age of fourteen (14) must be supervised at all times when upon the Common Elements.

Section 7.3 NUISANCES

No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere within the Condominium Project, and no odor shall be permitted to arise therefrom so as to render the Condominium Project or any portion thereof unsanitary, unsightly, or offensive. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Common Elements or a Unit so as to be offensive or detrimental to any portion of the Common Elements or other Unit 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 devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably disturb other Owners or their tenants shall be located, used or placed on any portion of the Condominium Project without the prior written approval of the Board. Alarm devices used exclusively to protect the security of a Unit and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms. No actions undertaken by Declarant or its contractors or agents shall be deemed a violation of this Section 7.3.

Section 7.4 SIGNS

Except as provided to Declarant under this Declaration, no sign, poster, billboard, advertising device or other display of any kind shall be displayed without the pre-approval of the Board.

Section 7.5 ANTENNAE/SATELLITE DISH

To the extent permitted by law, no exterior radio antenna, television antenna, "C.B.," antenna, satellite dish or other antenna of any type shall be erected or maintained on any portion of the Condominium Project except as approved by the Board and Declarant (so long as Declarant owns any Unit). However, a master antenna system or duly franchised cable television service may, but need not, be provided by Declarant or the Association for use, and at the expense, of the Owners. Declarant may grant easements for maintenance of any such master antenna system or cable television service.

Section 7.6 UNSIGHTLY ARTICLES

No unsightly articles shall be permitted to remain upon or within any Unit, Limited Common Element or Common Elements so as to be visible from any other portion of the Condominium Project.

Section 7.7 PETS

Except for fish, there shall be allowed no more than two household pets in a Unit; provided, however, that said pets may consist only of dogs, cats, fish and/or birds, may not be kept, bred, or maintained for any commercial purpose and do not become a nuisance or annoyance to neighbors. All pets must be registered and approved in writing by the Board, which approval may be given or withheld in the sole discretion of the Board. Owners must immediately pick up all solid waste of their pets and dispose of such waste appropriately. All individual pets, including cats, must be leashed at all times when outside a Unit. Pets may not be kept in a Limited Common Element, nor be walked through or kept in the lobby of a Building. No reptiles or other forms of wildlife shall be kept in or on the Condominium Project (including Units). Without limiting the generality of this Section 7.8, violations of the provisions of this Section 7.8 shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Owners and/or to require, through order of the Board, any pet to be permanently removed from the Condominium Project. No one other than an Owner or an Owner's tenant is permitted to keep any pet. Notwithstanding the foregoing, prior to the installation of a fish tank exceeding 55 gallons, an Owner must deliver plans for such tank to the Board for its written approval. The Board may require a review by a structural engineer at the sole expense of the Owner prior to the approval or disapproval of such plans.

Section 7.8 BUSINESS OR COMMERCIAL ACTIVITY

No part of the Condominium Project shall ever be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including, without limitation, any activity for which the provider is compensated in any way or receives any form of consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license; provided, however, that Declarant, its agents, successors and assigns may use any portion of the Condominium Project for model Unit site(s) and display and sales offices. The provisions of this Section 7.9 shall not preclude any of the above described activities without external evidence thereof, provided that all of the following conditions are fulfilled: (i) such activities are conducted in conformance with all applicable governmental ordinances; (ii) the patrons or clientele of such activities do not visit the Unit or park automobiles or other vehicles within the Condominium Project; (iii) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside of the boundaries of the Unit; (iv) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (v) such activities are consistent with the residential character of the Condominium Project and conform with the provisions of this Declaration. Notwithstanding anything to the contrary, the foregoing restriction on business and commercial activity shall not apply to the Club Property or any other part of the Annexable Area.

Section 7.9 NO FURTHER SUBDIVISION/TIMESHARING

No non-Declarant Owner may further subdivide a Unit without the prior written approval of the Board; provided, however, that nothing in this Section 7.10 shall be deemed to prevent an Owner from, or require the approval of the Board for (i) selling a Unit; or (ii) transferring or selling any Unit to more than one Person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property; or (iii) the leasing or renting by any Owner of all of such Owner's Unit in accordance with the provisions of the Association Governing Documents. Declarant expressly reserves the right to replat or subdivide any Unit or Units owned by Declarant or any portion of the Condominium Project or the Annexable Area under Declarant's control or subject to Declarant's Development Rights or Special Development Rights. No Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among owners or members of the program on a fixed or floating time schedule over a period of time.

Section 7.10 WATER AND SEWER SYSTEMS

No exterior individual water supply system, water softener system, water conditioner system or sewage disposal system shall be permitted unless previously approved in writing by the Board and such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of the applicable water or sewer district and any applicable governmental health authority having jurisdiction.

Section 7.11 ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY OWNER

(a) *Consent.* No Owner shall make any addition, alteration or improvement, including but not limited to painting, decorating of any nature, installation of floor coverings, planters, electrical wiring, machinery, pools, whirlpools, saunas, air conditioning units, or changing in any manner the appearance of any portion of any Building, in or to the Common Elements, the Owner's Unit or any Limited Common Element without the prior written consent of the Board. The Board shall answer, in writing, any written request by an Owner for approval of such an addition, alteration or improvement within thirty (30) days after such written request is received and any and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's rejection of the request. The Board may condition the approval in any manner, including, without limitation, (i) retaining approval rights of the contractor to perform the work, (ii) restricting the time during which such work may be performed, (iii) the placement of a security deposit in an amount determined by the Board in an account controlled by the Board; (iv) the provision to the Board of plans and specifications prepared and sealed by a professional engineer duly licensed by the State of Nevada, and (v) requiring that the Owner requesting the change obtain, prior to commencing any work, and maintain, until completion of such work, comprehensive general liability insurance in such amounts as may be required by the Board. The Owner shall be obligated to designate Declarant, the Association, the Board and any other person designated by the Board as additional insureds under the policies. The Owner shall be responsible for all costs incurred by the Board in connection with the Board's review of the Owner's proposed changes to such Owner's Unit, including, without limitation, all costs of architects, engineers and other professionals which may

be retained by the Board to assist in their review. Any such costs not timely paid by the Owner shall be deemed a Special Assessment. The proposed additions, alterations and improvements by any Owner shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, may only be made once all required permits have been obtained and must be in compliance with any conditions imposed by the Association with respect to design, structural integrity, sound attenuation, water-proofing, construction details, lien protection or otherwise. An Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and such Owner's heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, Declarant and all other Owners harmless from and to indemnify them for any and all liability or damage to the Condominium Project and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation or construction thereof as may be required by the Association. The Association shall have the right to stop any work that is not in compliance with the terms contained in this Section 7.12(a) or any rules of the Association governing improvements by Owners. The Association's rights of review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither Declarant, the Association nor any of their officers, directors, employees, agents, contractors, consultants or attorneys shall be liable to any Owner or any other person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval of any plans or submissions. Anyone submitting plans hereunder, by the submission of same, and any Owner, by acquiring title to same, agrees not to seek damages or equitable relief from Declarant and/or the Association arising out of the Association's review of any plans hereunder. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Further, each Owner (including the successors and assigns) agrees to indemnify and hold Declarant and the Association harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans by the Association hereunder.

(b) *Weight and Sound Restriction.* In addition to the provision set forth in Section 7.12(a) of this Declaration, an Owner (i) shall not install any hard and/or heavy surface floor coverings including, without limitation, tile, marble, wood and the like, other than by Declarant without the prior written consent of the Board, and (ii) must insure a sound control underlayment system is used, which system must be approved in writing by the Board prior to installation. Installation of such sound control underpayment system shall include provisions for a perimeter insulation material which will ensure that impact noises are not transmitted into a space below, either directly through the floor or by flanking through the surrounding walls.

(c) *Adjacent Units.* Notwithstanding anything to the contrary, the Owner of two (2) or more vertically or horizontally adjacent units may, with the prior written consent of the Board, and in accordance with Section 7.12 (a) of this Declaration and the Act, remove any intervening

partition between such Owner's Units, or create apertures therein, even if such partition is wholly or in part is a Common Element, if such acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium Project. No Owner may cut into balconies or post tension slabs in connection with such alterations. Removal of partitions or creations of apertures under this Section 7.12(c) is not an alteration of boundaries.

(d) *Improvements, Additions or Alterations by Declarant.* Notwithstanding anything to the contrary, the foregoing restrictions of this Section 7.12 shall not apply to Declarant-owned Units. Declarant shall have the unconditional right, without the consent or approval of the Board or other Owners and at Declarant's own expense, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and the Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements). Any amendment to this Section 7.12 shall require the prior written consent of Declarant. The rights herein reserved are part of the Development Rights.

Section 7.12 LEASES AND RENTALS

Owners shall be permitted to lease or rent Units. The Board shall have the right to terminate any tenancy upon default by the tenant in observing any provisions of the Association Governing Documents, or other applicable provisions of any agreement, documents or instrument governing the Unit. Regardless of whether or not expressed in the applicable lease or rental agreement between the Owner and tenant for rental of a Unit, Owners shall be jointly and severally liable with the tenants of such Unit to the Association for any amount which is required by the Association to effect repairs or to pay any claim for any injury or damage to property caused by the negligence of the tenant(s) of such Unit or for the acts or omissions of the tenant(s) of such Unit which constitute a violation of, or non-compliance with, the provisions of this Declaration, and the Rules and Regulations.

Section 7.13 AIR CONDITIONING UNITS

No window air conditioning unit may be installed in a Unit.

Section 7.14 SMOKING

Smoking shall not be permitted in any of the interior Common Elements including, but not limited to, the lobby, elevators, corridors, and storage units and underground parking areas, unless such area is designated as a "smoking area" by the Board. Smoking shall be permitted on the exterior Common Elements, but any Person smoking thereon shall pick up all waste generated thereby and dispose of the same in an appropriate manner.

Section 7.15 TERRACES

No articles other than patio type furniture and suitable plants shall be placed on any terraces or outside balconies. No linens, cloths, clothing, bathing suits or swimwear, curtains, rugs, mops or laundry of any kind, or other articles, shall be shaken or hung from any of the windows, doors, terraces or balconies or other portions of the Building.

Section 7.16 WATER FURNITURE

No water filled furniture including, but not limited to, waterbeds may be placed or used within a Unit.

Section 7.17 EFFECT ON DECLARANT

Notwithstanding anything contained in this Article 7 to the contrary, the restrictions and limitations set forth herein shall not apply to Declarant nor to Units owned by or leased to or by Declarant.

Section 7.18 RELIEF; WARRANTIES

The Association shall have the power, but not the obligation, to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article 7 for good cause. APPLICABLE WARRANTIES OF DECLARANT, IF ANY, SHALL BE VOIDED BY VIOLATION OF THESE RESTRICTIONS AND REQUIREMENTS.

Section 7.19 SALE OF UNIT TO PROSPECTIVE PURCHASER

Upon entering into an agreement for the sale of a Unit, a non-Declarant Owner shall provide written notice to the Board, or its designee, of the sale agreement and furnish the names of the prospective purchaser and both parties' real estate brokers and/or agents, including the brokers and/or agents' telephone numbers. Within five (5) business days of receipt of a prospective Purchaser's name and address, the Board, or its designee, shall either deliver in person or forward, by certified, registered mail to the prospective Purchaser, a copy of the Association Governing Documents, a receipt for the Association Governing Documents (in a form to be determined by the Board), and a return envelope, postage prepaid, for return of the receipt. Furthermore, a non-Declarant Owner shall inform, and shall cause the Purchaser to inform, the Board when the parties have closed the sale of the Unit. The Board shall have the right to charge a non-Declarant Owner a reasonable fee for the processing of sales of Units, including, but not limited to, the costs associated with the copying and delivery of the Association Governing Documents to a prospective Purchaser.

ARTICLE VIII INSURANCE

Section 8.1 COVERAGE

To the extent reasonably available, the Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board determines that any insurance described in this Article will not be maintained, the Board shall promptly cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Owners and Eligible Mortgagees at their respective last known addresses.

Section 8.2 PROPERTY INSURANCE COVERAGE

(a) *Coverage.* Property insurance will cover the facilities of the Condominium Project including all Buildings and structures, for example, the Units and all fixtures, equipment and any improvements and betterments whether part of a Unit or a Common Element, and such personal property of Owners as is normally insured under building coverage, but excluding land, excavations, portions of foundations below the undersurface of the lowest basement floors, underground piling, piers, pipes, flues and drains and other items normally excluded from property policies; and all personal property owned by the Association.

(b) *Amounts.* The insurance will be for an amount (after application of any deductions) equal to one hundred percent (100%) of the actual replacement value of the covered items at the time the insurance is purchased and at each renewal date, excluding the cost of land, foundations, or excavations. The Board is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the insured items, and the cost of such appraisals shall be a Common Expense.

(c) *Risks Insured Against.* The insurance shall afford protection against "all risks" of direct physical loss commonly insured.

(d) *Other Provisions.* Insurance policies required by this Section 8.2 shall provide that: (i) each Owner is an insured Person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or Membership; (ii) the insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner; (iii) an act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy; (iv) if, at the time of a loss under the policy, there is other insurance in the name of an Owner which covers the same risk covered by the policy, the Association's policy provides primary insurance; (v) losses must be adjusted with the Association; (vi) insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Owner and the Owner's Mortgagee; (vii) the insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, to each Owner and to each Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses; (viii) the name of the insured shall be substantially as follows: "The Las Vegas Cay Club Homeowners' Association for the use and benefit of the individual Owners;" (ix) such policy of insurance shall contain a standard mortgage clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area in which the Condominium Project is located, and which appropriately names FNMA or FHLMC as an insured if FNMA or FHLMC are holders or insurers of first Mortgages on Units within the Condominium Project; (x) if FNMA or FHLMC is a holder or insurer of first Mortgages on Units within the Condominium Project, such policy of insurance shall be unacceptable where (A) under the terms of the insurance carrier's charter, by-laws, or policy, contributions or assessments may be made against borrowers, FNMA, FHLMC, or the designee of FNMA or FHLMC, (B) by the terms of the carrier's charter, loss payments are contingent on action by the carrier's board of directors, policy holders, or members, or (C) the

policy includes any limiting clauses (other than insurance conditions) that could prevent FNMA, FHLMC or the borrowers from collecting insurance proceeds; (xi) if FNMA or FHLMC are holders or insurers of first mortgages on Units within the Condominium Project, such policy of insurance shall include "agreed amount endorsements" and, if available, an "inflation guard endorsement;" (xii) if HUD, VA, FNMA or FHLMC is a holder or insurer of first mortgages on Units within the Condominium Project, such policy of insurance shall include coverage for losses or perils by fire or other perils, covered by the standard extended coverage endorsement; (xiii) if FNMA or FHLMC is a holder or insurer of first mortgages on Units within the Condominium Project, such policy of insurance shall contain such additional coverage protection customarily covered with respect to condominiums similar in construction, location, and use; and (xiv) if FNMA or FHLMC is a holder or insurer of first mortgages on Units within the Condominium Project, the maximum deductible under any policy of insurance regarding Association property shall be the lesser of \$10,000 or one percent (1%) of the face amount of policy coverage; provided, however, that for individual Units covered by a blanket policy of insurance, the deductible should be the higher of \$1,000 or one percent (1%) of the replacement cost of the Unit.

Section 8.3 FLOOD INSURANCE

If HUD, FNMA, or FHLMC is a holder or insurer of first mortgages on Units within the Condominium Project, and if the Condominium Project or portions thereof are identified as being within a flood hazard area and if flood hazard insurance is available under the National Flood Insurance Program, the Association shall be required to acquire such insurance, as a Common Expense, in an amount not less than: (a) the maximum coverage available; or (b) one hundred percent (100%) of the replacement costs of all buildings and other property. The maximum deductible with such policy shall be the lesser of Five Thousand Dollars (\$5,000) or one percent (1%) of the face amount of coverage.

Section 8.4 LIABILITY INSURANCE

Liability insurance including medical payments insurance, will maintained as determined by the Board, but for at least so long as HUD, VA, FHLMC or FNMA is the holder or insurer of a first mortgage on any Unit, the minimum amount of insurance coverage per occurrence shall be \$1,000,000. This insurance shall cover 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 the activities of the Association.

Insurance policies carried pursuant to this Section 8.4 shall provide that (i) each Owner is an insured Person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or Membership; (ii) the insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owners; (iii) an act or omission by an Owner or the Association will not void the policy or be a condition to recovery under the policy, if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; (iv) losses must be adjusted with the Association; (v) insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the

Association, but, in any case, it is to be held in trust for each Owner and the Owner's mortgagee; and (vi) any insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their last known addresses.

Section 8.5 FIDELITY BONDS

A blanket fidelity bond shall be provided for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the Manager at any time while the bond is in force. In no event shall the bond be for an amount less than the sum of three (3) months' assessments plus reserve funds. The bond shall include a provision that calls for ten (10) days' written notice to the Association, each Mortgagee, each servicer that services a FNMA or FHLMC owned mortgage on a Unit and the insurance trustee, if any, before the bond can be canceled or substantially modified for any reason. The bond shall be in an amount equal to the maximum amount of funds in the custody and control of the Association when the bond is in effect. When either: (a) separate bank accounts for working funds and reserves are maintained and monthly checks are sent directly to the Association; (b) a management company maintains separate records and bank accounts for each reserve account of the Association; or (c) two (2), directors must sign any check written on the reserve account, then the fidelity bond may be in an amount equal to three months (3) Common Expense Assessments on all Units.

Section 8.6 OWNER POLICIES

An insurance policy issued to the Association does not preclude Owners from obtaining insurance for their own benefit.

Section 8.7 WORKERS' COMPENSATION INSURANCE

If necessary, the Board shall obtain and maintain workers' compensation insurance to meet the requirements of the laws of the State of Nevada.

Section 8.8 DIRECTORS' AND OFFICERS' LIABILITY INSURANCE

The Board shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the directors and officers of the Association. This insurance will have limits determined by the Board.

Section 8.9 OTHER INSURANCE

The Association may carry other insurance which the Board considers appropriate to protect the Association and/or the Owners.

Section 8.10 PREMIUMS

Insurance premiums for insurance carried or to be carried by the Association shall be a Common Expense.

Section 8.11 INSURER RATINGS

For so long as FNMA or FHLMC is the holder or guarantor of any Mortgage, the following insurance ratings shall apply. With regard to any insurance policy for the Common Elements or any master or blanket insurance coverage described hereunder, an insurer shall have a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports, International Edition, an "A" or better rating in Demotech, Inc.'s Hazard Insurance Stability Ratings, a "BBBq" quality rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims paying ability rating in Standard and Poor's International Confidential Rating Service.

ARTICLE IX DESTRUCTION OF IMPROVEMENTS

Section 9.1 RESTORATION OF THE CONDOMINIUM PROJECT

Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Common Elements, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 8 of this Declaration for reconstruction or repair of the Condominium Project shall be used for such purpose, unless (i) the Condominium Project is terminated; (ii) repair or restoration would be illegal under any state or local statute or ordinance governing health or safety; or (iii) Owners holding at least eighty percent (80%) of the voting interest in the Association vote not to rebuild. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Condominium Project shall be reconstructed or rebuilt substantially in accordance with the applicable Plats and Plans and the original construction, plans if they are available, unless changes recommended by the Board have been approved in writing by Owners holding at least sixty-seven percent (67%) of the voting interest in the Association. A Capital Improvement Assessment shall be levied by the Board to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. If the entire Condominium Project is not repaired or replaced, then the proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Condominium Project. Any insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt shall be distributed to the Owners of those Units and the Units to which those Limited Common Elements were allocated; provided, however, that such proceeds shall first be applied to the balance then due on any Mortgages encumbering such Owner's Unit, in order of priority. The remainder of the insurance proceeds shall be distributed to the Owners holding an interest in such Common Elements in proportion to the interest held; provided, however, that such proceeds

shall first be applied to the balance then due on any Mortgage encumbering such Owners' Units, in order of priority.

Section 9.2 PARTITION

No Owner shall have the right to partition an interest in the Common Elements and there shall be no judicial partition of the Condominium Project, or any part thereof. Nothing herein shall be deemed to prevent partition of a co-tenancy in any Unit but not an Allocated Interest. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise, or by operation of law, for their own benefit and for the Units and for the benefit of all other Owners, specifically waive and abandon all right, interest and cause of action for a judicial partition of the tenancy in common ownership of the Common Elements of the Condominium Project and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

Section 9.3 RESIDENCE DAMAGE

Restoration and repair of any damage to any individual Unit shall be made by and at the individual expense of the Owner of the Unit so damaged, except to the extent such damage is covered by insurance maintained by the Association. In the event of a determination to rebuild the Condominium Project after partial or total destruction, as provided in this Article 9, such repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with the original plans for the Unit.

Section 9.4 NOTICE TO OWNERS AND ELIGIBLE MORTGAGEES

The Board, immediately upon having knowledge of any damage or destruction affecting a material portion of the Common Elements, shall promptly notify all Owners and Eligible Mortgagees. The Board, immediately upon having knowledge of any damage or destruction affecting a Unit, shall promptly, notify any Eligible Mortgagee and Eligible Insurer.

ARTICLE X EMINENT DOMAIN

The term "taking" as used in this Article 10 shall mean condemnation by exercise of the power of eminent domain or by sale under threat of the exercise of the power of eminent domain. The Board shall represent the Owners in any proceedings, negotiations, settlements, or agreements regarding takings. All taking proceeds shall be payable to the Association for the benefit of the Owners and their Mortgagees, and shall be distributed to such Owners and Mortgagees as provided in this Article 10.

Section 10.1 CONDOMINIUM PROJECT CONDEMNATION

If there is a taking of an interest in all or part of the Condominium Project such that the ownership, operation and use of the Condominium Project in accordance with the provisions of this Declaration is substantially and adversely affected, and within one hundred twenty (120)

days after the effective date of the taking, the Owners of Units (i) not taken, or (ii) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor area and to substantially their condition prior to the taking (collectively, the "*Remaining Units*") do not by affirmative vote of at least one-third (1/3) of their voting power approve the continuation of the Condominium Project and the repair, restoration and replacement to the extent feasible of the Common Elements and the Remaining Units, then the Board shall proceed with the sale of that portion of the Condominium Project which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 9.1 of this Declaration.

Section 10.2 CONDEMNATION OF COMMON ELEMENTS

If there is a taking of all or any portion of the Common Elements (other than Limited Common Elements), or any interest therein, other than the taking of an undivided interest therein taken as a result of the taking of a Condominium, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

Section 10.3 CONDEMNATION OF LIMITED COMMON ELEMENTS

If there is a taking of all or any portion of a Limited Common Element which is not taken in connection with the taking of all or any portion of the Unit to which it is appurtenant, the award in condemnation shall be paid to the Owner(s) of the Unit(s) to which the taken Limited Common Element was appurtenant; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Unit(s), in order of priority.

Section 10.4 CONDEMNATION OF CONDOMINIUMS

If there is a taking of a Unit, the award in condemnation shall be paid to the Owner of the Unit; provided, however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Unit, in order of priority.

Section 10.5 CONDEMNATION OF PORTIONS OF UNITS

(a) *Minor Takings Within Limits.* If (i) there is a taking of one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration of such Units can be accomplished at a cost less than or equal to the sum of (x) the amount of the condemnation awards for such takings, plus (y) any amounts the Owners of the taken Units wish to contribute to restoration, plus (z) an amount less than or equal to five percent (5%) of the gross expenses of the Association in accordance with the Budget for that Fiscal Year (collectively, the "*Allowable Cost*"), then the Board shall contract for such restoration and levy a Capital Improvement Assessment in an amount equal to the Allowable Cost less the amount of the condemnation awards and owners' contributions, and the condemnation awards, Owners' contributions and Capital Improvement Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards in excess of the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the

decreases in the fair market values of their Units; provided, however, that such awards shall first be applied to the balance then due on any Mortgages encumbering such Units, in order of priority.

(b) *Minor Takings Exceeding Limits.* If (i) there is a taking of a one or more Units such that the intended use of the Units as residential dwellings is not substantially and adversely affected, and (ii) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall call a special meeting of the Owners. If more than fifty percent (50%) of the Owners are represented at such special meeting, either in person or by proxy, and a majority of the votes cast at such special meeting are in favor of levying a Capital Improvement Assessment in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the Owners of the taken Units wish to contribute to such restoration, then the Board shall contract for such restoration and levy a Capital Improvement Assessment, and the condemnation awards, Owners' contributions and Capital Improvement Assessment shall be applied to such restoration.

(c) *Major Takings.* If the requisite approval is not obtained at the special meeting of the Owners referred to in Section 10.5(b) of this Declaration, or if there is a taking of a portion of one or more Units such that the Units are not capable of being restored, then the award in condemnation shall be paid to the Owners of the taken Units, which award must include compensation to the Owner for such Owner's Unit; provided however, that such award shall first be applied to the balance then due on any Mortgages encumbering such Unit, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units shall become part of the Common Elements, and the Owners of such taken Units on any lot, by acceptance of the award allotted to them in taking proceedings; hereby relinquish to the other Owners on such lot, on the basis of their relative ownership of the Common Elements therein, such Owners' undivided interest in the Common Elements. Each Owner relinquishing such Owner's interest in the Common Elements pursuant to this Section 10.5(c) shall, at the request of the Board and at the expense of the Association, execute and acknowledge such deeds and other instruments which the Board deems necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit shall not be liable for Assessments under this Declaration which accrue on or after the date such Owner accepts a condemnation award.

Section 10.6 PORTIONS OF AWARDS IN CONDEMNATION NOT COMPENSATORY FOR VALUE OF REAL PROPERTY

Those portions of awards in condemnation which do not directly compensate the Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken, or whose relocation is intended to be facilitated.

Section 10.7 NOTICE TO OWNERS AND ELIGIBLE MORTGAGEES

The Board, upon learning of any taking affecting a material portion of the Condominium Project or Improvements thereon, or any threat thereof, shall promptly notify all Owners and

Eligible Mortgagees and Eligible Insurers. The Board, upon learning of any taking affecting a Unit, or any threat thereof, shall promptly notify any Eligible Mortgagee.

ARTICLE XI MORTGAGEES

Section 11.1 ELIGIBLE MORTGAGEES

Any Mortgagee in a first lien position on a Unit shall be entitled to become an "Eligible Mortgagee" by notifying the Association of its name, address, and the Unit number and the address of the Unit encumbered by the Mortgage which it holds, in the manner provided in Section 18.8 of this Declaration. Any holder of a Mortgage in a first lien position who does not so request notice, shall not be deemed to be an Eligible Mortgagee under the terms of this Declaration and shall not be entitled to any notices from the Association.

Section 11.2 RIGHTS OF MORTGAGEES

Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration shall operate to defeat or render invalid the rights of any Mortgagee under any Mortgage upon one or more Units made in good faith and for value, provided that after the foreclosure of any such Deed of Trust, such Unit(s) shall remain subject to this Declaration as amended. For purposes of any provision of the Association Governing Documents which require the vote or approval of a specified percentage of Eligible Mortgagees, such vote or approval shall be determined based upon one vote for each Unit encumbered by each such Mortgagee in a first lien position. In order to induce Eligible Mortgagees to participate in the financing of the sale of Units, the following provisions are added hereto (and to the extent the provisions set forth in this Section 11.2 conflict with any other provisions of the Association Governing Documents, these added provisions shall control).

(a) Each Eligible Mortgagee and Eligible Insurer is entitled to written notification from the Association of: (i) any condemnation or casualty loss which affects either a material portion of the Condominium Project or any Unit(s) in which a security interest is held, insured or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable; (ii) any delinquency of sixty (60) days or more in the performance of any obligation under the Association Governing Documents including, without limitation, the payment of Assessments or charges owed by the Owner(s) of the Unit(s) in which a security interest is held, insured or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable, which notice each Owner hereby consents to and authorizes; (iii) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond maintained by the Association; and (iv) any proposed action of the Association which requires consent by a specified percentage of Eligible Mortgagees.

(b) Each Owner, including each Mortgagee who obtains title to such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of the Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Association Governing Documents.

(c) Each Mortgagee of a Mortgage encumbering any Unit which obtains title to such Unit, pursuant to the remedies provided in such Mortgage or by foreclosure of such Mortgage, shall take title to such Unit free and clear of claims for unpaid Assessments or charges against such Unit. However, each such Mortgagee, upon taking title to a Unit, shall be obligated to pay Assessments just as other Owners.

(d) Unless Eligible Mortgagees holding at least sixty-seven percent (67%) of the voting rights of all Eligible Mortgagees or Owners holding at least sixty-seven percent (67%) of the voting rights of all Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(i) by act or omission seek to abandon or terminate the Condominium Project;

(ii) change the method of determining the obligations, Assessments, dues or other charges which may be levied against any Owner;

(iii) partition or subdivide any non-Declarant owned Unit;

(iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements; provided, however, that the granting of easements for public utilities or for other purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this clause;

(v) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design, the exterior appearance or the maintenance of the Units or the Common Elements;

(vi) fail to maintain or cause to be maintained fire and extended coverage insurance on insurable Common Elements as provided in Article 8 of this Declaration;

(vii) use hazard insurance proceeds for losses to any portion of the Condominium Project (*i.e.*, Improvements to the Common Elements) for other than the repair, replacement or reconstruction of such property, subject to the provisions of Article 9 of this Declaration; or

(viii) change the pro rata interest or obligations of any non-Declarant owned Unit in order to levy Assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Unit in the Common Elements.

(e) All Eligible Mortgagees and Eligible Insurers shall have the right to:

(i) examine current copies of the Association's books, records and financial statements and the Association Governing Documents during normal business hours and upon not less than seventy-two (72) hours written notice;

(ii) require the Association to submit an annual audited or reviewed financial statement without expense to the entity requesting the statement;

(iii) request to receive written notice of all meetings of Owners; and

(iv) designate in writing a representative who shall be authorized to attend all meetings of Owners.

(f) All Eligible Mortgagees and Eligible Insurers shall be given thirty (30) days, written notice prior to the effective date of (i) any proposed material amendment to the Association Governing Documents; (ii) any termination of an agreement for professional management of the Condominium Project following any decision of the Owners to assume self-management of the Condominium Project; and (iii) any proposed termination of the Condominium Project as a condominium project.

(g) The Reserve Fund must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large Special Assessments.

(h) The Board shall secure and cause to be maintained in force at all times a fidelity bond for any Person handling funds of the Association, including, but not limited to, employees of the Manager.

(i) Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Elements, and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(j) The prior approval of FNMA, FHLMC, VA and HUD shall be required during Declarant Control Period for those Association actions set forth in Section 2.7(c) of this Declaration to the extent necessary to meet any FNMA, FHLMC, VA or HUD requirements applicable to the Condominium Project.

ARTICLE XII DURATION, AMENDMENT AND TERMINATION OF DECLARATION

Section 12.1 DURATION

This Declaration shall continue in full force for a term of thirty (30) years from the date of Recordation hereof, after which the term shall be automatically extended for successive periods of ten (10) years, unless terminated as set forth in Section 12.3 of this Declaration. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the Allocated Interests assigned to such Unit, as long as this Declaration shall continue in full force and effect. The provisions of this Article 12 are subject to the provisions of Articles 9 and 10 of this Declaration.

Section 12.2 AMENDMENT TO DECLARATION

(a) *Amendment by Declarant.* To the extent allowed by the Act: (i) at any time prior to the Close of Escrow for the sale of the first Unit, Declarant may unilaterally amend or terminate this Declaration without any vote or prior notice to the members and (ii) when Declarant exercises any of its Development Rights, Declarant may unilaterally amend this Declaration as provided in NRS Section 116.2117; provided, however, that any such amendment shall not be done in a manner inconsistent with the regulations and rules of FNMA, FHLMC, VA and HUD.

(b) *Amendment by the Owners.* The Board may propose an amendment to this Declaration upon its own initiative via a majority vote of the Board or upon request of the Owners of not less than ten percent (10%) of the Units. The notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting at which a proposed amendment is to be considered. The resolution shall be adopted by the vote, in person or by proxy, or written consent of Owners representing not less than sixty percent (60%) of the voting power of the Association; provided, however, that the specified percentage of the voting power of the Association necessary to amend a specified section or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that section or provision. The Owner approval described in this Section 12.2(b) shall not be required for amendments that may be executed by Declarant under NRS Sections 116.2109 and 116.211 by the Association under NRS Sections 116.1107 and 116.2108(3) or by certain Owners under NRS Sections 116.2108(2), 116.2112 and 116.2118. To the extent any Mortgage is held or insured by FNMA, FHLMC, VA or HUD, such amendments shall be in accordance with applicable rules and regulations of FNMA, FHLMC, VA and HUD.

(c) *Consent of Eligible Mortgagees.* In addition to the required notice and consent of Owners and Declarant provided above, the Eligible Mortgagees holding a majority of the voting power of all Eligible Mortgagees must approve any amendment to this Declaration which is of a material nature, as follows:

(i) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers or guarantors of Mortgages in first lien position as provided in this Declaration.

(ii) Any amendment which would necessitate a Mortgagee after it has acquired a Unit through foreclosure, to pay more than its proportionate share of any unpaid Assessment or Assessments accruing after such foreclosure.

(iii) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Unit not being separately assessed for tax purposes.

(iv) Any amendment relating to the insurance provisions as set out in Article 8 of this Declaration, or to the application of insurance proceeds as set out in Article 9 of this

Declaration, or to the disposition of any money received in any taking under condemnation proceedings.

(v) Any amendment which would or could result in partition or subdivision of a Unit in any manner inconsistent with the provisions of this Declaration.

(vi) Any amendment which would subject any Owner to a right of first refusal or other such restriction, if such Unit is proposed to be sold, transferred, or otherwise conveyed.

(vii) Any amendment concerning:

- (1) voting rights;
- (2) rights to use the Common Elements;
- (3) reserves and responsibility for maintenance, repair and replacement of the Common Elements excluding therefrom the ratification of the Budget;
- (4) reducing the boundaries of a Unit in which an Eligible Mortgagee has a security interest;
- (5) Owners' interests in the Common Elements;
- (6) convertibility of Common Elements into Units or Units into Common Elements other than by Declarant pursuant to the Development Rights;
- (7) establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a Mortgage with a first lien position;
- (8) annexation or deannexation of real property to or from the Condominium Project other than by Declarant pursuant to the Development Rights; or
- (9) Assessments, Assessment liens, or the subordination of such liens.

Each Eligible Mortgagee which receives proper written notice of a proposed amendment or termination of this Declaration by certified or registered mail with a return receipt requested shall be deemed to have approved the amendment or termination if it fails to submit a response to the notice within thirty (30) days after it receives the notice.

(d) *Recordation of Amendment.* A copy of each amendment shall be certified by the president or any officer of the Association so designated, and the amendment shall be effective when recorded.

Section 12.3 TERMINATION OF DECLARATION

Except in the case of a taking of all of the Units by eminent domain, termination of this Declaration shall require approval by the Owners representing at least eighty percent (80%) of

the Association's voting power. No such termination shall be effective unless it is also approved in advance either by fifty-one percent (51%) of the Eligible Mortgagees (if said termination is proposed by reason of the substantial destruction or condemnation of the Condominium Project) or by sixty-seven percent (67%) of such Eligible Mortgagees (if said termination is for reasons other than such substantial destruction or condemnation of the Condominium Project). An agreement to terminate this Declaration must be evidenced by the execution of an agreement to terminate in the same manner as a deed by the requisite number of Owners. The agreement to terminate must specify a date after which the agreement will be void unless it is Recorded.

Section 12.4 PROTECTION OF DECLARANT

The prior written approval of Declarant shall be required before any amendment which would impair or diminish the rights of Declarant to complete the Condominium Project or sell or lease Units therein shall become effective. Notwithstanding any other provisions of the Association Governing Documents, until such time as (i) Declarant is no longer entitled to exercise its rights under Article 13 of this Declaration, or (ii) Declarant no longer owns any Units in the Condominium Project, whichever occurs last, the following actions, before being undertaken by the Association, shall first be approved in writing by Declarant:

- (a) the proposal of any amendment of this Declaration or other action requiring the approval of Eligible Mortgagees pursuant to this Declaration, including without limitation, all amendments and actions specified in Section 12.2 of this Declaration;
- (b) the annexation to the Condominium Project of real property other than the Annexable Area pursuant to Article 14 of this Declaration; or
- (c) any significant reduction of Association maintenance or other services.

ARTICLE XIII DECLARANT'S RIGHTS AND RESERVATIONS

Nothing in the Association Governing Documents shall limit, and neither Owner nor the Association shall do anything to interfere with, the right of Declarant to subdivide or resubdivide any portion of the Condominium Project, or to complete Improvements to and on the Common Elements or any portion of the Condominium Project owned solely or partially by Declarant, or to alter the foregoing or its construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Condominium Project so long as any Unit remains unsold by Declarant. The rights of Declarant hereunder shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary for the conduct of its business of completing construction of the Improvements and disposing of the Units by sale, resale, lease or otherwise. Each Owner by accepting a deed to a Unit hereby acknowledges that the activities of Declarant may temporarily or permanently impair the view of such Owner and may constitute an inconvenience or nuisance to the Owners, and hereby consents to such impairment, inconvenience or nuisance until such time as Declarant or any successor-in-interest of Declarant ceases to own any portion of the Condominium Project or the Annexable Area.

This Declaration and/or its agents shall not limit the right of Declarant at any time prior to acquisition of title to a Unit by a Purchaser from Declarant to establish on the Condominium Project additional licenses, easements, reservations and right-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Condominium Project. Declarant may use any Units owned or leased by Declarant in the Condominium Project as model home complexes or real estate sales or leasing offices. Declarant need not seek or obtain Board approval of any Improvement constructed or placed on any portion of the Condominium Project by Declarant. The rights of Declarant under Association Governing Documents may be assigned by Declarant to any successor-in-interest as such rights may relate to any portion of Declarant's interest in any portion of the Condominium Project by a written assignment. Notwithstanding any other provision of this Declaration, the prior written approval of Declarant, as developer of the Condominium Project, will be required before any amendment of this Article 13 shall be effective. Each Owner hereby grants, upon acceptance of a deed to such Owner's Unit, an irrevocable, special power of attorney to Declarant to execute and Record all documents and Plats and Plans necessary to allow Declarant to exercise its rights under this Article 13. Declarant, its agents and prospective Purchasers shall be entitled to the nonexclusive use of the Common Elements without further cost for access, ingress, egress, use or enjoyment, in order to show the Condominium Project to prospective Purchasers, to dispose of the Condominium Project as provided herein, and to develop and sell the Annexable Area. By way of example, the entry and exit gates to the Condominium Project shall, during the construction and sale of any of the Units in the Condominium Project, be left open or closed at the sole discretion of Declarant. The Association shall provide Declarant with all notices and other documents to which an Owner or Eligible Mortgagee is entitled pursuant to this Declaration, provided that Declarant shall be provided such notices and other documents without making written request therefore.

ARTICLE XIV DEVELOPMENT RIGHTS OF DECLARANT

Section 14.1 DEVELOPMENT RIGHTS

Declarant hereby reserves each and every one of the following "Development Rights": (i) to add real estate, including the Annexable Area, to the Condominium Project; (ii) to create Units, Common Elements or Limited Common Elements; (iii) to create and remove Units, to subdivide Units or to convert Units into Common Elements; and (iv) to withdraw real estate from the Annexable Area or the Condominium Project. Declarant must exercise the Development Rights within ninety-nine (99) years following the Recordation of this Declaration. The Development Rights may be exercised with respect to different parcels of real estate or different portions of the Condominium Project at different times. Declarant makes no assurances regarding the boundaries of those parcels of real estate to which the Development Rights may apply or the order in which those parcels may be subjected to the Development Rights. If any Development Right is exercised in any portion of the real estate subject to that Development Right, the Development Right need not be exercised in all or any other portion of the remainder to that real estate.

Section 14.2 ADDITIONS BY DECLARANT

Declarant or its successors or assigns shall have the right from time to time to add to the Condominium Project any of the real property within the Annexable Area and to bring the real estate within the general plan and scheme of this Declaration without the approval of the Association, the Board or Owners. As certain real estate owned by Declarant or the Annexable Area is developed, Declarant may, with respect thereto, (i) comply with the provisions of NRS Section 116.2109 and (ii) Record a Notice of Addition which shall have the effect of causing the real estate that is the subject of such Notice of Addition to become subject to each and every covenant, condition, restriction and easement contained within this Declaration and the rights, powers and responsibilities of the owners, lessees and occupants of Units within such added property, as well as within the property originally subject to this Declaration, shall be the same as if the added property were originally covered by this Declaration. Furthermore, Declarant may supplement this Declaration with such additional covenants, conditions, restrictions, reservations and easements as Declarant may deem appropriate for that Phase. From the date upon which Declarant provides written notice, the Owners located in the added property shall share in the payment of Assessments to the Association to meet Common Expenses of the entire Condominium Project. Voting rights attributable to the Owners for the added property shall not vest until Annual Assessments have commenced as to such Phase. Declarant makes no representations or assurances as to whether any other real property will be added to the Condominium Project or that any Phases will be completed. Declarant may in its sole discretion elect not to proceed with the Improvements or Phases as set forth in this Declaration and the accompanying exhibits.

Section 14.3 NOTICE OF ADDITION OF TERRITORY

The additions authorized under Section 14.2 of this Declaration shall be made by Recording a Notice of Addition and complying with the provisions of NRS Section 116.2109 with respect to the added real estate which shall extend the general plan and scheme of this Declaration to such added property. Any such Notice of Addition shall constitute an amendment to this Declaration as described in NRS Section 116.211. The Notice of Addition for any addition under Section 14.2 of this Declaration shall be signed by Declarant. The Recordation of the Notice of Addition shall constitute and effectuate the annexation of the added property described therein and thereupon said added property shall become and constitute a part of the Condominium Project, become subject to this Declaration and encompassed within the general plan and scheme of covenants, conditions, restrictions, reservation of easements and equitable servitudes contained herein, and become subject to the functions, powers and jurisdiction of the Association and the Owners shall automatically become members of the Association. Such Notice of Addition may contain a supplemental Declaration with such additions and modifications of the covenants, conditions, restrictions, reservation of easements and equitable servitudes contained in this Declaration as may be necessary to reflect the different character, if any, of the added property, or as Declarant may deem appropriate in the development of the added property, and as are not inconsistent with the general plan and scheme of this Declaration.

Section 14.4 DEANNEXATION AND AMENDMENT

Declarant may amend a Notice of Addition or delete all or a portion of a Phase from coverage of this Declaration and the jurisdiction of the Association, so long as Declarant is the owner of the Phase and provided that (i) an amending instrument or a notice of deletion, as applicable, is Recorded in the same manner as the applicable Notice of Addition was Recorded and Declarant complies with the provisions of NRS Section 116.2109, (ii) Declarant has not exercised any Association vote with respect to any portion of the Phase, (iii) Assessments have not yet commenced with respect to any portion of the Phase, (iv) Close of Escrow has not occurred for the sale of any Unit in the Phase, and (v) the Association has not made any expenditures or incurred any obligations with respect to any portion of the Phase. The amending instrument or notice of deletion shall constitute an amendment to this Declaration as described in NRS Section 116.211.

Section 14.5 SUBDIVISION OF UNITS

Declarant may subdivide any Unit owned by Declarant into two or more additional Units or into Common Elements or Limited Common Elements. An amending instrument or notice of subdivision shall be Recorded in the same manner as a Notice of Addition, which instrument or notice shall constitute an amendment to this Declaration as described in NRS Section 116.211.

Section 14.6 AUTOMOBILE PARKING SPACES

Each Unit may be assigned at least one parking space within the Parking Easement in the sole discretion of Declarant or Association, as the case may be, for the exclusive use of that Unit.

Section 14.7 MAXIMUM NUMBER OF UNITS

Declarant hereby reserves the right to create a maximum of Three Hundred Sixty (360) Units throughout the Condominium Project.

Section 14.8 GUEST SUITES

Declarant may create one or more guest suites within a Building for the use of the guests and invitees of the Owners. An Owner's right to use and/or reserve the use of the guest suite(s) shall be subject to rules and regulations adopted by the Board.

ARTICLE XV RESERVATION OF SPECIAL DEVELOPMENT RIGHTS

In addition to the other rights contained in this Declaration, Declarant reserves the following Special Development Rights, on the terms and conditions and subject to the expiration deadlines set forth below:

Section 15.1 RIGHT TO COMPLETE IMPROVEMENTS AND CONSTRUCTION EASEMENT

Declarant reserves the right, for a period of sixty (60) months following the Recordation of this Declaration, to complete the construction of Improvements on the Condominium Project, and an easement over the Condominium Project for the purpose of doing so. Any damage caused to a Unit, or the Common Elements by Declarant or its agents in the use or exercise of said right and/or easement shall be repaired by and at the expense of Declarant.

Section 15.2 EXERCISE OF DEVELOPMENT RIGHTS

Declarant reserves the right to exercise its Development Rights including the right to annex the Annexable Area to the Condominium Project pursuant to the provisions of Articles 13 and 14 of this Declaration.

Section 15.3 OFFICES AND PROMOTIONAL SIGNS

Declarant reserves the right to maintain offices for sales and management models and signs on the Condominium Project for so long as Declarant owns any Unit. Declarant further reserves the right of unlimited access to such offices for sale and management and to the models and to signs on the Condominium Project during the same time period.

Section 15.4 MERGER; CONSOLIDATION

Declarant reserves the right during Declarant's Period of Control to merge or consolidate the Condominium Project into another Condominium or other common interest community.

Section 15.5 APPOINTMENT AND REMOVAL OF DIRECTORS

Declarant reserves the right to appoint and remove the officers of the Association and members of the Board, as set forth in Section 2.7 of this Declaration, for the time period set forth therein.

ARTICLE XVI SECURITY DISCLAIMER

The Association may, but shall not be obligated to, maintain or support certain activities within the Condominium Project designed to make the Condominium Project safer than it might otherwise be.

NEITHER THE ASSOCIATION NOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CONDOMINIUM PROJECT, AND NEITHER THE ASSOCIATION NOR DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNIT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND THE BOARD,

DECLARANT OR ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED OR INSTALLED ACCORDING TO THE GUIDELINES ESTABLISHED BY DECLARANT OR THE ASSOCIATION MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER OR OCCUPANT OF ANY UNIT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD AND COMMITTEES, DECLARANT, OR ANY OTHER SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISK FOR LOSS OR DAMAGE TO PERSONS, UNITS AND THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY TO FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

ARTICLE XVII VIOLATIONS

Section 17.1 VIOLATIONS IDENTIFIED BY THE ASSOCIATION

If the Board determines that there is a violation of any provision of the Association Governing Documents, or that there is an Improvement which is the maintenance responsibility of an Owner which is in need of installation, maintenance, repair, restoration or painting, then the Board shall give written notice to the responsible Owner identifying (i) the condition or violation complained of, and (ii) the length of time the Owner has to remedy the violation including; if applicable, the length of time the Owner has to submit plans to the Board and the length of time the Owner has to complete the work proposed in the plans submitted to the Board. If an Owner does not perform such corrective action as is required by the Board within the allotted time, the Board, after Notice and Hearing, may undertake to remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. Such Special Assessment shall be subject to enforcement and collection by the Board in accordance with the procedures provided for in this Declaration and in compliance with the Act. If the violation involves non-payment of any type of Assessment, then the Board shall be entitled to collect such delinquent Assessment pursuant to the procedures set forth in Article 6 of this Declaration.

Section 17.2 VIOLATIONS IDENTIFIED BY AN OWNER

In the event that an Owner alleges that another Owner, such Owner's Family, guests or tenants, has or is violating the Association Governing Documents (other than non-payment of any type of Assessment), the Owner must first submit the matter to the Board pursuant to the Notice and Hearing procedure established in the Bylaws before the complaining Owner may resort to a court of law for relief with respect to the alleged violation.

Section 17.3 LEGAL PROCEEDINGS

Failure to comply with any of the terms of the Association Governing Documents by an Owner, such Owner's Family; guests, employees, invitees or tenants, shall be grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof; provided, however, that the procedures established in this Declaration must first be followed, if they are applicable.

Section 17.4 LIMITATION ON EXPENDITURES

Except as may be otherwise provided in the Bylaws, the Association shall not incur litigation expenses, including, without limitation, attorneys' fees, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings without the approval of the Owners holding a majority of the voting power of the Association, excluding the voting power of any Owner who would be a defendant in such proceedings. Such approval shall not be necessary if the legal proceedings are initiated to (i) enforce the Association Governing Documents, or (ii) collect any unpaid Assessments levied pursuant to this Declaration.

Section 17.5 SCHEDULE OF FEES

The Board may adopt a schedule of reasonable fines or penalties and a policy of administering such fines or penalties which fines or penalties, in its reasonable discretion, it may assess against an Owner for the failure of such Owner's, invitees, tenants, guests or Family of such Owner, to comply with any provisions of the Association Governing Documents. Such fines or penalties may only be assessed by the Board, against the Owner and the Unit of the violating Owner, after Notice and Hearing.

Section 17.6 RIGHT TO ENFORCE

The Board, any Owner (not at the time in default hereunder), or Declarant (so long as Declarant is an Owner) shall be entitled to enforce the Association Governing Documents as described in this Article 17. Each Owner shall have a right of action against the Association for the Association's failure to comply with the Association Governing Documents. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive.

ARTICLE XVIII CLUB

Section 18.1 CLUB MEMBERSHIP

Owners may elect to join the Club pursuant to rules and regulations established by the Club owner. Owners may enter into an agreement with the Club whereby the Owners may purchase Club Memberships from the Club for the use and enjoyment of the Owners and the Owners will execute all documents required by the Club to evidence such Club Membership. The Club Memberships purchased by such Owners would inure to the Owners and upon the sale or other transfer of a Unit, the Club Memberships would transfer to the Purchaser.

Section 18.2 NON-OWNER CLUB MEMBERS.

In addition to Club Memberships based upon Unit ownership, the Club may also be open to outside members that do not own a Unit.

Section 18.3 CLUB FEES AND CHARGES

There may also be additional charges to each Owner for use of the Club facilities. These charges may include, but not be limited to, food and beverage, use of spa facilities, concierge services, guest fees and any other charges that may be applicable to the services provided by the Club. The amount of such additional Club charges shall be determined from time to time in the sole discretion of the Club owner.

Section 18.4 CLUB RULES AND REGULATIONS

The Club owner shall have the right to establish rules and regulations relating to the Club, fees charged by the Club owner, member conduct, fines and any other matters which the Club owner feels are necessary for proper administration of the Club. Club Membership shall be subject to any future rules, dues, fees, fines and other Club Membership requirements as the Club owner, in its sole discretion, may impose upon its members. In addition to any other matters the Club owner may decide to include in the Club rules and regulations, the rules and regulations may provide that a Club Membership can be revoked for failure of an Owner to abide by such rules and requirements.

Section 18.5 CONVEYANCE OF THE CLUB

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant or any other person with regard to the establishment of the Club, the purchase of Club Memberships by Owners, annexation of the Club into the Condominium Project or the continuing ownership or operation of the Club as now or hereafter depicted upon any plats, plans, maps or rendering of the Property, and no purported representation or warranty in such regard, either written or oral, shall ever be effective without an amendment hereto executed or joined into by Declarant. Further, the ownership or operational duties of and as to the Club may change at any time and from time to time by virtue of, but without limitation, (i) the sale or assumption of operation of the Club by/to an independent

Person, (ii) the establishment or conversion of the Club Membership structure to an "equity" club or similar arrangement whereby the members of the Club or an entity to be owned or to be controlled thereby will become the owner and/or operator of the Club, or (iii) the conveyance, pursuant to contract, option or otherwise, of the property of the Club to one or more affiliates, shareholders, employees or independent contractors of Declarant. As to any of the foregoing or any other alternative, no consent of the Association or Owner shall be required to effectuate such disposition or transfer. Declarant makes no representations or warranties regarding the use of the Club property by the Club owner and there shall be no obligation by any Club owner to maintain a facility on the Club property which is for the benefit of the Owners or the betterment of the Condominium Project.

ARTICLE XIX GENERAL PROVISIONS

Section 19.1 NO WAIVER

Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce that provision, or any other provision of this Declaration.

Section 19.2 ATTORNEYS' FEES

Any judgment rendered in any action or proceeding pursuant to this Declaration shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and costs of court.

Section 19.3 SEVERABILITY

The provisions of this Declaration shall be deemed independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provisions of this Declaration.

Section 19.4 INTERPRETATION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the creation and operation of a residential condominium development and for the maintenance of common elements. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the other, unless the context dictates otherwise.

Section 19.5 NO PUBLIC RIGHT OR DEDICATION

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Condominium Project to the public, or for any public use.

Section 19.6 NO REPRESENTATIONS OR WARRANTIES

No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Condominium Project or any portion thereof, or any Improvement thereon, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a condominium project, except as specifically and expressly set forth in this Declaration and except as may be filed by Declarant from time to time with any governmental authority.

Section 19.7 NON-LIABILITY AND INDEMNIFICATION

(a) *General Limitation.* Except as specifically provided in the Association Governing Documents or as required by law, no right, power, or responsibility conferred on the Board by the Association Governing Documents shall be construed as a duty, obligation or disability charged upon the Board, any member of the Board or any other officer, employee, agent or committee member of the Association. Such Persons are subject to the insulation from liability provided for directors of corporations by the laws of the State of Nevada to the fullest extent provided by such laws. Members of the Board are not personally liable to the victims of crimes occurring on the Condominium Project.

(b) *Indemnification.* When liability is sought to be imposed on a member of the Board, an officer, committee member, employee or agent of the Association, the Association shall indemnify him or her for his or her losses or claims, and undertake all costs of defense, unless and until it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof the Association is no longer liable for the cost of defense due to the willful or wanton misfeasance or gross negligence of such Person indemnified by the Association, the Association may recover indemnification costs expended from the individual who so acted. Punitive damages may not be recovered against the Association, but may be recovered from Persons whose activity gave rise to the damages. This Section 18.7(b) shall be construed to authorize payments and indemnification to the fullest extent now or hereafter permitted by applicable law. The entitlement to indemnification hereunder shall inure to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any person entitled to such indemnification.

Section 19.8 NOTICES

Except as otherwise provided in this Declaration, notice to be given to an owner shall be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one or more Co-Owners of a Condominium or to any general partner of a partnership or manager of a limited liability company owning a Condominium shall be deemed delivery to all Co-Owners, to the partnership or the limited liability company, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation shall be deemed delivery to the corporation. In lieu of the foregoing (and unless the provisions of Nevada law, including without limitation the provisions of NRS 116.31162 require delivery by registered or certified mail), such notice may be delivered by regular United States mail, postage prepaid, addressed to

the Owner at the most recent address furnished by such Owner to the Association or, if no such address shall have been furnished, to the street address of such Owner's Unit. Such notice shall be deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Owners or of the Board in which case the notice provisions of the Bylaws shall control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as shall be fixed from time to time and circulated to all Owners.

Section 19.9 PRIORITIES AND INCONSISTENCIES

If there are conflicts or inconsistencies between this Declaration and either the Articles or the Bylaws, the terms and provisions of this Declaration shall prevail over the Articles and Bylaws; and the terms and provisions of the Articles shall control over the Bylaws.

Section 19.10 CONSTRUCTIVE NOTICE AND ACCEPTANCE

Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Condominium Project does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, preservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Condominium Project, or any portion thereof.

FLAMINGO PALMS VILLAS, LLC,
a Nevada limited liability company

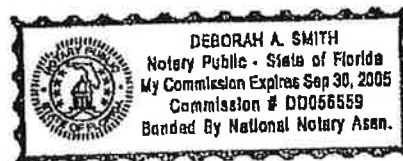
By: _____

DAVE CLARK

STATE OF NEVADA }
COUNTY OF CLARK } ss.

This instrument was acknowledged before me on August 23, 2005,
by Dave Clark, as Manager of Flamingo Palms Villas, LLC.

Deborah A. Smith
NOTARY PUBLIC Deborah A. Smith



the Owner at the most recent address furnished by such Owner to the Association or, if no such address shall have been furnished, to the street address of such Owner's Unit. Such notice shall be deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Owners or of the Board in which case the notice provisions of the Bylaws shall control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as shall be fixed from time to time and circulated to all Owners.

Section 19.9 PRIORITIES AND INCONSISTENCIES

If there are conflicts or inconsistencies between this Declaration and either the Articles or the Bylaws, the terms and provisions of this Declaration shall prevail over the Articles and Bylaws; and the terms and provisions of the Articles shall control over the Bylaws.

Section 19.10 CONSTRUCTIVE NOTICE AND ACCEPTANCE

Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Condominium Project does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, preservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Condominium Project, or any portion thereof.

FLAMINGO PALMS VILLAS, LLC,
a Nevada limited liability company

By: _____

STATE OF NEVADA }
COUNTY OF CLARK } ss.

 This instrument was acknowledged before me on _____, 2005,
by _____, as _____ of Flamingo Palms Villas, LLC.

NOTARY PUBLIC

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B

THE BUILDINGS

The following Buildings as indicated on the Final Map recorded on April 6, 2005, on file in Book 123, Page 58 of Plats in the Official Records:

Building B
Building C
Building D
Building E
Building F
Building G
Building H
Building I
Building J
Building K
Building L
Building M
Building N
Building O
Building P
Building Q
Building R
Building S

EXHIBIT C

DESCRIPTION OF UNIT BOUNDARIES

The boundaries of each Unit created by the Declaration are the unit lines shown on the Plat and Plans as numbered units, along with each Unit's identifying number, and are described as follows:

(a) **Upper Boundary:** The horizontal or sloping plane or planes of the unfinished lower surfaces of the ceiling bearing structure surfaces, beams and rafters, extended to an intersection with the vertical perimeter boundaries.

(b) **Lower Boundary:** The horizontal plane or planes of the undecorated or unfinished upper surfaces of the floors, extended to an intersection with the vertical perimeter boundaries and open horizontal unfinished surfaces of trim, sills and structural components.

(c) **Vertical Perimeter Boundaries:** The planes defined by the inner surfaces of the studs and framing of the perimeter walls; the unfinished inner surfaces of poured concrete walls; the unfinished surfaces of the interior trim, and thresholds along perimeter walls and floors; the unfinished (inner/outer) surfaces of closed windows and closed perimeter doors; and the innermost unfinished planes of all interior bearing studs and framing of bearing walls, columns, bearing partitions and partition walls between separate Units.

(d) **Inclusions:** Each Unit will include the spaces and Improvements lying within the boundaries described in (a), (b), and (c) above, and will also include the spaces and the Improvements within those spaces contained any space heating, water heating and air conditioning apparatus, all electrical switches, wiring, pipes, ducts, conduits, smoke detector systems and television, telephone, electrical receptacles and light fixtures and boxes serving that Unit exclusively. The surface of the forgoing items will be the boundaries of that Unit, whether or not those items are contiguous to the unit.

(e) **Apertures:** Where there are apertures in any boundary, including, but not limited to windows, doors, bay windows and skylights such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all frame work, window casings and weather stripping.

(f) **Exclusions:** Except when specifically included by other provisions of this Exhibit C, the following are excluded from each Unit: the spaces and Improvements lying outside of the boundaries described in (a), (b), and (c) above; and all chutes, pipes, flutes, ducts, wires, conduits, skylights and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and similar services to other Units and Common Elements or both.

Noncontiguous Portions: Certain Units may include special portions, pieces or equipment exclusively serving a particular Unit such as air conditioning compressors, meter boxes, utility connections structures and storage portions situated in buildings or structures that are detached or semi-detached from the buildings containing the principal occupied portion of the Units. This special equipment and storage portions are a part of the Unit, even though they are not contiguous with the residential portions.

[illegible][illegible]

PUBLIC OFFERING STATEMENT

THE LAS VEGAS CAY CLUB CONDOMINIUMS

1. *Declarant.* Flamingo Palms Villas, LLC, a Nevada limited liability company ("*Declarant*") is engaged in the development of a condominium project called The Las Vegas Cay Club Condominiums, a common-interest community in Clark County, Nevada (the "*Condominium*"). The Condominium will be located at 4200 S. Valley View Boulevard, Las Vegas, NV 89146. Declarant's principal address is 4200 S. Valley View Boulevard, Las Vegas, NV, 89146.

2. *The Condominium.* The Condominium will consist of approximately 360 condominium units situated in 16 buildings. The units will vary in size and configuration. The Condominium Common Elements will consist only of the interior space in certain buildings comprising the Condominium and certain easements associated with the Condominium. The final map, recorded on April 6, 2005, on file in Book 123, Page 58 of Plats in the Official Records of the County Recorder, Clark County Nevada, ("*Final Map*") references and shows a "Common Element" of "9.44 acres." Pursuant to the Declaration (as defined below), the Condominium Common Elements will not include the "Common Element" of "9.44 acres" or Building "A" as referenced and shown on the Final Map.

3. *Ownership.* Upon purchasing a Unit within the Condominium, a purchaser will receive fee simple title to that Unit. Each Unit owner will also own an undivided interest in the Common Elements and an interest in certain Limited Common Elements assigned to the Unit. The patio, balcony or terrace, if any, adjacent to the Unit purchased are Limited Common Elements assigned to the Unit.

4. *Planned Development.* Upon purchase of a Unit, a purchaser becomes a member of The Las Vegas Cay Club Homeowner's Association (the "*Association*") and is subject to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for the Las Vegas Cay Club Condominiums ("*Declaration*"). Declarant will record the Declaration in the Official Records of Clark County, Nevada. The use of the property within the Condominium is subject to the restrictions contained in the Declaration and any other governing documents of the Association.

5. *No Obligation.* Declarant, in its sole and absolute discretion, may accept or reject any offer to purchase a Unit. This Public Offering Statement is not, and shall not be construed to be, an offer by Declarant or any other person for the sale of any Unit.

6. *The Club.* Declarant may own and operate a club on property surrounding and adjacent to the Condominium that will not be a part of the Common Elements (the "*Club*"). Declarant reserves the right to annex the Club into the Condominium as a common element or assign ownership and management of the Club to other entities or individuals. Unit owners may have the option of entering into an agreement for the purchase of memberships from the Club. These memberships will be subordinate to the rights of any lenders providing financing for the Club.

No assurances are made by Declarant with regard to establishment of the Club, the purchase of memberships by Unit Owners, the annexation of the Club into the Condominium or the ownership and management of the Club.

7. *The Association's Governing Documents.* Declarant has attached a copy of the Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, Rules and Regulations for the Association and the projected budget of the Association, and any amendments as exhibits to this Public Offering Statement. Because the Association does not have any operating expenses or income at this time, a current financial statement for the Association is not available.

8. *Developmental Rights.* Declarant has the developmental rights stated in the Declaration subject to the following:

- (a) The maximum total number of Units within the Association will be 360.
- (b) No representations are made regarding restrictions of use for the Units.
- (c) There may or may not be additional Common Elements or Limited Common Elements dedicated and conveyed to the Association. There is no assurance of the type or character of any improvements to any additional Common Elements.
- (d) No assurances are made as to the descriptions or locations of any additional improvements that may be made or any limited common elements that may be made by Declarant pursuant to any development right or any site map indicating creation of the same.
- (e) No assurances are made as to whether any Limited Common Elements to be created by Declarant will be approximately equal to the proportion existing within other parts of the Association.
- (f) No assurances are made as to whether any restrictions in the Declaration pertaining to use, occupancy and alienation of Units will apply to any Units to be created by Declarant.
- (g) Assurances made herein do not apply if any developmental right of the Declarant is not exercised.

9. *Services/Subsidies of Declarant.* It is anticipated that Declarant may pay for certain expenses, to the extent deemed necessary by Declarant in its sole discretion, for the Condominium, during the first year of operation of the Association. It is expected that these estimated expenses, together with additional personnel and service expenses as determined by the board of directors of the Association, will eventually become expenses of the Association.

10. *Fees and Assessments.*

(a) *Initial Fees.* Upon acquisition of record title to a Unit from Declarant, each owner shall pay an amount equal to three monthly installments of assessments attributable to the owner's Unit. The owner shall deposit this amount into the purchase and sale escrow. The

escrow officer will disburse this amount to the Association, or to Declarant for Association related expenses or expenses Declarant incurs or incurred in maintaining the common areas or providing the services and subsidies as set forth in Paragraph 10 of this Public Offering Statement.

(b) *Annual Assessment.* Each Unit owner is responsible to pay an annual assessment for ownership in the Condominium. The assessment will be determined on an annual basis as set forth in the Declaration. The assessment will be paid in installments at such frequency as established by the board of directors of the Association. The initial monthly installment will vary according to the type of Unit. Typically, larger Units will be assessed more than units which are smaller. Because the assessment amount will depend on the size of a Unit, it is anticipated that annual assessments will range between approximately \$217.78 per month for the smaller units and \$505.30 per month for the larger units.

11. *Warranties.* Notwithstanding any other provision contained in this Public Offering Statement, Declarant hereby excludes each of the express warranties set forth in NRS 116.4113 and, to the fullest extent allowed by law, Declarant excludes all implied warranties set forth in NRS 116.4114 and reserves to itself any and all defenses it may have against providing such warranties. The period for commencing any action against Declarant for breach of any obligations or warranties arising under NRS 116.4113 or 116.4114 shall be, and hereby is limited to, two (2) years after the cause of action accrues. No express warranty is made by Declarant, nor may the purchaser rely upon any express warranty. Specifically, Declarant disclaims all warranties for all electrical wiring and fixtures in the Condominium, any furnace, all materials comprising or supporting the roof, and all components of the air conditioning system.

12. *Cancellation Right.* Pursuant to NRS 116.4108, unless the prospective purchaser or an agent of purchaser has personally inspected the Unit to be purchased, a purchaser may cancel the sales contract upon written notice to Declarant by midnight of the fifth calendar day following the date of execution of the sales contract. If purchaser or an agent of purchaser has personally inspected the Unit, purchaser shall not be entitled to cancel the sales contract as set forth in the preceding sentence.

13. *Unsatisfied Judgments or Pending Suits.* Declarant has no actual knowledge of any unsatisfied judgments or pending suits against the Association.

14. *Schools.* Declarant has no control over which public school children residing in the Condominium shall attend. The Zoning Division of Clark County School District determines this and may change it without notice. Purchaser may obtain more information regarding schools from the Clark County School District, Zoning Division, at (702)799-6430, or write to 4214 Eucalyptus Annex, Las Vegas, Nevada 89121.

15. *Areas Surrounding the Condominium.* Declarant makes no representations or warranties with respect to the property surrounding the Condominium and the uses to which such property is being used or may be used in the future and any interference which such uses may present to the views and/or other uses of the Condominium property.

16. *Further Information Regarding Common Interest Communities.* An information statement regarding the purchase of property in a common interest community is attached as an exhibit to this Public Offering Statement. This information is being provided to prospective purchasers pursuant to Nevada Revised Statutes 116.4103 and 116.41095 and should be carefully reviewed and fully understood prior to the purchase of a Unit located within the Condominium.

17. *NRS 116.4106 Disclosures.* In accordance with NRS 116.4106, Declarant incorporates by reference the Statement by Declarant attached as an exhibit to this Public Offering Statement.

18. *Terms.* Except as otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Declaration.

THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF AUGUST __, 2005. RECENT DEVELOPMENTS REGARDING (i) THE GENERAL DESCRIPTION OF THE CONDOMINIUM, AND (ii) PENDING SUITS AGAINST THE ASSOCIATION MAY NOT BE REFLECTED IN THIS STATEMENT.

THE STATEMENTS SET FORTH IN THIS PUBLIC OFFERING STATEMENT ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO THE ENTIRE SET OF DISCLOSURE MATERIALS AND THE PURCHASE AGREEMENT. ALL DISCLOSURE MATERIALS AND CONTRACTS ARE IMPORTANT DOCUMENTS AND, IF NOT UNDERSTOOD, THE PROSPECTIVE PURCHASER SHOULD SEEK COMPETENT ADVICE.