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**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS**

FOR

TRIPOLY AT STEPHANIE

(a Nevada Residential Common-Interest Community)
CITY OF HENDERSON, CLARK COUNTY, NEVADA

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**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
TRIPOLY AT STEPHANIE**

THIS DECLARATION ("Declaration"), made as of the 14TH day of June, 2004, by KB HOME NEVADA INC., a Nevada corporation ("Declarant"),

WITNESSETH:

WHEREAS:

A. Declarant owns certain real property located in the City of Henderson, Clark County, Nevada, on which Declarant intends to subdivide, develop, construct, market and sell a residential common-interest condominium community, to be known as "TRIPOLY AT STEPHANIE"; and

B. A portion of said property, as more particularly described in Exhibit "A" hereto, shall constitute the property initially covered by this Declaration ("Original Property"); and

C. Declarant reserves the right from time to time to add all or any portions of the real property, described in Exhibit "B" attached hereto (the "Annexable Area"), up to an aggregate maximum number of Residential Units that may (but need not) be created in the Community of three hundred (300) aggregate Residential Units ("Maximum Residential Units That May Be Created"); and

D. The Original Property and, following annexation from time to time, in Declarant's sole discretion, any and all Annexed Property, shall comprise the "Properties"; and

E. Declarant intends that the Properties shall be a Nevada Common-Interest Community, and a Condominium, as respectively defined in NRS § 116.021 and § 116.027, created pursuant to NRS § 116.2101 upon the recordation of this Declaration; and

F. The name of the Community shall be TRIPOLY AT STEPHANIE, and the name of the Nevada nonprofit corporation organized as the homeowners association in connection therewith shall be TRIPOLY AT STEPHANIE HOMEOWNERS ASSOCIATION ("Association"); and

G. Declarant intends to develop and convey the Properties pursuant to a general plan and subject to certain protective covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges; and

H. Declarant has deemed it desirable, for the efficient preservation of the value and amenities of the Properties pursuant to the provisions of this Declaration, to organize the Association, to which shall be delegated and assigned the powers of owning, maintaining and administering the Common Elements (as defined herein), administering and enforcing the covenants and restrictions, and collecting and disbursing the Assessments and charges hereinafter created. Declarant will cause, or has caused, the Association to be formed for the purpose of exercising such functions; and

I. This Declaration is intended to set forth a dynamic and flexible plan for governance of the Community, and for the overall development, administration, maintenance and preservation of the Community.

NOW, THEREFORE, Declarant hereby declares that all of the Original Property, and, from the date(s) of respective annexation, all Annexed Property (collectively, "Properties") shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the provisions of this Declaration and to the following protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, in furtherance of a general plan for the maintenance, subdivision, improvement and sale and lease of the Properties or any portion thereof. The protective covenants, conditions, restrictions, reservations, easements, and equitable servitudes set forth in this Declaration shall run with and burden the Properties and shall be binding upon all Persons having or acquiring any right, title or interest in the Properties, or any part thereof, and their heirs, successors and assigns; shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon, and may be enforced by Declarant, the Association, each Owner, and their respective heirs, executors and administrators, and successive owners and assigns. All Residential Units within this Community shall be used, improved and limited exclusively to single Family residential use.

ARTICLE 1 **DEFINITIONS**

Section 1.1 "Act" (sometimes referred to as "NRS Chapter 116") shall mean Nevada's Uniform Common Interest Ownership Act, set forth in Chapter 116 of Nevada Revised Statutes, as the same may be amended from time to time. Except as otherwise indicated, capitalized terms herein shall have the same meanings ascribed to such terms in the Act.

Section 1.2 "Allocated Interests" shall mean the following interests allocated to each Residential Unit: an equal undivided fractional pro-rata interest in the Common Elements (but not any HOA Unit conveyed to the Association), in which the numerator is one (1) and the denominator is the total number of Residential Units from time to time subject of Record to this Declaration (so that, for illustrative purposes, in the event and at such time as a total of 300 Residential Units have been annexed and/or subjected of Record to this Declaration; a non-exclusive easement of enjoyment of all Common Elements in the Properties; allocation of Limited Common Elements (Yard Component or Balcony as applicable, and other Exclusive Use Areas) pursuant to the Plat or as set forth herein or by Declarant in a recorded instrument equal prorated (per Residential Unit owned) liability for Common Expenses, pursuant to Section 6.10, below; membership and one vote in the Association (per Residential Unit owned), which membership and vote shall be appurtenant to the Residential Unit; and a Garage, as designated on the Plat or by Declarant by separate Recorded instrument, appurtenant to the Residential Unit.

Section 1.3 "Annexable Area" shall mean all or any portion of that real property described in Exhibit "B" attached hereto and incorporated by this reference herein, all or any portion of which real property 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 Community or a part of the Properties until such portion of the Annexable Area has been duly annexed hereto pursuant to Article 14 hereof.

Section 1.4 "Annexation Amendment" shall mean an annexation amendment as set forth in Section 14.2 hereof.

Section 1.5 "Annexed Property" shall mean any and all portion(s) of the Annexable Area from time to time added to the Properties covered by this Declaration, by Recordation of Annexation Amendment(s) pursuant to Article 14 hereof.

Section 1.6 "ARC" shall mean the Architectural Review Committee created pursuant to Article 18 hereof.

Section 1.7 "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 Nevada, as such Articles may be amended from time to time.

Section 1.8 "Assessments" shall refer collectively to Annual Assessments, and any applicable Capital Assessments, Supplemental Assessments, and Specific Assessments.

Section 1.9 "Assessment, Annual" shall mean the annual charge against each Owner and his or her Residential Unit, representing a portion of the Common Expenses, which are to be paid in equal periodic (monthly, quarterly, or annually as determined from time to time by the Board) installments commencing on the Assessment Commencement Date, by each Owner to the Association in the manner and at the times and proportions provided herein.

Section 1.10 "Assessment, Capital" shall mean a charge against each Owner and his or her Residential Unit, representing a portion of the costs to the Association for installation, construction, or reconstruction of any Improvements on any portion of the Common Elements which the Association may from time to time authorize, pursuant to the provisions of this Declaration. Such charge shall be levied among all Owners and their Residential Units in the same proportion as Annual Assessments.

Section 1.11 "Assessment, Specific" shall mean a charge against an Owner and his or her Residential Unit, 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, or levied by the Board as a reasonable fine or penalty for noncompliance herewith, plus interest and other charges on such Specific Assessment as provided for in this Declaration.

Section 1.12 "Assessment, Supplemental" shall mean a charge against each Owner and his or her Residential Unit, representing a prorated portion of extraordinary costs which the Association may from time to time encounter and need to authorize payment thereof, pursuant to the provisions of this Declaration, including but not necessarily limited to Section 6.13 hereof. Supplemental Assessments normally shall be prorated and levied among all Owners and their Residential Units in the same proportion as Annual Assessments, or in such other reasonable manner as the Board in its reasonable discretion may determine.

Section 1.13 "Assessment Commencement Date" shall mean that date, pursuant to Section 6.7 hereof, duly established by the Board, on which Annual Assessments shall commence.

Section 1.14 "Association" shall mean TRIPOLY AT STEPHANIE HOMEOWNERS ASSOCIATION, a Nevada non-profit corporation, and its successors and assigns.

Section 1.15 "Association Funds" shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article 6 hereof.

Section 1.16 "Balcony" shall mean a balcony appurtenant to a Residential Unit, as constructed by Declarant on certain, but not all, Residential Units. No Owner or Person other than Declarant, in its sole and absolute discretion, shall have any right to construct or shall construct, a Balcony.

Section 1.17 "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.

Section 1.18 "Board or Board of Directors" shall mean the Board of Directors of the Association, elected or appointed in accordance with the Bylaws and this Declaration. The Board of Directors is an "Executive Board" as defined by NRS § 116.045.

Section 1.19 "Budget" shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration, prepared and approved pursuant to the provisions of this Declaration, including, but not limited to, Section 6.4 below.

Section 1.20 "Building" shall mean a Condominium Building.

Section 1.21 "Bylaws" shall mean the Bylaws of the Association which have or will be adopted by the Board, as such Bylaws may be amended from time to time.

Section 1.22 "Capital Contributions" shall have the meaning set forth in Section 6.6 below.

Section 1.23 "City" shall mean the city in which the Properties are located (i.e., City of Henderson, Nevada).

Section 1.24 "Close of Escrow" shall mean the date on which a deed is Recorded conveying a Residential Unit from Declarant to a Purchaser.

Section 1.25 "Common Elements" shall mean all of the Properties, other than the Units and Garages (and subject to specific provisions for Yard Components, Balconies, and other Limited Common Elements), and shall initially include certain real property and improvements described in Exhibit "A" attached hereto, including without limitation, the following components:

(a) the Buildings (including, but not by way of limitation, the foundation, columns, girders, beams, supports, interior bearing walls, perimeter and supporting walls, chimneys, chimney chases, roofs, exterior stairs, porches, 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), except for the Units and/or Garages, and subject to specific provisions in this Declaration and in the Act pertaining to Limited Common Elements; and

(b) sidewalks, walkways, paths, grass, shrubbery, trees, driveways, roadways, landscaping, parking areas, storm drainage structures, and related facilities upon the Properties, other than the HOA Unit, if any, and

(c) pumps, tanks, motors, fans, gutters, compressors, ducts, and, in general, all apparatus, installations, and equipment of or serving the Building and existing for the use of one or more of the Owners; and

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

The Common Elements shall be owned by the Owners of the Residential Units, each Owner of a Residential Unit having an undivided fractional interest in the Common Elements (but not the HOA Unit, if any, which shall be owned by the Association in fee) as provided in this Declaration.

Section 1.26 "Common Expenses" shall mean expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, including the actual and estimated costs of maintenance, insurance, management, operation, repair and replacement of the Common Elements; painting over or removing graffiti, pursuant to Section 8.10 below; unpaid Assessments (subject to reimbursement by the Owner(s) to which such unpaid Assessments are allocable); the costs of any commonly metered utilities, if any, and any other commonly metered charges for the Properties; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to the Manager, accountants, attorneys, consultants, and employees; costs of all utilities, gardening, trash pickup and disposal, and other services benefitting the Common Elements; costs of fire, casualty and liability insurance, workers' compensation insurance, and any other insurance covering the Association, Common Elements, or Properties, or deemed prudent and necessary by the Board; costs of bonding the Board, Officers, Manager, or any other Person handling the funds of the Association; any statutorily required ombudsman fees; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Elements or Properties or deemed prudent and necessary by the Board; costs of maintaining and/or repairing certain portions of trail and landscaping along I-215 and/or certain landscaped area along Chapata Drive; costs of any other item or items incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of the Owners; prudent reserves; and any other expenses for which the Association is responsible pursuant to this Declaration or pursuant to any applicable provision of NRS Chapter 116.

Section 1.27 "Common Recreational Area" shall mean a common recreational area for the Community, and the building and other Improvements on such area, which shall be a part of the Common Elements. The Common Recreational Area may, but need not necessarily, include a swimming pool, spa, and pool building.

Section 1.28 "Community" shall mean a Common-Interest Community, as defined in NRS § 116.021, and a Condominium, as defined in NRS § 116.027.

Section 1.29 "Condominium Building" shall mean each residential condominium building housing Residential Units within the Properties, as shown on the Plat. Each Condominium Building shall be comprised of Garages on portions of the ground floor, and three Residential Units, which may be located on portions of the ground floor and/or upper floor; and appurtenant Exclusive Use Areas, including, but not necessarily limited to, two Yard Components, which shall be appurtenant to certain designated Residential Units in the Building; and a Balcony, appurtenant to a designated Residential Unit in the Building. Declarant reserves the right, in its sole discretion, to unilaterally change or modify the configuration of any Condominium Building if the Condominium Building at such time has not yet been built.

Section 1.30 "County" shall mean Clark County, Nevada.

Section 1.31 "Declarant" shall mean KB HOME NEVADA INC., a Nevada corporation, and its successors and any Person(s) to which it shall have assigned any rights hereunder by express written and Recorded assignment (but specifically excluding Purchasers, as defined in NRS §116.079).

Section 1.32 "Declarant Control Period" shall have the meaning set forth in Section 3.7 below.

Section 1.33 "Declaration" shall mean this instrument as it may be amended from time to time.

Section 1.34 "Deed of Trust" shall mean a mortgage or a deed of trust, as the case may be.

Section 1.35 "Director" shall mean a duly appointed or elected and current member of the Board of Directors.

Section 1.36 "Eligible Holder" or "Eligible Mortgagee" shall mean each Beneficiary, insurer and/or guarantor of a first Mortgage encumbering a Residential Unit, which has filed with the Board a written request for notification as to relevant matters as specified in this Declaration.

Section 1.37 "Exclusive Use Areas" shall mean the Limited Common Elements.

Section 1.38 "Family" shall mean (a) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (b) a group of natural persons not all so related, but who maintain a common household in a Residential Unit, all as subject to and in compliance with all applicable federal and Nevada laws and local health codes and other applicable Ordinances.

Section 1.39 "FHA" shall mean the Federal Housing Administration.

Section 1.40 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporations.

Section 1.41 "Fiscal Year" shall mean the twelve (12) month fiscal accounting and reporting period of the Association selected from time to time by the Board.

Section 1.42 "FNMA" or "GNMA" FNMA shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation. GNMA shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successors to such association.

Section 1.43 "Garage" shall mean a garage, identified as such on the Plat and/or expressly designated by Declarant as a Garage in a recorded instrument, appurtenant to and a part of a designated Residential Unit. A Garage shall consist of a fee simple interest bounded by the interior surfaces of the walls, floor, ceiling, and exterior door (and any exterior window) thereof, in like manner as a Residential Unit is bounded. A Garage includes both the portions of the building

so described and the airspace so encompassed. A Garage shall not be deemed independently to constitute a Residential Unit, but shall be a part of and appurtenant to a Residential Unit as designated by Declarant pursuant to this Declaration.

Section 1.44 "Governing Documents" shall mean the Declaration, Articles, Bylaws, Plat, Rules and Regulations, any Architectural Guidelines, and any other documents so specified from time to time: (a) by Declarant, or (b) (from and after Close of Escrow of the last remaining Residential Unit from the Units That May Be Conveyed) by the Board. Any irreconcilable inconsistency among the Governing Documents shall be governed pursuant to Sections 17.13 and 17.16, below.

Section 1.45 "HOA Unit" shall mean any and all real property in the Properties owned in fee title by the Association (and which may, but need not necessarily, include the Common Recreational Area and/or Private Streets), whether or not such HOA Unit, if any, is described on the Plat as a "Common Lot". Declarant reserves the right, but not the obligation, to create any HOA Unit(s) in Declarant's sole and absolute discretion.

Section 1.46 "HVAC" shall mean heating, ventilation, and/or air conditioning equipment and systems. HVAC, located on easements in Common Elements, which serve one Residential Unit exclusively, shall constitute Exclusive Use Areas as to such Residential Unit, pursuant to Sections 2.14 and 2.15, below.

Section 1.47 "Identifying Number", pursuant to NRS § 116.053, shall mean the number which identifies a Unit on the Plat.

Section 1.48 "Improvement" shall mean any structure or appurtenance thereto of every type and kind, whether above or below the land surface, located in the Properties, including but not limited to Condominium Buildings and other structures, walkways, sprinkler pipes, Garages, Yard Components, Balconies, swimming pools, spas, and other recreational facilities, carports, roads, driveways, Private Streets, entry way, parking areas, walls, perimeter walls, hardscape, curbs, gutters, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, hardscape features, hedges, windbreaks, railings, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures or equipment.

Section 1.49 "Limited Common Elements" (sometimes referred to herein as "Exclusive Use Areas") shall mean the areas shown as limited common elements on the Plat, and allocated exclusively to individual Residential Units, together with such HVAC designed to serve a single Residential Unit, but located outside of the Residential Unit's boundaries. Use, maintenance, repair and replacement of Limited Common Elements shall be as set forth in this Declaration. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a Residential Unit, any portion respectively thereof serving only the Residential Unit is a Limited Common Element allocated solely to that Residential Unit, and any portion respectively thereof serving more than one Residential Unit or any portion of the Common Elements is a part of the Common Elements. Limited Common Elements may include, without limitation, Yard Components, and Balconies.

Section 1.50 "Manager" shall mean the Person, if any, whether an employee or independent contractor, hired as such by the Association, acting through the Board, and delegated the authority to implement certain duties, powers or functions of the Association as provided in this Declaration.

Section 1.51 "Member," "Membership." "Member" shall mean any Person holding a membership in the Association, as provided in this Declaration. "Membership" shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations, including liability for Assessments, contained in the Governing Documents.

Section 1.52 "Member in Good Standing" shall mean a Member whose voting rights have not been suspended in accordance with the Governing Documents or applicable Nevada law.

Section 1.53 "Mortgage," "Mortgagee," "Mortgagor." "Mortgage" shall mean any unreleased mortgage or deed of trust or other similar instrument of Record, given voluntarily by an Owner, encumbering his or her Residential Unit to secure the performance of an obligation or the payment of a debt, which will be released and reconveyed upon the completion of such performance or payment of such debt. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." "Mortgage" shall not include any judgment lien, mechanic's lien, tax lien, or other similarly involuntary lien on or encumbrance of a Residential Unit. The term "Mortgagee" shall mean a Person to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. "Mortgagor" shall mean a Person who mortgages his or her Residential Unit to another (i.e., the maker of a Mortgage), and shall include the trustor of a Deed of Trust. "Trustor" shall be synonymous with the term "Mortgagor"; and "Beneficiary" shall be synonymous with "Mortgagee." For purposes of this Declaration, "first Mortgage" or "first Deed of Trust" shall mean a Mortgage or Deed of Trust with first priority over other mortgages or deeds of trust on a Residential Unit in the Properties and "first Mortgagee" or "first Beneficiary" shall mean the holder of a first Mortgage or Beneficiary under a first Deed of Trust.

Section 1.54 "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 Owner's expense, in the manner further provided in the Bylaws.

Section 1.55 "Officer" shall mean a duly elected or appointed and current officer of the Association.

Section 1.56 "Ordinance(s)" shall mean all applicable ordinances and rules of the City, and/or other applicable government with jurisdiction.

Section 1.57 "Original Property" shall mean that real property described on Exhibit "A" attached hereto and incorporated by this reference herein, which shall be the initial real property made subject to this Declaration, immediately upon the Recordation of this Declaration.

Section 1.58 "Owner" shall mean the Person or Persons, including Declarant, holding fee simple interest of Record to any Residential Unit. The term "Owner" shall include sellers under executory contracts of sale, but shall exclude Mortgagees. Pursuant to Article 4 hereof, a vendee under an installment land sale contract shall be deemed an "Owner" hereunder, provided the Board has received written notification thereof, executed by both vendor and vendee thereunder.

Section 1.59 "Perimeter Wall(s)/Fence(s)" shall mean the walls and/or fences located generally around the exterior boundary of the Properties.

Section 1.60 "Person" shall mean a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

Section 1.61 "Phase" shall mean a developmental phase, as set forth on the Plat. The initial Phase is described on Exhibit "A" to this Declaration. Each and every subsequent Phase shall be described as such on a Recorded Annexation Amendment hereto.

Section 1.62 "Plat" shall mean the final condominium map of TRILOGY AT STEPHANIE - UNIT 1, on file in Book 115 of Plats, Page 050, in the Office of the County Recorder, Clark County, Nevada, and any and all other plat maps of the Community Recorded by Declarant, as said plat maps from time to time may be amended or supplemented of Record by Declarant.

Section 1.63 "Private Streets" shall mean all private streets, rights of way, street scapes, and vehicular ingress and egress easements in the Properties, shown as such on the Plat.

Section 1.64 "Project" shall mean the Properties.

Section 1.65 "Properties" shall mean all of the Original Property described in Exhibit "A," attached hereto, together with such portions of the Annexable Area, described in Exhibit "B" hereto, as may hereafter be annexed from time to time thereto pursuant to Article 14 of this Declaration.

Section 1.66 "Purchaser" shall have that meaning as provided in NRS § 116.079.

Section 1.67 "Record," "Recorded," "Filed" or "Recordation" shall mean, with respect to any document, the recordation of such document in the official records of the County Recorder of Clark County, Nevada.

Section 1.68 "Resident" shall mean any Owner, tenant, or other person, who is physically residing in a Residential Unit.

Section 1.69 "Residential Unit" shall mean each dwelling unit space identified as such on the Plat and designated for separate ownership and occupancy, and shall consist of a fee simple interest bounded by the boundaries set forth in Section 2.24 of this Declaration.

Section 1.70 "Rules and Regulations" shall mean the rules and regulations, if any, adopted by the Board pursuant to the Declaration and Bylaws, as such Rules and Regulations from time to time may be amended.

Section 1.71 "Sight Visibility Restriction Areas" shall mean those areas, if any, which are or may be located on portions of Common Elements and/or any HOA Unit, identified on the Plat as "Sight Visibility Restriction Easements," in which the height of landscaping and other sight restricting Improvements (other than official traffic control devices) shall be limited to the maximum permitted height as may be set forth on the Plat, and no parking of any vehicle shall be permitted.

Section 1.72 "Unit" shall mean each Residential Unit and any HOA Unit(s).

Section 1.73 "Units That May Be Created" shall mean the total "not to exceed" maximum number of aggregate Units within the Original Property and the Annexable Area (which Declarant has reserved the right, in its sole discretion, to create) (i.e., 300 Residential Units (and 1 or more HOA Units, if any), subject to Section 13.1(i) and Section 17.16 below.

Section 1.74 "VA" shall mean the United States Department of Veterans Affairs.

Section 1.75 "Yard Component" shall have the meaning set forth in Section 8.12, et seq.

Any capitalized term not separately defined in this Declaration shall reasonably have the meaning ascribed thereto in applicable provision of NRS Chapter 116.

ARTICLE 2

OWNERS' PROPERTY RIGHTS

Section 2.1 Ownership of Residential Unit; Owners' Easements of Enjoyment. Title to each Residential Unit in the Properties shall be conveyed in fee to an Owner. Ownership of each Residential Unit within the Properties shall include (a) the Residential Unit, and the appurtenant Garage; (b) one Membership in the Association, and (c) any easements appurtenant to such Residential Unit over the Common Elements as described in this Declaration, the Plat, and/or in the deed to the Residential Unit. Each Owner shall have a non-exclusive right and easement of ingress and egress and of use and enjoyment in, to and over the Common Elements and HOA Unit, if any, including, but not limited to, the Common Recreational Area and Private Streets, which easement shall be appurtenant to and shall pass with title to the Owner's Residential Unit, subject to the following:

(a) the right of the Association to reasonably limit the number of guests and tenants an Owner or his or her tenant may authorize to use the Common Elements;

(b) the right of the Association to establish uniform Rules and Regulations regarding use, maintenance and/or upkeep of the Common Elements and any HOA Unit, and to amend same from time to time (such Rules and Regulations may be amended upon a majority vote of the Board), provided that such Rules and Regulations shall not irreconcilably conflict with this Declaration or the other Governing Documents;

(c) the right of the Association in accordance with the Declaration, Articles, and Bylaws, with the vote of at least two-thirds (2/3) of the voting power of the Association and a majority of the voting power of the Board, to borrow money for the purpose of improving or adding to the Common Elements and/or any HOA Unit, and in aid thereof, and subject further to the Mortgagee protection provisions of Article 12 and elsewhere in this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Elements and/or any HOA Unit as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners;

(d) subject to the voting and approval requirements set forth in Subsection 2.1(c) above, and the provisions of Article 12 and 13 of this Declaration, the right of the Association to dedicate, release, alienate, transfer or grant easements, licenses, permits and rights of way in all or any portion of the Common Elements and/or any HOA Unit to any public agency, authority, utility or other Person for such purposes and subject to such conditions as may be approved by the Association and the Members;

(e) subject to the Declarant reserved rights provisions of Article 13 hereof, the right of Declarant and its sales agents, representatives and prospective Purchasers, to the non-exclusive use of the Common Elements, without cost, for access, ingress, egress, use and enjoyment, in order to show and dispose of the Properties and/or any other development(s) until the last Close of Escrow for the marketing and/or sale of a Residential Unit in the Properties or such other development(s); provided, however, that such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein;

(f) the other easements, and rights and reservations, of Declarant as set forth in this Article 2, in Article 13, and elsewhere in this Declaration;

(g) the right of the Association (by action of the Board) to reconstruct, replace or refinish any Improvement or portion thereof in the Common Elements and/or any HOA Unit in accordance with the original design, finish or standard of construction of such Improvement, or of the general Improvements within the Properties, as the case may be; and if not substantially in accord with the original design, finish or standard of construction only with the vote or written consent of Owners holding a majority of the voting power of the Association, and the vote or written consent of a majority of the voting power of the Board, and the approval of a majority of the Eligible Holders;

(h) the right of the Association, acting through the Board, to replace destroyed trees or other vegetation and to plant trees, shrubs and other ground cover upon any portion of the Common Elements;

(i) the right of the Association, acting through the Board, and/or of Declarant, pursuant to Article 13 hereof, to place and maintain upon the Common Elements such signs as the Board reasonably may deem appropriate for the identification, marketing, advertisement, sale, use and/or regulation of the Properties or any other project of Declarant;

(j) the right of the Association, acting through the Board, to reasonably restrict access to and use of portions of the Common Elements;

(k) the right of the Association, acting through the Board, to reasonably suspend voting rights and to impose fines as Specific Assessments, and to reasonably suspend the right of an Owner and/or Resident to use Common Elements, for nonpayment of any Assessment levied by the Association against the Owner's Residential Unit, or if an Owner or Resident is otherwise in breach of obligations imposed under the Governing Documents;

(l) the obligation of all Owners to observe "quiet hours" in the Common Recreational Area and other Common Elements, during the hours of 10:00 p.m. until 7:00 a.m. (or such other hours as shall be reasonably established from time to time by the Board in advance) during which "quiet hours," loud music, loud talking, shouting, and other loud noises shall not be permitted;

(m) the right of all Owners to similarly use and enjoy the Common Elements, subject to the Governing Documents;

(n) the obligations and covenants of Owners as set forth in Article 8 and elsewhere in this Declaration;

(o) the restrictions, prohibitions, limitations, and/or reservations set forth in Article 9 and elsewhere in this Declaration;

(p) the easements reserved in various sections of Article 2 and/or any other provision of this Declaration; and

(q) the rights of any other easement holders.

Section 2.2 Easements for Parking. Subject to the parking and vehicular restrictions set forth in Section 9.14 below, the Association, through the Board, is hereby empowered to establish "parking" and/or "no parking" areas within the Common Elements and/or any HOA Unit, and to establish Rules and Regulations governing such parking and to reasonably enforce such parking limitations and rules by all means which would be lawful for such enforcement on public and/or private streets, including the removal of any violating vehicle, by those so empowered, at the expense of the owner of the violating vehicle. If any temporary guest or recreational parking is permitted within the Common Elements, such parking shall be permitted only within any spaces and areas clearly marked for such purpose. Without limiting the foregoing, no vehicle may be continuously parked in the same Association parking space for more than forty-eight consecutive hours (and areas within the Private Streets designated as parking areas shall be available on a "first-come, first-serve" basis for periods not to exceed forty-eight consecutive hours), and no Association parking space may be used for any storage purpose whatsoever.

Section 2.3 Easements for Vehicular and Pedestrian Traffic. In addition to the general easements for use of the Common Elements reserved herein, there are hereby reserved to Declarant and all future Owners, and each of their respective agents, employees, guests, invitees and successors, non-exclusive, appurtenant easements for vehicular and pedestrian traffic over the private main entry gate area and all Private Streets and common walkways (if any) within the Properties, subject to the parking provisions set forth in Section 2.2 above, and the use restrictions set forth in Article 9 below.

Section 2.4 Easement Right of Declarant Incident to Construction, Marketing and/or Sales Activities. An easement is hereby reserved by and granted to Declarant, its successors and assigns, and their respective officers, managers, employees, agents, contractors, sales representatives, prospective purchasers of Residential Units, guests, and other invitees, for access, ingress, and egress over, in, upon, under, and across the Properties, including Common Elements and/or any HOA Unit, including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's use, development, advertising, marketing and/or sales related to the Properties, or any portions thereof, or any other project of Declarant; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to interfere unreasonably with the occupancy, use, enjoyment, or access by any Owner, his or her Family, guests, or invitees, to or of that Owner's Residential Unit, or the Common Elements or any HOA Unit. The easement created pursuant to this Section 2.4 is subject to the time limit set forth in Section 13.1(a) below. Without limiting the generality of the foregoing, Declarant reserves the right to control any and all entry gate(s) to the Properties until such time as the Close of Escrow of the last Residential Unit in the Properties, or for so long as Declarant utilizes sales and/or management offices and/or model homes in connection with Declarant's marketing and/or sale of other projects of Declarant pursuant to Section 13.1(c) below, and neither the Association nor any one or more of the Owners shall at any time or in any way, without the prior written approval of Declarant, in its discretion, cause any entry gate to the Properties to be closed during Declarant's marketing, construction, or sales hours (including on weekends and holidays), or shall in any other way impede, hinder, obstruct, or interfere with Declarant's marketing, sales, and/or construction activities.

Section 2.5 Easements for Public Service Use. In addition to the foregoing easements over the Common Elements, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for: (a) placement, use, maintenance and/or replacement of any fire hydrants on portions of Common Elements and/or any HOA Unit, and other purposes regularly or normally related thereto; and (b) City, state, and federal public services, including but not limited to, the right of postal, law enforcement, and fire protection services and

their respective employees and agents, to enter upon any part of the Properties, for the purpose of carrying out their official duties.

Section 2.6 Easements for Water, Sewage, Utility and Irrigation Purposes. In addition to the foregoing easements, there shall be and Declarant hereby reserves and covenants for itself, the Association, and all future Owners within the Properties, easements reasonably upon, over and across Common Elements (including but not limited to Limited Common Elements), any HOA Unit, and portions of Residential Units, for installation, maintenance, repair and/or replacement of public and private utilities, electric power, telephone, cable television, water, sewer, and gas lines and appurtenances (including but not limited to, the right of any public or private utility or mutual water and/or sewage district, of ingress or egress over the Properties, including Common Elements, any HOA Unit, and/or and portions of Residential Units; and easements for purposes of reading and maintaining meters, and using and maintaining any fire hydrants located on the Properties). There is hereby created a blanket easement in favor of Declarant and the Association upon, across, over, and under all Units and the Common Elements, for the installation, replacement, repair, and maintenance of utilities (including, but not limited to, water, sewer, gas, telephone, electricity, "smart" data cabling, if any, and master and cable television systems, if any). By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances in the Properties and to install, repair, and maintain water, sewer and gas pipes, electric, telephone and television wires, circuits, conduits and meters. Notwithstanding anything to the contrary contained in this Section, no sewer, electric, water or gas lines or other utilities or service lines may be installed or relocated within the Properties until the Close of Escrow of the last Residential Unit in the Properties, except as approved by Declarant. This easement shall in no way affect any other Recorded easements in the Properties. There is also hereby reserved to Declarant during such period the non-exclusive right and power to grant such specific easements as may be necessary in the sole discretion of Declarant in connection with the orderly development of any portion of the Properties. Any damage to a Unit resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not unreasonably interfere with the occupancy or use of any Unit and, except in an emergency, entry onto any Residential Unit shall be made only after reasonable notice to the Owner or occupant thereof. Declarant further reserves and covenants for itself and the Association, and their respective agents, employees and contractors, easements over the Common Elements and all Units, for the control, installation, use, inspection, maintenance, repair and replacement of water and/or sewage lines and components and/or systems for watering or irrigation of any landscaping on, and/or sewage disposal from or related to, Common Elements. In the event that any utility exceeds the scope of this or any other easement reserved in this Declaration, and causes damage to property, the Owner of such property shall pursue any resultant claim against the offending utility, and not against Declarant or the Association.

Section 2.7 Additional Reservations of Easements. Declarant hereby expressly reserves for the benefit of each Owner and his or her Residential Unit reciprocal, non-exclusive easements over the adjoining Residential Unit(s) for the support, control, maintenance and repair of the Owner's Residential Unit and the utilities serving such Residential Unit. Declarant further expressly reserves for the benefit of all of the real property in the Properties, and for the benefit of all of the Units, the Association and the Owners, reciprocal, non-exclusive easements over all Units and the Common Elements (including but not necessarily limited to Limited Common Elements), for the control, installation, maintenance and repair of utility services and drainage facilities serving any portion of the Properties, for drainage of water resulting from the normal use thereof or of neighboring Residential Units and/or Common Elements and/or any HOA Unit, for the inspection, painting, maintenance and/or repair of those Limited Common Elements for which the Association

is expressly responsible pursuant to this Declaration, and for painting, maintenance and repair of any Unit or portion thereof pursuant to the Declaration. In the event that any utility or third Person exceeds the scope of any easement pertaining to the Properties, and thereby causes bodily injury or damage to property, the injured or damaged Owners shall pursue any resultant claim against the offending utility or third Person, and not against Declarant or the Association. In the event of any minor encroachment of a Unit or Garage, or a Yard Component, Balcony or other Exclusive Use Area upon the general Common Elements or upon Residential Unit(s), etc. (or vice versa), as a result of original construction or as a result of reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for minor encroachment and for the maintenance of the same shall exist so long as the minor encroachment exists. Declarant and each Owner of a Residential Unit shall have an easement appurtenant to such Residential Unit, over the Residential Unit line to and over the adjacent Residential Unit and/or Common Elements, for the purposes of accommodating any natural movement or settling of any Residential Unit, any encroachment of any Residential Unit due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs, porches, and architectural features comprising parts of the original construction of any Residential Unit. Declarant hereby further reserves a nonexclusive easement appurtenant to the Common Elements and/or Unit as the case may be, for the benefit of Declarant and its agents and/or contractors, on and over the Common Elements and any Unit(s), for any inspections and/or required warranty repairs, and a non-exclusive easement on and/or over the Properties, and all portions thereof (including Common Elements and Units), for the benefit (but not the obligation) of Declarant, the Association, and their respective agents, contractors, and/or any other authorized party, for the maintenance and/or repair of any and all landscaping and/or other Improvements located on the Common Elements and/or Units.

Section 2.8 Encroachments. The physical boundaries of an existing Unit or Garage (or Exclusive Use Area), or of a Unit or Garage (or Exclusive Use Area) reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than any metes and bounds expressed in the Plat or in an instrument conveying, granting or transferring a Residential Unit and Garage (and, if applicable, Yard Component or Balcony, or other Exclusive Use Area), regardless of settling or lateral movement and regardless of minor variances between boundaries shown on the Plat or reflected in the instrument of grant, assignment or conveyance and the actual boundaries existing from time to time.

Section 2.9 Easement Data. The Recording data for all easements and licenses reserved pursuant to the terms of this Declaration is the same as the Recording data for this Declaration. The Recording data for any and all easements and licenses shown on and created by the Plat is the same as the Recording data for the Plat.

Section 2.10 Owners' Right of Ingress and Egress. Each Owner shall have an unrestricted right of ingress and egress to his or her Residential Unit reasonably over and across the Common Elements, which right shall be appurtenant to the Residential Unit and shall pass with any transfer of title to the Residential Unit.

Section 2.11 No Transfer of Interest in Common Elements. No Owner shall be entitled to sell, lease, encumber, or otherwise convey (whether voluntarily or involuntarily) his or her interest in any of the Common Elements, or in any part of the component interests which comprise his or her Residential Unit, except in conjunction with conveyance of his or her Residential Unit. No transfer of Common Elements, or any interest therein, shall deprive any Unit of its rights of access. Any attempted or purported transaction in violation of this provision shall be void and of no effect.

Section 2.12 Ownership of Common Elements. Subject to Article 2 hereof, the Association shall own the HOA Unit, if any, in fee, and each Owner shall own an undivided fractional interest in the Common Elements, pro rata with all other Owners. Except as otherwise limited in this Declaration, each Owner shall have the right to use the Common Elements and/or any HOA Unit for all purposes incident to the use and occupancy of his or her Residential Unit as a place of residence, and such other incidental uses permitted by this Declaration, without hindering or encroaching upon the lawful rights of the other Owners, which right shall be appurtenant to and run with the Residential Unit. The fractional undivided interest of each Owner in the Common Elements shall not be separated from the Residential Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Residential Unit even though such interest is not expressly mentioned in the conveyance or other instrument.

Section 2.13 HOA Unit. The Association may, but need not necessarily, hold title to the Common Recreational Area (and may, but need not necessarily, hold title to the Private Streets and/or other areas); provided that each Owner, by virtue of Membership in the Association, shall be entitled to non-exclusive use and enjoyment of the HOA Unit, if any, and Common Elements, subject to the Rules and Regulations therefor.

Section 2.14 Limited Common Elements. Each Owner of a Residential Unit shall have an exclusive easement for the use of the Limited Common Elements appurtenant exclusively to the Residential Unit. The foregoing easements shall not entitle an Owner to construct anything or to change any structural part of the easement area. HVAC serving one Residential Unit exclusively are also Limited Common Elements, as further set forth in Section 2.15 below. Additions and/or modifications to Limited Common Elements may be permitted, subject to ARC review and approval as set forth or referenced in Article 18 below; provided that nothing (including, but not limited to awnings and patio covers, other than awnings or patio covers installed by Declarant) may be attached or affixed to any Common Element or structural element.

(a) Assigned Limited Common Elements: The following are Limited Common Elements assigned to the Residential Units as stated:

(1) 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 Residential Unit, the portion serving only certain Residential Unit(s) is a Limited Common Element, allocated solely to those Residential Unit(s), the use of which is limited to those Residential Unit(s).

(2) Any shutters, awnings, attached patio covers, window boxes, doorsteps, storage areas, entry areas, stoops, porches, Balconies, Yard Components, and exterior doors and windows or other fixtures designed to serve a single Residential Unit and/or identified on the Plat as Limited Common Elements, located outside the boundaries of the Residential Unit, are Limited Common Elements allocated exclusively to the Residential Unit, and use is limited to that Residential Unit.

(3) Entry areas, exterior stairs, stoops, steps and walls above door openings at the entrances to each Building which provide access to less than all Residential Units, are Limited Common Elements, the use of which is limited to the Residential Units to which they provide access.

(4) Doors and windows in Residential Units will be Limited Common Elements allocated to the Residential Units in which installed.

(5) Porch lighting provided for the exclusive use of a Residential Unit will be a Limited Common Element allocated to the Residential Unit served.

(b) Subsequently Allocated Limited Common Elements: Those portions of the Common Elements shown as unnumbered or unassigned parking spaces on the Plat may be allocated as Limited Common Elements or may be assigned or limited to visitor parking only by the Board of Directors by resolution or through adopted Rules and Regulations.

Section 2.15 HVAC. Easements are hereby reserved for the benefit of each Residential Unit, Declarant, and the Association, for the purpose of maintenance, repair and replacement of any heating, ventilation, and/or air conditioning and/or heating equipment and systems ("HVAC") located in the HOA Unit, if any, and/or Common Elements; provided, however, that no HVAC shall be placed in any part of the HOA Unit, if any, and/or Common Elements other than its original location as installed by Declarant, unless the approval of the Board is first obtained. Notwithstanding the foregoing or any other provision in this Declaration, any HVAC which is physically located within the HOA Unit, if any, and/or Common Elements, but which serves an individual Residential Unit exclusively, shall constitute a Limited Common Element as to the Residential Unit exclusively served by such HVAC, and the Owner of the Residential Unit (and not the Association) shall have the duty, at the Owner's cost, to maintain, repair and replace, as reasonably necessary, the HVAC serving the Residential Unit, subject to the original appearance and condition thereof as originally installed by Declarant, subject to ordinary wear and tear. Notwithstanding the foregoing, concrete pads underneath HVAC shall not constitute part of HVAC, but shall be deemed to be Common Elements.

Section 2.16 Garages. Declarant shall have the right to convey fee title to Garages to Owners of Residential Units, as designated by Declarant in any manner not prohibited by this Declaration, provided that each such Garage shall be deemed to be appurtenant to the designated Residential Unit, and shall not be deemed to independently constitute a Residential Unit. The boundaries and dimensions of a Garage shall be as set forth in the Plat, and are subject to the boundaries and dimensions of the staircase (if applicable) and other portions of the adjoining Residential Unit. Upon conveyance of a Garage by Declarant to a Purchaser in fee, the Garage shall be deemed forever after to be an inseparable part of the Residential Unit to which it is appurtenant. In no event shall the Garage thereafter be conveyed, encumbered, or released from any lien except in conjunction with, and as an integral part of, the conveyance, encumbrance, or release of said Residential Unit. Any purported conveyance, encumbrance, or release of a Garage, separate from the entire Residential Unit, shall be void and of no effect. Each Owner of a Garage ("Subject Garage"), as and to the extent, if any, reasonably necessary, shall have an easement over the walls and ceiling of the neighboring Residential Unit and/or Garage adjacent to the Subject Garage for the purpose of attaching fixtures, shelves, cabinets and garage door openers to the walls and ceilings of the Garage, and shall have an easement over portions of the adjoining Residential Unit for purposes of reasonable access to and maintenance and repair of electrical, sewer, and other utility lines servicing such Garage. Without limiting the foregoing, each Owner of a Residential Unit shall have an easement over the adjoining Garage for purposes of reasonable access to and maintenance and repair of the staircase or upstairs area, or electrical, sewer, and other utility lines, and sewer cleanouts, servicing or related to such Residential Unit, to the extent reasonably necessary or appropriate. The easement rights set forth in this Section are subject to the restrictions set forth in Article 9 (including, but not limited to, restrictions pertaining to vibrations).

Section 2.17 Parking Obstructing Garages. No parking shall be permitted in any areas where such parking would unreasonably hinder or obstruct ingress and egress by any Owner to

or from its Garage (provided that temporary loading and unloading may be permitted on an occasional basis). Neither Declarant nor the Association (nor any officer, manager, agent, or employee respectively thereof) shall be liable for damage to or theft of any vehicle or any contents thereof. The Association shall be entitled to modify parking areas at any time and from time to time.

Section 2.18 Cable Television. Each Owner, by acceptance of a deed to his or her Residential Unit, acknowledges and agrees that, in the event Declarant has pre-wired and installed a complete cable television system ("CATV") within the Residential Unit (including, but not limited to, cable television outlets for the Residential Unit), such CATV system and all components as so installed, shall not constitute the property of the Owner, but shall be the sole property of Declarant (or, at its option, of a cable company selected thereby), and there shall be, and hereby is, reserved a non-exclusive easement in gross on, over, under or across the Residential Unit for purposes of installation and maintenance of such cable television equipment, for the benefit of Declarant, or such cable company as may be selected thereby. Without limiting the foregoing, Declarant or the Association may, but are in no way obligated to, provide a master antenna or cable television antenna for use of all or some Owners, and, in such event, Declarant may grant easements for maintenance of any such master or cable television service.

Section 2.19 Waiver of Use. No Owner may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Residential Unit or other property owned by said Owner from the liens and charges hereof, by waiver of the use and enjoyment of the Common Elements or any facilities thereon, or by abandonment of his or her Residential Unit or any other property in the Properties.

Section 2.20 Alteration of Units. Declarant reserves the right to change the interior design and arrangement of any Unit and/or Garage and to alter the boundaries between Units (or Garages), so long as Declarant owns the Units and/or Garages so altered. No such change shall increase the number of Residential Units nor alter the boundaries of the Common Elements.

Section 2.21 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each Residential Unit. If any taxes or assessments of any Owner may, in the opinion of the Association, become a lien on the Common Elements, or any part thereof, they may be paid by the Association as a Common Expense or paid by the Association and levied against such Owner as a Specific Assessment.

Section 2.22 Avigation Easements. Declarant hereby reserves, for itself, and/or for the Association, the unilateral right to grant avigation easements over Common Elements, to applicable governmental entity or entities with jurisdiction; and each Owner hereby covenants to sign such documents and perform such acts as may be reasonably required to effectuate the foregoing.

Section 2.23 Master Metered Water. Water for Common Elements, any HOA Unit and/or Residential Units may, in Declarant's discretion, be master metered. Periodic water costs allocable to each Residential Unit shall be paid by the Owner of said Residential Unit, regardless of level or period of occupancy (or vacancy) or use. Currently, master metered water charges are allocated equally to each Residential Unit, regardless of size or usage. The Association, acting through the Board, reserves the right, in its business judgment, to allocate master metered water charges on any other reasonable basis. The Las Vegas Valley area is currently experiencing, and may continue to experience drought conditions. Without being limited by the preceding sentence, Owners and other occupants of Residential Units, and their Families, shall not waste water in the Properties,

and any person who is found to be using water in an unreasonable manner shall be subject to a Specific Assessment therefor, subject to Notice and Hearing.

Section 2.24 Boundaries of Residential Units. The boundaries of each Residential Unit created by the Declaration are the Residential Unit lines shown on the Plat, along with their identifying number, and are described further as follows:

(a) Upper Boundary: The uppermost 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 lowest 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 (if any) of the perimeter walls of the Residential Unit; the unfinished inner surfaces of poured concrete walls (if any); and the unfinished inner surfaces of closed windows and closed perimeter doors.

(d) Inclusions: Each Residential Unit will include the spaces and Improvements lying within the boundaries described in (a), (b) and (c) above. Additionally, each Residential Unit will have appurtenant to it one or more of the following items (as applicable): stairs provided for the exclusive use of a Residential Unit; spaces and the Improvements within those spaces outside the boundaries of (a), (b) and (c) above containing 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 Residential Unit exclusively.

(e) Exclusions: Except when specifically included by other provisions of this Section, the following are excluded from each Residential Unit: The spaces and Improvements lying outside of the boundaries described in (a), (b) and (c) above; all interior bearing studs and framing of bearing walls, columns, and bearing partitions and all chutes, pipes, flues, 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 all or any one or more of the other Residential Units, Common Elements, or HOA Unit, if any.

(f) Inconsistency with Plat: If this definition is inconsistent with the information contained in the Plat, then this definition will control.

Section 2.25 Compliance with Applicable Law. It is the intent of Declarant that this Declaration and the other Governing Documents shall be enforceable pursuant to their respective terms, to the maximum extent permissible under the Act or other applicable law. Without limiting the foregoing, in the event any provision of this Declaration or other Governing Document is found to irreconcilably violate any applicable provision of the Act, or other applicable law, or any section respectively thereof, such violating provision of the relevant Governing Document shall be deemed automatically modified (or deleted, if necessary) to the minimum extent necessary to conform to the Act and/or other applicable law.

Section 2.26 Limitation on Ownership of Multiple Residential Units. The City of Henderson has specifically required inclusion of the following restrictive provision (which limits to two (2) the number of Residential Units that may be owned by any one person or entity):

"At no time shall title and ownership of more than two (2) Residential Units be vested in or held by the same natural person or persons, their agents, assigns, heirs or nominees, or by any corporation, trust organization or other entity, their agents, assigns or nominees. Amendment of the foregoing restrictive provision may be made only by a majority of Owners after Close of Escrow of all Residential Units in accordance with the restrictive provision."

The purpose of the provision is the City's effort to ensure that the goal of the developer is achieved, which is to maintain the Community as a residential condominium project with maximum occupancy by resident owners rather than speculators-lessees.

ARTICLE 3

TRIPOLY AT STEPHANIE HOMEOWNERS ASSOCIATION

Section 3.1 Organization of Association. The Association is or shall be, by not later than the date the first Residential Unit is conveyed to a Purchaser, incorporated under the name of TRIPOLY AT STEPHANIE HOMEOWNERS ASSOCIATION (or, if said name is not then available from the Nevada Secretary of State, such other name as is available), as a non-profit corporation under NRS Chapter 82. Upon dissolution of the Association, the assets of the Association shall be disposed of as set forth in the Governing Documents, and in compliance with applicable Nevada law.

Section 3.2 Duties, Powers and Rights. Duties, powers and rights of the Association are as set forth in the Governing Documents. The Association shall make available for inspection at its office by any prospective purchaser of a Residential Unit, any Owner, and the Beneficiaries, insurers and guarantors of the first Mortgage on any Residential Unit, during regular business hours and upon reasonable advance notice, current copies of the Governing Documents and all other books, records, and financial statements of the Association.

Section 3.3 Membership. Each Owner (including Declarant, by virtue of owning title to any Residential Unit), upon acquiring title to a Residential Unit, shall automatically become a Member of the Association, and shall remain a Member until such time as his or her ownership of the Residential Unit ceases, at which time his or her membership in the Association shall automatically cease. Membership shall not be assignable, except to the Person to whom title to the Residential Unit has been transferred, and each Membership shall be appurtenant to and may not be separated from fee ownership of the Residential Unit. Ownership of such Residential Unit shall be the sole qualification for Membership, and shall be subject to the Governing Documents. Notwithstanding the foregoing or any other provision in this Declaration, there shall be no Membership appurtenant to any HOA Unit.

Section 3.4 Transfer of Membership. The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Residential Unit, and then only to the purchaser or Mortgagee of such Residential Unit. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. An Owner who has sold his or her Residential Unit to a contract

purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser said Owner's Membership rights. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and Assessments attributable to his or her Residential Unit until fee title to the Residential Unit sold is transferred. If any Owner should fail or refuse to transfer his or her Membership to the purchaser of such Residential 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 such transfer (which may, but need not necessarily be, a copy of the Recorded deed of transfer) first has been presented to the reasonable satisfaction of the Board, the purchaser shall not be entitled to vote at meetings of the Association, unless the transferee shall have a valid proxy from the transferor of said Residential Unit, pursuant to Section 4.6 below. The Association may levy a reasonable transfer fee against a new Owner and his or her Residential Unit (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the records of the Association. The new Owner shall, if requested by the Board or Manager, timely attend an orientation to the Community and the Properties, conducted by an Association Officer or the Manager, and will be required to pay any costs necessary to obtain keys to Common Elements and/or any HOA Unit, special identification for use of Common Elements and/or any HOA Unit, and entry gate keys and/or remote controls, if not obtained from the prior Owner at Close of Escrow.

Section 3.5 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be supplemented by provisions of the Articles and Bylaws, including any reasonable provisions with respect to corporate matters; but in the event that any such provisions may be, at any time, inconsistent with any provisions of this Declaration, the provisions of this Declaration shall govern. The Bylaws shall include, without limitation, the following:

- (a) the number of Directors (subject to Section 3.6 below) and the titles of the Officers;
- (b) for election by the Board of an Association president, treasurer, secretary and any other Officers specified by the Bylaws;
- (c) the qualifications, powers and duties, terms of office and manner of electing and removing Directors and Officers, and filling vacancies;
- (d) which, if any, respective powers the Board or Officers may delegate to other Persons or to a Manager;
- (e) which of the Officers may prepare, execute, certify and record amendments to the Declaration on behalf of the Association;
- (f) procedural rules for conducting meetings of the Association; and
- (g) a method for amending the Bylaws.

Section 3.6 Board of Directors.

- (a) The affairs of the Association shall be managed by a Board of not less than three (3) Directors, nor more than such number of Directors as set forth from time to time in the Bylaws, the majority of whom (other than Directors appointed by Declarant pursuant to Section 3.7

below) must be Members of the Association and all such Members must be Members in Good Standing. In accordance with the provisions of Section 3.7 below, upon the formation of the Association, Declarant shall appoint the Board. The Board may act in all instances on behalf of the Association, except as otherwise may be provided in the Governing Documents or any applicable provision of NRS Chapter 116 or other applicable law. The Directors, in the performance of their duties, are fiduciaries, and are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule. Notwithstanding the foregoing, the Board may not act on behalf of the Association to amend the Declaration, to terminate the Community, or to elect Directors or determine their qualifications, powers and duties or terms of office, provided that the Board may fill vacancies in the Board for the unexpired portion of any term. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any Director with or without cause, other than a Director appointed by Declarant. If a Director is sued for liability for actions undertaken in his or her role as a Director, the Association shall indemnify him for his or her losses or claims, and shall undertake all costs of defense, unless and until it is proven that the Director acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the costs of defense, and may recover, from the Director who so acted, costs already expended. Directors are not personally liable to the victims of crimes occurring within the Properties. Punitive damages may not be recovered against Declarant or the Association, subject to applicable Nevada law. In the event a Residential Unit is owned by a trust or entity (and not by an individual), an officer, employee, agent or director of a corporate Owner, a trustee or designated beneficiary of a trust that owns a Residential Unit, a partner of a partnership that owns a Residential Unit, or a fiduciary of an estate that owns a Residential Unit, may be an Officer or Director. In every event where the person serving or offering to serve as an Officer or Director is not a record Owner, he or she shall file proof of authority in the records of the Association. No Director shall be entitled to delegate his or her vote on the Board, as a Director, to any other Director or any other Person; and any such attempted delegation of a Director's vote shall be void. Each Director shall serve in office until the appointment (or election, as applicable) of his or her successor.

(b) The term of office of a Director shall not exceed two (2) years. A Director may be elected to succeed himself or herself.

(c) A quorum is deemed present throughout any Board meeting if Directors entitled to cast fifty percent (50%) of the votes on that Board are present at the beginning of the meeting.

Section 3.7 Declarant's Control of Board. During the period of Declarant's control ("Declarant Control Period"), as set forth below, Declarant at any time, with or without cause, may remove or replace any Director appointed by Declarant. Directors appointed by Declarant need not be Owners. Declarant shall have the right to appoint and remove the Directors, subject to the following limitations:

(a) Not later than sixty (60) days after conveyance from Declarant to Purchasers of twenty-five percent (25%) of the Maximum Residential Units That May Be Created, at least one (1) Director and not less than twenty-five percent (25%) of the total Directors must be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance from Declarant to Purchasers of fifty percent (50%) of the Maximum Residential Units That May Be Created, not less than one-third of the total Directors must be elected by Owners other than Declarant.

(c) The Declarant Control Period shall terminate on the earliest of: (i) sixty (60) days after conveyance from Declarant to Purchasers of seventy-five percent (75%) of the Maximum Residential Units That May Be Created; (ii) five (5) years after Declarant has ceased to offer any Residential Units for sale in the ordinary course of business; or (iii) five (5) years after any right to annex any portion of the Annexable Area was last exercised pursuant to Article 14 hereof.

Section 3.8 Control of Board by Owners. The following portions of this Section 3.8 shall be subject to and shall be applicable after the end of the Declarant Control Period. The Owners shall elect a Board of at least three (3) Directors, and the Board may fill vacancies in its membership (e.g., due to death or resignation of a Director), subject to the right of the Owners to elect a replacement Director, for the unexpired portion of any term. After the Declarant Control Period, all of the Directors must be Owners, and each Director shall, within ninety (90) days of his or her appointment or election, certify in writing that he or she is an Owner and has read and reasonably understands the Governing Documents and applicable provisions of NRS Chapter 116 to the best of his or her ability. The Board shall elect the Officers, all of whom (after the Declarant Control Period) must be Owners and the President, Secretary, Treasurer and Vice President additionally must all be Directors. The Owners, upon a two-thirds (2/3) affirmative vote of all Owners present and entitled to vote at any Owners' meeting at which a quorum is present, may remove any Director(s) with or without cause; provided, however that any Director(s) appointed by Declarant may only be removed by Declarant.

Section 3.9 Election of Directors. The following portion of this Section 3.9 shall be subject to and following Declarant's control, as set forth in Section 3.7, above. Not less than thirty (30) days before the preparation of a ballot for the election of Directors, which shall normally be conducted at an Annual Meeting, the Association Secretary or other designated Officer shall cause notice to be given to each Owner of his or her eligibility to serve as a Director. Each Owner who is qualified to serve as a Director may have his or her name placed on the ballot along with the names of the nominees selected by the Board or a nominating committee established by the Board. The Association Secretary or other designated Officer shall cause to be sent prepaid by United States mail to the mailing address of each Residential Unit within the Community or to any other mailing address designated in writing by the Residential Unit Owner, a secret ballot and a return envelope. Election of Directors must be conducted by secret written ballot, for so long as so required by applicable Nevada law, with the vote publicly counted (which counting may be done as the meeting agenda progresses).

Section 3.10 Board Meetings.

(a) A Board meeting must be held at least once every 90 days. Except in an emergency, the Secretary or other designated Officer shall, not less than 10 days before the date of a Board meeting, cause notice of the meeting to be given to the Owners. Such notice must be: (1) sent prepaid by United States mail to the mailing address of each Residential Unit or to any other mailing address designated in writing by the Owner; or (2) published in a newsletter or other similar publication circulated to each Owner. In an emergency, the Secretary or other designated Officer shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each Residential Unit. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each Residential Unit within the Community or posted in a prominent place or places within the Common Elements.

(b) As used in this Section 3.10, "emergency" means any occurrence or combination of occurrences that: (1) could not have been reasonably foreseen; (2) affects the

health, welfare and safety of the Owners; (3) requires the immediate attention of, and possible action by, the Board; and (4) makes it impracticable to comply with regular notice and/or agenda provisions.

(c) The notice of the Board meeting must state the time and place of the meeting and include a copy of the agenda for the meeting (or the date on which and the locations where copies of the agenda may be conveniently obtained by Owners). The notice must include notification of the right of an Owner to: (1) have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request (and, if required by the Board, upon payment to the Association of the cost of making the distribution), and (2) speak to the Association or Board, during such time and for such periods of time as designated on the agenda for homeowner comments, or as designated by the President at the meeting, in the President's discretion (but not during such time as the Board is meeting in Executive Session and Owners generally are excluded pursuant to applicable Nevada law).

(d) The agenda of the Board meeting must comply with the provisions of NRS § 116.3108.3. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the Board may take action on an item which is not listed on the agenda as an item on which action may be taken.

(e) At least once every 90 days, the Board shall review at one of its meetings: (1) a current reconciliation of the Operating Fund (as defined in Section 6.2 below); (2) a current reconciliation of the Reserve Fund (as defined in Section 6.3 below); (3) the actual deposits and withdrawals for the Reserve Fund, compared to the Reserve Budget for the current year; (4) the latest account statements prepared by the financial institutions in which the accounts of the Association are maintained; (5) an income and expense statement, prepared on at least a quarterly basis, for the Operating Fund and Reserve Fund; and (6) the current status of any civil action or claim submitted to arbitration or mediation in which the Association is a party.

(f) The minutes of a Board meeting must be made available to Owners in accordance with NRS § 116.3108.5.

Section 3.11 Attendance by Owners at Board Meetings; Executive Sessions. Owners are entitled to attend any meeting of the Board (except for Executive Sessions) and may speak at such meeting, provided that the Board may establish reasonable procedures and reasonable limitations on the time an Owner may speak at such meeting. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. Owners may not attend or speak at an Executive Session, unless the Board specifically so permits. An "Executive Session" is an executive session of the Board (which may be a portion of a Board meeting), designated as such by the Board in advance, for the sole purpose of:

(a) consulting with an attorney for the Association on matters relating to proposed or pending litigation, if the contents of the discussion would otherwise be governed by the privilege set forth in NRS §§ 49.035 to 49.115, inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the Association and an attorney; or

(b) discussing the character, alleged misconduct, professional competence, or physical or mental health of a Manager or an employee of the Association; or

(c) discussing any violation ("Alleged Violation") of the Governing Documents (including, without limitation, the failure to pay an Assessment) alleged to have been committed by a person who may be sanctioned for the Alleged Violation ("Involved Person") (provided that the Involved Person shall be entitled to attend the hearing and testify concerning the Alleged Violation, but the Involved Person may be excluded by the Board from any other portion of such hearing, including, without limitation, the Board's deliberation).

Pursuant to applicable Nevada law: no other matter may be discussed in Executive Session, and any matter discussed in Executive Session must be generally described in the minutes of the Board meeting, provided that the Board shall maintain detailed minutes of the discussion of any Alleged Violation, and, upon request, shall provide a copy of said detailed minutes to the Involved Person or his or her designated representative.

Section 3.12 General Record of Violations of Governing Documents. The Board shall cause to be maintained a general record concerning each violation of the Governing Documents, (other than a violation involving a failure to pay an Assessment), for which the Board has imposed a fine, or any other sanction. The general record:

(a) must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine, the general record must specify the amount of the fine;

(b) must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the Residential Unit, if any, that is associated with the violation; and

(c) must be maintained in an organized and convenient filing system or data system that allows an Owner to search and review the general records concerning violations of the Governing Documents.

Section 3.13 Board of Directors and ARC Discretion. Except as may be expressly provided in this Declaration, any consent or approval of the Board of Directors, ARC, or Association, that is required under the provisions hereof, may be granted or withheld in the sole and absolute discretion of the Board of Directors, ARC, or Association, as applicable. In that regard, the granting or withholding of such consent or approval shall not be subject to any objective standards of "reasonableness" or otherwise. Further, the approval of or consent to any matter shall not be deemed to be a waiver of the right to disapprove the same or similar matters in subsequent requests for consents or approvals from the same or other parties.

ARTICLE 4

MEMBERS' VOTING RIGHTS; MEMBERSHIP MEETINGS

Section 4.1 Owners' Voting Rights. Subject to Section 3.7 above and other reserved rights of Declarant, and subject further to following provisions of this Section 4.1 and to Section 4.6 below, each Member in Good Standing shall be entitled to cast one (1) vote for each Residential Unit owned. In the event that more than one Person holds fee title to a Residential Unit ("co-owners"), all such co-owners shall be one Member, and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Residential Unit is entitled. Such co-owners may from time to time all designate in writing one of their number to vote. Fractional votes shall not be allowed. Where no voting co-owner is

designated, or if such designation has been revoked, the vote for such Residential Unit shall be exercised as the majority of the co-owners of the Residential Unit mutually agree. No vote shall be cast for any Residential Unit where the co-owners present in person or by proxy owning the majority interests in such Residential Unit cannot agree to said vote or other action. The non-voting co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Residential Unit and shall be entitled to all other benefits of ownership. All agreements and determinations 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, their successors and assigns. Notwithstanding the foregoing, the voting rights of an Owner shall be automatically suspended during any time period that any Assessment levied against such Owner is delinquent.

Section 4.2 Transfer of Voting Rights. The right to vote may not be severed or separated from any Residential Unit, and any sale, transfer or conveyance of fee interest in any Residential Unit to a new Owner shall operate to transfer the appurtenant Membership and voting rights without the requirement of any express reference thereto. Each Owner shall, within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Residential Unit, notify the Association in writing of such sale, transfer or conveyance, with the name and address of the transferee, the nature of the transfer and the Residential Unit involved, and such other information relative to the transfer and the transferee as the Board may reasonably request, and shall deliver to the Association a copy of the Recorded deed therefor.

Section 4.3 Meetings of the Membership. Meetings of the Association must be held at least once each year, or as otherwise may be required by applicable law. The annual Association meeting shall be held on a recurring anniversary basis, and shall be referred to as the "Annual Meeting." The business conducted at each such Annual Meeting shall include the election of Directors whose terms are then expiring. If the Members have not held a meeting for one (1) year, a meeting of the Association Membership must be held by not later than the March 1 next following. A special meeting of the Association Membership may be called at any reasonable time and place by written request of: (a) the Association President, (b) a majority of the Directors, or (c) Members in Good Standing representing at least ten percent (10%) of the voting power of the Association, or as otherwise may be required by applicable law. Notice of special meetings shall be given by the Secretary of the Association in the form and manner provided in Section 4.4 below.

Section 4.4 Meeting Notices; Agendas; Minutes. Meetings of the Members shall be held in the Properties or at such other convenient location near the Properties and within Clark County as may be designated in the notice of the meeting.

(a) Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Association Secretary shall cause notice to be hand delivered or sent postage prepaid by United States mail to the mailing address of each Residential Unit or to any other mailing address designated in writing by any Owner. The meeting notice must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of an Owner to: (i) have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request, if the Owner pays the Association the cost of making the distribution; and (ii) speak to the Association or Board (unless the Board is meeting in Executive Session).

(b) The meeting agenda must consist of:

(i) a clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to any of the Governing Documents, any fees or Assessments to be imposed or increased by the Association, any budgetary changes, and/or any proposal to remove an Officer or Director; and

(ii) a list describing the items on which action may be taken, and clearly denoting that action may be taken on those items ("Agenda Items"); and

(iii) a period devoted to comments by Owners and discussion of such comments; provided that, except in emergencies, no action may be taken upon a matter raised during this comment and discussion period unless the matter is an Agenda Item. If the matter is not an Agenda Item, it shall be tabled at the current meeting, and specifically included as an Agenda Item for discussion and consideration at the next following meeting, at which time, action may be taken thereon.

(c) In an "emergency" (as said term is defined in Section 3.10(b) above), Members in Good Standing may take action on an item which is not listed on the agenda as an item on which action may be taken.

(d) If the Association adopts a policy imposing a fine on an Owner for the violation of a provision of the Governing Documents, the Board shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each Residential Unit or to any other mailing address designated in writing by the Owner thereof, a specific schedule of fines that may be imposed for those particular violations, at least thirty (30) days prior to any attempted enforcement, and otherwise subject to Section 17.4 below.

(e) Not more than thirty (30) days after any meeting, the Board shall cause the minutes or a summary of the minutes of the meeting to be made available to the Owners. A copy of the minutes or a summary of the minutes must be provided to any Owner who pays the Association the cost of providing the copy.

Section 4.5 Record Date. The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any Budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for an adjournment of the same meeting. A record date shall not be more than sixty (60) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur.

Section 4.6 Proxies. Every Member in Good Standing entitled to attend and vote at, or exercise consents with respect to, any meeting of the Members, may do so either in person, or by a representative, known as a proxy, duly authorized by an instrument in writing, filed with the Board prior to the meeting to which the proxy is applicable. A Member in Good Standing may give a proxy only to a member of his or her immediate family, or a tenant of said Member who resides in the Community, or another Member in Good Standing who resides in the Community, or as otherwise may be authorized from time to time by applicable Nevada law. No proxy shall be valid after the conclusion of the meeting (including continuation of such meeting) for which the proxy was executed. Such powers of designation and revocation may be exercised by the legal guardian of

any Member in Good Standing or by his or her conservator, or in the case of a minor having no guardian, by the parent legally entitled to permanent custody, or during the administration of any Member's estate where the interest in the Residential Unit is subject to administration in the estate, by such Member's executor or administrator. Any form of proxy or written ballot shall afford an opportunity therein to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy or written ballot is solicited, and shall provide, subject to reasonably specified conditions, that where the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance with such specification. Unless applicable Nevada law provides otherwise, a proxy is void if: (a) it is not dated or purports to be revocable without notice; (b) it does not designate the votes that must be cast on behalf of the Member in Good Standing who executed the proxy; or (c) the holder of the proxy does not disclose at the beginning of the meeting (for which the proxy is executed) the number of proxies pursuant to which the proxy holder will be casting votes and the voting instructions received for each proxy. If and for so long as prohibited by Nevada law, a vote may not be cast pursuant to a proxy for the election of a Director.

Section 4.7 Quorums. The presence at any meeting of Members in Good Standing who hold votes equal to twenty percent (20%) of the total voting power of the Association, in person or by proxy, shall constitute a quorum for consideration of that matter. The Members in Good Standing present at a duly called meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members in Good Standing to leave less than a quorum, if any action taken other than adjournment is approved by at least a majority of the Members in Good Standing required to constitute a quorum, unless a greater vote is required by applicable law or by this Declaration. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may, except as otherwise provided by applicable law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which reconvened meeting the quorum requirement shall be the presence, in person or by written proxy, of the Members in Good Standing entitled to vote at least twenty percent (20%) of the total votes of the Association. Notwithstanding the presence of a sufficient number of Owners to constitute a quorum, certain matters, including, without limitation, amendment to this Declaration, require a higher percentage (e.g., 67%) of votes of the total voting Membership as set forth in this Declaration.

Section 4.8 Actions. If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two (2) candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by applicable law or by this Declaration.

Section 4.9 Action by Meeting, and Written Approval of Absentee Owners. The proceedings and transactions of any meeting of Members, either regular or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members in Good Standing not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members, need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business

because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the meeting.

Section 4.10 Action By Written Consent, Without Meeting. Any action which may be taken at any regular or special meeting of the Members may be taken without a meeting and without prior notice, if authorized by a written consent setting forth the action so taken, signed by Members in Good Standing having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members in Good Standing were present and voted, and filed with the Association Secretary; provided, however, that Directors may not be elected by written consent except by unanimous written consent of all Members in Good Standing. Any Member giving a written consent, or such Member's proxy holder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members in Good Standing required to authorize the proposed action have been filed with the Association Secretary, but may not do so thereafter. Such revocation shall be effective upon its receipt by the Association Secretary. Unless the consents of all Members in Good Standing have been solicited in writing and have been received, prompt notice shall be given, in the manner as for regular meetings of Members, to those Members in Good Standing who have not consented in writing, of the taking of any Association action approved by Members in Good Standing without a meeting, where practicable. Such notice shall be given at least ten (10) days before the consummation of the action authorized by such approval with respect to the following:

- (a) approval of any reorganization of the Association;
- (b) a proposal to approve a contract or other transaction between the Association and one or more Directors, or any corporation, firm or association in which one or more Directors has a material financial interest; or
- (c) approval for the indemnification of any person.

Section 4.11 Adjourned Meetings and Notice Thereof. Any Members' meeting, regular or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members in Good Standing present either in person or by proxy thereat, but in the absence of a quorum, no other business may be transacted at any such meeting except as provided in this Section 4.11. When any Members' meeting, either regular or special, is adjourned for seven (7) days or less, the time and place of the reconvened meeting shall be announced at the meeting at which the adjournment is taken. When any Members' meeting, either regular or special, is adjourned for more than seven (7) days, notice of the reconvened meeting shall be given to each Member as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a reconvened meeting, and at the reconvened meeting the Members in Good Standing may transact any business that might have been transacted at the original meeting.

ARTICLE 5

FUNCTIONS OF ASSOCIATION

Section 5.1 Powers and Duties. The Association shall have all of the powers of a Nevada nonprofit corporation, subject only to such limitations, if any, upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the

exercise of any of the express powers of the Association. The Association's obligations to maintain the Common Elements shall commence on the date Annual Assessments commence on Residential Units; until commencement of Annual Assessments, the Common Elements shall be maintained by Declarant, at Declarant's expense. Without in any way limiting the generality of the foregoing provisions, the Association may act through the Board, and shall have:

(a) Assessments. The power and duty to levy Assessments against the Owners of Residential Units, and to enforce payment of such Assessments in accordance with the provisions of Articles 6 and 7 below.

(b) Maintenance and Repair of Common Elements. The power and duty to cause the Common Elements and any HOA Unit to be reasonably maintained and kept in good repair (which shall include the power to enter into one or more maintenance and/or repair contract(s), including contract(s) for materials and/or services, with any Person(s) for the maintenance and/or repair of the Common Elements and/or any HOA Unit), pursuant to this Declaration and in accordance with standards adopted by the Board, and to pay for utilities, gardening, landscaping, and other necessary services for the Common Elements. Notwithstanding the foregoing, the Association shall have no responsibility to provide any of the services referred to in this subsection 5.1(b) with respect to any Improvement which is accepted for maintenance by any state, local or municipal governmental agency or public entity. Such responsibility shall be that respectively of the applicable agency or public entity.

(c) Removal of Graffiti. The power to remove or paint over any graffiti, pursuant and subject to Section 8.10, below.

(d) Insurances. The power and duty to cause to be obtained and maintained the insurance coverages in accordance with the provisions of Article 11 below.

(e) Taxes. The power and duty to pay all taxes and similar assessments levied upon any HOA Unit and upon the Common Elements (except to the extent, if any, that property taxes on Common Elements are assessed pro-rata on the Residential Units), and all taxes and assessments payable by the Association, and to timely file all tax returns required to be filed by the Association.

(f) Utility Services. The power and duty to obtain, for the benefit of the Common Elements, any commonly metered water, gas, and/or electric services (or other similar services) and/or refuse collection, and the power, but not the duty, to provide for all cable or master television service, if any, for all or portions of the Properties. The Association, by Recordation of this Declaration, and each Owner, by acquiring title to a Residential Unit, acknowledge and agree that water for the Properties may be commonly metered and paid by the Association, and allocated and billed by the Association to each Residential Unit on such basis deemed by the Board to be reasonable and necessary, regardless of the actual levels or periods of use or occupancy (or non-use or vacancy) of or by the Residential Unit.

(g) Easements and Rights-of-Way. The power (subject to rights of Declarant reserved in this Declaration), but not the duty, to grant and convey to any Person: (i) easements, licenses and rights-of-way in, on, over or under the Common Elements and/or any HOA Unit, and (ii) with the consent of a majority of the voting power of the Association, fee title to parcels or strips of land which comprise a portion of the Common Elements and/or any HOA Unit, for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder: (A) roads, streets, walks, driveway areas, parkways, park areas and slope areas; (B) overhead or

underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, television, telephone and other similar purposes; (C) sewers, storm and water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and, (D) any similar public or quasi-public Improvements or facilities.

(h) Manager. The power, subject to Section 5.5 below, but not the duty, to employ or contract with a professional Manager to perform all or any part of the duties and responsibilities of the Association, and the power, but not the duty, to delegate powers to committees, Officers and employees of the Association. Any such management agreement, or any agreement providing for services by Manager to the Association, shall be subject to cancellation by either party, without cause, at any time upon not less than sixty (60) days written notice, or at any time immediately for cause.

(i) Rights of Entry and Enforcement. The power, but not the duty, after Notice and Hearing (except in the event of bona-fide emergency which poses an (a) imminent and substantial threat to health, or (b) imminent and substantial threat (as verified by an engineer, architect, or professional building inspector, duly licensed in the State of Nevada) of material property damage; in which event of emergency, Notice and Hearing shall not be required), to peaceably enter upon any area of a Residential Unit, without being liable to any Owner, except for damage caused by the Association entering or acting in bad faith, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain and repair such area as required by this Declaration. All costs of any such maintenance and repair as described in the preceding sentence (including all amounts due for such work, and the costs and expenses of collection) shall be assessed against such Owner as a Specific Assessment, and, if not paid timely when due, shall constitute an unpaid or delinquent Assessment pursuant to Article 7 below. The responsible Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection. Unless there exists an emergency, there shall be no entry into a Residential Unit without the prior consent of the Owner thereof. Any damage caused by an entry upon any Residential Unit shall be repaired by the entering party. Subject to Section 5.3 below, the Association may also commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory injunctions or otherwise, all of the provisions of the Declaration, and, if such action pertaining to the Declaration is brought by the Association, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be fixed by the court.

(j) Other Services. The power and duty to maintain the integrity of the Common Elements and/or any HOA Unit, and to provide such other services as may be necessary or proper to carry out the Association's obligations and business under the terms of this Declaration to enhance the enjoyment, or to facilitate the use, by the Members, of the Common Elements and/or any HOA Unit.

(k) Employees, Agents and Consultants. The power, but not the duty, if deemed appropriate by the Board, to hire and discharge employees and agents and to retain and pay for legal, accounting and other services as may be necessary or desirable in connection with the performance of any duties or exercise of any powers of the Association under this Declaration.

(l) Acquiring Property and Construction on Common Elements. The power, but not the duty, by action of the Board, to acquire property or interests in property for the common benefit of Owners, including Improvements and personal property. The power, but not the duty, by action of the Board, to construct new Improvements or additions to the Common Elements, or

demolish existing Improvements (other than maintenance or repairs to existing Improvements), subject to Section 2.1(g) hereof.

(m) Contracts. The power, but not the duty, to enter into contracts with Owners to provide services or to maintain and repair Improvements within the Properties which the Association is not otherwise required to maintain pursuant to this Declaration, and the power, but not the duty, to contract with third parties for such services. Any such contract or service agreement must, however, provide for payment to the Association of the cost of providing such service or maintenance.

(n) Records and Accounting. The power and the duty to keep, or cause to be kept, true and correct books and records of account at the sole cost and expense of the Association in accordance with generally accepted accounting principles. Financial statements for the Association shall be regularly prepared and distributed to all Members as follows:

(i) Pro forma operating (Budgets, including a Reserve Budget), and Reserve Studies for each fiscal year shall be distributed pursuant to Section 6.4 below.

(ii) Reviewed or audited Financial Statements (consisting of a reasonably detailed statement of revenues and expenses of the Association for each Fiscal Year, and a balance sheet showing the assets (including, but not limited to, Association Reserve Funds) and liabilities of the Association as at the end of each Fiscal Year), and a statement of cash flow for the Fiscal Year, shall be made available within one hundred twenty (120) days after the close of each Fiscal Year.

(o) Maintenance of Other Areas. The power and duty to maintain and repair slopes, parkways, entry structures, and Community signs identifying the Properties, to the extent deemed by the Board to be reasonable or prudent.

(p) Use Restrictions. The power and the duty to enforce use restrictions pertaining to the Properties.

(q) Insurances. The power and the duty to cause to be obtained and maintained the insurance coverages pursuant to Article 11, below.

(r) Licenses and Permits. The power and the duty to obtain from applicable governmental authority any and all licenses and permits necessary or reasonably appropriate to carry out Association functions hereunder.

Section 5.2 Rules and Regulations. The Board, acting on behalf of the Association, shall be empowered to adopt, amend, repeal, and/or enforce reasonable and uniformly applied Rules and Regulations, which shall not discriminate among Members, for the use and occupancy of the Properties, as follows:

(a) General. A copy of the Rules and Regulations, as from time to time may be adopted, amended or repealed, shall be posted in a conspicuous place in the Common Elements and/or shall be mailed or otherwise delivered to each Member and also kept on file with the Association. Upon such mailing, delivery or posting, the Rules and Regulations shall have the same force and effect as if they were set forth herein and shall be binding on all Persons having any interest in, or making any use of any part of, the Properties, whether or not Members; provided, however, that the Rules and Regulations shall be enforceable only to the extent that they are

consistent with the other Governing Documents. If any Person has actual knowledge of any of the Rules and Regulations, such Rules and Regulations shall be enforceable against such Person, whether or not a Member, as though notice of such Rules and Regulations had been given pursuant to this Section 5.2. The Rules and Regulations may not be used to amend any of the other Governing Documents.

(b) Limitations. The Rules and Regulations must be:

- (i) reasonably related to the purpose for which adopted;
- (ii) sufficiently explicit in their prohibition, direction, or limitation, so as to reasonably inform an Owner or Resident, or tenant or guest thereof, of any action or omission required for compliance;
- (iii) adopted without intent to evade any obligation of the Association;
- (iv) consistent with the other Governing Documents (and must not arbitrarily restrict conduct, or require the construction of any capital improvement by an Owner if not so required by the other Governing Documents);
- (v) uniformly enforced under the same or similar circumstances against all Owners; provided that any particular rule not so uniformly enforced may not be enforced against any Owner (except as, and to the extent, if any, such enforcement may be permitted from time to time by applicable law); and
- (vi) duly adopted and distributed to the Owners at least thirty (30) days prior to any attempted enforcement.

(c) Enforcement. Subject to Sections 5.3, 5.8, and Article 16 and Section 17.16, below, the Association shall have the right to enforce any of the Rules and Regulations and the obligations of any Owner under any provision of the other Governing Documents, by assessing a reasonable fine as a Specific Assessment against such Owner or Resident, and/or suspending the right of such Owner to vote at meetings of the Association and/or the right of the Owner or Resident to use the Common Recreational Area or other Common Elements (other than ingress and egress, by the most reasonably direct route, to the Residential Unit), subject to the following:

- (i) the person alleged to have violated the provision must have had written notice (either actual or constructive, by inclusion in any Recorded document) of the provision for at least thirty (30) days before the alleged violation; and
- (ii) such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation, provided that if any such violation continues for a period of ten (10) days or more after notice of such violation has been given to such Owner or Resident, each such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties;
- (iii) no fine imposed under this Section 5.2 may exceed the maximum permitted from time to time by applicable Nevada law for each failure to comply or may be imposed until the Owner or Resident has been afforded the right to be heard, in person, by submission of a written statement, or through a representative, at a regularly noticed hearing (unless the violation is of a type that substantially threatens the health and welfare of the Owners and Community, in

which case, the Board may take expedited action, as the Board may deem reasonable and appropriate under the circumstances, subject to the limitations set forth in Section 5.2(b), above);

(iv) subject to Section 5.2(c)(iii) above, if any such Specific Assessment imposed by the Association on an Owner or Resident by the Association is not paid within thirty (30) days after written notice of the imposition thereof, then such Specific Assessment shall be enforceable pursuant to Articles 6 and 7; and

(v) subject to Section 5.3 below, the Association may also take judicial action against any Owner or Resident to enforce compliance with such Rules and Regulations and/or provision of other Governing Documents, or other obligations, or to obtain damages for noncompliance, all to the fullest extent permitted by law.

(d) Responsibility for Violations. Should any Resident violate any of the Rules and Regulations or any provision of the other Governing Documents, or should any Resident's act, omission or neglect cause damage to the Common Elements, then such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Residential Unit in which the Resident resides. Likewise, should any guest of an Owner or Resident commit any such violation or cause such damage to Common Elements, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident.

Section 5.3 Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "Proceeding"). Subject to Article 16, below, the Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Elements and any HOA Unit and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

(a) Any Proceeding commenced by the Association: (i) to enforce the payment of an Assessment or an Assessment lien or other lien against an Owner as provided for in this Declaration, or (ii) to otherwise enforce compliance with the Governing Documents by, or to obtain other relief from, any Owner who has violated any provision thereof, or (iii) to protect against any matter which imminently and substantially threatens all of the health, safety and welfare of the Owners, or (iv) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Ten Thousand Dollars (\$10,000.00) in the aggregate; shall be referred to herein as an "Operational Proceeding." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

(b) Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests

of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Section 5.3 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board:

(i) The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Two Thousand Dollars (\$2,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Members in Good Standing for such additional amount for mediation before proceeding to arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(1) The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, and shall obtain the written opinions of each and every one of: (A) a licensed Nevada attorney regularly residing in Clark County, Nevada, with a Martindale-Hubbell rating of "av", expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association ("Legal Opinion"); (B) a reputable appraiser and/or real estate consultant regularly conducting business in Clark County, Nevada, expressly opining that the marketability and market value of Residential Units will not be substantially or materially affected by such Non-Operational Controversy ("Appraiser's Opinion"); and (C) a senior executive from a reputable lender in the business of regularly making residential loans in Clark County, Nevada, that financing and refinancing of Residential Units will not be affected by such Non-Operational Controversy, and that such financing and refinancing will be readily available ("Lender's Opinion"). (The Legal Opinion, Appraiser's Opinion, and Lender's Opinion are sometimes collectively referred to herein as the "Opinions"). The Board shall be authorized to spend up to an aggregate of Two Thousand Dollars (\$2,000.00) to obtain such Opinions, including all amounts paid to said attorney therefor, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said \$2,000.00 limit, with the express consent of seventy-five percent (75%) or more of all of the Members in Good Standing of the Association, at a special meeting called for such purpose.

(2) The Legal Opinion shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "Quoted Litigation Costs") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said Legal Opinion shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft of the attorney's

proposed contingent fee agreement. (Such written Legal Opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "Attorney Letter").

(3) Upon receipt and review of the Attorney Letter, the Appraiser's Opinion, and the Lender's Opinion, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Members. The written notice to each Member of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, the Appraiser's Opinion, and the Lender's Opinion, together with a written report ("Special Assessment Report") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Member ("Special Litigation Assessment"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Appraiser's Opinion, Lender's Opinion, and Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Members in Good Standing, whereupon: (x) if not more than seventy-five percent (75%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (y) if more than seventy-five percent (75%) of the total voting power of the Association (i.e., more than seventy-five percent (75%) of all of the Members in Good Standing of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Members in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees and costs and expenses whatsoever in excess of one hundred ten percent (110%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Members, not less frequently than monthly, a written update of the progress and current status of, and the attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of attorneys fees and costs incurred to date in connection therewith.

(4) In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Members of the Association.

(c) In no event shall any Association Reserve Fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Association Reserve Funds, pursuant to Section 6.3 below,

are to be used only for the specified replacements, painting and repairs of Common Elements, and for no other purpose whatsoever.

(d) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section 5.3, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section 5.3, shall be unauthorized and ultra vires (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements of this Section 5.3 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (iii) this Section 5.3 may not be amended or deleted at any time without the express prior written approval of both: (1) Members representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the total voting power of the Board of Directors; and any purported amendment or deletion of this Section 5.3, or any portion hereof, without both of such express prior written approvals shall be void.

Section 5.4 Additional Express Limitations on Powers of Association. The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

(a) Incur aggregate expenditures for capital improvements to the Common Elements in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year; or sell, during any Fiscal Year, any property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year.

(b) Enter into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one (1) year, except (i) a contract with a public or private utility or cable television company, if the rates charged for the materials or services are regulated by the Nevada Public Service Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) the current management contract with the Manager, or (iii) prepaid casualty and/or liability insurance policies of no greater than three (3) years duration.

(c) Pay compensation to any Association Director or Officer for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or Officer to be reimbursed for reasonable expenses incurred in carrying on the business of the Association, subject to the Governing Documents.

Section 5.5 Manager. The Association shall have the power to employ or contract with a Manager, to perform all or any part of the duties and responsibilities of the Association, subject to the Governing Documents, for the purpose of operating and maintaining the Properties, subject to the following:

(a) Any agreement with a Manager shall be in writing and shall be subject to cancellation by either party, without cause, at any time upon not less than sixty (60) days written notice, or at any time immediately for cause.

(b) The Manager shall possess sufficient experience, in the reasonable judgment of the Board, in managing residential subdivision projects, similar to the Properties, in the County, and shall be duly licensed as required from time to time by the appropriate licensing and governmental authorities (and must have the qualifications, including education and experience, when and as required for the issuance of the relevant certificate by the Nevada Real Estate Division pursuant to the provisions of NRS Chapter 645 and/or NRS § 116.700, or duly exempted pursuant to NRS § 116.700.6). Any and all employees of the Manager with responsibilities to or in connection with the Association and/or the Community shall have such experience with regard to similar projects. (If no Manager meeting the above-stated qualifications is available, the Board shall retain the most highly qualified management entity available, which is duly licensed by the appropriate licensing authorities).

(c) No Manager, or any director, officer, shareholder, principal, partner, or employee of the Manager, may be a Director or Officer of the Association.

(d) As a condition precedent to the employ of, or agreement with, a Manager, the Manager (or any replacement Manager) first shall be required, at its expense, to review the Governing Documents, Plat, and any and all Association Reserve Studies and inspection reports pertaining to the Properties.

(e) By execution of its agreement with the Association, each and every Manager shall be conclusively deemed to have covenanted: (1) in good faith to be bound by, and to faithfully perform all duties (including, but not limited to, prompt and full and faithful accounting for all Association funds within the possession or control of Manager) required of the Manager under the Governing Documents (and, in the event of any irreconcilable conflict between the Governing Documents and the contract with the Manager, the Governing Documents shall prevail); (2) that any penalties, fines or interest levied upon the Association as the result of Manager's error or omission shall be paid (or reimbursed to the Association) by the Manager; (3) to comply fully, at its expense, with all regulations of the Nevada Real Estate Division applicable to qualifications, certification, and regulation of community managers; (4) to refrain, without specific prior written direction of a majority of the voting power of the Board, from referring or introducing to the Association, or contacting directly or indirectly for or on behalf of the Association, any attorney regarding any matter in any way related to the Community or any portion thereof; (5) prior to time of hire, and from time to time thereafter upon request of the Board: (a) to disclose to the Board, in writing, the identities of any and all other communities, managed by Manager (at such time, and within the three year period preceding such time), and involved in litigation involving any claim of construction defect, and the current status of any and all such litigation, and (b) to certify in writing to the Board that Manager, and its then current and prior employees, have had no relationship to, and have received no benefit or thing of value from, the attorney(s) commencing and/or prosecuting such litigation, and/or any attorney referred to the Association at the specific written direction of the Board (or if there was or is any such relationship or benefit, to disclose and identify the same); and (6) at Manager's sole expense, to promptly turn over, to the Board, possession and control of all funds, documents, books, records and reports pertaining to the Properties and/or Association, and to coordinate and cooperate in good faith with the Board in the event of a turnover, in any event not later than thirty (30) days of expiration or termination of the Association's agreement with Manager (provided that, without limiting its other remedies, the Association shall be entitled to withhold all amounts otherwise due to the Manager until such time as the Manager turnover in good faith has been completed).

(f) Upon expiration or termination of an agreement with a Manager, a replacement Manager meeting the above-stated qualifications shall be retained by the Board as

soon as possible thereafter and a limited review performed, by qualified Person designated by the Board, of the books and records of the Association, to verify assets; provided that the Association shall retain the right, in its business judgment, to be self-managed.

(g) The Association shall also maintain and pay for the services of such other personnel, including independent contractors, as the Board shall determine to be necessary or desirable for the proper management, operation, maintenance, and repair of the Association and the Properties, pursuant to the Governing Documents, whether such personnel are furnished or employed directly by the Association or by any person with whom or which it contracts. To the extent reasonably practicable, such other personnel shall not all be replaced concurrently, but shall be replaced according to a "staggered" schedule, to maximize continuity of services to the Association.

Section 5.6 Inspection of Books and Records

(a) The Board shall, upon the written request of any Owner, make available the books, records and other papers of the Association for review during the regular working hours of the Association, with the exception of: (1) personnel records of employees (if any) of the Association; and (2) records of the Association relating to another Owner.

(b) The Board shall cause to be maintained and made available for review at the business office of the Association or other suitable location: (1) the financial statements of the Association; (2) the Budgets and Reserve Budgets; and (3) Reserve Studies.

(c) The Board shall cause to be provided a copy of any of the records required to be maintained pursuant to (a) and (b) above, to an Owner or to the Nevada State Ombudsman, as applicable, within 14 days after receiving a written request therefor. The Board may charge a fee to cover the actual costs of preparing such copy, but not to exceed such maximum amount as permitted by applicable Nevada law.

(d) Notwithstanding the foregoing, each Director shall have the unfettered right at any reasonable time, and from time to time, to inspect all such records.

Section 5.7 Continuing Rights of Declarant. Declarant shall preserve the right, without obligation, to enforce the Governing Documents (including, without limitation, the Association's duties of maintenance and repair, and Reserve Study and Reserve Fund obligations). After the end of Declarant Control Period, throughout the term of this Declaration, the Board shall deliver to Declarant notices and minutes of all Board meetings and Membership meetings, and Declarant shall have the right, without obligation, to attend such meetings, on a non-voting basis. Declarant shall also receive notice of, and have the right, without obligation, to attend, all inspections of the Properties or any portion(s) thereof. Declarant further reserves the right and easement, without obligation, from time to time whether before or after the end of Declarant Control Period, throughout the term of this Declaration, to enter upon the Properties at reasonable times to conduct inspections. The Board shall also, throughout the term of this Declaration, deliver to Declarant (without any express or implied obligation or duty on Declarant's part to review or to do anything) all notices and correspondence to Owners, all inspection reports, the Reserve Studies prepared in accordance with Section 6.3 below, and audited or reviewed annual reports, as required in Section 5.1(n) above. Such notices and information shall be delivered to Declarant at its most recently designated address. This Section 5.7 may not be amended or terminated without Declarant's prior written consent, and any purported amendment or termination of this Section 5.7 in violation of the foregoing shall be null and void.

Section 5.8 Compliance with Applicable Laws. The Association and its governance shall comply with all applicable laws (including, but not limited to, applicable laws prohibiting discrimination against any person in the provision of services or facilities in connection with a Residential Unit because of a disability of such person) relating thereto. The provisions of the Governing Documents shall be upheld and enforceable to the maximum extent permissible under applicable federal or state law or applicable Ordinance. Subject to the foregoing, in the event of irreconcilable conflict between applicable law and any provision of the Governing Documents, the applicable law shall prevail, and the affected provision of the Governing Document shall be deemed amended (or deleted) to the minimum extent reasonably necessary to remove such irreconcilable conflict. In no event shall the Association adhere to or enforce any provision of the Governing Documents which irreconcilably contravenes applicable law.

Section 5.9 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association (including the Board and any committees) nor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of the above-mentioned parties be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.

Section 5.10 Security Covenants of Owners. Each Owner acknowledges, understands and covenants to inform all residents of its Residential Unit, and their respective families and invitees, that neither the Association (including the Board and any committees) nor all other persons involved with the governance, maintenance, and management of the Properties, including Declarant, are insurers of safety or security within the Properties. All Owners and Residents, and their respective families and invitees, assume all risks of personal injury and loss or damage to persons, Residential Units, and the contents of Residential Units, and further acknowledge that neither the Association (including the Board and any committees), nor Declarant have made representations or warranties regarding any entry gate, patrolling of the properties, any fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Properties. All Owners and Residents, and their respective families and invitees, further acknowledge that they have not relied upon any such representations or warranties, expressed or implied.

ARTICLE 6 COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1 Personal Obligation of Assessments. Each Owner of a Residential Unit, by acceptance of a deed therefor, whether or not so expressed in such deed, is deemed to covenant and agree, to pay to the Association: (a) Annual Assessments, (b) Specific Assessments, (c) Supplemental Assessments, (d) any Capital Assessments; and (e) any other charge levied by the Association on one or more Owner(s), such Assessments to be established and collected as provided in this Declaration. All Assessments, together with interest thereon, late charges, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the Residential Unit and shall be a continuing lien upon the Residential Unit (and any appurtenant Garage) against

which such Assessments are made, irrespective of transfer of title to the Residential Unit (or appurtenant Garage). Each such Assessment, together with interest thereon, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Residential Unit at the time when the Assessment became due. This personal obligation cannot be avoided by abandonment of a Residential Unit or by an offer to waive use of the Common Elements. The personal obligation only shall not pass to the successors in title of any Owner unless expressly assumed by such successors. Notwithstanding the foregoing, or any other provision in the Governing Documents, the HOA Unit, if any, and/or Common Elements shall not be subject to Assessments hereunder.

Section 6.2 Association Funds. The Board shall establish and maintain at least the following separate accounts (the "Association Funds") 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 the provisions of this Declaration. The Association Funds shall be established as accounts, in the name of the Association, at a federally or state insured banking or savings institution and shall include: (1) an operating fund ("Operating Fund") for current expenses of the Association, and (2) an Association reserve fund ("Reserve Fund") for capital repairs and replacements, as set forth in Section 6.3 below, and (3) any other funds which the Board may establish, to the extent necessary under the provisions of this Declaration. To qualify for higher returns on accounts held at banking or savings institutions, the Board may commingle any amounts deposited into any of the Association Funds (other than Reserve Fund which shall be kept segregated), provided that the integrity of each individual Association Fund shall be preserved on the books of the Association by accounting for disbursements from, and deposits to, each Association Fund separately. Each of the Association Funds shall be established as a separate savings or checking account, at any federally or state insured banking or lending institution, with balances not to exceed institutionally insured levels. All amounts deposited into the Operating Fund and the Reserve Fund must be used solely for the common benefit of the Owners for purposes authorized by this Declaration. The Manager shall not be authorized to make withdrawals from the Reserve Fund. Withdrawals from the Reserve Fund shall require signatures of both the President and Treasurer. In the event that either the President or the Treasurer is absent or not reasonably available, the Secretary may co-sign in lieu of the absent officer (but not in lieu of both). In the event that either the President or the Treasurer is absent or not reasonably available, and the Secretary also is absent or not reasonably available, the Vice President may co-sign in lieu of the absent President or Treasurer (but not in lieu of both). After the Declarant Control Period, all of the Directors must also all be Owners, and the President, Vice President, Secretary and Treasurer must also first be Directors.

Section 6.3 Reserve Fund; Reserve Studies.

(a) Any other provision herein notwithstanding: (i) the Association shall establish a reserve fund ("Reserve Fund"); (ii) the Reserve Fund shall be used only for capital repairs, restoration, and replacements of major components of the Common Elements and/or any HOA Unit (including, without limitation, repair and replacement of roofs, building exteriors, private streets, walkways, hardscape, waterscape, and Common Recreational Area) ("Major Components"), (iii) in no event whatsoever shall the Reserve Fund be used for regular maintenance recurring on an annual or more frequent basis, or as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding, or for any other purpose whatsoever; and (iv) the Reserve Fund shall be kept in a segregated account, withdrawals from which shall only be made upon specific approval of the Board subject to the foregoing, (v) funds in the Reserve Fund may not be withdrawn without the signatures of both the President and the Treasurer (provided that the Secretary or Vice President may co-sign in lieu of either the President or the Treasurer, if either is not reasonably

available and provided further that if the Secretary also is absent or not reasonably available, the Vice President may co-sign in lieu of the absent President or Secretary (but not in lieu of both)); and (vi) under no circumstances shall the Manager (or any one Officer or Director, acting alone) be authorized to make withdrawals from the Reserve Fund.

(b) The Board, in its reasonable judgment, shall periodically retain the services of a qualified reserve study analyst, with reasonably sufficient experience with preparing reserve studies for similar residential projects in the County, to prepare and provide to the Association a reserve study ("Reserve Study").

(c) The Board shall cause to be prepared a Reserve Study at such times as the Board deems reasonable and prudent, but in any event at **least once every five (5) years** (or at such other intervals as may be required from time to time by applicable Nevada law). The Board shall review the results of the most current Reserve Study **at least annually** to determine if those reserves are sufficient; and shall make such **adjustments** as the Board deems reasonable and prudent to maintain the required reserves from time to time (i.e., by increasing Assessments).

(d) Each Reserve Study must be conducted by a person qualified by training and experience to conduct such a study (including, but not limited to, a Director, an Owner or a Manager who is so qualified) ("Reserve Analyst"). The Reserve Study must include, without limitation: (1) a summary of an inspection of the Major Components which the Association is obligated to repair, replace or restore; (2) an identification of the Major Components which have a remaining useful life of less than 30 years; (3) an estimate of the remaining useful life of each Major Component so identified; (4) an estimate of the cost of repair, replacement or restoration of each Major Component so identified during and at the end of its useful life; and (5) an estimate of the total Annual Assessment that may be required to cover the cost of repairing, replacement or restoration the Major Components so identified (after subtracting the reserves as of the date of the Reserve Study). The Reserve Study shall be conducted in accordance with any applicable regulations promulgated from time to time by the Nevada Real Estate Division.

(e) Each Reserve Study shall be prepared in accordance with any legal requirements from time to time as applicable, applied in each instance on a prospective basis. Subject to the foregoing sentence, the Association (upon Recordation of this Declaration) and each Owner (by acquiring title to a Residential Unit) shall be deemed to have unequivocally agreed that the following, among others, shall be deemed reasonable and prudent for and in connection with preparation of each Reserve Study: (i) utilization, by a Reserve Analyst, of the "pooling" or "cash flow" method, or other generally recognized method, and/or (ii) utilization or reliance, by a Reserve Analyst, of an assumption that there will be future annual increases in amounts from time to time allocated to the Reserve Fund.

Section 6.4 Budget; Reserve Budget

(a) The Board shall adopt a proposed annual Budget (which shall include a Reserve Budget) at least thirty (30) days prior to the first Annual Assessment period for each Fiscal Year. Within thirty (30) days after adoption of any proposed Budget, the Board shall provide to all Owners a summary of the Budget, and shall set a date for a meeting of the Owners to consider ratification of the Budget. Said meeting shall be held not less than fourteen (14) days, nor more than thirty (30) days after mailing of the summary. Unless at that meeting the proposed Budget is rejected by at least seventy-five percent (75%) of the voting power of the Association, the Budget shall be deemed ratified, whether or not a quorum was present. If the proposed Budget is duly rejected as aforesaid, the annual Budget for the immediately preceding Fiscal Year shall be

reinstated, as if duly approved for the Fiscal Year in question, and shall remain in effect until such time as a subsequent proposed Budget is ratified.

(b) Notwithstanding the foregoing, except as otherwise provided in subsection (c) below, the Board shall, not less than 30 days or more than 60 days before the beginning of each Fiscal Year, prepare and distribute to each Owner a copy of:

(1) the Budget (which must include, without limitation, the estimated annual revenue and expenditures of the Association and any contributions to be made to the Reserve Fund); and

(2) the Reserve Budget, which must include, without limitation:

(A) the current estimated replacement cost, estimated remaining life and estimated useful life of each Major Component;

(B) as of the end of the Fiscal Year for which the Reserve Budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the Major Components;

(C) a statement as to whether the Board has determined or anticipates that the levy of one or more Capital Assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves for that purpose; and

(D) a general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (B) above, including, without limitation, the qualifications of the Reserve Analyst.

(c) In lieu of distributing copies of the Budget and Reserve Budget, the Board may distribute to each Owner a summary of those budgets, accompanied by a written notice that the budgets are available for review at the business office of the Association or other suitable location and that copies of the budgets will be provided upon request.

Section 6.5 Limitations on Annual Assessment Increases. The Board shall not levy, for any Fiscal Year, an Annual Assessment which exceeds the "Maximum Authorized Annual Assessment" as determined below, unless first approved by the vote of Members in Good Standing representing at least a majority of the total voting power of the Association. The "Maximum Authorized Annual Assessment" in any fiscal year following the initial budgeted year shall be a sum which does not exceed the aggregate of (a) the Annual Assessment for the prior Fiscal Year, plus (b) a twenty-five percent (25%) increase thereof. Notwithstanding the foregoing, if, in any Fiscal Year, the Board reasonably determines that the Common Expenses cannot be met by the Annual Assessments levied under the then-current Budget, the Board may, upon the affirmative vote of a majority of the voting power of the Association and a majority of the voting power of the Board, submit a Supplemental Annual Assessment, applicable to that Fiscal Year only, for ratification as provided in Section 6.4 above.

Section 6.6 Capital Contributions to Association. At the Close of Escrow for the sale of a Residential Unit by Declarant to a Purchaser, the Purchaser of such Residential Unit shall be required to pay an initial capital contribution to the Association, in an amount not to exceed 1/3 of the initial or then-applicable Annual Assessment. Such initial capital contribution is in addition to,

and is not to be considered as, an advance payment of the Annual Assessment for such Residential Unit, and shall be deposited at each Close of Escrow into the Association Reserve Fund and/or Association Operating Fund, and used to help fund the Association Reserve Fund, and/or applied to operating expenses, as the Board deems appropriate in its reasonable business judgment. Additionally, at the Close of Escrow for each resale of a Residential Unit by an Owner (other than Declarant), the Purchaser of such Residential Unit shall be required to pay a resale capital contribution to the Association, in an amount equal to 1/6 of the then-applicable Annual Assessment. Such resale capital contribution is in addition to the foregoing described initial capital contribution, and is further in addition to, and is not to be considered as, an advance payment of the Annual Assessment for such Residential Unit, and may be applied to working capital needs and/or the Reserve Fund, in the Board's business judgment.

Section 6.7 Assessment Commencement Date. The Board, by majority vote, shall authorize and levy the amount of the Annual Assessment upon each Residential Unit, as provided herein. Annual Assessments shall commence on Residential Units on the respective Assessment Commencement Date. The "Assessment Commencement Date" hereunder shall be: (a) with respect to Residential Units in the Original Property, the first day of the calendar month following the Close of Escrow to a Purchaser of the first Residential Unit in the Original Property; and (b) with respect to each Residential Unit within Annexed Property, the first day of the calendar month following the date on which the Annexation Amendment for such Residential Unit is Recorded; provided that Declarant may establish, in its sole and absolute discretion, a later Assessment Commencement Date, uniformly as to all Residential Units by agreement of Declarant to pay all Common Expenses for the Properties up through and including such later Assessment Commencement Date. Declarant may, but shall not be obligated to, make loan(s) to the Association, to be used by the Association for the sole purpose of paying Common Expenses, to the extent the budget therefor exceeds the aggregate amount of Annual Assessments for a given period, provided that any such loan shall be repaid by Association to Declarant as soon as reasonably possible. The first Annual Assessment for each Residential Unit shall be pro-rated based on the number of months remaining in the Fiscal Year. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board, at such frequency and on such due dates as the Board shall determine from time to time in its sole discretion. The Association shall, upon demand, and for a reasonable charge, furnish a certificate binding on the Association, signed by an Officer or Association agent, setting forth whether the Assessments on a Residential Unit have been paid. At the end of any Fiscal Year, the Board may determine that all excess funds remaining in the operating fund, over and above the amounts used for the operation of the Properties, may be deposited into the Association Reserve Fund, or may be retained by the Association for purposes determined by the Board, which may include, but are not limited to, in reducing the following year's Annual Assessment. Upon dissolution of the Association incident to the abandonment or termination of the maintenance of the Properties, any amounts remaining in any of the Association Funds shall be distributed proportionately to or for the benefit of the Members, in accordance with Nevada law.

Section 6.8 Application of Payments. Unless otherwise requested by an Owner before or at the time of payment, assessment payments shall be applied to the Owner's obligations in the following order: attorneys' fees, late charges, interest, Supplemental Assessments, Annual Assessments, and other Assessments, if any. An Owner's request may be denied or modified by the Board, in its sole discretion.

Section 6.9 Capital Assessments. The Board may levy, in any Fiscal Year, a Capital Assessment, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital Improvement or other such addition upon the

Common Elements, including fixtures and personal property related thereto; provided that any proposed Capital Assessment shall require the advance consent of a majority of the voting power of the Association.

Section 6.10 Uniform Rate of Assessment. Annual Assessments shall be assessed at an equal and uniform rate against all Owners and their Residential Units, subject to Section 2.23 hereof (which provides for allocation of master metered water charges on such reasonable basis as determined from time to time by the Board).

Section 6.11 Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments herein:

(a) all portions, if any, of the Properties dedicated to and accepted by, the United States, the State of Nevada, the City, or any political subdivision of any of the foregoing, or any public agency, entity or authority, for so long as such entity or political subdivision is the owner thereof, or for so long as such dedication remains effective; and

(b) the Common Elements, and any HOA Unit.

Section 6.12 Specific Assessments. The Association may, subject to the provisions of Article 6, Section 8.4 and Section 10.1 (b) hereof, levy Specific Assessments against specific Owners who have caused the Association to incur specific expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. Specific Assessments also shall include, without limitation, late payment penalties, interest charges, administrative fees, attorneys' fees, amounts expended to enforce Assessment liens against Owners as provided for herein, and other charges of similar nature. Specific Assessments, if not paid timely when due, shall constitute unpaid or delinquent Assessments, pursuant to Article 7 below.

Section 6.13 Supplemental Assessments. The Association from time to time may levy Supplemental Assessments as deemed reasonably necessary by the Board, which Supplemental Assessments may include, but not necessarily be limited to, Supplemental Assessments for extraordinary payment(s) to cover a bona-fide "emergency". As used in this Section 6.13, "emergency" means any occurrence or combination of occurrences that: (1) could not have been reasonably foreseen; (2) affects the health, welfare and safety of the Owners; (3) requires the immediate attention of, and possible action by, the Board; and (4) makes it impracticable to comply with regular notice and/or agenda provisions. Supplemental Assessments, if not paid timely when due, shall constitute unpaid or delinquent Assessments, pursuant to Article 7 below.

Section 6.14 Subsidy Agreements; Declarant Advances. To the maximum extent not prohibited from time to time by applicable Nevada law:

(a) The Association is specifically authorized to enter into an agreement (a "Subsidy Agreement") with the Declarant or other entities under which such party agrees to subsidize, directly or indirectly, the operating costs of the Association in exchange for a temporary suspension of Annual Assessments which would otherwise be payable by Declarant with respect to Residential Units owned by Declarant and/or those Residential Units owned by any Declarant affiliate, holding company, finance company or other third party, while the Residential Unit is used by Declarant as model home and/or sales office.

(b) During the Declarant Control Period, Declarant shall have the right, but not the obligation, to advance funds and/or make loan(s) to the Association ("Declarant Advances")

from time to time for the sole purpose of paying Common Expenses in excess of Association funds then reasonably available to pay Common Expenses. The aggregate amount of any Declarant Advances outstanding from time to time, together with interest at a reasonable rate established by Declarant, shall be repaid by Association to Declarant as soon funds are reasonably available therefor (or, at Declarant's sole and absolute discretion, may be set off and applied by Declarant from time to time against any and all past, current, or future Annual Assessments and/or contributions to Reserve Funds, to such extent, if any, Declarant is obligated to pay any such amounts under this Declaration, any Subsidy Agreement, or under applicable Nevada law).

(c) Each Owner, by acceptance of a deed to his or her Residential Unit, shall be conclusively deemed to have acknowledged and agreed to all of the foregoing provisions of this Section 6.14, whether or not so stated in such deed.

ARTICLE 7 **EFFECT OF NONPAYMENT OF ASSESSMENTS:** **REMEDIES OF THE ASSOCIATION**

Section 7.1 Nonpayment of Assessments. Any installment of any Assessment shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. Such delinquent installment shall bear interest from the due date until paid, at the rate of eighteen percent (18%) per annum (or such lower rate as may be approved from time to time by the Board in its business judgment), but in any event not greater than the maximum rate permitted by applicable Nevada law, as well as a reasonable late charge, as determined by the Board, to compensate the Association for increased bookkeeping, billing, administrative costs, and any other appropriate charges. No such late charge or interest on any delinquent installment may exceed the maximum rate or amount allowable by law. The Association may bring an action at law against the Owner personally obligated to pay any delinquent installment or late charge, or foreclose the lien against the Residential Unit. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Elements or by abandonment of his or her Residential Unit.

Section 7.2 Notice of Delinquent Installment. If any installment of an Assessment is not paid within fifteen (15) days after its due date, the Board shall be entitled to mail a notice of delinquent Assessment to the Owner and to each Eligible Mortgagee of the Residential Unit, and each Owner, by acquiring title to a Residential Unit, shall be deemed to have unconditionally covenanted to authorize the Board from time to time to mail such notice to each and every lien holder of the Residential Unit. The notice shall specify: (a) the amount of Assessments and other sums due; (b) a description of the Residential Unit against which the lien is imposed; (c) the name of the record Owner of the Residential Unit; (d) the fact that the installment is delinquent; (e) the action required to cure the default; (f) the date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured; and (g) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of such Assessment for the then-current Fiscal Year and sale of the Residential Unit. The notice shall further inform the Owner of his or her right to cure after acceleration. If the delinquent installment of Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of such Assessments levied against such Owner and his or her Residential Unit to be immediately due and payable without further demand, and may enforce the collection of the full Assessments and all charges thereon in any manner authorized by law or this Declaration.

Section 7.3 Notice of Default and Election to Sell. No action shall be brought to enforce any Assessment lien herein, unless at least sixty (60) days have expired following the later of: (a) the date a notice of default and election to sell is Recorded; or (b) the date the Recorded notice of default and election to sell is mailed in the United States mail, certified or registered, return receipt requested, to the Owner of the Residential Unit. Such notice of default and election to sell must recite a good and sufficient legal description of such Residential Unit, the Record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid Assessment as described in Section 7.1 above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by such lien), the name and address of the Association, and the name and address of the Person authorized by the Board to enforce the lien by sale. The notice of default and election to sell shall be signed and acknowledged by an Association Officer, Manager, or other Person designated by the Board for such purpose, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

Section 7.4 Foreclosure Sale. Subject to the limitation set forth in Section 7.5 below, any such sale provided for above may be conducted by the Board, its attorneys, or other Person authorized by the Board in accordance with the provisions of NRS §116.31164, and Covenants Nos. 6, 7 and 8 of NRS §107.030 and §107.090, as amended, insofar as they are consistent with the provisions of NRS §116.31164, as amended, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages and Deeds of Trust, or in any other manner permitted by law. The Association, through its duly authorized agents, shall have the power to bid on the Residential Unit at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Notices of default and election to sell shall be provided as required by NRS §116.31163. Notice of time and place of sale shall be provided as required by NRS §116.311635.

Section 7.5 Limitation on Foreclosure. Any other provision in the Governing Documents notwithstanding, the Association may not foreclose a lien by sale for the assessment of a Specific Assessment or a fine for a violation of the Governing Documents, unless the violation is of a type that substantially and imminently threatens the health, safety, and welfare of the Owners and Residents of the Community. The foregoing limitation shall not apply to foreclosure of a lien for an Annual Assessment, Supplemental Assessment, or Capital Assessment, or any portion respectively thereof, pursuant to this Article 7.

Section 7.6 Cure of Default. Upon the timely cure of any default for which a notice of default and election to sell was filed by the Association, the Officers thereof shall Record an appropriate release of lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board, to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any two (2) Directors or the Manager, stating the indebtedness secured by the lien upon any Residential Unit created hereunder, shall be conclusive upon the Association and, if acknowledged by the Owner, shall be binding on such Owner as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request, at a reasonable fee, to be determined by the Board.

Section 7.7 Cumulative Remedies. The Assessment liens and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law or in equity, including a suit to recover a money judgment for unpaid Assessments, as provided above.

Section 7.8 Mortgagee Protection. Notwithstanding all other provisions hereof, no lien created under this Article 7, nor the enforcement of any provision of this Declaration shall defeat or render invalid the rights of the Beneficiary under any Recorded First Deed of Trust encumbering a Residential Unit, made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Residential Unit by judicial foreclosure, other foreclosure, or exercise of power of sale, such Residential Unit shall remain subject to this Declaration and the payment of all installments of Assessments accruing subsequent to the date such Beneficiary or other Person obtains title, subject to the following. The lien of the Assessments, including interest and costs, shall be subordinate to the lien of any First Mortgage upon the Residential Unit (except to the extent of Annual Assessments which would have become due in the absence of acceleration during six (6) months immediately preceding institution of an action to enforce the lien). The release or discharge of any lien for unpaid Assessments by reason of the foreclosure or exercise of power of sale by the First Mortgagee shall not relieve the prior Owner of his or her personal obligation for the payment of such unpaid Assessments.

Section 7.9 Priority of Assessment Lien. Recording of the Declaration constitutes Record notice and perfection of a lien for Assessments. A lien for Assessments, including interest, costs, and attorneys' fees, as provided for herein, shall be prior to all other liens and encumbrances on a Residential Unit, except for: (a) liens and encumbrances Recorded before the Declaration was Recorded, (b) a first Mortgage Recorded before the delinquency of the Assessment sought to be enforced (except to the extent of Annual Assessments which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien), and (c) liens for real estate taxes and other governmental charges, and is otherwise subject to NRS § 116.3116. The sale or transfer of any Residential Unit shall not affect an Assessment lien. However, subject to foregoing provision of this Section 7.9, the sale or transfer of any Residential Unit pursuant to judicial or nonjudicial foreclosure of a First Mortgage shall extinguish the lien of such Assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residential Unit from lien rights for any Assessments which thereafter become due. Where the Beneficiary of a First Mortgage of Record or other purchaser of a Residential Unit obtains title pursuant to a judicial or nonjudicial foreclosure or "deed in lieu thereof," the Person who obtains title and his or her successors and assigns shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Residential Unit which became due prior to the acquisition of title to such Residential Unit by such Person (except to the extent of Annual Assessments which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien). Such unpaid share of Common Expenses and Assessments shall be deemed to become expenses collectible from all of the Residential Units, including the Residential Unit belonging to such Person and his or her successors and assigns.

ARTICLE 8

MAINTENANCE AND REPAIR OBLIGATIONS

Section 8.1 Maintenance and Repair Responsibilities of Association. No Improvement, excavation or work which in any way alters the Common Elements shall be made or done by any Person other than by Declarant, or by the Association or its authorized agents after the completion of the construction or installation of the Improvements thereto by Declarant. Subject to this Declaration (including, but not limited to the provisions of Article 6, and Sections 8.4 and 10.1(b) hereof), upon the Assessment Commencement Date, the Association, acting through the Board and/or Manager, shall provide for the care, management, maintenance, and repair of the Common Elements and any HOA Unit (and of any other portions of the Properties as expressly required

hereunder), as set forth in detail in this Article 8. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its reasonable business judgment to be appropriate; provided that all maintenance shall be performed to maintain the original condition of the applicable item, ordinary wear and tear excepted. Without limiting the foregoing, The Board and/or Manager shall cause all improvements in the Common Elements and any HOA Unit to be repaired and/or repainted as necessary to maintain the original appearance thereof (normal wear and fading excepted).

(a) Inspections. After the end of the Declarant Control Period, the Board and Manager shall conduct regular periodic inspections of the Common Elements and any HOA Unit as set forth above, and shall provide Declarant with at least ten days' prior written notice of each such inspection. Declarant shall have the option, in its sole discretion, without obligation, to attend each such inspection.

(b) Reports. Throughout the term of this Declaration, the Board and the Manager shall promptly deliver to Declarant information copies of all written inspections and reports rendered pursuant to the Association's maintenance and repair responsibilities hereunder (without any obligation whatsoever of Declarant to review such documents or to take any action in connection therewith).

(c) Other Responsibilities. Without limiting the generality of any of the foregoing, the Association shall also be responsible for:

(i) maintenance, repair, and/or replacement of all exterior walls of buildings, including the exteriors of exterior walls of porches, all roofs; and all exterior stairways and landings;

(ii) periodic painting, maintenance, and repair of the exterior (but not the interior), and/or replacement, of the front doors to Residential Units and exterior utility closet doors (if any) located on the exterior of Buildings; any and all wrought iron features (if any) or the exterior of other enclosure materials on porches, stair railings, and the exterior of Garage sectional roll-up doors; provided that the Association shall not be responsible for maintenance of exterior door hardware;

(iii) replacement of burned-out light bulbs and broken fixtures on street lights and exterior building lights (but not with respect to the front door light of the Residential Unit, and/or any porch light(s), and/or lights in the Yard Component, which shall be the responsibility of the relevant Owner, pursuant to Section 8.4(f), below, provided that, in the event that the Owner of the affected Residential Unit does not immediately make such replacement, then the Association shall have the right to make such replacement, and to assess such Owner a reasonable sum set by the Board, for each such replacement, as a Specific Assessment);

(iv) removing any trash, garbage, or debris from Common Elements and any HOA Unit;

(v) cleaning and making necessary repairs and replacement to and of the Common Recreational Area facilities, walls, fencing and gates, entry gate features and monumentation, emergency "crash" gate, and permitted signage;

(vi) repair and replacement of the driveway appurtenant to each Garage.

(d) Failure to Maintain. The Association shall be responsible for accomplishing its maintenance and repair obligations fully and timely from time to time, as set forth in this Declaration. Failure of the Association to fully and timely accomplish such maintenance and repair responsibilities may result in deterioration and/or damage to Improvements, and such damage and/or deterioration shall in no event be deemed to constitute a constructional defect.

Section 8.2 Association Preventive Maintenance Workbooks. At the sole option of the Board, the Association may prepare and maintain preventive maintenance workbooks setting forth the minimum requirements and additional requirements suggested to be deemed necessary by the Board for the continuing upkeep and maintenance of the Common Elements and any HOA Unit (including, but not necessarily limited to, the items set forth in Section 8.1 above). Any such Preventive Maintenance Workbooks shall also include requirements for periodic maintenance, repairs and improvements, not required to be performed monthly, quarterly, or annually, for which Reserve Funds may be used.

Section 8.3 Inspection Responsibilities of Association. Within thirty (30) days after the date which is one (1) year after the first Close of Escrow of a Residential Unit, and annually thereafter, the Board (and, so long as Declarant owns any portion of the Properties, a representative of Declarant) shall conduct a thorough walk-through inspection of the Common Elements and any HOA Unit (including, but not necessarily limited to, all exterior portions of buildings, including roofs), and porches. If, at the time of such inspection, there are no Directors other than those appointed by Declarant, up to two (2) Owners, other than Declarant, shall be permitted to accompany such inspection. At the Board's sole option, the inspection may be videotaped. Following the inspection, the Board shall prepare a detailed written description of the then-existing condition of all such areas, facilities and buildings, including a checklist of all items requiring repairs or special attention. A similar checklist shall be prepared and signed by the Board and/or Manager within thirty (30) days after the election of the first Board elected following the end of the Declarant Control Period. It shall at all times be an express obligation of the Association to properly inspect (as aforesaid), repair, maintain, and/or replace such items, facilities, structures, landscaping and areas as are required to maintain the Properties in as good condition thereof as originally constructed by Declarant (reasonable wear and tear, settling and deterioration excepted). The Board shall report the contents of such written reports to the Members, at the next meeting of the Members following receipt of such written report, or as soon thereafter as reasonably practicable, and shall include such written reports in the minutes of the meeting. The Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices, and the recommendations of the inspectors. Copies of such reports shall also be delivered to Declarant. The foregoing notwithstanding, neither Declarant nor the Board shall be liable for any failure or omission under this Section 8.3, so long as Declarant and/or the Board (as may be applicable) has acted in good faith and with reasonable due diligence in carrying out its responsibilities hereunder.

Section 8.4 Maintenance and Repair Obligations of Owners. Each Owner shall, at such Owner's sole expense, keep his or her Residential Unit (which shall include the Garage) and allocated Exclusive Use Areas (which may include, but not necessarily be limited to, Yard Component or Balcony, or driveway appurtenant to a Garage, as applicable) and equipment and appurtenances in good, clean and sanitary order and condition, and shall do all interior redecorating and interior painting which may at any time be necessary to maintain the good appearance and condition of his or her Residential Unit. If any Owner shall permit any Improvement, the maintenance of which is his or her responsibility, to fall into disrepair or to become unsafe, unsanitary, unsightly or unattractive, or otherwise to violate this Declaration, the Board shall have the right to seek any remedies at law or in equity which the Association may have.

In addition, the Board shall have the right, but not the duty, after Notice and Hearing as provided in the Bylaws, to enter upon such Residential Unit to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Specific Assessment, enforceable as set forth in this Declaration. In addition to decorating and keeping the interior of his or her Residential Unit in good repair, each Owner shall be responsible, at such Owner's sole expense, for:

(a) cleaning, maintenance, repair, and/or replacement of any and all plumbing fixtures, electrical fixtures, and/or appliances (whether "built-in" or free-standing, including, by way of example and not of limitation: water heaters (and associated pans), furnaces, plumbing fixtures, lighting fixtures, refrigerators, dishwashers, garbage disposals, microwave ovens, washers, dryers, and ranges), within the Residential Unit or within an enclosure constructed by Declarant on a Yard Component;

(b) cleaning, maintenance, painting and repair of the interior of the front door, and interior and exterior door hardware, locks and hinges, of the Residential Unit;

(c) cleaning, maintenance, repair, and/or replacement of all windows and window glass within or exclusively associated with, the Owner's Residential Unit, including the metal frames, tracks, and exterior screens thereof, subject to the requirement that the exterior appearance of such items shall not deviate from its external appearance as originally installed by Declarant;

(d) cleaning, maintenance, and non-structural repair of porch or Balcony floor, ceiling, and the interior surfaces of the exterior wall enclosing or abutting a porch or Balcony, subject to the requirement that the appearance of such areas, visible from ground level adjacent to the Residential Unit, shall not deviate from their appearance as originally installed by Declarant; and maintenance, repair and replacement of any landscaping and other items in the Yard Component appurtenant to the Residential Unit, whether or not such landscaping or other items were originally installed by Declarant;

(e) cleaning, maintenance, repair, and replacement of any awning and/or patio cover, to the same condition as originally installed, ordinary wear and tear excepted;

(f) cleaning, and immediate, like-kind replacement of burned-out light bulbs, and broken light fixtures with respect to the front door light and porch light of the Residential Unit;

(g) cleaning of the stairway landing adjacent to the front door of the Residential Unit;

(h) cleaning, maintenance, repair, and replacement of the HVAC, located on an easement within the Common Elements, serving such Owner's Residential Unit exclusively (but not the concrete pad underneath such HVAC), subject to the requirement that the appearance of such items shall not deviate from their appearance as originally installed by Declarant;

(i) maintenance, repair, and replacement of Garage remote opener;

(j) without limiting any of the foregoing: cleaning, maintenance, and repair of the door opener and opening mechanism located in the Garage, and replacement with equal quality door opener and opening mechanism, so as to reasonably minimize noise related to or caused by an unserviced Garage door opener and/or opening mechanism; and

(k) cleaning, maintenance, repair and replacement of screened front door (in the event a screened front door is allowed by the ARC).

Section 8.5 Restrictions on Alterations.

(a) No Owner shall make any alterations, repairs of or additions to any portion of the exterior of the Condominium Building in which such Owner's Residential Unit (including Garage) is located. Awnings, attached patio covers, exterior intercom systems, and exterior cameras are specifically prohibited unless installed by Declarant (or installed by an Owner, subject to prior written approval of the ARC, to replace such item(s), as applicable, as originally installed by Declarant).

(b) Nothing shall be done in or to any part of the Properties which will impair the structural integrity of any part of the Properties except in connection with the alterations or repairs specifically permitted or required hereunder.

(c) Anything to the contrary herein notwithstanding, there shall be no alteration or impairment of, the structural integrity of, or any plumbing or electrical work within, any common wall without the prior written consent of the Board and all Owners of affected Residential Units, which consent shall not be unreasonably withheld. Each Owner shall have the right to paint, wallpaper, or otherwise furnish the interior surfaces of his or her Residential Unit as he or she sees fit.

(d) No improvement or alteration of any portion of the Common Elements or any HOA Unit shall be permitted without the prior written consent of the Board. The foregoing provisions shall not apply to the initial construction activities of Declarant.

(e) No exterior carpeting or other floor covering, except for one (1) standard doormat at the front door, shall be installed on any porch, stairway, or stair landing, without the prior written approval of the Board.

(f) No Owner shall change or modify the condition or appearance of any exterior window or door or any portion thereof, as viewed from any portion of the Properties, without the prior written consent of the Board.

(g) "Cutting out" (for example, but not limited to, for installation of speakers or "can" lights) or penetration or other alteration of any portion of wall, ceiling, and/or floor within a Residential Unit may seriously damage or adversely affect sound insulation or other important features of the Residential Unit. Notwithstanding any other provision herein, to minimize noise nuisance problems, for the welfare and benefit of the Community, cutting out" or penetration or other alteration by an Owner of any portion of wall, ceiling, and/or floor within a Residential Unit is strictly prohibited.

(h) Notwithstanding any other provision herein, the Board, in compliance with applicable law, shall give prompt consideration to, and shall reasonably accommodate, the request of any Resident who suffers from visual or hearing impairment, or is otherwise physically disabled, to reasonably modify his or her Residential Unit (including, but not necessarily limited to, the entrance thereto through Common Elements and/or any HOA Unit, the front door thereof, and/or appropriate features of a Garage), at the expense of such disabled Resident, to facilitate access

to the Residential Unit, or which are otherwise necessary to afford such disabled Resident an equal opportunity to use and enjoy his or her Residential Unit.

(i) Any and all damage arising from or related to failure by an Owner to comply with this Section 8.5 shall be the responsibility of said Owner, and the Association shall have the right, but not the obligation, and an easement, to enter upon any property to repair any such damage and to assess the cost of such repair, and any reasonably related cost, as a Specific Assessment against the relevant Owner.

(j) The foregoing provisions shall not apply to any construction and/or repair activities of Declarant.

Section 8.6 Reporting Responsibilities of Owners. Each Owner shall promptly report in writing to the Board and/or Manager any and all visually discernible items or other conditions, with respect to his or her Condominium Building, and/or Residential Unit (including Garage), appurtenant porch, stairway, and landing areas adjacent to his or her Residential Unit, which reasonably appear to require repair. Delay or failure to fulfill such reporting duty may result in further damage to Improvements, requiring costly repair or replacement.

Section 8.7 Disrepair; Damage by Owners. If any Owner shall permit any Improvement, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, and after affording such Owner reasonable notice, shall have the right but not the obligation to correct such condition, and to enter upon such Owner's Residential Unit, for the purpose of so doing, and such Owner shall promptly reimburse the Association for the cost thereof. Such cost may be assessed as a Specific Assessment pursuant to Section 6.12 above, and, if not paid timely when due, shall constitute unpaid or delinquent assessments for all purposes of Article 7, above. The Owner of the offending Residential Unit shall be personally liable for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor. Any other provision herein notwithstanding, the cost of any cleaning, maintenance, repairs, and/or replacements by the Association within the Common Elements, any HOA Unit, or any Residential Unit, arising out of or caused by the willful or negligent act of an Owner, his or her tenants, or their respective Families, guests or invitees shall, after Notice and Hearing, be levied by the Board as a Specific Assessment against such Owner pursuant to Section 6.12, above, and, if not paid timely when due, shall constitute unpaid or delinquent assessments pursuant to Article 7, above.

Section 8.8 Damage by Owners to Common Elements or Any HOA Unit. The cost of any maintenance, repairs or replacements by the Association within the Common Elements or any HOA Unit arising out of or caused by the willful or negligent act of an Owner, his or her tenants, or their respective Families, guests or invitees shall, after Notice and Hearing, be levied by the Board as a Specific Assessment against such Owner as provided pursuant to Section 6.12, above, and if not paid timely when due, shall constitute unpaid or delinquent assessments pursuant to Article 7 above.

Section 8.9 Pest Control Program. If the Board adopts an inspection, prevention and/or eradication program ("pest control program") for the prevention and eradication of infestation by wood destroying pests and organisms, the Association, upon reasonable notice (which shall be given no less than fifteen (15) days nor more than thirty (30) days before the date of temporary relocation) to each Owner and the Residents of the Residential Unit, may require such Owner and

Residents to temporarily relocate from the Residential Unit in order to accommodate the pest control program. The notice shall state the reason for the temporary relocation, the anticipated dates and times of the beginning and end of the pest control program, and that the Owner and Residents will be responsible, at their own expense, for their own accommodations during the temporary relocation. Any damage caused to a Unit or Common Elements by the pest control program shall be promptly repaired by the Association. All costs involved in maintaining the pest control program, as well as in repairing any Unit or Common Elements shall be a Common Expense, subject to a Specific Assessment therefor, and the Association shall have an easement over the Residential Units for the purpose of effecting the foregoing pest control program.

Section 8.10 Graffiti Removal. The Association shall have the right, but not the obligation, to remove or paint over any graffiti on the Properties (the costs of which graffiti removal or painting over shall be a Common Expense).

Section 8.11 Maintenance of Coach Lights. The Association shall at all times maintain in good and operating condition any and all coach lights ("Coach Lights") installed by Declarant on the front of Garages and exterior lights installed by Declarant on each side of each Building. Nothing in this Section 8.11 shall be construed as requiring or mandating initial installation by Declarant of such lights.

Section 8.12 Yard Components. "Yard Component" shall mean, typically with respect to certain (but not all) designated Residential Units in a Building, the yard/patio area called out on the Plat as an LCE with the Building, located adjacent and contiguous to the Building. The vertical boundaries of each Yard Component are as determined by Declarant, and the horizontal boundaries are generally as set forth on the Plat. No spa, jetted tub, hot tub or pool (whether in-ground or above-ground) shall be permitted in any Yard Component. No shed, gazebo, or storage structure, or any other installation, shall be permitted or located in any Yard Component without prior written ARC approval. The Owner of the Residential Unit to which a Yard Component is appurtenant shall be responsible for cleaning, maintenance and repair of the Yard Component, and all landscaping and other improvements located in the Yard Component, at such Owner's sole cost, subject to any and all ARC requirements from time to time, and subject further to the following sections of this Declaration pertaining to Yard Components.

Section 8.13 Yard Walls/Fences. Each wall or fence which is built as a part of the original construction by Declarant and placed approximately between a Yard Component and general Common Elements or between Yard Components shall constitute a "Yard Wall/Fence". The cost of repair and maintenance of a Yard Wall/Fence shall be borne by the Owner ("Wall Owner") of the Residential Unit whose Yard Component abuts the Yard Wall/Fence; provided that the cost of reasonable repair and maintenance of Yard Walls/Fences shall be shared by the Owners who use such Yard Wall/Fence in proportion to such use (e.g., if the Yard Wall/Fence is the boundary between two Owners, then each such Owner shall bear half of such cost); provided further that the Board, in its reasonable discretion, may resolve to have the Association maintain/or and repair Yard Walls/Fences, with the costs thereof or related thereto to be Common Expenses. Notwithstanding any other provision in this Declaration, in the event that any Yard Wall/Fence as originally constructed by Declarant, is not constructed exactly on the property line or as shown on the Plat, the Owners (and/or Association) affected shall accept the Yard Wall/Fence as the property boundary, and shall have no claim whatsoever against Declarant, the Association, or any other Owner as a result thereof or in connection therewith. If a Yard Wall/Fence is destroyed or damaged by fire or other casualty, the Yard Wall/Fence shall be promptly restored, to its condition and appearance before such damage or destruction, by the applicable Wall Owner(s). Subject to the foregoing, in the event a Wall Owner does not fulfill his or her obligations, the Association shall

have the right, but not the obligation, and an easement, to restore Yard Wall/Fence to its condition and appearance before such destruction or damage, and may assess the costs thereof a Specific Assessment against the Wall Owner(s), and may enforce the same pursuant to this Declaration. Any other provision herein notwithstanding, no Owner shall alter, add to, or remove any Yard Wall/Fence constructed by Declarant, or portion of such wall or fence, without the prior written consent of the Declarant until Close of Escrow by Declarant of its last Residential Unit, and prior written approval of the ARC. In the event of any dispute arising concerning a Yard Wall/Fence under the provisions of this Section 8.13, each party shall choose one arbitrator, each such arbitrator shall choose one additional arbitrator, and the decision of a majority of such panel of arbitrators shall be binding upon the Owners which are a party to the arbitration.

Section 8.14 Installed Landscaping

(a) Declarant may, but need not necessarily, install certain landscaping or improvements in Yard Components ("Installed Landscaping"). Each Owner shall be responsible for obtaining prior written ARC approval for installation of any and all landscaping or improvement (other than as may be installed by Declarant) in the Owner's Yard Component. Subject to the preceding sentence, each Owner shall be responsible, at his or her sole expense, for: (1) maintenance, repair, replacement, and watering of all landscaping and improvements, whether or not installed by Declarant on his or her Yard Component in a neat and attractive condition; and (2) maintenance, repair, and/or replacement of any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping or improvements, subject to (b) below. An Owner shall not be entitled to change, alter, delete, or add to, the Installed Landscaping in such Owner's Yard Component in the absence of prior written consent of the ARC, in its sole and absolute discretion.

(b) To help prevent and/or control water damage to foundations and/or walls, each Owner covenants, by acceptance of a deed to his or her Residential Unit, whether or not so stated in such deed, to not cause or permit irrigation water or sprinkler water on his or her Yard Component to flow onto, or to strike upon, any foundation, slab, side or other portion of wall (including, but not necessarily limited to, Building wall, and/or Yard Wall/Fence), and/or any other improvement. Without limiting the generality of the foregoing or any other provision in this Declaration, each Owner shall at all times ensure that: (1) there are no unapproved grade changes (including, but not necessarily limited to, mounding) within five (5) feet of any such foundation or wall located on or immediately adjacent to the Owner's Residential Unit; and (2) only non-irrigated desert landscaping or drip irrigation (but no sprinkler or spray irrigation) is located on the Owner's Residential Unit or Yard Component within five (5) feet of any foundation, slab, side or other portion of Building or Yard Wall/Fence.

Section 8.15 Post Tension Slabs. The concrete slab for certain Residential Units in the Properties is or may be reinforced with a grid of steel cables which were installed in the concrete and then tightened to create very high tension. This type of slab is commonly known as a "Post Tension Slab". Cutting into a Post Tension Slab for any reason (i.e., to install a floor safe, to remodel plumbing, etc.) is very hazardous and may result in serious damage to the Residential Unit and/or personal injury. By accepting a deed to a Residential Unit in the Properties, each Owner specifically covenants and agrees that (a) such Owner shall not cut into or otherwise tamper with any Post Tension Slab (b) such Owner shall not knowingly permit or allow any person to cut into or tamper with the post Tension Slab so long as such Owner owns any interest in the Residential Unit; (c) such Owner shall disclose the existence of the Post Tension Slab to any tenant, lessee or subsequent purchaser of the Residential Unit and (d) such Owner shall indemnify and hold Declarant and its respective officers employees, contractors and agents, free and harmless from

and against any and all claims, damages, losses, or other liability (including attorney's fees) arising from any breach of this Section.

Section 8.16 Notice Regarding Water Intrusion. Notwithstanding any other provision herein, in the event that there shall be intrusion of water into any Residential Unit (including, without limitation, as a result of any roof, window, siding or other leaks (including, without limitation, plumbing leaks), and whether or not the cause of such leak constitutes an alleged defect), the Owner of the affected Residential Unit shall be obligated to immediately notify Declarant of such event, and Owner shall take all necessary and appropriate action to stop any such water intrusion. Declarant shall thereafter have all of the rights afforded Declarant under Article 16 to inspect the condition, including the right to assess the likelihood of mold or mildew, and to offer recommendations for mitigation of mold or mildew. Nothing herein shall obligate Declarant to take any action, nor shall any rights of Declarant under this subsection constitute an admission or acknowledgment that any causes of any water intrusion are the result of defective construction. Failure of any Owner to timely notify Declarant of any such water intrusion shall be cause to deny future claims against Declarant relating thereto, which claims could have been mitigated had earlier action been taken.

Section 8.17 Mold. Each Owner, by acceptance of a deed to a Residential Unit, acknowledges and understands that there is, and will always be, the presence of certain biological organisms within the Residential Unit. Most typically, this will include the common occurrence of mold and/or mildew. It is important to note that mold and mildew tend to proliferate in warm, wet areas. As such, it is each Owner's responsibility to maintain his or her Residential Unit so as to avoid the accumulation of moisture and/or mold and mildew within the Residential Unit. Such mitigation matters should include, without limitation, the frequent ventilation of the Residential Unit, removal of standing water on Balcony or Yard Component (as applicable), prompt repair of any leaks which permit water intrusion into the Residential Unit, and prompt repair of plumbing leaks within the Residential Unit (irrespective of who may have caused any such leaks). Each Owner also understands that the presence of indoor plants may also increase moisture and/or mold and mildew. Also, the propping of large pieces of furniture against wall surfaces may lead to mold or mildew accumulation. It is the responsibility of each Owner to monitor and maintain his or her Residential Unit so as to mitigate and avoid the conditions which are likely to lead to the existence and/or growth of mold and/or mildew. In the event that mold does appear and/or grow within the Residential Unit, it is also the Owner's responsibility to promptly and properly treat such mold to minimize the spreading thereof and/or unhealthy conditions likely to arise as a result thereof. Such measures frequently include, but are not limited to, cleaning mold-affected surfaces with chlorine bleach. Each Owner is responsible to learn how to clean any affected Improvements.

Section 8.18 Rules and Regulations. The Board shall have the right, but not the obligation, from time to time to promulgate, amend, and/or supplement Rules and Regulations pertaining to maintenance and/or related matters.

ARTICLE 9 **USE RESTRICTIONS**

Subject to the rights and exemptions of Declarant as set forth in this Declaration, all real property within the Properties shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth in this Declaration. The strict application of the limitations and restrictions set forth in this Article 9 may be modified or waived in whole or in part by the Board in specific circumstances where such strict application would be unduly harsh, provided that any such

waiver or modification shall not be valid unless in writing and executed by the Board. Any other provision herein notwithstanding, neither Declarant, the Association, the Board, nor their respective directors, officers, members, agents or employees shall be liable to any Owner or to any other Person as a result of the failure to enforce any use restriction or for the granting or withholding of a waiver or modification of a use restriction as provided herein.

Section 9.1 Single Family Residence. Each Residential Unit shall be improved and used solely as a residence for a single Family and for no other purpose. No part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, primary storage, vending, "reverse engineering", destructive construction testing, or any other nonresidential purpose; provided that Declarant may exercise the reserved rights described in Article 13 hereof. The provisions of this Section 9.1 shall not preclude a professional or administrative occupation, or an occupation of child care, provided that the number of non-Family children, when added to the number of Family children being cared for at the Residential Unit, shall not exceed a maximum aggregate of three (3) children, and provided further that there is no nuisance under Section 9.5 below, and no external evidence of any such occupation, for so long as such occupation is conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Residential Unit as a residential home. This provision shall not preclude any Owner from renting or leasing his or her entire Residential Unit by means of a written lease or rental agreement subject to Section 9.3, below and any Rules and Regulations.

Section 9.2 Insurance Rates. Nothing shall be done or kept in the Properties which would substantially increase the rate of insurance on any Residential Unit or other portion of the Properties, nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any Residential Unit or other portion of the Properties or which would be a violation of any law. Any other provision herein notwithstanding, the Board shall have no power whatsoever to waive or modify this restriction.

Section 9.3 Rentals. No Residential Unit shall be rented for transient, time share, or hotel purposes. Any lease of, or rental agreement pertaining to, a Residential Unit ("lease") shall be in writing, shall be for a term of not less than six (6) months, and shall expressly provide that such lease is subject to all terms, covenants and conditions of this Declaration. The terms of any such lease shall be made expressly subject to this Declaration and the Rules and Regulations. Any failure by the lessee of such Residential Unit to comply with the terms of this Declaration or the Rules and Regulations shall constitute a default under the lease. A copy of any such lease (or a reasonable summary of its relevant terms, certified by the Owner to be true and correct), shall be provided by the Owner to the Board promptly upon request, solely to verify compliance with this Section 9.3. The Board shall not use any such lease or summary for any purpose other than internally to verify compliance with this Section 9.3. Subject to this Section, each and every Owner desiring to rent a Residential Unit to a tenant shall provide each such tenant with copies of the Governing Documents, and shall advise each such tenant of the obligation to abide by the Governing Documents.

Section 9.4 Animal Restrictions. Each Owner or lessee of a Residential Unit may keep no more than an aggregate of two (2) common household pet dogs, and/or cats in the Residential Unit, provided that each of said pets shall not exceed sixty (60) pounds; provided further that the Board, in its sole and absolute discretion, shall have the power and authority, but not the obligation, from time to time to grant and/or withdraw variance(s), on a case by case basis, for bona fide medical need or other special and unusual circumstances, subject to applicable law. No animal shall be kept, bred or maintained for commercial purposes, and each Owner or Resident shall be

responsible at all times for: (i) keeping the animal properly restrained on a leash at all times when located outside of the Residential Unit, and (ii) immediately cleaning up any excrement or other unclean or unsanitary condition caused by his or her animal in a Unit or Common Elements. The Board shall have the right to prohibit any animal within the Properties when the Board determines, in its reasonable judgment, such animal constitutes a private nuisance or otherwise unreasonably interferes, because of incessant or unreasonable barking or other compelling circumstance, with the peaceful and quiet enjoyment by other Owners and Residents of their respective property. The Board may also promulgate additional Rules and Regulations further regulating the keeping of pets. Notwithstanding the foregoing and any other provision in this Declaration, and subject to applicable law, no pet shall be permitted at any time in the Common Recreational Area clubhouse or pool area, other than to the extent required by applicable law to assist disabled Owners or occupants. Furthermore, to the extent permitted by law, any Owner shall be liable to each and all remaining Owners, their Families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or by members of his or her Family, tenants or guests; and it shall be the absolute duty and responsibility of each such Owner at all times to immediately clean up after such animal(s) anywhere in the Properties or abutting areas. Without limiting the foregoing all Owners shall comply fully in all respects with all applicable Ordinances and rules regulating and/or pertaining to animals and the maintenance thereof on the Owner's Residential Unit and/or any other portion of the Properties.

Section 9.5 Nuisances. No noxious or offensive activity shall be carried on, nor shall any outside lighting or loudspeakers or other sound producing devices be used, nor shall anything be done in any part of the Properties, which, in the judgment of the Board, may be or become an unreasonable annoyance or nuisance to the other Owners. Residential Unit security systems shall be interior alarm horns with automatic shutoff/reset features, and/or monitored by phone only, and no exterior alarm horns or speakers may be installed without the prior written consent of the Board. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Unit so as to be substantially and materially offensive or detrimental to any other Unit or to occupants thereof, or to the Common Elements. The Board shall have the right to determine if any noise, odor, or activity or circumstance reasonably constitutes a nuisance. Each Owner and Resident shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Residential Unit. Each Owner shall be accountable to the Association and other Owners and Residents for the conduct and behavior of children and other Family members or persons residing in or visiting his or her Residential Unit; and any damage to the Common Elements, personal property of the Association or property of another Owner or Resident, caused by such children or other Family members, shall be repaired at the sole expense of the Owner of the Residential Unit where such children or other Family members or persons are residing or visiting.

Section 9.6 Trash. All refuse, garbage and trash shall be kept at all times in covered, sanitary containers, and are to be kept by an Owner or Resident in his or her Garage on all days other than garbage collection days, and on garbage collection days placed by the relevant Owner or Resident in the designated garbage collection area for the minimum period reasonably necessary or appropriate for garbage collection, and then returned to and kept within the Garage. Each Owner shall be responsible for contracting with and promptly paying from time to time before delinquency the trash collector for all trash from or related to such Owner's Residential Unit. The Owners and Residents of Residential Units in a Building shall reasonably cooperate with each other and with the Association to ensure that their Building and immediately surrounding areas are kept in a neat and sanitary condition, free of noxious odors or other nuisance. If any Owner or Resident, or their respective Families, guests or other invitees should by act or omission cause or create an unsanitary or offensive condition in the Properties, then such act or omission shall be in

contravention of this Section, and the Board shall have the power and authority to cause a fine to be imposed on such person, reasonably commensurate with the gravity of the offense, subject to applicable law.

Section 9.7 No Hazardous Activities. No activities shall be conducted, nor shall any Improvements be constructed, anywhere in the Properties which are or might be unsafe or hazardous to any Person, Unit, or Common Elements.

Section 9.8 No Unsightly Articles. No unsightly articles, facilities, equipment, objects, or conditions (including, but not limited to, clotheslines or garden or maintenance equipment, or inoperable vehicle), shall be permitted to remain on any Limited Common Element so as to be visible from any street, or from any other Unit, Common Elements, or neighboring property.

Section 9.9 Alterations. There shall be no excavation, construction, alteration or erection of any projection which in any way alters the exterior appearance of any Improvement from any street, or from any other portion of the Properties without the prior written approval of the Board, which approval may be withheld in the Board's sole and absolute discretion.

Section 9.10 Signs. Subject to the reserved rights of Declarant contained in Article 13 hereof, no sign, poster, display, billboard or other advertising device or other display of any kind shall be installed or displayed to public view from any Residential Unit or any other portion of the Properties, except for permitted signs of permitted dimensions in such areas of the Common Elements and/or any Unit as shall be specifically designated by the Board for sign display purposes, subject to Rules and Regulations. The foregoing restriction shall not limit traffic and other signs installed by Declarant as part of the original construction of the Properties, and the replacement thereof (if necessary) in a professional and uniform manner.

Section 9.11 Antennas and Satellite Dishes. The provisions of this Section 9.11 shall be subject to Section 2.18 above. No exterior radio antenna or aerial, television antenna or aerial, microwave antenna, aerial or satellite dish, "C.B." antenna or other antenna or aerial of any type, which is visible from any street or from anywhere in the Properties, shall be erected or maintained anywhere in the Properties. Notwithstanding the foregoing, "Permitted Devices" (defined as antennas or satellite dishes: (a) which are one meter or less in diameter and designed to receive direct broadcast satellite service; or (b) which are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multi-point distribution services) shall be permitted, provided that such Permitted Device is installed in a location (if any) designated by Declarant or the Association or, if such location is not reasonably practicable, then an Owner must obtain prior written approval of the ARC before affixing a Permitted Device to any Balcony or Yard Component, or exterior of a Condominium Building, and, subject to the preceding portion of this sentence, an Owner shall be fully responsible to the Association for any and all liability and/or damage caused by or related to such installation and/or removal of a Permitted Device.

Section 9.12 Garages. Garages shall be used exclusively for the parking or storage of vehicles, and shall not be used solely for the storage of items other than vehicles. Ordinary household goods may be stored in addition to vehicles, provided that: (i) no flammable, dangerous, hazardous or toxic materials shall be kept, stored, or used in any Garage, and (ii) doors to Garages shall be kept fully closed at all times except for reasonable periods during the removal or entry of vehicles or other items therefrom or thereto. No Garage may be used for a permanent or temporary dwelling, and no animal shall be housed or kept in any Garage. The foregoing

notwithstanding, Declarant may convert a Garage owned by Declarant into a sales office or related purposes.

Section 9.13 Other Restrictions.

(a) No Owner or Resident shall keep or store any item in the Common Elements or any HOA Unit (subject to the right of such Person reasonably to store items in any private storage area exclusively allocated to such Person's Residential Unit, subject to the Rules and Regulations), and nothing shall be altered, or constructed or planted in, or removed from, the Common Elements or any HOA Unit, without the written consent of the Board. No article shall be kept or stored on Balconies, porches, or Yard Components, except reasonable quantities (in reasonable sizes) of regular porch furniture and potted plants, subject to the "nuisance" provisions of Section 9.5, above, and further subject to regulation by the ARC. Any such porch furniture and/or potted plants must be maintained in an attractive condition, and the care and watering of such plants must not damage or soil the Owner's Residential Unit, or any other Residential Unit, or any portion of the Common Elements or any HOA Unit.

(b) All utility and storage areas and all laundry rooms, including all areas in which clothing or other laundry is hung to dry, must be completely covered and concealed from view from other areas of the Properties and other neighboring properties. Subject to the foregoing Section 9.13(a), no clothes, clothesline, sheets, blankets, laundry of any kind or any other article shall be hung out or exposed on any external part of the Residential Units or Common Elements or any HOA Unit.

(c) No Owner shall cause or permit anything to be placed on the outside walls of his or her Residential Unit or Garage, and no sign, awning, attached patio cover, canopy, window air conditioning unit, shutter, or other fixture shall be affixed to any part thereof, except as installed by Declarant.

(d) Any treatment of windows or glass doors (other than interior shutters, draperies, curtains, or blinds, of neutral color and normal appearance, which shall be permitted without the need for ARC approval) shall be subject to the prior written approval of the ARC. Aluminum foil or other "irregular" or "non-standard" material shall not be permitted in any exterior window or glass door. Window tinting shall not be permitted, and any tinting will void the warranty on the windows. Screens on doors and windows, other than any which may be installed by Declarant in its sole discretion, are permitted only if approved in advance by the ARC. Notwithstanding the foregoing, the ARC shall have the power and authority, but not the obligation, in its reasonable judgment, to require any unsightly or offensive window or glass door covering or screening material to be promptly taken down and/or removed.

(e) Holiday decorations which may be viewed from other portions of the Properties may only be installed inside the windows of a Residential Unit, or on a porch; provided that such installment shall be done in such manner as not to compromise or damage the surface or item to which installed or attached. Such decorations must be installed and removed in a reasonably seasonal manner, and, during the appropriate period of display, shall be maintained in a neat and orderly manner.

(f) All Residential Units and Common Elements and any HOA Unit shall be kept clear of rubbish, debris and other unsightly materials.

(g) No barbeque shall be kept or operated on any Balcony or Residential Unit. Placement of use of any barbeque or similar device in a Yard Component shall be subject to prior written approval of the ARC, and shall further be subject to any and all requirements of applicable law or ordinance, and shall not be placed within ten (10) feet of any Building.

(h) No spa (other than any spa installed by Declarant), jetted tub, hot tub, water bed, or similar item (except for any bathroom tub installed by Declarant as part of the original construction of a Residential Unit) shall be permitted or located within any Residential Unit (or Garage) or Exclusive Use Area.

(i) No wrought iron fencing or the exterior of any other material used to enclose a porch, and no exterior wall, or ceiling wall of a porch, shall be painted, erected, or altered by any Owner.

(j) Residential Units will be wired with 125-ampere panels; accordingly, except as installed by Declarant, no electric dryer, electric range, and/or jetted tub shall be permitted or located within any Residential Unit (or Garage) or Exclusive Use Area.

Section 9.14 Parking and Vehicular Restrictions.

(a) No Person shall park, store or keep anywhere within the Properties any vehicle which is deemed by the Board in its reasonable judgment to unreasonably disrupt the peaceful and quiet enjoyment by other Owners and Residents of their respective property. The term "vehicle" for purposes herein shall include any vehicle, boat, aircraft, motorcycle, golf cart, jet ski, motor home, recreational vehicle, trailer, camper, other motorized item, vehicular equipment, and/or other item used in connection with or pertaining to any of the foregoing, whether mobile or not). Subject to, and without limiting, the foregoing, no Person shall park, store or keep anywhere on the Properties, any large commercial-type vehicle (including, but not limited to, any dump truck, cement mixer truck, fuel truck or delivery truck); provided that any truck up to and including one (1) ton when used normally for everyday-type transportation, may be kept by an Owner or Resident.

(b) No maintenance or repair of any vehicle shall be undertaken within the Properties. No vehicle shall be left on blocks or jacks, except within a fully closed Garage, subject to Section 9.12, above. No washing of any vehicle shall be permitted anywhere within the Properties.

(c) Subject to the "nuisance" provisions of Section 9.5, above, no Person shall park, store or keep anywhere in the Properties any unregistered or inoperable vehicle, except only within a fully closed Garage.

(d) No parking whatsoever shall be permitted in any designated "no parking" area, or any entry gate area of the Properties. No parking of any vehicle shall be permitted along any curb or otherwise on any street within the Properties, except only for temporary parking, subject to Rules and Regulations established by the Board, and subject further to all applicable laws and ordinances. The Board may designate additional "no parking" areas from time to time.

(e) The Association shall have the right to tow vehicles parked in violation of this Declaration and/or the Rules and Regulations. These restrictions shall not be interpreted in such a manner as to permit any activity which would be contrary to any applicable Ordinance.

(f) Subject to Section 2.16 above ("Garages"), regular parking may be permitted on a driveway area directly between a Garage and the immediately adjacent street, but only by the Owner or Resident of the Residential Unit to which said Garage is appurtenant (or by the authorized guest thereof), provided that no part of the parked vehicle shall be permitted to extend beyond the driveway area or past the adjacent sidewalk or curb line. Notwithstanding the foregoing, such parking shall not be permitted if: (i) any part of the vehicle extends beyond the driveway area or past the adjacent curb line, or (ii) such parking hinders or obstructs ingress or egress by any other Owner to or from its Garage, or (iii) such parking is located in a Sight Visibility Restriction Area. Notwithstanding the foregoing, no parking of any boat, camper, or other recreational vehicle shall be permitted on any driveway, except only temporarily for loading or unloading purposes, normally not to exceed forty-eight (48) hours in duration.

Section 9.15 Further Subdivision. No Residential Unit shall be further subdivided or partitioned, no two or more Residential Units may be combined in any manner whether to create a larger Residential Unit or otherwise, and no Owner may alter or permanently remove any wall between Residential Units.

Section 9.16 Additional Vibrations and Noise Restrictions. Except for the garage door opener, no Owner shall attach to the party walls or ceilings of any Residential Unit, Garage, or Exclusive Use Area any fixtures or equipment, which will cause vibrations or noise to the adjacent Residential Units. Any garage door opener which is replaced by an Owner shall be insulated with the same quality of sound insulation materials as provided by Declarant at the time of the initial installation or with any improved insulation materials which insulate sound and vibration from such garage door opener. Additionally, there shall be no speakers, sound equipment, television sets, or similar items mounted directly to or on or against a party wall of a Residential Unit. Such items may be permitted on shelves, provided that such shelves are carpeted so as to provide insulation from sound or vibration.

Section 9.17 Exterior Lighting. The exterior lighting initially installed on the Residential Units shall not be modified or altered by the Owner and shall be maintained, repaired and replaced by the Owners as necessary, to provide lighting of the same character and quality (including light bulb wattage) as was initially installed in the Properties. Further rules regarding exterior lighting may be promulgated by the Board.

Section 9.18 Abatement of Violations. The violation of any of the Rules and Regulations, or the breach of this Declaration, shall give the Board the right, in addition to any other right or remedy elsewhere available to it:

(a) to enter into a Residential Unit in which, or as to which, such violation or breach exists, and to summarily abate and remove, at the expense of its Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of any of the foregoing documents, and the Board shall not be deemed to have trespassed or committed forcible or unlawful entry or detainer; and/or

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate set forth in Section 7.1, above, until paid, shall be charged to and assessed against such defaulting Owner, and the Board shall have the right to lien for all

of the same upon the Residential Unit of such defaulting Owner. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

Section 9.19 No Waiver. The failure of the Board to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board or Manager of any Assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

Section 9.20 Noise Attenuation; Floor Coverings.

(a) General Noise Guidelines. In the event that any Owner other than Declarant desires to modify any Improvement to such Owner's Residential Unit, including, without limitation, the floor coverings in such Owner's Residential Unit, then, in addition to all other requirements set forth herein, each Owner shall be, and remain, obligated to comply with the terms of this Section. Under all circumstances, whether as a result of modifications to the Residential Unit, or actions of an Owner within such Owner's Residential Unit, each Residential Unit shall be required to meet a minimum field noise isolation class ("NIC") of not less than fifty (50). In addition, each Residential Unit shall maintain a minimum Field Impact Isolation Class ("FIIC") of not less than 50, which standard applies specifically to noise associated with a Residential Unit's floor/ceiling assembly. Flooring materials (including hard-surface flooring underlayment materials) are classified by such FIIC measurements reflecting the degree of noise likely to be created by use of such materials (and, as described more fully in this Section below, such information is among the information required to be provided by an Owner at such Owner's sole expense before any consideration will be given to permitting replacement of flooring materials). If testing is required to confirm compliance with the foregoing standards (or any other noise standards set forth herein) same shall be conducted at the Owner's sole expense by a company that adheres to ASTM standards.

(b) Floor Coverings. With respect to carpeting installed in an Owner's Residential Unit by any Owner, padding shall be used, and such carpeting and padding shall be of a total weight of no less than that originally installed by Declarant. With respect to hardwood, marble, ceramic tile or other hard floor coverings, if permitted, such flooring shall be installed only with appropriate acoustic underlayment. The particular underlayment may be dictated by the nature of the floor covering. It shall remain the responsibility of each Owner to abide by the sound and noise reduction requirements set forth in this Declaration. It shall be required for any such Owner contemplating the installation of hardwood flooring, marble, ceramic tile or other hard floor coverings on the floor directly above a Residential Unit owned by another Owner, to request the Association's approval to permit the Owner to install same. Under no circumstances shall any Owner modify, alter or impair the floor/ceiling assembly of any Residential Unit. Any Owner desiring to install hard-surface flooring in any Residential Unit to replace any originally-installed flooring shall provide at such Owner's sole expense the following information to the Association for its reference in connection with its review of any request to permit the installation of such hard-surface flooring (subject to the waiver by the Association of the requirement that any particular materials or information be submitted):

(i) Information, including, if appropriate, construction plans and/or drawings, clearly indicating the type of flooring to be installed and the underlayment to be provided to mitigate impact noises such as foot-falls. The information must clearly identify all materials, their composition, and thickness. This information, including any plans and/or drawings, must be approved, at Owner's sole expense, by the resilient underlayment manufacturer for acoustical and structural integrity and performance and compliance with the acoustical requirements of this Declaration;

(ii) A copy of the installation instructions from the resilient underlayment manufacturer, which instructions shall be followed by the installing contractor;

(iii) The name, qualifications, and experience of the contractor who will install the hard-surface flooring and resilient underlayment, with a listing of such contractor's experience in the installation of floors utilizing impact installation materials; and

(iv) Evidence that the newly-installed flooring will not create greater noise impacts than the test results for the floor/ceiling assembly yielded when tested as described above.

(c) Noise Reduction. Acoustical privacy is in the mutual interest and benefit of all Owners, lessees and other occupants of the Properties. Acoustical privacy can only be achieved through understanding and compliance with certain limitations and restrictions. It is recognized that total isolation from an adjacent Residential Unit in a manner comparable to a single-family residence is difficult if not impossible to attain. There will usually be some awareness of one's neighbors. Efforts have been made in the basic design of the Properties to alleviate airborne noise, structure-borne noise and impact noise transmission from and to each Residential Unit. The design and construction of the Properties attempt to meet the standards and criteria imposed by the applicable governmental authorities related to sound insulation to the extent permitted by construction practices today. Modification of design of the structures or related components thereof by any Owner, or installation of noise generating instruments or equipment, could then alter the resultant expected isolation. The following restrictions are intended to maximize the acoustical privacy of all Owners, lessees and other occupants of the Properties.

(i) Impacts from Improvements; Noise Study. Any improvement, equipment, or activity which may create noise impacts for any Residential Unit or Common Elements shall be subject to the strict noise reduction requirements and guidelines set forth herein and/or in any guidelines adopted by the Association from time to time (the "Noise Guidelines"). The Board shall have the right to request that any Owner desiring to install any such improvements or equipment submit the results of a noise study prepared by a qualified consultant reasonably acceptable to the Architectural Review Committee or the Board, as applicable.

(ii) Sound System Loudspeakers and Pianos. Prior to attaching sound system loudspeakers to ceilings, walls, shelves or cabinets in a Residential Unit, and prior to the placement of a piano in a Residential Unit, the Owner, lessee or other occupant of said Residential Unit shall submit a written description to the Association of the measures that the Owner intends to take to ensure that said equipment or instrument shall not disturb the Owners, lessees and other occupants of the Properties (the "Noise Reduction Measures"). In regard to pianos, the concentrated weight on each caster leg of the piano can result in vibrational energy transfer at these localized contact points that is disturbing to other Residential Unit occupants. This is frequently the case, regardless of whether carpeting and padding exist. Therefore, appropriate Noise Reduction Measures may include, among other things, installing a ½" neoprene waffle load distribution plate or pad which has been a solution in many cases. The Association shall review

the proposed Noise Reduction Measures submitted by an Owner, lessee or other occupant of a Residential Unit and, if in its sole discretion, determines that said measures will be adequate to minimize noise, the Association shall provide written notice of approval to said Owner, lessee or occupant within thirty (30) days of receipt of the Noise Reduction Measures. If the Association, in its sole discretion, determines that the Noise Reduction Measures are inadequate, then the Owner shall be prohibited from making the desired installation. If the Association fails to provide written notice to the Owner, lessee or occupant within said sixty (60) day period, it shall be conclusively presumed that the Association has not approved the Noise Reduction Measures.

(iii) Plumbing Lines and Fixtures. If the Association approves replacement of any plumbing lines and fixtures within a Residential Unit, such plumbing lines and fixtures shall be vibration isolated consistent with the existing isolation.

(iv) Other Devices and Decorations. Many other devices and decorations or uses or misuses thereof, can likewise be the cause of unacceptable sound or vibration in adjacent (along side, above or below as the case may be) Residential Units, including, but not limited to, rotating, oscillating or vibrating devices. The Residential Unit Owners are forewarned and on notice that the criteria for acoustical privacy set forth herein, shall apply for any condition resulting in annoyance and complaint by other Residential Unit occupants within the Properties. Without limiting any other guidelines or restrictions now or hereafter affecting the Properties, no Owner or other person (other than Declarant) shall install or permit the installation of any therapeutic spa or similar device or equipment, whether portable or otherwise, without the prior written approval of the Architectural Review Committee. Any installed shelving or hanging pictures shall only be installed or hung with toggle bolts into the drywall. No Owner or other person shall fasten shelving or hanging pictures directly to studs.

(v) Indemnity. In the event that any flooring installation by an Owner does not comply with the sound attenuation requirements set forth herein, irrespective of any approval by the Association, the non-complying Owner shall indemnify, defend and hold harmless Declarant and the Association from any claims for defects, damages, liabilities, costs, and/or expenses (including reasonable attorneys' fees) arising out of, caused by, or associated with such non-compliance.

(vi) Noise Field Testing. In the event a complaint is made for non-compliance with the Noise Guidelines, the Board may retain the services of a recognized acoustical engineer to field test the area of complaint. The costs shall be chargeable to the complaining party in the event the field test shows that conditions meet the criteria of the applicable guidelines. If such field tests shows non-compliance, then the costs of the testing shall be borne by the offending party. In the event an Owner fails to comply with the provisions of this Section or any Noise Guidelines (a "Noise Violation"), the Association shall have the right, after Notice and Hearing and reasonable opportunity to cure such Noise Violation as determined by the Board pursuant to this Section, to enter into the Owner's Residential Unit for the purpose of remedying the Noise Violation. The Association shall not be liable for trespass in connection with such entry. At any hearing on a noise issue, the Owner will have an opportunity to discuss with the Board the merits of the claims set forth in the Association's original notice of Noise Violation, and the Board will determine what action, if any, needs to be taken by the Owner to remedy the Violation and the time within which it must be accomplished. The cost to the Association of remedying such Owner's failure to comply with the provisions of this Section, as well as any damages suffered by the Association with respect thereto, shall be assessed to the Owner as a Specific Assessment, enforceable in the manner provided in this Declaration.

Section 9.21 Storm Drains; Water Pollution. Each Owner agrees to comply with and assume responsibility for anything done or required to be done in compliance with the plans filed by Declarant with respect to the National Pollutant Discharge Elimination System (NPDES) and Declarant's Storm Water Pollution Prevention Plan (SWPPP). Each Owner shall assume all responsibility and liability relating to the prevention of pollutant discharge, including soil materials, from the Owner's Residential Unit.

Section 9.22 Mineral Exploration; Toxic Substances. No property within the Common Elements shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, or any earth substance of any kind, or for the storage or disposal of "hazardous waste" or other hazardous or toxic materials, as such terms are defined by federal, state or local laws now or hereafter in effect.

Section 9.23 Oil, Water and Mineral Operations; Hazardous and Toxic Materials. No tools or equipment and no derrick or other structure designed for use in boring for oil, gas, or other kindred substances, or designed for use in boring for water, or designed for use in any mining operation or exploration shall hereafter be erected or placed upon the Properties or any portion thereof; and no Owner of any Unit shall ever consent to the use of the surface of the land, or any portion of the subsurface thereof, by any lessee under any lease to be negotiated or under any lease now of record affecting any Unit, which lease pertains to the exploration, mining, or operating for oil, gas or other hydrocarbon substances and the taking, storing, removing and disposition of same. No Unit or any portion thereof shall ever be used for the storage or disposal of "hazardous waste" or other hazardous or toxic materials, as such terms are defined by federal, state or local laws now or hereafter in effect.

Section 9.24 Declarant Exemption. Each Residential Unit owned by Declarant, shall be exempt from the provisions of this Article 9, until such time as Declarant conveys title to the Residential Unit to a Purchaser, and activities of Declarant reasonably related to Declarant's development, construction, advertising, marketing and sales efforts, shall be exempt from the provisions of this Article 9. This Article 9 shall not and may not be amended without Declarant's prior written consent.

ARTICLE 10

DAMAGE OR CONDEMNATION

Section 10.1 Damage or Destruction. Damage to, or destruction or condemnation of, all or any portion of the Common Elements or any HOA Unit shall be handled in the following manner:

(a) Repair of Damage. Any portion of the Common Elements or any HOA Unit, for which insurance is required by this Declaration or by any applicable provision of NRS Chapter 116, which is damaged or destroyed, must be repaired or replaced promptly by the Association unless: (i) the Common-Interest Community is terminated, in which case the provisions of NRS §§ 116.2118, 116.21183 and 116.21185 shall apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) eighty percent (80%) of the Owners, including every Owner of a Residential Unit that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced: (1) 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 Community; (2) the proceeds attributable to Residential Units that are not rebuilt must be distributed to the Owners of those Residential Units; and (3) the remainder of the

proceeds must be distributed to all the Owners or lien holders, as their interests may appear, in proportion to the liabilities of all the Residential Units for Common Expenses. If the Owners vote not to rebuild any Residential Unit, that Residential Unit's allocated interests are automatically reallocated upon the vote as if the Residential Unit had been condemned, and the Association promptly shall prepare, execute and Record an amendment to this Declaration reflecting the reallocations.

(b) Damage by Owner. To the full extent permitted by law, each Owner shall be liable to the Association for any damage to the Common Elements, provided the damage is: (i) caused by or related to pet(s) of or kept by, or (ii) is sustained as a result of the negligence, willful misconduct, or unauthorized or improper installation or maintenance of any Improvement by, said Owner or the Persons deriving their right and easement of use and enjoyment of the Common Elements from said Owner, or by his or her respective Family and guests, both minor and adult. The Association reserves the right, acting through the Board, after Notice and Hearing, to: (1) determine whether any claim shall be made upon the insurance maintained by the Association; and (2) levy against such Owner a Specific Assessment equal to any deductible paid and the increase, if any, in the insurance premiums directly attributable to the damage caused by such Owner or the Person for whom such Owner may be responsible as described above. In the case of joint ownership of a Residential Unit, the liability of the co-owners thereof shall be joint and several, except to any extent that the Association has previously contracted in writing with such co-owners to the contrary. After Notice and Hearing, the Association may levy a Specific Assessment in the amount of the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, against any Residential Unit owned by such Owner, and such Specific Assessment may be enforced as provided herein.

Section 10.2 Condemnation. If at any time, all or any portion of the Common Elements, or any HOA Unit or any interest respectively therein, is taken for any governmental or public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Association. Any such award payable to the Association shall be deposited in the operating fund. No Member shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation. The Association shall have the exclusive right to participate in such proceedings and shall, in its name alone, represent the interests of all Members. Immediately upon having knowledge of any taking by eminent domain of Common Elements or any HOA Unit, or any portion respectively thereof, or any threat thereof, the Board shall promptly notify all Owners and all Eligible Holders.

Section 10.3 Condemnation Involving a Residential Unit. For purposes of NRS § 116.1107.2(a), if part of a Residential Unit is required by eminent domain, the award shall compensate the Residential Unit's Owner for the reduction in value of the Residential Unit's interest in the Common Elements. The basis for such reduction shall be the extent to which the Residents of the Residential Unit were impaired from enjoying the Common Elements. In cases where the Residential Unit may still be used as a dwelling, it shall be presumed that such reduction is zero (0).

ARTICLE 11

INSURANCE

Section 11.1 Casualty Insurance. The Board shall cause to be obtained and maintained a master policy of condominium casualty insurance (which may be standard "all risk of loss or perils") covering fire and extended coverage casualty insurance for loss of or damage, including

malicious mischief, to all insurable Improvements (including, but not necessarily limited to all buildings and structures) in the Properties and all fixtures duly installed on the Common Elements and/or any HOA Unit (but excluding the cost of land, foundations, excavations and footings, and such other items normally excluded from such coverage), for the full insurable value replacement cost thereof without deduction for depreciation or coinsurance, and, in the Board's reasonable business judgment, shall obtain insurance against such other hazards and casualties, as the Board deems reasonable and prudent. The Board, in its reasonable judgment, may also insure any other property, whether real or personal, owned by the Association or located within the Properties (including, but not limited to the Residential Units), against loss or damage by fire and such other hazards as the Board may deem reasonable and prudent, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Elements and any HOA Unit shall be maintained for the benefit of the Association, the Owners, and the Eligible Holders as their interests may appear as named insured, subject to the loss payment requirements as set forth herein. Premiums for all insurance carried by the Association are Common Expenses included in the Annual Assessments levied by the Association.

The Association, acting through the Board, shall be the named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any policies shall be paid to the Board as trustee. The Board shall have full power to receive and receipt for the proceeds and to deal therewith as deemed necessary and appropriate. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of insurance maintained by the Association and of all the renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Eligible Mortgagees who have expressly requested the same in writing.

Section 11.2 Liability and Other Insurance. The Board shall further cause to be obtained and maintained a comprehensive public liability insurance, including medical payments, in such limits as it shall deem prudent (but in no event less than \$1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence), insuring the Association, Board, Directors, Officers, Declarant, and Manager, and their respective agents and employees, and the Owners and Residents of Residential Units and their respective Families, guests and invitees, against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property maintained or required to be maintained by the Association including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such insurance shall also include coverage, to the extent reasonably available and reasonably necessary, against liability for non-owned and hired automobiles, liability for property of others, and any other liability or risk customarily covered with respect to projects similar in construction, location, and use. The Association may also obtain, through the Board, Worker's Compensation insurance (which shall be required if the Association has one or more employees) and other liability insurance as it may deem reasonable and prudent, insuring each Owner and the Association, Board, and any Manager, from liability in connection with the Common Elements and/or any HOA Unit, the premiums for which are a Common Expense included in the Annual Assessment levied against the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its reasonable business judgment.

Section 11.3 Directors & Officers Insurance; Fidelity Insurance.

(a) The Board shall further cause to be obtained and maintained Directors and Officers insurance, and such other insurance as it deems prudent, insuring the Board, the Directors, and Officers, and any Manager, and/or agents, against any liability for any act or omission in carrying out their respective obligations hereunder, or resulting from their membership on the Board or on any committee thereof, in the amount of not less than \$1,000,000.00, if such coverage is reasonably available. Said policy or policies of insurance shall also contain an extended reporting period endorsement (a tail) for a six-year period, if such endorsement is reasonably available.

(b) From and after the end of the Declarant Control Period, blanket fidelity insurance coverage which names the Association as an obligee shall be obtained by or on behalf of the Association for any Person handling funds of the Association, including but not limited to, Officers, Directors, trustees, employees, and agents of the Association, whether or not such Persons are compensated for their services, in such an amount as the Board deems prudent; provided that in no event may the aggregate amount of such bonds be less than the maximum amount of Association Funds that will be handled by or in the custody of such persons at any time while the policy is in force (but in no event less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Residential Units, plus Reserve Funds) (or such other amount as may be required by FNMA, VA or FHA from time to time, if applicable).

(c) The Association shall also require that the Manager maintain fidelity insurance coverage which names the Association as an obligee, in such amount as the Board deems prudent.

Section 11.4 Other Insurance Provisions. The Board shall also obtain such other insurances customarily required with respect to projects similar in construction, location, and use, or as the Board may deem reasonable and prudent from time to time, including, but not necessarily limited to, Worker's Compensation insurance (which shall be required if the Association has any employees). All premiums for insurances obtained and maintained by the Association are a Common Expense included in the Annual Assessment levied upon the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its sound business judgment. In addition, the Association shall continuously maintain in effect such casualty and liability insurance and fidelity insurance coverage necessary to meet the requirements for similar developments, as set forth or modified from time to time by any governmental body with jurisdiction, except to the extent such coverage is not reasonably available or has been waived by the applicable agency.

Section 11.5 Insurance Obligations of Owners. Each Owner shall be responsible for payment of any and all deductible amount for loss to such Owner's Residential Unit. Each Owner shall further be responsible for obtaining and maintaining insurance on his or her personal property, on all property, fixtures, and improvements within his or her Residential Unit, for which the Association is not required to carry insurance, and such public liability insurance as the Owner deems prudent to cover his or her individual liability for bodily injury or property damage occurring inside his or her Residential Unit or elsewhere upon the Properties. Notwithstanding the foregoing, no Owner shall carry any insurance in any manner which would cause any diminution in insurance proceeds from any insurance carried by the Association. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction,

for application by the Board to the same purposes as the reduced proceeds are to be applied. Notwithstanding the foregoing, or any other provision herein, each Owner shall be solely responsible for full payment of any and all premiums and deductible amounts under such Owner's policy or policies of insurance.

Section 11.6 Waiver of Subrogation. All policies of physical damage insurance maintained by the Association shall provide, if reasonably possible, for waiver of: (1) any defense based on coinsurance; (2) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association; (3) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured; (4) any rights of the insurer to repair, rebuild or replace, and, in the event any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; or (5) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Residential Unit. The Association hereby waives and releases all claims against the Board, the Owners, Declarant, and Manager, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss; provided, however, that such waiver shall not be effective as to any loss covered by a policy of insurance which would be voided or impaired thereby.

Section 11.7 Notice of Expiration Requirements. If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days' prior written notice to the Board and Declarant and to each Owner and each Eligible Holder who has filed a written request with the carrier for such notice, and every other Person in interest who requests in writing such notice of the insurer. All insurance policies carried by the Association pursuant to this Article 11, to the extent reasonably available, must provide that: (a) each Owner is an insured under the policy with respect to liability arising out of his or her interest in the Common Elements or Membership; (b) the insurer waives the right to subrogation under the policy against any Owner or member of his or her Family; (c) no act or omission by any Owner or member of his or her Family will void the policy or be a condition to recovery under the policy; and (d) if, at the time of a loss under the policy there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

ARTICLE 12

MORTGAGEE PROTECTION CLAUSE

Section 12.1 General. In order to induce FHA, VA, FHLMC, GNMA and FNMA and any other governmental agency or other entity to participate in the financing of the sale of Residential Units within the Properties, the following provisions are added hereto if, and for so long as, such agency or entity is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties; and, in such case, to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control:

(a) Each Eligible Holder is entitled to written notification from the Association of (i) any default by the Mortgagor of such Residential Unit in the performance of such Mortgagor's obligations under the Declaration, which default is not cured within sixty (60) days after the

Association learns of such default; (ii) any condemnation or casualty loss which affects either a material portion of the project or the Residential Unit securing its Mortgage; (iii) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (iv) any proposed action requiring the consent of a specified percentage of Eligible Mortgagees.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Residential Unit which obtains title to such Residential Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such 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 Governing Documents.

(c) First 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 or any HOA Unit and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(d) The Reserve Fund described in Article 6 of this Declaration must be funded by regularly scheduled monthly, quarterly, semiannual or annual payments rather than by large, extraordinary assessments.

(e) The Board shall require that any Manager, and any employee or agent thereof, maintain at all times fidelity bond coverage which names the Association as an obligee; and, at all times from and after the end of the Declarant Control Period, the Board shall secure and cause to be maintained in force at all times fidelity bond coverage which names the Association as an obligee for any Person handling funds of the Association.

(f) When professional management has been previously required by a Beneficiary, insurer or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of at least sixty-seven percent (67%) of the voting power of the Association and of the Board respectively, and the Eligible Beneficiaries of at least fifty-one percent (51%) of the first Mortgages of Residential Units in the Properties.

Section 12.2 Additional Provisions for FNMA. If and for so long as FNMA (or HUD, as applicable pursuant to Section 12.3(a) below) is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties, and FNMA (or HUD, as applicable) requires the following provisions, then, pursuant to applicable FNMA (or HUD, as applicable) requirement:

(a) The Association shall make an audited statement for the preceding Fiscal Year (if the Project has been established for a full fiscal year) available to an Eligible Holder on submission of a written request therefor. The audited financial statement is to be available within 120 days of the end of the Association's Fiscal Year.

(b) Amendments of a material nature must be agreed to by Owners who represent at least 67% of the total voting power in the Association and by Eligible Holders representing at least 51% of the votes of Residential Units subject to Eligible Holders. A change to any of the provisions governing the following would be considered as material:

(i) voting rights;

(ii) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;

(iii) reductions in reserves for maintenance, repair, and replacement of Common Elements;

(iv) responsibility for maintenance and repairs;

(v) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use;

(vi) redefinition of any Residential Unit boundaries;

(vii) convertibility of Residential Units into Common Elements, or vice versa;

(viii) expansion or contraction of the Project, or the addition, annexation, or withdrawal of Property to or from the Project;

(ix) hazard or fidelity insurance requirements;

(x) imposition of any restrictions on the leasing Residential Units;

(xi) imposition of any restrictions on an Owner's rights to sell or transfer his or her Residential Unit;

(xii) a decision by the Association to establish self-management if professional management had been required previously by the Governing Documents or by an Eligible Holder;

(xiii) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Governing Documents; or

(xiv) any provision that expressly benefits mortgage holders, insurers, or guarantors.

(c) The Improvements in each Phase will be substantially completed prior to annexation; and future Improvements will be consistent with the initial Improvements in structure type and quality of construction.

(d) The amenities and facilities - including parking and recreational facilities - within the Project shall be owned by the Owners or the Association, and shall not be subject to a lease between the Owners (or the Association) and another party.

(e) In the event of condemnation, destruction, or liquidation of all or any part of the Project, the Association shall be designated to represent the Owners in any related proceedings, negotiations, settlements, or agreements. Each Owner hereby appoints the Association as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such Owner and his or her successors and assigns) for such purpose. The proceeds from a settlement shall be payable to the Association, or to the insurance trustee, for the benefit of the Owners and their mortgage holders. Any distribution of funds in connection with the termination of the Project should

be made in a manner consistent with the relative value of each Residential Unit and in accordance with Section 605 of the FannieMae Selling Guide, 06/30/02, as may be amended from time to time.

(f) A working capital fund shall be established, to meet unforeseen expenditures or to purchase any additional equipment or services. The initial working capital fund shall be in an amount at least equal to two months of Annual Assessments applicable to a Residential Unit, and shall be funded from a portion of the initial capital contribution collected at Close of Escrow of a Residential Unit pursuant to Section 6.6 above. Any amounts paid into this fund shall not be considered as an advance payment of Annual Assessments. The working capital fund shall be transferred to the Association in a segregated fund when control of the Association is transferred by Declarant to the Owners. Declarant shall be prohibited from using the working capital funds to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficits while Declarant is in control of the Association.

Section 12.3 Additional Provisions for HUD. If and for so long as HUD is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties, and HUD requires the following provisions, then pursuant to applicable HUD requirement:

(a) If HUD has accepted legal documents for this Project that have been accepted by FNMA, then the provisions of Section 12.2 above shall apply, to the extent from time to time relevant.

(b) In instances other than as set forth in subsection (a) above, the HUD legal requirements analogous to the requirements set forth in the above Section 12.2, as set forth in Appendix 24 to HUD Handbook 4265.1 ("HUD Legal Policies"), as required by HUD for this condominium Project, are incorporated herein by this reference. Without limiting the preceding sentence:

(i) Eligible Holders, upon written request to the Association, will be entitled to timely written notice of:

(A) any proposed amendment of the Governing Documents effecting a change in (1) the boundaries of any Residential Unit or the exclusive easement rights appurtenant thereto; (2) the interests in the Common Elements or Limited Common Elements appurtenant to any Residential Unit; (3) the number of votes in the Association appurtenant to any Residential Unit; or (4) the purposes to which any Residential Unit or the Common Elements are restricted;

(B) any proposed termination of the condominium regime;

(C) any condemnation loss or any casualty loss which affects a material portion of the condominium or which affects any Residential Unit on which there is a first Mortgage held, insured or guaranteed by such Eligible Holder;

(D) any delinquency in the payment of Assessments or charges owed by an Owner of a Residential Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days;

(E) any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to HUD Legal Policies.

- (ii) The Association shall use generally acceptable insurance carriers.

Section 12.4 Additional Provisions for VA. If and for so long as VA is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties, then, pursuant to applicable VA requirement, for so long as Declarant shall control the Association Board, Declarant shall obtain prior written approval of the VA for any material proposed: (1) action which may affect the basic organization, subject to Nevada nonprofit corporation law, of the Association (i.e., merger, consolidation, or dissolution of the Association); (2) dedication, conveyance, or mortgage of the Common Elements; or (3) amendment of the provisions of this Declaration, the Articles of Incorporation, Bylaws, or other document previously approved by the VA; provided that no such approval shall be required in the event that the VA no longer regularly requires or issues such approvals at such time.

Section 12.5 Additional Agreements. In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the applicable express requirements of FHA, VA, FHLMC, FNMA, GNMA, or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first Mortgages encumbering Residential Units. Each Owner hereby agrees that it will benefit the Association and the Membership, as a class of potential Mortgage borrowers and potential sellers of their respective Residential Units, if such agencies approve the Properties as a qualifying subdivision under their respective policies and rules and regulations, as adopted from time to time.

Section 12.6 Information from Mortgagees. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Residential Unit.

ARTICLE 13

DECLARANT'S RESERVED RIGHTS

Section 13.1 Declarant's Reserved Rights. Any other provision herein notwithstanding, pursuant to NRS § 116.2105.1(h), Declarant reserves, in its sole discretion, the following developmental rights and other special Declarant's rights, on the terms and conditions and subject to the expiration deadlines, if any, set forth below: Unless otherwise expressly set forth in this Declaration, Declarant's reserved rights hereunder shall terminate at the end of the period set forth in Section 13.1(a) below:

(a) Right to Complete Improvements and Construction Easement. Declarant reserves, for a period terminating on the fifteenth (15th) anniversary of the Recordation of this Declaration, the right, in Declarant's sole discretion, to complete the construction of the Improvements on the Properties and an easement over, across, and under the Properties for such purpose; provided, however, that if Declarant still owns any property in the Properties on such fifteenth (15th) anniversary date, then such rights and reservations shall continue, for one additional successive period of ten (10) years thereafter.

(b) Exercise of Developmental Rights. Pursuant to NRS Chapter 116, Declarant reserves all Developmental Rights as set forth in the Act, including, but not limited to, the right to annex all or portions of the Annexable Area to the Community, pursuant to the provisions of Article 14 hereof, for as long as Declarant owns any portion of the Annexable Area. No assurances are made by Declarant with regard to the boundaries of those portions of the Properties which may be annexed or the order in which such portions may be annexed. Declarant also reserves the right to withdraw real property from the Community.

(c) Offices, Model Homes and Promotional Signs. Declarant hereby reserves unto itself the right to maintain (a) a sales and/or management office in any portion of the Common Elements, any HOA Unit or any Residential Unit owned or leased by Declarant, and (b) model homes located in any Residential Units owned or leased by Declarant. Such office and models may be of such size and number as Declarant may see fit. Declarant shall have the right to relocate such office from time to time within the Common Elements or any HOA Unit or any Residential Unit owned by Declarant, and to relocate any models from time to time within any Residential Unit(s) owned or leased by Declarant. Declarant, for itself and its officers, managers, employees, contractors, agents, sales personnel, guests, prospective homebuyers, and other business invitees, shall have unfettered access to all Common Element and Units (including model homes, sales/management office, and sufficient parking) for Declarant's marketing, sales, and construction activities during such hours as determined by Declarant in its sole and absolute discretion, and Declarant additionally reserves the right to maintain signs on the Common Elements and/or any HOA Unit. Declarant further reserves the right, to the maximum extent not prohibited by applicable law, to keep and utilize such sales and/or management offices and/or model homes, parking, and/or signs) related to or in connection with Declarant's marketing and/or sale of Declarant's other projects located in Clark County, Nevada, and Declarant hereby reserves, for itself, and its officers, managers, employees, contractors, agents, sales personnel, guests, prospective homebuyers, and other business invitees a non-exclusive easement onto, over and across the Common Elements and/or any HOA Unit to accomplish all or any portion of the foregoing reserved rights. Without limiting the generality of the foregoing, Declarant reserves the right to control any and all entry gate(s) to the Properties for so long as Declarant utilizes sales and/or management offices and/or model homes in connection with Declarant's marketing and/or sale of other projects of Declarant pursuant to this Section 13.1(c), and neither the Association nor any one or more of the Owners shall at any time or in any way, without the prior written approval of Declarant, in its discretion, cause any entry gate to the Properties to be closed during Declarant's marketing, construction, or sales hours (including on weekends and holidays), or shall in any other way impede, hinder, obstruct, or interfere with Declarant's marketing, sales, and/or construction activities.

(d) Appointment and Removal of Directors. Declarant reserves the right to appoint and remove a majority of the Board as set forth in Section 3.7 hereof, during the Declarant Control Period.

(e) Amendments. Declarant reserves the right to amend this Declaration from time to time, as set forth in detail in Section 17.5 below, and any other provision of this Declaration, during the time periods set forth therein.

(f) Assignment of Garages. Declarant reserves the right from time to time to designate individual Garages to be appurtenant to individual Residential Units, designated by Declarant in its sole discretion, and to convey fee title to such Garages to the Purchasers or Owners of such Residential Units, pursuant to Section 2.16, above.

(g) Easements. Declarant reserves certain easements, and related rights, as set forth in this Declaration.

(h) Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116.

(i) Certain Other Rights. Notwithstanding any other provision of this Declaration, Declarant reserves the right (but not the obligation), in its sole and absolute discretion, at any time and from time to time, to unilaterally: (1) supplement and/or modify of Record all or any parts of the descriptions set forth in the exhibits hereto; and/ or (2) modify, expand, or limit, by recorded instrument, the maximum total number of Residential Units and/or any HOA Unit(s) which may be constructed in the Community (i.e., the Units That May Be Created), subject to Section 17.16 below.

(j) Declarant reserves the right (but not the obligation) from time to time in its sole discretion to limit or prohibit parking in certain driveway areas, or other areas within the Properties, as determined by Declarant.

(k) Restriction of Traffic. Declarant reserves the right, until the Close of Escrow of the last Residential Unit in the Community, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Residential Unit shall be deprived of access to a dedicated street adjacent to the Properties.

(l) Control of Parking Spaces. Declarant reserves the right to control parking spaces near the model complex during Declarant's regular business or marketing hours, and to tow unauthorized vehicles at the Owner's expense, for as long as Declarant is conducting marketing or sales activities in the Community or any portion thereof.

(m) Marketing Names. Declarant reserves the right, for so long as Declarant owns or has any interest in any of the Annexable Area, to market and/or advertise different portions of the Properties under different marketing names.

(n) Certain Property Line Adjustments. Declarant reserves the right to adjust the boundary lines between Units, and/or between Units and Common Elements shown on the Plat prior to conveyance of an affected Residential Unit to a Purchaser.

(o) Article 14 Rights. Declarant reserves the annexation and other rights set forth in Article 14, below.

(p) Additional Reserved Rights. Without limiting the foregoing or any other right of Declarant reserved in this Declaration, all Developmental Rights and Special Declarant Rights, as set forth in the Act, are hereby reserved to and for the benefit of Declarant, to the maximum extent permissible under the Act.

Section 13.2 Exemption of Declarant. Notwithstanding anything to the contrary in this Declaration, the following shall apply:

(a) Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to complete excavation and grading and the construction of Improvements to and on any portion of the Properties, or to alter the foregoing and Declarant's construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Properties, for so long as any Residential Unit owned by Declarant remains unsold.

(b) This Declaration shall in no way limit the right of Declarant to grant additional licenses, easements, reservations and rights-of-way to itself, to governmental or public authorities (including without limitation public utility companies), or to others, as from time to time may be reasonably necessary to the proper development and disposal of Residential Units; provided, however, that if FHA or VA approval is sought by Declarant, then the FHA and/or the VA shall have the right to approve any such grants as provided herein.

(c) Prospective purchasers and Declarant shall have the right to use all and any portion of the Common Elements for access to the sales facilities of Declarant and for placement of Declarant's signs.

(d) Without limiting Section 13.1(c) above, or any other provision herein, Declarant may use any structures owned or leased by Declarant, as model home complexes or real estate sales or management offices, for this Community or for any other project of Declarant and/or its affiliates, subject to the time limitations set forth herein, after which time, Declarant shall restore the Improvement to the condition necessary for the issuance of a final certificate of occupancy by the appropriate governmental entity.

(e) All or any portion of the rights of Declarant in this Declaration may be assigned by Declarant to any successor in interest, by an express and written Recorded assignment which specifies the rights of Declarant so assigned.

(f) The prior written approval of Declarant, as developer of the Properties, shall be required before any amendment to the Declaration affecting Declarant's rights or interests (including, without limitation, this Article 13) can be effective.

(g) The rights and reservations of Declarant referred to herein, if not earlier terminated pursuant to the Declaration, shall terminate at the end of the period set forth in Section 13.1(a) above.

Section 13.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article 13 operate in part to benefit the Declarant, no amendment to this Article 13, and no amendment in derogation of any other provision(s) of this Declaration benefitting Declarant, may be made without the express prior written approval of the Declarant, and any purported amendment of Article 13, or any other such provision, or any portion respectively thereof, or the effect respectively thereof, without the express prior written approval of Declarant, shall be null and void; provided that the foregoing shall not apply to amendments made by Declarant.

ARTICLE 14

ANNEXATION

Section 14.1 Annexation. Declarant may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portions of the Annexable Area, by Recording an annexation amendment ("Annexation Amendment") with respect to the real property to be annexed ("Annexed Property"). Upon the recording of an Annexation Amendment covering any portion of the Annexable Area and containing the provisions set forth herein, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Property in the same manner as if the Annexed Property were originally covered in this Declaration and originally constituted a portion of the Original Property; and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the Annexed Property shall be

the same as with respect to the Original Property and the rights, obligations, privileges, duties and liabilities of the Owners and occupants of Residential Units within the Annexed Property shall be the same as those of the Owners and occupants of Residential Units originally affected by this Declaration. By acceptance of a deed conveying any real property located in the Annexable Area in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter (and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his or her successors and assigns) to unilaterally execute and Record an Annexation Amendment, annexing said real property to the Community, in the manner provided for in this Article 14.

Section 14.2 Annexation Amendment. Each Annexation Amendment shall conform to the requirements of NRS § 116.211, and shall include:

- (a) the written and acknowledged consent of Declarant;
- (b) a reference to this Declaration, which reference shall state the date of Recordation hereof and the County, book and instrument number and any other relevant Recording data;
- (c) a statement that the provisions of this Declaration shall apply to the Annexed Property as set forth therein;
- (d) a sufficient description of the Annexed Property; and
- (e) assignment of an Identifying Number to each new Residential Unit created;
- (f) a reallocation of the allocated interests among all Residential Units; and
- (g) a description of any Common Elements created by the annexation of the Annexed Property.

Section 14.3 FHA/VA Approval. In the event that, and for so long as, the FHA or VA is insuring or guaranteeing loans (or has agreed to insure or guarantee loans) on any portion of the Annexable Area with respect to the initial sale by Declarant to a Purchaser of any Residential Unit, then a condition precedent to any annexation of any property other than the Annexable Area shall be written confirmation by the FHA or the VA that the annexation is in accordance with the development plan submitted to and approved by the FHA or the VA; provided, however, that such written confirmation shall not be a condition precedent if at such time the FHA or the VA has ceased to regularly require or issue such written confirmations.

Section 14.4 Disclaimers Regarding Annexation. Portions of the Annexable Area may or may not be annexed, and, if annexed, may be annexed at any time by Declarant, and no assurances are made with respect to the boundaries or sequence of annexation of such portions. Annexation of a portion of the Annexable Area shall not necessitate annexation of any other portion of the remainder of the Annexable Area. Declarant has no obligation to annex the Annexable Area or any portion thereof.

Section 14.5 Disclaimers Regarding Phasing of Development Rights. No assurances are made by Declarant as to the Annexable Area as to whether Declarant will exercise its Development

Rights or the order in which such portions, or all of the areas, will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise its Development Rights as to other portions.

Section 14.6 Expansion of Annexable Area. In addition to the provisions for annexation specified in Section 14.2 above, the Annexable Area may, from time to time, be expanded to include additional real property, not as yet identified. Such property may be annexed to the Annexable Area upon the Recordation of a written instrument describing such real property, executed by Declarant and all other owners of such property and containing thereon the approval of the FHA and the VA; provided, however, that such written approval shall not be a condition precedent if at such time the FHA or the VA has ceased to regularly require or issue such written approvals.

Section 14.7 Contraction of Annexable Area; Withdrawal of Real Property. So long as real property has not been annexed to the Properties subject to this Declaration, the Annexable Area may be contracted to delete such real property effective upon the Recordation of a written instrument describing such real property, executed by Declarant and all other owners, if any, of such real property, and declaring that such real property shall thereafter be deleted from the Annexable Area. Such real property may be deleted from the Annexable Area without a vote of the Association or the approval or consent of any other Person, except as provided herein. Declarant further shall have the right to withdraw real property from time to time from the Properties and/or Community, to the maximum extent permissible under the Act.

ARTICLE 15

ADDITIONAL DISCLOSURES, DISCLAIMERS, AND RELEASES

Section 15.1 Additional Disclosures, Disclaimers, and Releases of Certain Matters. Without limiting any other provision in this Declaration, by acquiring title to a Residential Unit, or by possession or occupancy of a Residential Unit, each Owner (for purposes of this Article 15, and all of the Sections thereof, the term "Owner" shall include the Owner, and the Owner's tenants, if any, and their respective Family, guests and other invitees), and by residing within the Properties, each Resident (for purposes of this Article 15, the term "Resident" shall include each Resident, and the Resident's Family, guests and other invitees) shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

(a) There are presently, and may in the future be other, major electrical power system components (high voltage transmission or distribution lines, transformers, etc.) from time to time located within or nearby the Properties, which generate certain electric and magnetic fields ("EMF") around them; and Declarant specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to EMF.

(b) The Residential Units and other portions of the Properties from time to time are or may be located within or nearby certain airplane flight patterns, and/or subject to significant levels of airplane traffic and noise; and Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to airplane flight patterns, and/or airplane noise.

(c) The Residential Units and other portions of the Properties are or may be located adjacent to or nearby I-215 and other major roads, all of which may, but need not necessarily, be constructed, reconstructed, or expanded in the future (all collectively, "roadways"),

and subject to high levels of traffic, noise, construction, maintenance, repair, dust, and other nuisance from such roadways; and Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to roadways and/or noise, dust, and other nuisance related thereto.

(d) The Residential Units and other portions of the Properties are or may be located adjacent to or nearby major water facilities and major water and drainage channel(s) and/or washes (all, collectively, "Facilities"), the ownership, use, regulation, operation, maintenance, improvement and repair of which are not necessarily within Declarant's control, and over which Declarant does not necessarily have jurisdiction or authority, and, in connection therewith: (1) the Facilities may be an attractive nuisance to children; (2) maintenance and use of the Facilities may involve various operations and applications, including (but not necessarily limited to) noisy electric, gasoline or other power driven vehicles and/or equipment used by Facilities maintenance and repair personnel during various times of the day, including, without limitation, early morning and/or late evening hours; and (3) the possibility of damage to Improvements and property on the Properties, particularly in the event of overflow of water or other substances from or related to the Facilities, as the result of nonfunction, malfunction, or overtaxing of the Facilities or any other reason; and (4) any or all of the foregoing may cause inconvenience and disturbance to Owner and other persons in or near the Unit and/or Common Elements, and possible injury to person and/or damage to property.

(e) There are or may be certain Common Element or HOA Unit (if any) water features located in the Properties ("Water Features"), and, in connection therewith: (1) the Water Features may be an attractive nuisance to children; (2) there is a possibility of damage to Improvements and property on the Properties, particularly in the event of overflow of water from or related to the Water Features, as the result of nonfunction, malfunction, or overtaxing of the Water Features or any other reason; and (3) any or all of the foregoing may cause inconvenience and disturbance to Owner and other persons in or near the Residential Units and/or Common Elements and/or any HOA Unit, and possible injury to person and/or damage to property.

(f) The Residential Units and other portions of the Project are or may be nearby major regional underground natural gas transmission pipelines. Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to gas transmission lines.

(g) Construction or installation of improvements and/or trees or other vegetation by Declarant, or third parties nearby a Unit or Properties, may impair or eliminate the view, if any, of or from Unit(s) and/or Common Elements. Each Owner, by acquiring title to his or her Residential Unit, whether or not specifically so expressed in the deed therefor, shall conclusively be deemed to have acknowledged and agreed that (notwithstanding any oral representation of any sales agent or other person to the contrary) acts, omissions, and/or conditions (including, but not necessarily limited to, any construction or installation by Declarant or third parties, or installation or growth of trees or other plants) may impair or eliminate the view of such Owner, and accepts and consents to such view impairment or elimination, and releases any and all claims in connection therewith.

(h) Residential condominium construction is an industry inherently subject to variations and imperfections, and items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including, but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking,

or fading; touch-up painting; minor flaws or corrective work; and like items) and not constructional defects.

(i) The finished construction of the Residential Units, Common Elements and any HOA Unit, while within the standards of the industry in the Las Vegas Valley, Clark County, Nevada, and while in substantial compliance with the plans and specifications, will be subject to variations and imperfections and expected minor flaws. Issuance of a Certificate of Occupancy by the relevant governmental authority with jurisdiction shall be deemed conclusive evidence that the Improvement has been built within such industry standards.

(j) Indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, including, without limitation, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on.

(k) Installation and maintenance of a gated community and/or any security or traffic access device, operation, or method, shall not create any presumption or duty whatsoever of Declarant or Association (or their respective officers, directors, managers, employees, agents, and/or contractors) with regard to security or protection of person or property within or adjacent to the Properties; and each Owner, by acceptance of a deed to a Unit, whether or not so stated in the deed, shall be deemed to have agreed to take any and all protective and security measures and precautions which such Owner would have taken if the Properties had been located within public areas and not gated. Gated entrances may restrict or delay entry into the Properties by law enforcement, fire protection, and/or emergency medical care personnel and vehicles, and each Owner, by acceptance of a deed to a Unit, whether or not so stated in the deed, shall be deemed to have voluntarily assumed the risk of such restricted or delayed entry.

(l) The Properties are or may be located adjacent to or nearby a school, and school bus drop off/pickup areas, and subject to levels of noise, dust, and other nuisance resulting from or related to proximity to such school and/or school bus stops.

(m) The Properties are or may be located adjacent to or nearby a commercial site, and subject to substantial levels of sound, noise, and other nuisances, from such commercial site, and any commercial buildings or facilities developed thereon.

(n) The Las Vegas Valley contains a number of earthquake faults, and that the Properties or portions thereof may be located on or nearby an identified or yet to be identified seismic fault line; and that Declarant specifically disclaims any and all representations or warranties, express or implied, with regard to or pertaining to earthquakes or seismic activities; and that Owner hereby releases Declarant from any and all claims arising from or relating to earthquakes or seismic activities.

(o) The Unit and other portions of the Properties from time to time may, but need not necessarily, experience problems with scorpions, bees, ants, spiders, termites, pigeons, snakes, rats, and/or other insect or pest problems (collectively, "pests"); and Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to any pest, and each Owner must make its own independent determination regarding the existence or non-existence of any pest(s) which may be associated with the Unit or other portions of the Properties.

(p) There is a high degree of alkalinity in soils and/or water in the Las Vegas Valley; that such alkalinity tends to produce, by natural chemical reaction, discoloration, leaching and erosion or deterioration of concrete walls and other Improvements ("alkaline effect"); that the Unit and other portions of the Properties may be subject to such alkaline effect, which may cause inconvenience, nuisance, and/or damage to property; and the Governing Documents require Owners other than Declarant to not change the established grading and/or drainage, and to not permit any sprinkler or irrigation water to strike upon any wall or similar Improvement.

(q) There are and/or will be various molds present within the Unit and other portions of the Properties. Molds occur naturally in the environment, and can be found virtually everywhere life can be supported. Residential Units are not and cannot be designed or constructed to exclude mold spores. Not all molds are necessarily harmful, but certain strains of mold may result in adverse health effects in susceptible persons.

(r) The Properties are located adjacent or nearby to certain undeveloped areas which may contain various species of wild creatures (including, but not limited to, coyotes and foxes), which may from time to time stray onto the Properties, and which may otherwise pose a nuisance or hazard.

(s) The Properties, or portions thereof, are or may be located adjacent to or within the vicinity of certain other property zoned to permit the owners of such other property to keep and maintain thereon horses or other "farm" animals, which may give rise to matters such as resultant noise, odors, insects, and other "nuisance"; additionally, certain other property located or nearby the Properties may be zoned to permit commercial uses, and/or may be developed for commercial uses. Declarant makes no other representation or warranty, express or implied, with regard or pertaining to the future development or present or future use of property adjacent to or within the vicinity of the Properties.

(t) The Las Vegas Valley currently is undergoing severe drought conditions, and relevant water districts and authorities have announced certain water conservation measures and restrictions on outdoor watering and/or outdoor water features. It is possible that these drought conditions may continue or worsen, and/or that the relevant water districts and authorities may announce further water conservation measures and restrictions, which may affect Residential Units and/or Common Element/HOA Unit (if any) landscaping and features, and the appearance and/or use of same. Each Owner must make its own independent determination regarding such matters, and hereby releases Declarant and/or Association from any and all claims arising from or relating to drought or water conservation measures or restrictions, and/or the effects respectively thereof.

(u) Certain portions of land ("Neighboring Developments") outside, abutting and/or near the Perimeter Wall have not yet been developed, and in the future may or will be developed by third parties over whom Declarant has no control and over whom the Association has no jurisdiction, and accordingly, there is no representation as to the nature, use or architecture of any future development or improvements on Neighboring Developments; and such use, development and/or construction on Neighboring Developments may result in noise, dust, or other "nuisance" to the Community or Owners, and may result in portions of Perimeter Wall/Fence and/or Exterior Wall/Fence being utilized by third persons who are not subject to this Declaration or the Governing Documents; and Declarant and Association specifically disclaim any and all responsibility liability thereof.

(v) Each Residential Unit is located in a Condominium Building containing three Residential Units, located in close proximity to such other Residential Units and other Condominium

Buildings, and Private Streets and parking areas in the Properties, and, accordingly, is and will be, subject to substantial levels of sound, noise, and other potential "nuisances".

(w) Sewer cleanouts for some or all Residential Units within a Condominium Building are or may all be located within the Garage of one Residential Unit, and, in such event, the Owners of the other Units in the Condominium Building shall have an easement over and across said Garage for purposes of reasonably inspecting and cleaning their respective sewer cleanouts, with reasonable notice to the Owner of said Garage except in case of bona-fide emergency imminently and substantially affecting the relevant person's health, welfare, or safety.

(x) Water and/or sewer for the Properties may but need not necessarily, be master metered and paid by the Association, subject to monthly or other periodic assessment of allocated amounts to the Owners of Residential Units in the Properties. Each Owner shall be required to promptly pay such allocated water assessments, regardless of actual levels or periods of use of such water (i.e., regardless of occupancy or vacancy of the Residential Unit, and regardless of family size, or other factors).

(y) Owners are prohibited from changing the external appearance of any portion of a Condominium Building.

(z) Garages of certain Residential Units are or may be located directly below the one or more Unit(s) within a Condominium Building. The Owners of Residential Units are subject to "quiet hours", and the noise, vibration, and other nuisance provisions set forth in the Declaration with respect to use of and activities within their respective Garages and Residential Units. Additionally, any "quiet" door opener mechanism of a Garage must be maintained by its Owner in its original "quiet" condition, and, in the event such door opening mechanism should require replacement, the Owner shall replace it with a new door opening mechanism which is at least as quiet as the one as originally installed by Declarant.

(aa) Even with a "slip sheet" underneath, certain hard surface flooring may still be subject to hairline cracks, and grout may crack and/or deteriorate, and any involved Owner shall be solely responsible for any such cracking or deterioration.

(ab) "Cutting out" or alteration of any portion of wall, ceiling, and/or floor by an Owner within a Residential Unit is strictly prohibited, and such "cutting out" (for example, but not limited to, for installation of speakers or "can" lights) or alteration may seriously damage or adversely affect sound insulation or other important features of the Residential Unit.

(ac) Certain parking which may, but need not necessarily, be initially located adjacent to or nearby Declarant's Project Sales Office is or may be only temporary in nature, and a Condominium Building will or may be built on such location.

(ad) The Properties and/or Annexable Area are or may be located within designated flood zone areas, and flood insurance coverage may be required for the Common Elements and/or Unit(s), until such time, if any, as the Properties and/or Annexable Area may be removed from the designated flood zone area; and Declarant specifically disclaims any and all representations and warranties, express or implied, with regard to or pertaining to flood zones, floods, water damage, and/or flood insurance.

(ae) The City has set forth the following additional requirement or restriction pertaining to the Properties: not more than two (2) Residential Units may be owned by any Person in the Properties.

(af) Certain portions of a trail and landscaping are located along I-215 adjacent to the Properties ("Trail and Landscaping") and/or are part of the City of Henderson Master Walking Trail System, and may be located on easements over property owned by the City. Such Trail and Landscaping are the obligation of the Association to maintain and/or repair, and the costs of such maintenance and/or repair shall be Common Expenses; additionally, certain landscaped areas and related Improvements along Chapata Drive adjacent to the Properties ("Chapata Drive Landscaping") may be located on easements over property owned by the City. Chapata Drive Landscaping is the obligation of the Association to maintain and/or repair, and the costs of such maintenance and/or repair shall be Common Expenses.

(ag) There is an easement of record for ingress and/or egress from Paseo Verde Parkway (with related Improvements, the "Paseo Verde Easement"). The Paseo Verde Easement shall be maintained and/or repaired by the Association, and the costs of such maintenance and/or repair shall be Common Expenses. Notwithstanding the foregoing, the Paseo Verde Easement may also serve as access for certain adjacent property not owned by Declarant or the Association and over which Declarant and the Association respectively have no control.

(ah) A sound wall for I-215 is located generally along the northern boundary of the Properties. Without limiting any other provision herein, certain noise studies indicate that sound levels inside Residential Units will fall within the 65 decibel level; however, sound levels from areas outside of Units, including, but not necessarily limited to, Balconies, may exceed 70 decibels.

(ai) Residential Units will be wired with 125-ampere panels; accordingly, electric dryers, electric ranges, and jetted tubs will not be permitted, unless installed by Declarant.

(aj) Other matters, limitations, and restrictions, uniquely applicable to this Community, are set forth in the Declaration, and may be supplemented from time to time by Rules and Regulations.

Section 15.2 Releases. BY ACCEPTANCE OF A DEED TO A UNIT, EACH OWNER, FOR ITSELF AND ALL PERSONS CLAIMING UNDER SUCH OWNER, SHALL CONCLUSIVELY BE DEEMED TO HAVE ACKNOWLEDGED AND AGREED, TO RELEASE DECLARANT AND THE ASSOCIATION, AND ALL OF THEIR RESPECTIVE OFFICERS, MANAGERS, AGENTS, EMPLOYEES, SUPPLIERS, AND CONTRACTORS, FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, LOSS, DAMAGE OR LIABILITY (INCLUDING, BUT NOT LIMITED TO, ANY CLAIM FOR NUISANCE OR HEALTH HAZARD, PROPERTY DAMAGE, BODILY INJURY, AND/OR DEATH) ARISING FROM OR RELATED TO ALL AND/OR ANY ONE OR MORE OF THE CONDITIONS, ACTIVITIES, OCCURRENCES, OR OTHER MATTERS DESCRIBED IN THE FOREGOING SECTIONS 15.1 AND 15.2.

ARTICLE 16

CLAIMS AGAINST DECLARANT; RIGHT TO CURE; ARBITRATION

Subject to Section 5.3 and 5.8 above, and Section 17.16 below, the following provisions shall apply, to the maximum extent not prohibited from time to time by applicable Nevada law:

Section 16.1 Declarant's Right to Cure Alleged Defects. It is Declarant's intent that all Improvements of every type and kind which may be installed by Declarant as part of the Project, including, but not limited to, residences, sidewalks, driveways, streets, roads, parking areas, fences, walls, landscaping, signs, utility pipes, lines or wires, sewer and drainage systems, and grading on all of the Units and Common Elements within the Properties (collectively, the "Declarant Improvements") be of a quality that is consistent with construction and development practices for production housing of this type. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect exists and Declarant's responsibility therefor. It is Declarant's intent to resolve all disputes and claims regarding "Alleged Defects" (as defined below) amicably, and without the necessity of time consuming and costly litigation. Accordingly, all Owners and the Association and the Board shall be bound by the following claim resolution procedure:

(a) Declarant's Right to Cure. In the event that the Association, the Board, or any Owner or Owners (collectively, "Claimant") claim, contend, or allege that any portion of the Units or other portion of the Properties and/or any Declarant Improvements are defective or incomplete, or that Declarant or its agents, consultants, contractors, or subcontractors (collectively, "Declarant's Agents") were negligent in the planning, design, engineering, grading, construction, or other development thereof (collectively, an "Alleged Defect"), Declarant hereby reserves the right to inspect, cure, repair, and/or replace such Alleged Defect as set forth herein.

(b) Notice to Declarant. In the event that a Claimant discovers any Alleged Defect, Claimant shall, within a reasonable time after discovery, notify Declarant, in writing, as follows:

KB Home Nevada Inc.
750 Pilot Road, Suite F
Las Vegas, Nevada 89119
Attention: Division President

or such other address at which Declarant maintains its principal place of business, of the specific nature of such Alleged Defect ("Notice of Alleged Defect").

(c) Right to Enter, Inspect, Cure, Repair and/or Replace. Immediately after the receipt by Declarant of a Notice of Alleged Defect or the independent discovery of any Alleged Defect by Declarant or any governmental agency, and for a reasonable time thereafter, as part of Declarant's reservation of right, Declarant shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, any portion of the Common Element and/or any Unit, and/or any Declarant Improvements for the purposes of inspecting and, if deemed necessary by Declarant, curing, repairing, and/or replacing such Alleged Defect. In conducting such inspection, cure, repairs, and/or replacement, Declarant shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

(d) Legal Actions. No Claimant shall initiate any legal action, cause of action, proceeding or arbitration against Declarant alleging damages (a) for the costs of curing, repairing, or replacing any Alleged Defect, or (b) for the diminution in value of any real or personal property resulting from such Alleged Defect, or (c) for any consequential damages resulting from such Alleged Defect, unless and until Claimant has (i) delivered to Declarant a Notice of Alleged Defect, and (ii) Declarant has, within one hundred twenty (120) days after its receipt of such Notice of Alleged Defect, either (1) failed to cure, repair, or replace such Alleged Defect or (2) if such Alleged Defect can not reasonably be cured, repaired, or replaced within such one hundred twenty (120)

day period, failed to commence such cure, repair, or replacement of the Alleged Defect and, thereafter, failed to pursue diligently such cure, repair, or replacement to completion. During any such period while Declarant is diligently pursuing to completion the cure, repair, or replacement of the Alleged Defect, Claimant shall not stop, restrict, hinder, interrupt, or otherwise interfere with any reasonable action or activity taken by Declarant, its employees, agents, or independent contractors, to inspect, cure, repair, or replace any Alleged Defect, whether or not such action or activity is taken, or is proposed to be taken, on property owned by Claimant.

(e) No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Article shall be construed to impose any obligation on Declarant to inspect, cure, repair, or replace any item or Alleged Defect for which Declarant is not otherwise obligated to do under applicable law or any limited warranty provided by Declarant in connection with the sale of the Units and/or the Declarant Improvements constructed thereon, nor shall anything set forth in this Article constitute an express or implied representation, warranty or guarantee by Declarant concerning any Declarant Improvements, the Properties, or the Project. The right of Declarant to enter, inspect, cure, repair, and/or replace reserved hereby shall be irrevocable and may not be waived and/or terminated except by a writing, in recordable form, executed and recorded by Declarant in the Official Records of the Clark County Recorder.

(f) NRS Chapter 40. The terms, conditions and procedures set forth in this Article 16 are in addition to the terms, conditions and procedures set forth in NRS Chapter 40, and shall, to the maximum extent permitted by law, be exercised by any Claimant prior to instituting a claim and/or commencing an action under Chapter 40 for "constructional defects" as defined in Chapter 40; provided, however, the procedures set forth in this Article 16 shall not abrogate any of the requirements of Claimant under Chapter 40, inclusive of the requirement that Claimant, at the end of the foregoing one hundred twenty (120) day period, notify Declarant in writing of any alleged constructional defects which Declarant failed to cure during that one hundred twenty (120) day period at least sixty (60) days prior to bringing an action under Chapter 40 (subject to the limitations contained in Section 16.2 hereof). Such notification shall be given in a format that substantially complies with the notice requirements set forth in NRS 40.645. Further, to the extent any provisions of this Article 16 are inconsistent with the provisions of Chapter 40, the provisions of this Article 16 shall apply to the maximum extent permitted by law and shall extend all the time periods set forth in Section 11 of Chapter 40 until expiration of the one hundred twenty (120) day period set forth in this Article 16. It is the express intent of Declarant to provide, by this Article 16, an initial one hundred twenty (120) day period for Declarant to investigate and cure any constructional defects alleged by Claimant before the provisions of Chapter 40 are implemented and initiated by Claimant including, without limitation, the notice of claim, inspection, offer of settlement, and repair provisions of Chapter 40. Each Owner, by acquiring title to a Residential Unit or any other portion of the Properties, as evidenced by recordation of a deed to Owner describing that land, agrees to be bound by all of the provisions of this Article 16.

Section 16.2 Limited Warranties and Disclaimer of Warranties. EACH OWNER, BY ACCEPTANCE OF A DEED TO A RESIDENTIAL UNIT, UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT EACH RESIDENTIAL UNIT MAY BE OFFERED WITH (1) A LIMITED WARRANTY KNOWN AS THE "HOME BUILDER'S LIMITED WARRANTY" (THE "EXPRESS LIMITED WARRANTY") , WHICH IS TO BE ADMINISTERED BY PROFESSIONAL WARRANTY SERVICE CORPORATION ("PWC"), AND/OR (2) A LIMITED WARRANTY KNOWN AS THE "KB HOME NEW HOME LIMITED WARRANTY AGREEMENT" (THE "KB HOME LIMITED WARRANTY"). NOTHING HEREIN IS INTENDED, NOR SHALL BE APPLIED TO LIMIT AN OWNER'S RIGHT TO ENFORCE THE TERMS OF ANY SUCH WARRANTY. CONVERSELY, EACH OWNER SHALL BE REQUIRED TO ACT UNDER AND EXHAUST ITS RIGHTS AND

OBLIGATIONS PURSUANT TO THE TERMS OF THE EACH SUCH WARRANTY PRIOR TO INITIATING ANY ACTION AGAINST DECLARANT. AN OWNER'S FAILURE TO ACT UNDER AN APPLICABLE WARRANTY SHALL BE GROUNDS FOR DISMISSAL OF ANY ACTION FILED AGAINST DECLARANT. EXCEPT AS MAY BE SET FORTH THEREIN, NEITHER THE EXPRESS LIMITED WARRANTY NOR THE KB HOME LIMITED WARRANTY COVERS ANY APPLIANCE, EQUIPMENT, OR OTHER ITEMS WHICH ARE "CONSUMER PRODUCTS" FOR PURPOSES OF THE MAGNUSON-MOSS WARRANTY ACT, 15 USC 2301, ET SEQ. THE ONLY WARRANTIES OF SUCH CONSUMER PRODUCTS OR GOODS ARE THOSE WHICH THE MANUFACTURER PROVIDES TO EACH OWNER. DECLARANT DOES NOT ASSUME ANY OBLIGATION TO SERVICE OR REPAIR SUCH CONSUMER PRODUCTS OR GOODS. THEY ARE INCLUDED ON AN "AS IS" BASIS WITH EACH OWNER ASSUMING THE ENTIRE COST OF ALL NECESSARY SERVICE, REPAIR, OR REPLACEMENT IN THE EVENT OF DEFECT IN QUALITY OR PERFORMANCE. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, ALL OTHER EXPRESS WARRANTIES ARE DISCLAIMED AND EXCLUDED BY DECLARANT TO THE MAXIMUM EXTENT PERMITTED BY LAW, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, HABITABILITY AND WORKMANSHIP.

Section 16.3 Arbitration of Disputes. DECLARANT AND EACH CLAIMANT, BY ACCEPTING TITLE TO OR AN INTEREST IN ANY PORTION OF THE PROJECT, AGREE AS FOLLOWS:

(a) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(i) "DECLARANT" SHALL MEAN THE ENTITY EXECUTING THIS DECLARATION AND ITS RESPECTIVE PREDECESSORS, SUCCESSORS, SUBSIDIARIES, AND/OR AFFILIATED CORPORATIONS, PARENT COMPANIES, SISTER COMPANIES, DIVISIONS, OR OTHER ENTITIES, PARTNERS, JOINT VENTURERS, THE GENERAL CONTRACTOR FOR THE PROJECT, AFFILIATES, OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, AND ASSIGNS.

(ii) "CLAIMANT" SHALL INCLUDE ALL OWNERS, THE ASSOCIATION, THE BOARD AND THEIR SUCCESSORS, HEIRS, ASSIGNS, SUBSEQUENT OWNERS, AND ANY THIRD PARTY CLAIMING ANY RIGHT OR INTEREST IN THE PROPERTY THROUGH THE FOREGOING.

(iii) "PROPERTY" SHALL MEAN THE LAND AND IMPROVEMENTS, WHICH ARE THE SUBJECT OF THIS DECLARATION, INCLUDING, WITHOUT LIMITATION, THE UNITS AND THE COMMON ELEMENTS.

(iv) "PROJECT" SHALL MEAN THE COMMON-INTEREST COMMUNITY WHICH IS THE SUBJECT OF THIS DECLARATION, INCLUDING THE PROPERTY, THE COMMON ELEMENTS, AND ANY NEIGHBORING OR ADJACENT PROPERTIES.

(b) ANY AND ALL CLAIMS, CONTROVERSIES, BREACHES, OR DISPUTES (EACH A "DISPUTE") BY, BETWEEN OR AMONG ANY CLAIMANT ON THE ONE HAND, AND DECLARANT AND/OR ANY OF DECLARANT'S AGENTS ON THE OTHER HAND, EXCEPT FOR DISPUTES SUBJECT TO ARBITRATION PURSUANT TO THE EXPRESS LIMITED WARRANTY, OR THE KB HOME LIMITED WARRANTY, ARISING OUT OF OR RELATED TO THE

PROPERTY OR THE PROJECT OR THE SALE OF ANY PORTION OF THE PROJECT BY DECLARANT, OR ANY TRANSACTION RELATED HERETO, WHETHER SUCH DISPUTE IS BASED ON CONTRACT, TORT, STATUTE, OR EQUITY, INCLUDING, WITHOUT LIMITATION, ANY DISPUTE OVER (1) THE DISPOSITION OF ANY DEPOSITS, (2) BREACH OF CONTRACT, (3) NEGLIGENT OR INTENTIONAL MISREPRESENTATION OR FRAUD, (4) NONDISCLOSURE, (5) BREACH OF ANY ALLEGED DUTY OF GOOD FAITH AND FAIR DEALING, (6) ANY CLAIM RELATED TO CONSTRUCTION OR INSTALLATION OF ANY IMPROVEMENTS ON THE PROPERTY OR PROJECT, THE GRADING OF THE PROPERTY OR PROJECT, OR ANY WORK OR SERVICES PERFORMED BY OR ON BEHALF OF DECLARANT ON OR IN CONNECTION WITH THE PROPERTY OR PROJECT, INCLUDING, WITHOUT LIMITATION, CLAIMS OF ANY ALLEGED DEFECT (INCLUDING, WITHOUT LIMITATION, DISPUTES SUBJECT TO THE PROVISIONS OF NRS 40.600 TO 40.695 (AS SAME MAY BE AMENDED FROM TIME TO TIME, THE "CONSTRUCTION DEFECT ACT"), OR (7) ANY OTHER MATTER ARISING OUT OF OR RELATED TO THE INTERPRETATION OF ANY TERM OR PROVISION HEREOF OR OF ANY AGREEMENT BY, BETWEEN OR AMONG SUCH PARTIES, OR ANY DEFENSE RELATED THERETO, INCLUDING, WITHOUT LIMITATION, ALLEGATIONS OF UNCONSCIONABILITY, FRAUD IN THE INDUCEMENT, OR FRAUD IN THE EXECUTION, SHALL BE ARBITRATED PURSUANT TO THE FEDERAL ARBITRATION ACT AND SUBJECT TO THE PROCEDURES SET FORTH IN THIS PARAGRAPH. FOR CLAIMS SUBJECT TO THE CONSTRUCTION DEFECT ACT, BEFORE ANY SUCH DISPUTE CAN BE SUBMITTED TO ARBITRATION, THE CLAIMANT SHALL, AT LEAST SIXTY (60) DAYS PRIOR TO FILING A DEMAND FOR ARBITRATION, GIVE DECLARANT WRITTEN NOTICE OF THE DISPUTE DESCRIBING WITH REASONABLE SPECIFICITY THE ACTIONS THAT SHOULD BE TAKEN BY DECLARANT TO RESOLVE THE DISPUTE. THIS SIXTY (60) DAY NOTICE SHALL COMPLY WITH THE REQUIREMENTS OF NRS 40.645. THE PROVISIONS OF THIS SECTION ARE INTENDED TO BE BINDING UPON CLAIMANT AND DECLARANT FOR ALL CLAIMS REGULATED BY THE CONSTRUCTION DEFECT ACT, AFTER ALL THE REQUIREMENTS OF NRS 40.645 TO 40.675 FOR RESOLUTION OF THE DISPUTE PRIOR TO COMMENCEMENT OF A CIVIL ACTION HAVE BEEN SATISFIED OR WAIVED BY CLAIMANT AND DECLARANT IN ACCORDANCE WITH SAID STATUTES AND IN PLACE AND INSTEAD OF ANY COURT ACTION DESCRIBED THEREIN. THIS ARBITRATION AGREEMENT SHALL BE DEEMED TO BE A SELF-EXECUTING ARBITRATION AGREEMENT. ANY DISPUTE CONCERNING THE INTERPRETATION OR THE ENFORCEABILITY OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ITS REVOCABILITY OR VOIDABILITY FOR ANY CAUSE, ANY CHALLENGES TO THE ENFORCEMENT OR THE VALIDITY OF THIS AGREEMENT, OR THIS SECTION, OR THE SCOPE OF ARBITRABLE ISSUES HEREUNDER, AND ANY DEFENSE RELATING TO THE ENFORCEMENT OF THIS ARBITRATION AGREEMENT, INCLUDING, WITHOUT LIMITATION, WAIVER, ESTOPPEL, OR LACHES, SHALL BE DECIDED BY AN ARBITRATOR IN ACCORDANCE WITH THIS SECTION AND NOT BY A COURT OF LAW. ANY AND ALL SUCH DISPUTES SHALL BE SUBMITTED TO BINDING ARBITRATION BY AND PURSUANT TO THE RULES OF CONSTRUCTION ARBITRATION SERVICES, INC. (HEREINAFTER, "CAS") IN EFFECT AT THE TIME OF THE INITIATION OF THE ARBITRATION. IN THE EVENT CAS IS FOR ANY REASON UNWILLING OR UNABLE TO SERVE AS THE ARBITRATION SERVICE, THE PARTIES SHALL SELECT ANOTHER REPUTABLE ARBITRATION SERVICE. IF THE PARTIES ARE UNABLE TO AGREE ON AN ALTERNATIVE SERVICE, THEN EITHER PARTY MAY PETITION ANY COURT OF COMPETENT JURISDICTION IN THE COUNTY TO APPOINT SUCH AN ALTERNATIVE SERVICE, WHICH SHALL BE BINDING ON THE PARTIES. THE RULES AND PROCEDURES OF SUCH ALTERNATIVE ARBITRATION SERVICE IN EFFECT AT THE TIME OF THE INITIATION OF THE ARBITRATION SHALL BE FOLLOWED.

(c) GENERAL ARBITRATION PROVISIONS.

(i) THIS DECLARATION INVOLVES AND CONCERNS INTERSTATE COMMERCE AND IS GOVERNED BY THE PROVISIONS OF THE FEDERAL ARBITRATION ACT (9 U.S.C. §1, ET SEQ.) NOW IN EFFECT AND AS THE SAME MAY FROM TIME TO TIME BE AMENDED, TO THE EXCLUSION OF ANY DIFFERENT OR INCONSISTENT STATE OR LOCAL LAW, ORDINANCE, REGULATION, OR JUDICIAL RULE. ACCORDINGLY, ANY AND ALL DISPUTES SHALL BE ARBITRATED – WHICH ARBITRATION SHALL BE MANDATORY AND BINDING – PURSUANT TO THE FEDERAL ARBITRATION ACT.

(i) TO THE EXTENT THAT ANY STATE OR LOCAL LAW, ORDINANCE, REGULATION, OR JUDICIAL RULE SHALL BE INCONSISTENT WITH ANY PROVISION OF THE RULES OF THE ARBITRATION SERVICE UNDER WHICH THE ARBITRATION PROCEEDING SHALL BE CONDUCTED, THE LATTER RULES SHALL GOVERN THE CONDUCT OF THE PROCEEDING.

(iii) THIS PARAGRAPH SHALL INURE TO THE BENEFIT OF, AND BE ENFORCEABLE BY, DECLARANT AND EACH OF DECLARANT'S AGENTS, INCLUDING, WITHOUT LIMITATION, ANY OF DECLARANT'S SUBCONTRACTORS, AGENTS, VENDORS, SUPPLIERS, DESIGN PROFESSIONALS, INSURERS AND ANY OTHER PERSON WHOM ANY CLAIMANT CONTENDS IS RESPONSIBLE FOR ALL OR ANY PORTION OF A DISPUTE.

(iv) IN THE EVENT ANY DISPUTE IS SUBMITTED TO ARBITRATION, EACH PARTY SHALL BEAR ITS OWN ATTORNEYS' FEES AND COSTS (INCLUDING EXPERT COSTS) FOR THE ARBITRATION.

(v) THE ARBITRATOR SHALL BE AUTHORIZED TO PROVIDE ALL RECOGNIZED REMEDIES AVAILABLE IN LAW OR IN EQUITY FOR ANY CAUSE OF ACTION THAT IS THE BASIS OF THE ARBITRATION. THE DECISION OF THE ARBITRATOR SHALL BE FINAL AND BINDING. BUYER AND SELLER EXPRESSLY AGREE THAT AN APPLICATION TO CONFIRM, VACATE, MODIFY, OR CORRECT AN AWARD RENDERED BY THE ARBITRATOR SHALL BE FILED IN ANY COURT OF COMPETENT JURISDICTION IN THE COUNTY.

(vi) THE PARTICIPATION BY ANY PARTY IN ANY JUDICIAL OR OTHER PROCEEDING RELATING TO ANY MATTER ARBITRABLE HEREUNDER SHALL NOT BE ASSERTED OR ACCEPTED AS A REASON TO DELAY OR TO REFUSE TO PARTICIPATE IN ARBITRATION HEREUNDER, OR TO REFUSE TO ENFORCE THIS PARAGRAPH.

(vii) THE FEES TO INITIATE THE ARBITRATION SHALL BE ADVANCED BY DECLARANT. SUBSEQUENT FEES AND COSTS OF THE ARBITRATION AND/OR THE ARBITRATOR SHALL BE BORNE EQUALLY BY THE PARTIES TO THE ARBITRATION; PROVIDED, HOWEVER, THE FEES AND COSTS OF THE ARBITRATION AND/OR THE ARBITRATOR ULTIMATELY SHALL BE BORNE AS DETERMINED BY THE ARBITRATOR.

(viii) THE ARBITRATOR APPOINTED TO SERVE SHALL BE A NEUTRAL AND IMPARTIAL INDIVIDUAL.

(ix) THE VENUE OF THE ARBITRATION SHALL BE IN THE COUNTY UNLESS THE PARTIES AGREE IN WRITING TO ANOTHER LOCATION.

(x) IF ANY PROVISION OF THIS PARAGRAPH SHALL BE DETERMINED TO BE UNENFORCEABLE OR TO HAVE BEEN WAIVED, THE REMAINING PROVISIONS SHALL BE DEEMED TO BE SEVERABLE THEREFROM AND ENFORCEABLE ACCORDING TO THEIR TERMS.

(d) IN THE EVENT THE FOREGOING ARBITRATION PROVISION IS HELD NOT TO APPLY AND/OR IS HELD INVALID, VOID OR UNENFORCEABLE FOR ANY REASON, EACH CLAIMANT AND DECLARANT AGREE, BY ACCEPTANCE OF A DEED TO A RESIDENTIAL UNIT, THAT ALL DISPUTES RELATING TO THE PROPERTY AND/OR THE PROJECT SHALL BE TRIED BEFORE A JUDGE IN A COURT OF COMPETENT JURISDICTION IN THE COUNTY, WITHOUT A JURY. THE JUDGE IN SUCH COURT OF COMPETENT JURISDICTION SHALL HAVE THE POWER TO GRANT ALL LEGAL AND EQUITABLE REMEDIES AND AWARD DAMAGES. EACH CLAIMANT, BY ACCEPTANCE OF A DEED TO A RESIDENTIAL UNIT HEREBY WAIVES AND COVENANTS NOT TO ASSERT ANY CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY DISPUTE, INCLUDING, WITHOUT LIMITATION, DISPUTES RELATING TO DESIGN AND CONSTRUCTION DEFECTS NOT COVERED UNDER THE EXPRESS LIMITED WARRANTY AND/OR THE KB HOME LIMITED WARRANTY, AND MISREPRESENTATION FOR FAILURE TO DISCLOSE MATERIAL FACTS. EACH CLAIMANT, BY ACCEPTANCE OF A DEED TO A RESIDENTIAL UNIT, COVENANTS AND AGREES THAT THIS MUTUAL WAIVER OF JURY TRIAL SHALL BE BINDING UPON EACH CLAIMANT'S AND DECLARANT'S RESPECTIVE SUCCESSORS AND ASSIGNS AND UPON ALL PERSONS AND ENTITIES ASSERTING RIGHTS OR CLAIMS OR OTHERWISE ACTING ON BEHALF OF SUCH PERSON(S) OR THEIR SUCCESSORS AND ASSIGNS.

ARTICLE 17 ADDITIONAL PROVISIONS

Section 17.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, until terminated in accordance with NRS § 116.2118.

Section 17.2 Effect of Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration (i) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in the Properties or in any Unit is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (ii) shall, by virtue of acceptance of any right, title or interest in the Properties or in any Unit by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and shall be binding on such Owner and such Owner's heirs, personal representatives, successors and assigns to, with and for the benefit of the Association and with and for the benefit of any other Owner; (iii) shall be deemed a real covenant by Declarant for itself, its successors and assigns and also an equitable servitudes, running, in each case, as a burden with and upon the title to the Properties and each Unit for the benefit of the Properties and each Unit; and (iv) shall be deemed a covenant, obligation and restriction secured by a lien in favor of the Association, burdening and encumbering the title to the Properties and each Unit in favor of the Association.

Section 17.3 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 Properties hereby

consents and agrees, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to this Declaration is contained in the instrument by which such Person acquired an interest in the Properties, or any portion thereof.

Section 17.4 Enforcement. Subject to Sections 5.2, 5.3, and/or 5.8 above, and Article 16, and Section 17.16, below, the Governing Documents may be enforced by the Association, as follows:

(a) Breach of any of the provisions contained in this Declaration or the Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal or equitable proceedings instituted, in compliance with applicable Nevada law, by any Owner, including Declarant so long as Declarant owns a Unit, by the Association, or by the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto 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 court costs. Each Owner shall have a right of action against the Association for any material, unreasonable and continuing failure by the Association to comply with material and substantial provisions of this Declaration, or of the Bylaws or Articles.

(b) The Association shall have the right to enforce the obligations of any Owner under any material provision of this Declaration, by assessing a reasonable fine as a Special Assessment against such Owner or Resident, and/or suspending the right of such Owner to vote at meetings of the Association and/or the right of the Owner or Resident to use Common Elements, (other than ingress and egress over Private Streets, by the most reasonably direct route, to the Unit), subject to the following:

(i) the person alleged to have violated the material provision of the Declaration must have had written notice (either actual or constructive, by inclusion in a Recorded document) of the provision and the alleged violation for at least thirty (30) days before the alleged violation; and

(ii) such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation, provided that if any such violation continues for a period of ten (10) days or more after actual notice of such violation has been given to such Owner or Resident, each such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties;

(iii) notwithstanding the foregoing, each Owner shall have an unrestricted right of ingress and egress to his or her Unit by the most reasonably direct route over and across the relevant streets;

(iv) no fine imposed under this Section may exceed the maximum amount(s) permitted from time to time by applicable provision of Nevada law for each failure to comply. No fine may be imposed until the Owner or Resident has been afforded the right to be heard, in person, by submission of a written statement, or through a representative, at a regularly noticed hearing (unless the violation is of a type that substantially and imminently threatens the health, safety and/or welfare of the Owners and Community, in which case, the Board may take expedited action, as the Board may deem reasonable and appropriate under the circumstances, subject to the limitations set forth in Section 5.2, 5.3, and/or 5.8 above);

(v) if any such Specific Assessment imposed by the Association on an Owner or Resident by the Association is not paid or reasonably disputed in writing delivered to the Board by such Owner or Resident (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then such Specific Assessment shall be enforceable pursuant to Articles 6 and 7 above; and

(vi) subject to Section 5.2 and 5.3 above and Article 16 and Section 17.16 below, and to applicable Nevada law (which may first require mediation or arbitration), the Association may also take judicial action against any Owner or Resident to enforce compliance with provisions of the Governing Documents, or other obligations, or to obtain damages for noncompliance, all to the fullest extent permitted by law.

(c) Responsibility for Violations. Should any Resident violate any material provision of the Declaration, or should any Resident's act, omission or neglect cause damage to the Common Elements, then such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Unit in which the Resident resides. Likewise, should any guest of an Owner or Resident commit any such violation or cause such damage to Common Elements, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident. Reasonable efforts first shall be made to resolve any alleged material violation, or any dispute, by friendly discussion in a "good neighbor" manner, followed (if the dispute continues) by informal mediation by the Board (and/or mutually agreeable or statutorily authorized third party mediator). Fines or suspension of voting privileges shall be utilized only as a "last resort", after all reasonable efforts to resolve the issue by friendly discussion or informal mediation have failed.

(d) The result of every act or omission whereby any of the provisions contained in this Declaration or the Bylaws are materially violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

(e) The remedies herein provided for breach of the provisions contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(f) The failure of the Association to enforce any of the provisions contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.

(g) If any Owner, his or her Family, guest, licensee, lessee or invitee violates any such provisions, the Board may impose a reasonable Specific Assessment upon such Owner for each violation and, if any such Specific Assessment is not paid or reasonably disputed in writing to the Board (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then the Board may suspend the voting privileges of such Owner. Such Specific Assessment shall be collectible in the manner provided hereunder, but the Board shall give such Owner appropriate Notice and Hearing before invoking any such Specific Assessment or suspension.

Section 17.5 Amendment. Except as otherwise provided in this Declaration, and except in cases of amendments that may be executed by a Declarant or by the Association or by certain Owners (as enumerated in NRS §116.2117), this Declaration, including the Plat, may only be amended by both: (a) the affirmative vote and/or written consent of Owners constituting at least two-thirds (2/3) of the total voting power of the Association, and (b) the written consent of at least a majority of the total voting power of the Board. Notwithstanding the foregoing, termination of this Declaration and any of the following amendments, to be effective, must be approved in writing by at least sixty-seven percent (67%) of the Eligible Holders at the time of such amendment or termination, based upon one (1) vote for each first Mortgage owned:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers and guarantors of first Mortgages as provided in Articles 7, 10, 11, and 12 hereof.

(b) 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.

(c) 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.

(d) Any amendment relating to the insurance provisions as set out in Article 11 hereof, or to the application of insurance proceeds as set out in Article 11 hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would or could result in termination or abandonment of the Properties or subdivision of a Unit, in any manner inconsistent with the provisions of this Declaration.

(f) 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.

(g) Any amendment materially and substantially affecting: (i) voting rights; (ii) rights to use the Common Elements; (iii) reserves and responsibility for maintenance, repair and replacement of the Common Elements; (iv) leasing of Units; (v) establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage; (vi) boundaries of any Unit; (vii) Declarant's right and power to annex or de-annex property to or from the Properties; and (viii) Assessments, Assessment liens, or the subordination of such liens.

Notwithstanding the foregoing, if a first Mortgagee who receives a written request from the Board to approve a proposed termination, amendment or amendments to the Declaration does not deliver a negative response to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed termination, amendment or amendments. Notwithstanding anything contained in this Declaration to the contrary, nothing contained herein shall operate to allow any Mortgagee to: (a) deny or delegate control of the general administrative affairs of the Association by the Members or the Board; (b) prevent the Association or the Board from commencing, intervening in or settling any litigation or proceeding; or (c) prevent any trustee or the Association from receiving and distributing any proceeds of insurance, except pursuant to NRS §116.31133 and §116.31135.

A copy of each amendment shall be certified by at least two (2) Officers, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) Officers, that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Eligible Holders of first Mortgages shall include a certification that the requisite approval of such Eligible Holders has been obtained. Until the first Close of Escrow for the sale of a Unit, Declarant shall have the right to terminate or modify this Declaration by Recordation of a supplement hereto setting forth such termination or modification.

Notwithstanding all of the foregoing, for so long as Declarant owns a Residential Unit, Declarant shall have the power from time to time to unilaterally amend this Declaration to correct any scrivener's errors, to clarify any ambiguous provision, to modify or supplement the Exhibits hereto, to make, and to process through appropriate governmental authority, minor revisions to the Plat, and otherwise to ensure that the Declaration conforms with the requirements of applicable law. Additionally, by acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B") hereto), in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter, and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his or her successors and assigns, to unilaterally execute and Record an Annexation Amendment, adding said real property to the Community, in the manner provided for in NRS § 116.211 and in Article 14 above, and to make, and to process through appropriate governmental authority, any and all minor revisions to the Plat deemed appropriate by Declarant in its reasonable discretion.

If any change is made to the Governing Documents, the Secretary (or other designated Officer) shall, within 30 days after the change is made, prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Owner, a copy of the change made.

Section 17.6 Non-Avoidance. No Owner through non-use or abandonment of his or her Unit may avoid the burdens imposed on such Owner by this Declaration.

Section 17.7 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 Properties to the public, or for any public use.

Section 17.8 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 Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, 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 Properties, or any portion thereof.

Section 17.9 Protection of Encumbrances. Notwithstanding any other provision hereof, no amendment, violation, breach of, or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any Mortgage, deed of trust or other lien on any Unit taken in good faith and for value and recorded

prior to the time of Recording of notice of such amendment, violation, breach or failure to comply. Any subsequent Owner of such Unit shall, however, take subject to this Declaration, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

Section 17.10 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the 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. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 17.11 Severability. Invalidation of any portion or provision of this Declaration by judgment or court order shall in no way affect any other portions and provisions, which shall remain in full force and effect to the maximum extent possible.

Section 17.12 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 17.13 Priorities and Inconsistencies. Subject to Section 5.8 above, and Section 17.16 below: (a) the Governing Documents shall be construed to be consistent with one another to the extent reasonably possible; (b) if there exist any irreconcilable conflicts or inconsistencies among the Governing Documents, the terms and provisions of this Declaration shall prevail (unless and to the extent only that a term or provision of this Declaration fails to comply with provision of NRS Chapter 116 applicable hereto); (c) in the event of any inconsistency between the Articles and Bylaws, the Articles shall prevail; and (d) in the event of any inconsistency between the Rules and Regulations and any other Governing Document, the other Governing Document shall prevail.

Section 17.14 Limited Liability. Except to the extent, if any, expressly prohibited by applicable Nevada law, neither Declarant nor Association, and/or none of their respective directors, officers, any committee representatives, employees, or agents, shall be liable to any Owner or any other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was reasonable or in good faith. The Association shall indemnify every present and former Officer and Director and every present and former Association committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

Section 17.15 Business of Declarant. Except to the extent expressly provided herein or as required by applicable provision of NRS Chapter 116, no provision of this Declaration shall be applicable to limit or prohibit any act of Declarant, or its agents or representatives, in connection with or incidental to Declarant's improvement and/or development of the Properties, so long as any Unit therein owned by Declarant remains unsold.

Section 17.16 Compliance with Applicable Law. Notwithstanding any other provision set forth herein, it is the intent of Declarant that this Declaration and the other Governing Documents shall be enforceable pursuant to their respective terms, to the maximum extent permissible under the Act or other applicable law. Without limiting the foregoing, in the event any provision of this

Declaration or other Governing Document is found to irreconcilably violate any applicable provision of the Act, or other applicable law, or any section respectively thereof, such violating provision of the relevant Governing Document shall be deemed automatically modified (or deleted, if necessary) to the minimum extent necessary to conform to the Act and/or other applicable law.

Section 17.17 No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

Section 17.18 Further Assurances. The Association and each Owner hereby agree to do such further acts and execute and deliver such further instruments as may reasonably be required to effectuate the intent of this Declaration.

ARTICLE 18

ARCHITECTURAL CONTROL

Section 18.1 ARC. The Architectural Review Committee, sometimes referred to in this Declaration as the "ARC," shall consist of three (3) committee members; provided, however, that such number may be increased or decreased from time to time by resolution of the Board. Notwithstanding the foregoing, Declarant shall have the sole right and power to appoint and/or remove all of the members to the ARC until such time as Declarant no longer owns any property in, or has any power to annex, the Annexable Area or any portion thereof; provided that Declarant, in its sole discretion, by written instrument, may at any earlier time turn over to the Board the power to appoint the members to the ARC; thereafter, the Board shall appoint all members of the ARC. A member of the ARC may be removed at any time, without cause, by the Person who appointed such member. Unless changed by resolution of the Board, the address of the ARC for all purposes, including the submission of plans for approval, shall be at the principal office of the Association as designated by the Board.

Section 18.2 Review of Plans and Specifications. The ARC shall consider and act upon any and all proposals, plans and specifications, drawings, and other information or other items (collectively in this Article 18, "plans and specifications") submitted, or required to be submitted, for ARC approval under this Declaration and shall perform such other duties as from time to time may be assigned to the ARC by the Board, including the right to inspection of construction in progress to assure conformance with plans and specifications approved by the ARC.

(a) With the exception of any such activity of Declarant, no construction, alteration, grading, addition, excavation, relocation, exterior repainting, installation, modification, or reconstruction of any improvement, shall be commenced or maintained by any Owner, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted by an Owner ("Applicant") to, and approved in writing by, the ARC. No design or construction activity of Declarant shall be subject to ARC approval. The ARC shall approve plans and specifications submitted for its approval only if the ARC deems, in its business judgment, that: (1) the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole; (2) the appearance of any structure affected thereby will be in harmony with other structures in the vicinity; (3) the construction will not detract from the beauty, wholesomeness and attractiveness of the Common Elements or the enjoyment thereof by the Members; and (4) the upkeep and maintenance will not become a burden on the Association; and (5) the plans and specifications are subject to and comply with the noise abatement provisions set forth in this Declaration.

(b) The ARC may condition its review and/or approval of plans and specifications for any Improvement upon any one or more or all of the following conditions: (1) such changes therein as the ARC deems appropriate; (2) agreement by the Applicant to grant appropriate easements to the Association for the maintenance of the Improvement; (3) agreement of the Applicant to reimburse the Association for the costs of maintenance; (4) agreement of the Applicant to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvements in detail as actually constructed upon completion of the Improvement; (5) payment or reimbursement, by Applicant, of the ARC and/or its members for their actual costs incurred in considering the plans and specifications; and/or (6) agreement by the Applicant to furnish to the ARC a cash deposit or other security acceptable to the ARC in an amount reasonably sufficient to (A) assure the completion of such Improvement or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (B) to protect the Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Common Elements as a result of such work; (7) payment, by Applicant, of the professional fees of a licensed architect or engineer to review the plans and specifications on behalf of the ARC, if such review is deemed by the ARC to be necessary or desirable; and/or (8) such other conditions as the ARC may reasonably determine to be prudent and in the best interests of the Association. The ARC may further require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans and specifications, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The ARC may provide that the amount of such fee shall be uniform, or that the fee may be determined in any other reasonable manner, such as based upon the reasonable cost of the construction, alteration or addition contemplated or the cost of architectural or other professional fees incurred by the ARC in reviewing plans and specifications.

(c) The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of any required plans and specifications, the ARC may postpone review of any plans and specifications submitted for approval. **Any application submitted pursuant to this Section 18.2 shall be deemed disapproved, unless written approval shall have been transmitted to the Applicant within sixty (60) days after the date of receipt by the ARC of all required materials.** The ARC will condition any approval required in this Article 18 upon, among other things, compliance with Declarant's Architectural Guidelines, as amended from time to time, all of which are incorporated herein by this reference.

(d) Any Owner aggrieved by a decision of the ARC may appeal the decision to the ARC in accordance with procedures to be established by the ARC. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would in the ARC's opinion warrant reconsideration. If the ARC fails to allow an appeal or if the ARC, after appeal, again rules in a manner aggrieving the appellant, the decision of the ARC is final. The foregoing notwithstanding, after such time as the Board appoints all members of the ARC, all appeals from ARC decisions shall be made to the Board, which shall consider and decide such appeals.

(e) Notwithstanding the foregoing or any other provision herein, the ARC's jurisdiction shall extend only to the external appearance or "aesthetics" of any Improvement, and

shall not extend to structural matters, method of construction, or compliance with a building code or other applicable legal requirement. ARC approval shall be subject to all applicable requirements of applicable government authority, drainage, and other similar matters, and shall not be deemed to encompass or extend to possible impact on neighboring Units.

Section 18.3 Meetings of the ARC. The ARC shall meet from time to time as necessary to perform its duties hereunder. The ARC may from time to time, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC, except the granting of variances pursuant to Section 18.8 below. In the absence of such designation, the vote of a majority of the ARC, or the written consent of a majority of the ARC taken without a meeting, shall constitute an act of the ARC.

Section 18.4 No Waiver of Future Approvals. The approval by the ARC of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 18.5 Compensation of Members. Subject to the provisions of Section 18.2(b) above, members of the ARC shall not receive compensation from the Association for services rendered as members of the ARC.

Section 18.6 Correction by Owner of Nonconforming Items. Subject to all applicable requirements of governmental authority, ARC inspection (which shall be limited to inspection of the visible appearance of the size, color, location and materials of work), and Owner correction of visible nonconformance therein, shall proceed as follows:

(a) The ARC or its duly appointed representative shall have the right to inspect any Improvement ("Right of Inspection") whether or not the ARC's approval has been requested or given, provided that such inspection shall be limited to the visible appearance of the size, color, location, and materials comprising such Improvement (and shall not constitute an inspection of any structural item, method of construction, or compliance with any applicable requirement of governmental authority). Such Right of Inspection shall, however, terminate sixty (60) days after receipt by the ARC of written notice from the Owner of the Unit that the work of Improvement has been completed. If, as a result of such inspection, the ARC finds that such Improvement was done without obtaining approval of the plans and specifications therefor or was not done in substantial compliance with the plans and specifications approved by the ARC, it shall, within sixty (60) days from the inspection, notify the Owner in writing of the Owner's failure to comply with this Article 18 specifying the particulars of noncompliance. If work has been performed without approval of plans and specifications therefor, the ARC may require the Owner of the Unit in which the Improvement is located, to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvement in detail as actually constructed. The ARC shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

(b) If, upon the expiration of sixty (60) days from the date of such notification, the Owner has failed to remedy such noncompliance, the ARC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance (with the visible appearance of the size, color, location, and/or materials thereof) and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more

than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a notice of noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the noncompliance, and, in addition, may peacefully remedy the noncompliance. The Owner shall reimburse the Association, upon demand, for all expenses (including reasonable attorneys' fees) incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Specific Assessment against the Owner for reimbursement as provided in this Declaration. The right of the Association to remove a noncomplying Improvement or otherwise to remedy the noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or in this Declaration.

(c) If for any reason the ARC fails to notify the Owner of any noncompliance with previously submitted and approved plans and specifications within sixty (60) days after receipt of written notice of completion from the Owner, the Improvement shall be deemed to be in compliance with ARC requirements (but of course shall remain subject to all requirements of applicable governmental authority).

(d) All construction, alteration or other work shall be performed as promptly and as diligently as possible and shall be completed within ninety (90) days of the date on which the work commenced.

Section 18.7 Scope of Review. The ARC shall review and approve, conditionally approve, or disapprove, all proposals, plans and specifications submitted to it for any proposed Improvement, alteration, or addition, solely on the basis of the considerations set forth in Section 18.2 above, and solely with regard to the visible appearance of the size, color, location, and materials thereof. The ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any proposal, plan or design from the standpoint of structural safety or conformance with building or other codes. Each Owner shall be responsible for obtaining all necessary permits and for complying with all governmental (including, but not necessarily limited to City) requirements.

Section 18.8 Variances. When circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations may require, the ARC may authorize limited variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions on size (including height and/or floor area) or placement of structures, or similar restrictions. Such variances must be evidenced in writing, and must be signed by a majority of the Board of Directors, and shall become effective upon execution by a majority of the Board of Directors. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of any such variance by ARC shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws, regulations, and requirements affecting the use of his or her Unit, including but not limited to zoning ordinances and set-back lines or requirements imposed by the City, or other public authority with jurisdiction. The granting of a variance by the ARC shall not be deemed to be a variance or approval from the standpoint of compliance with such laws or regulations, nor from the standpoint of structural safety, and the ARC, provided it acts in good faith, shall not be liable for any damage to an Owner as a result of its granting or denying of a variance.

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EXHIBIT "A"

ORIGINAL PROPERTY

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF CLARK, STATE OF NEVADA, DESCRIBED AS FOLLOWS:

1. **PHASE One (1)**, including **BUILDING(S) Thirty-Eight (38) and Forty (40)**, and **RESIDENTIAL UNITS 1, 2 and 3** in each of those **BUILDING(S)**, and GARAGES appurtenant respectively thereto, as shown by final map of **TRILOGY AT STEPHANIE UNIT - 1**, as filed February 20, 2004, in **Book 115** of Plats, **Page 050**, Official Records, Clark County, Nevada (hereinafter, "Plat");

2. **PHASE Thirty (30), COMMON ELEMENT Thirty-Four (34)**, as shown by the Plat.

3. **LIMITED COMMON ELEMENTS** appurtenant to the Residential Units described in paragraph 1 above.

4. **UNDIVIDED ALLOCATED FRACTIONAL INTERESTS** of Owners of said Residential Units, as tenants in common ("Allocated Interests"), with all other Owners of Residential Units, in and to the Common Elements as shown on the Plat and as set forth in the foregoing Declaration (but not the HOA Unit, if any), pursuant to the following paragraph 5), subject to this Declaration, including the following portions of this Exhibit "A".

5. **AS ALL AND/OR EACH OF THE FOREGOING ARE SUBJECT TO:**

(a) fee simple interests of individual Owners in and to their respective Residential Units (and Garages appurtenant thereto); and

(b) non-exclusive easements of ingress, egress, and/or enjoyment, for the benefit of Declarant, Association, and/or all Owners within the Properties (and in accordance with and subject to the foregoing Declaration); and

(c) rights to use, possession, and occupancy, of Limited Common Elements as shown by the Plat (and in accordance with and subject to the foregoing Declaration).

6. A non-exclusive easement of ingress, egress, and/or enjoyment over, across and of, all Private Streets, Common Recreational Area, and all other Common Elements and/or any HOA Unit of the Community, pursuant and subject to the foregoing Declaration.

EXHIBIT "B"

ANNEXABLE AREA

[ALL, OR ANY PORTIONS, FROM TIME TO TIME MAY, BUT NEED NOT NECESSARILY BE ANNEXED BY DECLARANT TO THE PROPERTIES]

All of the real property of TRIPOLY AT STEPHANIE, sometimes more particularly described as:

1. All of the real property in **TRILOGY AT STEPHANIE UNIT - 1** , as shown by final map thereof, on file in **Book 115** of Plats, **Page 050**, Office of the County Recorder, Clark County, Nevada; **EXCEPTING THEREFROM:** the Original Property, as described in the foregoing Exhibit "A".
2. All of the real property in **TRILOGY AT STEPHANIE UNIT - 2** , as more particularly described by the metes and bounds description set forth on Exhibit "B-1" hereto.
3. Any other parcels of real property now or hereafter acquired by Declarant located generally within the NW 1/4 of the N 1/2 of Section 22, Township 22S, Range 62E, M.D.M. City of Henderson, Clark County, Nevada (regardless of whether such parcels are contiguous with the Original Property or with other portions of the Annexable Area), also sometimes referred to as APN 178-22-101-001, 178-22-101-002, 178-22-101-003, and/or 178-22-101-009.

[Declarant reserves the right from time to time to unilaterally record supplements to this Exhibit "B," setting forth the legal descriptions of any plat map and/or to unilaterally supplement, delete, or otherwise modify of record all or any part(s) of the foregoing and/or following descriptions.]

EXHIBIT "B-1"

LEGAL DESCRIPTION

A.P.N. 178-15-402-026

Stephanie at Trilogy Unit – 2

BASIS OF BEARINGS:

North 01°23'37" East being the centerline of Stephanie Street and the West Line of the Southwest Quarter (SW1/4) of Section 15, Township 22 South, Range 62 East, M.D.M., City of Henderson, Clark County, Nevada as depicted upon an Amended Parcel Map filed of record in File 91 Page 13 of Parcel Maps, Official Records, Clark County, Nevada.

DESCRIPTION:

Being a portion of Parcel 1 as depicted upon an Amended Parcel Map filed of record in File 91 Page 13 of Parcel Maps, Official Records, Clark County, Nevada, also located within the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of Section 15, Township 22 South, Range 62 East, M.D.M., City of Henderson, Clark County, Nevada, more particularly described as follows:

Beginning at the Northeast corner of the aforementioned Parcel 1, said point being on the Southerly Right of Way Line of Interstate 215 (Presently varies in width);
Thence Southerly along the Easterly Boundary Line of the aforementioned Parcel 1, S.07°34'12"W., 158.16 feet to a point of curvature with a curve concave Easterly having a radius of 975.00 feet;
Thence continue Southerly along said Easterly Boundary Line and curve through a central angle of 08°13'06" along an arc length of 139.85 feet to a point of tangency;
Thence continue Southerly along said Easterly Boundary Line, S.00°38'54"E., 260.74 feet to a point of curvature with a curve concave Easterly having a radius of 475.00 feet;
Thence continue Southerly along said Easterly Boundary Line and curve through a central angle of 24°16'43" along an arc length of 201.28 feet to a point, a radial line to said point bears S.65°04'23"W., said point also being on the South Line of the aforementioned Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of Section 15;
Thence Westerly along said South Line, S.89°19'19"W., 349.15 feet;
Thence departing said South Line, N.00°40'41"W., 56.29 feet;
Thence N.89°19'19"E., 2.00 feet;
Thence N.00°40'41"W., 106.86 feet;
Thence S.89°19'19"W., 24.43 feet to a point on a non-tangent curve concave Easterly having a radius of 16.00 feet, a radial line to said point bears S.10°46'47"W.;
Thence Northerly along said curve through a central angle of 78°34'19" along an arc length of 21.94 feet to a point of tangency;
Thence N.00°38'54"W., 240.48 feet to a point of curvature with a curve concave Westerly having a radius of 173.50 feet;

DESCRIPTION CONTINUED:

Thence Northerly along said curve through a central angle of $28^{\circ}30'12''$ along an arc length of 86.31 feet to a point of reverse curvature with a curve concave Easterly having a radius of 16.00 feet, a radial line to said point bears $N.60^{\circ}50'54''E.$;

Thence Northerly along said curve through a central angle of $92^{\circ}58'56''$ along an arc length of 25.97 feet to a point of compound curvature with a curve concave Southerly having a radius of 223.00 feet, a radial line to said point bears $N.26^{\circ}10'11''W.$;

Thence Easterly along said curve through a central angle of $06^{\circ}44'56''$ along an arc length of 26.27 feet to a point, a radial line to said point bears the next described course;

Thence $N.19^{\circ}25'15''W.$, 157.85 feet to a point on the aforementioned Southerly Right of Way Line Interstate 215;

Thence Easterly along said Southerly Right of Way Line, $N.60^{\circ}22'45''E.$, 17.24 feet;

Thence continue Easterly along said Southerly Right of Way Line, $N.80^{\circ}47'30''E.$, 404.88 feet to the **Point of Beginning**.

Parcel contains 251,058 square feet or 5.76 acres more or less as determined by computer method.

When Recorded, Return To:

KB HOME NEVADA INC.

Attn: HOA Department

P.O. Box 98895

Las Vegas, Nevada 89193-8895

(702) 614-2500