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**SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
FLEUR DE LIS**

(a Nevada Residential Common-Interest Planned Community)
WASHOE COUNTY, NEVADA



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**DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
FLEUR DE LIS**

THIS SUPPLEMENTAL DECLARATION ("Declaration"), made as of the _____ day of January, 2003, by TANAMERA RESORT CONDOMINIUMS, LLC, a Nevada limited liability company ("Declarant");

WITNESSETH:

WHEREAS:

A. Declarant owns certain real property located in Washoe County, Nevada, on which Declarant intends to subdivide, develop, construct, market and sell a residential townhome common-interest planned community, to be known as "FLEUR DE LIS"; and

B. A portion of said property, as more particularly described in Exhibit "1" hereto, shall constitute the property initially covered by this Declaration ("Original Property"); and

C. Declarant intends that, upon Recordation of this Declaration, the Original Property shall be a Nevada Common-Interest Community, as defined in NRS § 116.110323, and a Nevada Planned Community, as defined in NRS § 116.110368 ("Community"); and

D. The name of the Community shall be FLEUR DE LIS, and the name of the Nevada nonprofit corporation organized in connection therewith shall be FLEUR DE LIS HOMEOWNERS ASSOCIATION ("Association"); and

E. Declarant reserves the right (but not the obligation) from time to time to add all or any portions of the real property described in Exhibit "2" attached hereto (the "Annexable Area"), up to an aggregate maximum total not to exceed Five Hundred (500) aggregate Units ("Units That May Be Created"); and

F. 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

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. In addition to this Declaration, the Properties, as hereinafter defined, are or may be subject to the Master Declaration of Covenants, Conditions and Restrictions for Double Diamond Ranch, recorded by Master Declarant, as described therein, in the Office of the County Recorder of Washoe County, Nevada, on June 17, 1996, as Document No. 2004353 of Official Records, as the same from time to time may have been or may be amended and/or restated ("Master Declaration"); and

I. The Master Declaration provides that Supplemental Declarations may be recorded which affects a Planned Development or portion of the Properties (as said terms are defined in the Master Declaration), and that Sub-Associations may be established for the purpose of managing and administering said Planned Developments; and

J. Declarant desires that the Properties be subject to further covenants, conditions and restrictions and reservations of easements, in addition to those set forth in the Master Declaration (taking into account certain unique aspects of the Properties), and that a Sub-Association be established for the purpose of assessing, managing and administering this Planned Development; and



K. 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

L. 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 a unique residential community, in which the Owners enjoy a quality life style as "good neighbors";

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, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale and lease of the Properties or any portion thereof. The 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 Units within this Community shall be used, improved and limited exclusively to single Family residential use.

ARTICLE 1
DEFINITIONS

Section 1.1 "Act" 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 Unit: a non-exclusive easement of enjoyment of all Common Elements in the Properties; allocation of Exclusive Use Areas, if any, pursuant to the Plat and as set forth herein; liability for assessments pro-rata for Common Expenses in the Properties (in addition to any Special Assessments as set forth herein); membership and one vote in the Association, per Unit owned, which membership and vote shall be appurtenant to the Unit.

Section 1.3 "Annexable Area" shall mean all or any portion of that real property described in Exhibit "2" 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 15 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 15 hereof.

Section 1.4 "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 15 hereof.

Section 1.5 "ARC" shall mean the Architectural Review Committee created pursuant to Article 8 hereof.

Section 1.6 "Articles" shall mean the Articles of Incorporation of the Association as filed or to be filed in the Office of the Nevada Secretary of State, as such Articles may be amended from time to time.



Section 1.7 "Assessments" shall refer collectively to Annual Assessments, and any applicable Capital Assessments and Special Assessments.

Section 1.8 "Assessment, Annual" shall mean the annual or supplemental charge against each Owner and his or her Unit, representing a portion of the Common Expenses, which are to be paid by each Owner to the Association in the manner and at the times and proportions provided herein.

Section 1.9 "Assessment, Capital" shall mean a charge against each Owner and his or her 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 Units in the same proportion as Annual Assessments

Section 1.10 "Assessment, Special" shall mean a charge against a particular Owner and his or her 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 a reasonable fine or penalty assessed by the Association, plus interest and other charges on such Special Assessments as provided for herein.

Section 1.11 "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 1.12 "Association" shall mean FLEUR DE LIS HOMEOWNERS ASSOCIATION, a Nevada non-profit corporation, and its successors and assigns. The Association shall be a "Sub-Association" as such term is defined in the Master Declaration.

Section 1.13 "Association Funds" shall mean the accounts created for receipts and disbursements of the Association pursuant to Article 6 hereof.

Section 1.14 "Balcony" shall mean a balcony on a Residential Unit, as constructed by Declarant on certain, but not necessarily all, 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, absent prior written approval of the ARC, in its sole discretion.

Section 1.15 "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 1.16 "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 is an "Executive Board" as defined by NRS § 116.110345.

Section 1.17 "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.

Section 1.18 "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 1.19 "City" shall mean the City of Reno, Nevada.

Section 1.20 "Close of Escrow" shall mean the date on which a deed is Recorded conveying a Unit from Declarant to a Purchaser.

Section 1.21 "Clubhouse" shall mean the large (approximately 20,000 square feet, more or less) Common Element clubhouse facility, in a location within the Properties as designated by Declarant, the Improvements on which will or may consist of a clubhouse with weight facilities, sports bar, media room, swimming pool, and spa(s), and related facilities, or similar amenity, for common use by all Members, subject to this Declaration and the other Governing Documents.



Section 1.22 "Common Elements" shall mean all portions of the Properties conveyed to and owned by the Association, and all Improvements thereon. Subject to the foregoing, Common Elements may include, without limitation: Clubhouse, Private Streets, perimeter walls, entry gate(s), guard house, fences, water features (including, but not necessarily limited to, koi ponds), walking trails, barbecue area, common landscape and greenbelt areas; hardscape and parking areas (other than Garages); all water and sewer systems, lines and connections, from the boundaries of the Properties, to the boundaries of Units (but not including such internal lines and connections located inside Units); pipes, ducts, flues, chutes, conduits, wires, and other utility systems and installations (other than those located within a Unit, which outlets shall be a part of the Unit), and heating, ventilation, and air conditioning, as installed by Declarant or the Association for common use (but not including an Exclusive Use A/C which serves a single Unit exclusively). Association Property shall constitute "Common Elements" with respect to this Community, as set forth in NRS § 116.110318.

Section 1.23 "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 of perimeter walls, unpaid Special Assessments, and/or Capital Assessments; the costs of any commonly metered utilities and any other commonly metered charges for the Units, and Common Elements (including, but not necessarily limited to, the reasonably allocated costs of master water supply and sewage disposal, and costs of master trash pickup and disposal); costs of periodic inspection, and regular maintenance and repair, as reasonably necessary, of Fire Sprinkler Systems, pursuant to Section 2.24 below; 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 (including, but not necessarily limited to, Clubhouse staff) and related personnel and/or payroll expenses; costs of all utilities, landscaping, and other services benefiting the Properties; costs of fire, casualty and liability insurance, workers' compensation insurance, and any other insurance covering the Association, Common Elements, or other portions of the Properties; 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 (including, but not limited to, any and all unsegregated or "blanket" real property taxes for all or any portions of the Properties); amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Elements or Properties, or portions thereof; 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 1.24 "Community" shall mean a Common-Interest Community, as defined in NRS § 116.110323, and a Planned Community, as defined in NRS § 116.110368.

Section 1.25 "County" shall mean Washoe County, Nevada.

Section 1.26 "Declarant" shall mean TANAMERA RESORT CONDOMINIUMS, LLC, a Nevada limited liability company, 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 §116.110375).

Section 1.27 "Declaration" shall mean this instrument as it may be amended from time to time. This Declaration is a "Supplemental Declaration" as such is defined in the Master Declaration.

Section 1.28 "Deed of Trust" shall mean a mortgage or deed of trust, as the case may be.

Section 1.29 "Delegate" shall mean a natural person selected by the Members to represent all of the Members to vote on their behalf regarding matters concerning the Master Association, pursuant to and as provided in the Master Declaration.

Section 1.30 "Director" shall mean a duly appointed or elected and current member of the Board of Directors.



Section 1.31 "Dwelling" shall mean a Residential Unit, designed and intended for use and occupancy as a residence by a single Family.

Section 1.32 "Eligible Holder," shall mean each Beneficiary, insurer and/or guarantor of a first Mortgage encumbering a Unit, which has filed with the Board a written request for notification as to relevant matters as specified in this Declaration.

Section 1.33 "Exclusive Use A/C" shall mean air conditioning equipment and/or system, located in whole or in part on easements over Common Elements and/or other portions of the Properties, which serve one Unit exclusively, and which shall constitute Exclusive Use Areas as to such Unit, pursuant to Sections 2.13 and 2.14, below.

Section 1.34 "Exclusive Use Areas" shall mean the entryways, and/or parking space(s), if any, other than Garages, shown as exclusive use areas on the Plat, and allocated exclusively to individual Units, together with such Exclusive Use A/C designed to serve a single Unit, but located outside of the Unit's boundaries. Use, maintenance, repair and replacement of Exclusive Use Areas shall be as set forth in this Declaration. Parking in designated areas shall be limited and governed pursuant to this Declaration, including, but not limited to, Sections 2.2, 2.16, and 10.18 below.

Section 1.35 "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 Dwelling, all as subject to and in compliance with all applicable federal and Nevada laws and local health codes and other applicable City and/or County ordinances.

Section 1.36 "FHA" shall mean the Federal Housing Administration.

Section 1.37 "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 1.38 "Fire Sprinkler Systems" shall mean those certain fire sprinkler systems, and related systems or components, initially installed by Declarant and/or Association in certain but not necessarily all Residential Buildings or other Improvements in the Properties. The costs of periodic inspection, and regular maintenance and repair, as reasonably necessary, of Fire Sprinkler Systems shall constitute Common Expenses, as set forth in further detail in Section 2.24 below.

Section 1.39 "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 1.40 "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 1.41 "Garage Component" or "Garage" shall mean a garage, as shown on the Plat and/or expressly designated by Declarant as a Garage, which is part of a designated Unit. Subject to Section 2.15 and other provisions of this Declaration and the Plat, the Garage Component shall mean a 3-dimensional figure (associated with a designated Unit), the horizontal and vertical dimensions of which are delineated on the Plat. A Garage Component shall not be deemed independently to constitute a Unit, but shall be a part of and appurtenant to a Unit as designated by Declarant pursuant to this Declaration.

Section 1.42 "Governing Documents" shall mean the Declaration, Articles, Bylaws, Plat, and the Rules and Regulations (if any), and (where applicable or required within the context) the Master Declaration and Master Association articles of incorporation and bylaws. Any inconsistency among the Governing Documents shall be governed pursuant to Section 17.8, below.

Section 1.43 "Identifying Number", pursuant to NRS § 116.110348, shall mean the number which identifies a Unit on the Plat.

Section 1.44 "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 Residential Buildings and other structures, walkways, sprinkler pipes, entry way, parking areas, walls, parking areas perimeter walls, hardscape, Private Streets, street lights, curbs, gutters, fences, screening walls, block walls, retaining walls, stairs, landscaping, hardscape features, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, and so on.

Section 1.45 "Living Component" shall mean the portion of a Unit other than: (a) Garage Component, and (b) (if applicable) the Yard Component.

Section 1.46 "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 1.47 "Master Association" shall mean DOUBLE DIAMOND RANCH MASTER ASSOCIATION, a Nevada non-profit corporation, its successors or assigns. The rights and duties of the Master Association are as set forth in the Master Declaration.

Section 1.48 "Master Association Documents" (sometimes "Master Governing Documents") shall mean the Master Declaration, the Master Association articles of incorporation and bylaws, and the Master Association Rules.

Section 1.49 "Master Community" shall mean the Double Diamond Ranch Master Community, subject to the Master Declaration.

Section 1.50 "Master PUD Design Guidelines" shall mean the Double Diamond Ranch Residential Planned Community PUD Design Guidelines, recorded on December 20, 2000, as Document No. 2457332 of Official Records, Washoe County, Nevada, as the same from time to time have been and may further be amended.

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 "Module" shall mean and refer to each Module as designated as such on the Plat. The Module includes all land and improvements (whether now or hereafter associated within its boundaries). Each Module typically includes Residential Units, as shown on the Plat, including associated Garage Components, and (with respect to certain Units) Yard Components associated therewith.

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 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 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 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 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 "Original Property" shall mean that real property described on Exhibit "1" 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 1.57 "Owner" shall mean the Person or Persons, including Declarant, holding fee simple interest of Record to any Unit. The term "Owner" shall include sellers under executory contracts of sale, but shall exclude Mortgagees. Pursuant to Article 3 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 1.58 "Patio" shall mean a patio appurtenant to certain, but not all, Units. No Owner or Person other than Declarant (in its sole and absolute discretion) shall have any right to construct, or shall construct, a Patio.

Section 1.59 "Perimeter Wall(s)/Fence(s)" shall mean the walls and/or fences located generally around the exterior boundary of the Properties, constructed or to be constructed by or with the approval of Declarant.

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 "Plat" shall mean the map of FLEUR DE LIS Phase 1 Planned Unit Development, a Common-Interest Community, formerly Double Diamond Village 26, at Double Diamond Ranch, City of Reno, Nevada; on file in PUD Subdivision Tract Map, File No. 2604263, Official Records, Washoe County, Nevada, as the same may be further amended and/or supplemented from time to time, and any other map(s) which may hereafter affect the Properties or any real property annexed to the Properties.

Section 1.62 "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, which shall be Common Elements.

Section 1.63 "Properties" shall mean all of the Original Property described in Exhibit "1," attached hereto, together with such portions of the Annexable Area, described in Exhibit "2" hereto, as may hereafter be annexed from time to time thereto pursuant to Article 15 of this Declaration.

Section 1.64 "Purchaser" shall have that meaning as provided in NRS § 116.110375.

Section 1.65 "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 Washoe County, Nevada.

Section 1.66 "Resident" shall mean any Owner, tenant, or other person, who is physically residing in a Unit.

Section 1.67 "Residential Building" shall mean each residential building, housing the Living Components and Garage Components of attached Residential Units within the Properties, as shown on the Plat.

Section 1.68 "Residential Unit" shall mean a Unit , as set forth in Section 1.71, below.



Section 1.69 "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 1.70 "Sight Visibility Restriction Areas" shall mean those areas, if any, identified as such on the Plat, in which the height of landscaping or other sight restricting Improvements shall be limited to the maximum permitted height (as set forth on the Plat).

Section 1.71 "Unit" or "Residential Unit" shall mean that residential portion of this Community to be separately owned by each Owner (as shown and separately identified as such on the Plat), and shall include all Improvements thereon. As set forth in the Plat, a Unit shall mean a 3-dimensional figure: (a) the horizontal boundaries of which are delineated on the Plat and are intended to terminate at the extreme outer limits of the Residential Building envelope and include all roof areas, eaves and overhangs; and (b) the vertical boundaries of which are delineated on the Plat. Each Residential Unit shall be a separate freehold estate (not owned in common with the other Owners of Units in the Module or Properties), as separately shown, numbered and designated in the Plat. Units shall include appurtenant Garage Components, and certain, but not all, Units shall or may include Yard Components. The boundaries of each Unit are set forth in the Plat, and include the above-described area and all applicable Improvements within such area, which may include, without limitation, bearing walls, columns, floors, roofs, foundations, footings, windows, central heating and other central services, pipes, ducts, flues, conduits, wires and other utility installations, subject to the easements set forth in this Declaration, including, but not limited to, those easements set forth in Exhibit "3" hereof.

Section 1.72 "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., 500 Units).

Section 1.73 "VA" shall mean the United States Department of Veterans Affairs.

Section 1.74 "Yard Component" shall mean (typically with respect to certain Units) a 3-dimensional figure lying outside of and contiguous to the Residential Building in a Module, the vertical boundaries of each are identical to the Module, and the horizontal boundaries of which are as set forth on the Plat. Declarant need not construct any Yard Component with respect to certain Units in any Module.

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

ARTICLE 2
OWNERS' PROPERTY RIGHTS; EASEMENTS

Section 2.1 Ownership of Unit; Owners' Easements of Enjoyment. Title to each Unit in the Properties shall be conveyed in fee to an Owner. Ownership of each Unit within the Properties shall include (a) a Residential Unit, (b) one Membership in the Association, and (c) any exclusive or non-exclusive easements appurtenant to such Unit over the Common Elements as described in this Declaration, the Plat, and/or the deed to the Unit. Each Owner shall have a non-exclusive right and easement of ingress and egress and of use and enjoyment in, to and over all Common Elements, including, but not limited to, Private Streets, which easement shall be appurtenant to and shall pass with the title to the Owner's 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 upkeep of the Common Elements, and to amend same from time to time (such Rules and Regulations shall be amended upon a majority vote of the Board);

(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, in aid thereof, and subject further to the Mortgagee protection provisions of Article 13 of this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of the mortgagee shall be subordinated to the rights of the Owners;

(d) subject to any and all applicable provisions of the Master Declaration, and subject further to the voting requirements set forth in Subsection 2.1(c) above, and the provisions of Article 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 to any public agency, authority, utility or other Person for such purposes and subject to such conditions as may be agreed to by the Members;

(e) subject to the provisions of Article 14 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 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 Article 14 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 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 materially in accordance with such original design, finish or standard of construction, only with the vote or written consent of Owners holding seventy-five percent (75%) 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 the Eligible Holders of fifty-one percent (51%) of the first Mortgages on Units in the Properties;

(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, 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 Special Assessments, and to suspend the right of an Owner and/or Resident to use Common Elements, for nonpayment of any regular or special Assessment levied by the Association against the Owner's 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 Properties, 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 "quiet hours," loud music, loud talking, shouting, startup or operation of loud equipment or loud motorcycles, and any and all other loud noises shall not be permitted (whether inside or outside a Living Component, Garage Component, Yard Component, and/or Common Element); for purposes of this subsection, "loud" shall be as so determined by the ARC or by the Board;

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



(n) the exclusive rights of individual Units (and the Owners thereof) with regard to Limited Common Elements, as set forth in this Declaration;

(o) the easements reserved in this Declaration, including, but not necessarily limited to, the easements reserved in various sections of this Article 2, and/or any other provision of this Declaration; and

(p) the restrictions, prohibitions, limitations, and/or reservations set forth in this Declaration.

Section 2.2 Easements for Parking. Subject to the use restrictions set forth in Article 10, below, the Association, through the Board, is hereby empowered to establish "parking" and/or "no parking" areas within the Common Elements, to accommodate ordinary and reasonable guest parking, 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 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 parked in the same Association parking space for more than two consecutive days, 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(s) and all Private Streets and common walkways within the Properties, subject to the parking provisions set forth in Section 2.2, above, and the use restrictions set forth in Article 10, 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 Units, guests, and other invitees, for access, ingress, and egress over, in, upon, under, and across the Properties, including Common Elements, 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, construction, advertising, marketing and/or sales related to the Properties, or any portions thereof, or any other project of Declarant or its affiliates; 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 Family, guests, or invitees, to or of such Owner's Unit or the Common Elements. The easement created pursuant to this Section 2.4 is subject to the time limit set forth in Section 14.1(a) hereof. 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 Unit in the Properties, 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 in the Properties to be closed during Declarant's marketing 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 other purposes regularly or normally related thereto; and (b) City, County, 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 Common Elements or any Unit, 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 and portions of Units, for installation, maintenance, repair and/or replacement of public and private utilities, electric power, telephone, cable TV, 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 Common Elements and portions of 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), provided that said easement shall not extend beyond, across, over, or under any structure located on any Unit. 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 Unit in the Properties, except by or 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 property in 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 extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any 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, maintenance, repair and replacement of water and/or sewage lines and 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. Without limiting the foregoing, each Owner acknowledges that there will be only one sewer lateral servicing each multiple attached Residential Units, and that the backflow preventor and sewer cleanout for all of the Residential Units in a Residential Building may be located in the Garage of one of the Residential Units. In the event that such backflow preventor or sewer cleanout is so located, the Owner of such Garage shall provide the Owners and/or Residents of the other two Units in the Module with reasonable rights and access within such Garage as may be necessary to reasonably use and maintain and repair such devices. In the event "emergency" access to or over a Garage is reasonably necessary, and the Owner of the Garage cannot reasonably be contacted, the Association shall have an easement over and upon such Garage, to reasonably remediate such "emergency" condition.

Section 2.7 Additional Reservation of Easements. Declarant hereby expressly reserves for the benefit of each Owner and his or her Unit, reciprocal, non-exclusive easements over the adjoining Unit(s), for the support, control, maintenance and repair of the Owner's Unit and the utilities serving such 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, for the control, installation, maintenance and repair of utility services and drainage facilities serving any portion of the Properties (which may be located on portions of Units), for drainage of water resulting from the normal use thereof, for the inspection, painting, maintenance and/or repair of those Exclusive Use Areas 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 Owner or Resident shall pursue any and all resultant claims against the offending utility or third Person, and not against Declarant or the Association. In the event of any minor encroachment of a Unit (including Yard Component, if applicable) upon the Common Elements (or vice versa), or other Unit, as a result of initial 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 Unit, shall have an easement appurtenant to such Unit over the Unit line to and over the adjacent Unit and/or Common Elements, for the purposes of accommodating any natural movement or settling of any Unit, any encroachment of any Unit due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs, and architectural features comprising parts of the original construction of any Unit. Declarant hereby further reserves a non-exclusive 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 over the Common Elements, for the benefit (but not 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.

Section 2.8 Encroachments. The physical boundaries of an existing Unit (including Yard Component, if applicable), or of a Unit 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 Unit, 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 Unit reasonably over and across the Common Elements, which right shall be appurtenant to the Unit, and shall pass with any transfer of title to the 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 interest in any of the Common Elements, or in any part of the component interests which comprise his Unit, except in conjunction with a conveyance of his 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. Title to the Clubhouse, Private Streets, and other Common Elements (including, but not limited to, Common Element water features) shall be conveyed to and held by the Association; provided that each Owner, by virtue of Membership in the Association, shall be entitled to non-exclusive use and enjoyment of the Clubhouse, Private Streets, and other Common Elements (including, but not limited to, Common Element water features), subject to the Governing Documents.

Section 2.13 Exclusive Use Areas. Each Owner of a Unit shall have an exclusive easement for the use of the entry designed for the sole use of said Unit, as an Exclusive Use Area, appurtenant to the Unit. The foregoing easements shall not entitle an Owner to construct anything or to change any structural part of the easement area. Certain Exclusive Use A/C serving one Unit exclusively are also Exclusive Use Areas, as set forth in Section 2.14 below.

Section 2.14 Exclusive Use A/C. Easements are hereby reserved for the benefit of each Unit, Declarant, and the Association, for the purpose of maintenance, repair and replacement of any air conditioning equipment and/or systems ("Exclusive Use A/C") located in the Common Elements and/or any other portion of the Properties; provided, however, that no Exclusive Use A/C shall be placed in any part of the 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 Exclusive Use A/C which is physically located within the Common Elements, but which serves an individual Unit exclusively, shall constitute an Exclusive Use Area as to the Unit exclusively served by such Exclusive Use A/C, and the Owner of the Unit (and not the Association) shall have the duty, at the Owner's cost, to maintain, repair and replace, as reasonably necessary, the Exclusive Use A/C serving the Unit, subject to the original appearance and condition thereof as originally installed by Declarant, subject to ordinary wear and tear.

Section 2.15 Garages. Declarant shall convey fee title to Garages, as part of Residential Units to which appurtenant, to Owners, provided that each such Garage shall be deemed to be appurtenant to the designated Unit, and shall not be deemed to independently constitute a Unit. The boundaries and dimensions of a Garage Component 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; provided that maintenance and repair of Garages shall be as set forth in Section 9.1(a), below. 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 Unit to which 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 Unit. Any purported conveyance, encumbrance, or release of a Garage, separate from the entire Unit, shall be void and of no effect. Each Owner of a Garage Component shall have an easement over the walls and ceiling of the neighboring Residential Unit adjacent to such Garage Component for the purpose of attaching screws, fasteners, fixtures, shelves, cabinets and garage door openers to the walls and ceilings of the Garage Component, 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 Component. Without limiting the foregoing, each Owner of a Residential Unit shall have an easement over the adjoining Garage Component 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. Additionally, each Owner of certain Units within a Residential Building shall have an easement over the portions of the Unit immediately surrounding the Garage Component in certain other Units, for reasonable usage thereof. The easement rights set forth in this Section are subject to the restrictions set forth in Article 10 (including, but not limited to, restrictions pertaining to "noise", "nuisance", and "vibrations").

Section 2.16 Driveway Areas. No parking shall be permitted in any driveway area (provided that temporary loading and unloading may be permitted on an occasional basis), unless specifically approved in advance and in writing by the Board, and then subject to: (a) Section 10.18 below, (b) any limitations or prohibitions imposed by Declarant in its sole discretion pursuant to Section 14.1 below, and/or (c) the Rules and Regulations. 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.

Section 2.17 Telecommunications System. In cooperation or under agreement with one or more telecommunication service provider or carrier ("Provider"), Declarant may, but shall not be required, to develop an integrated broadband network linking Dwellings, Clubhouse, and/or other facilities or nearby offices to provide the necessary transport platform for network-based services such as integrated voice, messaging, data, CATV, fiber optics, and interactive multimedia applications. The technology vision for the Community is to provide high speed data connectivity, video teleconferencing, video transport, and interactive multimedia services such as movies on demand, distance learning, remote diagnostic health care, and energy information services to help address the needs of an interactive community, where home, office, retail and commercial needs are met through cooperative and centrally managed network strategies. In addition, it is the technology vision that a community server platform will create an intranet of electronic connections between Dwellings, Clubhouse, and/or other facilities. Declarant may, in its sole and absolute discretion, pre-wire each Dwelling and/or the Clubhouse in accordance with specifications furnished by a telecommunication service provider selected by Declarant. It is expressly understood that such system, including all components thereof as so installed, shall become the property of Declarant, or, at the option of Declarant, of Provider, Declarant hereby reserves ownership of such system, and further reserves a non-exclusive easement in gross on, over, under or across each Unit and the Common Elements for purposes of installation and maintenance of all or any part of such system, for the benefit of Declarant and/or Provider. Pursuant to any such agreement from time to time with the Provider, each Owner in this Community may be subject to mandatory monthly service fees for the minimum period required by the Provider, and Declarant or an affiliate may receive a fee under agreement with the Provider. Without limiting the foregoing, certain systems or components, including, but not necessarily limited to, a file server for on-demand video, and/or fiber optic cable, shall or may be located in the Clubhouse ("Clubhouse System"), and, in such event: (a) the Association under no circumstance whatsoever (absent prior written consent of Declarant and/or Provider in their respective sole discretion): shall cause or permit any interruption of electrical power or air conditioning to such Clubhouse System, or shall hinder, obstruct, or deny any access to or use of the Clubhouse System by Declarant or Provider or their respective employees, contractors, and/or agents; and (b) Declarant and Provider shall have a perpetual irrevocable easement and right to enter into, over, under, and upon the Clubhouse on a "24-7" basis (i.e., at any time whatsoever) to access and operate, maintain, and/or repair the Clubhouse System, and to perform any other installation or to do any other work reasonably in connection with or related to the Clubhouse System; and (c) the Clubhouse System shall remain the property exclusively of Declarant or Provider, in the discretion of Declarant.

Section 2.18 Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the 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 respectively thereon, or by abandonment of his Unit or any other property in the Properties.

Section 2.19 Alteration of Units. Declarant reserves the right to change the interior design and arrangement of any Unit and to alter the boundaries between Units (including Garage Components and/or Yard Components, if applicable), so long as Declarant owns the Units (or Garage Component or Yard Component) so altered. No such change shall increase the number of Units nor alter the boundaries of the Common Elements.

Section 2.20 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 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 Special Assessment.

Section 2.21 Additional Provisions for Benefit of Handicapped Persons. To the extent required by applicable law, provisions of the Governing Documents, and policies, practices, and services, shall be reasonably accommodated to afford handicapped Residents with equal opportunity to use and enjoy their Dwellings. Pursuant to the foregoing, Declarant may cause to be installed certain handrails or other accommodations for the benefit of handicapped Residents, on or within areas appurtenant or proximate to certain Units, or other areas of the Properties, as may be deemed by Declarant to be reasonably necessary. Handrails in portions of driveway areas or other areas which pertain to certain designated Units shall be Exclusive Use Areas appurtenant to such Units. To the extent required by applicable law, the Association shall reasonably accommodate handicapped Residents, to afford such Residents equal opportunity to use and enjoy their Dwellings, and the Association shall permit handicapped Residents to make reasonable modifications to their living areas which are necessary to enable them to have full enjoyment of the premises. The Association shall comply with all applicable laws prohibiting discrimination against any person in the provision of services or facilities in connection with a Dwelling because of a handicap of such person. In the event of irreconcilable conflict between applicable law and any provision of the Governing Documents, applicable law shall prevail, and the Association shall not adhere to or enforce any provision of the Governing Documents which irreconcilably contravenes applicable law. Installation by Declarant of handrails in driveway areas (or installation by Declarant of other devices to reasonably accommodate handicapped Residents in other areas of the Properties) shall raise absolutely no inference that such devices are in any regard "standard" or that they will or may be installed with respect to all or any other Units or all or any other areas of the Properties.

Section 2.22 Avigation Easements. Declarant hereby reserves, for itself, for the Association, for the Master Declarant, and/or for the Master 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 and Units (including, but not limited to, Limited Components and Yard Components) may be master metered. Periodic water costs allocable to each Unit shall be paid by the Owner of said Unit, regardless of level or period of occupancy (or vacancy) and regardless of whether or not the Unit has an appurtenant Yard Component.

Section 2.24 Fire Sprinkler Systems. Easements are hereby reserved for the benefit of each Unit, Declarant, and the Association, for the purpose of periodic inspection, maintenance, repair and replacement of Fire Sprinkler Systems, located in the Common Elements and/or any other portion of the Properties. No Owner shall be entitled to alter, add to, delete, or move, any Fire Sprinkler System, or portion thereof; provided, however, that the Association, acting through the Board, reasonably may alter, add to, delete, or move, any Fire Sprinkler System, or portion thereof, subject (during the period set forth in Section 14.1(a) below), to reasonable prior written consent of Declarant. The Association shall cause the Fire Sprinkler Systems to be periodically inspected, and to be reasonably maintained, repaired and/or replaced, and the



costs thereof shall be Common Expenses. Notwithstanding the foregoing, each Owner shall be obligated to immediately report to Declarant and Association any visible or known or suspected problem with or in the Fire Sprinkler Systems. Notwithstanding the foregoing, or any other provision in this Declaration, Declarant shall not be required to install Fire Sprinkler Systems in all Residential Buildings or other Improvements in the Properties, if not so required by the Washoe County Fire District.

ARTICLE 3 **FLEUR DE LIS HOMEOWNERS ASSOCIATION**

Section 3.1 Organization of Association. The Association is, or shall be, by not later than the date the first Unit is conveyed to a Purchaser, incorporated under the name of FLEUR DE LIS 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, pursuant to NRS §§ 81.410 through 81.540, inclusive. 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 those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers as a non-profit corporation, generally to do any and all things that a corporation organized under the laws of the State of Nevada may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, including any applicable powers set forth in NRS § 116.3102, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents, or in any applicable provision of NRS Chapter 116. The Association shall make available for inspection at its office by any prospective purchaser of a Unit, any Owner, and any Eligible Holders, 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 Unit), upon purchasing a Unit, shall automatically become a Member of the Association, and shall remain a Member until such time as his or her ownership of the 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 Unit has been transferred, and each Membership shall be appurtenant to, and may not be separated from, fee ownership of the Unit. Ownership of such Unit shall be the sole qualification for Membership, and shall be subject to the Governing Documents.

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 Unit, and then only to the purchaser or Mortgagee of such 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 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 Unit until fee title to the Unit sold is transferred. If any Owner should fail or refuse to transfer his or her Membership to the purchaser of such Unit upon transfer of fee title thereto, the Board shall have the right to record the transfer upon the books of the Association. Until 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 purchaser shall have a valid proxy from the seller of said Unit, pursuant to Section 4.6, below. The Association may levy a reasonable transfer fee against a new Owner and his or her 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, any special identification for use of Common Elements, 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 amplified 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 provide:

- (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 three (3) Directors, all of whom (other than Directors appointed by Declarant pursuant to Section 3.7 below) must be Members of the Association. 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. 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 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. An officer, employee, agent or director of a corporate Owner, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, or a fiduciary of an estate that owns a 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 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. Following the Declarant Control Period, elections for Directors (whose terms are expiring) must be held at the Annual Meeting, as set forth in Section 4.3 below.



(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 Units That May Be Created, at least one 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 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 Units That May Be Created (provided that if a majority of the Units are divided into time shares, said percentage shall be eighty percent (80%)); (ii) five (5) years after Declarant has ceased to offer any 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 15 hereof.

Section 3.8 Control of Board by Owners. Subject to and following the Declarant Control Period: (a) the Owners shall elect a Board of at least three (3) Directors, and (b) 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 thirty (30) days of his appointment or election, certify in writing that he 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 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. 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 eligibility to serve as a Director. Each Owner who is qualified to serve as a Director may have his 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 Unit within the Community or to any other mailing address designated in writing by the 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 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 Unit. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each 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, unless the Board is meeting in Executive Session.

(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

(b) discussing Association personnel matters of a sensitive nature; 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 an Owner ("Involved Owner") (provided that the Involved Owner shall be entitled to request in writing that such hearing be conducted by the Board in open meeting, and provided further that the Involved Owner may attend such hearing and testify concerning the Alleged Violation, but may be excluded by the Board from any other portion of such hearing, including, without limitation, the Board's deliberation).

No other matter may be discussed in Executive Session. 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 Owner or his designated representative.



ARTICLE 4

OWNERS' VOTING RIGHTS; MEMBERSHIP MEETINGS

Section 4.1 Owners' Voting Rights. Subject to the following provisions of this Section 4.1, and to Section 4.6 below, each Member shall be entitled to cast one (1) vote for each Unit owned. In the event that more than one Person holds fee title to a 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 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 Unit shall be exercised as the majority of the co-owners of the Unit mutually agree. No vote shall be cast for any Unit where the co-owners present in person or by proxy owning the majority interests in such Unit cannot agree to said vote or other action. The nonvoting co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned 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 Annual Assessments or any Special Assessment levied against such Owner are delinquent.

Section 4.2 Transfer of Voting Rights. The right to vote may not be severed or separated from any Unit, and any sale, transfer or conveyance of fee interest in any 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 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 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 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 Washoe 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 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 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 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 17.1, 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 entitled to attend, 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 may give a proxy only to a member of his immediate Family, a Resident tenant, or another Member. 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 or by his 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 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 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 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 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 to leave less than a quorum, if any action taken other than adjournment is approved by at least a majority of the Members 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 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 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% or 75%) of votes of the total voting Membership as set forth in this Declaration

Section 4.8 Membership in Master Association. Each Member also concurrently shall be a member of the Master Association, as and to the extent expressly set forth in the Master Declaration.

Section 4.9 Voting Rights in Master Association. Each Member also shall have voting rights in the Master Association, as and to the extent expressly set forth in the Master Declaration.

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 Declaration, Articles and Bylaws. 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 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 Units, and to enforce payment of such assessments in accordance with the provisions of Articles 6 hereof.

(b) Maintenance and Repair of Common Elements. The power and duty to cause the Common Elements to be maintained in a neat and attractive condition 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), pursuant to this Declaration and in accordance with standards adopted by the ARC, 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 of the applicable agency or public entity.

(c) Removal of Graffiti. The power to remove or paint over any graffiti from walls or fences, pursuant and subject to Section 9.15, below.

(d) Insurances. The power and duty to cause to be obtained and maintained the insurance coverages in accordance with the provisions of Article 12 below.

(e) Taxes. The power and duty to pay all taxes and assessments levied upon the Common Elements (except to the extent, if any, that property taxes on Common Elements are assessed pro-rata on the 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 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 portions of the Properties. The Association, by Recordation of this Declaration, and each Owner, by acquiring title to a Unit and each Resident, by occupying a Unit, acknowledge and agree that water may be commonly metered, paid by the Association, and allocated and billed by the Association to each Unit within FLEUR DE LIS, and that such allocated costs shall be deemed 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 Unit.

(g) Easements and Rights-of-Way. The power 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 (ii) with the consent of seventy-five percent (75%) of the voting power of the Association, fee title to parcels or strips of land which comprise a portion of the Common Elements, for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder: (A) roads, streets, walks, driveways 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 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 Declarant to the Association, shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon ninety (90) days written notice.

(i) Rights of Entry and Enforcement. The power but not the duty, after Notice and Hearing (except in the event of emergency which poses an imminent threat to health or substantial damage to property, in which event, Notice and Hearing shall not be required), to peaceably enter upon any area of a 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 Special 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 Dwelling without the prior consent of the Owner thereof. Any damage caused by an entry upon any 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 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.

(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).



(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 statements (Budgets), Reserve Budgets, and Reserve Studies 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 distributed within one hundred twenty (120) days after the close of each Fiscal Year.

(o) Maintenance of Other Areas. The power but not the duty to maintain and repair slopes, parkways, entry structures, and Community signs identifying the Properties, to the extent deemed reasonable and prudent by the Board.

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

(q) Licenses and Permits. The power and the duty to obtain from applicable governmental authority any and all licenses and permits reasonably necessary 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 or Common Elements, 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.

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"). 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 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 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, by obtaining the written opinions of each and every one of: (A) a licensed Nevada attorney regularly residing in Washoe 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 Washoe County, Nevada, expressly opining that the marketability and market value of 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 Washoe County, Nevada, that financing and refinancing of 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 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, 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 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 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) 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.

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 for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon not more than ninety (90) days written notice. In the event of any explicit conflict between the Governing Documents and any agreement with a Manager, the Governing Documents shall prevail.



(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 §116.3119.3, or duly exempted pursuant to NRS § 116.3119.4). 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, a 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 applicable regulations of the Nevada Real Estate Division; (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 connection with such turnover, in any event not later than ten (10) 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.

(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. 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 25 cents per page (or 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. 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.

Section 5.8 Compliance with Applicable Laws. The Association 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 Dwelling because of a handicap of such person). The provisions of the Governing Documents shall be upheld and enforceable to the maximum extent permissible under applicable federal or state law or applicable City or County 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.

ARTICLE 6
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1 Personal Obligation for Assessments. Each Owner of a 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) Special Assessments, and (c) any Capital Assessments; such as 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 Unit and shall be a continuing lien upon the Unit against which such assessment is made. 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 Unit at the time when the assessment became due. This personal obligation cannot be avoided by abandonment of a 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. Each Owner's obligation to pay assessments hereunder shall be in addition to the Owner's obligation to pay all required Master Association capital contributions and assessments, as and to the extent expressly applicable under the Master Declaration.

Section 6.2 Association Funds. The Board shall establish 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, in the name of the Association, as accounts 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) a 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. Money in the Reserve Fund may not and shall not be withdrawn without the signatures of at least two (2) Directors in good standing at such time.

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 replacement of major components ("Major Components") of the Common Elements, (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, (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 may sign in lieu of either the President or the Treasurer, if either is not reasonably available); 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 shall periodically retain the services of a qualified reserve study analyst ("Reserve Analyst"), with 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 **initially within one (1) year** after the Close of Escrow for the first Unit within the Properties, and thereafter 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). It shall be an obligation of the Manager to timely remind the Board in writing of these Reserve Study requirements from time to time as applicable.

(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 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 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 (provided that, subject to and without limiting Sections 6.4 or 6.5 below, no assumption shall be made of such future increases in excess of 10% per year plus a reasonable annual inflationary factor), with corresponding increases in Assessments.

Section 6.4 Budget; Reserve Budget.

(a) The Board shall adopt a proposed annual Budget (which shall include a Reserve Budget) at least forty-five (45) 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 representing at least a majority of the 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 Unit by Declarant, the Purchaser of such Unit shall be required to pay an initial capital contribution to the Association, in an amount equal to the greater of: (a) One Hundred Dollars (\$100.00), or (b) two (2) full monthly installments 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 Unit, and shall be deposited at each Close of Escrow into the Association Reserve Fund, and used exclusively to help fund the Association Reserve Fund, and shall not be applied to non-Reserve Fund items. Additionally, at the Close of Escrow for each resale of a Unit by an Owner (other than Declarant), the Purchaser of such Unit shall be required to pay a resale capital contribution to the Association, in an amount equal to the greater of: (a) Two Hundred Dollars (\$200.00), or (b) two (2) full monthly installments 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 Unit, and may be applied to working capital needs and/or 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 Unit, as provided herein. Annual Assessments shall commence on Units on the respective Assessment Commencement Date. The "Assessment Commencement Date" hereunder shall be: (a) with respect to Units in the Original Property, the first day of the calendar month following the Close of Escrow to a Purchaser of the first Unit in the Original Property; and (b) with respect to each Unit within Annexed Property, the first day of the calendar month following the date on which the Annexation Amendment for such Unit is Recorded; provided that Declarant, in its sole discretion, may establish a later Assessment Commencement Date, uniformly as to all Units by agreement of Declarant to pay all Common Expenses for the Properties up through and including such later Assessment Commencement Date. From and after the 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 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 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 retained by the Association for use in reducing the following year's Annual Assessment or for deposit in the reserve account. 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 Capital Assessments. The Board may levy, in any Fiscal Year, a Capital Assessment applicable to that Fiscal Year only, 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 6.9 Uniform Rate of Assessment. Annual Assessments, and any Capital Assessments, shall be assessed at an equal and uniform rate against all Owners and their Units. Each Owner's share of



such assessments shall be a fraction, the numerator of which shall be the number of Units owned by such Owner, and the denominator of which shall be the aggregate number of Units in the Original Property (and, upon annexation, of Units in portions of the Annexed Property).

Section 6.10 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, County, 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 owned by the Association in fee.

Section 6.11 Special Assessments. The Association may, subject to the provisions of Article 7, Sections 9.1(a), 9.3 and Section 11.1 (b), hereof, levy Special Assessments against specific Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. Special Assessments also shall include, without limitation, late payment penalties, interest charges, fines, administrative fees, attorneys' fees, amounts expended to enforce assessment liens against Owners as provided for herein, and other charges of similar nature. Special Assessments, if not paid timely when due, shall constitute unpaid or delinquent assessments, pursuant to Article 7, below.

Section 6.12 Subsidies and/or Advances by Declarant. Declarant shall have the right, in its sole and absolute discretion, from time to time during the Declarant Control Period, to: (a) subsidize the Association, by direct payment of any and all Excess Common Expenses ("Declarant Subsidies"); and/or (b) advance funds and/or make loan(s) to the Association, to be used by the Association for the sole purpose of paying Excess Common Expenses ("Declarant Advances"). "Excess Common Expenses" for purposes of this Section 6.12 shall mean such amount, if any, of Common Expenses in excess of Assessments and non-Reserve funds reasonably available at such time to pay Common Expenses. The aggregate amount of any and all Declarant Subsidies and/or Declarant Advances, or portions from time to time respectively thereof, together with interest thereon at the rate of eighteen percent (18%) per annum, shall be repaid by Association to Declarant as soon as non-Reserve 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 Assessments and/or contributions to Reserve Funds, to such extent, if any, Declarant is obligated to pay any such amounts under this Declaration or under applicable Nevada law). Each Owner, by acceptance of a deed to his or her Lot, shall be conclusively deemed to have acknowledged and agreed to all of the foregoing provisions of this Section 6.12, whether or not so stated in such deed.

Section 6.13 Master Association Assessments and Capital Contributions. Additionally, each Owner, by acceptance of a deed to a Unit (whether or not so expressed in such deed) shall be deemed to agree to pay all required Master Association capital contributions and assessments, as and to the extent required under applicable provisions of the Master Declaration, and that the Master Association shall have the same rights and remedies against Owners hereunder as the Master Association has against the "Owners" (as said term is defined in the Master Declaration) with respect to the enforcement of the assessments described above. Notwithstanding any provision of this Declaration to the contrary, the terms of this Section 6.13 may not be amended, altered, suspended, or superseded without the express written consent of the Master Association, in its sole discretion, which consent shall be acknowledged in a Recorded document.

ARTICLE 7

EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION

Section 7.1 Nonpayment of Assessments. Any installment of an Annual Assessment, Special Assessment, or Capital Assessment, shall be delinquent if not paid within thirty (30) 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 or 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 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 Unit.

Section 7.2 Notice of Delinquent Installment. If any installment of an assessment is not paid within thirty (30) days after its due date, the Board may mail a notice of delinquent assessment to the Owner and to each first Mortgagee of the Unit. The notice shall specify: (a) the amount of assessments and other sums due; (b) a description of the Unit against which the lien is imposed; (c) the name of the record Owner of the 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 Unit. The notice shall further inform the Owner of his 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 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 Unit. Such notice of default and election to sell must recite a good and sufficient legal description of such 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 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 Special Assessment or for a violation of the Governing Documents other than the Declaration. With regard to the Declaration, the Association may not foreclose a lien by sale for a Special Assessment or for a violation of the Declaration, 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, 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 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 Unit, made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Unit by judicial foreclosure, other foreclosure, or exercise of power of sale, such 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. The lien of the assessments, including interest and costs, shall be subordinate to the lien of any First Mortgage upon the Unit. 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 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, 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 Unit shall not affect an assessment lien. However, the sale or transfer of any 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 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 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 Unit which became due prior to the acquisition of title to such Unit by such Person. Such unpaid share of Common Expenses and assessments shall be deemed to become expenses collectible from all of the Units, including the Unit belonging to such Person and his or her successors and assigns.

ARTICLE 8

ARCHITECTURAL AND LANDSCAPING REVIEW

Section 8.1 ARC. The Architectural Review Committee, sometimes referred to in this Declaration as the "ARC," shall consist of three (3) committee members (and, until such time as Declarant appoints the ARC, the Board shall serve as the ARC); provided 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, 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 (provided that, until such time as the Board appoints the ARC, the Board shall serve as 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 8.2 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 8, "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 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 exterior decoration or redecoration, construction, alteration, grading, addition, excavation, relocation, repainting, installation, modification, or reconstruction of an Improvement, including a Dwelling, and no interior construction, alteration, modification, or reconstruction of a Dwelling (other than repainting the interior of a Dwelling, which shall be permitted), 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 to, and approved in writing by, the ARC. No design or construction activity of Declarant shall be subject to ARC approval. The Owner submitting such plans and specifications ("Applicant") shall obtain a written receipt therefor from an authorized agent of the ARC. The ARC shall approve plans and specifications submitted for its approval only if it deems 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; (4) the construction will not unreasonably interfere with existing views from other Units; and (5) the upkeep and maintenance will not become a burden on the Association.

(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. Also, with respect to plans and specification which may involve or which may have a direct impact on one or more neighbors of the applicant, the ARC in its sole discretion may require the applicant to obtain and to provide to the ARC written acknowledgments of receipt of notice by all such involved neighbors, to be submitted by applicant to the ARC together with the relevant 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 8.2 shall be deemed approved, unless written disapproval or a request for additional information or materials by the ARC shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the**



ARC of all required materials. The ARC will condition any approval required in this Article 8 upon, among other things, compliance with Declarant's (a) design criteria, (b) Improvement standards and (c) development standards, 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.

Section 8.3 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 8.8 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 8.4 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 8.5 Compensation of Members. Subject to the provisions of Section 8.2(b) above, members of the ARC shall not receive compensation from the Association for services rendered as members of the ARC.

Section 8.6 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 8 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 Special 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 one hundred eighty (180) days of the date on which the work commenced.

Section 8.7 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 8.2 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 and/or County) requirements.**

Section 8.8 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, must be signed by a majority of the ARC, and shall become effective upon Recordation. 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 and/or County, or any municipal or other public authority with jurisdiction.** The granting of a variance by 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.

Section 8.9 Non-Liability for Approval of Plans. The ARC's approval of proposals or plans and specifications shall not constitute a representation, warranty or guarantee, whether express or implied, that such proposals or plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such proposals or plans and specifications, neither the ARC, the members thereof, the Association, the Board, nor Declarant, assumes any liability or responsibility therefor, or for any defect in the structure constructed from such proposals or plans or specifications. Neither the ARC, any member thereof, the Association, the Board, nor Declarant, shall be liable to any Member, Owner, occupant, or other Person or entity for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any proposals, plans and specifications and drawings, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved proposals, plans and specifications and drawings.

Section 8.10 Architectural Guidelines. The ARC, in its sole discretion, from time to time, may, but is not obligated to, promulgate Architectural and Landscape Standards and Guidelines for the Community.



Section 8.11 Declarant Exemption. The ARC shall have no authority, power or jurisdiction over Units owned by Declarant, and the provisions of this Article 8 shall not apply to Improvements built by Declarant, or, until such time as Declarant conveys title to the Unit to a Purchaser, to Units owned by Declarant. This Article 8 shall not be amended without Declarant's written consent set forth on the amendment.

Section 8.12 Master Declaration. The foregoing architectural and landscaping control provisions shall be in addition to, and cumulative with, any and all expressly applicable architectural and landscaping control provisions of the Master Declaration. In the event of any conflict, the latter shall prevail.

ARTICLE 9 MAINTENANCE AND REPAIR OBLIGATIONS

Section 9.1 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 initially 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 Sections 9.1(a), 9.3, and 11.1(b) hereof), upon the Assessment Commencement Date, the Association shall provide for the periodic maintenance, repair, and replacement of the Common Elements. The Common Elements shall be maintained in a safe, sanitary and attractive condition, and in good order and repair. The Association shall also provide for any utilities serving the Common Elements, and shall ensure that any landscaping on the Common Elements is regularly and periodically maintained in good order and in a neat and attractive condition. The Association shall not be responsible for the maintenance of any portions of the Common Elements which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. 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. Without limiting the foregoing, the Association's obligations hereunder shall include, but not necessarily be limited to, the following:

(a) Maintenance & Repair of Certain Areas/Items Appurtenant to Units. The Board and/or Manager shall cause the following areas and/or items appurtenant to Units to be periodically maintained, painted (in the case of (1) and (2) below), repaired, and/or replaced (and the Association, and its employees, contractors and agents, shall have a perpetual, non-exclusive easement over the Units to perform such work), as necessary to maintain the original appearance thereof (normal wear and fading excepted):

(1) all exterior walls of Residential Buildings (including the exteriors of exterior walls of Yard Components), and all roof areas of Residential Buildings; and the costs from time to time thereof shall be assessed as a Capital Assessment or Special Assessment to the relevant Owners, allocated on the basis of proportionate square footage of such Owners' respective Units;

(2) sectional roll-up doors of Garages; and the costs from time to time thereof shall be assessed as a Capital Assessment or Special Assessment to the relevant Owner of each such Garage on which work was done; and

(3) broken fixtures on "coach lights" located on the exterior of and at or near the front door of a Unit; and the costs from time to time thereof shall be assessed as a Special Assessment to the relevant Owner of the Unit; and "courtesy" replacement, as necessary, of burned-out light bulbs on such exterior "coach lights".

(b) Painting of Common Element Improvements. The Board and/or Manager shall cause all Improvements in the Common Elements to be periodically repainted as necessary or appropriate to maintain the original appearance thereof (normal wear and fading excepted).

(c) Utilities. The Board and/or Manager shall cause to be maintained properly and in good condition and repair all utilities and utility systems in the Common Elements. The Board and/or Manager shall cause all water and/or sewer infrastructure, as set forth herein, to be inspected at least quarterly, and at least one such inspection each year shall be done by a licensed and qualified contractor or architect with expertise



in the construction and maintenance of such water/sewer infrastructure, who shall provide a written report to the Board and/or Manager. Common Element sewer lines may be cleaned annually (or on such other periodic frequency as deemed reasonably prudent by the Board), from each Residential Building to the street. Common Element water lines may be "exercised" once each year (or on such other periodic frequency as deemed reasonably prudent by the Board), by turning each valve off and on several times in succession. The Board and/or Manager shall cause any and all necessary or prudent repairs to be undertaken and completed without delay in a manner and to the extent necessary to prevent avoidable deterioration or property damage.

(d) Drainage; Landscaping; Irrigation. The Board and/or Manager shall cause all drainage systems, landscape installations, and irrigation systems within the Common Elements to be inspected at least monthly. In particular, the Board and/or Manager shall inspect for any misaligned, malfunctioning or nonfunctional sprinklers, or blocked drainage grates, basins, lines, and systems, which could cause damage to Improvements on the Properties. At least one such inspection each year shall be done by a licensed and qualified contractor or architect with expertise in the construction and maintenance of such drainage and landscape installations, who shall be required to promptly provide a written report to the Board. The written reports shall identify any items of maintenance or repair which either require current action by the Association, or will need further review and analysis, and shall specifically include a review of all irrigation and drainage systems on the Properties. The Board and/or Manager shall cause any and all necessary or prudent repairs to be promptly undertaken and completed, to prevent avoidable deterioration or property damage. Without limiting the following, all landscaping shall be maintained as per the following minimum maintenance standards:

- (1) lawn and ground cover shall be kept mowed and/or trimmed regularly;
 - (2) plantings shall be kept in a healthy and growing condition; fertilization, cultivation, spraying and tree pruning shall be performed as part of a regular landscaping program;
 - (3) stakes, guys and ties on trees shall be checked regularly, to ensure the correct function of each; ties shall be adjusted to avoid creating abrasions or girdling of the trunk or stem;
 - (4) damage to plantings shall be ameliorated within thirty (30) days of occurrence;
- and
- (5) irrigations systems shall be kept in sound working condition; adjustment, replacement of malfunctioning parts, and cleaning of systems, shall be an integral part of the regular landscaping program.

(e) Hardscape; Private Streets. The Board and/or Manager shall cause all Common Elements hardscape, paved areas, and Private Streets within the Properties to be inspected at least quarterly. At least one such inspection each year shall be done by a licensed and qualified contractor or architect with expertise in the construction and maintenance of such hardscape and paved areas, who shall be required to promptly provide a written report to the Board. The written reports shall identify any items of maintenance or repair which either require current action by the Association, or will need further review and analysis. The Board and/or Manager shall cause any and all necessary or prudent repairs to be promptly undertaken and completed, to prevent avoidable deterioration or property damage. Without limiting the foregoing, the Board and/or Manager shall cause all Common Element asphalt to be sealed and re-stripped at least as frequently as may be required per City and/or County standards, or more frequently, if so required, using two coats of a guard top or walk top type sealer.

(f) Common Element Water Features. The Board and/or Manager shall cause all Common Element water features within the Properties to be inspected at least quarterly. At least one such inspection each year shall be done by a licensed and qualified contractor or architect with expertise in the construction and maintenance of such water features, who shall be required to promptly provide a written report to the Board. The written reports shall identify any items of maintenance or repair which either require current action by the Association, or will need further review and analysis. The Board and/or Manager shall cause any and all necessary or prudent repairs to be promptly undertaken and completed, to prevent avoidable deterioration or property damage.



(g) Inspections. After the end of the Declarant Control Period, the Board and Manager shall conduct inspections of the Common Elements 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.

(h) 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).

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

- (1) periodic pest control pertaining to Common Elements;
- (2) removing any trash, garbage, or debris from Common Elements; and
- (3) cleaning and making necessary repairs and replacement to and of the perimeter walls and/or fencing.

(j) 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 9.2 Inspection Responsibilities of Association. Within thirty (30) days after the date which is one (1) year after the first Close of Escrow of a 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. 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 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 Common Elements 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. If requested by Declarant, 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 9.2, 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 9.3 Maintenance and Repair Obligations of Owners. Subject to Section 9.1(a) above, it shall be the duty of each Owner, at his or her sole cost and expense, subject to the provisions of this Declaration requiring ARC approval, to maintain, repair, replace and restore all Improvements located on his or her Unit, the Unit itself, and any Exclusive Use Area pertaining to his or her Unit, in a neat, sanitary and attractive condition, except for any areas expressly required to be maintained by the Association under this Declaration. If any Owner shall permit any Improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe, or unsightly, 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 Unit and/or Exclusive Use Area to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Special Assessment, enforceable as set forth in this Declaration. Without limiting the foregoing, each Owner shall be responsible for the following:

- (a) annual inspection and repair or replacement of heat sensors, as originally installed in certain (but not necessarily all) of the Owner's Unit;
- (b) 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 Owner's Unit;
- (c) cleaning, maintenance, painting and repair of the interior of the front door of the Owner's Unit; cleaning and maintenance of the exterior of said front door, subject to the requirement that the exterior appearance of such door shall not deviate from its external appearance as originally installed by Declarant;
- (d) cleaning, maintenance, repair, and/or replacement of all windows and window glass within or exclusively associated with, the Owner's 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;
- (e) periodic and ongoing pest control, with regard to the Owner's Unit, Yard Component, and Garage;
- (f) cleaning, maintenance, repair, and replacement of the Exclusive Use A/C, located on an easement within the Common Elements, serving such Owner's Unit exclusively, subject to the requirement that the appearance of such items shall not deviate from their appearance as originally installed by Declarant;
- (g) maintenance, repair, and replacement of Garage remote openers, subject to the requirement that any replacement therefor be purchased by the Owner from the Association; and
- (h) without limiting any of the foregoing: cleaning, maintenance, repair, and replacement of the door opener and opening mechanism located in the Owner's Garage (provided that any replacement door opener shall be a "quiet drive" unit, at least as quiet as the unit originally installed by Declarant), so as to reasonably minimize noise related to or caused by an unserviced or improperly functioning Garage door opener and/or opening mechanism.

Section 9.4 Restrictions on Alterations.

- (a) No Owner shall make any alterations or additions to any portion of the exterior of the Residential Building in which such Owner's Unit (including Garage) is located, or to the Yard Component, absent prior written approval of the ARC.
- (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 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 Unit as he sees fit.
- (d) No improvement or alteration of any portion of the Common Elements shall be permitted without the prior written consent of the Board.



(e) 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.

(f) 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 handicapped, to reasonably modify his or her Unit (including, but not necessarily limited to, the entrance thereto through Common Elements, the front door thereof, and/or appropriate features of a Garage), at the expense of such handicapped Resident, to facilitate access to the Unit, or which are otherwise necessary to afford such handicapped Resident an equal opportunity to use and enjoy his or her Dwelling.

(g) The foregoing provisions shall not apply to the initial construction activities of Declarant.

Section 9.5 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 Unit (including Garage), Residential Building and areas adjacent to his 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 9.6 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 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 Special Assessment pursuant to Section 6.11 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 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 or any other 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 Special Assessment against such Owner pursuant to Section 6.11, above, and, if not paid timely when due, shall constitute unpaid or delinquent assessments pursuant to Article 7, above.

Section 9.7 Damage by Owners to Common Elements. The cost of any maintenance, repairs or replacements by the Association within the Common Elements 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 Special Assessment against such Owner as provided pursuant to Section 6.11, above, and if not paid timely when due, shall constitute unpaid or delinquent assessments pursuant to Article 7 above.

Section 9.8 Pest Control Program. Without limiting Section 9.3(e) above, if the Board, in its discretion (without obligation to do so), 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 Unit, may require such Owner and Residents to temporarily relocate from the 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 Special Assessment therefor, and the Association shall have an easement over the Units for the purpose of effecting the foregoing pest control program.



Section 9.9 Damage and Destruction Affecting Dwellings and Duty to Rebuild. If all or any portion of any Unit or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Unit to rebuild, repair or reconstruct the same in a manner which will restore the Unit substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the ARC. The Owner of any damaged Unit shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause reconstruction to commence within three (3) months after the damage occurs and to be completed within six (6) months after the damage occurs, unless prevented by causes beyond his or her reasonable control. A transferee of title to the Unit which is damaged shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner at the time of the damage still held title to the Unit.

Section 9.10 Yard Walls/Fences. Each wall which is built as a part of the original construction by Declarant and placed approximately between a Yard Component and Common Elements 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 Unit whose Yard Component abuts the Yard Wall/Fence. 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). 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, and in its original location (unless otherwise approved by the Board in advance and in writing) by the Wall Owner. Subject to the foregoing, in the event the Wall Owner does not fulfill his 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 Special Assessment against the Wall Owner pursuant to Section 6.11 above, and may enforce the same pursuant to Article 7, above. Any other provision herein notwithstanding, no Owner shall alter, add to, or remove any Yard Wall/Fence constructed by Declarant (or constructed by the Association, as applicable), or portion of such wall or fence, without the prior written consent of the Declarant (during the Declarant Control Period), and prior written approval of the Board. In the event of any dispute arising concerning a Yard Wall/Fence under the provisions of this Section 9.10, 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 9.11 Additional Wall/Fence Provisions. Units initially may be developed by Declarant and conveyed to Purchasers with or without Yard Components and/or Yard Walls/Fences. In the event one or more Units is or are initially developed and conveyed without such walls or fences (i.e., "open landscaping"), Declarant reserves the right (but not the obligation) for itself and/or for the Association thereafter at any time, in their respective discretion, following notice to the Owners thereof, to enter upon such Units and Common Elements and to construct thereon Yard Walls/Fences (and Declarant expressly reserves an easement upon all Units and Common Elements for itself, and for the Association, and their respective agents, employees, and contractors, for such purpose). Construction by Declarant (or by Association, as applicable) of a Yard Wall/Fence on any Yard Component shall raise absolutely no presumption or obligation to construct a similar or any wall or fence on any other Yard Component. Walls or fences initially installed by Declarant shall not be added to, removed, modified, changed, or obstructed by any Owner absent prior written approval of the ARC, and shall not in any manner or degree relieve any Owner of his or her obligation to maintain the entire Unit, regardless of the location of such wall or fence, as well as such wall or fence. Each wall which is built as a part of the original construction by Declarant (or subsequently constructed by Declarant or Association) and placed approximately on the property line between Units shall constitute a "Party Wall". In the event that any Party Wall is not constructed exactly on the property line, the Owners affected shall accept the Party Wall as the property boundary. The cost of reasonable repair and maintenance of Party Walls shall be shared by the Owners who use such Party Wall in proportion to such use (e.g., if the Party Wall is the boundary between two Owners, then each such Owner shall bear half of such cost). If a Party Wall is destroyed or damaged by fire or other casualty, the Party Wall shall be promptly restored, to its condition and appearance before such damage or destruction, by the Owner(s) whose Units have or had use of the Party Wall. Subject to the foregoing, any Owner whose Unit has or had use of the Party Wall may restore the Party Wall to the way it



existed before such destruction or damage, and any other Owner whose Unit makes use of the Party Wall shall contribute to the cost of restoration thereof in proportion to such use, subject to the right of any such Owner to call for a larger contribution from another Owner pursuant to any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section 9.11, an Owner who by his negligent or willful act causes a Party Wall to be exposed to the elements, or otherwise damaged or destroyed, shall bear the entire cost of furnishing the necessary protection, repair or replacement. The right of any Owner to contribution from any other Owner under this Section 9.11 shall be appurtenant to the land and shall pass to such Owner's successors in title. The foregoing, and any other provision in this Declaration notwithstanding, no Owner shall alter, add to, or remove all or any portion of a Party Wall constructed by Declarant, without the prior written consent of the other Owner(s) who share such Party Wall, which consent shall not be unreasonably withheld, and the prior written approval of the ARC. In the event of any dispute arising concerning a Party Wall under the provisions of this Section 9.11, each side shall choose one arbitrator, such arbitrators shall collectively choose one additional arbitrator, and the decision of a majority of such panel of arbitrators shall be binding upon the Owners which are party to the arbitration.

Section 9.12 Installed Landscaping.

(a) Each Owner shall be responsible, at his sole expense, for: (1) maintenance, repair, replacement, and watering of all landscaping installed, subject to prior written approval of the ARC, on his or her Yard Component ("Installed Landscaping") 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 Installed Landscaping, subject to Subsection 9.12(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 discretion, and subject to such restrictions on height as may be promulgated from time to time by the ARC in its discretion and/or any Rules and Regulations from time to time promulgated by the Board, in its 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 Unit, whether or not so stated in such deed, to not cause or permit irrigation water or sprinkler water on his Yard Component to flow onto, or to strike upon, any foundation, slab, side or other portion of Dwelling, wall (including, but not necessarily limited to, Residential 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 three (3) feet of any such foundation or wall located on or immediately adjacent to the Owner's Unit; and (2) only non-irrigated desert landscaping or drip irrigation (but no sprinkler or spray irrigation) is located on the Owner's Unit or Yard Component within three (3) feet of any foundation, slab, side or other portion of Dwelling or Yard Wall/Fence.

Section 9.13 Modification of Improvements. Maintenance and repair of Common Elements shall be the responsibility of the Association, and the costs of such maintenance and repair shall be Common Expenses; provided that, in the event that any Improvement located on Common Elements is damaged because of any Owner's act or omission, such Owner shall be solely liable for the costs of repairing such damage and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration. Without limiting Section 9.14, below, each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not: add to, remove, modify, change, obstruct, or landscape, all or any portion of: (a) the Common Elements; (b) Yard Component; (c) Installed Landscaping; (d) Yard Wall(s)/Fence(s); (e) Residential Building; and/or (f) any other Improvement; without prior written approval of the ARC.

Section 9.14 Certain Other Improvements. Notwithstanding Section 9.13 or any other provision of this Declaration: (a) only Declarant, in its sole and absolute discretion, and no other Owner or other Person, shall have the right to construct, or shall construct, a Patio or Balcony (and Declarant discloses that, as of the date of Recordation hereof, Declarant does not presently intend to construct any Patios or Balconies); and (b) only Declarant, in its discretion, and no other Owner or other Person, may add additional concrete in or to a Yard Component.

Section 9.15 Graffiti Removal. The Association shall have the right, but not the obligation, to remove or paint over any graffiti from or on perimeter walls/fences (the costs of which shall be a Common Expense).



Section 9.16 Additional Landscaping Provisions.

(a) The following additional provisions apply with regard to ground level Yard Components or Patios of all or certain Units ("Connected Yard"): (1) Declarant and/or Association may, but shall not be obligated to, "stub" the Common Element drip irrigation line ("Association Line") to the property line of such Connected Yard, with a connection thereto; (2) the Association Line may have an outside valve, to permit Declarant or Association to turn off the drip water to the Connected Yard; (3) the Owner of the Connected Yard shall or may be permitted, at his or her expense, and subject to ARC review and approval, to connect a drip irrigation line ("Installed Drip Line"), from the Association Line connection to the Connected Yard; (4) such Owner installing the Installed Drip Line shall be completely responsible for all costs of maintaining and repairing the Installed Drip Line, and/or replacing with like-kind line the Installed Drip Line in the Connected Yard, as well as caring for and/or replacing all plants irrigated by such Installed Drip Line; and (5) there shall be no separate meter or charge by the Association to such Owner for the water provided from the Association Line through the Installed Drip Line (which cost shall be a part of the Common Expenses); PROVIDED THAT each Owner, by installing an Installed Drip Line, and/or using such water, shall conclusively be deemed to have unconditionally and irrevocably agreed to all of the following: (A) water may or may not be available from the Association Line on the periodic watering schedule and frequencies established from time to time by the Association or its Manager or landscaping maintenance contractor for Association shrub irrigation; (B) at times and from time to time, water may be turned off completely from the Association Line, with or without notice, for maintenance or repair of the Association Line or for other reasons; (C) only limited "bubble" irrigation will be permitted on the Installed Drip Line, to be installed by the Owner of the Connected Yard at his or her expense, and "spray" irrigation shall not be permitted; (D) all landscaping in the Connected Yard shall be subject to prior ARC review and approval; (E) under no circumstances shall any Owner use any portion of any Dwelling wall or Yard Component wall as a portion of a "planter box" or raised landscape feature; (F) no such Owner shall make any change in the existing grade of his or her Connected Yard; (G) Washoe County typically experiences high freeze-thaw cycles, and spalling problems, which may adversely affect the Association Line and/or Installed Drip Line; (H) Declarant and Association shall have an easement of reasonable access from time to time onto the Connected Yard, to inspect and/or to disconnect the Installed Drip Line as deemed necessary or appropriate by Declarant or Association in its respective sole discretion, but without any obligation whatsoever to do so; and (I) neither Declarant nor Association makes any representation or warranty with respect to the supply (or lack) of water from the Association Line or with respect to the Installed Drip Line, and each such Owner shall release and hold harmless Declarant, Association, and their respective directors, officers, employees, contractors and agents, from and against any and all claims or liability arising from or related to the Association Line, the Installed Drip Line, the supply (or lack) of water therefrom, any damage done to plants or Improvements arising from or related to any of the foregoing.

(b) The following additional landscaping provisions shall apply only with regard to Owners and Occupants of portions of Units or Exclusive Use Areas above the ground floor: potted or other plants must be watered so as not to spill, overflow, or to cause dripping or run-off, which may stain concrete or cause other property damage. In the event of such spillage, overflowing, or dripping or run-off, and stained concrete or other property damage, such Owner or Occupant shall be responsible for the costs to repair such property damage, as a Special Assessment.

ARTICLE 10
USE RESTRICTIONS

Subject to the rights and exemptions of Declarant as set forth in this Declaration, and subject further to the fundamental "good neighbor" policy underlying and controlling the Community and 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 10 may be modified or waived in whole or in part by the ARC 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 ARC. Furthermore, violation of, or noncompliance with, a provision set forth in this Article 10 (unless it substantially threatens the health and welfare of the Owners and Community), shall not be enforced absent written complaint from one or more of the immediate neighbors of the alleged



offending Owner (provided that Declarant, in its sole discretion, shall conclusively be deemed an "immediate neighbor" of all Units for so long as Declarant owns any Unit in the Properties). Any other provision herein notwithstanding, neither Declarant, the Association, the ARC, 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 10.1 Single Family Residence. Each 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, destructive testing, vending or other such nonresidential purposes; except that a Declarant may exercise the reserved rights described in Article 14 hereof. The provisions of this Section 10.1 shall not preclude a professional or administrative occupation, or an occupation of child care, providing for a total aggregate of not more than five (5) non-Family children, provided that there is no external evidence of any such occupation, for so long as such occupations are conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Dwelling as a residential home. This provision shall not preclude any Owner from renting or leasing his or her entire Unit by means of a written lease, or rental agreement subject to this Declaration and any Rules and Regulations, for periods of not less than thirty (30) consecutive days, subject to Section 14.2 below.

Section 10.2 No Further Subdivision. Except as may be expressly authorized by Declarant, no Unit or all or any portion of the Common Elements may be further subdivided (including, without limitation, any division into time-share estates or time-share uses) without the prior written approval of the Board; provided, however, that this provision shall not be construed to limit the right of an Owner: (1) to rent or lease his or her entire Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Unit is not leased for transient or hotel purposes; (2) to sell his or her Unit; or (3) to transfer or sell any Unit to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be made expressly subject to the Governing Documents. Any failure by the lessee of such Unit to comply with the terms of the Governing Documents shall constitute a default under the lease or rental agreement. No two or more Units in the Properties may be combined in any manner whether to create a larger Unit or otherwise, and no Owner, without the approval of the ARC, in the ARC's discretion, may remove any wall or other intervening partition between Units.

Section 10.3 Insurance Rates. Without the prior written approval of the ARC and the Board, nothing shall be done or kept in the Properties which will increase the rate of insurance on any 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 Unit or other portion of the Properties or which would be a violation of any law. Any other provision herein notwithstanding, neither the ARC nor the Board shall have any power whatsoever to waive or modify this restriction.

Section 10.4 Animal Restrictions. All Owners shall comply fully in all respects with all applicable City and/or County ordinances and rules regulating and/or pertaining to animals and the maintenance thereof on the Owner's Unit and/or any other portion of the Properties. Without limiting the foregoing, an Owner or Resident shall be permitted to keep in his or her Unit a reasonable number (normally not to exceed an aggregate total of two) of dogs, cats, and/or other animals, of reasonable size, as determined by the ARC, and generally considered to be "indoor" household animals; provided that the keeping of such household animals may be prohibited or restricted by the ARC if it reasonably determines that such household animals constitute a nuisance. Without limiting the foregoing, no person other than an Owner or Resident shall be permitted to bring any animal onto a Unit or other portion of the Properties, and each person bringing or keeping any animal within the Properties shall be absolutely liable to other Owners, Residents, and their respective Families, guests and invitees, for any damage to persons or property caused by any animal brought upon or kept upon the Properties by such person. It shall be the duty and responsibility of each Owner or Resident to immediately clean up after his or her animal(s) which have deposited droppings or otherwise used any portion of the Properties or public street abutting or visible from the Property. Animals belonging to an Owner or Resident must be kept within an enclosure or on a leash held by a person capable of controlling the animal. The Board shall be authorized to establish additional Rules and Regulations from time to time further governing or restricting animals or pets.



Section 10.5 Nuisances. No rubbish, debris, or animal feces of any kind shall be placed or permitted to accumulate anywhere within the Properties, and no odor shall be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, or offensive. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Unit so as to be offensive or detrimental to any other Unit or to occupants thereof, or to the Common Elements. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other similar or unusually loud sound devices (other than security devices used exclusively for safety, security, or fire protection purposes), noisy or smoky vehicles, large power equipment or large power tools (excluding lawn mowers, edgers, and other equipment normally utilized in connection with landscape maintenance), inoperable vehicle, unlicensed off-road motor vehicle, or other item(s) which may unreasonably disturb other Owners or Residents, or any equipment or item which unreasonably interferes with regular television or radio reception within any Unit, or the Common Elements, shall be located, used or placed on any portion of the Properties without the prior written approval of the ARC. No unusually loud motorcycles, dirt bikes, or other loud mechanized vehicles or equipment may be started up and/or operated on any portion of the Properties without the prior written approval of the ARC, in its sole discretion. Alarm devices used exclusively to protect the security of a Dwelling and its contents shall be permitted, provided such devices do not produce frequently occurring false alarms in a manner annoying to neighbors. The Board shall have the right to determine if any noise, odor, or activity or circumstance reasonably constitutes a nuisance or which causes a disturbance to other Owners or Occupants, and to limit, restrict, and/or prohibit such noise, odor, activity, and/or circumstance. 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 Unit, including Dwelling. Each Owner and Resident 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 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 Unit where such children or other Family members or persons are residing or visiting.

Section 10.6 Exterior Maintenance and Repair; Owner's Obligations. No Improvement anywhere within the Properties shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. If any Owner or Resident shall permit any Improvement, the maintenance of which is the responsibility of such Owner or Resident, to fall into disrepair so as to create a dangerous, unsafe, or unsightly condition, the Board, after consulting with the ARC, and after affording such Owner or Resident reasonable notice, shall have the right but not the obligation to correct such condition, and to enter upon such Owner's Unit, for the purpose of so doing, and such Owner or Resident shall promptly reimburse the Association for the cost thereof. Such cost may be assessed as a Special Assessment pursuant to Section 6.11 above, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment for all purposes of Articles 6 and 7, above. The Owner and/or Resident of the offending 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 and/or Resident shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

Section 10.7 Drainage. By acceptance of a deed to a Unit, each Owner agrees for himself and his assigns that he will not in any way interfere with or alter, or permit any Resident to interfere with or alter, the established drainage pattern over any Unit, so as to affect said Unit, any other Unit, or the Common Elements, or Master Association Common Area, unless adequate alternative provision is made for properly engineered drainage and approved in advance and in writing by the ARC, and any request therefor shall be subject to Article 8 above, including, but not necessarily limited to, any condition imposed by the ARC pursuant to Section 8.2(b) above, and further shall be subject to the Owner obtaining all necessary governmental approvals pursuant to Section 8.7, above. For the purpose hereof, "established drainage pattern" is defined as the drainage which exists at the time that such Unit is conveyed to a Purchaser from Declarant, or later grading changes which are shown on plans and specifications approved by the ARC.

Section 10.8 Water Supply and Sewer Systems. No individual water supply system, or cesspool, septic tank, or other sewage disposal system, or exterior water softener system, shall be permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water or sewer district serving the Properties, and any applicable



governmental health authorities having jurisdiction, and has been approved in advance and in writing by the ARC.

Section 10.9 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 or Master Association Common Area.

Section 10.10 No Unsightly Articles. No unsightly articles, shall be permitted to remain on any Unit so as to be visible from any street, or from any other Unit, or Common Elements. Without limiting the generality of the foregoing, refuse, garbage and trash shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purpose. Such containers shall be exposed to the view of the neighboring Units only when set out for a reasonable period of time (not to exceed twenty-four (24) hours before and after scheduled trash collection hours). There shall be no exterior fires whatsoever, except barbecue fires, and except as specifically authorized in writing by the ARC (and subject to applicable ordinances and fire regulations).

Section 10.11 No Temporary Structures. Unless approved in writing by the ARC in connection with the construction of authorized Improvements, no outbuilding, tent, shack, shed or other temporary structure or Improvement of any kind shall be placed upon any portion of the Properties.

Section 10.12 No Drilling. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted upon, in, or below any Unit or the Common Elements, nor shall oil, water or other wells, tanks, tunnels or mineral excavations or shafts be permitted upon or below the surface of any portion of the Properties.

Section 10.13 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 (other than minor repairs or rebuilding pursuant to Section 10.6 of this Article) without the prior approval of the ARC pursuant to Article 8 hereof. There shall be no violation of the setback, or other requirements of local governmental authorities, notwithstanding any approval of the ARC. This Section 10.13 shall not be deemed to prohibit minor repairs or rebuilding which may be necessary for the purpose of maintaining or restoring a Unit to its original condition.

Section 10.14 Signs. Subject to the reserved rights of Declarant contained in Article 14 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 Unit or any other portion of the Properties, except for permitted signs of permitted dimensions in such areas of the Common Elements 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 10.15 Antennas and Satellite Dishes. 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 located within the Unit, so as not to be visible from outside the Unit, or, if such location is not reasonably practicable, then attached to or mounted on the least conspicuous alternative location in a Yard Component, where an acceptable quality signal can be obtained; provided that Permitted Devices shall be reasonably screened from view from any other portion of the Properties, so long as such screening does not unreasonably increase the cost of installation, or use of the Permitted Device.

Section 10.16 Installation. No exterior addition, change or alteration to the exterior of any Residential Unit, other than as may be constructed by Declarant as part of the initial construction of the Properties, shall be commenced without the prior written approvals required under Article 8 of this Declaration; provided, however, that Owners shall be permitted to install screen doors in the exterior doors of such Owner's

Residential Unit which conforms to any design, style, and quality standards for screen doors which may be adopted by the Board from time to time. No deck covers, wiring, or installation of air conditioning, water softeners, or other machines shall be installed on the exterior or within any other portion of the Residential Unit or be allowed to protrude through the walls or roofs of the Residential Building (with the exception of those items installed during the original construction of the Properties), unless the prior written approvals required under Article 8 of this Declaration have been obtained. Nothing shall be done in or to any Unit or Residential Building which will or may tend to impair the structural integrity of any other attached Unit or other Improvement in the Properties or which would structurally alter any such Residential Building, except as otherwise expressly provided herein. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Properties for labor or materials alleged to have been furnished or delivered to the Properties or any for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge.

Section 10.17 Other Restrictions.

(a) No Owner or Resident shall keep or store any item in the Common Elements (subject to the right of such Person reasonably to store items in any private storage area exclusively allocated to such Person's Unit, subject to the Rules and Regulations), and nothing shall be altered, or constructed or planted in, or removed from, the Common Elements, without the prior written consent of the ARC. No article shall be kept or stored in Yard Components, except reasonable quantities (in reasonable sizes) of patio furniture and house plants, subject to the "Nuisance" provisions of Section 10.5, above. Any such patio furniture and/or house plants must be maintained in an attractive condition, and the care and watering of such plants must not damage or soil any Unit, or any portion of the Common Elements.

(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, 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 Units or Common Elements.

(c) No Owner shall cause or permit anything to be placed on the outside walls of his Unit (including Garage and Yard Component), and no sign, awning, canopy, window air conditioning unit, shutter, or other fixture shall be affixed to any part thereof.

(d) Any treatment of windows or glass doors (including, but not limited to, interior shutters), other than draperies, curtains or blinds, if any, of the type and color originally installed by Declarant, shall be subject to the prior written approval of the Board. Aluminum foil and other materials restricted by the Association shall not be permitted in any exterior window or glass door. 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 Board.

(e) Holiday decorations which may be viewed from other portions of the Properties may only be installed inside the windows of a Unit, 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 Units and Common Elements shall be kept clear of rubbish, debris and other unsightly materials.

(g) No spa, jetted tub, hot tub, jacuzzi, water bed, or similar item (except for any bathroom tub installed by Declarant as part of the original construction of a Unit) shall be permitted or located within any Unit or Exclusive Use Area (including, but not limited to, Living Component, Garage Component, Yard Component, Balcony, or Patio).



Section 10.18 Parking and Vehicular Restrictions.

(a) No Person shall park, store or keep anywhere within the Properties any vehicle (which term 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), which is deemed by the Board to be a nuisance. 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 personal transportation, may be kept by an Owner or Resident; provided further that, in any event, any such vehicle must fit completely inside a Garage, with the Garage doors fully closed, and, without limiting Section 10.18(e) below, no such vehicle shall be permitted to be parked on an ongoing basis in any guest parking area(s).

(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 two car Garage, subject to Sections 10.5, 10.19, and 10.20, hereof. No washing of any vehicle shall be permitted anywhere within the Properties, except only in specifically designated areas (hose bibs located near the park area), subject to Rules and Regulations.

(c) Subject to the "nuisance" provisions of Section 10.5, above, no Person shall park, store or keep anywhere in the Properties any unregistered or inoperable vehicle, except only within a fully closed two car Garage.

(d) No parking whatsoever shall be permitted in any designated "no parking" area, any entry gate area of the Properties, or any courtyard within 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 guest parking, subject to Rules and Regulations established by the Board, and subject further to all applicable laws and ordinances.

(e) No Owner or Resident shall be permitted to park in any guest parking area, other than temporarily for loading and/or unloading purposes, or during such limited time as may be necessary for cleaning or fumigating of the Owner's or Resident's Garage, but in no event for more than a 24-hour period (provided further that the Board shall have the right, in its sole discretion, to further limit or reduce said 24-hour period, by rule or regulation promulgated from time to time by the Board).

(f) The Association shall have the right to tow vehicles parked in violation of this Declaration and/or the Rules and Regulations.

(g) These parking restrictions shall not be interpreted in such a manner as to permit any activity which would be contrary to any applicable City and/or County ordinance.

Section 10.19 Garages. Garages shall be used exclusively for the parking of vehicles, and shall not be used solely for items other than vehicles. Ordinary household goods may be stored in addition to vehicles, provided that: (a) no flammable, dangerous, hazardous or toxic materials shall be kept, stored, or used in any Garage, (b) 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, and (c) no vehicle shall be parked outside of the Garage because or as the result of any such storage. Owners and Residents of the Units in each Residential Building understand and acknowledge that their respective Garage Components are or may be located directly below the Living Component of one or more Unit(s), and, by acquisition of title to a Unit, or occupancy of a Unit, shall be deemed to covenant not to violate any "quiet hour" restrictions or rules, or any other noise, nuisance or vibration provisions of the Governing Documents. 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. Garages are to be used for parking of operable vehicles only, with the exception that one space in a two car Garage may be utilized to store an inoperable or unregistered vehicle, subject to Sections 10.5, 10.18 and 10.20 hereof. Any Owner reasonably requiring "emergency" access to or over another Owner's Garage Component, and who cannot reasonably contact such other Owner, shall contact the Board and/or Manager.



Section 10.20 Additional Vibrations and Noise Restrictions. Except for the garage door opener, no Owner shall attach to the walls or ceilings of any Garage Component 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 or better 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, "hard surface flooring" (e.g., wood, tile, vinyl, or linoleum, or similar non-carpet flooring) shall not be permitted in the absence of prior written approval of the ARC on more than such percentage of the interior floor surface of the upstairs floor of a Living Component ("Upstairs Floor") as determined from time to time by the ARC in its discretion, and further subject to any Rules and Regulations governing same, and the remainder of the floor surface of the Upstairs Floor shall be carpeted. Additionally, there shall be no speakers, sound equipment, television sets, or similar items mounted directly to or on or against a wall of a Unit. Such items may be permitted on shelves, provided that such shelves are carpeted so as to provide insulation from sound or vibration. Without limiting the foregoing, each Owner shall fully comply with all applicable City and/or County ordinances.

Section 10.21 Exterior Lighting. Any exterior electrical, gas or other artificial lighting installed on any Residential Unit shall be positioned, screened, or otherwise directed or situated and of such controlled focus and intensity so as not to unreasonably disturb the residents of any other Residential Unit(s). 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 10.22 Exterior Painting. Exterior painting of Residential Buildings shall be accomplished from time to time by the Association. In no event shall any Owner be permitted to paint the exterior of his or her Residential Unit in any manner which is not harmonious with the color of the Residential Building in which the Unit is located.

Section 10.23 Post Tension Slabs. The concrete slab for certain Residential Units in the Properties are 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 (e.g., to install a floor safe, to remodel plumbing, etc.) is very hazardous and may result in serious damage to the Unit and/or personal injury. By accepting a deed to a 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 Residence; (c) such Owner shall disclose the existence of the Post Tension Slab to any tenant, lessee or subsequent purchaser of the 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 attorneys' fees) arising from any breach of this Section.

Section 10.24 Sight Visibility Restriction Areas. The maximum height of any and all Improvements (including, but not necessarily limited to, landscaping), on all Sight Visibility Restriction Areas, shall be restricted to a maximum height not to exceed such height set forth in the Plat ("Maximum Permitted Height").

Section 10.25 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 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 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 10.26 Yard Components. Without limiting any other provision herein, no spa, jetted tub or hot tub (whether in-ground or above-ground), and no shed, gazebo, or storage structure, shall be permitted or located in any Yard Component in the absence of prior written approval of the ARC.

Section 10.27 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 restrictions 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 10.28 Declarant Exemption. Each Unit owned by Declarant shall be exempt from the provisions of this Article 10, until such time as Declarant conveys title to the 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 10. This Article 10 may not be amended without Declarant's prior written consent.

Section 10.29 Master Declaration. The foregoing use restrictions and provisions shall be in addition to, and cumulative with, any and all expressly applicable use restrictions and provisions of the Master Declaration. In the event of any irreconcilable conflict, the latter shall prevail.

ARTICLE 11

DAMAGE OR CONDEMNATION OF COMMON ELEMENTS

Section 11.1 Damage or Destruction. Damage to, or destruction or condemnation of all or any portion of the Common Elements shall be handled in the following manner:

(a) Repair of Damage. Any portion of this Community 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 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, 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, (A) the proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units; and (B) 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 Units for Common Expenses. If the Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the 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 not fully reimbursed to the Association by insurance proceeds, provided the damage 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 Special 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 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 Special Assessment in the amount of the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, against any Unit owned by such Owner, and such Special Assessment may be enforced as provided herein.

Section 11.2 Condemnation. If at any time, all or any portion of the Common Elements, or any interest 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 portion thereof, or any threat thereof, the Board shall promptly notify all Owners and all Eligible Holders.

Section 11.3 Condemnation Involving a Unit. For purposes of NRS § 116.1107(2)(a), if part of a Unit is required by eminent domain, the award shall compensate the Unit's Owner for the reduction in value of the Unit's interest in the Common Elements. The basis for such reduction shall be the extent to which the occupants of the Unit are impaired from enjoying the Common Elements. In cases where the Unit may still be used as a Dwelling, it shall be presumed that such reduction is zero (0).

ARTICLE 12 **INSURANCE**

Section 12.1 Casualty Insurance. The Board shall cause to be obtained and maintained a master policy of water damage insurance and fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements of the Association on the Common Elements, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance, and 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, 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 shall be maintained for the benefit of the Association, the Owners, and the Eligible Holders as their interests may appear as named insured, subject however 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 Association as owner of such policy. 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. Certificates of insurance 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 Holders who have expressly requested the same in writing.

Section 12.2 Property Direct Coverage. Additionally, the Board shall cause to be obtained and maintained, at all times if and as commercially available, a master policy of property direct coverage, covering all buildings and structures in the Properties. (including, but not necessarily limited to, all Residential Buildings)



and all fixtures duly installed thereon, for the full insurable value replacement cost thereof. The insurance coverage with respect thereto 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. All insurance proceeds under any policies maintained by the Association 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 12.3 Liability and Other Insurance. The Association shall have the power and duty to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, 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 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 reasonable necessary, against water damage liability, 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, 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 12.4 Fidelity Insurance. The Board shall further cause to be obtained and maintained errors and omissions insurance, blanket fidelity insurance coverage (in an amount at least equal to 100% of the Association Funds from time to time handled by such Persons) and such other insurance as it deems prudent, insuring the Board, the Directors, and Officers, and any Manager 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, if reasonably feasible, in the amount of not less than \$1,000,000.00. Said policy or policies of insurance shall also contain an extended reporting period endorsement (a tail) for a six-year period, if reasonably available. The Association shall require that the Manager maintain fidelity insurance coverage which names the Association as an obligee, in such amount as the Board deems prudent. 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 in the custody of the Association or Manager 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 Units, plus Reserve Funds) (or such other amount as may be required by FNMA, VA or FHA from time to time, if applicable).

Section 12.5 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, flood, 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 12.6 Insurance Obligations of Owners. Each Owner shall further be responsible for obtaining and maintaining insurance on his personal property, and on all property, fixtures, and improvements within his Unit, for which the Association is not required to carry insurance, and such public liability insurance as the Owner deems prudent to cover his individual liability for bodily injury or property damage occurring inside his 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 12.7 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 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 12.8 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 12, 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 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 Family; (c) no act or omission by any Owner or member of his 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 13 **MORTGAGEE PROTECTION**

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 Units within the Properties, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):



(a) Each Eligible Holder, upon its specific written request, is entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation or the Bylaws, which default is not cured within thirty (30) days after the Association learns of such default. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Unit, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, 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) Except as provided in NRS § 116.3116(2), each Beneficiary of a first Mortgage encumbering any Unit which obtains title to such Unit or by foreclosure of such Mortgage, shall take title to such Unit free and clear of any claims of unpaid assessments or charges against such Unit which accrued prior to the acquisition of title to such Unit by the Mortgagee.

(d) Unless at least sixty-seven percent (67%) of Eligible Holders (based upon one (1) vote for each first Mortgage owned) or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(i) subject to Nevada nonprofit corporation law to the contrary, by act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Elements and the Improvements thereon which are owned by the Association; provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association as provided in this Declaration shall not be deemed a transfer within the meaning of this clause.

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner, or the method of allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwellings and other Improvements on the Units, the maintenance of Exterior Walls/Fences or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(iv) fail to maintain Fire and Extended Coverage on any insurable Improvements on Common Elements on a current replacement cost basis in an amount as near as possible to one hundred percent (100%) of the insurance value (based on current replacement cost);

(v) except as provided by any applicable provision of NRS Chapter 116, use hazard insurance proceeds for losses to any Common Elements for other than the repair, replacement or reconstruction of such property; or

(vi) amend those provisions of this Declaration or the Articles of Incorporation or Bylaws which expressly provide for rights or remedies of first Mortgagees.

(e) Eligible Holders, upon express written request in each instance therefor, shall have the right to (1) examine the books and records of the Association during normal business hours, (2) require from the Association the submission of an annual audited financial statement (without expense to the Beneficiary, insurer or guarantor requesting such statement) and other financial data, (3) receive written notice of all meetings of the Members, and (4) designate in writing a representative to attend all such meetings.

(f) Eligible Holders, who have filed a written request for such notice with the Board shall be given thirty (30) days' written notice prior to: (1) any abandonment or termination of the Association; and/or (2) the effective date of any termination of any agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties. Such first Mortgagees shall



be given immediate notice: (i) following any damage to the Common Elements whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000.00); and (ii) when the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Properties.

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

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

(i) 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.

(j) 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 at least fifty-one percent (51%) of the Eligible Holders.

(k) 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: 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); dedication, conveyance, or mortgage of the Common Elements; or amendment of the provisions of this Declaration, the Articles of Incorporation, Bylaws, or other document which may have been 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.

(l) 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 guidelines of FHA, VA, FHLMC, FNMA, or GNMA, or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering 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 Units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time.

Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Unit.

**ARTICLE 14
DECLARANT'S RESERVED RIGHTS**

Section 14.1 Declarant's Reserved Rights. Any other provision herein notwithstanding, pursuant to NRS § 116.2015(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:

(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 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 the right to annex all or portions of the Annexable Area to the Community, pursuant to the provisions of Article 15 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 reserves, until the Close of Escrow to the Purchaser of the last Unit in the Properties: the right, without additional cost or charge therefor, to utilize the Clubhouse in any manner and at any time or times required by Declarant, in its sole and absolute discretion, including, but not limited to, the right to maintain and utilize marketing, sales, investment, and management offices and seminar and presentation areas in the Clubhouse; and models in any Unit owned or leased by Declarant in the Properties, and signs anywhere on the Common Elements; and the right to limit access to or use by Owners of all or portions of the Common Elements (including, but not limited to, the Clubhouse), at any time during which Declarant's marketing, sales, investment, seminar, presentation, and/or management office or areas are open (including nights, holidays, and weekends), if Declarant determines, in its discretion, that use by Owners of the Common Elements is hindering or impeding Declarant's sales efforts to maintain and utilize marketing, sales, investment, seminar, presentation, and/or management offices, and models, in the Properties.

(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 Article 18, below, during the time periods set forth therein.

(f) Appointment and Removal of ARC. Declarant reserves the right to appoint and remove the ARC, for the time period set forth in Section 8.1 hereof.

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

(h) Declarant's Right to Repair. Declarant reserves the right, until the expiration of the last applicable statute of limitation or repose, to undertake reasonable steps to inspect and repair any and all Improvements, as set forth in further detail in Section 17.14 below.

(i) Control of Entry Gates. Declarant reserves the right, until the Close of Escrow of the last Unit in the Community, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities.

(j) Restriction of Traffic. Declarant reserves the right, until the Close of Escrow of the last Unit in the Community, to unilaterally control, 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 Unit shall be deprived of access to a dedicated street adjacent to the Properties.

(k) 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.

(l) 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.

(m) Certain Property Line Adjustments. Declarant reserves the right to adjust the boundary lines between certain Yard Components and Common Elements shown on the Plat.

(n) Article 15 Rights. Declarant reserves the annexation and other rights set forth in Article 15, below.

(o) Time Shares. Declarant reserves the right, in its sole and absolute discretion, subject to compliance with all applicable laws, from time to time to designate, sell, and/or use any Units or portion of the Properties and/or Annexable Area as time shares, as set forth in further detail in Section 14.2 below.

(p) Other Reserved 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 (including, but not necessarily limited to, all Development Rights and Special Declarant Rights as set forth or referenced therein).

Section 14.2 Declarant's Reserved Rights Pertaining to Time Shares. Notwithstanding anything to the contrary in this Declaration, Declarant expressly reserves all rights pertaining to time shares under NRS Chapter 116 and NRS Chapter 119A respectively. Without limiting the foregoing, Declarant specifically reserves the right (but not the obligation), in its sole and absolute discretion, to designate, own, market, convey, and/or use all or any Units and/or portions of the Properties and/or Annexable Area as or for time shares (as said term is respectively defined in NRS § 116.110388 and in NRS § 119A.153), subject to compliance with all applicable laws governing same, including, but not necessarily limited to, NRS Chapter 119A (and, in the event of any conflict between the Governing Documents (including, but not limited to, this Declaration) and NRS Chapter 119A (including, but not limited to, NRS §§ 119A.165 and 119A.170), then, with regard to any actual time share Units, the applicable provisions of NRS Chapter 119A shall prevail). Subject to the foregoing, the minimum duration of time shares shall be as established by Declarant in its discretion, and the creation of time shares shall or may affect the enforceability of the Association's lien for Assessments to the minimum extent required by applicable law to comply with applicable provisions of NRS Chapter 119A. Notwithstanding the foregoing, no Owner other than Declarant shall or may create or establish any time share in this Community, and any attempt by any such other Owner to create or establish time shares in violation hereof shall be null and void.

Section 14.3 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 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 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 14.1(c) above, or any other provision in this Declaration, 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 14) can be effective.

(g) The rights and reservations of Declarant referred to herein, if not earlier terminated pursuant to the Declaration, shall terminate on the date set forth in Section 14.1(a) above.

Section 14.4 Master Declaration. The foregoing developmental rights and special Declarant's rights shall be in addition to, and cumulative with, any applicable developmental rights and special declarant's rights expressly reserved by the Master Declarant under the Master Declaration. In the event of any irreconcilable conflict, the latter shall prevail.

ARTICLE 15 **ANNEXATION**

Section 15.1 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 then owned by Declarant, 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 Units within the Annexed Property shall be the same as those of the Owners and occupants of Units originally affected by this Declaration. By acceptance of a deed from Declarant 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 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 15.

Section 15.2 Annexation Amendment. Each Annexation Amendment shall conform to the requirements of NRS § 116.2110, 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 Unit created;
- (f) a reallocation of the allocated interests among all Units; and



(g) a description of any Common Elements created by the annexation of the Annexed Property.

Section 15.3 FHAVA 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 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 15.4 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 15.5 Expansion of Annexable Area. In addition to the provisions for annexation specified in Section 15.2 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 15.6 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.

ARTICLE 16
ADDITIONAL DISCLOSURES, DISCLAIMERS AND RELEASES

Section 16.1 Additional Disclosures, Disclaimers, and Releases of Certain Matters. Without limiting any other provision in this Declaration, by acceptance of a deed to a Unit, or by possession of a Unit, each Owner (for purposes of this Article 16, and all of the Sections thereof, the term "Owner" shall include the Owner, and the Owner's Family, guests and tenants), and by residing within the Properties, each Resident (for purposes of this Article 16, the term "Resident" shall include each Resident, and their guests) shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

(a) that 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; that Declarant specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to EMF; and

(b) that the Properties or portions thereof 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; that 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; and

(c) that the Unit and other portions of the Properties are or may be located adjacent to or nearby certain expressways and other major roads (all, collectively, "roadways"), and subject to levels of



traffic, noise, dust, and other nuisance from such roadways; that Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to roads and/or noise, dust, and other nuisance therefrom; and

(d) that the Unit and other portions of the Properties are or may be located adjacent to or nearby 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; and

(e) that construction or installation of Improvements by Declarant, other Owners, or third parties, or installation or growth of trees or other plants, may impair or eliminate the view, if any, of or from the Unit and other portions of the Properties; and

(f) that residential subdivision and home 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; and

(g) that: (1) the finished construction of the Unit and the Common Elements, while within the standards of the industry in Washoe County, Nevada, and while in substantial compliance with the plans and specifications, will be subject to expected minor flaws; and (2) issuance of a Certificate of Occupancy by the relevant governmental authority with jurisdiction shall be deemed conclusive evidence that the relevant Improvement has been built within such industry standards; and

(h) that 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; and

(i) that the Unit and other portions of the Properties are or may be located within designated flood plain areas, and/or nearby or adjacent to flood retainment walls; that Declarant specifically disclaims any and all representations and warranties, express or implied, with regard to or pertaining to flood plains or floods or water damage; and

(j) that installation, operation, and/or maintenance of a gated community, and/or any guard house or security or traffic access device, operation, or method, shall not create any presumption, or duty whatsoever of Declarant or Association, or Master Declarant or Master 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 and not gated; and that 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; and



(k) that the Unit and other portions of 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; and

(l) that the Unit and other portions of 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; and

(m) that the Unit and other portions of the Properties are located nearby a major church or religious facility, and subject to levels of sound, noise, and/or traffic thereon; and

(n) that the Unit and other portions of the Properties are located not far from "adult" retail establishments, and subject to levels of sound, noise, traffic, and/or other nuisance thereon or related thereto; and

(o) that Washoe County contains or may contain a number of earthquake faults, and that the Unit and other portions of the Properties 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

(p) that each Purchaser acknowledges having received from Declarant information regarding the zoning designations and the designations in the master plan regarding land use, adopted pursuant to NRS Chapter 278, for the parcels of land adjoining the Properties to the north, south, east, and west, together with a copy of the most recent gaming enterprise district map made available for public inspection by the jurisdiction in which the Unit is located, and related disclosures. Declarant makes no further representation, and no warranty (express or implied), with regard to any matters pertaining to adjoining land or uses thereof or to any gaming uses. Purchaser is hereby advised that the master plan and zoning ordinances, and gaming enterprise districts, are subject to change from time to time. If additional or more current information concerning such matters is desired, Purchaser should contact the appropriate governmental planning department. Each Purchaser acknowledges and agrees that its decision to purchase a Unit is based solely upon Purchaser's own investigation, and not upon any information provided by any sales agent; and

(q) that 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 adjacent to 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 to the future development or present or future use of property adjacent to or within the vicinity of the Properties; and

(r) that the Unit and other portions of 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; and 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 insects or pests (all, collectively, "pests"). Declarant 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 pests which may be associated with the Unit and/or other portions of the Properties; and

(s) that there is or may be a high degree of alkalinity in certain soils and/or water in Washoe County; that this 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 that 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; and that Washoe County typically experiences high freeze-thaw cycles, and spalling problems; and

(t) that although the Plat may show certain Units as owning portions of the ground floor of the Residential Building immediately adjacent to and/or surrounding the Garage Components of certain other Units, the Owners of such other Units shall have an easement over such portions, including exterior wall, below the upstairs level, and shall be responsible, pursuant and subject to the Declaration, for painting maintenance, and repair such areas; and

(u) that sewer cleanouts for some or all Units within a Residential Building are or may all be located within the Garage Component of one Unit, and the Owners of the other Units in the Residential Building shall have an easement over and across said Garage Component, for purposes of reasonably inspecting and cleaning their respective sewer cleanouts; and

(v) that water for this Project may be master metered and initially paid by the Association, subject to monthly or other periodic assessment of allocated amounts to the Owners of Units in this Project. 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 Unit, and regardless of family size, regardless of whether or not the Unit has an appurtenant Yard Component); and

(w) that Owners shall be required to obtain prior written approval of the ARC before adding concrete or altering, modifying, expanding, or eliminating any improvements installed by Declarant as part of its initial construction; and

(x) that Owners are prohibited from changing the external appearance of any portion of a Residential Building, and subject to the foregoing, are required to coordinate with the other Owners in their Residential Building for painting, maintenance and repair from time to time of the roof and exterior walls of their Residential Building, as set forth in further detail in the Declaration; and

(y) that the Garage Components of certain Units are located directly below the Living Component of one or more Unit(s) within each Residential Building. The Owners of 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 Garage Components. Additionally, the "quiet" door opener mechanism of a Garage Component 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; and

(z) that certain "bare-floor" limitations and restrictions are set forth in this Declaration with respect to upstairs areas of Living Components; and

(aa) that other matters, limitations, and restrictions, uniquely applicable to this semi-attached Residential townhome residential Community, are set forth in the Declaration, and may be supplemented from time to time by Rules and Regulations. Each Owner in this Community is expected to behave in a reasonable and cooperative "good neighbor" manner at all times, particularly with respect to the other Owners of Units in the same Residential Building; and

(ab) that Declarant presently plans to develop only those Units which have already been released for construction and sale, and that Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Units; that proposed or contemplated residential and other developments may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or Purchaser may have been advised of the same in discussions with sales personnel; however, notwithstanding such plot plans, sales literature, or discussions or representations by sales personnel or others, Declarant is under no obligation to construct such future or planned developments or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build the same; that Purchaser is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and that no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the provisions set forth in the foregoing or any provision of the written purchase agreement; and



(ac) that residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, construction-related traffic and traffic restrictions, parking restrictions and other construction-related "nuisances". Each Owner acknowledges and agrees that it is purchasing a Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accept substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of land being developed) have been completed and sold out; and

(ad) that the Unit is one of multiple Units in a Residential Building, located in close proximity to other Units and Residential Buildings, and private street and parking areas in the Properties, and, accordingly, is and will be subject to substantial levels of sound and noise; and

(ae) that Declarant shall have the right, from time to time, in its sole discretion, to establish and/or adjust sales prices or price levels for new homes and/or Units; and

(af) that model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver the Unit in conformity with any model home, and any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded flooring, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to Purchaser unless an authorized officer of Declarant has specifically agreed in a written Addendum to the Purchase Agreement to make specific items a part of the Purchase Agreement; and

(ag) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control the entry gate(s), and to keep all such entry gate(s) open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; and

(ah) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally enter upon, and/or to control, 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 Unit shall be deprived of access to a dedicated street adjacent to the Properties; and

(ai) Fire Sprinkler Systems shall or may be initially installed in certain, but not necessarily all, Residential Buildings and/or other Improvements in the Properties, but need not be installed if not so required by the Washoe County Fire District; the Association shall cause Fire Sprinkler Systems to be periodically inspected, and reasonably maintained, repaired, and/or replaced, and the costs thereof shall be Common Expenses, and shall have an easement over the Properties reasonably to accomplish the foregoing. Each Owner shall be obligated to immediately report to Declarant and Association any visible or known or suspected problem with or in the Fire Sprinkler Systems; and

(aj) that Declarant reserves the right to correct or repair any Improvement, as set forth in Section 17.14 below; and

(ak) that Declarant reserves the right, in its sole and absolute discretion, subject to compliance with all applicable laws, from time to time to designate, sell, and/or use any Units or portion of the Properties and/or Annexable Area as time shares, as set forth in further detail in Section 14.2 above; and

(al) that certain mandatory arbitration provisions are set forth in this Declaration, including, but not necessarily limited to, Section 17.15 below; and

(am) that 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 (including, but not necessarily limited to, all special declarant's rights referenced in NRS § 116.110385); and



(an) that Declarant has reserved certain easements, and related rights and powers, as set forth in this Declaration; and

(ao) that each Purchaser understands, acknowledges, and agrees that Declarant has reserved certain rights in the Declaration, and Master Declarant has reserved certain rights in the Master Declaration, which may limit certain rights of Purchaser and Owners other than Declarant and/or Master Declarant respectively.

Section 16.2 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 understood, acknowledged and agreed to all of the disclosures and disclaimers set forth herein, and to release Declarant and the Association, and Master Declarant and Master 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 Section 16.1.

ARTICLE 17 GENERAL PROVISIONS

Section 17.1 Enforcement. Subject to Sections 5.2 and/or 5.3 above, and Section 17.15 below, the Governing Documents may be enforced by the Association as follows:

(a) Enforcement shall be subject to the overall "good neighbor" policy underlying and controlling this Declaration and this Community (in which the Owners seek to enjoy a quality lifestyle), and the fundamental governing policy of courtesy and reasonability.

(b) 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.

(c) Enforcement. 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 the 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 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 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, 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 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 and/or 5.3, above);

(v) if any such Special 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 Special Assessment shall be enforceable pursuant to Article 7 above.

(d) 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 ARC or 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.

(e) 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.

(f) 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.

(g) 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.

(h) If any Owner, his or her Family, guest, licensee, lessee or invitee violates any such provisions, the Board may impose a reasonable Special Assessment upon such Owner for each violation and, if any Special 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 informal mediation) within thirty (30) days after written notice of the imposition thereof, then the Board may suspend the voting privileges of such Owner. Such Special Assessment shall be collectible in the manner provided hereunder, but the Board shall give such Owner appropriate Notice and Hearing before invoking any such Special Assessment or suspension.

Section 17.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 17.3 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 17.4 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 17.5 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public, or for any public use.

Section 17.6 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 17.7 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 17.8 Priorities and Inconsistencies. Subject to Section 5.8 above, and to Section 17.13 below, the Governing Documents shall be construed to be consistent with one another to the extent reasonably possible. 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 applicable provision of NRS Chapter 116). In the event of any inconsistency between the Articles and Bylaws, the Articles shall prevail. In the event of any inconsistency between the Rules and Regulations and any other Governing Document, the other Governing Document shall prevail.

Section 17.9 Master Declaration. The provisions of this Declaration shall supplement, but shall not supersede, any and all expressly applicable provisions of the Master Declaration. The Master Declaration shall control in the event of any conflict with the provisions of this Declaration, although such documents shall be construed to be consistent with one another to the extent possible. The inclusion in this Declaration of covenants, conditions, restrictions, land uses, and limitations which are more restrictive or more inclusive than the restrictions contained in the Master Declaration shall not be deemed to constitute a conflict with the provisions of the Master Declaration. Nothing herein shall be construed as relieving any Owner or Unit within the Properties therefrom, or as limiting or preventing any and all applicable rights of enforcement granted or available to the Master Association by virtue thereof.

Section 17.10 Limited Liability. Except to the extent, if any, expressly prohibited by applicable Nevada law, none of Declarant, Association, ARC, Master Declarant and/or Master Association, and 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 committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

Section 17.11 Indemnity. Each Owner shall, to the maximum extent permitted by law, indemnify and hold free and harmless each and every one of: Declarant, Association, any director, or any officer, agent, employee, or committee representative, respectively of Declarant, Association, and/or their respective partners, members, divisions, subsidiaries and affiliated companies (if any), and their and their respective employees, officers, directors, members, shareholders, agents, professional consultants and representatives, and all of their respective successors and assigns (collectively, "Indemnitees") from and against any and all claims, damages, losses, liabilities, demands, and expenses, including, but not limited to, reasonable attorneys' fees, court costs and expenses of litigation (collectively, hereinafter referred to as "Liabilities"), arising out of or resulting from, or claimed to arise out of or result from, in whole or in part, any fault, act, or omission of the Owner, any contractor or subcontractor employed by the Owner, anyone directly or indirectly employed by any of the foregoing entities, or anyone for whose acts any of the foregoing entities may be



liable, in connection with: (a) any work by or of the Owner within the Properties and/or the performance of the Owner's obligations with respect to any and all Improvements designed, installed, constructed, added, altered or remodeled by the Owner pursuant and subject to the Governing Documents, including, without limitation, any such loss, damage, injury or claim arising from or caused by or alleged to have arisen from or have been caused by (i) any use of the Unit, or any part thereof, (ii) any defect in the design, construction of, or material in, any structure or other Improvement upon the Unit, (iii) any defect in soils or in the preparation of soils or in the design and accomplishment of grading, including a spill of any contaminants or hazardous materials in or on the soil, (iv) any accident or casualty on the Unit or in the Properties, (v) any representations by Owner or any of its agents or employees, (vi) a violation or alleged violation by the Owner, its employees or agents, of any applicable law, (vii) any slope failure or subsurface geologic or groundwater condition, (viii) any work of design, construction, engineering or other work with respect to the Unit or Properties provided or performed by or for the Owner at any time whatsoever, or (ix) any other cause whatsoever in connection with Owner's use of the Unit or the Properties, or Owner's performance under this Declaration, or any other Governing Document; or (b) the negligence or wilful misconduct of Owner or its agents, employees, licensees, invitees or contractors in the development, construction, grading or other work performed off the Properties by Owner pursuant to the Governing Documents, or any defect in any such work. Notwithstanding anything to the contrary contained in any of the documents referenced in the preceding sentence, Owner agrees and acknowledges that Indemnitees shall not be liable to Owner for any Liabilities caused by (i) any act or omission of Indemnitees with respect to the review of the Owner's Improvements and/or the drawings or specifications related to the Owner's Improvements, or (ii) any inspection or failure to inspect the construction activities of Owner by any of the Indemnitees, or (iii) any direction or suggestion given by any of the Indemnitees with respect to construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Owner's Improvements, or the failure to give any such direction or suggestion, or for any Liabilities which are covered by insurance or would be covered by insurance required to be maintained by the Owner, and Owner expressly waives any such Liabilities and releases Indemnitees therefrom. The covenants in this Section 17.11 and the obligations of each Owner, and shall be binding on the Owner until such date as any claim or action for which indemnification or exculpation may be claimed under this Section 17.11 is fully and finally barred (or, if applicable, fully and finally resolved, and any payment required thereby has been made in full).

Section 17.12 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 17.13 Compliance With NRS Chapter 116. It is the intent of Declarant that this Declaration and the Community shall be in all respects consistent with, and not in violation of, applicable provisions of NRS Chapter 116. In the event any provision of this Declaration is found to irreconcilably conflict with or violate such applicable provision of NRS Chapter 116, such offending Declaration provision shall be deemed automatically modified or severed herefrom, to the minimum extent necessary to remove the irreconcilable conflict with or violation of the applicable provision of NRS Chapter 116. Notwithstanding any other provision set forth herein, if any provision of Senate Bill 451 (1999) should, in the future, be removed or made less burdensome (from the perspective of Declarant), as a matter of law, then the future change in such provision shall automatically be deemed to have been made and reflected in this Declaration.

Section 17.14 Declarant's Right to Repair. Whether or not so stated in the deed, each Owner, by acquiring title to a Unit, and the Association, by acquiring title to any Common Element, shall conclusively be deemed to have agreed: (a) to promptly provide Declarant with specific written notice from time to time of any Improvement requiring correction or repair(s) for which Declarant is or may be responsible, and (b) following delivery of such written notice, to reasonably permit Declarant (and/or Declarant's contractors and agents) to inspect the relevant Improvement, and to take reasonable steps, if necessary or appropriate, to undertake and to perform corrective or repair work, and (c) to reasonably permit entry by Declarant (and Declarant's contractors and agents) upon the Unit or Common Element (as applicable) from time to time in connection therewith and/or to undertake and to perform such inspection and such work; and (d) that Declarant shall unequivocally be entitled (i) to specific prior written notice of any such corrective or repair work requested (and shall not be held responsible for any corrective or repair work in the absence of such written notice), (ii) to inspect the relevant Improvement, and (iii) to take reasonable steps, in Declarant's reasonable judgment, to



undertake and to perform any and all necessary or appropriate corrective or repair work. The foregoing portion of this Section 17.14 shall not be deemed to modify or toll any applicable statute of limitation or repose, or any contractual or other limitation pertaining to such work.

Section 17.15 Arbitration. Any dispute that may arise between the Association (subject to the procedural requirements set forth in Section 5.3, above) and/or Owner of a Unit, and Declarant (or any person or entity who was involved in the construction of any Common Element or any Unit) shall be resolved by submitting such dispute to arbitration before a mutually acceptable arbitrator, who will render a decision binding on the parties which can be entered as a judgment in court pursuant to NRS 38.000 et. seq. The arbitration shall be conducted according to the provisions of the Construction Industry Arbitration Rules of the American Arbitration Association. If the parties to the dispute fail to agree upon an arbitrator within forty-five (45) days after an arbitrator is first proposed by the party initiating arbitration, either party may petition the American Arbitration Association for the appointment of an arbitrator. Declarant has the right to assert claims against any contractor, subcontractor, person or entity, who may be responsible for any matter raised in the arbitration and to name said contractor, subcontractor, person, or entity as an additional party to the arbitration. Upon selection or appointment of the arbitrator, the parties shall confer with the arbitrator, who shall establish a discovery schedule which shall not extend beyond ninety (90) days from the date the arbitrator is selected or appointed, unless for good cause shown such period is extended by the arbitrator or such period is extended by the consent of the parties. If Declarant asserts a claim against a contractor, subcontractor, person, or entity, the discovery period may be extended, at the discretion of the arbitrator, for a period not to exceed one hundred twenty (120) days. The arbitration of a dispute between the Declarant, the Association, or any Owner of a Unit shall not be consolidated with any other proceeding, unless Declarant chooses to consolidate the same with another similar proceeding brought by the Association or any Owner of a Unit. The arbitrator shall convene the arbitration hearing within one hundred twenty days (120) from the time the arbitrator is selected or appointed. Upon completion of the arbitration hearing, the arbitrator shall render a decision within ten (10) days. The date for convening the hearing may be adjusted by the arbitrator to accommodate extensions of discovery and the addition of parties or by consent of the parties. However, unless extraordinary circumstances exist, the hearing shall be convened no later than one hundred eighty (180) days from the date the arbitrator is appointed. To the extent practicable, any hearing convened pursuant to this provision shall continue, until completed, on a daily basis. The prevailing party shall be entitled to recover its attorney's fees and costs. The costs of the arbitration shall be borne equally by the parties thereto.

ARTICLE 18 **AMENDMENT**

Section 18.1 Amendment By Declarant. 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. Any amendment to this Declaration pursuant to the exercise of any Developmental Rights reserved herein may be made by Recordation of a written instrument executed and acknowledged by Declarant, setting forth such amendment, in conformity with NRS § 116.2110. Notwithstanding any other provision herein, for so long as Declarant owns a 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 or potentially inconsistent or contradictory provision, to modify or supplement Exhibit "2" hereto, and otherwise to ensure that the Declaration is consistent and 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 "2" 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 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 § 116.2110 and in Article 15 above.

Section 18.2 Amendment of Plat. By acceptance of a deed conveying a Unit encumbered by this Declaration, 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 successors and assigns,



to unilaterally execute and Record from time to time amendment(s) to the Plat, provided that any such amendment shall relate only to such property which at such time have not yet been annexed to the Properties by Recorded Annexation Amendment.

Section 18.3 Amendment By Members. Except as otherwise may be provided by the Master Association Documents or by this Declaration (including, but not limited to Sections 18.1 or 18.2 above), the provisions of this Declaration may be amended only by Recordation of a certificate, signed and acknowledged by the President or Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by both: (a) Members representing not less than sixty-seven percent (67%) of the total voting power of the Association, and (b) the consent of a majority of the Board of Directors; and, in the case of those amendments which this Declaration requires to be approved by Eligible Mortgagees, (c) the requisite percentage of Eligible Mortgagees and Eligible Insurers. Such amendment shall be effective upon Recordation. Except as permitted by the Act, no amendment may change the boundaries of any Unit, change the uses to which any Unit is restricted or change the allocated interests of a Unit, without the unanimous consent of all Owners whose Units are so affected. Notwithstanding the preceding portion of this Section 18.3 or any other provision of this Declaration, the provisions of Section 5.3 ("Proceedings") above may not be amended unless such amendment has been approved by both: (i) Members representing not less than seventy-five percent (75%) of the total voting power of the Association, and (ii) the consent of not less than seventy-five percent (75%) of the Board of Directors.

Section 18.4 Approval of Eligible Mortgagees. Anything to the contrary herein notwithstanding, any of the following amendments, to be effective, must be approved by sixty-seven percent (67%) of all Eligible Mortgagees and Eligible Insurers at the time of such amendment, based upon one (1) vote for each first Mortgage owned or insured:

(a) Any amendment which affects or purports to affect the validity or priority of encumbrances or the rights or protections granted to holders, insurers, and guarantors, of first Mortgages as provided herein.

(b) Any amendment which would necessitate an encumbrancer after it has acquired a Unit through foreclosure to pay more than its proportionate share of any unpaid assessment or assessment accruing after such foreclosure.

(c) Any amendment which would or could result in an encumbrance being canceled by forfeiture, or in the individual Unit not being separately assessed for tax purposes.

(d) Any amendment relating to the insurance provisions or to the application of insurance proceeds as set out in Article 12 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 partition or subdivision of a Unit, in any manner inconsistent with the provision of this Declaration.

(f) 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.

Any approval by an Eligible Holder required under this Article 18, or required pursuant to any other provisions of this Declaration, shall be given in writing: provided that prior to any such proposed action, the Association or Declarant, as applicable, may give written notice of such proposed action to any or all Eligible Holders, and for thirty (30) days following the receipt of such notice, such Eligible Holders shall have the power to disapprove such action by giving written notice to the Association or Declarant, as applicable. If no written notice of disapproval is received by the Association or Declarant, as applicable, within such thirty (30) day period, then the approval of such Eligible Holder shall be deemed given to the proposed action, and the



Association or Declarant, as applicable, may proceed as if such approval was obtained with respect to the request contained in such notice.

A certificate, signed and sworn to by two (2) Officers that Members representing sixty-seven percent (67%) of the voting power of the Association have voted for any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The certificate reflecting any termination or amendment which requires a written consent of Declarant or approval of Eligible Holders shall include a certification that the requisite approval of Declarant or Eligible Holders (as applicable) has been obtained or waived. The Association shall maintain in its files, for a period of at least four (4) years, the record of all such votes and Eligible Holder consent solicitations and disapprovals.

Section 18.5 Notice of Change. 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.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first written above.

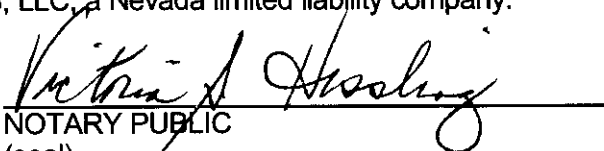
DECLARANT:

TANAMERA RESORT CONDOMINIUMS, LLC
a Nevada limited liability company
By Its Manager,
TANAMERA DEVELOPMENT, LLC
By Its Manager,
USA INVESTMENT PARTNERS, LLC
By Its Manager,
USA COMMERCIAL MORTGAGE COMPANY,
a Nevada corporation

By: 
Joseph D. Milanowski, President

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on this 6 day of January, 2003, by Joseph D. Milanowski, as President of USA COMMERCIAL MORTGAGE COMPANY, a Nevada corporation, as Manager of USA INVESTMENT PARTNERS, LLC, as Manager of TANAMERA DEVELOPMENT, LLC, as Manager of TANAMERA RESORT CONDOMINIUMS, LLC, a Nevada limited liability company.


NOTARY PUBLIC
(seal)



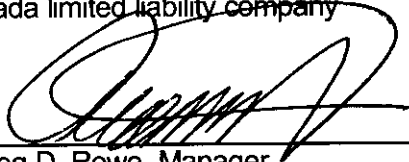


ENDORSEMENT BY MASTER DECLARANT

Master Declarant hereby consents to the foregoing Supplemental Declaration for Fleur de Lis.

MASTER DECLARANT:

DOUBLE DIAMOND RANCH, LLC
a Nevada limited liability company

By: 
Kreg D. Rowe, Manager

STATE OF NEVADA)
)
COUNTY OF WASHOE) ss.

This instrument was acknowledged before me on this 8th day of January, 2003, by Kreg D. Rowe, as Manager of DOUBLE DIAMOND RANCH, LLC., a Nevada limited liability company.

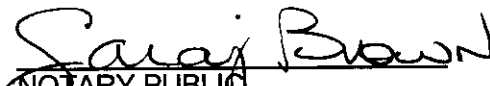

NOTARY PUBLIC
(seal)





EXHIBIT "1"

ORIGINAL PROPERTY

1. Units A, B1, B2, C, D1, and D2, of Building 14/1, in FLEUR DE LIS Phase 1, as shown on official plat of FLEUR DE LIS, on file in Subdivision Tract Map 4142A, Document No. 2763856, dated July 2002, Official Records, Washoe County, Nevada;
2. Any Exclusive Use Areas appurtenant to the foregoing Units, as shown by the Plat and as set forth in the foregoing Declaration; and
3. A non-exclusive easement of ingress, egress, and/or enjoyment over, across and of, all Private Streets and other Common Elements, pursuant and subject to the foregoing Declaration.



EXHIBIT "2"

ANNEXABLE AREA

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

1. All of the property lying within the boundaries of FLEUR DE LIS Phase 1, as shown on official plat of FLEUR DE LIS, on file in Subdivision Tract Map 4142A, Document No. 2763856, dated July 2002, Official Records, Washoe County, Nevada; EXCEPTING THEREFROM the "Original Property" described on the foregoing Exhibit "1".
2. All of the property lying within the boundaries of the remaining portion of Parcel 1 (Parcel Map 3774), as shown on official plat of FLEUR DE LIS, on file in Subdivision Tract Map 4142A, Document No. 2763856, Official Records, Washoe County, Nevada, dated July 2002.
3. An approximately 28 acre parcel(s) to the east of and generally contiguous to the property described above.
4. Such other abutting or nearby property as may be described in plat maps yet to be recorded by Declarant.

[Declarant reserves the right to unilaterally record supplements to this Exhibit "2," setting forth in the legal description of any plat map, and/or to unilaterally supplement or modify of record all or any port(s) of the foregoing descriptions.]

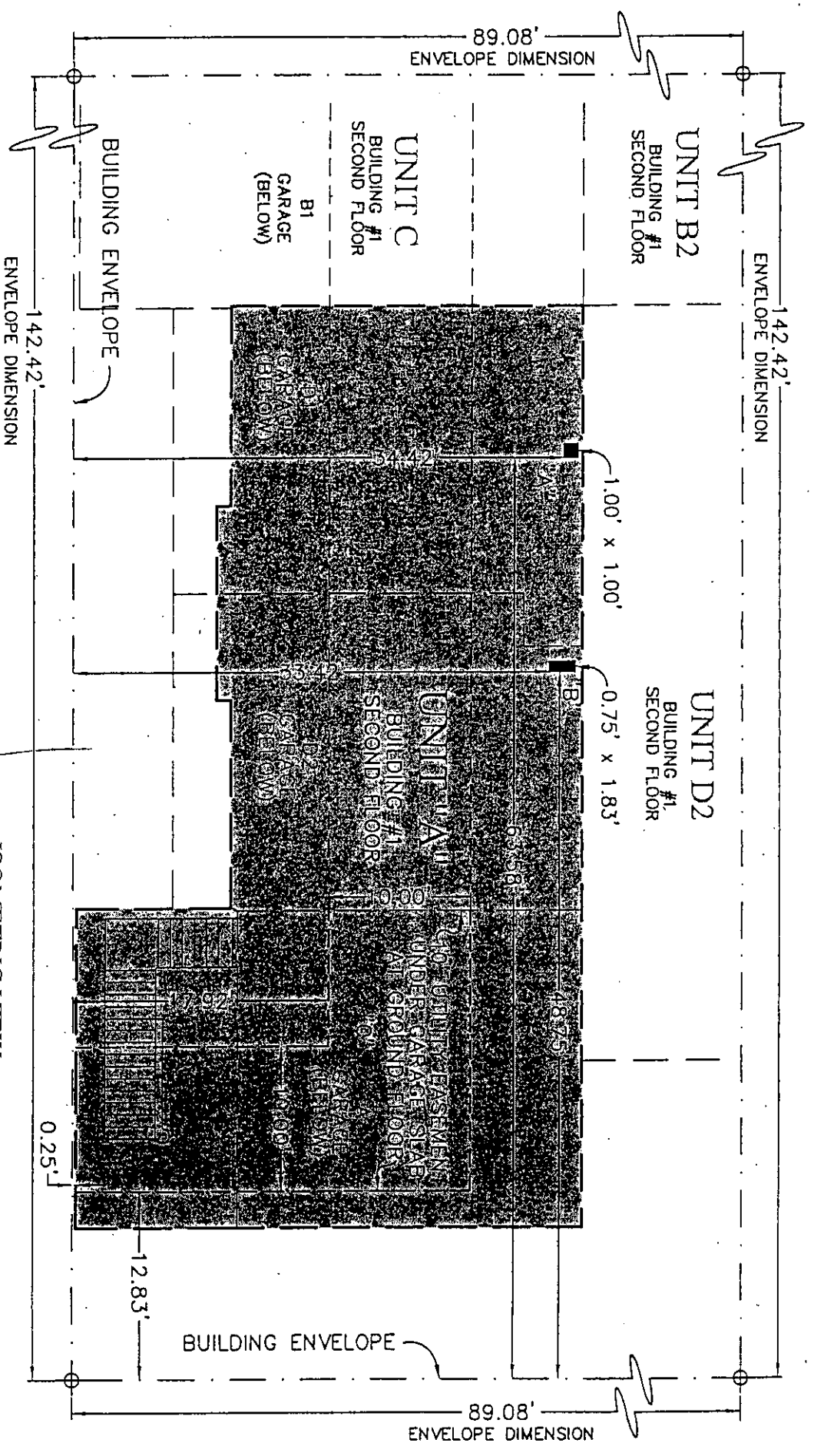


EXHIBIT "3"

ADDITIONAL EASEMENTS

[attach]

[Declarant reserves the right from time to time to unilaterally record supplements to this Exhibit "3," setting forth corrections and/or clarifications of the following described easements, and/or to unilaterally supplement or modify of record all or any part(s) of the following easement descriptions.]

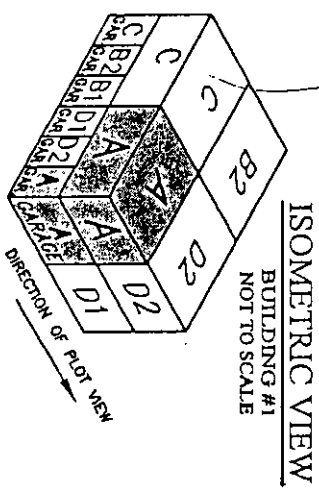


LEGEND

- DENOTES VERTICAL UTILITY EASEMENT LOCATION
- "B" DENOTES UTILITY EASEMENT REFERENCE FOR EXHIBIT A.

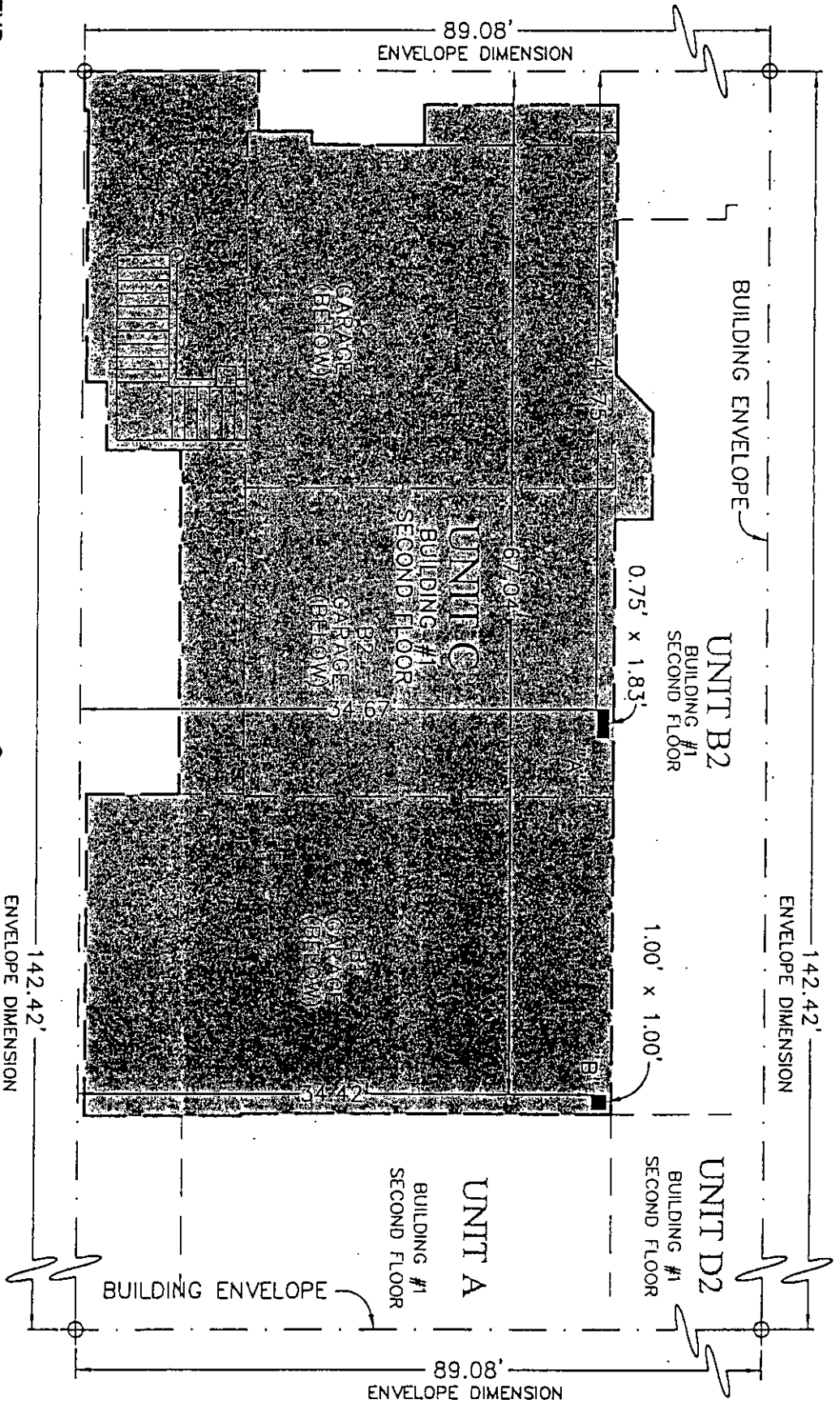
VERTICAL UTILITY CHASE EASEMENTS

EXHIBIT A



NOT TO SCALE

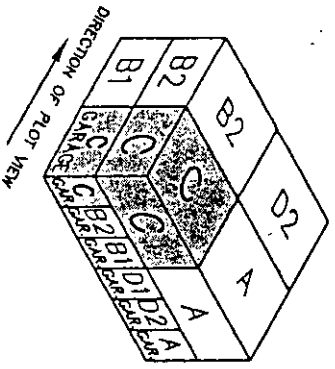
MACKAY & SOMPS
 CIVIL ENGINEERS, INC.
 1380 GREG STREET, SUITE 210
 SPARKS, NV. 89431
 (775) 355-7721



LEGEND

- DENOTES VERTICAL UTILITY EASEMENT LOCATION.
- "B" DENOTES UTILITY EASEMENT REFERENCE FOR EXHIBIT A.

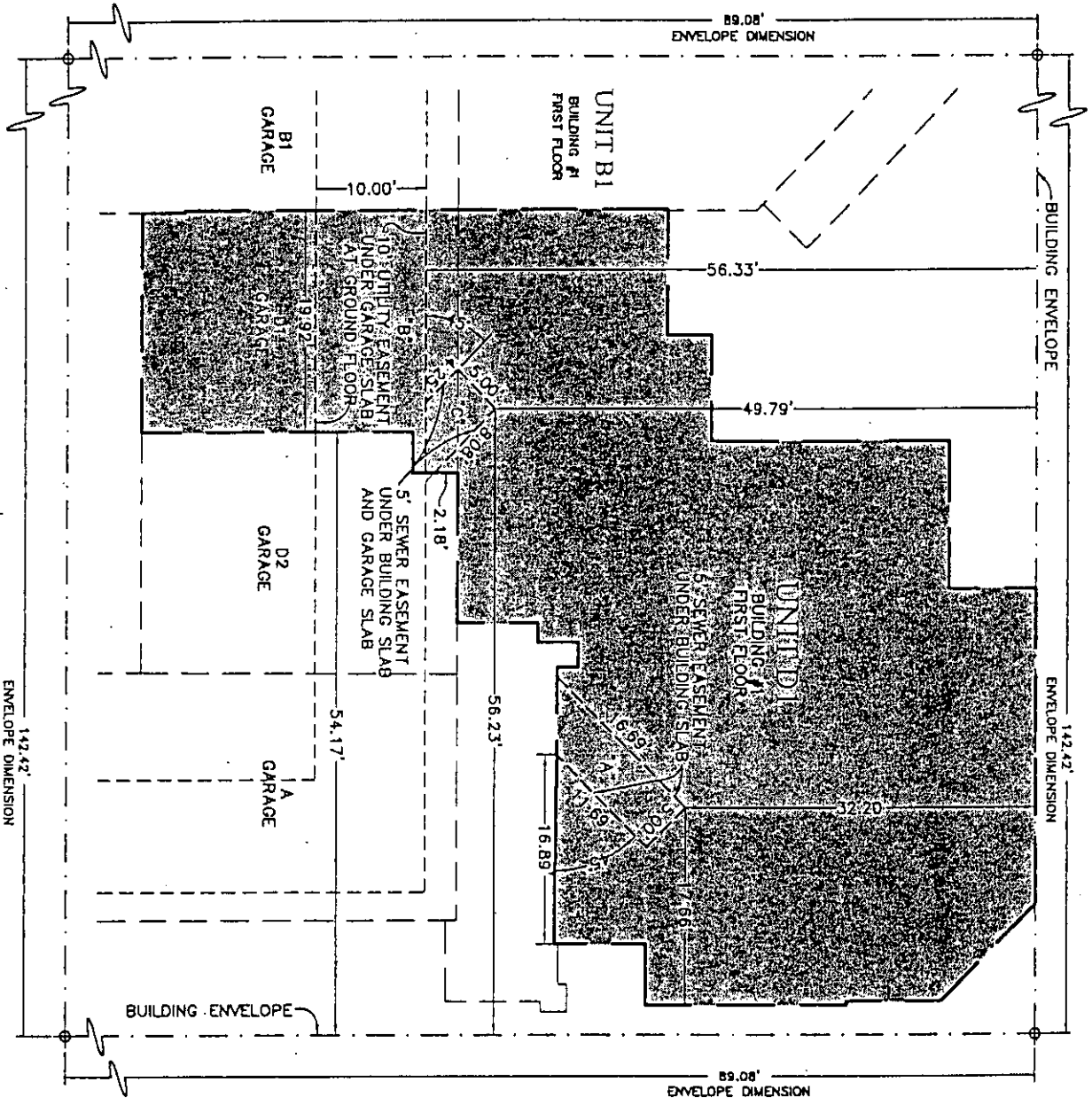
VERTICAL UTILITY CHASE EASEMENTS EXHIBIT C



ISOMETRIC VIEW
 BUILDING #1
 NOT TO SCALE

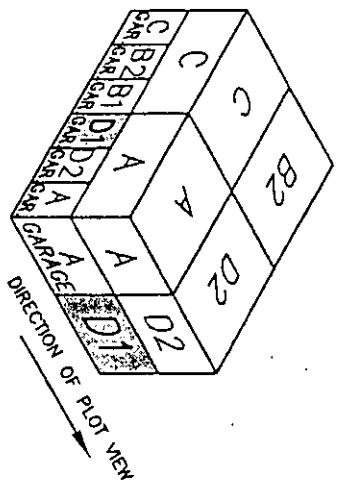
NOT TO SCALE

MACKAY & SOMPS
 CIVIL ENGINEERS, INC.
 1380 GREG STREET, SUITE 210
 SPARKS, NV. 89431
 (775) 355-7721



LEGEND

"B" DENOTES UTILITY EASEMENT REFERENCE FOR EXHIBIT A.



ISOMETRIC VIEW

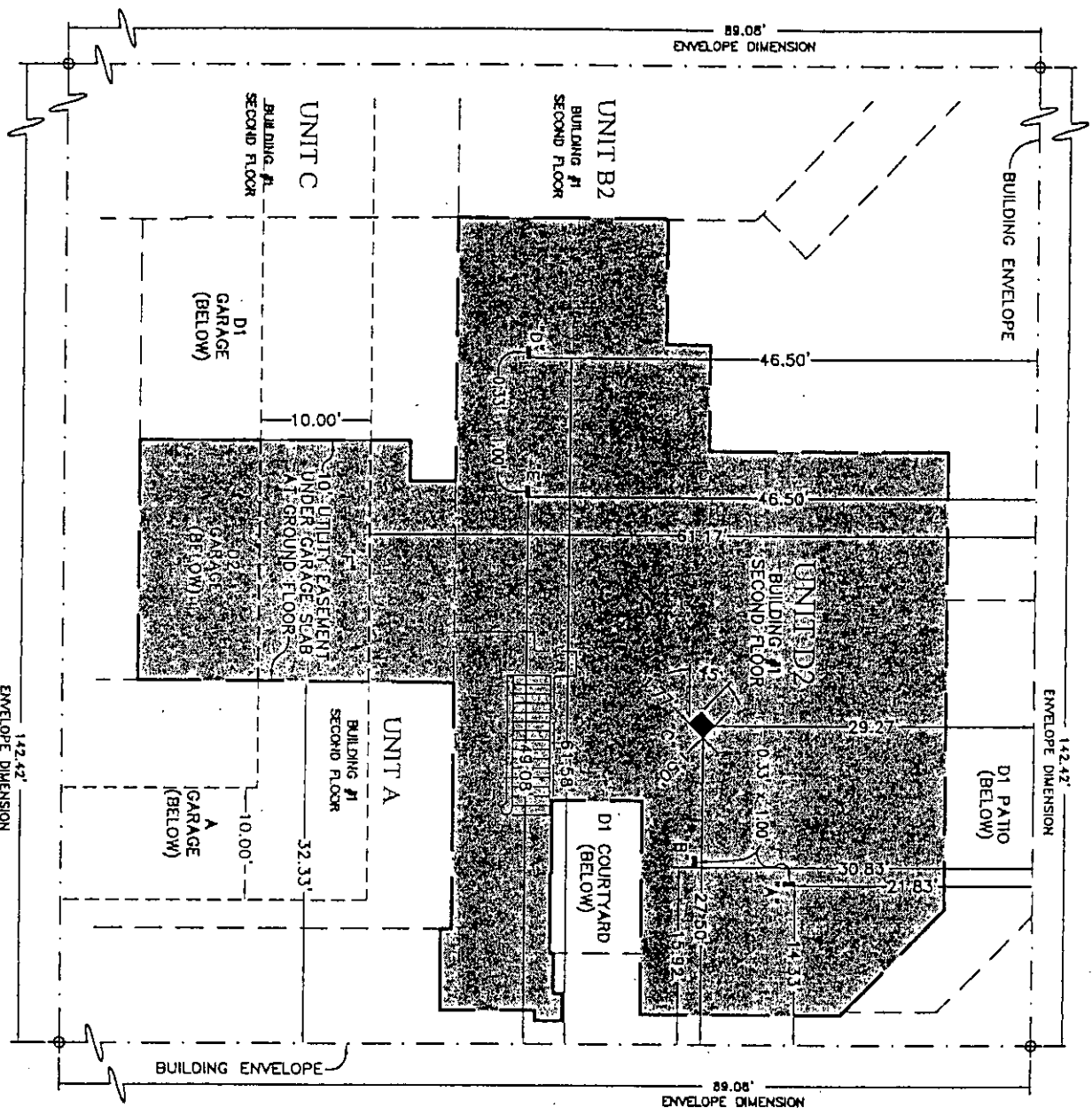
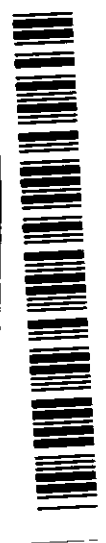
BUILDING #1
NOT TO SCALE

VERTICAL UTILITY CHASE EASEMENTS
EXHIBIT D1

NOT TO SCALE

MACKAY & SOMPS

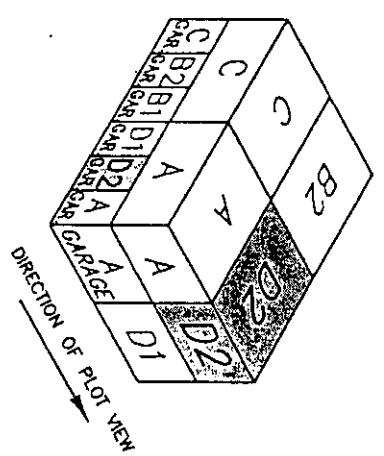
CIVIL ENGINEERS, INC.
1380 GREG STREET, SUITE 210
SPARKS, NV. 89431 (775) 355-7721



UTILITY CHASE EASEMENTS
EXHIBIT D2

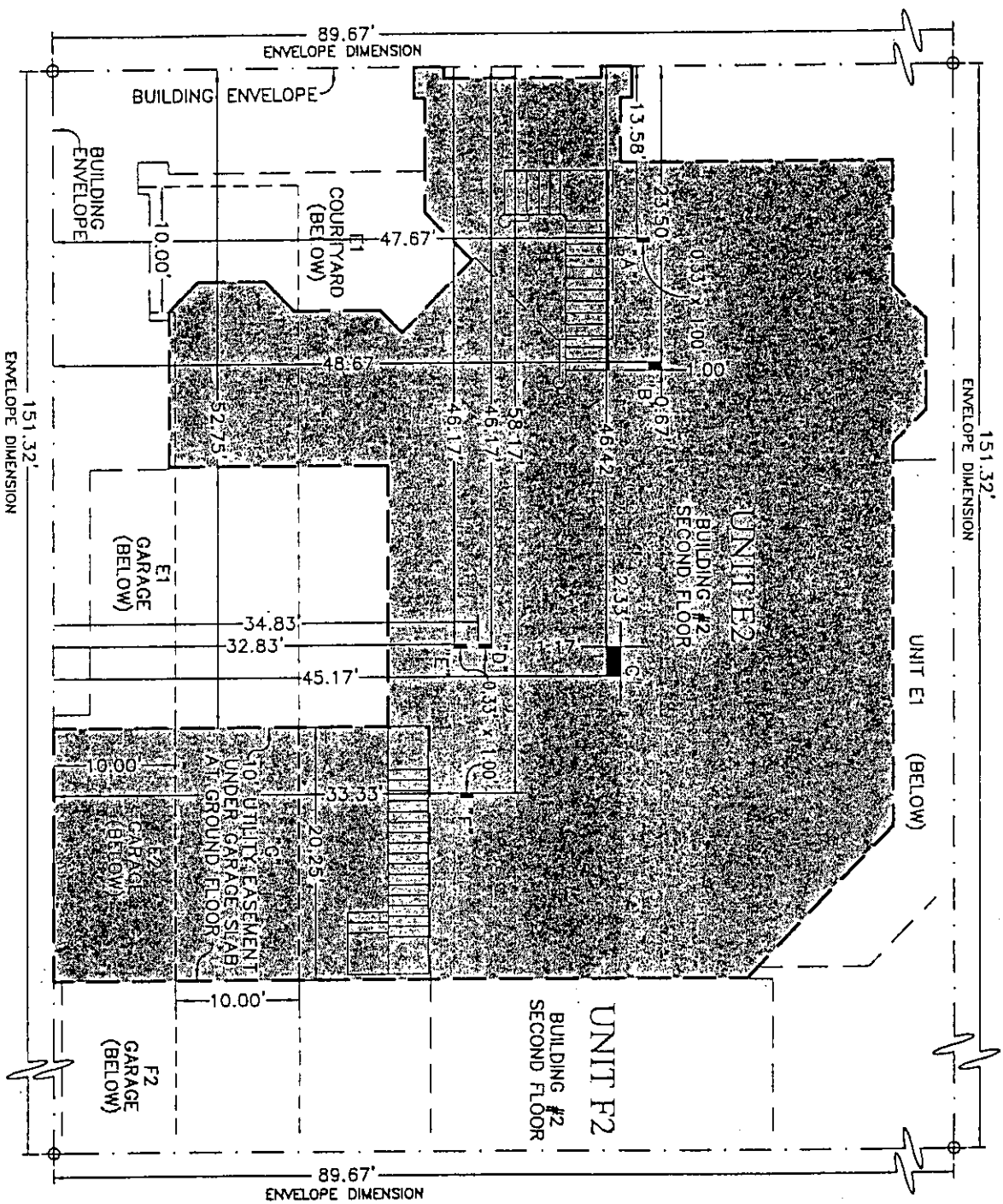
NOT TO SCALE

- LEGEND**
- DENOTES VERTICAL UTILITY EASEMENT LOCATION.
 - "B" DENOTES UTILITY EASEMENT REFERENCE FOR EXHIBIT A.



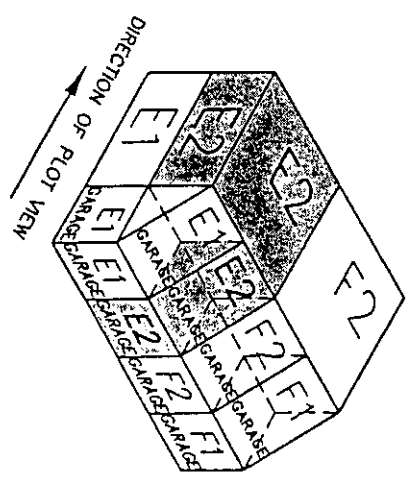
ISOMETRIC VIEW
 BUILDING #1
 NOT TO SCALE

MACKAY & SOMPS
 CIVIL ENGINEERS, INC.
 1380 GREG STREET, SUITE 210
 SPARKS, NV 89431
 (775) 355-7721



LEGEND

- DENOTES VERTICAL UTILITY EASEMENT LOCATION.
- "B" DENOTES UTILITY EASEMENT REFERENCE FOR EXHIBIT A.



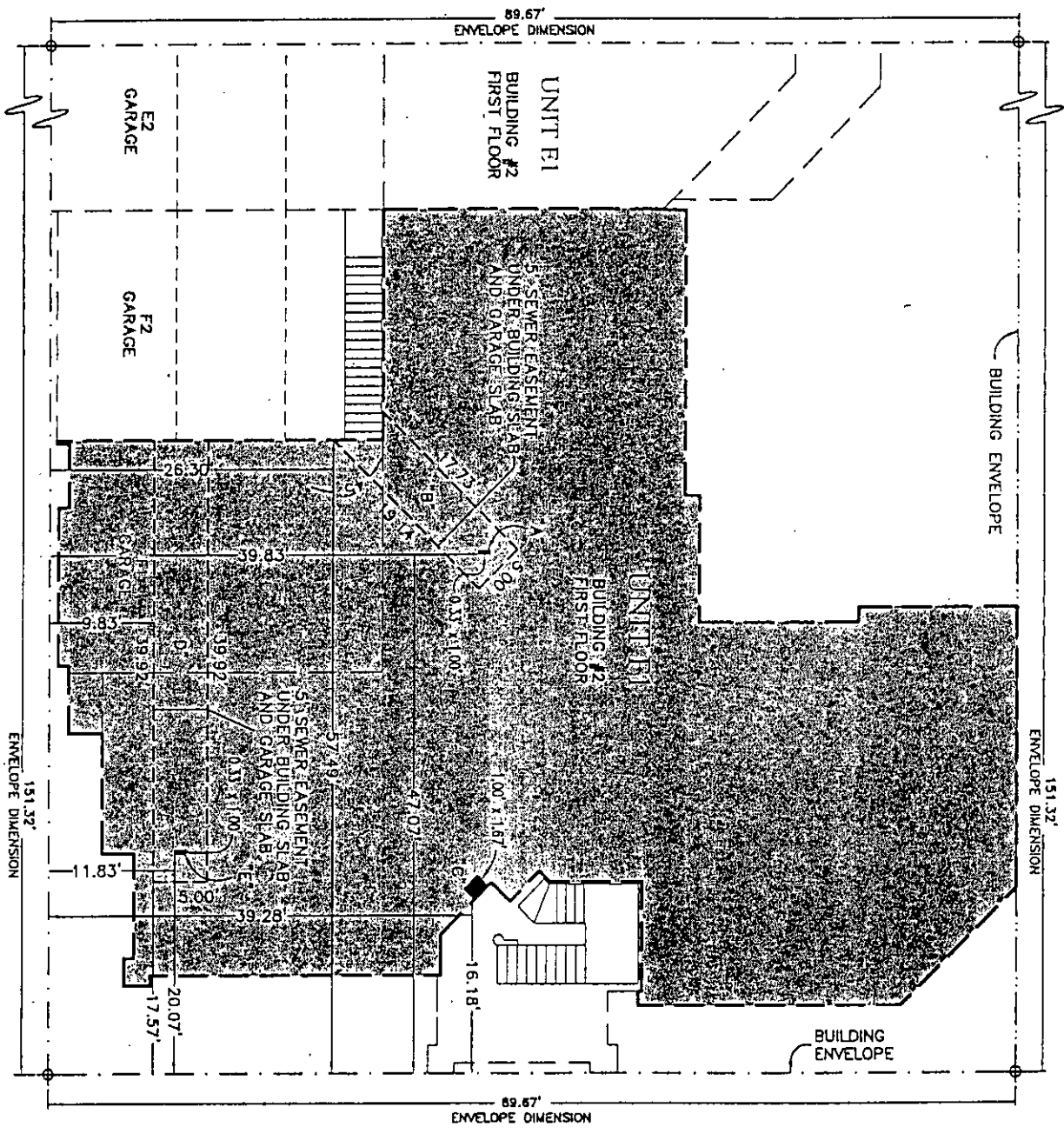
ISOMETRIC VIEW

BUILDING #2
 NOT TO SCALE

VERTICAL UTILITY CHASE EASEMENTS
EXHIBIT E2

NOT TO SCALE

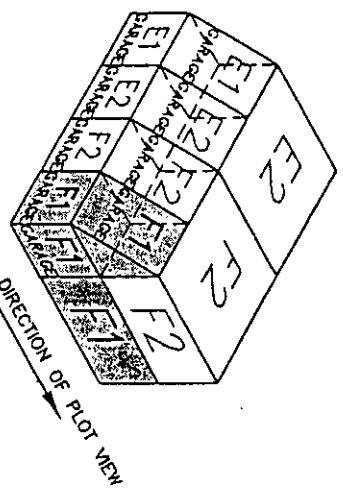
MACKAY & SOMPS
 CIVIL ENGINEERS, INC.
 1380 GREG STREET, SUITE 210
 SPARKS, NV, 89431
 (775) 355-7721



LEGEND

■ DENOTES VERTICAL UTILITY EASEMENT LOCATION.

78" DENOTES UTILITY EASEMENT REFERENCE FOR EXHIBIT A.



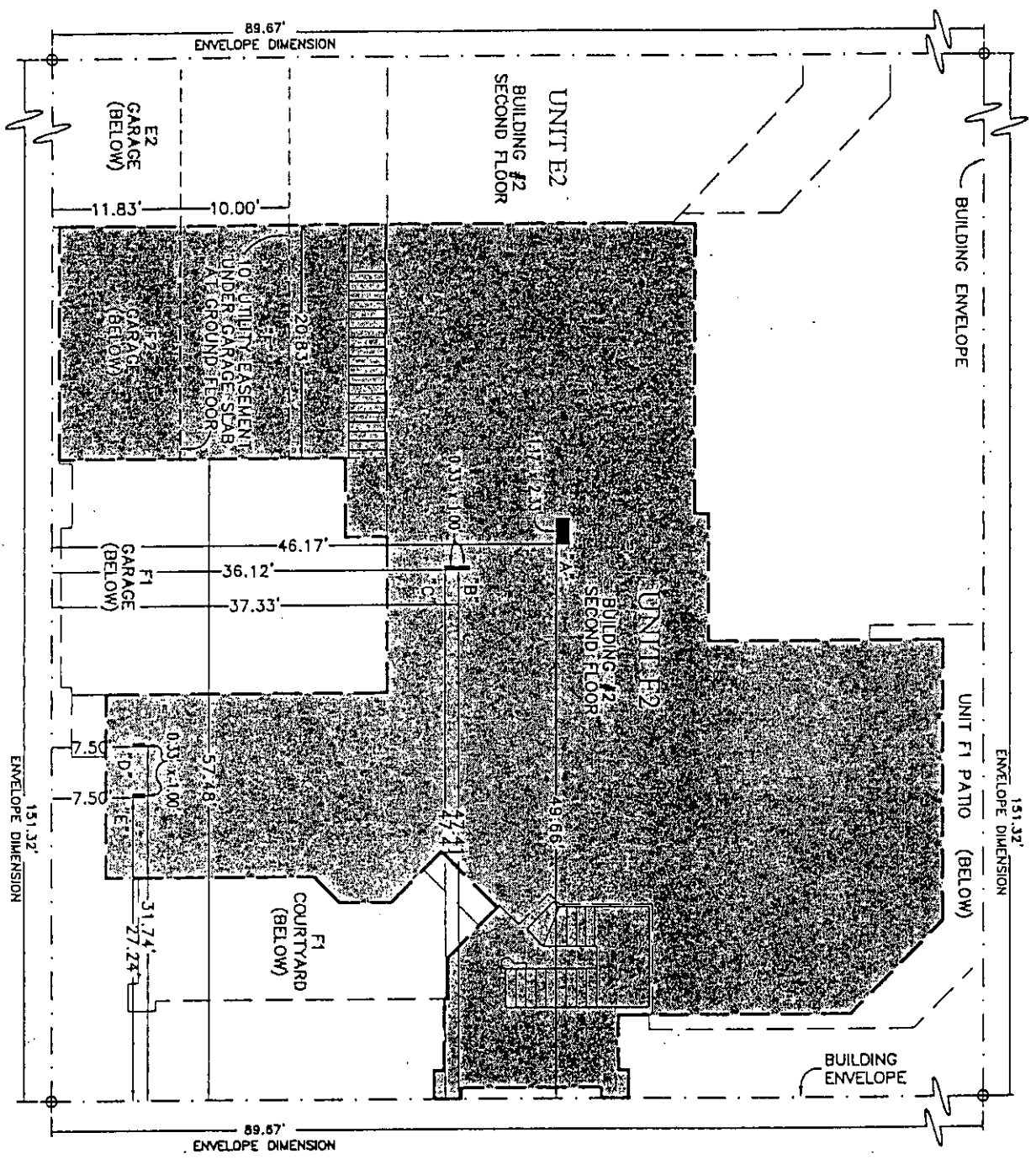
ISOMETRIC VIEW

BUILDING #2
 NOT TO SCALE

NOT TO SCALE

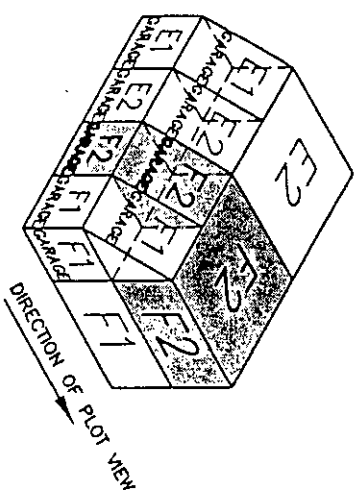
VERTICAL UTILITY CHASE EASEMENTS
EXHIBIT F1

MACKAY & SOMPS
 CIVIL ENGINEERS, INC.
 1360 GREG STREET, SUITE 210
 SPARKS, NV, 89431 (775) 355-7721



LEGEND

- DENOTES VERTICAL UTILITY EASEMENT LOCATION.
- "B" DENOTES UTILITY EASEMENT REFERENCE FOR EXHIBIT A.



ISOMETRIC VIEW

BUILDING #2
 NOT TO SCALE

NOT TO SCALE

VERTICAL UTILITY CHASE EASEMENTS
EXHIBIT F2

MACKAY & SOMPS
 CIVIL ENGINEERS, INC.
 1380 GREG STREET, SUITE 210
 SPARKS, NV, 89431
 (775) 355-7721

**SUPPLEMENTAL DECLARATION
FLEUR DE LIS
Washoe County, Nevada**

END PAGE

When Recorded, Return To:

WILBUR M. ROADHOUSE, ESQ.
Goold Patterson Ales Roadhouse & Day
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

DOC # 2799064
01/31/2003 11:31A Fee:105.00
BK1
Requested By
INTER-COUNTY TITLE COMPANY
Washoe County Recorder
Kathryn L. Burke - Recorder
Pg 92 of 92 RPTT 0.00

