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WHEN RECORDED MAIL TO:

JUSTIN M. TOWNSEND, ESQ.
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Post Office Box 646
Carson City, NV 89703



KAREN ELLISON, RECORDER

The party executing this document hereby affirms
that this document submitted for recording does
not contain the social security number of any
person or persons pursuant to NRS 239B

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE TOWNES AT MONTERRA**

AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS OF
THE TOWNES AT MONTERRA

This amended and restated declaration is made this 30th day of December, 2019 by Town Homes at Monterra III, LLC, a Nevada limited liability company, (the “Declarant”), and is made with reference to the following Recitals as follows:

RECITALS

R1. Whereas, Town Homes at Monterra III, LLC is the owner of all that real property in Douglas County, Nevada (the “Property”), described in Exhibit “A” attached hereto and incorporated herein by this reference;

R2. It is further hereby declared that a Declaration of Covenants, Conditions, and Restrictions, intended to affect the Property, was originally recorded on November 15, 2019 in the Douglas County Recorder’s Office as Document No. 2019-938278, but the legal description attached thereto reflected an unsubdivided parcel of land and that the final map for what is referred to as Monterra Phase 3a was recorded on November 22, 2019 in the Douglas County Recorder’s Office as Document No. 2019-93868 (the “Map”) and that, therefore, this Amended and Restated Declaration amends, restates, and supersedes the aforementioned Declaration in its entirety and shall be recorded against the parcels described in the attached Exhibit A, as created by the recording of the Map;

R2. It is further hereby declared that all of the real property described herein is held and owned and shall be held, owned, operated, managed, conveyed, assigned, rented, hypothecated, encumbered, leased, used, occupied and improved subject to the following Declaration of Covenants, Conditions, and Restrictions, all of which are declared and agreed to be in furtherance of a plan and purpose of protecting, preserving, and enhancing the value, desirability, and attractiveness of the real property, and every part thereof and of fostering the development, management, improvement, enjoyment, and use and sale of the real property and any part thereof;

R3. It is further hereby declared that all of the Covenants, Conditions, and Restrictions herein set forth shall constitute enforceable equitable servitudes as defined in Nevada law and shall constitute covenants that shall run with the Property and shall be binding upon and inure to the benefit of each Owner of any portion of the Property or of any interest therein, each party having or acquiring any right, title, or interest in and to the Property or any part thereof and their heirs, successors, and assigns; and

R4. It is further hereby declared that each Owner, by acceptance of a deed to a Unit, shall be deemed to have agreed, for any and all purposes, for Owner and for the members of Owner’s family, Owner’s contract purchasers, tenants or lessees, guests, invitees and/or licensees to abide by, and to be bound by, each and every provision of this Declaration which subjects such Owner or other person to a contractual, fiduciary or other duty, obligation or agreement for the benefit of other Owners or occupants of the Property, either individually or as a class, the

Association or the public generally, regardless of whether the deed refers specifically to this Declaration or to any such duty, obligation or agreement.

ARTICLE 1 DEFINITIONS.

Section 1.1. “Action of the Association” means and includes, other than actions required by the Declaration or Governing Documents to be accomplished by vote of the Unit Owner membership, an action by the Board, or if lawfully delegated by action of the Board, action of a) the executive committee or other committee constituted by the Board, Declaration or Governing Documents, b) the Association’s officers or single officer, c) Association management, or d) any combination thereof so designated.

Section 1.2. “Annexed Properties” means those Units and/or Common Elements which are subsequently made subject to this Declaration as provided by Article 18 of this Declaration.

Section 1.3. “Articles” means the Articles of Incorporation of The Townes at Monterra Homeowners Association, which are or will be filed in the Office of the Secretary of State of Nevada, as such Articles may be amended.

Section 1.4. “Assessment” means Regular, Reserve, Special, or Special Individual Assessment assessed by the Association against Owners and their Unit in accordance with Article 5 of this Declaration, any of which, except as provided herein, must be equal as to each and every unit affected by the assessment in that each Unit will pay the same dollar amount as each and every other unit upon which the assessment is imposed. A special individual assessment may or may not be equal and any assessment may include additional charges, fees or costs as provided herein.

Section 1.5. “Association” means The Townes at Monterra Homeowners Association, a Nevada nonprofit corporation.

Section 1.6. “Architectural Standards” means the Architectural Standards, Design Guidelines, Design Standards or Architectural Rules as may be established pursuant hereto.

Section, 1.7. “Association Rules” or “Rules” or “Rules and Regulations” means the rules and policies adopted by the Board, pursuant hereto, including any subsequent revisions as they may be amended from time to time. These Rules may include: a) Architectural Rules or Design Standards and Policies; b) Improvement Standards and Policies; or c) standards and policies governing utilization of Common Elements or Limited Common Elements, as the Board may specifically adopt or otherwise develop through its actions, approvals, or conditions over time so long as the membership is routinely informed at least thirty (30) days prior to any enforcement action in writing and the standards and policies are adequately stated in the minutes of the Association relating to the specific action, approval, or condition.

Section 1.8. “Board of Directors” or “Executive Board” or “Board” means the body designated in this Declaration to act on behalf of the Association. The Board may act on behalf of the Association unless any action is specifically reserved to the Members or as required by Chapter 116.

Section 1.9. “Bylaws” means the Bylaws of the Association, including any subsequent revisions as they may be amended from time to time.

Section 1.10. “Capital Improvements” means the construction of a new and not previously existing component, structure or amenity, it does not include the repair, replacement, change, or maintenance of the major components of the Common Elements.

Section 1.11. “Chapter 116” or “NRS 116” means Chapter 116 of the Nevada Revised Statutes as existing and as may be amended from time to time.

Section 1.12. “Common Elements” or “Common Area” means any real estate and the improvements thereon within the Property other than a Unit designated as Common Area or Common Element or Limited Common Area or Limited Common Element on the Map.

Section 1.13. “Common Expense” means any use of common funds authorized hereby and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Elements, Common Facilities, or any portion of any Unit that the Association is obligated to maintain or repair; (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board; (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Elements and Common Facilities or any portion of any Unit that the Association is obligated to maintain or replace, and for nonpayment of any Assessments; (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents; and (e) contractual obligations of the Association; and (f) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration; insurance, operation, repairs, additions, alterations or reconstruction as may be required by this Declaration and/or Chapter 116.

Section 1.14. “Common Facilities” means landscaping, fences, utility lines, pipes, irrigation systems, common area lighting fixtures, structures, and other facilities or improvements defined herein constructed or installed, to be constructed or installed, or currently located within the Common Elements and owned by the Association.

Section 1.15. “Declaration” means this Amended and Restated Declaration of Covenants, Conditions and Restrictions of The Townes at Monterra Homeowners Association, recorded in the Office of the County Recorder of Douglas, Nevada as the same may be amended from time to time.

Section 1.16. “Design Standards” means the Design Standards established pursuant to Section 8.4.

Section 1.17. “Director” means a member of the Association’s Board of Directors.

Section 1.18. “Governing Documents” is a collective term that means and refers to this Declaration, the Articles, Bylaws, Association Rules, Design Standards, and the policies and resolutions adopted by the Board and distributed to the Members and other document referenced in NRS 116.049 or superseding statute.

Section 1.19. “Improvement” means an alteration of the real property comprising the Property or any portion thereof and includes, but is not restricted to, any building, structure, shed, driveway, parking space or parking area, paving, walk, fence, wall, stair, arbor, deck, pole, sign, tank, ditch, swimming pool and apron areas, pool storage and pump house, landscaping (including trees, hedges, plantings, lawns, shrubs), landscape structures, berms, fencing, pond, solar heating equipment, antennas, utilities, utility lines, gates, statues, markers, pipes, lines, lighting fixtures, and any structure of any kind. In no event shall the term improvement” be interpreted to include projects which are restricted to the interior of a Unit and which do not involve the roof or any load-bearing wall thereof.

Section 1.20. “Lien” means the lien created and perfected by the recordation of the Declaration.

Section 1.21. “Limited Common Element” or “Limited Common Area” means the portion of the Common Elements identified on the Map as “Limited Common Area” or “Limited Common Element,” which is adjacent to a Unit for use exclusively by that Unit. Maintenance and repair of Limited Common Area is the obligation of the Unit Owner who has the exclusive use of the area.

Section 1.22. “Maintenance” means the exercise of reasonable care to keep buildings, landscaping, lighting, Units, Common Elements, Common Facilities, Limited Common Elements, Improvements, residences, and/or real or personal property in which the Association or an Owner holds an interest in a state similar to their original condition, normal wear and tear excepted.

Section 1.23. “Map” means the Final Map of Monterra Phase 3a, recorded as Document No. 2019-938681 in the Douglas County, Nevada Recorder’s Office, together with any subsequently recorded subdivision maps that create parcels subject to this Declaration, which may be annexed to the Property.

Section 1.24. “Member” means an “Owner” as defined below. When more than one person is an Owner of a Unit, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Unit or more than one Member of a Unit be eligible to serve on the Board of Directors. Member rights may be temporarily suspended under those circumstances described herein.

Section 1.25. “Mortgage” means any security device encumbering all or any portion of the Property, including any deed of trust. The terms mortgage and deed of trust may be used interchangeably. “First Mortgage” means a mortgage having priority over all other Mortgages (except as provided herein and by law). “Mortgage Lien” means the lien or charge or equivalent security interest of any mortgage or deed of trust. “Mortgagor” shall refer to the trustor under a deed of trust, as well as a mortgage. “Mortgagee” shall refer to a beneficiary under a deed of trust

as well as to a mortgagee in the conventional sense. "First Mortgage" means any person or entity, including, but not limited to, banks, savings and loan associations, insurance companies and other financial institutions, holding a recorded mortgage which constitutes an encumbrance upon one or more Units first in priority of lien over all other encumbrances upon said Unit(s) securing payment of money other than pursuant to this Declaration and liens for real estate taxes and government assessments.

Section 1.26. "Owner" means a "Unit's Owner" as defined in NRS 116.095 or superseding statute. "Owner of Record" and/or "Member of the Association" includes an Owner and means any person, firm, corporation, trust, limited liability company, or other entity in which title to a Unit is vested according to Association records.

For purposes of requiring compliance with the obligations hereunder and where the context requires, and not to change the preceding paragraph, the term "Owner" includes, the Owner's family, contract purchasers if such contract is recorded, lessees, tenants, servants, employees, guests, invitees, and licensees.

Section 1.27. "Person" means any individual, corporation, partnership, association, or other entity recognized by the laws of the State of Nevada.

Section 1.28. "Property" means the real property and improvements described in Exhibit A.

Section 1.29. "Regular Assessment" means an Assessment levied on Owners and their Units based on the annual budget adopted by the Board.

Section 1.30. "Reserve Account" means the account in which reserve funds are held separate and apart from Association operating funds.

Section 1.31 "Reserve Assessment" means a portion of the Regular Assessment designated to fund the Reserve Account re repair and replacement of Common Elements.

Section 1.32. "Residential Use" means occupation and use of a Unit for residential dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning ordinances or other applicable laws or governmental regulations.

Section 1.33. "Separate Interest" means that interest described in each Owner's deed.

Section 1.34 "Special Assessment" means an Assessment levied on Owners and their Units in accordance herewith.

Section 1.35. "Special Individual Assessment" means an Assessment made against an Owner and his or her Unit in accordance herewith.

Section 1.36. "Unit" means the horizontal plotted areas of the Property designated for separate ownership or occupancy on the Map, the boundaries of which are as described on the Map.

ARTICLE 2: OWNERS' PROPERTY RIGHTS & OBLIGATIONS.

Section 2.1. Elements of Separate Interest. Ownership of each Separate interest within the Property includes:

- (a) **Unit.** A separate Unit as defined, depicted and described herein.
- (b) **Garage Parking.** Parking designated for the use of Members within their property
- (c) **Limited Common Elements.** The area designated on the Map adjacent to a Unit as Limited Common Area or Limited Common Element for that Unit.
- (d) **Furnaces, hot-water heaters and air conditioners.**
- (e) **Slab on Grade Foundations.**
- (f) **Nonexclusive Easements.** Nonexclusive easements appurtenant to the Unit for the use and enjoyment of the Common Elements as configured at the time of purchase and from time to time by action of the Association.

Section 2.2. Owners' Nonexclusive Easements of Enjoyment to Common Elements. Subject to the provisions of this Declaration, the Common Elements shall be held, maintained and used to meet the common interests of the Owners as provided in the Governing Documents. There shall be no use of the Common Elements except by the Owners or as may be delegated by Owners pursuant hereto.

(a) **Limitations on Nonexclusive Easements.** Every Owner (and Owner's Family, Resident contract purchasers, lessees, tenant & and/or guests) shall have a nonexclusive right and easement of enjoyment in and to the Common Elements, including ingress and egress to and from the Owner's Unit, which shall be appurtenant to and shall pass with the title to every Unit, subject to the following rights and restrictions.

(i) The right of the Association to adopt Rules as provided herein, regulating the use and enjoyment of the Property for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to temporarily suspend the voting rights and/or right to use the Common Facilities, by any Owner and/or the Owner's tenants and guests, subject to compliance with the due process requirements of NRS 116. The Association may limit access to Common Areas for safety reasons, for example areas that house technical and mechanical elements of the Property.

(ii) The right of the Association, in accordance with this Declaration, and/or the Association's Articles and Bylaws, to borrow money, which may or may not be secured and/or supported by an assignment to future income, for the purpose of improving, restoring or maintaining the Common Elements and Common Facilities and/or the interests of the Owners and/or for the benefit of the Association, and in aid thereof, to mortgage the property; provided, however, that the rights of any such mortgagee in the property shall be subordinate to the rights of the Owners hereunder; and further provided that any such indebtedness shall be considered an expense of the Association for purposes of the Special Assessment provisions hereof.

(iii) The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless an instrument, approved by at least two-thirds of the voting power of the Members, consenting to such dedication or transfer has been recorded. Furthermore, no dedication shall be permitted that impairs the ingress and egress to any Unit.

(iv) The non-exclusive easements granted herein shall be subordinate to and shall not interfere with exclusive easements, if any.

(v) The right of any Owner to the full use and enjoyment of any mechanical or electrical service connections as may serve the Owner's Unit in conjunction with other Units within the Property. The Owner of each Unit served by a sanitary sewer, water, gas, electric, telephone, television line or connection, heating or air conditioning conduit, duct, flue, or system, or similar utility/service connection shall be entitled to the full use and enjoyment of such portions of said connections as service Owners' Unit subject to terms and conditions hereof.

(vi) The right of the Association, by action of the Board, to charge reasonable admission, use and/or other fees for the use of the Common Elements or any portion thereof.

(vii) The right of the Association, by easement or through this Declaration, of access into or on the Limited Common Elements for their maintenance, repair, replacement, connection or maintenance of utilities or services, health or safety concerns, emergencies, the ability of neighbors to connect utilities or services, or for any other Association purpose.

(b) Waiver of Individual Owner's Right to Sever. No Owner, or other person, may by conveyance, transfer or any other action, including an action at law for partition, sever any Unit or Units from the Common elements or from the Association. Each Owner, by acceptance of a deed to a Unit hereby expressly waives all rights to do so.

Section 2.3. Persons Subject to Governing Documents. All present and future Owners, tenants, lessees, contract purchasers and/or occupants of Units within the Property (on behalf of themselves, their family, guests, tenants, invitees, agents, servants, employees, licensees and/or any other persons that might use the facilities of the Property in any manner, etc.) shall be subject to, and shall comply with the Governing Documents, as the same or any of them shall be

amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, tenants, invitees, etc.).

The mere accepting of a deed to any Unit; the entering into a lease, sublease or contract of sale with respect to any Unit; the occupancy of any Unit; and/or the acceptance of any guest pass shall constitute the consent and agreement of such Owner, tenant, occupant, guest and/or invitee that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents. It is the obligation of the Owner to ensure that any guest, invitee or other occupant is made aware of the Governing Documents and other conditions imposed by them and their obligation to read and comply with them.

Except as provided herein, the liability and obligation of any Owner for performance of any one and all provisions of the Governing Documents with respect to any Unit shall terminate upon the sale, transfer, or other divestiture of such Owner's entire interest in that Unit with respect to obligations arising hereunder from and after the date of such divestiture.

Section 2.4. Delegation of Use.

(a) Delegation of Use and Membership Rights and the Leasing or Sale of Units. Any Member who delegates use of their Unit or membership rights to guests, invitees, or other occupant, or who leases to or contracts with another person or entity for the use of their Unit shall post or make a copy of the Association Rules reasonably accessible within their Unit for the review by any such person. Unless otherwise restricted by law, every day for which a violation of this Declaration, the Governing Documents, or Association Rules occurs may be considered a continuing violation. Any fine or penalty levied pursuant to this Section shall be considered a Special Individual Assessment as defined herein.

(i) **Assignment of Rights to Family Members.** Any Member may delegate the Member's rights to use and enjoy the Common Elements and Common Facilities to members of the Owner's Family residing at the Property.

(ii) **Use by Invitees and Guests.** The invitees and guests of an Member shall have the right to use and enjoy the Common Elements and Common Facilities. Any such guest or invitee shall be subject to the same obligations imposed on the Member to observe the Governing Documents of the Association.

(iii) **Assignment of Rights and Responsibilities to Tenants/Lessees/Renters; Obligations of Rental Agent.** Any Member who leases or rents the Member's Unit to another person or persons will also ensure that such person or persons to whom are delegated, leased or rented the rights to use and enjoy the Common Elements or the Member's Unit are obligated to comply with the rules and other obligations of Members of the Association, that they have been given a copy of the Association's Rules and Regulations and confirmed that they have received, and agreed to abide by the Rules and Regulations in writing for the Member. Any violation by any such person or persons using or enjoying the Common Elements or the Member's Unit pursuant to any such lease or rental contract shall be deemed to be a violation by

the Member or Unit Owner. The failure of the Member to control any such person or persons using or enjoying the Common Elements or the Member's Unit, or the failure of the person or persons to comply shall be grounds for action by the Board or by Association Management to protect the use and enjoyment of the Property by others by appropriately imposing sanctions or conditions on the Member, or otherwise taking action to enforce the rules of the Association and other corrective action to reduce the effects of the actions of any such person or persons. Members who have leased or rented their Unit may, if they are a Member in good standing, use and enjoy the Common Elements.

(iv) **Obligations of any Member who leases or rents.** Any Member who leases or rents the Member's Unit to another person or persons and has entered into an arrangement with a rental agent will also ensure: a) that such rental agent agrees to make sure that the Governing Documents, regulations, restrictions, Association rules or other conditions imposed upon anyone using or enjoying a Unit or the Common Elements are communicated to or read by any person or persons leasing or renting a Member's Unit; b) that the rental agent will inform any such person or persons that they are required to comply with these rules, restrictions or conditions whether they receive a copy of the Governing Documents or not, and confirm that they have received and agreed to do so by signature of at least one responsible individual; and c) that the rental agent has read and understands the requirements, will have their employees or other agents read and understand the rules, conditions or restrictions imposed on them, and that the rental agent and its employees or other agents agree to keep current on such provisions, and comply with them as confirmed in writing by the rental agent. Any violation by any such rental agent shall be deemed to be a violation by the Member or Unit Owner. The failure of the Member to control any such rental agent, or the failure of the rental agent to comply shall be grounds for action by the Board or by Association Management to protect the use and enjoyment of the Property by others by appropriately imposing sanctions or conditions on the Member, or otherwise taking action to enforce the rules of the Association and other corrective action to reduce the effects of the actions of any such rental agent, or otherwise correct or sanction the rental agent for any such violation.

(v) **Assignment of Rights to Contract Purchasers.** Any Member who has sold that Member's Unit to a contract purchaser evidenced by a contract of sale that has been recorded, may delegate to such contract purchaser Member's rights and privileges of membership in the Association. Such Member shall be deemed to have delegated all rights to use and enjoyment of the Common Elements to a contract purchaser who has assumed occupancy of said Unit. No delegation of any membership rights or privileges to a non-Resident contract purchaser shall be binding, however, until the Board of Directors has been notified in writing pursuant hereto.

Notwithstanding any delegation, until fee title to the Unit has been transferred of record, a contract seller shall remain liable for all assessments, fines and other charges imposed by the Board and for compliance with the Governing Documents by all Residents of Member's Unit.

(b) **Submission of Lease.** All leases and rental agreements shall be in writing, require the tenant to comply with the Governing Documents, provide a copy of Rules and Regulations to be consistent herewith, and state that any failure by a tenant to comply with the terms of the Governing Documents shall be a default under the lease.

(c) **No Timeshare or Interval Ownership Purposes.** No Owner shall offer or sell any interest in any residence under a “timesharing” or “interval ownership” plan as provided in Chapter 119A of the Nevada Revised Statutes. No Owner shall allow transient occupancy of their Unit. Leases of any Unit must provide for terms of no less than six months.

(d) **Discipline of Members for Violations by Lessees Tenants, Renters, and Rental Agents.** An Owner who leases their Unit to any person or entity shall be responsible for assuring compliance by the lessee and any other occupants, or the rental agent, with the provisions of the Governing Documents. In the event that any tenant, lessee, or renter fails to comply with the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances, which may include suspension of the tenant’s, renter’s, or Owner’s privileges to use any Common Elements, except the Owner’s Unit, access thereto and parking attendant thereto, or the imposition of fines and penalties against the Owner or restrictions on the right to rent. If the violation is of any parking rule or restriction, the Association may exercise all lawful rights to tow any vehicle immediately if the vehicle is: (a) blocking a fire hydrant, fire lane or parking space designated for the handicapped; or (b) poses an immediate threat of causing a substantial adverse effect on the health, safety, or welfare of the Unit’s Owners or residents of the Property against tenant, renter or Owner with no obligation of actual notice to the vehicle’s owner. The Association may direct the removal of vehicles pursuant to NRS 487.038, or if improperly parked on any road, street, alley or in violation of the Governing Documents. The Association shall also comply with the provisions of NRS 116.3102(1)(s) or superseding statute.

Any fine or penalty levied pursuant to this Section shall be considered a Special Individual Assessment as defined herein.

(e) **Due Process Requirements for Disciplinary Action.** Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to the Property, or any part thereof, or to preserve the rights of quiet enjoyment of other Owners, the Association shall have no right to impose disciplinary, corrective or other appropriate action against an Owner on account of the misconduct of the Owner’s lessee or tenant unless and until the following conditions have been satisfied:

(i) The Owner has received written notice from The Board or the Association’s community manager detailing the nature of the lessee’s or tenant’s alleged infraction or misconduct and scheduling a hearing on the matter;

(ii) The Owner has been given a reasonable opportunity to take corrective action on a voluntary basis or to appear at a hearing

(iii) If such voluntary action is insufficient to correct the violation or misconduct, the Member/Owner has the right to a hearing.

In the case of a violation of health or safety, or other emergency, appropriate action can be taken prior to a hearing so long as a hearing is conducted as soon as practicable thereafter.

(f) Association Rules. The right of any person to use and enjoy the Common Elements, Limited Common Elements, and Common Facilities shall at all times be subject to the Governing Documents. With the exception of the right of use of any vehicular or pedestrian ingress or egress to go to and from the Unit, including any area used for parking, the Board shall have the right to impose monetary penalties or to suspend the use and enjoyment of any Common Elements and Common Facilities for the failure of a Member to pay any Assessments when due under the Declaration, or to comply with any other rule or regulation imposed upon such Member pursuant to the Governing Documents; provided, however, that any such suspension shall be imposed only after such person has been afforded the notice and hearing rights more particularly described herein.

Any fine or penalty levied pursuant to this Subsection shall be considered a Special Individual Assessment as defined herein.

Section 2.5. Obligations of Owners. Owners of Units shall be subject to the following:

(a) Maintenance by Unit Owner. As provided herein, each Unit Owner shall have the exclusive right and obligation at his sole cost and expense to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the interior ceilings, floors and the perimeter walls of his Unit and surfaces of the bearing or other walls located within the Unit and the surfaces of any other finishes owned by the Unit Owner. The Owner shall have the exclusive right to substitute new finished surfaces for the finished surfaces then existing on interior ceilings, floors and walls, including, substitution to paint for paper or paper for paint, substitution of any type of paneling for plaster or plaster for paneling, substitution of tile for paneling or paneling for tile, substitution of work for linoleum or tile, or linoleum or tile for wood. Owners and their agents have the exclusive right to maintain, repair, paint, finish, alter, substitute, add or remove any fixture attached to the ceilings, floors or walls. This paragraph shall not be construed as permitting any interference with or damage to the structural integrity of the building. Any other proposed change regarding any limited common element, floor, ceiling, roof, or any wall, whether interior or not, whether believed to be load bearing or not, will require submission of such proposed change to the Association and no changes may be made without written approval. After obtaining written approval from the Association, the Unit Owner shall be responsible for obtaining governmental approval for all such changes and they must comply with the then-applicable building code. All such changes shall be the sole responsibility of the Owner for maintenance, repair and damages resulting therefrom. If any change or alteration creates any instability or damage, the Association shall require the original condition be restored at the sole discretion of the Board of Directors and at the sole expense of the Owner. Maintenance which may be noisy and disrupt a neighboring Unit may be conducted only between the hours of 7am and 9pm.

(b) Maintenance by Association. The Association shall maintain the Common Elements, Common Area Open Space, and Common Facilities, the landscaping, the exteriors (including roofs), and the foundations of the residence buildings, and shall engage and pay for all labor and materials as may be reasonably necessary for such maintenance. The

Association and such persons as may be engaged by the Association for maintenance purposes, shall have the right to enter upon the exteriors of any improvements for the performance of maintenance or repairs, but they shall not have the right to enter a Unit without permission of the Owner of such Unit, except as otherwise provided herein.

(c) Owner’s Duty to Notify Association of Tenants & Contract Purchasers.

(i) Sale. Contemporaneously with the closing of any sale or other transaction which results in a change in the record ownership of the fee interest in a Unit, the transferring Owner or Owners, or an authorized agent thereof, shall provide the following information to the Association:

- (A) The name of each transferor and transferee;
- (B) The Unit number of the Unit to be transferred;
- (C) The mailing address of each transferee;
- (D) The name and address of the escrow holder, if any, for such transfer and the escrow number; and

(ii) Lease. Contemporaneously with (and in no event more than five days after) the execution of a lease or rental agreement, the Association shall be provided the following information in writing on a form provided by the Association:

- (A) The name of each lessor and each lessee;
- (B) The Unit number of the Unit to be leased;
- (C) The mailing address of each lessor (whether an Owner or prior lessee);
- (D) The commencement and termination dates of the lease;
- (E) The names of all persons who will occupy the Unit under the lease;
- (F) The makes and models of all vehicles to be used by the persons who will occupy the Unit under the lease; and
- (G) Other information reasonably requested or designated from time to time.

(iii) Short Term Leases. Owners shall not be permitted to lease their Unit pursuant to short term leases or to permit their Unit to be used as a vacation rental. For purposes of this Declaration, any lease of less than six (6) months shall be an impermissible short term lease.

(iv) Effect of Failure to Notify. In addition to other penalties within this Declaration, until such time as the Association receives the notification required in Subsections (i) and (ii), above, a transferee or lessee shall be deemed to have received any and all notices or other communications required or permitted to be given by the Association hereunder which are duly provided to the transferor or lessor.

(v) **Contract Purchasers.** A contract seller may delegate the seller's Member rights, including voting rights. Notwithstanding any delegation of rights to the contract purchaser, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the unit sold has been transferred to the purchaser.

(vi) **Fines and Fees.** The Board has the power to adopt Association Rules consistent with this Declaration relating to enforcement of these notice requirements and/or to impose penalties, including fines, for failures to give timely notice or to enforce the Governing Documents against renters. The Board may also charge a reasonable Fee to set off the administrative costs related to changes of possessory interests such as rentals.

(d) Notification Regarding Governing Documents.

(i) As more particularly provided in NRS 116.4109, and except as provided by NRS 116.4101, an Owner must furnish a purchaser before execution of any contract for sale of a Unit:

- (A) A copy of the Governing Documents and the information statement required by NRS 116.41095;
- (B) A statement setting forth the amount of the Regular Assessments, Special Assessment, Reserve Assessment, Special Individual Assessment, and any unpaid assessment of any kind currently due from the selling Owner;
- (C) The current operating budget and/or reserve budget of the Association and a financial statement for the Association;
- (D) A statement of any unsatisfied judgments or pending legal actions against the Association and the status of any pending legal actions relating to the Association of which the selling Owner has actual knowledge; and
- (E) Any violations that are outstanding.

(ii) The Association must provide a statement, within ten (10) days after a written request by an Owner setting forth the amount of unpaid Assessments against the Unit. The Association may charge additional fees if requested to provide the information on less than ten (10) days' notice.

(e) Payment of Assessments and Compliance with Association Rules. Each Owner shall pay when due each Regular, Reserve, Special and Special Individual Assessment levied against the Owner and his or her Unit and shall observe, comply with and abide by any and all Governing Documents for the purpose of protecting the interests of all Owners or protecting the Common Elements and Common Facilities.

(f) Responsibility for Conduct of Others. Owners are fully responsible for informing members of their Family, contract purchasers, lessees, tenants, renters, rental agents, servants, employees, guests, invitees and/or licensees of the provisions of the Governing Documents and shall be fully responsible for any violation of the provisions of the Governing

Documents by members of Owner's Family, contract purchasers, lessees, tenants, renters, rental agents, servants, employees, guests, invitees and/or licensees. Each Owner shall further be fully responsible for the conduct and activities of Owner's pets and the pets of Owner's Family, contract purchasers, lessees, tenants, renters, rental agents, servants, employees, guests, invitees and/or licensees.

(g) Indemnification for Damage & Injury. Owners are liable to the remaining Owners and the Association for any damage to the Common Elements or Limited Common Elements that result by reason of the willful misconduct, or negligent act or omission of the Owner, Owner's Family, contract purchasers, lessees, tenants, renters, rental agents, servants, employees, guests, invitees, or licensees (to the extent any such damage is not covered by insurance or subject to a deductible). Each Owner, Owner's Family, contract purchasers, lessees, tenants, servants, employees, guests, invitees, and licensees, shall indemnify each and every other Owner and/or the Association against, and hold them harmless from, and defend them against, any claim of any person for personal injury or property damage occurring within the Property due to the willful misconduct, negligent act or omission Of the Owner, Owner's Family, contract purchasers, lessees, tenants, servants, employees, guests, invitees, or licensees, unless the injury or damage incurred is fully covered by insurance. Any deductible or uncovered loss is the responsibility of the Owner.

Each Owner, by acceptance of his or her deed, agrees personally and for Family members, contract purchasers, tenants, guests, and invitees, to indemnify each and every other Owner, and the Association and to hold such Owner(s) and the Association harmless from, and to defend them against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, including Limited Common Elements, if any, except to the extent (i) that such injury or damage is covered by liability insurance in favor of the Association or other Owner or (ii) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or another Owner.

(h) Discharge of Assessments. Each Owner shall promptly pay any Assessments that are due and such assessments constitute a lien against his or her Unit.

(i) Joint Ownership of Units. In the event of joint ownership of any Unit, the obligations and liabilities of the multiple Owners are joint and several. Without limiting the foregoing, this Subsection shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.

(j) Prohibition on Avoidance of Obligations. No Owner, by non-use of the Common Elements or Common Facilities, renunciation or abandonment of the Owner's Unit, any other act of renunciation or abandonment or otherwise, may avoid the burdens and obligations imposed on such Owner (by virtue of being an Owner or Association Member) by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Unit pursuant to this Declaration. Nor may any Owner divest itself of any such burden or obligation by attempting to assign responsibility therefore to a tenant, manager or any third person.

Any outstanding or unpaid Assessment, obligation, lien, charge, fee, cost, amount

due or other responsibility of Owner, whether monetary or not, shall be fully paid out of the proceeds of sale of the applicable Unit, for which the Member specifically agrees to and authorizes deduction and payment from such proceeds to the Owner/Member, unless fully satisfied prior to the close of escrow, or is otherwise resolved in a manner acceptable to the Association. This Declaration specifically grants a right to instruct the Member's escrow agent, for which the Member's assent will not be withheld to accomplish such deduction and payment to the Association.

(k) Obligation To Permit Entry by Association and/or Adjacent Owners.

Each Owner shall be obligated to permit the Owners of adjacent Units to enter the Owner's Unit for purposes of performing installations, alterations or repairs to mechanical or electrical services which are reasonably necessary for the use and enjoyment of his or her Unit, provided that the adjacent Owner furnishes the Owner whose Unit is being entered upon with at least seventy-two (72) hours written notice of their intent to enter the Unit, specifying the purpose and scheduled time of such entry and shall make every reasonable effort to perform the use and schedule the entry in a manner that respects the privacy of the Residents of the Unit and the convenience of the Owner of the Unit. Notwithstanding the foregoing, if an alteration or repair to mechanical or electrical services is necessary to avoid imminent harm to the safety, welfare, or health of any person occupying adjacent Units or to any Unit, reasonable access shall be granted to allow such alteration or repair without advance notice. Each Owner shall also honor the right of the Association and its agents to enter Units as provided herein.

(l) Termination of Obligations.

Upon the conveyance, sale, assignment or other transfer of a Unit to a new Owner, the transferring Owner shall not be liable for any Assessments levied with respect to such Unit which become due after the date of recording of the deed evidencing the transfer and, upon such recording, all Association membership rights possessed by the transferor by virtue of the ownership of the Unit shall cease.

Section 2.6. Transfer or Conveyance of Unit Terminates Obligations. Except as allowed by law, and to the fullest extent allowed, upon the conveyance, sale, assignment or other transfer of a Unit to a new Owner, the transferring Owner shall not be liable for any Assessments levied with respect to such Unit after the date of recording of the deed evidencing the transfer. No person, after the termination of the person's status as an Owner and prior to the person again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under this Declaration except as provided by law. The conveyance of a Unit to a new Owner will not extinguish any obligations of the transferring Owner for unpaid Assessments that were levied against the Unit prior to the subject transfer.

Section 2.7. Ownership of Common Elements. The Association shall own all Common Elements and Common Facilities.

ARTICLE 3: RESTRICTIONS & USE OF PROPERTY.

In addition to the restrictions established by law or set forth in the Governing Documents, the following restrictions are hereby imposed upon the use of Units, and/or Limited Common Elements, and/or Common Elements within the Property.

Section 3.1. Residential Use. Each Unit shall be used exclusively for residential purposes except as specifically provided herein. A Unit may not be occupied by more than eight (8) individuals.

Section 3.2. Restriction on Businesses. No business of any kind shall be established, maintained, operated, permitted or conducted within the Property except home offices and/or such professional or administrative businesses provided, however, that there shall be no posted external evidence of such business/home office (i.e., no signs, no increased pedestrian and/or vehicular traffic, activities are not apparent or detectable by sight, sound or smell from outside of the Unit, activities do not increase Association's insurance obligations and/or premiums, and/or activities are not inconsistent with Residential nature of the Property). Even if allowed by local ordinances, no day care shall be allowed.

Section 3.3. Offensive Conduct, Nuisance, Obstructions, or Hazards. The following activities are prohibited and shall not be performed on, upon or within the Property:

(a) Activities which are noxious, harmful, or offensive as determined by the Board;

(b) Activities which are nuisances, harassment, annoy or cause unreasonable embarrassment, disturbance or annoyance to any Residents of the Property, Owners, Board Members and/or Association agents, service providers and/or employees or which shall, in any way, interfere with Residents' use and enjoyment of their Units, Limited Common Elements, and/or the Common Elements and facilities thereon. When determining if any activity is a nuisance, the Association may or may not adopt Rules establishing such activities and in any event, shall exercise reasonable discretion based on an objective standard of what is normally and usually considered to be a nuisance or a material impact which reduces any other Member's right or rights of use or enjoyment of their Unit or the Common Elements;

(c) Activities which will increase the rate of insurance or result in the cancellation of insurance under any insurance policy obtained by the Association;

(d) Activities which are in violation of any governmental statute, ordinance, rule and/or regulation, including specifically the brandishing and/or discharging of firearms within the Property;

(e) Use of machinery or equipment of any kind, except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private residence or appurtenant structures within the Property;

(f) Activities which will obstruct entranceways or vehicular driveways located in or upon the Property or interfere with the free use thereof, except such obstruction as may reasonably be required in connection with repairs and maintenance;

(g) Activities which impede, alter or otherwise interfere with the drainage patterns or facilities in, over, under, across and through the Property, without the prior written consent of the Association;

(h) Activities or conditions which would induce, breed, or harbor infectious plant diseases, noxious insects, rodents and/or vermin;

(i) Any excavation, improvement or work which in any way alters any Common Elements, Limited Common Elements or Common Facility from its existing state on the date such Common Element, Limited Common Element or Common Facility was originally constructed shall not be made or done except by the Association and; then, only in strict compliance with the provisions of the Governing Documents;

(j) Emission of unreasonable levels of exhaust fumes and/or noise and/or the parking, keeping and/or storage of dilapidated, unlicensed, non-operational and/or disabled vehicles;

(k) Division of Units in any manner, including into two or more apartments;

(l) Any improvement or alteration without all required governmental permits and approvals or other-actions; and

(m) Any violation of the Rules or other governing documents of the Association.

Without limiting any of the foregoing, no Owner or other resident shall cause and/or permit noise, sound(s) or sight(s) which would unreasonably disturb another's enjoyment of his or her Unit and/or the Common Elements.

Section 3.4. Regulation of Owner Activity. In order to promote the Owners' use and enjoyment of the Property and the esthetic and recreational purposes thereof, the Association, in its Rules, shall be entitled to set forth provisions that regulate or limit, subject to legal limitations, activities within the Property, including specifically any of the following:

(a) The rights of Owners (and Owner's Family, contract purchasers, lessees, tenants, renters and/or guests and invitees) to use portions of the Common Elements or Limited Common Elements;

(b) The number of guests each Owner may allow to use the Common Elements, including, but not limited to, recreational facilities and parking spaces;

(c) . No tin foil, sheets, or other "non-window" covering shall be placed on the inside of any windows except as approved by the Board. Standardized interior window treatments in neutral colors, including blinds and shutters intended for such use are allowed without additional Board approvals. No addition, alteration or modification to the exterior of a Unit, including but not limited to, shutters, may be installed by a Unit Owner unless prior written authorization is received in accordance with any rules or regulations adopted by the Board;

(d) The decorations, furnishing, landscaping or embellishment of Units that are visible to the Common Elements and/or another Unit. Deck enclosures are not permitted without Board approval; standard provisions and guidelines will be established for seasonal decorations.

(e) The placement or display of signs of any kind on or from any Unit or the Common Elements. However, the Association shall not prohibit such signs as are allowed by law. No Owner may place signs in or on the Common Elements;

(f) The display or flying of flags, windsocks and/or similar items within the public view from any portion of the Property, except that this limitation shall not prohibit or prevent the flying of a flag of the United States, as specifically allowed by law;

(g) The erection, construction, maintenance or placement of any radio, fiberoptics and/or electronic receiving and/or broadcasting service, including antennas, wiring or other means and/or any electrical, telephone or other wiring or similar items on the exterior of any Unit or any part thereof, except to the extent required to be allowed by state or federal law or as appropriate to allow common connection or reduced number of antennas or reception facilities attached to or on the Common Elements as may be determined in the sole discretion of the Board. There shall be no right of an Owner to require the Board to exercise its discretion;

(h) The erection, construction, maintenance or placement of any television service and/or wireless Internet service in Units or the Common Elements, however, antennas, masts, towers, poles, and satellite dishes, except to the extent required to be allowed by law, shall not be erected on or affixed to the exterior of any Unit or in the Common Elements or Limited Common Elements.

(i) The erection, placement or maintenance of outbuildings, tents, shacks, sheds, trailer or other temporary building of any kind;

(j) The keeping, maintaining or breeding of animals, including, but not limited to, livestock, reptiles, domestic dogs and cats, rodents or birds. The Board may adopt reasonable limitations on the number of domestic dogs, cats and other customary household pets that may be maintained in a Unit, provided that the dogs, cats, or other household pets are not kept, bred, or maintained for any commercial purposes. The Board may adopt size or other reasonable limitations. Service dogs are allowed in compliance with State and Federal laws.

While in the Common Elements, all dogs must be on a leash or otherwise controlled by a responsible person. Pet owners are responsible for the removal and/or proper disposal of their pets' bodily wastes and while in the Common Elements must always have a bag or utensil with them to remove or dispose of the waste. No pets are permitted to live in or on any deck or porch.

The Association has the right to prohibit the maintenance or presence of any animal within the Property which, after notice and hearing in compliance with Article 14, is found to be a nuisance to and/or threat to the safety of other Owners/Residents. In particular, no aggressive, dangerous and/or attack trained dogs or animals are permitted in the Property.

Any person whose pet or animal causes injury to another Owner or guest shall be solely liable to such Owner or guest and shall indemnify the Association for any responsibility or damages, including attorney fees and costs, arising out of any such incident or occurrence.

(k) The use of power equipment, hobby/shop and/or wood-working equipment within the Property provided that this use is inside the Member's Unit, within reasonable hours, and without undue noise or nuisance to neighboring Unit Owners; and

(l) Modification or improvement of the Member's Unit or related Limited Common Elements. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth herein and enforcement as a Special Individual Assessment.

Section 3.5. Parking Enforcement & Vehicle Maintenance. As long as applicable ordinances and laws are observed, including but not limited to NRS 116.3102(l)(s), NRS 487.038 or comparable superseding statute, the Association may cause the removal of any vehicle which is in violation of the Governing Documents. Owner's vehicles, or those of their Tenant's, shall be parked and maintained within the two-car garages provided with each Unit. Owner or Tenant parking is not allowed in designated guest parking areas. Guests may park in designated guest parking areas or on public streets surrounding the Property. No parking is allowed on the private drive aisles within the Property. Guests may not occupy a guest parking space for more than three (3) consecutive days and/or nights.

The Association shall set aside such private roads and driveways as are necessary to provide vehicular access from such parking spaces and garages to any public road, including the traffic directions or other conditions on such roads. Each parking space shall be of suitable size for the parking of one automobile, and designated so as to provide maneuvering of automobiles in such a way that the automobiles may leave the parking area to enter any road in a forward direction. Each parking space may be used only for the parking of vehicles and objects as shall be permitted by the Rules, so long as the vehicle can fit within the dimensions of the parking space. The use of parking areas, roads, and driveways shall be subject to such rules as the Association may adopt. The Association may adopt rules and regulations to control parking in anyway the Board deems appropriate.

No vehicle may be parked within the Property except within parking areas designated by the Association. Owners may not park non-passenger vehicles, campers, trailers (of any kind), boats, recreation vehicles, commercial vehicles, or other vehicles within the Property, except where required temporarily for deliveries, the construction, repair, refinishing, or maintenance of any part of the Property or for moving furnishing, equipment, or supplies into or out of the Property. However, such temporary parking is prohibited if it would prevent residents from parking their passenger vehicles in their parking space, or parking area designated by the Association.

The cost of maintaining the roads, driveways and all parking spaces within the Property shall be paid by the Association.

Section 3.6. Owner Improvements. No Owner may make any alterations or modifications to the exterior of the Units, to any Limited Common Element, windows or doors without the prior written consent of the Association and all proper governmental and Association approvals, including the fulfillment of any conditions imposed to the satisfaction of the Association. Under no circumstances shall any Owner undertake any activity or work with respect to the Owner's Unit or any Limited Common Element that will impair the noise-carrying capacity, structural soundness or integrity of the Common Elements and/or another Unit.

Section 3.7. Termination of Mechanics' Lien Rights and Indemnification. No labor performed or materials furnished to and incorporated in a Unit with the consent or at the request of the Owner thereof, Owner's Family, lessees, tenants, renters or contract purchasers, or any of their agents, contractors, or subcontractors, shall be the basis for filing a lien against the Unit of any other Owner if said Owner has not expressly consented to or requested the labor performed or materials furnished, or against the Common Elements.

Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the Common Elements for construction performed, or for labor, materials, services, equipment, or other products incorporated into the Owner's Unit, at such Owner's request or with its consent.

The provisions of this section shall not apply to any labor performed or materials furnished at the request of the management agent or the Board. The Association shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed or to which materials were furnished, through Special Individual Assessments against said Unit, the amount necessary to discharge any such lien, including all costs incident thereto, or to reimburse or indemnify any other Owner affected by any such lien to the extent known to the Association or otherwise made known to it by request of the other affected Owner.

Section 3.8. Trash Disposal. All trash, garbage, accumulated plant waste material, refuse, rubbish and debris shall be kept only in containers (wheeled totes) provided by the Town of Minden. Owners shall contract with the Town of Minden for weekly refuse/trash disposal. No Owner or Resident shall permit or cause garbage, trash or other waste to be kept upon any portion of the Property, except in such containers. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and Improvements) shall be removed from the Property to a public dump or trash collection area by the Owner, guest or invitee, tenant, renter at the Owner's own expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed in a manner inconsistent with this section. All trash shall be maintained within the Units in trash receptacles or bins provided by the Owner of each unit, Garbage collection totes are to be stored in garages until the weekday designated by the Town of Minden for trash collection within the community. On the weekday designated for such trash collection, the totes provided by the Town of Minden shall be placed in the designated spot for collection by the Town of Minden.

Section 3.9. Variances. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration. In considering and acting upon any request for a variance, the Board shall follow the procedures set forth in Section 8.9 for the granting of architectural variances.

Section 3.10. Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and other Residents with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action, the Owner responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the non-complying condition, request that the Owner or tenant correct the condition within a reasonable time specified in the notice, and advise the Owner or tenant of his or her appeal rights. However, the Board shall have the discretion to decide whether or not it is in the Association's best interest to pursue any enforcement action, including taking into consideration the potential benefits to the Association (and/or its Members) resulting from any such enforcement action as compared with the anticipated financial costs and may decide that analysis of these factors requires immediate or quick corrective action. In the event that corrective action is necessary and it is not practical or timely to give written notice to solve the problem in that health, safety, public appearance or other need makes earlier action necessary, the Association may act so long as written notices given as soon as possible to the Owner and a hearing is allowed in a reasonable time shortly thereafter.

Section 3.11. Neighboring Agricultural Uses Not a Nuisance. Douglas County has declared it a policy to protect and encourage agricultural operations. If your property is located near an agricultural operation, you may at some time be subject to inconvenience or discomfort arising from agricultural operations. If conducted in a manner consistent with proper and accepted standards, these inconveniences and discomforts do not constitute a nuisance for purposes of the Douglas County Code.

ARTICLE 4: HOMEOWNERS ASSOCIATION.

Section 4.1. Association Membership. Every record Owner of a Unit is a Member of the Association. The Owner(s) of a Unit will hold jointly one membership in the Association for each Unit owned. The membership will be appurtenant to each Unit and may not be separated from ownership of the Unit to which it relates. Persons who hold an interest in a Unit merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Unit Through foreclosure or deed. Lessees who are delegated rights of use do not thereby become Members, although the lessee and members of the lessee's family will, at all times, be subject to the provisions of all Governing Documents.

Each Owner will remain a Member of the Association until their ownership in every Unit in the Property ceases, at which time their membership in the Association will automatically cease.

Membership in the-Association will not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Unit to which it is appurtenant and then only to the purchaser. In the case of a sale, membership passes automatically to the purchaser upon recording of a deed evidencing transfer of title to the Unit.

Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of their Unit, the Association will have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller will be null and void.

Section 4.2. Voting. Only Members and Owners in Good Standing will be entitled to vote, and only one vote may be cast for each Unit owned by said Member, as more particularly set forth in the Bylaws. When more than one person holds an interest in any Unit, all such persons will be Members, although in no event may more than one vote be cast with respect to any Unit and only one person may be a member of the Executive Board. Voting rights may be temporarily suspended under those circumstances described herein.

Section 4.3. Powers and Authority of the Association.

(a) Powers Generally. The Association and its Board will have the responsibility of managing and maintaining the Common Elements and Common Facilities and will discharge all duties and responsibilities imposed on the Association by the Governing Documents and applicable law. In the discharge of such responsibilities and duties, the Association and its Board will have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of Nevada, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents and NRS 116.

The Association and its Board will have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon will be as set forth in this Declaration and Chapter 116.

(b) Association's Limited Right of Entry. The Association will have the right, when necessary, to enter any Unit or Limited Common Element, to perform the Association's obligations under this Declaration, including: (i) exterior maintenance or repair obligations; (ii) obligations to enforce the architectural and land use restrictions of Article 3 and Article 8 hereof; (iii) any obligations with respect to construction, maintenance and repair of adjacent Common Elements, Common Facilities, utilities and/or other services; or (iv) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association properly or the Owners in common.

The Association's rights of entry under this subsection (b) is immediate in case of an emergency originating in or threatening the Unit where entry is required, or any adjoining Units or Common Elements, and the Association's work may be performed under such circumstances

whether or not the Owner or Owner's lessee is present. In all non-emergency situations, the Association must furnish the Owner or Owner's lessee with at least seventy-two (72) hours written notice or other method authorized by law of the Association's intent to enter the Unit, specifying the purpose and scheduled time of such entry and will make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing within the Unit.

The Association's rights of entry under this subsection (b) will expressly include the right to transfer said rights of entry to others (including, but not limited to employees, contractors and/or service providers retained by the Association) by permit, license, easement, or otherwise, for the benefit of the Property and the Owners of Units therein.

(c) Association as Attorney-in-Fact for Owners. Without limiting the generality of the foregoing, the Association is hereby irrevocably appointed as the attorney-in-fact for the Owners of each and every Unit to (i) manage, control and deal with the interest of such Owners in the Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder; (ii) deal with the Property upon its destruction or obsolescence as hereinafter provided; and (iii) deal with and handle insurance and insurance proceeds, as provided herein, and condemnation and condemnation awards, as provided herein. The acceptance by any person or entity of any interest in any Unit will constitute an appointment of the Association as the Owner's attorney-in-fact as provided above.

Section 4.4. Executive Board. The affairs of the Association will be managed by or under the direction of the Board of Directors. The number and qualifications of the Directors will be as established in the Bylaws. Directors must be Members.

(a) Powers of the Executive Board. The Board of Directors will have all of the powers and duties set forth in the Governing Documents and Chapter 116, including:

(i) **Exclusive Power.** Except as expressly otherwise provided herein, the powers and duties of the Association which the Governing Documents do not reserve to the Members will be exclusively exercised and performed by the Executive Board (or such Committees or officers as the Board may establish, elect or appoint pursuant to the provisions of the Bylaws). Any power to be exercised or duty to be performed by the Association may not be exercised or performed by any Owner without the written consent of the Board of Directors.

(ii) **General Powers of the Executive Board.** Without limiting any powers of the Board of Directors conferred elsewhere in the Governing Documents or Chapter 116, the Board will have the following powers.

(A) To call meetings of the Members.

(B) To appoint and remove at pleasure all officers, committees or committee members, agents and employees of the Association, prescribe their duties, fix their compensation, and may require of them such fidelity bonds as it may deem expedient.

(C) To establish, fix, levy, assess and collect assessments against the Owners of Units within the Property and to enforce payment of such Assessments in accordance with Article 5 of this Declaration. Any Assessments levied by the Association on its Members will be levied in accordance with and pursuant to the provisions of the Governing Documents.

(D) To authorize and cause the Association to: (1) enter into management contracts and contracts for the day-to-day operation of the Association and the discharge of its responsibilities and obligations; or (2) enter into lease, license or other agreements for the use of property or facilities not a part of the Common Elements. No contract for professional management may have a term of more than three (3) years and each such contract will be subject to all the other provisions hereof and may be terminable by either party for cause.

Any reference to the "term" of a contract as used in this Section will not include any option or automatic renewal or extension period so long as the term of the contract may not be renewed or extended if notice is given by the Association pursuant to the contract.

(E) To adopt, amend, and repeal Association Rules consistent with this Declaration relating to: (1) the maintenance, repair, management and use of the Common Elements and all facilities thereon by Owners, their lessees, guests and invitees or any other persons who have rights of use and enjoyment of such Common Elements, Limited Common Elements and Common Facilities, including the right to restrict the use of certain land, facilities, air space, or structures to the Association or its officers, agents or employees; (2) minimum standards for the maintenance of landscaping or other improvements on Units; (3) architectural control and the rules governing the Architectural Committee under Article 8; (4) regulation of parking, pet ownership and other matters subject to regulation and restriction under Article 3 hereof; (5) the conduct of an Owner and its family, contract purchasers, lessees, and their guests, invitees or licensees, with respect to the Property and the other Owners or occupants of the Property; (6) the conduct of disciplinary proceedings in accordance with Section 146 hereof; (7) reasonable charges for labor, services, or expenditures incurred at the request of an Owner or as a result of the actions of an Owner; (8) collection and disposal of refuse; (9) the interpretation of provisions of, and terms used in, this Declaration (said interpretation will be conclusively presumed to be correct so long as it is not inconsistent with this Declaration); and (10) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

The Association Rules may not be inconsistent with or materially alter any provision of the other Governing Documents or the rights, preferences and privileges of Members thereunder. In the event of any material conflict between any Association Rule and any provision of the other Governing Documents or NRS 116, the conflicting provisions contained in the other Governing Documents and NRS 116 will be deemed to prevail over those in the Association's Rules or Bylaws.

(F) To delegate its powers to committees, officers, or employees of the Association.

(G) To incur debt for the purpose of replacing, maintaining and improving the Common Elements, and to encumber the Property, including specifically member assessments, of the Association as security for the repayment of such debt.

(H) To grant easements on, over, under, across, and through the Property for public utility and other purposes consistent with the provisions of this Declaration and the intended use of the Property and consistent with existing easements on the Property.

(I) Except as expressly otherwise provided herein, the Board of Directors will have the exclusive right and obligation to manage and administer the Common Elements and to contract for all goods, services, and insurance, payment for which is to be made from the assessments.

(J) Open and maintain bank or other financial accounts on behalf of the Association and designate the signatories as required or prudent for such bank accounts.

(K) Subject to the requirements of NRS 116.31088 and any superseding statute, bring and defend actions on behalf of the Association to protect the interests of the Members or the Association as long as the action is pertinent to the operations of the Association, and to assess the Members for the cost of such litigation. However, the Executive Board will have the sole discretion to decide whether or not it is in the Association's best interest to pursue any such enforcement action, taking into consideration the potential benefits to the Association (and/or its members) resulting from any such enforcement action as compared with the anticipated financial costs.

Prior to filing litigation (including mediation and/or arbitration) regarding any disciplinary action against a Member, the Board will comply with the requirements set forth in NRS 116 and herein.

(iii) No Active Business. Nothing contained in this Declaration, however, may be construed to give the Board authority to conduct an active business for profit on behalf of the Association, all of the Owners, or any of them. The Board of Directors will have no such power. However, this subsection will not prohibit the Association and/or its Board from acquiring, owning, leasing and/or selling any Unit or Common Element or Limited Common Element within the Property.

(b) Duties of the Executive Board.

(i) Association Duties. Cause all duties imposed on the Association by Governing Documents to be properly performed.

(ii) Records. Cause a complete record of all its acts and corporate affairs to be kept, and to prepare budgets and financial statements for the Association.

(iii) Supervise. Supervise all officers, agents and employees of the Association and to see that their duties are properly performed.

(iv) Assessments. With reference to assessments of the Association:

(A) Fix, levy and collect assessments pursuant to the provisions of Article 5 of this Declaration;

(B) Approve the annual operating and reserve budgets and fix the amount of the assessment against each Member for each assessment period in compliance with Nevada law.

(C) Prepare a roster of the Members and assessments applicable thereto;

(D) Send written notice of each assessment to every Member subject thereto; and

(E) Issue statements and other certificates as required hereby.

(v) Insurance. Contract for casualty, liability, earthquake, employees practices, and other insurance, sureties and/or bonds (including indemnity or fidelity bonds) on behalf of the Association with such coverages and in such amounts as required by this Declaration and as deemed necessary by the Board in its sole discretion or as may be required by law and as required by NRS 116.

(vi) Vacancies; Fill a vacancy or vacancies on the Board as provided in the Bylaws.

(vii) Discharge of Liens. Pay any amount necessary to Bond or discharge any claim which may be or become a lien or encumbrance levied against the Property as a whole or any part thereof which constitutes a lien against the Common Elements, rather than merely against the interest therein of particular Owners; provided, however, that where one or more Owners are responsible for the existence of such lien, they will jointly and severally be liable for the cost of discharging it, and any costs incurred by the Association by reason of said lien or liens will be assessed against each such Owner and its Unit provided herein. No decision resulting in such liability or assessment may be reached before providing the Owner or Owners with notice and hearing satisfying the requirements of this Declaration.

(viii) Enforcement. Commence and maintain actions for damages arising from, or to restrain and enjoin, or to take any reasonable action necessary to prevent, any actual or threatened violation of the provisions of the Governing Documents, the orders and awards of arbitration, or resolutions of the Board of Directors, or to enforce, by injunction or otherwise, the provisions of the foregoing.

The Executive Board will have the sole discretion to decide whether or not it is in the Association's best interest to pursue any such enforcement action, including taking into consideration the potential benefits to the Association (and/or its members) resulting from any such enforcement action as compared with the anticipated financial costs.

The Board may suspend the voting rights of an Owner or suspend the privileges of an Owner to use the Common Facilities located on the Property, or assess monetary penalties against any Owner or other person entitled to exercise such privileges for any violations of the provisions of the foregoing; provided that the specific Owner or other person is given fair notice and the opportunity to be heard (in satisfaction of the minimum requirements of this Declaration) with respect to the alleged violation before a decision to impose discipline is made. The Executive Board may delegate some or all of its enforcement rights to a Disciplinary Committee.

Notwithstanding anything to the contrary herein contained, neither the Board of Directors nor the Association will have the power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of its Unit, including access thereto over and across the Common Elements, except when such loss or forfeiture is the result of: (A) a judgment of a court; (B) a decision arising out of arbitration; or (C) on account of a foreclosure (judicial or under the power of sale herein granted) for failure of the Owner to pay the assessments levied pursuant to the provisions hereof.

If legal action is instituted by the Executive Board pursuant to this section, any judgment rendered in any such action must include all costs of collection, arbitration costs, mediation costs, court costs and reasonable attorneys' fees.

(ix) **Operating Requirements.** Obtain any other material, supplies, furniture, property, labor, services, maintenance, repairs, construction, reconstruction, structural alterations, insurance, taxes, or assessments which the Association is required to secure or pay by law, local requirement, or pursuant to the terms of this Declaration, or as is necessary for the operation of the Property, or for the enforcement of this Declaration; provided, however, that if any such materials, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are provided for particular Units, the costs thereof will, as is reasonable, be assessed to such Units and the Owners thereof as provided in Section 6.3 or as provided in the Bylaws.

Section 4.5. Limitations on Powers of the Association. Neither the Executive Board nor the Association will have the power to take, and both are hereby expressly prohibited from taking, any of the following actions without the vote or written assent of a majority of the voting power of the Association's Members.

(a) Entering into a contract -with a third person to furnish goods or services for the Common Elements, the Units or the Association for a term longer than three (3) years with the following exceptions:

(i) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission or contracts with utility

districts, sanitary services providers, energy providers, telephone service providers and/or cable or satellite dish or comparable service or utility provider;

(ii) Prepaid casualty and/or liability insurance policies not to exceed three (3) years duration provided that the policy permits for short-rate cancellation by the insured;

(iii) Lease agreements for equipment not to exceed five (5) years' duration; and

(iv) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services not to exceed five (5) years' duration.

For purposes of this subsection, the five (5) year maximum "term" of a contract does not include any option period(s), renewal period(s) and/or extension(s) of time to the contract term so long as the contract contains provisions allowing the Association to non-renew and/or cancel the contract upon the expiration of the term. There shall be no automatic renewals of any contract.

(b) Selling, during any fiscal year, 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.

The Board of Directors shall not convey, exchange, mortgage, encumber, transfer upon trust or otherwise dispose of any of the real property of the Association without the affirmative vote or written consent except as provided herein of at least a majority of the Members. No proxy vote shall be counted upon such issue at either an annual or special meeting unless the meeting notice shall have stated specifically that such a transaction would be considered and shall set forth the details thereof.

(c) Paying compensation to Directors or officers of the Association for services performed, except that the Board may authorize reimbursement to a Director or officer for expenses incurred in carrying on the business of the Association.

Section 4.6. Nonliability of Officials. Neither a Director, Officer, Committee of the Association or Member of a Committee of the Association, nor the Board (collectively and individually referred to as the "Released Party"), may be liable to any Member, Owner, the Association or any other party for any damage, loss, claim, liability or prejudice suffered or claimed on account of any decision, approval, disapproval, course of action, act, inaction, omission, error, negligence or the like made in good faith subject to the business judgment rule and which such person or entity reasonably believed to be in the interests of the Association. No Released Party shall ever be liable to any Unit Owner or the Association for exemplary or punitive damages, regardless of the basis of any claim.

Without limiting the generality of the foregoing, this standard of care and limitation of liability will extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and

maintenance of Common Elements and Common Facilities and enforcement of the Governing Documents.

The maximum indemnification rights (including the right to advancement of expenses) of Directors, Officers, employees and/or agents will be governed by Nevada law.

As set forth herein, the Association shall purchase and maintain insurance on behalf of its Directors, officers, employees and/or agents against liability asserted against or incurred by any Director, officer, employee and/or agent in its capacity or status as such.

The provisions of this section are intended to reflect the protections accorded to volunteer directors and officers of common interest communities under Nevada law. In the event that Nevada law is amended, this section will be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor code provision.

ARTICLE 5: ASSESSMENTS.

Section 5.1. Assessments Generally.

(a) Covenant to Pay Assessments. Each Owner of one (1) or more Units, by acceptance of a deed or other conveyance therefor (whether or not it will be so expressed in such deed or conveyance), covenants and agrees to pay to the Association: (j) Regular Assessments, (ii) Special Assessments, (iii) Reserve Assessments, and (iv) Special Individual Assessments levied by the Association as hereinafter provided, together with all additional charges. Such deed or conveyance will be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board may deem necessary or appropriate for the collection of such assessments and charges and for the enforcement of the liens hereinafter provided for. All Assessments specifically include any charge, claim, fine, fee, cost, collection expense, attorney's fee, and other charge or amount converted to such an assessment. No Owner may convey any interest in any Unit unless all Assessments are paid in full prior to such conveyance.

Each such Assessment will be established and collected as hereinafter provided. No Owner may waive or otherwise escape liability for any assessment provided for herein by nonuse of the Common Elements or by abandonment.

(b) Extent of Owner's Personal Obligation for Assessments. The obligation to pay Assessments and charges and the right and power of the Association to initiate all actions and procedures for collection will run with the land, so that each successive Owner or Owners of record of any Unit within the Property will, in turn, become liable to pay all Assessments and charges assessed during the time they are record Owner of such Unit. All Assessments permitted or required herein, together with late charges, interest, costs, collection expenses, fines other charges, and reasonable costs (including reasonable attorneys' fees) for the collection thereof will be a separate, distinct and personal debt and a personal obligation of the Person who was the Owner of the Unit at the time the Assessment was levied. The Owner of such Unit will ensure that any outstanding charge, cost or obligation whatsoever, whether of a monetary, lien or other nature, will be satisfied prior to sale.

Any Grantee and/or Owner who acquires title to a Unit (whether at judicial sale, trustee's sale or otherwise) will be personally liable only for Assessments attributable to the Unit so purchased which become due and payable after the date of such sale, and will not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability and the Association agrees to such assumption. The Unit, however, will be subject to the lien as allowed by law and/or provided for in this Declaration.

After a record Owner transfers, of record, any Unit they own, they will not be liable for any Assessments levied after the transfer with respect to that Unit only if the assessments or other claims, charges, obligations or liens have been fully paid or satisfied or if an express written assumption has been accepted by the Association prior to the transfer or any related close of escrow. If, for any reason whatsoever, an Assessment is unpaid after transfer and not assumed by the new Owner in a manner acceptable to the Association, any unpaid Assessment of a previous Owner will remain the debt of such previous Owner against whom assessed and the previous Owner will remain personally liable until paid or arrangements acceptable to the Association for full payment or satisfaction have been agreed to. A contract seller of any Unit will continue to be liable for all Assessments and charges until a conveyance by deed of such Unit is recorded in the Office of the County Recorder of Douglas County and only if any Assessments or other claims, charges, obligations, fines or liens have been fully paid or satisfied or if an express written assumption has been accepted by the Association.

(c) Authority of Board. The Board will have the power, duty and authority to levy Regular, Reserve and Special and Special Individual Assessments sufficient to meet the Association's obligations under the Governing Documents and applicable law. Except for a fine or construction penalty, the Board may not levy or collect an Assessment or fee that exceeds the amount necessary to defray the costs for which it is levied. The Board will also have the power and authority to levy Special Individual Assessments against Owners.

(d) Creation of Assessment Lien. Assessments, together with late charges, interest, fines and reasonable costs (including reasonable attorneys' fees) for the collection thereof, are and will continue to be charges on the Units and the Declaration, including all amendments, has been, and continues to be, a continuing lien (the "Lien") upon the Unit against which such Assessment is made. The Lien is subject to foreclosure as provided herein and in Chapter 116. The Lien will continue to secure all Assessments, together with late charges, interest, costs, collection expenses, fines, other charges and reasonable costs (including reasonable attorneys' fees) for the collection thereof, made on any Unit notwithstanding the transfer of record title to such Unit, and any such transfer will be subject to the Lien.

(e) No Avoidance of Assessment Obligations. No Owner may exempt himself from personal liability for Assessments duly levied by the Association, nor release the Unit or other property owned by them from the Lien and charges hereof, by waiver of the use and enjoyment of the Common Elements or any facilities thereon or by abandonment or non-use of their Unit or any other portion of the Property.

(f) **Offsets.** All Assessments levied by the Association will be payable in the full amount specified, including any additional charges imposed as provided for by the Governing Documents. No offsets against any such Assessment will be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Governing Documents.

Section 5.2. Regular, Reserve and Emergency Assessments.

(a) **Purpose of Regular Assessments.** All Regular Assessments levied by the Association will be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Property and, in particular, for the maintenance, operation and improvement of the Units, Common Elements, and any real or personal property in which the Association holds an interest. Regular Assessments include Reserve Assessments.

(b) **Annual Budget; Regular Assessments, Reserve Assessments & Board Authority.** In accord with the timing provisions of NRS 116.31151 (or comparable superseding statute), if any, the Board must estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the Common Facilities, which may be levied as a Reserve Assessment), prepare, and adopt then distribute to all Members a proposed budget.

(c) **Membership Approval Requirements.** Within sixty (60) days after adoption of the proposed budget, the Board must provide the budget or a summary of the budget to all Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the budget or summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, or is not timely ratified, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

(d) **Assessments to Address Emergency Situations.** In the event of an emergency situation, the Board may impose an assessment without ratification of a budget including such assessment. An emergency situation is any of the following.

- (i) An extraordinary expense required by an order of a court.
- (ii) An extraordinary expense necessary to repair or maintain the Common Elements or any portion of the separate interests which the Association is obligated to maintain where a threat to personal safety is discovered.
- (iii) An extraordinary expense necessary to repair, or maintain the Common Elements or any portion of the separate interests which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subsection (a), above, provided that, prior to the imposition or collection of an assessment under this subsection (d)(iii), the Board will pass a resolution containing written

findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution will be distributed to the Members together with the notice of assessment.

(iv) An extraordinary expense necessary to make up any shortfall or deficiency in insurance proceeds in the event of damage or destruction of one or more Units or the Common Elements or Limited Common Elements.

(e) **Allocation of Regular, Reserve or Emergency Assessment.** The total estimated Common Expenses, determined in accordance with subsections (a) and (b), above, will be divided and then allocated equally among, assessed against, and charged to each Owner/Unit, in that each Unit will pay the same amount as each and every other Unit upon which the Assessment is imposed. For Regular or Reserve Assessments, the total Assessment will be divided by the total number of Units, 46 at the time of this Declaration, to determine the assessment per Unit.

(f) **Failure to Make Estimate.** If, for any reason, the Board fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year will be automatically assessed against each Owner and their Unit on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment will be payable on the regular payment dates established by the Association.

The failure of the Board to fix Regular Assessments hereunder before the expiration of any year, for that or the next year, is not a waiver or modification in any respect of the provisions of this Declaration or a release of the Owner from the obligation to pay the Assessments, or any installment thereof for that or any subsequent year. Failure to provide a copy of the budget to any Owner will not affect the validity of Assessments based thereon so long as that Owner receives reasonable notice before the Association commences any action or proceeding to enforce collection thereof.

(g) **Assessment Due Date, Installment Payments & Delinquency.** The Regular Assessments levied annually against each Owner and their Unit for the current fiscal year may be divided into monthly, quarterly, semi-annual or annual installments so long as the respective Owner is not in default (i.e., current on all Assessments). Each installment is due and must be paid on the first day of the period in which it becomes due or in such other manner and/or on such other date or dates as may be established from time to time by the Association. To encourage prompt payment or early receipt of Assessments, the Board may assess a late fee or offer a discount for payments made quarterly, semi-annually, or annually so long as offered to each and every Owner equally and addressed in the Budget.

Installments of Regular Assessments will be late if not actually received by the Association or its designated agent by the fifteenth (15th) day of the month in which the Assessment is due. In the event of a default in the payment of any installment, the Association may pursue the remedies set forth herein, below, as to the late payment. Interest, late fees and other charges shall be assessed effective the 15th of the month if such assessments are late.

Section 5.3. Special Assessments.

(a) Purposes for Which Special Assessments May Be Levied. Subject to the membership approval requirements set forth in subsection (b), below, the Board may have the authority to levy Special Assessments against the Owners and their Units for the following purposes:

(i) **Capital Improvements.** The Board may also levy Special Assessments for additional Capital Improvements within the Common Elements (i.e., improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities). The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, replacement, and repair of the Common Elements or existing Common Facilities through Regular Assessments (including the funding of reasonable reserves through Reserve Assessments) and to maintain adequate insurance on the Common Elements and existing Common Facilities in accordance with Article 9 hereof.

The Association shall provide written notice to each Owner of a meeting at which an Assessment for a Capital Improvement is to be considered or action is to be taken on such an Assessment at least twenty-one (21) days before the meeting. The Board, without member approval, may provide for Capital Improvements of less than 6% of the yearly Regular Assessment.

(ii) **Special Projects.** The Board may also levy Special Assessments for Special Projects that the Board determines would enhance the Project in the Board's discretion. The Board's assessment authority pursuant to this Section will be subject to membership approval requirements described below.

(b) Membership Approval. In order for the Board to levy Special Assessments, the Board must adopt a proposed budget, and within thirty (30) days after adoption of the proposed budget with respect to the Special Assessment, the Board must provide a summary of the budget to all Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Owners reject the budget that includes the Special Assessment the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the Special Assessment shall not be imposed.

(c) Allocation and Payment of Special Assessments. When levied by the Board and approved by the Members as provided above, the Special Assessment will be divided among, assessed against and charged to each Owner and their Unit in the same manner prescribed for the allocation of Regular Assessments. Notice of the Special Assessment so levied must be mailed to each Owner.

Unless the time for payment is extended by the Board, payment of all Special Assessments will be due no sooner than fifteen (15) days after the Association gives the Owners written notice thereof.

The Board may, in its discretion, prorate the amount of any Special Assessment over any calendar period, proscribe frequency of payment and impose a late fee or offer a discount.

Installments of Special Assessments will be late if not actually received by the Association or its designated agent by the fifteenth (15th) day of the month in which the Assessment is due. In the event of a default in the payment of any installment, the Association may pursue the remedies set forth in Sections 5.8 and 5.9, below, as to the late payment. Interest, late fees and other charges shall be assessed effective the 1 day of the month if such assessments are late.

Section 5.4. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners, the Board may impose Special Individual Assessments against an Owner in any of the circumstances described in subsections (i) through (x), below or as otherwise provided in the Governing Documents, provided that no Special Individual Assessments may be imposed against an Owner pursuant to this section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled hereunder and by law. Subject to the foregoing, the facts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) **Damage to Common Elements or Common Facilities.** If any damage to, or destruction of, any portion of the Common Elements or the Common Facilities, including any portion of a Unit which the Association is obligated to repair and maintain is caused by the willful misconduct and/or negligent act or omission of any Owner, the Board may cause the same to be repaired or replaced, and all costs and expenses and deductible, including but not limited to any costs or expenses incurred in deterring, apprehending and/or identifying those persons causing damage, incurred in connection therewith (to the extent not compensated by insurance proceeds) may be assessed and charged solely to and against such Owner as a Special Individual Assessment. If insurance covers the event or occurrence, the insurance proceeds shall be used first before any assessment is made.

(ii) **Expenses Incurred for a Unit.** If any damage to, or destruction of, any portion of a Unit which the Association repairs or maintains to prevent additional damage to Common Elements or an adjacent Unit and such damage is incurred because of any element or fixture within or serving exclusively a Unit, the Board may cause the repair and maintenance. All costs and expenses shall be charged solely to and against such Owner as a Special Individual Assessment.

(iii) **Expenses Incurred in Gaining Member Compliance.** If the Association incurs any costs or expenses, to accomplish: (A) the payment of delinquent Assessments, (B) any repair, maintenance or replacement to any portion of the Property that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion, or (C) to otherwise bring the Owner and/or their Unit into compliance with any provision of the Governing Documents, the amount incurred by the Association

(including reasonable fines and other interest as allowed by law and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorneys' fees) may be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(iv) **Required Maintenance on Units.** As more particularly provided in Section 4.3(b) and 6.3(b) (and without limiting the generality of those sections), if the Board, in its discretion, determines that any Unit is maintained so as to become a nuisance, fire or safety hazard for any reason, including without limitation, the accumulation of trash or improper vegetation control, the Association will have the right to enter the Unit, correct the offensive or hazardous condition, and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner.

(v) **Diminution in Insurance Proceeds.** As more particularly provided herein, the Association may levy a Special Individual Assessment for the amount of the loss in insurance proceeds against any Owner who, in violation of this Declaration, caused any diminution in the insurance proceeds otherwise payable to the Association due to the Owner's individual casualty insurance.

(vi) **Increase in insurance Burden.** The Association may levy a Special Individual Assessment for the amount of the increased insurance premium against any Owner who, including but not limited to in violation of these governing documents caused any increase in the rate of insurance paid by the Association to reimburse the Association for any such increase in the rate of insurance.

(vii) **Payment of Insurance Deductible.** The Association may levy a Special Individual Assessment for the amount of any insurance deductible.

(viii) **Payment of Fines.** The Association may levy a Special Individual Assessment for the amount of any fine or other penalty properly imposed hereunder.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed herein, notice thereof will be mailed to the affected Owner and the Special Individual Assessment will thereafter be due as a separate debt of the Owner payable in full to the Association within fifteen (15) days after the mailing of notice of the Assessment.

Installments of Special Individual Assessments will be delinquent if not received by the Association or its designated agent within fifteen (15) days from the due date. In the event of a default in the payment of any Special Individual Assessment, the Association may declare that Owner's Special Individual Assessment to be in default and pursue the remedies set forth herein as to the late payment.

Section 5.5. Reasonableness of Assessments. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation of the Owner of the Unit against which the Assessment is imposed that will be binding on the Owner's heirs, successors and assigns, provided that the

personal obligation of each Owner for delinquent Assessments will not pass to the Owners successors in title unless expressly assumed by them with the express approval of the assumption by the Association.

Section 5.6. Exemption of Certain Parts of the Property From Assessments. The following real property subject to this Declaration will be exempt from the Assessments, unless used as a residence:

- (a) Any portion of the Property dedicated and accepted by a local public authority;
- (b) The Common Elements and Common Facilities; and
- (c) Any Unit owned by the Association.

Section 5.7. Maintenance of Assessment Funds.

(a) **Bank Accounts.** All sums received or collected by the Association from Assessments, together with any interest or other charges thereon, must be promptly deposited in insured checking, savings or money market accounts in a bank, savings and loan association or other financial institution selected by the Board which has offices located within the United States of America or as required by applicable state law, which accounts will be clearly designated as either an “operating” or “reserve” account or other accounts so designated by the Association.

The Association must establish and maintain cash deposit accounts into which will be deposited all Assessments. Disbursements from such account will be for the general operation of the Association including, but not limited to, wages, repairs, betterments, maintenance, and other operating expenses of the Property. The Association will maintain other accounts necessary to carry out its purposes, including (at minimum) a reserve account for the repair, replacement, maintenance or restoration of the major components of the common elements as set forth in this Article, and applicable Nevada law. In addition, the Board will be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees, and as allowed by applicable Nevada law. The Board, and such officers or agents of the Association as the Board may designate, will have exclusive control of the accounts and investments and will be responsible to the Owners for the maintenance at all times of accurate records thereof. To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as applicable Nevada law allows such commingling, and so long as the separate accounting records described herein are maintained. Any interest received on such deposits will be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subsection (b), below.

(b) **Separate Accounts & Commingling of Funds.** Except as provided below, the proceeds of each Assessment will be used only for the purpose for which such Assessment was made, and such funds will be received and held in trust by the Association for such purpose.

Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the amount required to accomplish the purpose for which such Assessment was levied, such surplus may, in the Board's discretion, be returned proportionately to the contributors thereof, reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, underfunded or credited proportionately on account of the Owners' future Regular Assessment obligations.

For purposes of accounting, but without requiring any physical segregation of assets, the Association must maintain a separate accounting of all funds received by it in payment of each Assessment and of all disbursements made therefrom, provided that receipts and disbursements of Special Assessments will be accounted for together with the receipts and disbursements of Regular Assessments.

Unless the Association is exempt from federal taxes, all sums allocated to capital replacement funds will be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service that will prevent such funds from being taxed as income of the Association.

(c) **Checks.** All checks (or other demands for payments of Association money) and/or notes of the Association must be signed by the President or by such other Directors and/or Officers or such other person or persons as the Board may from time to time designate. Notwithstanding the foregoing, any withdrawal of funds from Association reserve accounts will require the signatures of two Directors or an Officer (who is not a Director) and a Director.

Section 5.8. Collection of Assessments; Enforcement of the Lien.

(a) **Late Assessments.** If any payment of a Regular, Reserve, Special (installment or lump sum), or Special Individual Assessment assessed to any Owner is not received by the Association or its designated agent within fifteen (15) days after the same becomes due, such payment will be late and the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law beginning from the due date until the same is paid, and be subject to a late charge approved by the Board for any late Assessments, such late charge to be applied for each thirty day period any assessment remains unpaid.

(b) **Effect of Nonpayment of Assessments.**

(i) **Remedies Available to the Association to Collect Assessments.** In the event of default in payment of any Assessment, the Association may commence any procedure for collection. In addition to any other remedies herein or by law provided, the Association may enforce each such obligation by doing both or either of the following: initiating a legal action, assessing any and all late charges, fees, interest, liens and loss of access to common elements against the Owner personally obligated to pay the late Assessment and/or foreclosing the Lien

against the subject Unit (or accepting a deed in lieu of foreclosure). The Association may perform judicial or nonjudicial foreclosure.

(ii) **Nonjudicial Foreclosure.** Each of the Owners, by acceptance of a deed to a Unit, gives the Association the power to appoint a trustee and attorney-in-fact by special power of attorney to enforce and to foreclose the Lien by private power of sale, and/or in accordance with NRS 116.3116, et seq., or superseding statutes, and further grants to the Association the authority and power to sell the subject Unit of such defaulting Owner, or any part thereof to satisfy the Lien, for lawful money of the United States to the highest bidder. The Association may assign its right and obligation as trustee in any nonjudicial foreclosure proceedings to the same extent as a trustee designated under a deed of trust and the Association will be deemed to be the sole beneficiary of the delinquent Assessment obligation. Furthermore, in lieu of an assignment of trusteeship, the Association may employ the services of a title insurance company or other responsible company authorized to serve as a trustee in nonjudicial foreclosure proceedings to act as an agent on behalf of the Association in commencing and prosecuting any nonjudicial foreclosure hereunder. So long as the law so provides, the Association may not foreclose a Lien based on a fine for violation of the Governing Documents unless the violation threatens the health, safety, or welfare of the Residents of the Property.

In the event of a nonjudicial foreclosure, whether completed or not, the Association shall recover all foreclosure expenses, attorney's fees, costs, expenses, interest or charges, of any kind and whatsoever nature.

(iii) **Judicial Foreclosure.** In the event that foreclosure is by action in court, reasonable costs, including attorneys' fees, will be allowed to the Association.

(iv) **Actions for Money Judgment.** In the event of a default in payment of any Assessment, or any other amount owing, the Association, in its name but acting for and on behalf of all other Owners, may initiate legal action, in addition to any other remedy provided herein or by law, to recover a money judgment or judgments for unpaid Assessments, or any other amount owing and attorneys' fees without foreclosure or waiver of Assessments.

Section 5.9. Transfer of Unit by Sale or Foreclosure. The following will govern the Association's rights to enforce its Assessment collection remedies following the sale or foreclosure of a Unit.

(a) Except as provided in subsection (b), below, the sale or transfer of any Unit will not affect the requirement and obligation with respect to the Unit of the payment of Assessments before the sale or transfer, and the Association can continue to foreclose the Lien in spite of the change in ownership.

(b) A holder of a prior encumbrance is responsible to pay Assessments, late charges, fines, transfer fees, interest, and costs of collection incurred before the sale or transfer of a Unit under a foreclosure or deed-in-lieu of foreclosure.

(c) No sale or transfer of a Unit as the result of foreclosure, exercise of a power of sale, or otherwise, will relieve the new Owner of that Unit (whether it be the former beneficiary of the First Mortgage or other prior encumbrance, or a third party acquiring an interest in the Unit) from liability for any assessments thereafter becoming due or that became due prior to foreclosure and in the maximum amount allowed by law, whether it be six, nine or some other period of months allowed by law.

(d) No sale or transfer of a Unit as the result of foreclosure, exercise of a power of sale, or otherwise, will affect the Association's right to maintain an action against the foreclosed previous Owner of the Unit personally to collect the delinquent assessments, late charges, fines, interest, and associated costs of collection incurred by that prior Owner prior to the sale or transfer.

Section 5.10. Priorities. Assessments are prior to all] other liens and encumbrances on a Unit except: (a) liens and encumbrances recorded before the recordation of this Declaration and liens and encumbrances which the Association creates, assumes or takes subject to; (b) a first security interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent, except that Assessments, late charges, collection costs, fines, any assessments made, attorneys' fees and costs, are prior to all such first security interests to the extent of the amount of Assessments which would have become due in the absence of acceleration in the maximum amount as allowed by law; and (c) liens for real estate taxes and other governmental assessments or charges against the Unit. This section does not affect the priority of mechanics' or material men's liens, or the priority of other Assessments made by the Association.

Section 5.11. Estoppel Certificate. A certificate executed by the Association setting forth the amount of any due and unpaid assessments with respect to a Unit (or the fact that all Assessments due are paid, if such is the case) will be conclusive against the Association, and/or the Owners in favor of any and all persons who rely thereon in good faith. Any Owner will be entitled to such a certificate within ten (10) business days after written demand therefore and upon payment of a reasonable fee.

Section 5.12. Unallocated Taxes. In the event that any taxes are assessed against the Common Elements, or the personal property of the Association rather than being assessed to the Units, such taxes shall be included in the Regular Assessments imposed and, if necessary, a Special Assessment may be levied against the Units in an amount equal to such taxes to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

Section 5.13. Assignment of Rents. Each Owner does hereby presently assign to the Association, absolutely and regardless of possession of the property, all rents and other monies now due or hereafter to become due under any lease or agreement or otherwise for the use or occupation of any or all parts of any Unit owned by the Owner, now existing or hereafter made for the purpose of collecting all Assessments and other charges due the Association pursuant to this Declaration which are in default.

The Associations rights under this Section will be subordinate to the rights of any First Mortgagee.

Section 5.14. Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of the Lien, the benefit of any homestead or exemption law of Nevada in effect at the time any Assessment or installment thereof becomes delinquent.

Section 5.15. Initial Reserve Contribution and Transfer Fee. Upon the sale or transfer of a Unit, including sales of any Unit by the Declarant and all subsequent sales and transfers, the Board shall collect from the purchaser or transferee, through the close of escrow or upon recording the instrument of transfer, an initial reserve contribution and a transfer fee. The Board shall set the amount of the initial assessment contribution and transfer fee as part of the budget process described in Section 5.2(b) and (c), above.

ARTICLE 6: MAINTENANCE RESPONSIBILITIES.

The Property must be maintained in an attractive, safe, and sanitary condition and in a good state of repair.

Section 6.1. Association Maintenance Responsibility.

(a) Common Elements. Except as is provided herein, the Association is solely responsible for all maintenance, repair, and replacement within the Common Elements, Limited Common Elements, buildings, foundations, roofs, siding, facilities, improvements, sidewalks, landscaping, parking spaces, parking areas, parking garages, storage containers, shelves, bins, streets, fences, chimney chase, flue or chimney component, and utility facilities (excluding those utility facilities maintained by utility companies or agencies). With respect to Limited Common Elements, the cost and expense associated with the obligations contained herein shall be assessed to the Owners to which the Limited Common Elements are allocated, as required hereby.

The Association is not responsible to maintain, repair, or replace the window frames, or components, including sliding doors, glass portions of windows or exterior doors appurtenant to Units, except if the existing glass breaks, the Association shall replace it with the equivalent glass as originally installed. The Owner shall be responsible for any additional expense associated with any glass that constitutes an improvement.

Only the Association may construct, reconstruct, refinish, alter or maintain any Improvement upon, or will create any excavation or fill or change the natural or existing drainage of any portion of the Common Elements or Limited Common Elements. No person may remove any vegetation from, or plant any vegetation upon the Common Elements, without the Association's express written approval.

(b) Streets. All streets located on the Property are private and maintenance thereof is the sole responsibility of the Association.

(c) Units. The Association is not responsible to maintain, repair, or replace Limited Common Elements except as provided in this Declaration. The Association may, when necessary, enter any Unit to perform the Association's obligations under this Declaration,

including making necessary repairs that an Owner has failed to perform and/or perform work because a Unit or any part thereof has become a nuisance, fire or safety hazard and then recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner. The Association shall have the obligation to maintain and repair the Property's Improvements, except for the Units.

Section 6.2. Owner Maintenance Responsibilities.

(a) Common Elements. Owners are solely responsible and liable for the Costs incurred in order to repair or replace any portion of the Common Elements that is due to or caused by the willful or negligent act/omission of an Owner, unless such repair or replacement is covered by insurance carried by the Association. If the repair or replacement is covered by insurance carried by the Association, then the Association is only responsible to the extent of such insurance coverage, and the Owner whose willful or negligent act or omission caused the repair or replacement is responsible to pay the insurance deductible and the amount in excess of insurance coverage.

Owners are responsible to maintain, repair, and replace the components which are within the interior of their units and specifically including, but not limited to, furnaces, duct work, water heaters, hot tubs, toilets, sinks, interior doors, windows, or other improvements to their units.

Owners are responsible for maintenance or repair of any improvements made to any Limited Common Element of their Unit.

Each owner will be responsible to maintain in good repair the chimney components within the interior of the Unit, such as the fireplace, fireplace screen, etc. The Unit Owner is also obligated to periodically (in such time periods as determined by the Board) maintain and clean the chimney/flue servicing the Owner's Unit. The Owner shall advise the Association maintenance of the Unit's chimney/flue has been completed or that in the professional opinion of a chimney cleaning company that such maintenance is unnecessary (e.g., that the owner has converted a wood burning fireplace to gas). If the Owner does not certify such maintenance has been completed or is unnecessary, the Association may effect such cleaning or maintenance, the expense of which shall be assessed to the Unit Owner. The Board shall establish policies and procedures to implement the maintenance responsibilities set forth herein.

Owners are responsible to maintain, repair, and replace any air conditioning component, hot tub, or other improvement, including pads and mounts, which are installed on the exterior of the buildings.

Owners are responsible to keep in a clean and neat condition the parking spaces, front entry ways, decks, porches and areas under the decks, which are appurtenant to their Unit.

(b) Units. Each Owner will be responsible for any and all maintenance, repair and replacement of the Owner's Unit in every respect, excluding those utility facilities maintained by utility companies or agencies. During periods when a danger of freezing exists, Owners must maintain a temperature in the Units to preclude freezing and breakage of water lines. All utilities

and each Unit's mechanical, electrical and plumbing systems are individually metered. Each Owner will be responsible for the maintenance of the systems pertaining to their unit. This includes the cleaning and maintaining of all vents and duct work.

(c) **Personal Property.** The duty to maintain, repair, or replace personal property and components and fixtures within Units that is due to and/or results from water infiltration and/or water leaks from any pipes, drains, conduits, appliances and/or equipment; and/or from outside any Unit or any part of a building; and/or any other place or cause, will be borne by the owner of said personal property, components, and fixtures. Persons bound by this Declaration agree to bear the risk of any such loss and that the Association will not be liable to reimburse them for property damage that is not covered by the Association's insurance.

(d) **Improvements or other additions.** The duty to maintain, repair, or replace and keep in quiet and good working order any improvements made by an Owner will be borne by the Owner. If such elements are damaged through no fault of the Owner, the Association shall maintain, repair, or replace the damaged element with the equivalent of the originally installed element. The Owner shall be responsible for any additional expense associated with an upgrade or improvement at the time of repair.

Section 6.1 Recovery of Costs of Certain Repairs and Maintenance.

(a) In the event that the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder, is caused through the willful or negligent acts or omissions of an Owner and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs will be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner.

(b) In the event that an Owner fails to perform maintenance functions for which Owner is responsible, the Association may give written notice to the offending Owner with a request to correct the failure within thirty (30) days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance within the allotted time, the Association may exercise its rights to enter the Owner's Unit and perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing in accordance herewith.

Section 6.4. Cooperative Maintenance Obligations. To the extent necessary or desirable to accomplish the maintenance obligations hereunder, individual Owners and the Association will cooperate in the performance of maintenance work.

Section 6.5. Capital Improvements.

(a) **Petition; Association Approval; Owner Approval.** One-third (1/3) of the Owners may from time to time, in writing, petition the Association for the construction, installation or acquisition of Capital Improvements on or to the Common Elements. Such petition will be in such form and will contain such information as the Association may require, including, without limitation, preliminary plans and cost estimates, The Association, through the Board, may from

time to time and on its own motion move for the construction, installation or acquisition of a Capital Improvement, in which case such motion will be treated as if it were a petition duly submitted by the Owners.

(b) Approval of Petition. The Association may approve the petition if it determines that the proposed Capital Improvement is desirable for the beneficial use and enjoyment of the Common Elements and/or the Units, is economically feasible, is in conformance with applicable zoning, and has received all governmental required approvals.

(c) Bids. Upon the approval of such petition by the Association, the Association will obtain firm bids on the total cost of constructing, installing, or acquiring the proposed Capital Improvement, and the most reasonable and best value bid or bids will be deemed the estimated total cost of such Capital Improvement.

(d) Approval by Owners. If during the fiscal year aggregate expenditures for Capital Improvements are expected to exceed 6% of the annual Regular Assessments for that fiscal year, the Association will present the proposed Capital Improvements and the estimated total cost thereof to all Owners for approval by a majority vote of the Owners. Upon approval by the Owners, a Special Assessment for Capital Improvement will be levied.

(e) Construction. After the levy of the Special Assessment for Capital Improvement, and at such time and upon such terms and conditions as the Association may deem appropriate, but not at a cost exceeding the estimated total cost of such Capital Improvement as determined above, the Association will construct, install, or acquire, or contract for the construction, installation or acquisition of the proposed Capital Improvement.

(f) Expenses for Property Not Approved. If for any reason the construction or acquisition of the proposed Capital Improvement is not approved by the Association, or the Owners, if required, all expenses incurred by the Association with respect to the proposed Capital improvement will be paid proportionately by the petitioning Owners. The Association may levy a Special individual Assessment against said Owners for the purpose of paying such expenses. If the proposed project was initiated by the Board, such expenses will be paid by the Association.

ARTICLE 7: EASEMENTS & RESERVATIONS.

Section 7.1. Encroachment Easements. If any portion of the Common Elements encroaches on any Unit, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Elements are made subject to such easements. If the dimensions or location of a Unit or other improvement differs from that shown and depicted on the Map, the actual dimensions and location will prevail over that shown and depicted on the Map for any and all purposes.

A valid easement for encroachment will never be created in favor of an Owner if the encroachment occurred due to the willful or negligent conduct of the Owner.

Section 7.2. Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing, operating and maintaining all utilities, including but not limited to water, sewer, storm water drains and pipes, sprinkling systems, heating and gas lines or pipes, gas, telephones, drainage, electricity, cable television systems, communication facilities and similar public or quasi-public improvements or facilities.

By virtue of this easement, it will be expressly permissible for a providing utility company and/or service provider to erect and maintain the necessary equipment and underground facilities on the Common Elements. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated except as initially designed and approved by the Association, whereby the Association's approval may not be unreasonably withheld. The easements provided for in this Section will in no way affect any other recorded easement on the Property.

Section 7.3. Maintenance Easements. An easement is hereby granted to the Association, its officers, agents, employees, and to any management company or contractor selected by the Association to enter in or to cross over the Common Elements, and any Unit, to perform the duties of maintenance and repair of the Units, Common Elements and/or Common Facilities provided that any entry by any Member, the Association or its agents into any Unit may only be undertaken in strict compliance herewith.

Section 7.4. Other Easements. Each Unit and its Owner, and the Association as to the Common Elements, are hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Property and each Unit and Common Elements as shown on the Map, including but not limited to driveways now or hereafter located upon the Common Elements for ingress, egress and utility purposes.

Section 7.5. Special Declarant's Rights. Declarant hereby reserves the following development and special rights pursuant to NRS 116.039 and 116.089 to:

- (a) Add real estate to the Property;
- (b) Create Units, Common Elements, or Limited Common Elements within the Property;
- (c) Subdivide Units or convert Units into Common Area, except as otherwise prohibited herein;
- (d) Withdraw real estate from the Property;
- (e) Complete improvements indicated on the Map and/or in this Declaration;
- (f) Exercise any development right under the Master Plan governing the Property;

(g) Maintain sales offices, management offices, signs advertising the Property, and models;

(h) Grant and use easements through the Common Area and/or Common Area Open Space for the purpose of making improvements within the Property or within the real estate which may be added to the Property or in favor of real estate adjacent to the Property owned or controlled by the principals of Declarant;

(i) Make the Property and the Association subject to a master association;

(j) Merge or consolidate the Property and the Association with another common-interest community of the same form of ownership; and

(k) Appoint or remove any officer of the Association or any master association or any member of an executive board during any period of Declarant's control.

ARTICLE 8: ARCHITECTURAL REVIEW.

Section 8.1. Improvements Generally & Approval by Board. No Improvement of any kind may be commenced, erected or maintained within the Property, nor may any addition to or change or alteration be made in or to the exterior of any Unit or which would affect the structural integrity of any Unit, or which would affect the common utility services or installations until plans and specifications showing the nature, color, kind, shape, height (including front, side and rear elevations), materials, and location of the same will have been submitted to and approved in writing by the Board as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography, finish grade elevations, etc.

Section 8.2. Appointment of Architectural Committee. If created by the Board, the Architectural Committee will consist of not less than three (3) Members of the Association, of which at least one member must be a Director and serve as chairman. All members of the Architectural Committee must be Owners.

The Architectural Committee, if created, will submit a copy of its findings and determinations to the Board. Upon its own initiative or upon the written request of the Architectural Committee or any Association Member, the Board shall review (and affirm, deny or alter) any decision of the Architectural Committee, provided that any such request be presented to the Board within ninety (90) days after submission of the Architectural Committee's findings and determinations to the Board.

If at any time there is not an Architectural Committee, the Board will exercise the functions of Architectural Committee in accordance with the terms of this Article.

Section 8.3. Architectural Review Duties of Board. It will be the duty of the Board to consider and act upon the proposals and plans submitted to it pursuant to this Declaration

subsequent to review and recommendation of the Architectural Committee, and to adopt Architectural Standards.

Section 8.4. Architectural Standards. The Board may from time to time adopt, amend and repeal rules and regulations to be known as Architectural Standards. The Architectural Standards may interpret and implement the provisions of this Declaration by setting forth the standards and procedures for the review and approval of proposed Improvements and guidelines for architectural design, placement of any work of improvement or color schemes, exterior finishes and materials and similar features which are recommended for use within the Property, provided that the Architectural Standards will not be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Architectural Standards and this Declaration, the Declaration will prevail. These Architectural Standards may include such interpretations and implementations as the Board may adopt or develop through its actions, approvals or conditions over time so long as the membership is routinely informed within thirty (30) days of adoption of new Standards, publication of the revised rules, through the Associations' website, or as part of the minutes relating to any approval where the revised Standards are set forth.

The Board may adapt and amend these Standards as necessary or appropriate in the opinion of the Board and publish them to the membership as set forth above.

Section 8.5. Submission of Plans; Action by Architectural Committee and/or Board. Written proposals including applications, plans, specifications, warranties and other required promises or commitments, and such information and documentation, as the Board or Architectural Standards may require, for all proposed Improvements must be in writing and be delivered to the Association at least thirty (30) days prior to the next meeting of the Board, unless this requirement is specially waived by the Chairman of the Architectural Committee (or in this Chairman's absence, by the Chairman of the Board) and a later date is set before the Board meeting sufficient to allow review and processing of the application. These proposals will be submitted to the Architectural Committee for its review, analysis, recommendation and conditions or requirements prior to submission to the Board. Approval by the Board can contain conditions or requests for modification of particular aspects of the Owner's plan and specifications.

All approvals and rejections of requests must be in writing.

Section 8.6. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Board for review subsequent to the submission to the Architectural Committee, the Board will grant the requested approval only if the Board, in its sole discretion, finds that all of the following provisions have been satisfied:

(a) The Owner has complied with those provisions of the Architectural Standards, if any, pertaining to the content, and procedures for submittal, of plans and specifications;

(b) The Owner's plans and specifications: (i) conform to this Declaration and to the Architectural Standards if any, in effect at the time such plans are submitted to the Board; and (ii) will not interfere with the reasonable enjoyment of any other Owner of their property; and

(c) The proposed Improvement(s), if approved, will be performed by licensed contractors and otherwise be consistent with the architectural and aesthetic standards prevailing within the Property, in harmony with the external structures and/or landscaping within the Property and are consistent with the overall plan and scheme of development and the purposes of this Declaration.

The Board may determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Unit, even if the same or a similar improvement or component has previously been approved for use at another location within the Property if factors such as drainage, topography or visibility from roads, Common Elements or other Units or prior adverse experience with the product or components used in construction of the Improvement, design of the Improvement or its use at other locations within the Property mitigate against erection of the improvement or use of a particular component thereof on the Unit involved in the Owner's submittal.

It is expressly agreed that the Board will be entitled to make subjective judgments and to consider the aesthetics of a proposal when considering an Owner's request so long as the Board acts reasonably and in good faith.

In approving a request for construction of an Improvement, the Board may condition approval upon the adoption of modifications in the plans and specifications or observance of restrictions as to location, noise abatement, color or materials modifications or similar mitigating conditions.

If rejected or denied, the Owner may modify the proposed Improvement and resubmit it to the Architectural Committee and Board for additional review and possible approval.

Section 8.7. Non-Waiver. The approval by the Board of any plans, drawings or specifications for any work done or proposed or for any other matter requiring the approval of the Board under this Declaration, may not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval or impose different conditions upon other approvals. No rights are given other than those expressly set forth herein.

Section 8.8. Meetings. The Board will meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Board will constitute the action of the Board. The Board will keep and maintain a written record of all actions taken.

Section 8.9. Variances. The Board may, but is not required to, allow reasonable variances with respect to this Article or any restrictions specified in Article 3 in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided that the following conditions are met:

(a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise apply under this Declaration, the Board must

conduct a hearing on the proposed variance after giving at least forty-five (45) days prior written notice to all Owners of Units as determined by the Architectural Committee. The Owners receiving notice of the proposed variance will have thirty (30) days in which to submit to the Board written comments or objections with respect to the variance. No decision will be made with respect to the proposed variance until the thirty (30) day comment period has expired.

(b) The Board must make a good faith determination that: (j) the requested variance does not constitute a substantial deviation from the overall plan and scheme of development within the Property or from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; (ii) the variance relates to a requirement hereunder that is unnecessary or burdensome under the circumstances; or (iii) the variance, if granted, will not detrimentally effect, or create an unreasonable nuisance, with respect to any other Unit, Common Elements or Owner within the Property.

(c) If the conditions justifying the variance cease to exist, the Owner will remove or modify the Improvement as the Board may direct to comply with the Architectural Standards at the time of the application, or if approved, any subsequent Architectural Standards.

Section 8.10. Compliance with Governmental Requirements. The application to the Association and the review and approval of any proposal, plans or other submittals will in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements. The Owner bears sole responsibility for obtaining all necessary governmental permits/authorizations and/or complying with all governmental requirements including specifically applicable building codes.

Section 8.11. Commencement. Upon receipt of approval pursuant to this Article 8, the Owner must, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement and completion of all construction pursuant to the approval. Commencement must occur within one hundred twenty (120) days from the date of the approval or, if the activities required for such construction are restricted by governmental requirements, at the beginning of the next period allowing such construction.

If the Owner fails to comply with this section, any approval previously given will be deemed revoked unless the Board, upon written request of the Owner made prior to the expiration of the one hundred twenty (120) day period, extends the time for the commencement.

No extension will be granted except upon a finding by the Board that there has been no change in the circumstances upon which the original approval was granted.

Section 8.12. Completion. The Owner will complete the construction, reconstruction, refinishing or alteration of any such Improvement within eighteen (18) months after commencing construction thereof, except and for as long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his agents. If an Owner fails to comply with this Section, the Board will proceed in accordance with the provisions below, as

though the failure to complete the Improvements was a non-compliance with approved plans. In any event, the Owner will finish the construction as soon as reasonably possible after its commencement.

Section 8.13. Inspection. Inspection of work and correction of defects therein will proceed as follows:

(a) Upon the completion of any construction of an Improvement, the Owner must deliver written notice thereof to the Association not later than thirty (30) days.

(b) Within ninety (90) days thereafter, the Board, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered or refinished to substantial compliance with the approved plans. If the Association finds that such construction was not done in substantial compliance with the approved plans, it will notify the Owner in writing of such non-compliance within such ninety (90) day period, specifying the particulars of noncompliance and will require the Owner to remedy such noncompliance. There is no liability on the Association if such inspection failed to reveal any defect later discovered. This inspection is not for the Owner's benefit and no Owner or other party may rely in whole or in part on the inspection.

(c) If the Owner fails to remedy such noncompliance upon the expiration of thirty (30) days from the date of such notification or such other reasonable time as the Association may set, upon application of the Owners, the Board will then set a date on which a hearing before the Board will be held regarding the alleged noncompliance.

The hearing date will be not more than sixty (60) nor less than fifteen (15) days after the Board determines the existence of the noncompliance. Notice of the hearing date will be given to the Owner and, in the discretion of the Board, to any other interested party at least ten (10) days in advance of the hearing.

(d) At the hearing, the Owner and, in The Board's discretion, any other interested person, may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board will determine whether there is a noncompliance, and, if so, the nature thereof.

If noncompliance exists, the Board may require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board's ruling. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance. All expenses incurred in connection therewith will be assessed against the Owner as a Special Individual Assessment.

(e) If the Board fails to notify an Owner of any noncompliance within ninety (90) days after receipt of the notice of completion, the Improvement will be deemed to be in accordance with approved plans.

Section 8.14. Enforcement. If it comes to the attention of the Association that a work of Improvement is proceeding without proper approval and/or in noncompliance with approved plans (and without the Owner notifying the Board of completion), the Association will be entitled to exercise enforcement remedies, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Board review and approval is obtained.

Section 8.15. Liability. Neither the Board nor any Member thereof will be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) any inspection of the performance of any work; and/or (d) the development of any property within the Property; whether or not the facts therein are correct; provided, however, that the Board or such member has acted in good faith on the basis of such information as may be possessed by it or them. Without in any way limiting the generality of the foregoing, the Board, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Board.

ARTICLE 9: INSURANCE.

Section 9.1. Types of Insurance Coverage. Subject to such insurance coverage being “reasonably available,” the Association shall purchase, obtain, and maintain, with the premiums therefore being paid out of Association funds, the following types of insurance for the benefit of the Association with the coverage’s described below. Insurance is deemed to not be reasonably available if: (1) such insurance is not available from a reputable insurance company; or (2) if such insurance is available only at an unreasonable cost. If the Association determines that any coverage will not be maintained because it is not reasonably available, there is no requirement to secure such coverage and there shall be no liability imposed on the Association or its Board of Directors for failure to obtain any required coverage or for any loss or damage resulting from such failure.

(a) Fire and Casualty Insurance. Subject to the above, the Association shall obtain and maintain a master or blanket policy of fire and casualty insurance, written on an all peril, replacement cost basis on all real property and improvements within the Property which, under Article 6 of this Declaration, are the responsibility of the Association to maintain, repair and/or replace.

The insurance must be kept in full force and effect and the full replacement value, if applicable, of the insured property must be redetermined on an annual basis. The Association shall not be responsible for obtaining any insurance to cover Improvements or betterments installed by the Owners. Depending on the nature of the insured property and the requirements, if any, imposed by institutional Mortgagees having an interest in such property, the policies maintained by the Association pursuant to this section must contain: (1) an agreed amount endorsement or its equivalent; (2) an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or the equivalent; (3) an extended coverage endorsement; (4) vandalism, malicious mischief coverage; (5) loss or damage by fire coverage; (6) other standard

extended coverage risks and all other perils customarily covered in projects similar in construction, location and use, including all perils normally covered by the standard “all risk” endorsement; (7) demolition and foundation cost coverage; and (8) a special form endorsement and a clause to permit cash settlements for full insurable value in case of partial destruction, if available.

The policies will name as insured the Association, all Owners and all Mortgagees as their respective interests may appear.

(b) Public Liability & Property Damage. Insurance. The Association shall obtain and maintain a policy of comprehensive public liability and property damage insurance naming as parties insured the Association, each Director, any manager, the Owners and Residents of Units, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common Elements and any other Association owned or maintained real or personal property including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance will not be less than one million dollars (\$1,000,000.00) for claims for death, personal injury and property damage arising out of a single occurrence. The insurance must include coverage against water damage liability, liability for non-owned and hired vehicles, liability for property of others, and any other liability customarily covered with respect to similar developments unless not reasonably or commercially available or not offered at a reasonable cost in relation to the desired coverage, limits or exceptions. The Board may decide whether additional coverages or higher limits may be required, whether the insurance is reasonable as to cost or availability, appropriate limitations or ranges of deductibles.

(c) Directors & Officers Insurance. The Association shall obtain and maintain a policy of directors’ and officers’ errors & omissions insurance naming the Association’s directors and officers as insured parties. The limits of such insurance will not be less than one million dollars (\$1,000,000.00). Directors’ and officers’ errors & omissions insurance must insure against claims arising out of or based upon negligent acts, errors, omissions, or alleged breaches of duty of any Director or officer, whether elected or appointed, while acting in its capacity as such.

(d) Employee Practices Coverage. If the Association has employees, the Association shall obtain and maintain a policy of employee practices insurance.

(e) Personal Property Insurance. The Association shall obtain and maintain such insurance on personal property owned by the Association and any other insurance, including directors and officers liability insurance, that it deems necessary or desirable, or that is required by any institutional First Mortgagee.

(f) Earthquake Insurance. To the extent such insurance is available at a reasonable premium, the Association shall obtain and maintain a policy of earthquake insurance in such amounts and terms, including but not limited to deductibles, as the Association determines in its sole discretion.

(g) Fidelity Bonds. The Association shall obtain and maintain fidelity or theft bonds for such employees, agents, independent contractors, directors, or other persons who either

handle, control or are responsible for, funds held or administered by the Association, whether or not such persons receive compensation for their services. The bond must name the Association as an obligee, and shall be in an amount at least equal to the sum of the following: (i) the maximum amount of funds that will at any one time, be in the custody of the Association and the persons and entities covered by the bond, (ii) an amount equal to three (3) months' Regular Assessments on all Units, and (iii) the amount of the Association's reserve fund. Such bond shall include a provision requiring at least ten (10) days' written notice before the bond can be cancelled or modified for any reason, which notice shall be given to the Association and each servicer which services a Mortgage owned by the Federal National Mortgage Association. In addition, a manager of the Association who is not an employee must obtain a fidelity or theft bond in an amount at least equal to the maximum amount of Association funds which will be in the manager's control at any one time.

(h) Flood Insurance. To the extent such insurance is available at a reasonable premium, the Association shall obtain and maintain a policy of flood insurance in such amounts and terms as the Association determines in its sole discretion.

Section 9.2. Owners Right to Copies of Policies & Notice of Significant Changes in Coverage. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) will be retained by the Association and will be available for inspection by Members at any reasonable time. The Association will notify Members if any insurance policies are not immediately renewed or replaced upon cancellation or lapse and/or if there is a significant change in the policy.

Section 9.3. First Mortgagees' Minimum Coverage Requirements & Right to Obtain Copies of Policies. A First Mortgagee for a Unit may supply the Association with its minimum insurance requirements. If the Association's insurance policies do not currently meet the minimum requirements of those First Mortgagees who have provided minimum requirements to the Association, the First Mortgagees can request that the Association increase its coverage to match those minimum insurance requirements. The requesting First Mortgagees must pay any increase in the Association's insurance premiums due to the request. All First Mortgagees for any Unit in the Property have the right, upon written request, to obtain copies of current insurance policies and/or satisfactory evidence of the Association's payment of premiums, for which a reasonable fee may be charged.

Section 9.4. Coverage Not Available. If any insurance policy, or any endorsement thereof required by Section 9.1 is for any reason not available, then the Association will obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above. The Board will notify the Owners of any material adverse changes in the Association's insurance coverage.

Section 9.5. Individual Fire & Casualty insurance. The Association shall not be held responsible for insuring those portions of the Property which are not included within the portions of the Property that the Association is responsible to maintain, repair and/or replace pursuant to this Declaration. Notwithstanding anything contained in the Governing Documents to the contrary, Owners shall be responsible for obtaining the following insurance: their own personal liability

insurance; insurance on the personal property contents of their Unit; insurance for those portions of the Property which pursuant to this Declaration are the responsibility of the Owners to maintain, repair, and/or replace; insurance on the following types of property contained within a Unit, regardless of ownership: fixtures, improvements, and alterations that are part of the building or structure, and appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping, upgraded windows and upgraded doors; and the insurance for any additions to or alterations that the Owners may make which increases the value of the Property or Unit above the value of the Property or Unit as originally constructed, or otherwise increases the risk to the Property.

Except as provided in this section, no Owner may separately insure any portion of the Property which is covered by insurance maintained by the Association. In all cases, the Owner's insurer shall have the primary responsibility for any loss or claim before the Association's insurance coverage takes effect. An Owner who violates this section shall be liable to the Association for any diminution in insurance proceeds otherwise payable to the Association, and the Association shall levy a Special Individual Assessment against such Owner in the amount of such diminution.

Section 9.6. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Section 9.1. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 9.7. Distribution to Mortgagees. Any Mortgagee has the option to apply insurance proceeds payable on account of a Unit in reduction of the obligation secured by the Mortgage of such Mortgagee.

Section 9.8. Owner's Insurance. Except as set forth in this Article, an Owner may carry whatever additional insurance with respect to their Unit that they desire.

Section 9.9. Deductibles/Costs in Excess of Insurance Proceeds.

(a) An Owner responsible for causing an insurable loss as defined herein will be obligated to contribute the Owner's proportional share of the insurance deductible, and/or costs in excess of insurance proceeds if any, corresponding to the insurance covering the loss. The proportional share (as determined by the Board) of each Owner responsible for causing the insurable loss under this subsection will be based upon the ratio that the responsibility of each Owner responsible for causing the insurable loss bears to the total responsibility of the total of Owners responsible for causing the insurable loss.

(b) With respect to losses other than as set forth in Subsection (a), all Owners shall be obligated to contribute their proportionate share of the insurance deductible or costs in excess of insurance proceeds whether or not that Owner's Unit suffered damage.

(c) If, within thirty (30) days of notice by the Association to an Owner regarding that Owner's proportionate share under subsection (a) or (b) of Section 9.9, any Owner

fails or refuses to pay his proportionate share, the Association may, in accordance with Section 5.4, levy a Special Individual Assessment against the Unit of such Owner which may be enforced in any manner provided in this Declaration.

(d) Within fifteen (15) days of the date that the notice to the Owner of his share of the liability is mailed, any Owner may contest the amount of his proportionate liability under subsection (a) or (b) hereof by submitting to the Association written objections supported by cost estimates or other information that the Owner deems to be material. Upon receipt of said written objections, the Board will set a hearing date on the matter to be held within thirty (30) days. Following such hearing, the Board will give written notice of its decision to all affected Owners, including any recommendation that adjustments be made with respect to the liability of any Owner(s). The Board's decision will be final and binding.

ARTICLE 10: DAMAGE OR DESTRUCTION.

Section 10.1. General Provisions. In the event of damage by fire or other casualty, the Association will have exclusive authority to negotiate losses/insurance proceeds or settlement of any matter.

(a) **Allocation.** If more than a single Unit is damaged/destroyed, the insurance proceeds received will be fairly allocated between and among the damage or destruction to the Unit(s) and/or the Common Elements. Any shortfall or deficiency in insurance proceeds will be allocated to all 46 Units, and assessments evenly and charged to all Owners/Units where each Unit pays the same as any other generally assessed.

(b) **Repair, Reconstruction and Notice.** If repair and reconstruction is to take place, 1) The Board will have the authority to enter into a written contract with contractor(s) for the repair and reconstruction and, on behalf of the Association and its Members, will enter into a construction contract for any work required; 2) all, or any such portion of the insurance proceeds, as are necessary will be expended to rebuild or repair in accordance with conditions prior to the event of damage or destruction, or as the Association, the Owner(s) and Mortgagee(s) may elect to alter the same in accordance with their respective rights; 3) the Board will be required to execute, acknowledge and record in the office of the County Recorder, not later than one hundred and twenty (120) days from the date of such destruction, a certificate declaring the intention of the Members to rebuild or not to rebuild as provided in NRS 116.31135 or any superseding statute. It will be the obligation of the Board to take all steps necessary to assure the commencement and the completion of authorized repairs and reconstruction occur at the earliest possible date.

(c) **Emergency Assessment.** If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Board will obtain the additional proceeds required to complete the work in the following manner and as provided herein: Additional sums required to repair or rebuild Unit(s) and/or the Common Elements will be obtained by Special Assessment levied against all Units without vote of the members and as assessed by the Board, unless the proceeds are insufficient due to an Owner's willful or negligent act or omission, in which case the additional sums required may be assessed against that Owner as a Special Individual Assessment.

Within fifteen (15) days from the date of the mailing of the notice to The Owner of their share of the liability, any Owner can dispute the amount of their proportionate liability under this Section by submitting to the Board written objections supported by cost estimates or other information that the Owner deems to be material. Upon receipt of an Owner's written objections, the Board will schedule a hearing. The Owner may be represented by counsel at this hearing. Following such hearing, the Board will give written notice of its decision to all affected Owners, including any recommendation that adjustments be made with respect to the liability of any Owners. The decision of the Board will be final and binding on all Owners.

(d) Advancement of Special Assessment. If any Member fails to pay, within thirty (30) days of the levy, the Special Assessment levied against that Member's Unit, the Board may advance (without relieving the Member(s) or the Members' Unit(s) from liability therefore) an amount equal to the unpaid assessments.

(e) Procedures if Rebuilding Not Approved by Members. If, in accordance with the procedures set forth herein, below, the Members determine not to rebuild the damaged or destroyed portions of the Property, the Board will, within twenty (20) days, or as soon as practicable, after the Members determined not to rebuild, propose such alternative reconstruction of the damaged or destroyed portions of the Property at a lesser cost as the Board deems reasonable or adequate. The Board's proposal will be placed before the Members and voted upon in accordance with the appropriate method set forth below.

If Members are unable to approve any of the reconstruction proposals and at least one hundred and twenty-five (125) days have elapsed since the casualty event occurred, the Association will have the power (with the consent of eighty percent (80%) of all Owners, including one hundred percent (100%) of every Owner of a Unit or assigned Limited Common Element that will not be rebuilt), to purchase all Unit(s) rendered uninhabitable by the casualty event (as conclusively determined by the Board) at value of such Unit(s) immediately prior to the casualty event less the amount of any Special Assessment assessed against the Unit(s) needed to fund the purchase. The Association's purchase will be funded from the insurance proceeds and if necessary, from a Special Assessment pursuant to subsection (e), above. Payments will be made proportionately to the Owners, as their respective interests may appear. Each Owner agrees, by accepting the deed to the Owner's Unit, to be bound by these provisions and to convey the Owner's Unit to the Association by grant deed as may be required herein. After such payment, the recipient(s) will no longer be deemed Owners/Members and the Map may be redrawn, as necessary, to adjust the undivided ownership interests.

All Units that were not rendered uninhabitable must be repaired to a condition as near as possible to their condition immediately prior to the casualty that caused the damage. Such repair and restoration will be paid for in the following order: any remaining insurance proceeds and, then, a Special Assessment levied equally against all remaining Owners if insurance proceeds equal or exceed 70% of the cost to rebuild, or as determined by the Board of Directors and approved by a majority vote of the affected Owners if the insurance proceeds are less than 70% of the cost to rebuild.

Section 10.2. Minor Deficiency in Insurance Proceeds. If the available proceeds of the

insurance maintained pursuant to Article 9 are sufficient to cover not less than seventy percent (70%) of the costs of repair and reconstruction, the Improvements will be promptly rebuilt unless, within ninety (90) days from the date of destruction, eighty percent (80%) of the total voting power and every Owner of a Unit that will not be rebuilt determine, in accordance with the procedures set forth herein, below, that such repair and reconstruction will not take place. If repair and reconstruction is to take place, the Board will be required to execute, acknowledge and record in the office of the County Recorder, not later than 120 days from the date of such destruction, a certificate declaring the intention of the Members to rebuild.

Section 10.3 Major Deficiency in Insurance Proceeds. If the above Section is not applicable, then:

(a) **Insurance Proceeds.** As diligently as possible, the Association will determine the total amount of insurance proceeds which will be available for repair and rebuilding.

(b) **Contract Award.** Unless the Members vote as provided hereinabove that the repair and reconstruction will not take place, the Board must award the repair and reconstruction work to the most reasonable and best value, not necessarily the lowest bidder, or to such other bidder that the Board determines is more favorable.

Section 10.4. Emergency Repairs. Without waiting to obtain insurance settlements or bids, the Board may undertake such emergency repair work after a casualty as the Board may deem necessary or desirable under the circumstances, and the Board may charge the maintenance fund for the costs thereof where such repairs are done prior to settlement of insurance claims.

Section 10.5. Termination of Partition Waiver. The prohibition against judicial partition of the Property will terminate upon the recordation of a certificate not to rebuild as described and required hereinabove. Upon final judgment of a court of competent jurisdiction decreeing a partition, the proceeds or property resulting from the partition will be distributed to and among the respective Owners and their Mortgagees, as their interests appear, as follows: The Board will select an independent appraiser who will determine the relative fair market values of the Units. The proceeds or property will then be apportioned among the Owners, and their respective Mortgagees, according to such relative values. Such relative values will be determined as of a date immediately prior to any sale, taking or destruction of the Property. The covenants, conditions and restrictions of the Declaration will then terminate.

ARTICLE 11: CONDEMNATION.

Section 11.1. Sale by Unanimous Consent or Taking. If an action for condemnation of all or a portion of the Properties is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the Owners, the Properties, or a portion thereof may be sold and conveyed to the condemning authority by the Board or its designees acting as the attorney-in-fact of all Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a Condominium in the Properties hereby grants and which will be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. If the requisite number of Owners do not consent to a sale of all or a portion of the

Properties, and the condemning authority institutes condemnation proceedings, the court will fix and determine the condemnation award.

Section 11.2. Distribution and Sale Proceeds of Condemnation Award.

(a) Total Sale or Taking. A total sale or taking of the Properties means a sale or taking that: (i) renders more than fifty percent (50%) of the Units uninhabitable (such determination to be made by the Board in the case of a sale and by the court in the case of a taking); or (ii) renders the Properties as a whole uneconomical as determined by the vote or written consent of eighty percent (80%) of those Owners whose Units remain habitable after the taking. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Properties, after payment of all expenses relating to the sale or taking, will be paid to all Owners and to their respective Mortgagees in the proportion that the fair market value of each Unit bears to the fair market value of all Units on the Property. The fair market value of Units will be determined in the condemnation action, if such be instituted, or by an appraiser.

(b) Partial Sale or Taking. In the event of a partial sale or taking of the Property, meaning a sale or taking that is not a total taking, as determined hereinabove, the proceeds from the sale or taking will be paid or applied in the following order of priority and any judgments of condemnation will include the following provisions as part of its terms:

(i) To the payment of expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then any remaining proceeds,

(ii) To Owners and their respective Mortgagees, as their interests may appear, of Units on the Property whose Units have been sold or taken, an amount up to the fair market value of such Units as determined by the court in the condemnation proceeding or by an appraiser, less such Owners' share of expenses paid pursuant hereto, above, (which share will be in proportion to the ratio that the fair market value of each Owner's Unit bears to the fair market value of all Units). After such payment, the recipient will no longer be deemed an Owner and the Board or individuals authorized by the Board, acting as attorney-in-fact of all Owners will amend the Map and this Declaration to eliminate from the Property the Units so sold or taken; then any remaining proceeds,

(iii) To any remaining Owner(s) and to their Mortgagees, as their interests may appear, whose Unit has been diminished in value as a result of the sale or taking disproportionate to any diminution in value of all Units, as determined by the Court in the condemnation proceeding or by an appraiser, an amount up to the total diminution in value; then any remaining proceeds,

(iv) To all remaining Owners and to their respective Mortgagees, as their interests may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Unit bears to the fair market value of all remaining Owners' Units as of a date immediately prior to commencement of condemnation proceedings, as determined by the Court in the condemnation proceeding or by an appraiser.

Section 11.3. Appraiser. The costs of appraisals will be paid from the condemnation proceeds as an expense of the Association.

ARTICLE 12: NONSEVERABILITY OF COMPONENT INTERESTS.

Section 12.1. Severance Prohibited. An Owner will not be entitled to sever their Unit from their membership in the Association. None of the component interests in a Unit can be severally sold, conveyed, encumbered, hypothecated, or otherwise dealt with; and any violation or attempted violation of this provision will be void. The suspension of such right of severability will not extend beyond the period set forth herein respecting the suspension of partition.

Section 12.2. Limitation on Interests Conveyed. After the initial sales of the Units, unless otherwise expressly stated, any conveyance of a Unit or any portion of it by an Owner will be presumed to convey the entire Unit. However, nothing contained in this section may preclude the Owner from creating an estate for life or an estate for years or from creating a co-tenancy, joint tenancy or community property estate in the ownership of a Unit with any other person or persons.

ARTICLE 13: BREACH & DEFAULT.

Section 13.1. Remedy at Law Inadequate. Any Owner or the Association may enforce, by any proceeding at law or in equity, the provisions of the Governing Documents against any Owner. The failure of any Owner to strictly comply with any provision of the Governing Documents will be grounds for: (1) an action to recover sums due for damages; and/or (2) an action to enjoin by appropriate legal proceedings instituted by any Owner or the Association; and/or (3) fines or other appropriate action by the Association, and their conversion to Special Individual Assessments in accordance herewith.

Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in the Governing Documents is inadequate.

Section 13.2. Nuisance. Without limiting the generality of the foregoing, the result of every act or omission whereby any covenant contained in the Governing Documents is violated, in whole or in part, is hereby declared to be a nuisance. In addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association or any Owner. Every remedy against nuisance, either public or private, will be applicable against every such act or omission. The Board will not be obligated to take action to abate or enjoin a violation if, in the discretion of the Board, the Board determines that acting to abate or enjoin the violation is not

likely to protect the interests of the Association and its Members or some other alternative is more favorable to the interest of the Association.

Section 13.3. Violation of Law. Any violation of any governmental law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any and all of its enforcement procedures.

Section 13.4. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law will be cumulative, and not exclusive. The exercise of any one or more of such rights or remedies will not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration or any of the Governing Documents.

Section 13.5. Failure Not a Waiver. The failure of any Owner or the Association to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in the Association's Governing Documents will not constitute a waiver of the right to enforce the same thereafter, nor will such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Section 13.6. Rights and Remedies of the Association.

(a) **Rights Generally.** In the event of a breach or violation of any of the restrictions or rules contained in any Governing Document by an Owner, the Board may enforce the obligations of each Owner to obey such Rules or restrictions or rules through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreational Common Elements or suspension of the Owner's voting rights as a Member. The Association's right to undertake disciplinary action against its Members will be subject to the conditions set forth herein. The initiation of legal action will be subject to the provisions herein, below. The Association is specifically allowed to take immediate corrective action to protect the Property or at any time necessary to protect the health and safety of the Units, Unit Owners or others on the Property.

The decision of whether it is appropriate or necessary for the Association to initiate enforcement or disciplinary action in any particular instance will be within the sole discretion of the Board. If the Association declines to take action in any instance, any Owner will have such rights of enforcement as may exist by virtue of Nevada law.

Upon the Board's determination, after prior notice to the affected Member and an opportunity for a hearing pursuant hereto, that the Member has violated any provision of the Governing Documents, including but not limited to a failure to pay any Assessment when due, the Member is deemed to be a Member not in good standing. Such Member will be deemed to be a Member not in good standing until the Board determines in writing that the violation which

resulted in the Board's determination that the Member was not in good standing has been remedied or, on some other basis as in the judgment of the Board is just and proper, that such Member may again be deemed to be a Member in good standing.

(b) Schedule of Fines. The Board may adopt, implement and amend from time to time by majority vote a schedule of reasonable fines and penalties for particular offenses, including violations of the Association Rules and Governing Documents for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). Once imposed, a fine or penalty may be collected as a Special Individual Assessment and will be enforceable as a Special Individual Assessment pursuant hereto. If the Board adopts a policy imposing fines, the Board must, as required by law, e-mail, hand-deliver or send by United States mail to each Owner, a schedule of the fines, as it may be revised from time to time.

(c) Definition of "Violation" and "General Record of Violations". A violation of the Governing Documents will be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as The continuing violation and/or detrimental effect continues. Similar violations on different days will justify cumulative imposition of disciplinary measures.

The Association will take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within the Common Elements at the cost of the responsible Owner, which cost is supplemental to and may not be considered part of any fine imposed.

The Board must maintain a general record concerning each violation of the Governing Documents, other than a violation involving a failure to pay an Assessment, for which the Board has imposed a fine or any other sanction. The general record:

- (i) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine, the general record must specify the amount of the fine;
- (ii) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the Unit, if any, that is associated with the violation; and
- (iii) Must be maintained in an organized and convenient filing system or data system that allows an Owner to search and review the general records concerning violations of the Governing Documents.

(d) Limitations of Disciplinary Rights.

(i) Loss of Rights: Forfeitures. The Association will have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of their Unit due to the failure by the Owner to comply with any provision of the Governing Documents, except where

the loss or forfeiture is the result of: (A) the judgment of a court of competent jurisdiction; (B) a decision arising out of arbitration; (C) a foreclosure or sale conducted in accordance with Chapter 116 for failure of the Owner to pay Assessments levied by the Association; or (D) where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents so long as the Association's actions satisfy the due process requirements hereof.

(ii) Special Individual Assessments. A monetary fine or penalty imposed by the Association is a Special Individual Assessment enforceable by the sale of the Unit.

(e) Hearings. No penalty or temporary suspension of rights will be imposed pursuant to this Article 14 unless the Owner alleged to be in violation is given prior notice of the proposed penalty or temporary suspension, and is given an opportunity to be heard before the Board or appropriate committee established by the Board with respect to the alleged violation(s) as provided in Association Rules adopted by the Board pursuant hereto, and not less than thirty (30) days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the Governing Documents that form the basis of the violation.

(f) Notice of Hearing and Disciplinary Decision. The notice of hearing required by this article will, at a minimum, set forth the date, time, and place for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents, a reference to the specific Governing Document provision alleged to have been violated, the amount of any potential fine or penalty, and a statement that the Member has a right to attend and may address the Board or committee at the hearing. The notice must be delivered by either personal delivery or first-class mail or, as allowed by law, email to the Member at least ten (10) days prior to the hearing. If the Board or committee decides to discipline the Member, the Association must notify the Member of the disciplinary action by either personal delivery or first-class mail or, as allowed by law, email following the decision. The discipline will not be effective until five (5) days after the notification of the decision.

The Board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed: (a) pays the fine; (b) executes a written waiver of the right to the hearing; or (c) fails to appear at the hearing after being provided with proper notice of the hearing.

If a fine is imposed and the violation is not cured within fourteen (14) days, or within any longer period that may be established by the Board, the violation shall be deemed a continuing violation. Thereafter, the Board may impose an additional fine for the violation for each seven (7)-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

The Board may appoint a committee, with not less than three (3) members, to conduct hearings on violations and to impose fines. While acting on behalf of the Board for those

limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Board and its members.

(g) Rules Regarding Disciplinary Proceedings. The Board may adopt rules that set forth the procedures for conducting disciplinary proceedings. The rules, when approved and adopted by the Board, will become a part of the Association Rules and may provide for notices and procedures satisfying the alternative dispute resolution requirements of Nevada law.

Section 13.7. Court Actions; Mediation. Whether or not Nevada law requires alternative dispute resolution, unless there is an emergency, no person or the Association, may initiate court action until alternative dispute resolution is pursued.

(a) Court actions to enforce the Governing Documents may only be initiated on behalf of the Association upon Board approval. Before initiating any court action to enforce the Governing Documents, the Association and/or Members must first comply with the provisions of NRS 38.300 to 38.360 or superseding statute, inclusive, relating to alternative dispute resolution. The provisions of this section are intended to satisfy the alternative dispute resolution requirements. All notices issued and procedures followed in the mediation process must comply with the specific requirements imposed by NRS 38.300 to 38.360 or superseding statute, inclusive.

(b) In the event NRS 38.300 to 38.360 is repealed, the Association and/or Members must first proceed with alternative dispute resolution before commencing a court action.

Section 13.8. Joint and Several Liability of Co-Owners. If a Unit is owned jointly by two (2) or more persons, the liability of each Owner thereof in connection with the obligations of Owners imposed by this Declaration will be joint and several.

Section 13.9. Costs and Attorneys' Fees. If the Association takes any action because of any breach or default of any Owner or other party hereto under the Governing Documents (whether or not any legal proceeding, including an arbitration, is initiated) the Association will be entitled to recover from that Owner (or other party) the costs, including attorneys' fees, the Association incurred as a result of the breach or default. The Association's remedies to recover its costs and attorneys' fees will include, but are not limited to, the imposition of a Special Individual Assessment.

If an action (including an arbitration) is brought by a Member (or other individual with the right to enforce the Governing Documents) because of any alleged breach or default by any party hereto under the Governing Documents, the court may award to the prevailing party in any such action attorneys' fees and other costs, including, but not limited to, court costs and experts' fees, incurred in connection therewith as the court deems just and reasonable.

ARTICLE 14: NO PUBLIC RIGHTS IN THE PROPERTY.

Section 14.1. Dedication of Property. Nothing contained in this Declaration may be deemed to be a gift or a dedication of all or any portion of the Property to the general public or for any public use or purpose whatsoever.

ARTICLE 15: NOTICES.

Section 15.1. Mailing Addresses. Any communication or notice of any kind permitted or required pursuant to any provision of the Governing Documents will be in writing and may be served, as an alternative to personal service, by mailing the same as follows.

(a) **Owners.** To the last known address of the Owner of the Unit or to such other address as the Owner may from time to time designate in writing to the Association or if designated in writing by the Owner, to the Owner's e-mail address.

(b) **The Association.** The mailing address of the Association is 1625 US Highway 88, Suite 102, Minden, NV 89423 (or to such other address as the Association may from time to time designate in writing to the Owners).

(c) **Directors/Officers.** To the street address as the Director and/or officer may from time to time designate in writing to the Association and if no address is designated to the mailing address of the Association. No director or officer is required to provide an address separate from that of the Association's address identified herein.

The foregoing addresses may be changed by written notice given as herein provided. Unless so changed, the last address provided for each party, whether herein or pursuant to notice hereunder, will be deemed to be the address of such party for any and all purposes.

Section 15.2. Personal Service Upon Co-Owners & Others. Personal service of a notice to one of the co-Owners of any Unit, to any general partner of a partnership which is the Owner of Record of a Unit, or to any officer or agent for service of process of a corporation which is the Owner of Record of a Unit, will be deemed delivered to all such co-owners, to such partnership, or to such corporation, as the case may be.

Section 15.3. Deemed Delivered. All notices and demands served by mail will be by first-class or certified mail, with postage prepaid, and will be deemed delivered seventy-two (72) hours after deposit in the United States mail unless specified otherwise by this document. All notices and demands served by personal delivery are delivered upon service.

ARTICLE 16: AMENDMENT OF RESTATED DECLARATION.

Section 16.1. Amendment in General. This Declaration may be amended or revoked in any respect by the vote or assent by written ballot of Members representing at least fifty-one percent (51%) of all eligible Owners. Notwithstanding the foregoing, the percentage of the Members necessary to amend a specific clause or provision of this Declaration shall be at least the percentage of affirmative votes prescribed in said clause or provision.

Section 16.2. Effective Date of Amendments. Any amendment to this Declaration will be effective upon the recording in the Office of the Recorder of Douglas County a Certificate of

Amendment, duly executed and certified by the president and secretary of the Association setting forth in full the amendment so approved and that the approval requirements hereof have been met.

Notwithstanding anything to the contrary herein contained, no such amendment will affect the rights of the holder of any first deed of trust or Mortgage recorded prior to the recording of such amendment if such holder of any first deed of trust or Mortgage provided written request for notice of any amendments or if such amendment adversely affects any holder of a first deed of trust or Mortgage.

Section 16.3. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration will be presumed valid by anyone relying on them in good faith.

ARTICLE 17: ANNEXATION.

Section 17.1. Annexation. Any real property which consists of a parcel or parcels shown on a final subdivision or parcel map of Record may be annexed to the Property in accordance with this article, and shall thereupon become subject to this Declaration with the consent of the Owner of the property.

The Association may annex real property to the Property provided that such annexation is approved by a vote or written consent of sixty-six and two thirds percent (66 2/3%) of the Owners.

Section 17.2. Method of Annexation. Any annexation undertaken in accordance with this Section shall be effective when a Declaration of Annexation executed by the annexing party and the owner of the interest to be annexed covering the property to be annexed, and includes the following information.

- (a) A description of the property to be annexed.
- (b) A description of any parcel of the property to be annexed which is Common Elements, and of any property to be annexed which is designated for maintenance in accordance herewith.

Section 17.3. Effect of Declaration of Annexation. Upon any annexation becoming effective, the Declaration of Annexation shall become a part of this Declaration, and shall be deemed amended by any amendment to this Declaration.

Section 17.4. Adjustment for Capital Improvements. Where annexation of a Phase occurs after existing Units within the Property have been assessed for Capital Improvements.

IN WITNESS WHEREOF, the Declarant has hereunto caused these presents to be executed.

TOWN HOMES AT MONTERRA III, LLC

By: CARTER HILL HOMES, LLC,

Managing Member

By:



Brandon Hill, Manager

COPY

NEVADA NOTARY ACKNOWLEDGMENT

THE STATE OF NEVADA

COUNTY OF Douglas

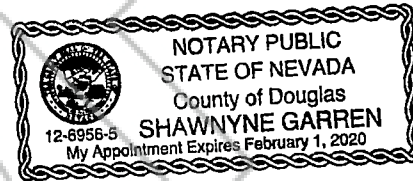
This instrument was acknowledged before me on 12/30/19
(date) by Brandon Hill, (name of person).

Shawnyne Garren

Notary Public Signature

Print Shawnyne Garren

Title Notary Public



(Seal)

Exhibit "A"
Legal Description



2670-001
12/30/19

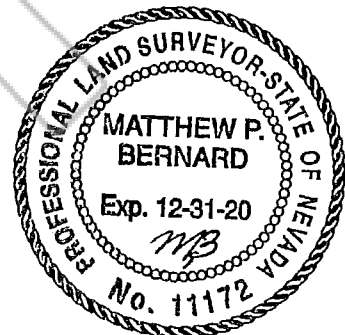
DESCRIPTION

All that real property situate in the County of Douglas, State of Nevada, described as follows:

A parcel of land lying within a portion of Section 29, Township 13 North, Range 20 East, Mount Diablo Meridian, more particularly described as follows:

Lots 1-17, Common Area No. 1, and including all those portions of Montevideo Circle as shown on the Final Map for The Towns at Monterra Phase 3A filed for record November 22, 2019 in the office of Recorder, Douglas County, Nevada as Document No. 938681.

Prepared By: R.O. ANDERSON ENGINEERING, INC.
P.O. Box 2229
Minden, Nevada 89423



12-30-19