

**DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
AND
GRANT AND RESERVATION OF EASEMENTS
FOR
FIRETHORNE I HOMEOWNERS ASSOCIATION**

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**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS AND GRANT AND RESERVATION OF EASEMENTS FOR**

FIRETHORNE I HOMEOWNERS ASSOCIATION

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT AND RESERVATION OF EASEMENTS is dated for purposes of reference only as of this 19th day of April, 1993, and is made by AMERICAN WEST HOMES, INC., a Nevada corporation ("Declarant").

WHEREAS, Declarant has an interest in the real property all of which is located in Clark County, Nevada, as is more fully described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, it is the desire and intention of Declarant to create a "common-interest community" as defined in Section 116.10323 of the Nevada Revised Statutes, consisting of 86 units in a "planned community" as defined in Section 116.110368 of the Nevada Revised Statutes, and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the units in the planned community created pursuant to the provisions of the Uniform Common-Interest Ownership Act set forth in Sections 116.1101 et seq. of the Nevada Revised Statutes.

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

DECLARANT FURTHER DECLARES that Declarant, its successors, assigns and grantees, covenant and agree that the undivided interest in the Common Elements, the membership in the Association, any easements conveyed therewith and the fee title to each respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, membership

and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit. Any conveyance by an Owner of a Unit, or any portion thereof, shall be presumed to convey the entire Unit, together with a membership in the Association.

ARTICLE 1 DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.1 Articles. "Articles" shall mean the Articles of Incorporation of the Association, as such Articles may be amended from time to time.

1.2 Assessment, Annual. "Annual Assessment" shall mean a charge against a particular Owner and his Lot, representing a portion of the expenses which are to be levied among all Owners and their Lots in the Project in the manner and proportions provided herein.

1.3 Assessment, Special. "Special Assessment" shall mean a charge: (a) against a particular Owner, levied by the Board after Notice and Hearing, which is directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty assessed by the Board, plus interest and other charges on such Special Assessments as provided for herein; or (b) which the Board may from time to time levy against a particular Owner and his Lot, representing a portion of the cost to the Association for reconstruction, maintenance or repair of any Improvements on any of the Common Elements. The assessment levied pursuant to 1.3(b) shall be levied among all the Owners and their Lots in the Project in the same proportions as Annual Assessments.

1.4 Association. "Association" shall mean the Firethorne I Homeowners Association, a Nevada non-profit corporation, and its successors and assigns. The Association is an "association" as defined in Section 116.110315 of the Nevada Revised Statutes. The Association shall be situated solely in Clark County, Nevada.

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

1.6 Board of Directors. "Board of Directors" shall mean the Board of Directors of the Association, designated in this Declaration to act on behalf of the Association. The Board is an

"executive board" as defined in Section 116.110345 of the Nevada Revised Statutes.

1.7 Budget. "Budget" shall mean a written, itemized estimate of the income and common expenses of the Association in performing its function under this Declaration.

1.8 Building. "Building" shall mean any one of the single-family or multi-family structures to be erected upon the Lots as shown upon the Plat. The term shall include all of the Units comprising one structure as shown upon the Plat.

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

1.10 Common Elements. "Common Elements" shall mean those areas of real property and the Improvements located thereon which are now owned or leased by the Association which are hereafter acquired by the Association for the common use and enjoyment of all Owners, Residents and Guests and shall have the same meaning contained in Section 116.110318 of the Nevada Revised Statutes. The Common Elements to be owned by the Association are described on the Plat, including, but not limited to, the Recreational Vehicle Parking Area, Private Drives and Landscape Areas and Recreational Facilities Area. The Common Elements excludes any Lots as defined in this Declaration.

1.11 Declarant. "Declarant" shall mean American West Homes, Inc., a Nevada corporation, its successor in any merger, consolidation or liquidation, any parent or subsidiary corporation, and (to the extent but only to the extent provided in any written assignment of rights by Declarant and assumption of obligations by the assignee, pursuant to Section 116.3104 of the Nevada Revised Statutes) its assigns, as well as any of Declarant's Developers. A successor Declarant shall be subject to the provisions of Sections 116.3104, 116.31043 and 116.31046 of the Nevada Revised Statutes, as amended from time to time.

1.12 Declaration. "Declaration" shall mean this Declaration of Protective Covenants, Conditions and Restrictions and Grant and Reservation of Easements for Firethorne I Homeowners Association.

1.13 Developer Walls. "Developer Walls" shall mean those portions of presently existing and hereafter constructed walls or fences which run along the exterior boundary of the Property, including, but not limited to, all walls or fences that are contiguous to and run parallel to boundaries of the Landscape Areas, the Recreational Facilities Area and/or the Recreational Vehicle Parking Area.

1.14 Eligible Holder. "Eligible Holder" shall mean a First Mortgagee which has requested notices from the Association with respect to those matters of which it is entitled to notice pursuant to the provisions of this Declaration or the Articles or Bylaws of the Association as defined in this Declaration.

1.15 Eligible Guarantor. "Eligible Insurer or Guarantor" shall mean an Insurer or Guarantor which has requested notices from the Association with respect to those matters of which it is entitled to notice pursuant to the provisions of this Declaration or the Articles or Bylaws of the Association as defined in this Declaration.

1.16 FHA. "FHA" shall mean the Federal Housing Administration of the United States Department of Housing and Urban Development and any department of the United States government which succeeds to the FHA's function of insuring notes secured by Mortgages on residential real estate.

1.17 First Mortgage. "First Mortgage" shall mean a Mortgage which is secured by a Lot and which is entitled to greater priority than any other Mortgage secured by that Lot.

1.18 First Mortgagee. "First Mortgagee" shall mean the holder of a First Mortgage.

1.19 Guest. A "Guest" of an Owner or Resident shall mean any employee, tenant, guest (whether or not for hire), licensee, agent or invitee of such Owner or Resident, including any transient guest, or any family member of the Owner or Resident.

1.20 Improvements. "Improvements" shall mean all structures and appurtenances thereto of every kind and type, including but not limited to, Buildings, Landscape Areas, Private Drives, Recreational Vehicle Parking Area, Parking Spaces, Recreational Facilities Area, as well as any walkways, sprinkler pipes, roads, driveways, fences, Developer Walls, Party Walls, Side Yard Walls, or other walls or fences, awnings, stairs, decks, landscaping, antennae, hedges, windbreaks, the exterior surfaces of any visible structure and the paint on such surfaces, planted trees and shrubs, poles, signs, and water softener fixtures or equipment related thereto or on any Lot.

1.21 Landscape Areas. "Landscape Areas" shall mean those portions of the Common Elements referred to as Common Elements Lot "A," Common Elements Lot "B," as well as the easements granted by the Owners of Lots 4, 5 and 37 in Block 1 as is more fully set forth on Exhibit "B" attached hereto.

1.22 Landscape Parking Zone. "Landscape Parking Zone" shall mean those portions of the Property that are contiguous to the Parking Spaces and are part of the Lots 6 and 7 in Block 4, Lots 1

and 16 in Block 3, and Lots 8 and 9 in Block 2 as is more fully set forth in Exhibit "B" attached hereto.

1.23 Lot. "Lot" shall mean each and every individual, physical portion of the Project designated for separate Ownership which is not a part of the Common Elements, and which is an intended or proposed site for one Unit as set forth in Exhibit "B" attached hereto.

1.24 Member or Membership. "Member" shall mean any Person holding a membership in the Association, as provided in this Declaration. "Membership" shall mean the property voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in the Restrictions.

1.25 Mortgage. "Mortgage" shall mean a mortgage or deed of trust secured by a Lot.

1.26 Mortgagee. "Mortgagee" shall mean the holder of a Mortgage.

1.27 Notice and Hearing. "Notice and Hearing" shall mean written notice and a hearing before the Board, at which the Owner concerned shall have the opportunity to be heard in person, or by counsel at the Owner's expense, in the manner further provided in the Bylaws, Rules and Regulations, and this Declaration and consistent with Section 116.3102(1)(k) of the Nevada Revised Statutes.

1.28 Owner. "Owner" shall mean the Person or Persons, including Declarant, holding title in fee simple interest to all or any interest in a Lot, excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include a seller under an executory contract of sale but shall exclude Mortgagees.

1.29 Parking Spaces. "Parking Spaces" shall mean those portions of the Private Drive referenced on Exhibit "B" as Parking Spaces, designated as SPS and ZPS on the Plat.

1.30 Party Wall. "Party Wall" shall mean those walls and fences or portions of any walls and fences erected or constructed and placed on the dividing line between Lots, including, but not limited to, the wall shared by Owners living in a multi-family residence.

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

1.32 Plans. "Plans" shall mean those drawings of those items set forth in Subparagraph 4 of Section 116.2109 of the Nevada

Revised Statutes, which items are set forth on drawings only to the extent not shown on the Plat.

1.33 Plat. "Plat" shall mean that plat map of real estate subject to this Declaration on file in the office of the County Recorder of Clark County, Nevada, which plat map is set forth in Exhibit "B."

1.34 Private Drive. "Private Drive" shall mean all that portion of the Common Elements designated as PRIVATE DRIVE and P.U.E. and the Parking Spaces, designated as 5PS and 2PS on the Plat. See, Exhibit "B."

1.35 Project or Property. "Project" or "Property" shall mean the real property described in Exhibit "A" hereto, subject to this Declaration and includes real property with respect to which a person by virtue of Ownership of a Lot is obligated to pay for real property other than the Lot.

1.36 Project Amenities. "Project Amenities" shall include a swimming pool and a cabana area, including showers, restrooms and a patio area, which shall be constructed upon the Recreational Facilities Area.

1.37 Recreational Vehicle Parking Area. "Recreational Vehicle Parking Area" shall mean that portion of the Common Elements set aside for the parking of recreational vehicles, or any other vehicle as approved by the Board of Directors, and which is subject to a 20 foot sewer easement all of which is designated as C.A. "D" on Exhibit "B" attached hereto.

1.38 Recreational Facilities Area. "Recreational Facilities Area" shall mean that portion of the Common Elements designated as Common Elements Lot "C" on Exhibit "B."

1.39 Rules and Regulations. "Rules and Regulations" shall mean the Rules and Regulations adopted by the Board pursuant to this Declaration or the Bylaws, including, but not limited to, any Rules and Regulations governing the Landscape Areas, Private Drives, Parking Spaces, Recreational Vehicle Parking Areas, and the Recreational Facilities Area, as such Rules and Regulations may be adopted and amended from time to time by the Board of Directors.

1.40 Resident. "Resident" shall mean any person who is physically residing in a residential dwelling on a Lot, for so long as said person is so residing.

1.41 Side Yard Wall. "Side Yard Wall" shall mean those walls and fences or portions of any walls and fences erected or constructed and placed solely on an Owner's Lot, including, but not limited to, any wall or fence that is not on a boundary line but may cross a boundary line between Lots.

1.42 Unit. "Unit" shall mean the single-family structure or the portion of the multi-family structure constructed by Declarant upon a Lot designed and intended for use and occupancy as a residence by a single family.

1.43 VA. "VA" shall mean the Department of Veterans Affairs of the United States of America and any department or agency of the United States government which succeeds to VA's function of issuing guarantees of notes secured by Mortgages on residential real estate.

ARTICLE 2 THE ASSOCIATION

2.1 Organization of Association. The Association is or shall be incorporated under the name of Firethorne I Homeowners Association, as a nonprofit corporation organized under the provisions of Sections 82.006 through 82.690 of the Nevada Revised Statutes.

2.2 Duties and Powers. The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers of an "association" (as defined in Section 116.110315 of the Nevada Revised Statutes) and a nonprofit corporation, generally to do any and all things that such a corporation may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and in this Declaration. The Association shall further have the right to install or construct capital Improvements on the Common Elements. The Association may at any time, and from time to time reconstruct, repair, replace, maintain, or refinish any Improvement or portion thereof upon the Common Elements in accordance with the original design, finish or standard of construction of such Improvement; replace destroyed or damaged trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Elements. The Association shall additionally have the power but not the duty to enter into contracts with Owners or other persons to provide services or to maintain and repair Improvements within the Project and elsewhere which the Association is not otherwise required to provide or maintain pursuant to this Declaration; provided, however, that any such contract shall provide for the payment to the Association for the costs of providing such services or maintenance.

2.3 Membership. Every Owner, upon becoming the Owner of a Lot, shall automatically become a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases, at which time his Membership in the Association shall automatically cease. Ownership of a Lot shall be the sole qualification for Membership in the Association. Membership in the

Association shall not be assignable except to the Person to which title to the Unit has been transferred, and every Membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Unit. The rights, duties, privileges and obligations of all Members of the Association shall be as provided in the Restrictions.

2.4 Transfer. The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Lot, and then only to the purchaser or Mortgagee of such Lot. A prohibited transfer is void and will not be reflected upon the books and records of the Association. A Member who has sold his Lot to a contract purchaser under an agreement to purchase shall be entitled to delegate to the contract purchaser his Membership rights in the Association. The delegation shall be in writing and shall be delivered to the Board before the contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Lot until fee title to the Lot sold is transferred. If the Owner of any Lot fails or refuses to transfer his Membership to the purchaser of the lot upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser shall not be entitled to vote at meetings of the Association. The Association may levy a reasonable transfer fee against a new Owner and his Lot (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the membership to the new Owner on the records of the Association.

2.5 Board of Directors. The affairs of the Association shall be managed by and (unless otherwise provided herein) undertaken through actions of the Board, which may by resolution delegate any portion of its authority permitted by law to an Executive Committee created by the Bylaws of the Association. The number and qualifications of Directors and their terms of office shall be as provided in the Articles and Bylaws of the Association.

2.6 Voting Rights. Members shall have the following voting rights in the Association:

2.6.1 Class A Voting Rights. Each Owner, with the exception of Declarant, shall have Class A voting rights and as a result shall have one vote for each Lot owned. Each Lot shall be allocated a fractional share of the voting interest in the Project determined by the number of Lots in the Association. Each Lot is equal to 1/86 interest in the voting interest unless otherwise amended.

In the event that title to a Lot is held by more than one (1) person, the vote for such Lot shall be exercised as they

among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one Lot. The multiple Members shall, prior to each meeting of the Association, provide the Board with a written statement, signed by Members who own a majority in interest (51%) of the Lot, which statement shall designate one person who shall have the right to cast the vote assigned to the Lot owned by such multiple Members; further provided, that if no such written statement is provided to the Board, in the absence of (i) any prior written notice to the Board of any disagreement or conflict between Members owning the same Lot relative to a matter which is to be made subject to a vote of Members or (ii) the voicing of any conflict or disagreement between Members owning the same Lot at the time the applicable vote is taken, any individual Member who casts the applicable vote for that Lot shall be deemed to have full right and authority to cast the vote on behalf of all members owning the Lot.

Declarant shall not have Class A voting rights until the Class B voting rights shall be converted to Class A voting rights pursuant to Subsection 2.6.2 of this Declaration.

2.6.2 Class B Voting Rights. Declarant shall have Class B voting rights and shall have three (3) votes for each Lot in which it has fee title. The Class B voting shall cease and be converted to Class A voting rights when the total Class A votes then existing equal the total Class B votes then existing. After such date, but in any event, no later than the date which is seven (7) years after the first Lot is conveyed to an Owner other than the Declarant, Declarant shall have Class A, and only Class A, voting rights.

2.6.3 Declarant's Control; Termination of Declarant's Control. There shall be a period of Declarant control of the Association, during which a Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board. The period of Declarant control shall terminate no later than:

- (a) Sixty (60) days after conveyance of seventy-five (75%) of the Lots that may be created to Owners other than the Declarant; or
- (b) Two (2) years after the Declarant has ceased to offer Lots for sale in the ordinary course of business; or
- (c) Seven (7) years after the first Lot is conveyed to an Owner other than the Declarant.

The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before

termination of that period. In that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that shall be created to Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board shall be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Owners other than a Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Board must be elected by Owners other than the Declarant.

Not later than ninety (90) days after the termination of any period of Declarant control, the Owners shall elect members of the Board of Directors, to fill the vacancies, if any, created by the termination of Declarant's control. Thereafter, the Owners shall elect, at each annual meeting, a Board of Directors consisting of at least three (3) members, at least a majority of whom shall be Owners other than Declarant. The Board shall elect the officers of the Association. The Board members and officers shall take office upon election. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at a meeting of the Owners at which a quorum is present, may remove a member of the Board with or without cause, other than a member appointed by the Declarant.

The termination of Declarant's control under this Section shall not affect the Declarant's rights as an Owner to exercise the vote allocated to Lots which Declarant owns.

2.6.4 Transfer of Voting Rights. A Member's right to vote may not be severed or separated from any Lot, and any sale, transfer or conveyance of the fee interest in any Lot to a new Owner or Owners shall operate to transfer the appurtenant Membership and voting rights without the requirement of any express reference thereto.

2.6.5 Proxies. Every member entitled to vote or execute statements of consent shall have the right to do so either in person or by proxy executed by such Person or his duly authorized agent; provided, however, that no such proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless the Member executing it specifies therein the length for which such proxy is to continue in force. A Member's proxy shall automatically terminate upon

conveyance by that Member of his fee title interest in all Lots owned by the Member.

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

2.7 Meetings. Meetings of the Members shall be held as follows:

2.7.1 Regular Meetings. Regular meetings of Members shall be held at least once each calendar year at a time and place prescribed by the Bylaws of the Association.

2.7.2 Special Meetings. A special meeting of the Members shall be called at any time at the request or direction of the Association President, by the Board upon the vote or written request of a majority of the members of the Board, or upon receipt of written request therefor by Members having twenty percent (20%) or more of the voting power of the Association.

2.7.3 First Meeting. The first meeting of the members shall be held on or about the first anniversary of the close of escrow for the sale of the first Lot in the Association.

2.7.4 Place of Meetings. Meetings of the members shall be held at a location in convenient proximity to the Property. Such meeting shall not be held outside of Clark County, Nevada, unless the Board determines that unusual conditions exist that make a meeting elsewhere desirable or unless approved in writing by all Members.

2.8 Notices. Each Member shall be entitled to notice of any meeting at which such Member has the right to vote. Notices of meetings shall be in writing and shall indicate each matter to be voted on at the meeting that is known to the Board at the time notice of the meeting is given; provided, however, that no business shall be conducted at a special meeting unless it is specified in such notice. Such notices shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting except in such cases as are determined by the Board to be emergency situations, in which case notice shall in any event be given not less than twenty-four (24) hours in advance unless waived by Members holding not less than fifty-one percent (51%) of the voting power of all Members. Any notice shall be deemed given and any budget or other information or material shall be deemed furnished or delivered to a party if sent in accordance with the provisions

^Cof Section 11.13. Notwithstanding the foregoing, Members shall be given notice of not less than seven (7) days and not more than thirty (30) days for meetings held for the purposes noted in Section 5.4 or Section 5.5 of this Declaration.

2.9 Record Date. The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for purposes of such notice, vote, meeting, furnishing of information or material or other purpose and any supplemental notice, information or material with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than sixty (60) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur.

2.10 Quorums. Except as otherwise provided in this Declaration, the Association's Articles or the Bylaws of the Association (as they may, from time to time, be amended), the presence of Members who hold votes equal to twenty (20%) percent of the total voting power of each class of voting rights then in existence, in person or by proxy, at a meeting to consider a matter shall constitute a quorum for consideration of that matter. The Members present at a duly convened meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. If any meeting of Members cannot be organized because a quorum is not present, a majority of the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which meeting the quorum requirement shall be the presence in person or by proxy of the Members holding at least fifteen percent (15%) of the voting power of the Association. Such an adjourned meeting may be held without notice thereof as provided in this Article 3, provided that notice is given by announcement at the meeting at which such adjournment is taken.

Notwithstanding the foregoing paragraph, any Member approval required under the provisions of Section 5.4 or Section 5.5 of this Declaration shall require the presence at a meeting of Members, in person or by proxy, holding fifty percent (50%) of the voting power of each class of voting rights then in existence; provided, however, that if the required quorum is not present at a meeting called to consider such approval (the "first meeting"), then the required quorum at a duly noticed subsequent meeting called for purposes of seeking such approval and held not less than five (5) days nor more than thirty (30) days from the date of the first

meeting, shall be the attendance of members, in person or by proxy, holding thirty percent (30%) of the voting power of each class of voting rights then in existence; further provided, that if the required quorum is not present at said subsequent meeting, then the required quorum at a duly noticed meeting called for purposes of seeking such approval and held within sixty (60) days of the date of the first meeting, shall be the attendance of Members, in person or by proxy, holding fifteen percent (15%) of the voting power of each class of voting rights then in existence.

2.11 Consent of Absentees. In addition to the provisions of Section 2.7 above, the proceedings and transactions of any meeting of Members, either annual or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting.

Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or conveyed; and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice but not so included, if such objection is expressly made at the meeting.

2.12 Action Without Meeting. Any action which may be taken at any annual or special meeting of the Members may be taken without a meeting and without prior notice if authorized by a written consent setting forth the action so taken, signed by Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members were present and voted, and filed with the Secretary of the Association; provided, however, that Directors may not be elected by written consent, except by unanimous written consent of all Members. Any Member giving a written consent, or such Member's proxy holder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members required to authorize the proposed action have been filed with the Secretary of the Association, but may not do so thereafter. Such revocation shall be deemed received by the Association upon its receipt by the Secretary of the Association.

Unless the consents of all Members have been solicited in writing and have been received, prompt notice shall be given in the same manner as for annual meetings of Members to those Members who have not consented in writing to the taking of any Association action approved by Members without a meeting. Such notice shall be given at least ten (10) days before the consummation of the action authorized by such approval with respect to the following:

- (a) Approval of any reorganization of the Association;
- (b) A proposal to approve a contract or other transaction between the Association and one or more Directors or any corporation, firm or association in which one or more Directors has a material financial interest; or
- (c) Except as provided in this Declaration or in the Association's Articles of Incorporation or Bylaws, approval of the indemnification of any person.

2.13 Adjourned Meetings. Any Member's meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members present either in person or by proxy. In the absence of a quorum, no other business may be transacted at any such meeting except as specifically provided in Section 2.7 and the other provisions of this Declaration.

When any Members meeting, either annual or special, is adjourned for seven (7) days or less, the time and place of the resumed meeting shall be announced at the meeting at which the adjournment is taken. When any Members meeting, either annual or special, is adjourned for more than seven (7) days, notice of the resumed meeting shall be given to each Member as in the case of any original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a resumed meeting, and at the resumed meeting the Members may transact any business that might have been transacted at the original meeting.

2.14 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be more fully elaborated by provisions of the Articles and Bylaws of the Association, including any reasonable provisions with respect to corporate matters. However, in the event that any such provisions may be at any time inconsistent with any provision of this Declaration, the provision of this Declaration shall govern.

2.15 Notification of Transfer. Each Owner shall within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Lot, notify the Association of such sale, transfer or conveyance.

ARTICLE 3 RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

3.1 Maintenance, Repair and Replacement Obligations. The Association hereby covenants to keep the Common Elements including, but not limited to, the Buildings, Landscape Areas, Private Drives, Recreational Vehicle Parking Area, Parking Spaces, Recreational Facilities Area and any Improvements therein or thereon in a neat, clean, healthy, attractive and operating condition and to reconstruct, repair, replace, maintain or refinish any Improvement or portion thereof upon the Common Elements. In addition, the Association hereby covenants to reconstruct, repair, replace, maintain or refinish the portions of the Developer Walls that run along and are contiguous with the Landscape Areas, Recreational Facilities Area or the Recreational Vehicle Parking Areas.

3.2 Labor and Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof to the extent it deems advisable, as well as the services of such other personnel and entities, including independent contractors, as the Association shall determine to be necessary or desirable for the proper performance of its obligations and functions, whether such personnel are employed directly by the Association or by an independent contractor.

3.3 Association Functions. The Association shall have all of the powers set forth in Nevada Revised Statutes 116.3102 and may undertake or contract for any lawful activity, function or service for the benefit of the Owners. In addition to the Annual and Special Assessments described in Article 5, all costs and expenses of activities, functions or services undertaken by the Association for the benefit of fewer than all of the Owners may, at the discretion of the Board, be levied as Special Assessments assessed to the Owners benefitted thereby and their respective Lots and shall be enforceable and collectible as Special Assessments in accordance with the provisions of Article 5. The Association shall obtain from applicable governmental authorities any permits and licenses necessary or appropriate to carry out its functions hereunder.

3.4 Enforcement of Restrictions and Obligations. The Association shall have the right to enforce the obligations of any Owner or Resident under this Declaration or any provision of its Articles, Bylaws or Rules and Regulations by assessing a reasonable penalty or fine against such Owner or Resident and/or suspending the right of such Owner to vote at meetings of the Association, after Notice and Hearing as set forth in the Association's Declaration, Bylaws or Rules and Regulations; provided that suspension of any Owner's voting privilege may not be imposed for a period longer than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same becomes delinquent) may be imposed for so long as the violation continues.

If any such penalty or fine imposed on an Owner or Resident by the Association is not paid by said Owner or Resident within thirty (30) days after written notice of the imposition of such penalty or fine then the amount of such penalty or fine shall be assessed as a Special Assessment charged to the Lot of said Owner or Resident and shall be enforceable and collectible as a Special Assessment in accordance with Article 5.

No penalty or fine may be imposed until the Owner or Resident accused of such violation has been afforded a Notice and Hearing, which shall include the right to be heard in person, by submission of a written statement, or through a representative at a meeting of the Board, as is more fully set forth in the Bylaws. Should the Board believe grounds may exist for any such penalty or fine or for the suspension of an Owner's voting privileges or right to use the Project Amenities, the Board shall give notice as is more fully set forth in the Bylaws. The fifteen (15) day period shall begin to run the day after the notice is hand delivered to the Owner or Resident or three (3) days after the notice is mailed to the Owner or Resident. No suspension of the use of any Common Elements or Project Amenity shall affect the rights of any Owner or Resident to access to his Lot.

The Association, Declarant and any Owner may also take judicial action against any Owner or Resident to enforce or enjoin compliance with this Declaration, to enjoin non-compliance with this Declaration or to obtain damages for non-compliance, all to the extent permitted at law or in equity. Should any Resident violate any provision of this Declaration, such violation shall also be considered and treated as a violation by the Owner of the Lot on which the Resident resides. Likewise, should any Guest of any Owner or Resident violate any provision of this Declaration, such violation shall also be considered and treated as a violation of the Owner or Resident (as well as the Owner of the Lot whereupon the Resident resides).

3.5 Rules and Regulations.

The Association shall, from time to time, adopt, establish and publish such general Rules and Regulations and penalties thereof, as the Association may deem reasonable in connection with the use of the Developer Walls and Common Elements including, but not limited to, the Buildings, Landscape Areas, Private Drives, Recreational Vehicle Parking Area, Parking Spaces, Recreational Facilities Area, and any Improvements thereon or therein, as well as any rental charge, if any, assessed by the Association for the use of the Recreational Vehicle Area. A copy of such Rules and Regulations shall be:

- (i) Maintained in the office of the Association and be available for inspection at all reasonable times.

- (ii) Given to each Owner upon written request within a reasonable time after the Association has written notice of his ownership of the Unit upon any of the Lots.

The Rules and Regulations shall be binding upon each and every Owner. No changes or amendments in said Rules and Regulations shall be effective, until forty-eight (48) hours after the distribution of such changes and amendments in the manner provided for in Article 3, Section 3.4.

3.6 Implied Rights. The Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

3.7 Limitation on Rights. The Association shall not take any of the following actions except with the prior vote or written consent of Members holding a majority (51%) of the voting power of the Association:

- (a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one year, except (i) a contract with a public utility company if the rates charged for the materials or services are regulated by the Nevada Public Service Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) casualty and/or liability insurance policies which do not exceed three (3) years, duration.
- (b) Paying compensation to members or family members of the Board or to officers or family members of the officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Board member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

3.8 Rights Within the Common Elements. The Association shall have the right to grant permits and licenses as respects its easement in all Common Elements for purposes relating to the performance of its obligations set forth in Section 3.1.

3.9 Right to Encumber the Common Elements. Subject to the provisions of Section 116.3112 of Nevada Revised Statutes, as it may from time to time be amended, the Association shall have the right, subject to such procedures and restrictions as may be set forth in its Articles and Bylaws, to borrow money for the purpose

of improving Common Elements and repairing, replacing and supplementing any Project Amenities. Further, the Association shall have the right to secure the repayment of any such borrowed money by encumbering the Common Elements, any Project Amenities located thereon and/or any personal property owned by the Association so long as, but only so long as such encumbrance has been approved by Members having two-thirds (2/3) of the voting power of each class of voting rights then in existence.

3.10 Right to Restrict Access. The Board shall have the right to restrict access to and use of Common Elements and any Project Amenities or personal property located thereon, for purposes of performing any obligation or authorized act of the Association set forth in this Declaration or for purposes of exercising any right of the Association set forth in this Declaration. Any such restrictions shall be reasonable in scope and duration. No such restrictions shall restrict the rights of an Owner or Resident to ingress to and egress from his Lot.

3.11 Additional Duties of Association. In addition to the foregoing powers delegated to the Association, as well as the powers delegated to it by its Articles of Incorporation, Bylaws and Rules and Regulations, and without limiting the generality thereof, the Association shall:

- (a) Pay any and all real and personal property taxes and other charges assessed against the Common Elements.
- (b) Have the authority to obtain, for the benefit of all the Common Elements all water, gas, electric power, gardening service and refuse collection, subject to the provisions of Article 3, Section 3.7, above.
- (c) Grant easements where necessary for utilities and sewer facilities and sewer facilities over the Common Elements to serve the Common Elements and the Lots.
- (d) Maintain a policy or policies of liability insurance, insuring the Association, as well as any Owners, Residents or Guests of the Lots against liability to the public or to said Owners, Residents or Guests incident to their ownership or use of the Common Elements as is more fully set forth in Article 9.
- (e) Employ a professional management firm or agency for the purpose of performing any and all of the foregoing duties on its part to be performed, subject to the provisions of Article 3, Section 3.7, above.

3.12 Repair and Maintenance of Landscape Areas. The Association shall be responsible to maintain, repair, replace, or

restore any landscaping or Improvements installed by the Declarant or Association and located in the Landscape Areas.

3.13 Repair and Maintenance of Landscape Parking Zone. Declarant shall initially install the landscaping or any Improvements within the Landscape Parking Zone. However, thereafter, the Owner of the Lot that includes portions of the Landscape Parking Zone shall be responsible to maintain, repair, replace or restore any landscaping or Improvements located in or on the Landscape Parking Zone.

3.14 Repair and Maintenance of Units. Each Owner or Resident shall maintain, repair, replace, paint, paper, plaster, tile, finish and restore or cause to be maintained, repaired, replaced and restored, at his sole expense, all portions of his Unit, including the interior portion of the Developer Wall and the Side Yard Walls, subject to Article 4, Section 4.5.1.2. In addition, each Owner shall share with the adjacent Owner the duties and obligations to maintain, repair, replace and restore any Party Wall, as is more fully set forth in Article 4, Section 4.7.2.

ARTICLE 4 LANDSCAPE PLAN, EASEMENTS AND PARTY WALLS

4.1 Title to Common Elements. Prior to the sale of the first Lot, the Declarant shall convey title to the Common Elements to the Association. The Association shall accept title to the Common Elements as described in Section 1.10, provided that such conveyance is made free and clear of any Mortgage or other monetary claim or lien of any party other than a party claiming through the Association.

4.2 Owners, Rights to Use and Enjoyment of the Common Elements. Every Owner shall have a nonexclusive right and easement of ingress to, egress from and enjoyment of the Common Elements which shall be appurtenant to and shall pass with title to every Lot, subject to the provisions of Article 3, Sections 3.1, 3.2, 3.3, 3.5, 3.8, 3.9 and 3.10 of this Declaration. Such right and easement shall extend to and be for the benefit of any Resident of a residential dwelling on the Owner's Lot and any Guest of any such Owner or Resident.

4.3 Landscape Plan. Declarant intends to offer each Owner or Resident alternative landscape packages for the front yard of each Unit. Each Owner or Resident may also have the option to select upgraded landscape packages. If, however, Owner or Resident chooses not to accept any of Declarant's landscape packages, then the Owner or Resident shall, consistent with Article 6, Section 6.7, submit or cause to be submitted to the Board, a landscape plan which shall include the following:

- (i) All items required by Article 6, Section 6.1;

- (ii) the date the Owner intends to commence installation of the landscaping; and
- (iii) the projected date of completion.

Unless otherwise agreed upon by the Board, if Owner or Resident chooses to install his own landscaping, then he must, within thirty (30) days of receiving title to the Lot, submit his complete landscaping plan to the Board for review and approval.

4.4 Damage to Common Elements or to Developer Walls. Subject to the provisions of Section 161.31135 of the Nevada Revised Statutes, as may from time to time be amended, in the event of any damage or destruction to a Common Element including damage to any portion of the Recreational Vehicle Parking Area, Parking Spaces, Recreational Facilities Area, including any amenities therein, Private Drives, Landscape Areas, Party Walls, Side Yard Walls or Developer Walls, which damage or destruction is caused by an Owner, a Resident residing on an Owner's Lot or by the Guest of an Owner or Resident residing on an Owner's Lot, the Owner shall be liable and responsible for the prompt repair of and payment for such damage or destruction. If such damaged or destroyed Improvement is not immediately repaired and restored to the condition existing prior to the damage or destruction, by the responsible party and/or Owner, the Association shall make such repair and restoration, and the costs thereof shall be added to the Assessments which are assessed against the Owner and his Lot and shall be enforceable and collectible as a Special Assessment in accordance with Article 5.

4.5 Easements. Easements reserved herein, unless otherwise noted; are reserved from and with respect to each Lot upon which a portion of the easement area is located and are reserved for the benefit of every other Lot and for the benefit of not only Declarant, but also the Association and subsequent Owners and Residents. Easements which are granted herein are granted as a burden upon each Lot upon which a portion of the easement area is located; are for the benefit of every other Lot unless otherwise noted; and are granted for the benefit of the Association and all subsequent Owners and Residents as well as all other parties specifically noted below. Easements are reserved and granted herein not only for the benefit of Declarant, the Association and Owners, but for the use and benefit of Residents and the Guests and contractors of the Association, Owners and Residents. Except as noted herein, each of the easements reserved and granted in this document are and shall be non-exclusive, perpetual and appurtenant to the benefitted Lots. None of the easements and rights granted and reserved herein may be transferred, assigned or encumbered except as an appurtenance to a Lot; provided, however, that the utility entities and agencies noted specifically in the easement grants below may assign their rights under such easements to utility providing agencies or entities which are their successors

interest. Declarant hereby grants and reserves the following easements:

4.5.1 Side Yard Easements. Except for Lots 25 and 26 in Block 1, each Lot shall receive and/or be encumbered by a Side Yard Easement over, under, upon and across portions of adjacent Lots as described in the transfer documents for said Lots, and as is more fully set forth in Exhibit "C" attached hereto and incorporated herein. The Lot encumbered by the Side Yard Easement is referred to as the Servient Tenement and the Lot receiving the right to use the Side Yard Easement is referred to as the Dominant Tenement.

4.5.1.1 Exclusivity of Side Yard Easements. Each of said Side Yard Easements shall benefit the Dominant Tenement appurtenant thereto and each Owner of the Dominant Tenement shall have an exclusive easement to use said Side Yard Easement; provided, however, the rights created by each such Side Yard Easement shall not prevent exercise of (i) any rights created by this Declaration, or (ii) any other document (including the subdivision map on which each Lot is shown) recorded in the Official Records of Clark County prior to recordation of this Declaration, or (iii) any utility easement(s) or license(s).

4.5.1.2 Dominant Tenement Rights. Each Side Yard Easement may be used by the Owner(s) of the Dominant Tenement appurtenant thereto for landscape and garden purposes. Any other Improvements must be approved by the Board. The Board shall have the right to determine what Improvements may be made within the Side Yard Easements. Such Improvements shall not increase drainage to the remainder of the Servient Tenement. The Owner(s) of a Dominant Tenement shall not use the Side Yard Easement in violation of any law. In addition, it shall be the responsibility and obligation of the Owner(s) of the Dominant Tenement to repair and maintain any Improvements on the Side Yard Easements.

4.5.1.3 Servient Tenement Rights. The Association and the Owner(s) of each Servient Tenement have the following rights with respect to the Side Yard Easement burdening said Servient Tenement:

(a) To at all reasonable times and after giving reasonable notice enter the Side Yard Easement area, and reasonably cross over the Dominant Tenement for such entry, maintenance, repair and reconstruction of Improvements located on the portion of the Servient Tenement not burdened by the Side Yard Easement, including maintenance of the Unit and any fence or wall

along the Side Yard Easement boundary line, which fence or wall shall be the equal obligation of the Owners of the Servient Tenement and the Dominant Tenement to maintain and repair.

(b) To drain water over, upon and across the Side Yard Easement, if, but only if, said drainage results from the normal usage of the Servient Tenement and is part of the drainage established by Declarant; the Owner(s) of the Dominant Tenement shall maintain the Side Yard Easement area in such manner as will not interfere with or alter such drainage.

(c) To enjoin attachment of any object by the Owner(s) of the Dominant Tenement to a building belonging to the Servient Tenement.

(d) To locate in the Side Yard Easement area roof overhangs, eaves, rain gutters and similar items which are a part of the structure built by Declarant or allowed by the Board and located on the Servient Tenement, provided that such items do not encroach over the Side Yard Easement area below a height of seven (7) feet measured from the finished grade elevation of the Side Yard Easement area, and to locate in the Side Yard Easement area rain spouts which may extend to said finished grade elevation.

4.5.2 Landscape Area Easements. The Owners of the Lots containing portions of the Landscape Areas hereby grant an easement to the Declarant and Association for the purpose of installing, repairing, and maintaining any landscape or other Improvements in or on the Landscape Areas. However, the Owners of said Lots reserve unto themselves, as well as any successors or assigns, the right to cross over the Landscape Areas for such entry, maintenance, repair and reconstruction of Improvements located on the portion of their Lot but not within the Landscape Areas.

4.5.3 Utility Easements. Declarant hereby dedicates for public use to the County of Clark, that portion of the private drive shown on the Plat as Delta Queen Drive and located at the entrance of the Project and grants and conveys to the City of Las Vegas a permanent easement of ingress to and egress from the private drives for the construction and maintenance of all necessary sewer facilities; and grants and conveys to Nevada Power Company, Central Telephone Company, Southwest Gas Corporation, the Las Vegas Valley Water District, the Clark County Sanitation District, and to their successors and assigns, a three foot wide easement over all side property lines and underground services for ingress to and egress from existing meter panels, a permanent easement of ingress to and

egress from the areas shown on the plat as private drives and Common Area Lots "A", "B", "C", and "D", as is more fully set forth on Exhibit "B" attached hereto, for the maintenance of existing utility facilities, a five foot wide easement of ingress to and egress from all property lines abutting private drives and existing above ground transformer pads and an additional two feet around existing transformer pads and above ground telephone equipment and telephone pads within the Project for the maintenance, operation, and final removal of existing fire hydrants, and underground power, telephone, gas, and water lines and hydrants and appurtenances. In addition, Declarant, Association and Owners grant to the above referenced entities a right to cross over any Lot or Side Yard Easement to gain access to the utility box located on each Lot or Side Yard Easements.

4.5.4 Other Association Easements. Declarant hereby reserves for the benefit of the Association and grants to the Association a non-exclusive easement of pedestrian and vehicular access upon and through each Lot for the purpose of either enforcing any provision of this Declaration or making any emergency repairs thereon necessary to prevent damage in the Common Elements or to a Developer Wall, or on another Lot.

4.5.5 Construction Easement. Declarant hereby reserves for a period of eighty four (84) months after the date of recording of this Declaration for itself and its contractors, an easement in the Common Elements in order to initially install and maintain landscaping, landscaping irrigation systems, landscape lighting systems, Project signs, monument signs, sign lighting systems, Developer Walls, Project Amenities.

4.5.6 Easement for Construction, Operation and Maintenance of Sales Offices and Model Residences. Subject to the time limitation set forth in Article 4, Section 4.5.5, Declarant hereby reserves unto itself for its benefit and the benefit of Declarant's Developers and hereby grants to Declarant's Developers the right to at all times have and maintain an easement to construct and use Common Elements and Lots for sales offices, model homes and signage relating to any project of Declarant or Declarant's Developers.

4.5.7 Surface Water Drainage Easement. Declarant hereby grants and reserves easements for the drainage of rainfall and other surface waters from Common Elements and Lots and over and across Common Elements and Lots with lower elevations. The grade along or close to any property line of a Lot with a higher elevation shall not be altered, nor shall any structure or improvement be placed on such Lot along or close to any property line so as to unduly concentrate the flow of surface waters or locate such flow in a manner that will be hazardous

to life or cause substantial damage to property on the Lot situated on the lower elevation, except with the prior approval of the Owner of the lower Lot. No structure or Improvement shall be erected, made or maintained on a Lot with a lower elevation that will alter or change the drainage pattern of the lower Lot in a manner hazardous or detrimental to a Lot with a higher elevation, except with the prior approval of the Owner of the higher Lot.

4.5.8 Easement for Encroachments. Declarant hereby grants and reserves easements of up to one foot upon and into Lots and Common Elements for the encroachment of any Improvement encroaching thereon by reason of the construction, reconstruction, repair, shifting, settlement or other movement of all or any portion of such Improvement, so long as, but only so long as such physical encroachment shall exist.

4.6 Gross Negligence or Wilful Misconduct. Any damage on any Lot caused by the gross negligence or wilful misconduct of the Association or any of its agents or contractors during any entry onto any Lot shall be repaired by and at the expense of the Association. If any Common Expense is caused by the misconduct or willful or negligent acts of the Owner, Resident or Guests, then the Association may assess that expense exclusively against the Unit of such Owner.

4.7 Party Walls. Party Walls as defined in Article I, Section 1.29 of this Declaration shall be governed by the following restrictions and obligations:

4.7.1 General Points of Law. Owner shall assume the burdens and be entitled to the benefits of these restrictive covenants, and, to the extent not inconsistent herewith, the general rules of the law regarding Party Walls shall be applied thereto. The preservation and structural repair of any of said Party Walls, except for interior decoration, shall be the joint duty and obligation of the Owners sharing the particular Party Wall. No structural changes in any Party Wall shall be undertaken without the prior written consent and approval of the Association and each of the adjoining Owners which share use of the Party Wall.

4.7.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the Party Wall in equal proportions to such use. In the event any such Party Wall is damaged or destroyed through the act of one adjoining Owner or any of his Guests, then such responsible party shall forthwith proceed to rebuild or repair the same to as good condition as formerly without cost to the adjoining Owner. Liability and damages pursuant to this section shall be established in

accordance with the generally accepted law of the State of Nevada.

4.7.3 Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall may restore it and if the Owners thereafter make use of the Party Wall, they shall contribute to the cost of restoration thereof, in equal proportions; without prejudice, however, to the right of any such Owner to call for larger contributions from the others under any rule of law regarding liability for negligent or willful acts or omissions.

4.7.4 Right to Contribution Runs with the Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owners and successors in title.

4.7.5 Consent to Alter. In addition to meeting the Owner requirement of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his Unit in any manner which requires the extension or other alteration of any Party Wall, shall first obtain the written consent of the adjoining Owner and the Association. Such written consent shall not be unreasonably withheld.

4.7.6 Arbitration. In the event of a dispute between Owners with respect to the construction, repair or maintenance of a Party Wall, or with respect to the sharing of the costs thereof, such adjoining Owner shall submit the dispute to the Board, the decision of which shall be binding. If the Board fails or refuses to resolve any such dispute, then the matter may be submitted to arbitration under such rules as may be from time to time adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three (3) arbitrators, one chosen by each of the Owners and the third by the two (2) so chosen, or, if the arbitrators cannot agree as to the selection of the third arbitrator within ten (10) days, then by any judge of the District Court of Clark County, Nevada. A determination of the matter signed by any two (2) of the three (3) arbitrators shall be binding upon the Owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within then (10) days after personal receipt of a request in writing for arbitration from the other party, then the other party shall have the right and power to choose both arbitrators.

4.7.7 Easement for Repair or Replacement of Party Wall. Each Owner shall permit the adjacent Lot Owner or its representative, when so required, to enter his Lot for the purposes of repairing or replacing a Party Wall; provided,

that the entry therein for purposes of said repairing or replacing shall be at the time reasonably convenient to the Owner of such Lot. In the case of an emergency, such right of entry shall be immediate.

ARTICLE 5 ASSESSMENTS

5.1 Assessments. Declarant, on behalf of itself and all future Owners, hereby covenants and agrees to pay, and each Owner by accepting title to a Lot or any interest therein, whether or not it shall be expressed in the deed or other instrument conveying title, shall be deemed to covenant and agree to pay to the Association, Annual Assessments and other amounts as required or provided for in this Declaration. Amounts payable for Annual Assessments and Special Assessments (as generally defined in Sections 5.3 and 5.5, respectively) are generally referred to herein as "Assessments." Other amounts payable by an Owner to the Association, (or payable with respect to an Owner's Lot), including charges, fines, penalties, interest, attorneys fees and other costs expenses incurred by the Association in collecting unpaid amounts shall be added to the Annual or Special Assessments charged to his Lot and shall be enforceable and collectible as Annual or Special Assessments. Assessments shall be used exclusively to promote the health, safety, recreation and welfare of Owners and Residents, to fulfill the covenants and obligations of Owners as set forth in Article 3, to exercise the powers, rights and duties of the Association as set forth herein, and for such other purposes as may be expressly provided for in this Declaration.

Subject to the provisions hereof, the Board shall have the power and authority to determine all matters in connection with Annual or Special Assessments, including, without limitation, power and authority to determine where, when and how Assessments shall be paid to the Association, and each Owner shall comply with all such determinations.

5.2 Fiscal Year and Determination of Budgets. The fiscal year of the Association shall be the calendar year. Prior to the commencement of each fiscal year, the Board shall determine the Budget for the Association for such fiscal year in the following manner:

5.2.1 Operating Budget. The Board shall prepare or cause to be prepared and approve an "Operating Budget" for the fiscal year showing, in reasonable detail, the financial plan for the day-to-day operation of the Association, plus the contribution of funds required by the Capital Replacement Reserve.

5.2.2 Capital Replacement. The Board shall also determine the amount to be set aside, if any, in a special fund allocated for any maintenance and replacement of Improvements not required to be performed annually.

Upon determination of the Budget for a fiscal year, the Board shall, within 30 days, furnish a copy of the Budget to each Owner (which Budget shall separately identify amounts attributable to the Operating Budget and to the Capital Replacement Reserve) together with a written statement of the amount of the Annual Assessment to be assessed against the Owner's Lot for the applicable fiscal year. The Board shall set a date for a meeting of the Lot Owners to consider ratification of the Budget not less than 14 nor more than 30 days after the mailing of the Budget. Unless at that meeting a majority of all Lot Owners reject the Budget, the Budget is ratified, whether or not a quorum is present. If the proposed Budget is rejected, the periodic budget last ratified by the Lot Owners must be continued until such time as the Lot Owners ratify a subsequent Budget proposed by the board.

5.3 Annual Assessments. The amount to be raised by Annual Assessments during a fiscal year shall be equal to (i) the operating Budget for such period, plus (ii) the Capital Replacement Reserve to be set aside for said period, less the amount attributable to the Operating Budget collected but not disbursed in the immediately preceding fiscal year or partial fiscal year; provided, however, that in lieu of such subtraction the Board may elect to refund said surplus to the Owners.

If the Board fails to determine or cause to be determined the total amount to be raised by Annual Assessments in any fiscal year and/or fails to notify the Owners of the amount of such Annual Assessments for any fiscal year, then the amounts of Annual Assessments shall be deemed to be the amounts assessed in the previous fiscal year.

Except as emergencies may require, the Association shall make no commitments or expenditures in excess of the funds reasonably expected to be available to the Association.

5.4 Maximum Annual Assessment; First Annual Assessment and Maximum Annual Increases.

5.4.1 Maximum Annual Assessment. The Annual Assessment for any Lot within the Project shall not exceed the maximum amount allowed, as adjusted pursuant to NRS 116.1115(2). Any proposed amendment to this Declaration which would increase the amount of the maximum Annual Assessment prior to the termination of the Declarant's control of the Association pursuant to Section 2.6.3 of this Declaration, shall require the consent of fifty percent (50%) of the Class A Voting Members.

5.4.2 First Annual Assessment. The initial Annual Assessment for the fiscal year in which Regular Assessments first commence shall be calculated as set forth in Section 5.4.1. Prior to January 1, 1994, the Board shall estimate and

prepare a Budget for the costs and expenses to be incurred by the Association for the following year, as is more fully set forth in Section 5.2 of this Declaration. All costs and expenses incurred (i) in fulfilling the financial obligations of the Association prior to the date when the first Assessment installments are to be paid or (ii) ordinarily and necessarily by the Association in excess of Assessment installments to be paid during that first partial fiscal year shall be the responsibility of Declarant, and Declarant hereby covenants to bear and to pay or otherwise satisfy such financial obligations.

5.4.3 Maximum Annual Increase. The Annual Assessments for the Association following the first year may be increased as provided herein. However, the Annual Assessment for a particular fiscal year shall not, without approval of the Members, be increased by an amount which is more than 115% of the last installment of Annual Assessments levied in the last quarter (or other installment period) of the immediately preceding fiscal year, annualized over an entire year, without approval of the Members. An Annual Assessment may be increased above such maximum if, but only if, such increase is approved at a meeting of Members by the vote of Members holding two-thirds (2/3) of the votes cast at said meeting in each class of voting rights then in existence, with the quorum at such meeting to be as set forth in Section 2.10.

5.5 Special Assessments. In addition to Annual Assessments, the Association may levy Special Assessments, payable over the period of an Association fiscal year (i) for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, maintenance, repair or replacement provided for or required pursuant to Section 3.1; (ii) for the purpose of defraying any other expense incurred or to be incurred by the Association as provided in this Declaration; or (iii) to cover any deficiency in the event that, for whatever reasons, the amount received by the Association from Annual Assessments is less than the amount determined to be necessary and assessed by the Board. However, Special Assessments may not be levied unless approved by Members holding a majority of the votes held by all Members.

5.6 Time for Payments. The amount of any Assessment, charge, fine, penalty or other amount payable by an Owner or Resident with respect to such Owner's or Resident's Lot shall become due and payable as specified herein and if said payment is not received, then said Owner or Resident shall also be responsible for any late charges, interest, fines, penalties or attorneys fees related thereto. Unless paid, when due, any such amount shall bear interest at a rate specified by the Board but in no event greater than the maximum amount permitted by law from its original due date until date of payment. Annual Assessments shall be paid and

collected on a quarterly basis. Special Assessments shall be paid and collected as determined by the Board.

5.7 Lien for Assessments and Other Amounts. The Annual and Special Assessments and all charges, fines, penalties and other amounts (including interest, attorneys' fees and other expenses incurred by the Association in collecting unpaid amounts) payable by an Owner or payable with respect to an Owner's Lot shall be a charge on that Owner's Lot; shall be a continuing lien upon that Owner's Lot; and shall also be the personal, joint and several obligation of all Owners of the Lot at the time that the assessment or charge becomes due.

If an Owner does not pay in full, within thirty (30) days after notice from the Board of the amount due, any Annual or Special Assessment, charge, lien, penalty or other amount or any installment thereof, and any interest accrued thereon, the Association may record, in the Office of the County Recorder of Clark County, Nevada, a Notice of Delinquent Assessment. Such Notice of Delinquent Assessment shall state the amount of the Annual or Special Assessment, interest, costs, penalties, attorneys' fees and other costs of collection, the Owner's name and a description of the applicable Lot against which the Assessment has been made, and shall be signed by an authorized representative of the Association. Upon payment or other satisfaction of the Assessment, the Association shall cause to be recorded a further notice stating the satisfaction and the release of the lien noticed by the Notice of Delinquent Assessment.

If, after recording of the Notice of Delinquent Assessment, the Owner fails, within sixty (60) days, to pay or otherwise satisfy the Assessment, the Association may, at any time within three (3) years after the full Assessment was due enforce the lien of the Assessment by sale of the applicable Lot. In exercising its power of sale, the Association shall have such rights, shall comply with such requirements and conditions and shall follow such procedures as are set forth in NRS 116.31162 and NRS 116.31164 as they may from time to time be amended as provided in this Article 5.

5.8 Exercise of Power of Sale in Enforcement of Lien. The power of sale relative to the lien created pursuant to Article 5 and evidenced by the recorded Notice of Delinquent Assessment may not be exercised until (i) the Board, its agent or attorney has first executed and caused to be recorded in the official Records of Clark County, Nevada, a Notice of Default and Election to Sell in which the deficiency in payment is described and the intention to sell the Lot or cause its sale to satisfy the lien is noted and (ii) a period of sixty (60) days has expired following the later of, the day upon which the Notice of Default and Election to Sell is recorded, or the day on which a copy of the Notice of Default and Election to Sell mailed by certified or registered mail, return

receipt requested, to the Lot Owner or his successor in interest at his address, if known, otherwise to the Lot address.

If, upon expiration of said 60-day period, the amount of the lien, plus any charges, fines, penalties, interest, attorneys fees and any other expenses incurred by the Association, incident to its enforcement remains unpaid and unsatisfied, the Board, its agent or attorney, before selling the Lot, shall give notice of the time and place of the sale in Clark County, Nevada in the manner provided by the laws of the State of Nevada for the sale of real property upon execution, except that a copy of the Notice of Sale must be mailed on or before the first publication or posting to the Owner or to his successor-in-interest.

The Board, its agent or attorney may, from time to time, postpone such sale by such advertisement as it may deem reasonable or, without further advertisement, by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale. On the day and at the time of sale so advertised, or to which such sale may have been postponed, the Board, its agent or attorney, may sell the Lot so advertised at public auction to the highest cash bidder, at the place in Clark County, Nevada specified in the Notice of Sale. The Association, through an officer authorized by the Board, may bid and purchase at such sale, and the amount of the lien, including costs, fees and expenses incident to the enforcement thereof shall be deemed "cash" for bidding purposes.

The Board, its agent or attorney, may, after the recording of the Notice of Default and Election to Sell, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to its former position and have and enjoy the same rights as though such Notice had not been recorded.

The Board, on behalf of the Association, or the Board's agent or attorney, upon such sale, shall make (without warranty), execute and, after due payment made, deliver to the purchaser or purchasers at the public sale, his or their heirs or assigns, a deed or deeds to the Lot so sold which shall convey to the purchaser all the title of the Owner in the Lot, and shall apply the proceeds of the sale for the following purposes in the following order:

- (a) The reasonable expenses of sale;
- (b) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the Lot for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by agreement between the association and the Lot Owner, reasonable attorney's fees and other legal expenses incurred by the association;
- (c) Satisfaction of the Association's lien;

- (d) Satisfaction in the order of priority of any subordinate claim of record; and
- (e) Remittance of any excess to the Lot Owner.

Upon the sale of the Lot conveyed and the execution of a deed or deeds therefor, the recital therein of default, and of the recording of the Notice of Delinquent Assessment, and of the recording of the Notice of Default and Election to Sell, of the lapsing of the 60-day period, and of the giving of the Notice of Sale shall be conclusive proof of such default, recording, election, lapsing of time and of the due giving of such notice, and that the sale was regularly and validly made. Subject to the provisions of NRS 116.31166, as it may from time to time be amended, any such deed or deeds with such recitals therein shall be effectual and conclusive against the Owner, his heirs and assigns, and all other persons, and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money according to the foregoing.

Every sale made under the provisions of this Article shall vest in the purchaser the title of the Owner without equity or right of redemption. The party seeking enforcement of the lien may purchase the Lot at foreclosure sale and hold lease, mortgage and convey it subject to the terms and conditions of this Declaration.

5.9 Alternative Lien Enforcement Procedures. If the procedures for enforcement of a lien by sale as set forth in Article 5 should become or be determined to be invalid or ineffective by appropriate legislative or judicial action, the Board and the Association shall have such rights, shall comply with such requirements and conditions and shall follow such procedures as may be established under the other laws of the State of Nevada relative to the enforcement of such liens by sale. In the absence of any such laws, said lien may be enforced and foreclosed upon by sale of the Lot conducted in accordance with the laws of the State of Nevada for judicial and/or non-judicial foreclosure of deeds of trust. The remedies set forth herein shall be in addition to any other remedies provided by law or in equity for the enforcement of such liens and obligations, including the institution of legal proceedings against the applicable Owner personally. Nothing herein shall require the Board or the Association to pursue any remedies set forth herein or otherwise available at law or in equity in any particular order or priority.

5.10 Rights to Receive Notice of Default and Election to Sell and Notice of Sale. A person or entity which has or claims any right, title or interest in, or lien or charge upon a Lot as evidenced by any document or instrument filed or recorded in the Office of the County Recorder of Clark County, Nevada, and who desires a copy of a Notice of Default and Election to Sell or

Notice of Sale relating to such Lot may at any time subsequent to the recording of this Declaration, file in the Official Records of Clark County, Nevada, an acknowledged request for a copy of such Notice of Default and Election to Sell or Notice of Sale. The request shall state the name and address of the person or entity requesting copies of such Notices; shall identify the name of the Project; shall identify the Owner of the Lot; shall legally describe the applicable Lot; and shall identify this Declaration by stating Declarant's name, the title hereof, the date of its recording and its instrument and book number in the Official Records of Clark County, Nevada. The party authorized to record the Notice of Default and Election to Sell shall, within ten (10) days of recording such Notice, cause to be deposited in the United States mail an envelope, registered or certified and with postage prepaid, containing a copy of such Notice, addressed to (i) each person or entity which has filed a request for a copy of such Notice and (ii) each Eligible Holder, Eligible Insurer and Eligible Guarantor which holds, insures or guarantees a First Mortgage on the applicable Lot. The party authorized to make the sale, at least twenty (20) days before the date of sale, shall cause to be deposited in the United States mail, an envelope, registered or certified and with postage prepaid, containing a copy of the Notice of time and place of sale, addressed to (i) each person or entity which has filed a request for a copy of such Notice and (ii) each Eligible Holder, Eligible Insurer and Eligible Guarantor which holds, insures or guarantees a First Mortgage on the applicable Lot. No request for a copy of filed under the provisions of this Section shall affect title to the applicable Lot.

5.11 Estoppel Certificate. Upon payment of a reasonable fee and upon a written request of any Owner, the Association shall furnish a written statement setting forth the amount of Assessments, charges, fines or penalties, if any, due or accrued and then unpaid with respect to the Owner and/or the Lot owned by such Owner and the amount of the Assessments for the then current fiscal year of the Association payable with respect to the Lot owned by such Owner, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association that no greater or other amounts are due or accrued and unpaid as of the date of issuance of such statement.

5.12 Liability of Owners and Purchasers. The amount of any Assessment, charge, fine, penalty or other amount owing to the Association by any Owner under this Declaration shall be a joint and several obligation of such Owner and such Owner's heirs, executors and administrators, personal representatives, successors and assigns; provided, however, that an Owner who did not own the Lot at the time an Assessment or other sum became due with respect to that Lot shall not be personally obligated with respect to said Assessment or other sum unless he agreed or agrees to personally assume the same. Each such amount, together with interest thereon, attorneys' fees and other costs of collection may be recovered by suit for a money judgment by the Board in the name of the

Association without foreclosing or waiving any lien securing the same.

5.13 Financial Statements. After ninety (90) days following the end of each fiscal year, the Association shall make available to requesting Members, upon ten (10) days' written request, an Association balance sheet as of the last day of such year and an operating statement for such year. Such financial statements shall be audited by an independent public accountant if the Board so desires.

5.14 Inspection of Books and Records. The membership register; books of account; minutes of meetings of the Members, of the Board or any committees of the Board; current Association Articles of Incorporation; current Association Bylaws; Association financial statements; and other books and records of the Association, including a current copy of this Declaration, shall be made available for inspection and copying by any Member, by his duly appointed representative, and any First Mortgagee at any reasonable time at the office of the Association or at such other place within reasonable proximity to the Property as the Board shall prescribe. The Board may establish reasonable rules with respect to the notice to be given to the custodian of the records by the party desiring to make the inspection, hours and days of the week when such an inspection may be made, and payment of the cost of reproducing copies of documents requested.

5.15 Capital Contributions to Association. Each Owner purchasing a Lot from Declarant shall contribute to the capital of the Association, the amount of One Hundred Dollars (\$100.00) for the Association fiscal year in which title is acquired. This amount shall be deposited by the acquiring Owner into the purchase and sale escrow for acquisition of the Lot and shall be disbursed therefrom to Association or to Declarant if Declarant has previously advanced such funds to Association.

ARTICLE 6 CONSTRUCTION OF IMPROVEMENTS

6.1 Approval of Board. Except for Developer built Improvements, no building, structure, wall, fence, curb, asphalt or cement area, traffic barrier, landscaping or other Improvement shall be erected or maintained upon the Property, nor shall any construction thereof be commenced on any Lot, nor shall any exterior addition to or change or alteration therein (including any change of exterior color) be made by any party other than Declarant and its contractors until two sets of plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted by the Owner of the Lot to and approved in writing by the Board as to the harmony of external design and location in relation to surrounding structures and topography. All landscape plans must have architectural approval.

All plans and specifications for any new building structure or other Improvement (other than walls, fences, curbs, asphalt or cement areas, landscaping and non-structural alterations, modifications or additions) shall be prepared by a designer or licensed architect and shall include a site development plan showing existing and proposed topographic elevations, the pattern of surface water drainage on and over the Lot, proposed construction staging areas, the location of the Improvements on the Lot (including proposed front, rear and side setback lines, relationship to other Improvements, the location thereof with reference to structures on adjoining Lots, the number and location of all driveways on the Lot and all exterior trash container areas to be utilized by the Residents on the Lot) ; a building floor plan; a building elevation and roof plan showing dimensions, exterior color scheme and specification of the principal exterior materials for all outside walls and the roof of the structure; a detailed landscape and exterior lighting plan, which shall include designation of the number, location, type, size and maturity level of all landscaping to be placed on the Lot; and a detailed description of the location of all utility lines and connections.

Notwithstanding the foregoing provisions of this Section, Improvements which are damaged or destroyed may be repaired, restored, replaced and/or reconstructed in conformance with previously approved plans, specifications and materials without the necessity of submitting additional plans and specifications to the Board or obtaining the Board's approval.

Notwithstanding any provision in this Declaration, the Declarant need not seek approval of the Board under this Section 6.1 with respect to any of its activities in connection with Declarant's development of the Project.

6.2 Standards of Review. The Board, in reviewing the plans, specifications and materials submitted to it for proposed Building or Improvements on a Lot, shall consider the suitability of the proposed Building or other Improvement for the Lot on which it will be located; the quality and color of the materials to be used in construction; the impact of the proposed building or other Improvements on the Project; the views from other areas of the Project; and the architectural or design harmony with any existing Improvements. The Board shall have the right to set the architectural standards and may disapprove such plans and specifications for any reason that the Board determines appropriate, including, but not limited to, inappropriate architectural style, color or material quality. No Building shall be constructed on a Lot unless said Building is a Unit or unless a Unit has been or is being contemporaneously constructed on the Lot. The right of the Board to exercise discretion in approving or withholding approval of any of the foregoing shall not be subject to any external or objective standards.

The Board shall not be obligated to review or charged with the responsibility of reviewing submitted plans, specifications and

materials for possible conditions, improvements or omissions which would be in conflict with or which would violate any provision of this Declaration or any municipal or state regulation or ordinance. No approval of submitted plans, specifications and materials shall estop or otherwise bar the Board from subsequently exercising any right or remedy resulting from any such conflict or violation. Nor shall any such approval constitute (i) an approval of or consent to any such conflict or violation, (ii) a waiver of any right or remedy of the Board or the Association resulting from such conflict or violation, (iii) an express or implied amendment or modification of this Declaration with respect thereto, or (iv) a waiver of the necessity to obtain any other required approval or consent of any other party under this Declaration for or with respect to such condition, Improvement or omission. Declarant, on behalf of all future Owners, hereby waives, and each Owner, by accepting title to a Lot or any interest therein shall be deemed to waive, whether or not it shall be expressed in the deed or other instrument conveying title, any and all such defenses with respect to any such condition, Improvement or omission. In that regard, the applicable Owner shall be and at all times shall remain responsible for the conformance of any and all developments, Improvements and conditions on his Lot, (and the proposed plans, specifications and materials therefor) with the requirements and provisions of this Declaration and for obtaining any other consents and approvals required under this Declaration and any applicable municipal, state or federal regulations.

6.3 Landscape Area Use. No Owner shall place any landscaping or other Improvements in or on the Landscape Areas without the prior written approval of the Board. Any such proposed Improvements shall be reflected on the plans to be submitted by the Owner pursuant to the provisions of Section 6.1.

6.4 Procedure Following Submission of Plans. Upon receipt of a completed plan from an Owner or a Resident, as required by Article 4, Section 4.3 or Article 6, Section 6.2, the Board shall have thirty (30) days to request additional and/or supplemental plans, specifications and/or materials. Unless notice of disapproval or a request for additional or supplemental plans is sent by the Board to the Owner or Resident within thirty (30) days of receipt of all required plans, specifications and materials, then the submitted plans, specifications and materials will be deemed approved by the Board.

Within thirty (30) days following the submission of plans and specifications as noted in Section 6.1 above, the Board may request that supplemental plans, specifications and/or materials be submitted to the Board for the purpose of aiding its review. If the Board shall disapprove of any plans, specifications or materials, it shall send notice of its disapproval to the Owner applying for approval stating with reasonable specificity, the reasons for and grounds of disapproval. If notice of disapproval of any submitted plans, specifications or materials is not sent by

the Board within thirty (30) days after the date when all required plans, specifications and other materials have been delivered to it (including those supplemental plans, specifications and other materials which may have been requested by the Board), then the plans, specifications and/or materials shall be deemed approved.

The approval of any plans, specifications or materials, including particular features or elements, shall not be deemed to be a waiver of the Board's right, in its sole and absolute discretion, to disapprove plans or specifications incorporating said features or elements in subsequently submitted plans for proposed Improvements on other Lots. The Board's approval of plans and specifications shall apply only to the specific plans and specifications submitted. Any deviations therefrom shall require the approval of the Board. If the Board disapproves of any submitted or resubmitted plans, specifications or materials, or approves the same subject to modification or specified conditions, the submitting Owner may revise the plans and specifications and re-submit the same to the Board, with the procedures thereafter, the Board's options thereafter and the applicable time periods to be as set forth above for the original submission.

Following final unconditional or accepted conditional approval by the Board, the two (2) sets of plans, specifications and materials which have been approved shall be initialed by a representative of the Board. One set of the plans shall be retained by the Board (unless the right thereto is waived by a representative of the Board in writing) and one set shall be returned to the submitting Owner.

6.5. Construction Without Approval. If any building, structure, wall, fence, curb, asphalt or cement area, traffic barrier, landscaping or other Improvement shall be altered, erected placed or maintained on a Lot without approval by the Board pursuant to the provisions of this Article, such alteration, erection, placement or maintenance shall be deemed to have been undertaken in violation of this Article and without the approval required herein and, upon written notice from the Board, any structure or Improvement so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or altered so as to extinguish such violation.

If, within fifteen (15) days after notice of such violation, the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or re-alteration of the same, the Association shall have the right, through the Board, its agents and employees, to enter upon such Lot and take such steps as may be necessary to extinguish such violation. The Board and its agents and contractors shall not thereby be deemed to have trespassed upon such Lot and shall be subject to no liability to the Owner or Residents of such Lot for such entry or for any action taken in connection with the removal of any violation, any right to recover therefor hereby being expressly waived.

The cost of any abatement, removal or re-alteration hereunder shall be a binding, personal obligation of the Owner of the Lot and shall be added to the amount of the assessments charged to the applicable Owner and Lot and shall be enforceable and collectible as an Assessment in accordance with Article 5.

6.6 Effect of Construction on Temporary And Used Structures.
No used Buildings constructed or erected upon other real property shall be moved from other locations and placed upon the Property or neighboring Lot by any party, other than the Board, Declarant or one of Declarant's Developers, without the prior written approval of the Board. No temporary structure, trailer, tent or free-standing canopy shall be located within or placed upon the Property or neighboring Lot by any party, other than the Board, Declarant or one of Declarant's Developers, without the prior written approval of the Board. All applications for approval of any temporary structure, trailer, tent or free-standing canopy shall include a specific date prior to which the structure in question will be removed from the Property.

Any construction shall be conducted in such a manner as to minimize interference with access to, upon and within the Property (including access to and from the Private Drive any public right-of-way). Construction staging areas (including, without limitation, areas occupied by temporary construction office, facilities, stored materials and construction vehicles and equipment) for any party other than Declarant or one of Declarant's Developers shall be restricted to areas approved in advance by the Board, which approval shall not be unreasonably withheld.

6.7 Commencement and Completion of Construction. As set forth in Article 4, Section 4.3, Declarant intends to offer each Owner or Resident alternative landscaping packages. An Owner choosing to install his own landscape plan, shall commence installation no more than thirty (30) days after the Owner receives approval from the Board of Directors. In addition, the Owner shall complete the landscaping, pursuant to the approved plan, no more than forty-five (45) days after commencing installation or construction. Notwithstanding any provision to the contrary, each Owner or Resident of a Lot shall install landscaping with automatic irrigation systems on all unimproved areas of the Lot visible from the Private Drive, Common Elements or any adjoining Lot.

Construction of any approved Building or Improvements on a Lot, other than landscaping, by any party other than Declarant, or one of Declarant's Developers, shall be completed within one (1) year of the initiation of construction, unless otherwise determined by the Board.

Failure to complete any Building or Improvement within the above time limits shall operate to automatically revoke the Board's approval of applicable plans, specifications and materials, and, upon demand by the Board, the Lot upon which such construction,

alteration or other work was undertaken shall be restored as nearly as possible to its state existing prior to any such construction, alteration or other work. If such Lot is not so restored, the Board, upon the affirmative vote of at least two-thirds (2/3) of the Directors, may undertake such restoration at the cost and expense of the Owner of said Lot, which cost and expense shall be added to the Assessments against the applicable Owner and Lot and shall be enforceable and collectible as an Assessment in accordance with Article 5; provided, however, that the Board shall not alter or demolish construction on a Lot as a result of a violation of the provisions of this Declaration without first obtaining the approval of the Lot Owner or instituting court proceedings and obtaining court approval therefor. In addition, by failing to timely complete the construction of any Building or Improvement, the Owner or Resident may be subject to penalties or fines imposed by the Association.

Directors and the Board's duly appointed agents and contractors may enter upon a Lot at any reasonable time or times to inspect the progress or status of any such construction, alteration or other work. The Board may record a notice in the Official Records of Clark County, Nevada reflecting the fact that any such work has not been approved or that any approval has been revoked.

6.8 Repair of Common Elements and Developer Walls. In addition to any other similar obligations set forth herein regarding construction and/or landscaping installation on a Lot, the Owner thereof shall be responsible, at his expense, for the prompt repair, restoration and/or replacement of monument signs, other Project signs, landscaping and irrigation and lighting systems located anywhere in the Common Elements, and any block walls, including Developer Walls, placed anywhere in the Project by Declarant or Declarant's contractors and which are damaged or destroyed by the Owner, his agents, contractors or employees. Should the Owner fail to satisfactorily and promptly make such repair, restoration or replacement requested by the Board, the Association may do so at the expense of the Owner, and any resulting cost shall be added to the Assessments which are assessed against the responsible Owner and his Lot and shall be enforceable and collectible as an Assessment in accordance with the provisions of Article 5.

6.9 Limitation on Liability of Board and Association. Provided that the Board, the Association and any entity to whom authority has been properly delegated, acts with ordinary and reasonable care of directors of a corporation, subject to the business judgment rule, neither the Association, the Board nor any member thereof shall be liable to the Association, any Owner or any other person for any damage, loss or prejudice suffered or claimed on account of the approval or disapproval of any plans, specifications or materials, including, but not limited to, surface water drainage plans, whether or not defective; the construction or performance of any work, whether or not pursuant to approved plans,

specifications and materials; the development or manner of development of any Lot; the execution or recordation of a form of approval or disapproval pursuant to this Article 6, whether or not the facts stated therein are correct; the performance of any other function pursuant to the provisions of this Declaration; or any other act or omission of the Board or a Board member, or any party to whom any Board or Association authority is properly delegated. Any right of recovery against any of said parties by reason or on account of any of the foregoing is and shall be deemed waived by each Owner as a result of acquiring and accepting title to a Lot. The Association may provide for the exculpation and indemnification of Association directors, officers, Members, employees, agent, contractors and other persons and entities in its Articles of Incorporation and/or Bylaws.

6.10 Professional Advice. The Board may employ the services of an architect, engineer or other person whom the Board deems qualified to render advice and may pay a reasonable compensation for such services, which compensation may be charged to any Owner who has submitted plans, specifications or other materials which are reviewed by such architect, engineer or other person, provided that such compensation may only be charged to such Owner if he has been informed in advance that such compensation will be charged.

ARTICLE 7 RESTRICTION ON USE OF LOTS

7.1 Residential Uses. Each Lot shall be improved, used and occupied for private single-family and multi-family dwellings only and shall not be used for any commercial purpose whatsoever, except that Declarant may use any of the Lots owned or leased by it to promote sales of Lots as provided herein.

7.2 Animals. No animals, livestock or poultry of any kind shall be raised or kept on any Lot, except for dogs, cats or other household pets. At any one time the total number of household pets raised or kept on a Lot other than fish, shall be consistent with any local ordinance or regulation or any state statute, but under no circumstances shall the number of pets exceed four (4), nor shall any animals be kept, bred, manicured or maintained on a Lot for any commercial purposes. No animals may be kept which, in the sole discretion of the Board, constitute a nuisance or annoyance to other Owners or Residents. Any such nuisance shall be eliminated at the Owner's expense. Should the Owner not comply with the requirements imposed by the Association, such elimination shall be made under the Board's direction, with any costs to be added to the Assessments which are assessed against the responsible Owner and his Lot and shall be enforceable and collectible as an Assessment in accordance with Article 5. In no event shall an Owner permit any animal to roam from the Owner's Lot.

7.3 Sign, Business Activities and Rentals. Except as may be specifically permitted by action of the Board, no signs, billboards, unsightly objects or nuisances shall be erected, placed

or permitted to remain on the Property, nor shall the Property be used in any way or for any purpose which may endanger the health of or unreasonably disturb any Owner or Resident. Nothing herein contained shall restrict the right of Declarant, or its Developers, to place and the Association to maintain street signs, Project monument signs and other Project sales signs in the Common Elements or on Developer Walls. Nothing contained herein shall restrict the right of the Owner or Resident to place one (1) customary 18" x 24" for sale or for lease sign on the Lot. Any other signage shall require Board approval. No business activities of any kind whatsoever shall be conducted on any portion of a Lot. No residence on a Lot shall be rented or leased for less than thirty (30) days. Any lease or rental agreement must be in writing and must be expressly made subject to this Declaration and the Association's Articles of Incorporation, Bylaws, and Rules and Regulations.

Nothing herein is intended to restrict the Declarant in the construction, sale or advertising of homes. The Declarant may in its sole discretion construct, sell and conduct related businesses upon the Property for a period up to and including seven (7) years after the first Lot is conveyed to an Owner other than the Declarant.

7.4 Service Areas. All clotheslines, equipment, service yards, wood piles and storage piles shall be kept screened by adequate fencing so as to conceal them from view from adjacent Lots. All rubbish and trash shall be regularly removed from all Lots and shall not be allowed to accumulate thereon. All trash receptacles shall be removed from the front of any Lot within 24 hours of pick up. Should an Owner fail to remove rubbish and trash from a Lot, or otherwise allow the same to accumulate thereon, and should such failure to comply with the provisions of this Section continue following written request from the Board, the Board may, at the cost of the Owner of the Lot, provide for the removal of all such rubbish and trash, and any such costs shall be added to the Assessments which are assessed against the responsible Owner and his Lot and shall be enforceable and collectible as an Assessment in accordance with Article 5. No noxious odors shall be permitted or offensive activity shall be carried on upon any Lot.

7.5 Outdoor Fires. No outdoor fires other than fully contained barbecue cooking fires shall be permitted on any portion of the Property except as specifically authorized in writing by the Board.

7.6 Motor Vehicles. Any motor vehicle operated on the Property, including any automobile, truck, dune buggy, motorcycle or trail bike, shall have mufflers on its exhaust system and shall motor be ridden only on the Private Drives and driveways. No vehicle which is not in an operating condition shall be parked or stored on any part of the Property other than within an enclosed garage. No motor vehicle shall be ridden on any Lot except for the

purpose of parking, loading or garaging the same or for necessary maintenance of the Lot and the structures, persons, Improvements, animals or plants thereon. In no event shall motor vehicles be operated for recreational purposes on any Lot.

7.7 Boats, Trucks and Trailers. No boat, truck, trailer, van, motor home, camper or similar vehicle or like item shall be stored or parked on a Lot unless the Recreational Parking Area has no further spaces available for parking such vehicles, and only if the Board approves storage of the boat, truck, trailer, van, motor home, camper or similar vehicle or like item after the same is screened from view, as approved by the Board, from any part of the Private Drives and neighboring properties, and is not placed within front or rear setbacks.

7.8 Privies. No privies shall be erected, maintained or used upon any Lot, except for temporary privies which are used during the course of construction on a Lot and approved in advance by the Board, subject to such conditions as the Board may impose.

7.9 Miscellaneous Structures. No derrick, windmill, pump or other structure designed for use in boring, mining or quarrying for water, oil or natural gas or precious minerals shall be erected, maintained or permitted upon any Lot.

7.10 Excavation. No excavation shall be made on any Lot except in connection with construction of an Improvement on such Lot, and upon completion thereof any exposed opening shall be back-filled and disturbed ground shall be compacted, graded and leveled in such a manner that the drainage over the disturbed ground shall be the same as it was prior to such excavation or as otherwise approved by the Board.

7.11 Fences. No fence, hedge, wall or other dividing structure higher than seven (7) feet above the surface of the ground shall be permitted on any Lot except where the fence, hedge, wall or structure is existing or is approved by the Board.

7.12 Antennae. No pole, mast, satellite dish, receiver, or other outdoor antenna or related device shall be allowed on any Lot without the prior written consent of the Board unless the highest portion thereof is no higher than the height of the shortest Boundary Wall on the Lot, and in no case may said antennae be visible from any public street or from the Private Drive.

7.13 Garage Doors. No garage door shall be allowed to remain open on a Lot unless vehicles and/or other items are being transported into, out of or through the garage area.

7.14 Basketball Backboards. Basketball backboards may be allowed but only upon submission of plans and written approval of the Board and must be installed in the rear yard of the Lot and

screened from neighboring view. Additional guidelines may be set forth by the board.

7.15 Landscape and Improvement Maintenance. After installation, each Owner shall, at his expense, maintain all required landscaping on his Lot in a healthy, attractive condition and shall maintain all required automatic landscape irrigation systems in good operating condition and repair. If any Owner fails to landscape and install automatic irrigation systems in accordance with the provisions of this Declaration, and should such failure continue for a period of thirty (30) days following written demand from the Board conforming with the requirements set forth in the last paragraph of this Section and demanding that such failure be cured within said thirty (30) days, or if an Owner fails to maintain landscaping and irrigation systems in accordance with the foregoing, and should such failure continue for a period of thirty (30) days following written demand from the Board conforming with the requirements set forth in the last paragraph of this Section and demanding that such failure be cured within said thirty (30) days, the Association may, through its employees, agents and contractors, Landscape required areas on the Lot and install and maintain automatic irrigation systems for the same and/or replace, repair and maintain landscaping and automatic irrigation systems on the Lot at the cost and expense of the Owner, and the cost thereof shall be added to the Assessments which are assessed against the Owner and his Lot and shall be enforceable and collectible as an Assessment in accordance with Article 5.

After construction an Owner shall, at his expense, maintain all Improvements, including buildings and other structures in a clean and attractive condition and shall repaint the same when appropriate, necessary or advisable. If any Owner fails to maintain or repaint the same in accordance with the foregoing, and should such failure continue for a period of thirty (30) days following written demand from the Board conforming with the requirements set forth in the last paragraph of this Section and demanding that such failure be cured within said thirty 30 days, the Association may, through its employees, agents and contractors, enter upon the applicable Lot and maintain or paint said building or Improvement at the cost and expense of the Owner, and the cost thereof shall be added to the Assessments which are assessed against the Owner and his Lot and shall be enforceable and collectible as an Assessment in accordance with Article 5.

Any written demand provided for in this Section shall specifically make reference to this Section; and shall state that failure to timely perform within the applicable cure period (which shall also be specifically noted) shall result in the Association being empowered to cure such failure at the cost and expense of the Owner.

7.16 Nuisances. No Owner or Resident shall create or suffer to exist any use, operation or condition on a Lot which is a public or

private nuisance, nor shall any music, noise or sound that is objectionable due to intermittent beat, frequency, shrillness or loudness be allowed to emanate from or to exist within or upon the Project. Without prior approval of the Board, no Owner or Resident shall allow the use upon a Lot of an exterior loud speaker or any other sound projection device emitting voices, music or noises beyond the boundaries of the Lot save and except for a siren, bell or similar noise device used solely for purposes of security and alarm purposes.

7.17 Street Lamps and Photoelectric Cells: As part of the original construction of the Project and dwellings within the Project the Declarant shall install street lamps on Lots within the Project. Each Owner shall be responsible to keep any street lamps and attendant photoelectric cells located on that Owner's Lot in good and proper working condition at all times including performing all necessary repairs, maintenance, and upkeep on the street lamps, and photoelectric cell, as required by the Association's Board. Should any street lamp and photoelectric cells installed on any Lot as part of the original construction of the Project and dwellings within the Project need replacement for any reason, the Owner of the Lot upon which any street lamp and photoelectric cell are located shall be required to replace such street lamp and photoelectric cell with the same or similar street lamp and photoelectric cell, approved by the Board. Should the Owner of a Lot within the Project fail to perform any of the obligations under Section 7.17, the Association may, after giving the Owner ten (10) days prior written notice, enter upon the Owner's Lot and repair or replace any street lamp and photoelectric cell located thereon, and thereafter, assess the Owner thereof for the amount expended in repairing or replacing the street lamp and photoelectric cell, and for any other costs reasonably related to the repair or replacement of the street lamp and photoelectric cell. Such amount shall be enforceable and collectible as an assessment in accordance with the provisions of Article 5.

ARTICLE 8 LIENHOLDER PROVISIONS AND INSURANCE

8.1 Subordination of Assessments to First Mortgages. The lien of the Assessments provided for under the terms of this Declaration shall be prior to all other liens and encumbrances recorded subsequent to this Declaration; provided, however, that the lien of the Assessments provided for herein shall be prior to the lien of any First Mortgage in the limited amount calculated pursuant to Section 116.3116 of the Nevada Revised Statutes. Other than this sum, the lien of the Assessments provided for herein shall be subject to and subordinate to the lien of any First Mortgage given for value on a Lot and which is recorded prior to the recording of any unreleased Notice of Delinquent Assessment. The sale or transfer of a Lot through a foreclosure sale of a First Mortgage on that Lot shall extinguish the lien of any Assessment with respect to Assessments which become due prior to the foreclosure sale or transfer. However, no sale or transfer shall

extinguish the Owner of such Lot from liability for any Assessments which thereafter come due or from a lien therefrom.

8.2 Protection of First Mortgages. No violation or breach of, or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any First Mortgage on any Lot taken in good faith and for value and recorded prior to the time of recording of an instrument describing the Lot and listing the name or names of the Owner or Owners thereof and giving notice of such violation, breach or failure to comply; nor shall such violation, breach or failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of any First Mortgagee or fee title or interest acquired by any purchaser upon foreclosure of any such First Mortgage or result in any liability, personal or otherwise, of any such First Mortgagee or purchaser.

Upon foreclosure of any such First Mortgage, no such First Mortgagee or purchaser who thereby assumes title to a Lot shall be required to correct "past violations" hereof with respect to said Lot. Any violation existing prior to such sale and continuing thereafter, which the Board, in its sole discretion, determines to be impossible, unfeasible or impractical to cure, shall be deemed to be a "past violation" for purposes of the foregoing sentence.

Any continuing violation which is not determined by the Board to be impractical, impossible or unfeasible to cure shall be deemed to be a violation occurring after such sale.

8.3 Taxes and Insurance. Should the Association obtain casualty insurance policies with respect to any Project amenities, and should any First Mortgagee request the execution of an agreement allowing said First Mortgagee to make premium payments on such policy in the event of the cancellation or other termination thereof, the Association shall execute such reasonable agreement in that regard as may be requested by the First Mortgagee and shall immediately reimburse any such First Mortgagee making premium payments which are overdue on such policies, or which are used to secure new policies upon the cancellation or other termination of the existing policy or policies. First Mortgagees may jointly or severally pay taxes or other charges which are in default and which may have been or which may become a charge against property or interests of the Association and seek reimbursement from the Association for the same; provided, however, that if such taxes or charges are separately assessed against Owners, the rights of the First Mortgagees shall be governed by their Mortgages.

ARTICLE 9 INSURANCE, TORT AND CONTRACT LIABILITY

9.1 Liability Insurance. The Association shall maintain a comprehensive general liability insurance policy covering all Common Elements being maintained by the Association and other areas of the Project that are under the supervision of the Association.

Said policy shall provide coverage of at least ONE MILLION DOLLARS (\$1,000,000.00) for bodily injury and property damage for any single occurrence. Said policy shall provide coverage for bodily injury and property damage that results from the operation, maintenance or use of said Common Elements, including the Landscape Areas, Private Drive, Recreational Vehicle Parking Area, Recreational Facilities Area and other areas of the Project under the supervision of the Association and any legal liability that results from lawsuits related to employment contracts to which the Association is a party.

The policy shall additionally provide, to the extent reasonably available that:

- (a) Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements of the Association.
- (b) The insurer waives the right to subrogation under the policy against an Owner or member of the household of a Owner.
- (c) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy.
- (d) If, at the time of a loss under the policy, there is other insurance in the name of an Owner which covers the same risk covered by the policy, the Association's policy provides primary insurance.
- (e) Losses must be adjusted with the Association.
- (f) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Owner and the Owner's mortgagee.
- (g) The insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the Association, to each Owner and to each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.
- (h) The name of the insured shall be substantially as follows:

"Firethorne I Homeowners Association for the use and benefit of the individual Owners."

9.2 Other Insurance. The Association shall purchase such other insurance as the Board deems necessary or advisable. The Board shall annually determine whether the amounts and types of insurance carried by the Association provide adequate coverage and may increase coverage or obtain additional coverage as it shall deem appropriate.

9.3 Premiums. Insurance premiums for policies obtained by the Association shall be an expense to be included in the Assessments levied by the Association. The Board shall have authority to negotiate loss settlements with appropriate insurance carriers, and the signatures of a majority of the Directors to a loss claim shall be binding on the Association and the Members.

9.4 Torts and Contract Liability. Neither the Association nor any Lot Owner except the Declarant is liable for Declarant's torts in connection with any part of the common interest community for which Declarant has the responsibility to maintain. An action alleging a wrong done by the Association must be brought against the Association and not against any Lot Owner. If the wrong occurred during any period of Declarant's control and the Association gives the Declarant reasonable notice of and an opportunity to defend against the action, the Declarant who then controlled the Association is liable to the Association or to any Lot Owner for all tort losses not covered by insurance suffered by the Association or that Lot Owner, and all costs that the Association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the Declarant is liable to the Association under this section, the Declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the Association. Any statute of limitation affecting the Association's right of action under this section is tolled until the period of Declarant's control terminates. A Lot Owner is not precluded from maintaining an action contemplated by this section because he is a Lot Owner or a Member or officer of the Association.

ARTICLE 10 DECLARANT RIGHTS

10.1 No Reservation of Developmental Rights. Declarant hereby expressly waives any and all rights Declarant may have to exercise any of the Declarant's rights provided under NRS 116.11034, which rights include:

- (a) The right to add real estate to the Project;
- (b) The right to create Lots and Common Elements in the Project;
- (c) The right to subdivide Lots or convert Lots into Common Elements; and
- (d) The right to withdraw real estate from the Project.

10.2 Special Declarant Rights. The Declarant hereby reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Project:

- (a) The right to complete Improvements indicated on the Plat;
- (b) The right to maintain sales offices, model homes management offices, direction signs and signs advertising the sale of homes;
- (c) The right to use easements through the Common Elements for the purpose of making Improvements within the Project; and
- (d) The right to appoint or remove any officer of the Association or a Board member during the period of Declarant control, subject to the provisions of Section 2.6.3 of this Declaration.

10.3 Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earlier of the following: (a) Declarant is obligated under any warranty or obligation, (b) Declarant owns any Lot; or (c) Declarant owns any Security Interest in any Lot; or (d) seven years have elapsed after recording of this Declaration. Earlier termination of certain rights may occur by statute.

ARTICLE 11 MISCELLANEOUS

11.1 Duration of Declaration. Each of the provisions contained in this Declaration shall run with the land and continue and remain in full force and effect subject to the provisions of 11.1.1 for a period of forty (40) years beginning as of the date of recording of this Declaration in the official Records in the office of the County Recorder of Clark County, Nevada, and shall automatically be extended thereafter for successive periods of ten (10) years each unless an instrument executed by the then-Owners of not less than two-thirds (2/3) of the Lots has been recorded agreeing to terminate this Declaration at the end of said forty (40) years or at the end of an applicable ten-year extension period.

11.1.1 Termination. This Declaration may be terminated only by agreement of Lot Owners to whom at least eighty percent (80%) of the votes in the Association are allocated. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratification thereof, in the same manner as a deed, by the requisite number of Lot Owners. The agreement must specify a date after which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratification thereof must be

recorded in Clark County, Nevada and is effective only upon recordation. The agreement may provide for the sale of the common elements. Proceeds of the sale must be distributed to Lot Owners and lien holders as their interests may appear. Following termination of the declaration, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for Lots' Owners and holders of liens on the Lots as their interests may appear.

11.1.2 Rights of Creditors at Termination. Following termination of this declaration, creditors of the association holding liens on the Lots, which were recorded before termination, may enforce those liens in the same manner as any lien holder. All other creditors of the association are to be treated as if they had perfected liens on the Lots immediately before termination.

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

11.3 Enforcement and Remedies. In addition to any other remedies herein provided each provision of this Declaration shall be enforceable by Declarant, the Association or any Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages. Notwithstanding any other provision hereof to the contrary, neither Declarant nor the Association shall alter or demolish items of construction on a Lot as a result of a violation of the provisions of this Declaration without first obtaining the approval of the Owner thereof or instituting Court proceedings and obtaining Court approval therefor. If any Court

proceedings are instituted in connection with the rights or duties of any party hereunder, including, without limitation, any proceedings instituted to seek remedies provided in this Declaration or to seek a declaration of the rights and/or obligations of any party hereunder, the prevailing party or parties shall be entitled to recover from the non-prevailing party or parties any costs and expenses in connection therewith, including reasonable attorneys' fees.

11.4 Construction. The provisions of this Declaration shall be liberally construed to promote and effectuate the fundamental concepts of the Project as set forth in this Declaration and to conform with the provisions of NRS Chapter 116 as it may from time to time be amended, regarding Common Interest Ownership, and no provision hereof shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over the Project.

11.5 Assignment of Powers. Any and all of the rights and powers vested in Declarant pursuant to this Declaration may be delegated, transferred, assigned, conveyed or released by Declarant to the Association, and the Association shall accept the same effective upon the recording by Declarant of a notice of such delegation, transfer, assignment, conveyance or release.

11.6 Non-Avoidance and Time of the Essence. No Owner through non-use or abandonment of his Lot may avoid the burdens or obligations imposed on him by this Declaration. Time is expressly declared to be of the essence of this Declaration and of every provision hereof in which time is an element.

11.7 Limited Liability. Neither Declarant, the Association, the Board, any officer or Director, nor any agent or employee of Declarant, the Association or the Board shall be liable to any Owner, Resident, Guest or other person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith. Declarant, on behalf of all future Owners, hereby waives, and each Owner by accepting title to a Lot or any interest therein, whether or not it shall be expressed in the deed or other instrument conveying title, shall be deemed to waive any right of recovery for any such action or failure if the action taken or failure to act was in good faith.

The Association shall indemnify every present and former Director and Officer of the Association against all liabilities incurred as a result of holding such office and undertake all costs of defense to the fullest extent permitted by law, until and unless it is proven that he acted with willful and wanton misfeasance or with gross negligence. The Association may additionally provide for the exculpation, indemnification and/or insuring of Directors, Officers, Members, Association employees, agents, contractors and other persons and entities in its Articles of Incorporation and/or Bylaws. Punitive damages may not be recovered against the

Association, but may be recovered from persons whose activities gave rise to the damages.

11.8 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association, each Owner and their respective heirs, personal representatives, successors and assigns unless otherwise provided herein.

11.9 Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid or enforceable part of a provision of this Declaration.

11.10 Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

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

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

11.13 Notices. Any notice, information or material required to be given hereunder shall be deemed furnished or delivered to a party at the time a copy thereof is deposited in the mail or at a telegraph office, postage or charges prepaid, addressed to the party, and in any event, when such party actually, physically receives such notice, information or material. Any notice, information or material shall be deemed properly addressed to an Owner if it is addressed to the name and address shown on the most recent written notice of name and address, if any, furnished to the Association by such Owner or, if a name and address is not so furnished, if it is addressed to the Owner at the street address of a Lot owned by the Owner, or if there is no completed residence on a Lot owned by the Owner, then to the address of the Owner as reflected on the records of the Clark County Assessor for real property tax purposes. Notices, information and material required to be given hereunder to Declarant, the Association or the Board shall be addressed to such entity in care of the Association at the principal office of the Association. Notice properly given to one Owner of a Lot shall be deemed given to all Owners of that Lot.

11.14 Additional Declarations. Nothing herein should be construed to prevent Declarant or any grantee of Declarant from recording any further or additional declarations of protective covenants, conditions and/or restrictions for all or any portion of the Property. Any such additional declarations so recorded shall be deemed and considered for any and all purposes to be additional to and supplemental to this Declaration and shall not be deemed to

have superseded or replaced the provisions hereof. In that regard, it is contemplated by Declarant that any such declaration may place additional covenants, conditions and restrictions upon that portion of the Property burdened with the same, and that any such declaration may place more stringent and/or additional restrictions upon the use thereof. However, no such additional declaration shall be deemed to terminate or abrogate any provision of this Declaration.

11.15 Amendment of this Declaration. Except as provided in Section 5.4.1, this Declaration may be amended upon the approval and consent of Members holding not less than sixty-seven per cent (67%) of the voting power of the Association. As long as there are class B voting rights, any amendment of this Declaration shall also require the approval of VA.

11.16 No-Reverter. Nothing in this Declaration shall be construed to create or is intended to create a possibility of reverter or to provide a condition subsequent. No provision hereof shall be deemed to vest in Declarant or any other party any reversionary interest with respect to any Lot, and any such reversionary right is hereby waived by Declarant.

11.17 Condemnation, Destruction or Liquidation. Subject to the provisions of Section 116.31133(2) of the Nevada Revised Statutes, any losses or proceeds from condemnation, destruction or liquidation of all or any part of property rights of Owners and the Association in all Common Elements including rights in the Landscape Area, Private Drive, Recreational Vehicle Parking Area, Recreational Facilities Area and/or Developer Walls or from the termination of the Project, including any proceeds from the settlement thereof, shall be payable to the Association for the benefit of the Owners and their mortgagees. Any distribution of funds in connection with the termination of the Project shall be made on a reasonable and equitable basis in compliance with NRS 116.21185. The Board shall be and is hereby designated to represent the Owners in any proceedings, negotiations, settlements or agreements with respect to any such condemnation, destruction or liquidation, and signature of a majority of the Directors of the Association to a settlement agreement shall be binding on the Association and the Members.


11.18 VA/FHA Approval. So long as Class B voting rights are in existence, the following actions will require the prior approval of the VA and/or the FHA, as applicable:

- (a) The dedication, conveyancing or mortgaging of Common Elements or Project amenities;
- (b) Amendment of this Declaration; and
- (c) Mergers, consolidations or dissolutions of the Association.

IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective as of the day and year of the recording hereof.


"DECLARANT"

AMERICAN WEST HOMES, INC.,
a Nevada corporation

By: 
Lawrence D. Canarelli
Its: President

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

On April 19, 1993, personally appeared before me, a notary public, LAWRENCE D. CANARELLI, personally known (or proved) to me to be the person whose name is subscribed to the above instrument who acknowledged that he executed the above instrument.


NOTARY PUBLIC in and for said
County and State

c:\jel\awest\firethor\firethr6.cor

**DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS
AND GRANT OF EASEMENTS
FOR
FIRETHORNE I HOMEOWNERS ASSOCIATION**

EXHIBIT "A"

The land referred to herein is situated in the State of Nevada, County of Clark, and described as follows.

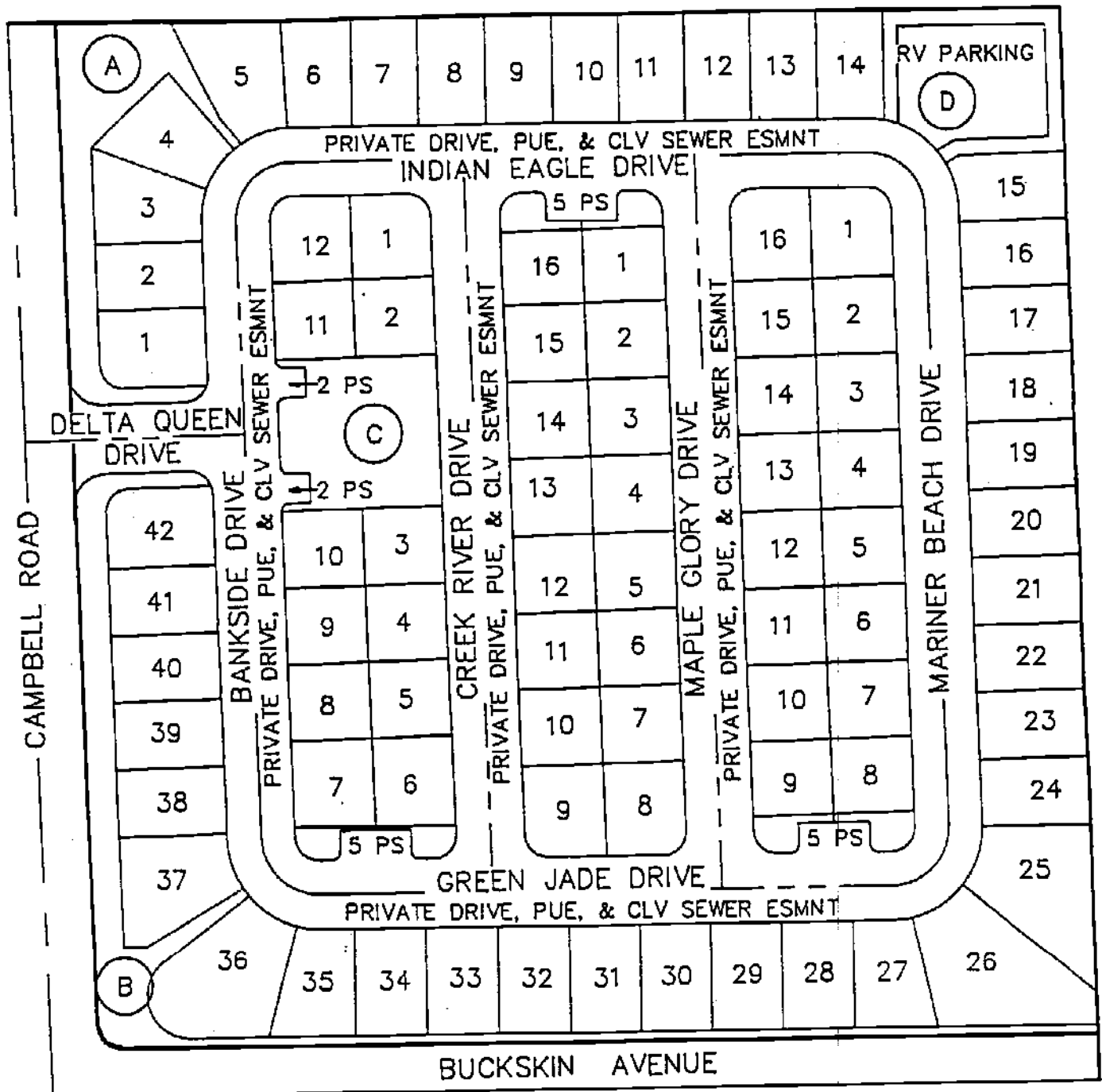
All of Gowan/Fort Apache Phase 1 - P.U.D., as shown by map thereof on file in Book 55 of Plats, Page 5 in the Office of the County Recorder, Clark County, Nevada, and morefully described as Lots 1 through 47 of Block 1, Lots 1 through 16 of Block 2, Lots 1 through 16 of Block 3, and Lots 1 through 12 of Block 4., Common Element Lot "A", Common Element Lot "B", Common Element Lot "C", and Common Element Lot "D".

FIRETHORNE I

EXHIBIT "B"



SCALE 1"=100'



WHEN RECORDED MAIL TO:
AMERICAN WEST HOMES, INC.
2700 E. Sunset Road #5
Las Vegas, Nevada 89120

CLARK COUNTY, NEVADA
JOAN L. SWIFT, RECORDER
RECORDED AT REQUEST OF:
AMERICAN WEST HOMES INC

05-04-93 10:26 NA1 62
BOOK: 930504 INST: 00659

FEE: 66.00 RPTT: .00
REREC RESTRICTIONS

CONFORMED COPY-HAS NOT BEEN COMPARED TO THE ORIGINAL

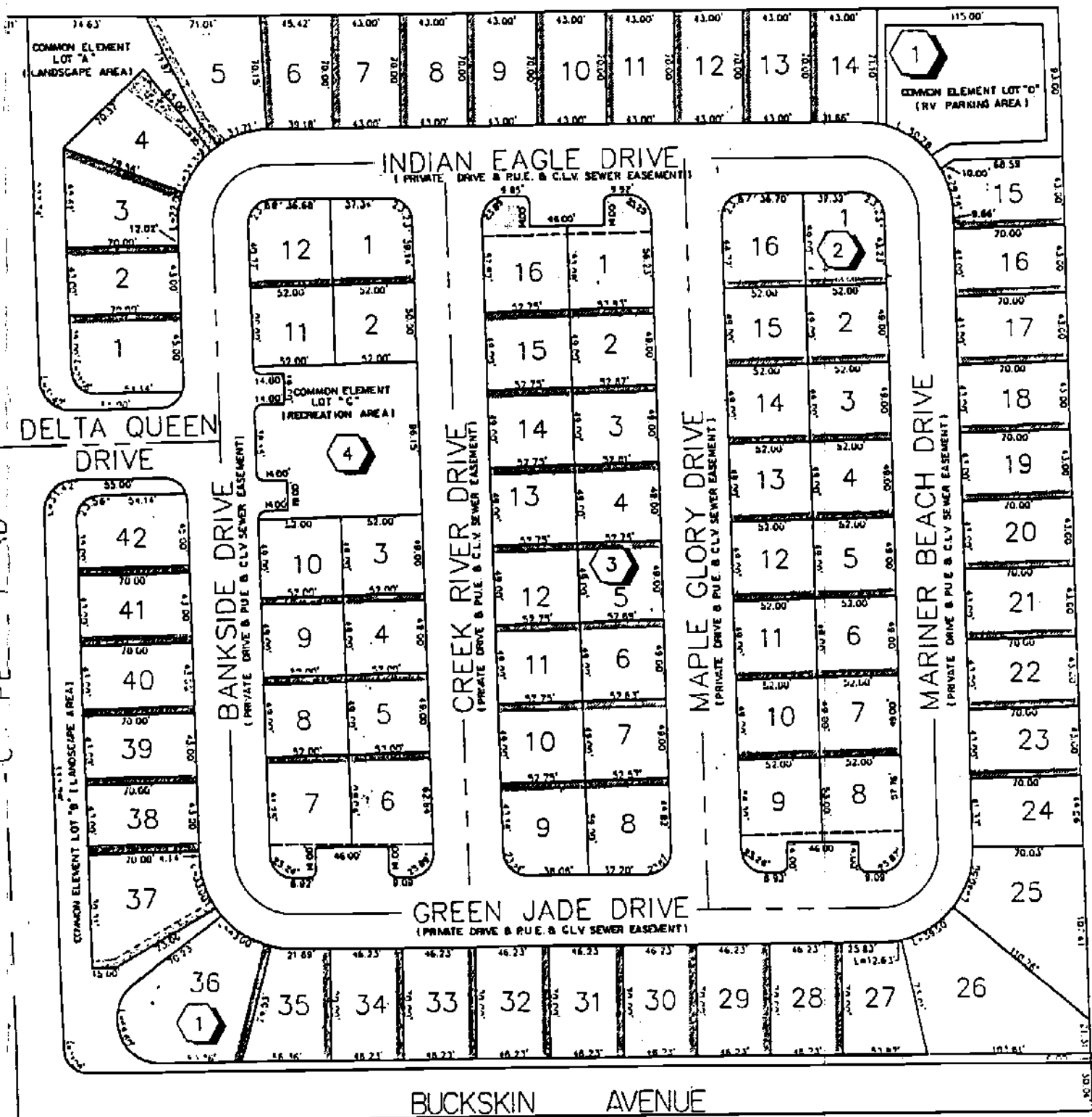
CLARK COUNTY, NEVADA
JOAN L. SWIFT, RECORDER
RECORDED AT REQUEST OF:
AMERICAN WEST HOMES INC

04-19-93 11:31 BSB 62
BOOK: 930419 INST: 00867

FEE: 66.00 RPTT: .00
RESTRICTIONS

CONFORMED COPY-HAS NOT BEEN COMPARED TO THE ORIGINAL

EXHIBIT "C"



FIRETHORNE

When Recorded Mail to:

Woodburn and Wedge
Attn: John E. Leach, Esq.
300 S. Fourth St., Suite 620
Las Vegas, NV 89101

FIRST AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS AND GRANT AND RESERVATION
OF EASEMENT FOR FIRETHORNE I HOMEOWNERS ASSOCIATION

PREAMBLE

This Amendment to Declaration of Protective Covenants, Conditions and Restrictions and Grant and Reservation of Easement for Firethorne I Homeowners Association (the "Amendment") is made by American West Homes, Inc., a Nevada corporation, ("Declarant"), being an interest holder in the real property which is the subject of this Amendment as follows:

W I T N E S S E T H:

WHEREAS, Declarant recorded that certain Declaration of Protective Covenants and Restrictions and Grant and Reservation of Easement for Firethorne I Homeowners Association (the "Declaration") on April 19, 1993, in the Official Records of Clark County, Nevada, in Book No. 930419, as Document No. 00867;

WHEREAS, Declarant desires to amend a portion of the Declaration to be consistent with Nevada Revised Statutes Chapter 116;

WHEREAS, Declarant remains the interest holder in all of the real property located within the Firethorne I Homeowners Association, in that Declarant has not closed escrow for the sale of any units within the Association;

.....

NOW, THEREFORE, the Declarant hereby declares that the Declaration is hereby amended as follows:

1. Article 5, Section 5.4.1 of the Declaration is deleted in its entirety and hereby amended as follows:

The Annual Assessment for any Lot within the Project shall not exceed the maximum amount allowed, as set forth in NRS 116.4101 and as adjusted pursuant to NRS 116.1115(2). Any proposed amendment to this Declaration which would increase the amount of the maximum Annual Assessment, prior to the termination of Declarant's control of the Association pursuant to Section 2.6.3 of this Declaration, shall require the consent of all Owners.

2. Exhibit "A" referenced in and attached to the Declaration is deleted in its entirety and hereby amended as follows:

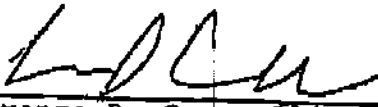
All of Gowan/Fort Apache Phase 1-P.U.D., as shown map thereof on file in Book 55 of Plats, Page 5 in the Office of the County Recorder, Clark County, Nevada, and more fully described as Lots 1 through 42 of Block 1, Lots 1 through 16 of Block 2, Lots 1 through 16 of Block 3, Lots 1 through 12 of Block 4, Common Elements Lot "A", Common Elements Lot "B", Common Elements Lot "C", Common Elements Lot "D", and all of the Private Drives as defined in the Declaration and shown on said map.

3. Except as specifically amended herein, the Declaration remains in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Amendment this 12th day of August, 1993.

DECLARANT:

AMERICAN WEST HOMES, INC.
a Nevada corporation

By: 
Lawrence D. Canarelli,
President

STATE OF NEVADA)
) : SS.
COUNTY OF CLARK)

On this 12th day of August, 1993, personally appeared before me, a Notary Public (or judge or other authorized person, as the case may be), LAWRENCE D. CANARELLI, personally known (or proved) to me to be the President of AMERICAN WEST HOMES, INC., who acknowledged that he executed the same freely and voluntarily and for the uses and purposes therein stated.



NOTARY PUBLIC
STATE OF NEVADA
County of Clark
CELENE SAMS

My Appointment Expires August 9, 1996
1994

Notary Public

o:\jellawest\firethor\axend.oor

CLARK COUNTY, NEVADA
JOAN L SWIFT, RECORDER
RECORDED AT REQUEST OF
WOODBURN AND WEDGE
08-12-93 13:23 998 3
BOOK: 930812 INST: 01102
FEE: 7.00 RPTT: 00
AM RESTRICTIONS
CONFORMED COPY HAS NOT BEEN COMPARED TO THE ORIGINAL