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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SALT CREEK
A COMMON INTEREST COMMUNITY**

WHEN RECORDED, MAIL TO:

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11/18/99

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR SALT CREEK, A COMMON INTEREST COMMUNITY**

This Declaration of Covenants, Conditions, and Restrictions, hereinafter referred to as "Declaration," is made this 16th day of December, 1999, by Salt Creek Associates, L.P., a California limited partnership, the "Declarant," with reference to the following:

RECITALS:

A. Declarant is the owner of that certain real property located in the County of Clark, State of Nevada, which is described as:

Property known as SALTCREEK, a Common Interest Community, as more fully appears on the Amended Plat filed on November 18, 1999, in Book 92 of Plats, Page 20, Official Records, Clark County, Nevada, Recorder.

hereinafter called the "Property."

B. Declarant has or intends to improve the Property by constructing thereon a Common Interest Residential Community consisting of up to a maximum of 80 Units, which will be known and marketed as Salt Creek under the provisions of the Nevada Common Interest Ownership Act.

C. The first Phase of the Project will consist of one-story single family residences, and all Common Elements within Phase 1. Phase 14 contains the model homes and will be last Phase annexed into the Project. The architectural style is wood frame and stucco.

D. The development of the Property is the first Phase of a planned fourteen (14) Phase Project described as follows:

Phase 1 Lots 24 through 27, inclusive, in Block 3 and Lots 77 through 80, inclusive, in Block 6, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility

- Restriction Easements; and Utility Easements within Phase 1.
- Phase 2 Lots 19 through 23, inclusive, in Block 3 and Lots 75 and 76 in Block 6, together with Association Property consisting of Private Drives, Public Utility Easements, Common Elements; Public Utility Easements, Sight Visibility Restriction Easements, and Utility Easements within Phase 2.
- Phase 3 Lots 13 and 14 in Block 2 and Lots 15 through 18, inclusive, in Block 3, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 3.
- Phase 4 Lots 28 through 31, inclusive, in Block 3, Lots 67 and 68 in Block 5, and Lot 69 in Block 6, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 4.
- Phase 5 Lots 70 through 72, inclusive, in Block 6 and Lots 64 through 66, inclusive, in Block 5, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 5.
- Phase 6 Lots 11 and 12 in Block 2, Lots 62 and 63 in Block 5, and Lots 73 and 74 in Block 6, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 6.
- Phase 7 Lots 40, 41 and 42 in Block 3 and Lots 44 and 45 in Block 4, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 7.
- Phase 8 Lots 35 through 39, inclusive, in Block 3 and Lot 43 in Block 4, together with Association Property consisting of Private Drives, Public Utility Easements, Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 8.
- Phase 9 Lots 32 through 34, inclusive, in Block 3 and Lots 54 and 55 in Block 4, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 9.
- Phase 10 Lots 52 and 53 in Block 4 and Lots 56 through 58, inclusive, in Block 5, together

with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 10

- Phase 11 Lots 49 through 51, inclusive, in Block 4 and Lots 59 through 61, inclusive, in Block 5, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 11.
- Phase 12 Lots 7 through 10, inclusive, in Block 2, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 12.
- Phase 13 Lots 1 through 6, inclusive, in Block 1, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 13.
- Phase 14 Lots 46 through 48, inclusive, in Block 4, together with Association Property consisting of Private Drives, Public Utility Easements; Common Elements; Public Utility Easements; Sight Visibility Restriction Easements; and Utility Easements within Phase 14.

E. Each Phase shall have appurtenant to it a membership in SALT CREEK OWNERS' ASSOCIATION, a Nevada non-profit corporation ("Association"), which will be the management body of the overall Project.

F. The Association will receive title to the Association Property on the conveyance of the first Lot in Phase 1 and in subsequent Phases on conveyance of the first Lot in each Phase.

G. Declarant contemplates subjecting all Phases in the Property to this Declaration. There is no guarantee that any or all of the subsequent Phases will be completed or that the number of Lots, Common Elements, and amenities will be developed as described above.

H. Before selling or conveying any interest in the Property, Declarant desires to subject the Property, in accordance with a common plan, to certain covenants, conditions, and re-

restrictions for the benefit of Declarant and all present and future owners of the Property

NOW, THEREFORE, Declarant hereby declares that all of the Property described as Phase 1 in Recital D, and subsequent Phases when annexed, shall be held, used, sold, and conveyed subject to the following easements, covenants, conditions, restrictions, and equitable servitudes which are for the purpose of protecting the economic value of the Residences, and livability of Owners within the Project, and which will run with each Phase of the Property in the Project, and shall inure to the benefit of each Owner thereof, and bind all persons, their heirs, successors, and assigns who hold any right, title, or interest in the Project or any part thereof.

ARTICLE I

DEFINITIONS

Section 1.1 **Arbitration** means the requirement under NRS Chapter 38.300-360 that certain claims regarding the Declaration and the Association be submitted to Arbitration or mediation.

Section 1.2 **Architectural Committee** shall mean and refer to the Committee established in accordance with Article VII of the Declaration to exercise architectural control in the Project.

Section 1.3 **Articles** shall mean and refer to the Articles of Incorporation of the Association and any amendments to said Articles.

Section 1.4 **Association** shall mean and refer to SALT CREEK OWNERS' ASSOCIATION, a Nevada non-profit corporation, its successors and assigns.

Section 1.5 **Association Expenses** sometimes Common Expenses shall mean and include the actual and estimated expenses of operating the Association and any reasonable reserves for such purposes.

Section 1.6 Association Property shall mean all of the Property, real and personal, owned by the Association, including all the Common Elements (i.e., open spaces and sidewalks, Private Drives and Association Easements).

Section 1.7 Block shall mean and refer to the numbers shown inside each hexagon (see legend) on Sheets 2 through 5 of the Plat.

Section 1.8 Board, Board of Directors, or Executive Board, shall mean and refer to the governing body of the Association.

Section 1.9 Boundaries, when interpreting conveyances or plans, shall mean the then existing physical boundaries of a Lot whether in its original state or reconstructed in substantial accordance with the original plans. The Boundaries, as above defined, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of buildings, fences, or other Improvements (hereafter defined), and regardless of minor variances between boundaries shown on the plat or deed, and those of the Improvements.

Section 1.10 Boundary Wall sometimes Party Wall shall mean and refer to the freestanding or party walls constructed on the Property line between contiguous Lots.

Section 1.11 Bylaws shall mean and refer to the Bylaws of the Association and any amendments to said Bylaws.

Section 1.12 Common Elements shall mean and refer to the Association Property identified by such terms as Private Drive, Public Utility Easements; Public Utility Easements; Sight Visibility Restriction Easements; or Utility Easements, as the case may be, as shown on

Sheets 2 through 5 of the Plat.

Section 1.13 Declarant shall mean and refer to Salt Creek Associates, L.P., a California limited partnership, its successors and assigns.

Section 1.14 Declarant's Rights shall mean and refer to the rights granted to the Declarant by law and pursuant to this Declaration, including without limitation, the Declarant's right to:

- (a) add Phases to the Property;
- (b) create Lots and Common Elements within the Phases;
- (c) complete the improvements as indicated on the Plat;
- (d) maintain on the Property sales offices, models, management offices, and signs;
- (e) use of easements through the Common Elements for the purpose of making improvements in the Project;
- (f) appoint or remove officers of the Association and any members of the Executive Board during the Declarant's Control Period as described in Section 3.2; and
- (g) statutory rights and those rights described in Section 3.3 and as otherwise reserved in the Declaration.

Section 1.15 Declaration shall mean and refer to this enabling Declaration of Covenants, Conditions, and Restrictions.

Section 1.16 Eligible Insurer or Guarantor shall mean and refer to an insurer or governmental guarantor who has requested notice from the Association of those matters of which such insurer or guarantor is entitled to notice by reason of this Declaration or the Bylaws.

Section 1.17 Eligible Security Holder shall mean a holder of the First Security Interest

Section 1.25 **Owner** sometimes **Lot Owner** shall mean and refer to a record owner, whether one or more persons or entities, of fee simple title to any Lot which is part of the Property including installment contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.26 **Parking** shall mean and refer to off Lot parking, the use of which shall be as regulated by the Association.

Section 1.27 **Perimeter Wall** means the masonry wall along the perimeter of the Project. The maintenance and repair of the exteriors of the Perimeter Walls will be done by the Association. The interior of the Perimeter Wall will be maintained proportionately by each Owner whose Lot backs up to the interior of the Perimeter Wall. The exteriors of walls in the interior of the Project which front on Common Elements shall be maintained by the Association, the interiors of such walls (and any other interior wall) shall be maintained proportionately by each Owner whose Lot backs up to such interior wall.

Section 1.28 **Phased Annexation** sometimes **Annexable Areas**, shall mean and refer to the Phases described in Recital D, which the Declarant may annex in accordance with Article 12.2.

Section 1.29 **Plat** shall mean and refer to the Amended Plat of SALTCREEK, a Common Interest Community, as shown by the map thereof filed on November 18, 1999, in Book 92, Page 20 of Plats, Official Records, Clark County, Nevada, Recorder, any amendments thereto, and when annexed any Plats for subsequent Phases.

Section 1.30 **Private Streets** shall mean the Private Drives & Public Utility Easements

as shown on Sheets 2 through 5 of the Plat.

Section 1.31 Project shall mean and refer to the entire Planned Community as shown by the Plat, including the Annexable Areas when annexed.

Section 1.32 Property shall mean and refer to the entire real property described in Recital A, including all structures and improvements erected or to be erected thereon, and such additions as may hereafter be brought within the jurisdiction of the Association.

Section 1.33 Residence shall mean and refer to any dwelling constructed on a Lot in accordance with the law and this Declaration.

Section 1.34 Security Interest shall mean and refer to the holder of a Security Interest on a Lot which by definition includes mortgages, deeds of trust, and installment contracts of sale.

ARTICLE II

ASSOCIATION PROPERTY

Section 2.1 Title To Association Property. Declarant hereby covenants for itself, its successors and assigns, that it will at the time of conveyance of the first Lot to an Owner in Phase I convey title to the Association Property to the Association free and clear of all encumbrances and liens, except utility easements, covenants, conditions, and reservations then of record, including those set forth in this Declaration. Similar conveyances shall be made to the Association at the time of the conveyance to an Owner of the first Lot in each subsequent Phase.

Section 2.2 Association Property. The Association shall have the following rights regarding the Association Property:

- (a) The right of the Association to dedicate or transfer all or substantially all or any

part of the Association Property to any public agency, authority, or utility for such purposes, subject to compliance with NRS §116.3112.

(b) A non-exclusive easement over and upon the Lots for the purpose of work on the Association Property. Any damage to any Lot caused by the gross negligence or willful misconduct of the Association or any of its agents during any entry onto any Lot shall be repaired by and at the expense of the Association.

(c) The right of the Association, in accordance with NRS §116.3112, the Articles, and the Bylaws, to borrow money for the purpose of repairing and replacing the Association Property, and with the consent of the majority of the Association Members including a majority of votes of Members other than the Declarant, to hypothecate any or all real or personal property owned by the Association.

Section 2.3 Easements.

(a) Owner Easements. Every Owner of a Lot shall have a right and easement of ingress, egress, and enjoyment in and to the Association Property which shall be appurtenant to and shall pass with the title to every such Lot, subject to the following provisions:

(i) The right of the Association to establish uniform Rules and Regulations pertaining to the use of the Association Property.

(ii) The right of the Association to suspend the voting rights of an Owner for any period during which any Lot assessment or installment remains unpaid for thirty (30) days past its Due Date (hereinafter called a "Delinquent Assessment"); also for a period not to exceed thirty (30) days for any infraction of its published Rules and Regulations after reasonable written notice and an opportunity for a hearing before the Board as set forth in the Bylaws.

(b) Encroachment Easement. In the event: (i) any improvement on a Lot encroaches upon an adjoining Lot or Association Property, or (ii) the Association Property encroaches upon a Lot as a result of the initial construction, or as the result of repair, shifting, settlement, or movement of any portion thereof, an easement for the encroachment and for the maintenance of same, shall exist so long as the encroachment exists. Further, each Lot Owner and the Association are hereby granted an easement over all adjoining Lots and Association Property for the purpose of accommodating any minor encroachment not exceeding one foot, due to engineering errors, errors in original construction, settlement or shifting of the walls and fences, and architectural or other appendants.

(c) Utility Easement. Each Lot is subject to all easements appearing on the Plat, other easements of record, and easements for the use and benefit of sewer/water and other utilities created by this Declaration and which serve Lots and the Association Property. Easements may include, but are not limited to, those for cable television, sewers, water, gas, electrical, irrigation systems, landscaping, and drainage. No Owner shall interfere in any way with the initiation, installation or access to or for maintenance, replacement, or repair of said utilities, irrigation systems, landscaping, or in any manner obstruct or change the direction or flow of drainage channels in such easements.

Section 2.4 Other Easements. Easements are reserved throughout the Property, including, but not limited to utility easements for utility services and right-of-way easements over the Private Drives for ingress and egress, drainage, landscape, and sight easements as described on the Plat.

Section 2.5 Special Declarant's Easements. Subject to a concomitant obligation to

restore, Declarant and its agents shall have:

- (a) a non-exclusive easement over the Association Property for the purpose of making repairs to the Association Property and to Lots if access thereto is not reasonably available; and
- (b) the right to the non-exclusive use of the Association Property during the Declarant's Control Period for the purpose of developing of the Project. The use of the Association Property by Declarant and its agents shall not unreasonably interfere with the use thereof by any Owner.

Section 2.6 Water Drainage Easement. Lots situated on higher elevations shall have surface water drainage easements over adjacent Lots with lower elevations for the drainage of rainfall or other surface waters. Except with the prior approval of the Owner of the lower Lot, and the Architectural Committee, the grade along or close to any side line of the Lot situated on the higher elevation shall not be altered nor shall any structure or improvement be placed along or close to any Lot line of the higher elevation Lot 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 material damage to the property of the Owner of the Lot situated on the lower elevation. Except with the prior approval of the Owner of the higher Lot and the Association, no structure or improvement shall be erected, made, or maintained on the Lot situated on the lower elevation that will alter or change the drainage pattern of such lower Lot in a manner hazardous or detrimental to the Lot situated on higher elevation.

Section 2.7 Delegation of Use. Any Owner entitled to the right and easement of use and enjoyment of Association Property may delegate his/her right and easement to his/her tenant's or contract purchasers who reside in the Owner's Lot, subject to the Rules and Regulations prescribed by the Board. An Owner who has so delegated his/her right and easement shall not

be entitled to use and enjoyment of the Association Property for so long as such delegation remains in effect.

Section 2.8 Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association, or effect the release of his Lot from the liens and charges thereof, by waiving the use and enjoyment of the Association Property or by abandoning his/her Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 3.1 Membership. Every Owner of a Lot including the Declarant shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Each Owner is obligated to comply with the Declaration, Articles, Bylaws, and Rules and Regulations of the Association. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale of the Lot to which it is appurtenant, and then only to the purchaser of such Lot. Any attempt to make a prohibited transfer is void. If the Owner of a Lot should fail or refuse to transfer the membership registered in his/her name to the purchaser of his/her Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

Section 3.2 Voting. There shall be one membership for each Lot owned within the Project. This membership shall be automatically transferred upon the conveyance of that Lot. Voting shall be one (1) vote per Lot, and the vote to which each membership is entitled is the vote assigned to its Lot in the Declaration for the Project. If a Lot is owned by more than one (1)

person, those persons shall agree among themselves how a vote for that Lot's membership is to be cast. Individual co-owners may not cast fractional votes. A vote by a co-owner for the entire Lot's membership interest shall be deemed to be valid unless another co-owner of the same Lot objects at the time the vote is cast, in which case such membership's vote shall not be counted.

The Members shall be of one (1) class consisting of Lot Owners who own Lots as defined in this Declaration. These Lot Owners shall elect all members of the Executive Board, following the period of Declarant's Control defined below.

Notwithstanding the foregoing, the Declarant of the Project shall have additional rights and qualifications as provided in the Uniform Common Interest Ownership Act (Nevada Revised Statutes Chapter 116) and the Declaration, including the right to appoint members of the Executive Board as follows: During the Declarant's Control Period, the Declarant, or persons designated by him or her, subject to certain limitations contained in this Declaration, may appoint and remove the officers and members of the Executive Board. The Declarant's Control Period terminates no later than the earlier of (a) sixty (60) days after conveyance to Lot Owners other than a Declarant of seventy-five percent (75%) of the Lots that may be created; (b) seven (7) years after all Declarants have ceased to offer Lots for sale in the ordinary course of business; or (c) seven (7) years after any right to add new Lots was last exercised.

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

three and one-third percent (33 1/3%) of the members of the Executive Board must be elected by Lot Owners other than the Declarant.

The Declarant may voluntarily surrender the right to appoint and remove officers and Directors of the Executive Board before termination of the Declarant's Control Period, but in that event, the Declarant may require, for the duration of the Declarant's Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Except as otherwise provided above, not later than the termination of the Declarant's Control Period, the Lot Owners shall elect an Executive Board of not less than three (3) members, at least a majority of whom shall be Lot Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

Section 3.3 Declarant's General Rights and Reservations. Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of the Declarant to subdivide or re-subdivide any portion of the Property, or to complete Improvements to and on the Property owned solely or partially by the Declarant, or to alter the foregoing or its construction plans and designs, or to construct such additional Improvements as the Declarant deems advisable in the course of development of the Property. The rights of the Declarant hereunder shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags, and sales offices as may be reasonably necessary to conduct its business of completing the work and disposing of the Lots by sale, resale, lease, or otherwise. Each Owner by accepting a deed to a Lot hereby acknowledges that the activities of the Declarant may temporarily or permanently impair the view of such Owner and may constitute

an inconvenience or nuisance to the Owners, and hereby consents to such impairment inconvenience or nuisance. This Declaration shall not limit the right of the Declarant at any time prior to acquisition of title to a Lot in the Project by a purchaser from the Declarant to establish on that Lot additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to there as may from time to time be reasonably necessary to the proper development and disposal of the Property. The Declarant may use any Lots owned by the Declarant in the Project as model home complexes, real estate sales offices, or leasing offices. The Declarant need not seek or obtain Architectural Committee approval of any Improvement constructed or placed on any portion of the Property by the Declarant. The rights of the Declarant hereunder and elsewhere in these Restrictions may be assigned by the Declarant to any successor in interest to any portion of the Declarant's interest in any portion of the Property by a written assignment. Notwithstanding any other provision of this Declaration, the prior written approval of the Declarant, as developer of the Property, will be required before any amendment to this Article shall be effective. Each Owner hereby grants, upon acceptance of his/her deed to the Lot, an irrevocable, special power of attorney to the Declarant to execute and record all documents and maps necessary to allow the Declarant to exercise its rights under this Article. The Declarant and its prospective purchasers of Lots shall be entitled to the nonexclusive use of the Association Property and any recreational facilities thereon, without further cost for access, ingress, egress, use, or enjoyment in order to show the Property to its prospective purchasers and dispose of the Property as provided herein. The Declarant, its successors, and tenants shall also be entitled to the nonexclusive use of any portions of the Property which comprise Private Streets and walkways for the purpose of ingress, egress, and accommodating vehicular and pedestrian traffic to and

from the Property. The use of the Association Property by the Declarant shall not unreasonably interfere with the use thereof by other Owners. The Association shall provide the Declarant with all notices and other documents to which a beneficiary is entitled pursuant to this Declaration, provided that the Declarant shall be provided such notices and other documents without making written request therefor. The rights and reservations of the Declarant set forth in this Article shall terminate upon the expiration of the Declarant's Control Period as set forth in Section 3.2 hereof.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 4.1 Creation of Lien and Personal Obligation of Assessment. The Declarant, for each Lot owned within Phase I, and each additional Phase when annexed, hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and further agrees to pay to the Association without deduction or setoff:

- (a) annual assessments, which shall include an adequate reserve fund for insurance, periodic maintenance, repair, and replacement of the Association Property;
- (b) special assessments for capital improvements;
- (c) special Lot assessments.

The full annual and special assessments, together with interest, costs, and when applicable, reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessments are made. Each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner

of such Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed in writing by such successor.

(d) The Board of Directors shall prepare on an annual basis a budget for the daily operation of the Association, including reserve studies, and cause the budget to be approved by the Board and presented to the Members for approval, all as set forth in Section 10.18 of the Bylaws.

Section 4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, welfare, and common good of all the Residents in the Project and for the improvement and maintenance of the Association Property.

Section 4.3 Maximum Annual Assessment. Until January of the year immediately following the conveyance of the first Lot in the first Phase to an Owner, the maximum assessments paid to the Association shall be \$586.20 per Lot, payable in monthly installments of \$48.85.

(a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment of the Association may, without a vote of the membership, be increased by the Board each year thereafter not more than fifteen percent (15%) above the maximum assessment for the previous year.

(b) From and after January of the year immediately following the conveyance of the first Lot in the first Phase to an Owner, the maximum annual assessment may be increased above fifteen percent (15%) only by the vote or written assent of fifty-one percent (51%) of the total Voting Power (as defined in the Bylaws) of the Association.

(c) The Board of Directors may fix the annual assessment at any amount not in excess of the fifteen percent (15%) maximum.

Section 4.4 Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year--the Board may permit payment in installments beyond the assessment year--only for the purpose of defraying, in whole or part, any construction, reconstruction, repair, or replacement of a capital improvement upon the Association Property, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of:

- (a) a majority of the total Voting Power of the Association; and
- (b) a majority of the total Voting Power of the Members other than the Declarant.

Section 4.5 Single Lot Assessment. The Association may also levy a special assessment against any Member and Member's Lot to reimburse the Association for costs incurred in bringing a Member and Member's Lot into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws, and the Association's Rules and Regulations, which special assessment may be levied upon the vote of the Board after notice and the opportunity to be heard.

Section 4.6 Membership Approval. Any action authorized under Section 4.3 or 4.4 above which requires Owner approval shall be taken at a meeting called for that purpose, written notice of which must state the time, place, and the items to be considered at the meeting shall be given to all Members by first class mail, or personal service, not less than twenty-one (21) days nor more than sixty (60) days before the meeting. A quorum for such meeting shall be a majority of the Voting Power of the membership of the Association. If the required quorum is not present,

another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be twenty-five (25%) percent of the Voting Power of the membership of the Association; provided, however, if

- (a) the meeting so adjourned is an annual meeting, and
- (b) the adjourned annual meeting is actually attended, in person or by proxy, by less than thirty-three and one-third (33 1/3%) percent of the Voting Power of the membership of the Association, then the only matters which may be voted upon thereat, are matters the general nature of which notice was duly given. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%), Members who were not present in person or by proxy may give their assent in writing provided the same is obtained by the Board or its Manager not later than thirty (30) days from the date of such meeting.

Section 4.7 Assessment Criteria. Both annual and special assessments must be fixed at a uniform rate for all Lots. Surplus funds remaining after payment of provisions for Common Expenses shall be retained by the Association as a capital and replacement reserve.

Any assessment not paid within thirty (30) days after the due date shall be delinquent and shall bear interest at the rate of eighteen percent (18%) per annum from the due date until paid. A late charge of ten percent (10%) of the delinquent assessment shall be due for any payment made later than thirty (30) days after its due date.

Section 4.8 Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots in each Phase, on the earlier of the first day of the month following the conveyance of the first Lot in each Phase to an Owner or on

the first day of the month following the conveyance of the Association Property to the Association.

During the Declarant's Control Period, the Declarant may pay on annexed and unsold Units one-half (½) of the regular monthly assessment, but not less than an amount sufficient to cover the Common Expenses applicable to each Unit for the Common Elements and Association Property.

The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The regular assessments as to Lots brought under this Declaration by annexation shall commence with respect to all Lots within said Annexed Area on the first day of the month following the conveyance of the first Lot in that Phase to an Owner.

Section 4.9 Effect of Non-payment of Assessments/Remedies of the Association.

Any assessment made in accordance with this Declaration shall be a debt of the Owner of a Lot from the time the assessment is due.

(a) At any time after any assessment levied by the Association against any Lot has become delinquent, the Board may record in the Office of the Clark County Recorder a "Notice of Delinquent Assessment and Claim of Lien" as to such Lot. A suggested form of lien is set forth as follows:

NOTICE OF DELINQUENT ASSESSMENT
AND CLAIM OF LIEN
SALT CREEK OWNERS' ASSOCIATION

TO: _____
(Owner)

(Address)

Las Vegas, Nevada

The SALT CREEK OWNERS' ASSOCIATION ("Association") claims a lien in the sum of \$ _____ for maintenance* assessments with interest at eighteen percent (18%) per annum on the property owned by you, commonly known as _____, Las Vegas, Nevada, as shown by the certain Amended Subdivision Map entitled SALT CREEK, a Common Interest Community, in Book 92, of Plats, Page 20, Clark County, Nevada, Recorder, for failure to pay the maintenance* assessments due for the months of _____, and all subsequent installments, interest, accruing costs, and attorneys' fees from date hereof until paid.
(*Revise if it is a different type of assessment, i.e., capital or special Lot assessment.)

Failure to pay said assessments, all accrued interest, costs, and fees within fifteen (15) days from date hereof may result in commencement of foreclosure of this lien upon your Lot, and/or filing of legal action to collect same.

Payment should be made to SALT CREEK OWNERS' ASSOCIATION,

(Address)

SALT CREEK
OWNERS' ASSOCIATION

By: _____
Its _____

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

On this _____ day of _____, 200_, personally appeared before me, a Notary Public in and for said County and State, _____ of SALT CREEK OWNERS' ASSOCIATION who acknowledged to me that he/she executed the foregoing instrument freely and voluntarily and for the purposes and uses therein mentioned.

NOTARY PUBLIC

Such notice shall be signed by an officer or director of the Association, its Manager or attorney. A copy of said notice may be recorded and shall be served personally upon the Owner, or be sent by first class mail, postage prepaid, certified or registered, return receipt request, to the then current address of the Owner in the Association's files.

(b) Immediately upon the mailing of any notice of delinquency pursuant to this Section, the amounts delinquent and all subsequent installments, whether delinquent or not, together with costs (including attorneys' fees) and interest accruing thereon, shall be and become immediately due. The notice shall also secure all other payments and/or assessments, together with interest, costs, fines and attorneys' fees with respect to said Lot following such recording. The lien on the Lot is for a period of three (3) years from when the full amount of the assessment becomes due by Section 4.1 of this Section.

(c) In the event the delinquent assessments and all other assessments which have become due and payable with respect to the Lot, together with all costs (including attorney's fees) and accrued interest on such amounts, are fully paid or otherwise satisfied prior to the completion of the foreclosure sale, the Board shall record a signed satisfaction and release of said lien.

(d) Each assessment lien may be foreclosed as and in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of Nevada, or may be enforced by sale pursuant to NRS §§ 116.31162 and 116.31164, as from time to time amended, or any successor statute and to that end, a power of sale is hereby conferred upon the Association. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at a foreclosure sale, and to acquire and hold, lease, mortgage, or convey the same. Suits to recover

a money judgment for unpaid assessments, rent, and attorneys' fees are permitted without foreclosing or waiving the lien securing the same.

Section 4.10 Notice to Lien Holders. A copy of the notice of default and election to sell, as well as the notice of sale, shall be mailed certified mail or registered mail, return receipt requested, to persons who have recorded requests for notice per NRS §107.090 and holders of recorded liens. Notice shall be mailed to the name and address appearing on the request for notice and on recorded liens.

Section 4.11 Lien/Security Interest. The Association liens under this Section are prior to all other liens and encumbrances on a Lot except:

- (a) Liens and encumbrances recorded before the recording of the Declaration;
- (b) Liens for real estate taxes and other governmental assessments or charges against the Lot;
- (c) Other than as provided in Section 4.13, a First Security Interest on the Lot recorded before the date on which the assessment sought to be enforced became delinquent;
- (d) Mechanics and materialmen's liens; and
- (e) Association liens with earlier priority.

Section 4.12 Super Priority. The lien is also prior to all Security Interests described in Sub-section 4.11(c) to the extent of the assessments for Common Expenses and Association Property based on the periodic budget adopted by the Association pursuant to NRS §116.3115 would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien.

Recording of the Declaration, constitutes record notice and perfection of the lien. No

further recording of any claim of lien for assessment under this Section is required, except a notice of delinquent assessment must be served upon the Owner before commencement of foreclosure. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessments becomes due.

Section 4.13 Subordination of the Lien to First Security Interest. Except as provided in Section 4.12, the lien of the assessments provided for herein shall be subordinate to the lien upon any Lot of a First Security Interest recorded prior to the date the assessment sought to be enforced becomes delinquent. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a First Security Interest or any conveyance in lieu thereof shall, except pursuant to Section 4.12, extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due.

Where the holder of a recorded First Security Interest or other purchaser of a Lot obtains title to the same as a result of foreclosure or conveyance in lieu, such acquirer of title, his successors and assigns, shall not, except pursuant to Section 4.13, be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from all of the Lots including such acquirer, his successors and assigns.

Section 4.14 Estoppel Certificate. The Association shall within ten (10) days after written request by a Lot Owner or holder of a Security Interest on a Lot, provide a certificate in

recordable form signed by an officer of the Association setting forth the amount of the unpaid assessment on the Lot and whether or not it is delinquent. A properly executed certificate of the Association as to the status of any assessment on a Lot is binding upon the Association, the Board and every Lot Owner as of the date of its issuance.

Section 4.15 Personal Liability of Owner. No Owner may exempt himself from the personal liability for assessments levied by the Association, nor release the Lot owned by him from the liens and charges hereof by waiver of the use or enjoyment of any of the Association Property or by abandonment of his Lot.

Section 4.16 Working Capital Fund. Upon acquisition of record title to a Lot from Declarant, each Owner in each Phase shall contribute to the working capital fund of the Association an amount equal to one-sixth (1/6) the amount of the then annual assessment for that Lot as determined by the Board. The working capital shall not be considered prepayment of the annual assessment. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed therefrom to the Association.

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

Section 5.1 Duties and Powers of the Association. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association, through the Executive Board, shall:

(a) Own, maintain, and otherwise manage all of the Association Property and all facilities, improvements, and landscaping thereon.

(b) Pay any real and personal property taxes and other charges assessed against the

Association Property.

- (c) Notwithstanding Section 2.2(b) hereof, grant easements where necessary for access and for utilities and sewer facilities over, upon, and under the Association Property to serve the Property and the Lots.
- (d) Maintain liability insurance and such other policy or policies of insurance as provided in Sub-Section (l)(iii) below.
- (e) Have the authority to employ a Manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any such contract with a person or firm appointed shall not exceed one (1) year in term unless approved by the vote of a majority of the Members of the Association.
- (f) Enforce applicable provisions of the Declaration, Articles and Bylaws of the Association.
- (g) Establish and enforce uniform Rules and Regulations regarding the Association Property, including the levy of reasonable fines and penalties for violation thereof.
- (h) Have the right upon notice to Owner, to enter upon any privately owned Lot (but not the interior of any dwelling) where necessary in connection with construction, maintenance, or repair of a Lot per Sections 4.5 and 6.1 or Association Property and to enforce Owners' obligations under the Declaration, Articles, Bylaws, and Rules and Regulations.
- (in) Establish and maintain an adequate reserve fund from annual assessments at least equal to two (2) months' normal monthly assessments from the Owners, for the periodic maintenance, repair, and replacement of improvements to the Association Property.

(j) Cause all officers or employees having fiscal responsibilities to be bonded, as the Board of Directors may deem appropriate; and purchase Directors' and Officers' Liability Insurance as it deems necessary.

(k) Review annually all insurance policies and bonds maintained by the Association.

(l) Acting for itself and for all Owners, obtain and maintain at all times insurance of the type of policy and amount as set forth hereinafter for the benefit of the Owners and the Association as its interest may appear. Payments of premiums for such insurance shall be considered a purpose for which assessments may be levied by the Association pursuant to Article IV hereof:

(i) A fire insurance policy with extended coverage and inflation guard endorsements for the full insurable replacement value (excluding land and foundations) of all structures and improvements located on the Association Property. Such policy or policies shall provide for a maximum deductible of the lesser of \$1,000.00 adjusted for inflation or one percent (1%) of the individual building replacement cost.

(ii) OWNERS AND THE DECLARANT SHALL MAINTAIN AT THEIR OWN EXPENSE HAZARD (FIRE) AND LIABILITY INSURANCE ON THEIR RESPECTIVE LOTS AND CONTENTS.

(iii) The Association shall obtain a policy or policies insuring the Association, its officers and Board of Directors, Owners and employees against any liability to the public, the Owners, contract purchasers in possession, their invitees or tenants, incident to ownership or use of the Association Property. Limits of liability under such policy shall not be less than \$1,000,000.00 for personal injury and \$300,000.00 for property damage for each occurrence.

Such policy or policies shall be issued on a comprehensive liability basis to provide cross-liability endorsements wherein the rights of the named insured under the policy shall not be prejudiced as respects the right of action of any such insurance against any other named insured. Said policy or policies shall include a severability of interest endorsement which will preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

(iv) The Association may obtain Fidelity bond or policy insuring the Association against dishonest acts by its officers, directors, trustees, and employees who are responsible for handling funds of the Association. Such coverage shall be not less than One Hundred percent (100%)--subject to a maximum deductible of \$1,000.00, adjusted for inflation--of the estimated annual operating expenses.

(v) All insurance policies required under this Article shall be written by a company licensed to do business in Nevada and holding a rating of Class VI or better by Best's Insurance Reports or equivalent report.

(vi) Exclusive authority to adjust losses under policies obtained by the Association pursuant to this Article shall be vested in the Association or its authorized representatives.

(vii) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their mortgagees.

(m) Exercise the powers described in NRS §116.3102 where not in conflict with this Declaration.

(n) Have and exercise any rights or privileges given to it expressly by this Declaration,

or reasonably implied from the provisions of the Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights, or privileges.

ARTICLE VI

MAINTENANCE AND REPAIR OBLIGATIONS

Section 6.1 Maintenance Obligations of Owners. It shall be the duty of each Owner, at the Owner's expense, subject to Architectural Committee approval, when applicable, to maintain, repair, replace, and restore the Residence, grounds, and Improvements on the Owner's Lot. If any Owner shall permit any Residence, grounds, or Improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate this Declaration, the Board shall have the right to seek any remedies at law or in equity which it may have to correct the situation. In addition, the Board shall have the right, but not the duty, after notice and hearing as provided in the Bylaws, to enter upon such Owner's Lot to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Single Lot Assessment enforceable as set forth in this Declaration.

Section 6.2 Damage to Association Property by Owner. The cost of any maintenance, repairs, or replacements by the Association on the Association Property arising out of or caused by the willful or negligent act of an Owner, his/her tenants, or their families, guests, or invitees shall, after notice and hearing, be levied by the Board as a Special Assessment against such Owner.

To the extent permitted by Nevada law, each Member shall be liable to the Association for any damage to the Association Property not fully reimbursed to the Association by insurance

(including without limitation any deductible amounts under any insurance policies against which the Association files a claim for such damage) if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any Improvements by the Member, his/her guests, tenants or invitees, or any other persons deriving their right and easement of use and enjoyment of the Association Property from the Member, or his/her or their respective family, guests, both minor and adult. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right, after notice and hearing as provided in the Bylaws, to levy a special assessment (Single Lot Assessment) equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the person for whom the member may be liable as described above. In the case of joint ownership of a Lot, the liability of the Owners shall be joint and severable, except to the extent the Association shall have previously contracted in writing with the joint Owners to the contrary. After notice and hearing as provided in the Bylaws, the cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a special assessment (Single Lot Assessment) against such Member's Lot, and may be enforced as provided herein.

Section 6.3 Damage and Destruction Affecting Dwelling Lots - Duty to Rebuild. If all or any portion of any Improvement or of a Lot is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Lot to diligently rebuild, repair, or reconstruct the same in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty as approved by the Architectural Committee. The Owner shall cause

reconstruction to commence within three (3) months after the damage occurs and to be completed within nine (9) months after damage occurs, unless prevented by causes beyond his/her reasonable control. A transferee of title to the Lot which is damaged shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot.

ARTICLE VII

ARCHITECTURAL COMMITTEE

Section 7.1 Architectural Committee Approval of Improvements.

(a) Approval Generally. Before commencing construction or installation of any Improvement (as defined in Article 1, Section 1.19) within the Project other than the initial construction of Units by the Declarant, the Owner planning such Improvement must submit to the Association's Architectural Committee a written request for approval. The Owners' request shall include color schemes, exterior finish, structural plans, specifications, and plot plans satisfying the requirements of this Article and Section. Unless the Architectural Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Architectural Committee shall base its decision to approve, disapprove, or conditionally approve the proposed Improvement on the criteria described in this Article and Section.

(b) Modification to Approved Plans Must Also be Approved. Once a work of Improvement has been duly approved by the Architectural Committee, no material modifications shall be made in the approved plans and specifications therefore and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Architectural Committee. If the

proposed modification will have, or is likely to have, a material affect on other aspects or components of the work, the Architectural Committee, in its discretion, may order the Owner, or the Owner's contractors and agents, to cease working not only on the modified component of the Improvement, but also on any other affected component.

If it comes to the knowledge and attention of the Association, its Architectural Committee, or the agents or employees of either that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 7.11 of this Article, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Architectural Committee review and approval is obtained.

Section 7.2 Committee Membership. The Architectural Committee shall be composed of three (3) Members of the Association appointed by the Board. In selecting Members for the Architectural Committee, the Board of Directors shall, when available, endeavor to select persons whose occupations or education will provide technical knowledge and expertise relevant to matters within the Architectural Committee's jurisdiction. Architectural Committee members shall serve for one (1) year terms subject to the Board's power to remove any Committee member and to appoint a successor. Members of the Architectural Committee shall not be entitled to any compensation for services performed pursuant hereto.

Section 7.3 Duties of Committee. It shall be the duty of the Architectural Committee to consider and act upon the proposals and plans submitted to it pursuant to this Declaration, to adopt Architectural Rules pursuant to this Article, to perform other duties delegated to it by the Board of Directors and to carry out all other duties imposed upon it by this Declaration

Section 7.4 Meetings. The Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Architectural Committee members shall constitute the action of the Architectural Committee, and the Architectural Committee shall keep and maintain a written record of all actions taken.

The Owner-Applicant shall be entitled to appear at any meeting of the Architectural Committee at which the Owner's proposal has been scheduled for review and consideration. The Owner shall be entitled to be heard on the matter and may be accompanied by an architect, engineer and/or contractor. Other Owners whose properties may be affected by the proposed Improvement in terms of the structural integrity of any adjoining Lot, view, or solar access of the Applicant's or any adjacent Lot, noise, or other considerations shall also be entitled to attend the meeting.

Reasonable notice of the time, place, and proposed agenda for Architectural Committee meetings shall be communicated before the date of the meeting to any Owner-Applicant whose application is scheduled to be heard.

Section 7.5 Architectural Rules. The Architectural Committee may, from time to time and with approval of the Board of Directors, adopt, amend and repeal rules and regulations to be known as "Architectural Rules." Said Architectural Rules shall interpret and implement the provisions hereof by setting forth (a) the standards and procedures for Architectural Committee review, including the required content of Improvement plans and specifications; (b) guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended or required for use within the Project; and (c) the criteria and procedures for requesting variances from any property use restrictions that

would otherwise apply to the proposed Improvement under the Governing Documents.

Section 7.6 Basis for Approval of Improvements. When a proposed Improvement is submitted to the Architectural Committee for review, the Architectural Committee shall grant the requested approval only if the Architectural Committee, in its sole discretion, finds that all of the following provisions have been satisfied:

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

(b) The Owner's plans and specifications: (i) conform to this Declaration and to the Architectural Rules in effect at the time such plans are submitted to the Architectural Committee; (ii) will result in the construction of an Improvement that is in harmony with the external design of other structures and/or landscaping within the Project; and (iii) will not interfere with the reasonable enjoyment of any other Owner of his or her Unit; and

(c) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Project and with the overall plan and scheme of development and the purposes of this Declaration.

The Architectural Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable on a particular Lot, even if the same or a similar Improvement or component has previously been approved for use at another location within the Project if factors such as drainage, topography or visibility from roads, Common Elements or other Lots; prior adverse experience with the product or components used in construction of the Improvement; or the design of the Improvement or its use at other locations within the Project mitigate against erection of the Improvement or use of a particular component thereof on the Lot

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

Section 7.7 Time Limits for Approval or Rejection. Within thirty (30) days after submission of plans and specifications satisfying the requirements of the Architectural Rules, the Architectural Committee shall return one set of such plans to the Owner-applicant, with either written notice of approval or disapproval or with written suggestions of changes required for approval or disapproval. If the Architectural Committee recommends that the plans and specifications be modified, the Owner-applicant may implement such changes to the plans, and within thirty (30) days, resubmit plans incorporating such changes for approval to the Architectural Committee, which approval shall not be unreasonably withheld so long as the Owner-applicant has complied in all material respects with the requested changes. If no written notice of approval or disapproval is received by the Owner-applicant within thirty (30) days after the Owner-applicant's plans and specifications (or revisions thereto) are submitted to the Architectural Committee, the plans shall be deemed to have been approved as submitted.

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

Section 7.8 Proceeding With Work. Upon receipt of approval of an Improvement from the Architectural Committee, the Owner shall, as soon as practicable, diligently proceed with the

construction, if required pursuant to said approval. Work on an Improvement project shall commence within three (3) months from the date of such approval and be completed within one (1) year from the date of such approval. If the Owner fails to comply with this Section, any approval given pursuant to this Article VII shall be deemed revoked unless the Architectural Committee, upon written request of the Owner prior to the expiration of the initial one-year period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Architectural Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the Improvement project within the time specified in the extension request. Failure by an Owner to timely complete the Improvement in accordance with this Subsection shall permit enforcement by the Architectural Committee per Section 7.11.

Section 7.9 Inspection of Work by Architectural Committee. Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

(a) During the course of construction, representatives of the Architectural Committee shall have the right to inspect the job site to confirm that the Improvement project is proceeding in accordance with the approved plans and specifications.

(b) Upon the completion of any work of Improvements for which Architectural Committee approval is required under this Article, the Owner shall give the Architectural Committee a written notice of completion.

(c) Within thirty (30) days thereafter, the Architectural Committee, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approval plans. If the

Architectural Committee finds that the Improvement was not erected, constructed or installed in substantial compliance with the Owner's approved plans, then within the thirty (30) day inspection period the Architectural Committee shall give the Owner a written notice of noncompliance detailing those aspects of the Improvement project that must be modified, completed or corrected. If the violation or nonconforming work is not corrected, the Association and its Architectural Committee shall have the enforcement rights and remedies set forth in the Section 7.11.

(d) If for any reason the Architectural Committee fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the project, unless it can be demonstrated that the Owner knew of the noncompliance and intentionally mislead the Architectural Committee with respect thereto.

Section 7.10 Landscaping. Landscaping shall be deemed to be a work of Improvement requiring Architectural Committee approval hereunder. Landscaping shall include lawns, shrubs, trees, flowers and any landscape structures. The use of artificial materials such as plastic plants, flowers or astro turf will be disapproved by the Architectural Committee.

Approved landscaping must be completed within one hundred twenty (120) days after an Owner purchases the Owner's Lot and, in the event that the landscaping has not been completed by the end of such one hundred twenty (120) day period, the Architectural Committee may, in its discretion, require an Owner-applicant to post a bond in an amount not to exceed the estimated cost of the landscaping work, or a cash deposit not to exceed \$2000 in lieu thereto, to ensure the Owner-applicant's timely completion of the landscaping work.

Section 7.11 Enforcement.

(a) In addition to other enforcement remedies set forth in this Declaration, the Architectural Committee shall have enforcement rights with respect to any matters required to be submitted to and approved by it, and may enforce such architectural control by any proceeding at law or in equity. In addition, the Architectural Committee shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Architectural Committee or if it does not conform to the plans and specifications submitted to the Architectural Committee. No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

(b) If the Owner fails to remedy any noticed noncompliance within thirty (30) days from the date of such notification, the Architectural Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing date shall not be more than thirty (30) days nor less than fifteen (15) days after the notice of the noncompliance is issued by the Board to the Owner, to the Architectural Committee and, in the discretion of the Board, to any other interested party.

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

of correcting or removing the same. If a noncompliance is determined to exist, the Board shall require the Owner to remedy or remove the same within such period or within any extension of such period as the Board, at its discretion, may grant. If the Owner fails to take corrective action after having a reasonable opportunity to do so, the Board at its option, may either remove the noncomplying Improvement or remedy the noncompliance and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not properly repaid by the Owner to the Association, the Board shall recover such expenses through the levy of a Single Lot Assessment against such Owner.

(d) The approval by the Architectural Committee of any plans, drawings or specifications for any work of Improvement done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different locations for Improvements, the size of the structure, proximity to other Lots or Common Elements and other factors may be taken into consideration by the Architectural Committee in reviewing a particular submittal.

Section 7.12 Variances. The Architectural Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article, or in any land use restriction specified in Article VIII to overcome practical difficulties, avoid unnecessary expenses or prevent unnecessary hardship to Owner-applicants, provided that all of the following conditions are met:

(a) If the requested variance will be a deviation from, or modification of, a property

use restriction that would otherwise be applicable under this Declaration, the Architectural Committee must conduct a public hearing on the proposed variance after giving prior written notice to the Board and to all Owners of Lots within 300 feet of the subject Lot. Said notice shall also be posted in the Association's principal office or entry gate within the Project. The notice shall be posted and mailed to the interested Owners at least fifteen (15) days prior to the date when the Architectural Committee is scheduled to act on the requested variance. No decision shall be made with respect to the proposed variance until the fifteen (15) day comment period has elapsed.

(b) The Architectural Committee must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) that the requested variance will not constitute a material deviation from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) that the variance relates to a land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances, or (iii) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect, to any other Lot or Common Element within the Project.

Section 7.13 Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Architectural Committee by any Owner, and upon payment to the Association of a reasonable fee (as established from time to time by the Board), the Architectural Committee shall record an estoppel certificate, executed by any two of its members, certifying (with respect to any Lot owned by the applicant Owner), that, as of the date thereof, either: (a) all

Improvements made and other work completed by said Owner comply with this Declaration or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in said Lot through the Owner, shall be entitled to rely on the Association's estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interests through them.

Section 7.14 Limitation on Liability. Neither the Association, the Architectural Committee, nor any member thereof shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work of Improvement, whether or not pursuant to approved plans, drawings or specifications; or (c) the execution and filing of a notice of noncompliance pursuant to Section 7.9 above, or an estoppel certificate pursuant to Section 7.13 above, whether or not the facts therein are correct, provided that such member has acted in good faith upon the basis of such information as may be possessed by him or her.

Section 7.15 Compliance with Government Regulations. Review and approval by the Architectural Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Owner who desires to construct, install, or modify the Improvement.

Section 7.16 Appeals. Appeals from decisions of the Architectural Committee may be

made to the Board of Directors, which may elect, in its discretion, to hear the appeal or, in the alternative, to affirm the decision of the Architectural Committee. The Association Rules shall contain procedures to process appeals pursuant to this Section.

Section 7.17 Handicapped. Notwithstanding any other rule, regulation, or restrictions, the Board of Directors shall make reasonable accommodations in the rules, regulations, or restrictions if those accommodations may be necessary or be required by law to afford a handicapped person equal opportunity to use and enjoy his or her Lot.

Section 7.18 Declarant Exception. The provisions of this Article shall not apply to the initial construction by Declarant of residences or other improvements to the Property, and neither the Board nor any Committee appointed by the Board shall have any authority or right to approve or disapprove the initial construction by Declarant of residences or other improvements to the Property.

ARTICLE VIII

USE RESTRICTIONS/DECLARANT'S EXCEPTIONS

Section 8.1 Alterations. No Improvement to the exterior of a Residence, garage, or other structure on a Lot may be altered, remodeled, or modified in any other way except with the prior written approval of the Architectural Committee.

Section 8.2 Declarant's Exceptions. The Declarant (and its sales agents and representatives) may maintain signs, sales and management offices, and models within the Project until the earlier of the sale of the last Lot in the Project or seven (7) years from recording of the Declaration. No provision contained in this Article VIII shall be applicable to or prohibit any acts or activities by the Declarant (and its agents, suppliers, and contractors) in connection with or

incidental to the Declarant's improvement and development of the Property during the Declarant's Control Period.

Section 8.3 Drainage. All slopes and patios on any Lot shall be maintained so as to prevent any erosion or drainage upon adjacent Lots.

Section 8.4 Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, or mineral excavations or shafts be permitted upon the surface of any Lot or within five hundred (500) feet below the surface of the Project. No derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, maintained, or permitted upon any Lot.

Section 8.5 No Parking. There shall be absolutely no parking on the Private Streets within the Project except in designated parking areas. Any vehicle which is parked in violation of same may be towed without any further notice as soon as reported by any Member or guest of the Association. All Members of the Association accept the responsibility for reporting such violators in the best interest of the public safety of the remaining Members. All parking violations shall be reported to the Association or Manager. The owners of the vehicle found to be in violation shall be responsible for all fines and costs associated with such towing as established by the towing company.

Section 8.6 Garages. Garages shall be kept closed at all times, except as reasonably required for ingress to and egress from the interior of the garages

Section 8.7 Landscape Maintenance. Owners shall keep and maintain in good repair and appearance all portions of the Lot and Residence thereon.

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Section 8.8 Lease. Each Owner shall have the right to lease his/her Lot, provided such lease is in writing and that it provides that the tenant shall be bound by and obligated to the provisions of this Declaration, the Articles, Bylaws and Rules and Regulations of the Board. Failure to comply with the provisions of these documents shall be a default of the lease allowing the Association the same rights of action as the Owner against the tenant. For the purpose of exercising such rights, the Owner grants to the Association a special power of attorney, which includes the power of eviction against the tenant as well as the Owner because of the default. No Owner shall lease his/her Lot for transient or hotel purposes. Any Lease which is either for a period of less than six (6) months or pursuant to which the Owner provides any services normally associated with a hotel shall be deemed to be for transient or hotel purposes. A signed lease shall be filed with the Association within ten (10) days of occupancy by the tenant.

Section 8.9 Manufactured Homes. Manufactured Homes as defined in NRS §489.113 are prohibited in the Project.

Section 8.10 Nuisance. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere within the Project, and no odor shall be permitted to arise therefrom so as to render the Project or any portion thereof unsanitary, unsightly, or offensive. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Lot so as to be offensive or detrimental to any other Lot or to its occupants. Alarm devices used exclusively to protect the security of a Lot and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms. Nothing other than draperies and window covering as permitted by this Declaration may be installed on any Lot so as to be visible from the exterior of the Lot without the prior written approval of the Executive

Board. No clothing or household fabrics shall be hung, dried, or aired in a manner that is visible from any Private Street.

Section 8.11 Outside Antenna/Satellite Dishes. Other than satellite dishes exempted by the FCC, no television, radio, or other electronic antenna, dish or device of any type shall be erected, constructed, placed, or permitted to remain on any of the Lots or buildings constructed on the Lots unless and until the same shall have been approved in writing by the Architectural Committee. Use of electronic devices which interfere with the operation of the garage door openers, television reception and cellular phones, and the like are prohibited.

Section 8.12 Parking and Vehicular Restrictions. Owners shall not park, store, or keep on their driveway or on any street (public or private) within the Property any large commercial type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck, or delivery truck); any recreational vehicle (including, but not limited to, any camper, travel trailer, or motor home); any bus, trailer, trailer coach, camp trailer, boat, aircraft or mobile home; or any inoperable vehicle. Subject to Board approval, camper trucks and similar vehicles up to and including one ton when used for everyday-type transportation may be kept on the Property. No Owner shall park, store, or keep anywhere within the Property any vehicle or vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board. All boats, trailers, campers, and similar recreational vehicles shall be parked on the Owner's Lot behind screened side or rear yards or in enclosed Garages. They may be parked in driveways for a maximum twenty-four (24) hour period to allow for loading or unloading. Off road or un-licensed vehicles are not permitted on the Project at any time, except when being transported to or from storage in the Owner's Garage or appropriate enclosed rear or side yard areas. No vehicles of

any kind (licensed or un-licensed) shall be driven on any portion of unimproved or vacant land or Common Areas within the Project.

Section 8.13 Pets. Animals, livestock, and poultry shall not be raised, bred or kept on any Lot, except domestic household pets (e.g., cats and dogs) not exceeding a total of four (4), may be kept on each Lot, provided it is not kept, bred or maintained for any commercial purpose. Owners may have up to three (3) dogs and/or three (3) cats, but may not have a combination of dogs and cats of more than four (4) animals (i.e., 3 dogs and 1 cat; 2 dogs and 2 cats; or 1 dog and 3 cats). Pets shall be kept on the Lot, except when under leash or when being transported to or from the Lot in a motor vehicle. (Owner's will be responsible for removal of pet's feces.) If a pet becomes a nuisance or an annoyance to the other Owners, the Board may, after appropriate notice and a hearing, confine or remove the animal at the Owner's expense.)

Section 8.14 Playground Equipment. All bicycles, tricycles, scooters, skateboards, and other play equipment, wading pools, baby strollers, and similar items shall be stored on the Lot when not in use. Basketball backboards shall not be placed or stored in the street or on a sidewalk.

Section 8.15 Residential Use Only. Other than the Declarant's exceptions per Section 8.2, no part of the Project shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purposes except for sales office on a temporary basis. The provisions of this Section shall not preclude an occupant who is engaged in individual professional work (e.g. accountant, bookkeeper) without external evidence thereof, so long as: (i) such occupant conducts its activities in conformance with all ordinances, (ii) such business activity is

merely incidental to the use thereof as a Residence, and (iii) such occupant does not solicit or invite the public to such Residence as part of such business activity.

Section 8.16 Security Interest Liens. Breach of any of the covenants in this Article VIII shall not defeat or render invalid the lien of any First Security Interest made in good faith and for value as to said Lots or Property, or any part thereof, but such provisions, restrictions, or covenants shall be binding and effective against any Owner whose title thereto is acquired by foreclosure, Trustee's sale or otherwise.

Section 8.17 Signs. No sign, poster, billboard, advertising device, or other display of any kind shall be displayed so as to be visible from outside any Lot without the approval of the Executive Board except that one (1) sign of not greater than six (6) square feet may be displayed on each Lot advertising the Lot for sale or lease.

Section 8.18 Temporary Buildings. No temporary structure, trailer, mobile home, camper, tent, shack, garage, barn, or other out-building shall be used on any Lot at any time as a Residence.

Section 8.19 Timeshare. No Lot shall be made subject to any time share program, interval ownership, or similar program whereby the right to exclusive use of the Lot rotates among multiple owners or members of the program on a fixed or floating time schedule over a period of years.

Section 8.20 Trash. All rubbish, trash, and garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, woodpiles, storage area, and machinery and equipment shall be prohibited upon any Lot, unless obscured from view at ground level of adjoining Lots and streets, by a masonry wall or appro-

priate screen approved by the Architectural Committee.

Section 8.21 Vehicle Repair. No Owner or other occupant of any Lot shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft, or other vehicle upon a Lot within the Project, except wholly within the Owner's Lot; provided, however, that such activity shall at no time be permitted if it is determined by the Board to be a nuisance. Notwithstanding the foregoing, these restrictions shall not be interpreted in such a manner so as to permit any activity which would be contrary to any local ordinance.

Section 8.22 Window Coverings. Within thirty (30) days from the date of becoming an Owner, such Owner shall install draperies and window coverings for all windows and glass doors in such Owner's Lot. Reflective window coverings are prohibited.

ARTICLE IX

RIGHTS OF ELIGIBLE SECURITY INTEREST

Section 9.1 Rights of Eligible Security Interest. No breach of the covenants, conditions, and restrictions in this Declaration, nor the enforcement thereof or of any lien provision, except as provided in Section 4.14, shall defeat or render invalid the lien of any Security held by an Eligible Security Interest made in good faith and for value. However, all of the covenants, conditions, and restrictions in this Declaration shall be binding upon any Owner whose title is derived through foreclosure or exercise of power of sale, or otherwise.

Section 9.2 Notice to Eligible Security Interest.

(a) **Notice of Action.** Upon written request to the Association, identifying the name and address of the Eligible Security Holder, Eligible Insurer or Guarantor, and the Lot number or address, any such Eligible Security Holder or Eligible Insurer, or Guarantor will be entitled to

timely notice of

(i) Any delinquency in the payments of assessments or charges owned by an Owner of a Lot subject to an eligible mortgage held, insured, or guaranteed by such Eligible Security Holder, Eligible Insurer, or Guarantor, which remains uncured for a period of sixty (60) days;

(ii) Condemnation or casualty loss that effects a material portion of the Project.

Section 9.3 Time of Notice to Security Interest. The Board shall give thirty (30) days prior written notice to each Eligible Security Interest represented in the real property of any amendment or alteration of the Declaration or Articles. In addition, the Board shall give each Security Holder, who requests same in writing, a copy of notices of liens filed against any Lot.

Section 9.4 Condemnation. If any Lot or portion thereof or the Association Property and facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding, no provision of this Declaration, Articles, Bylaws, or equivalent documents will entitle the Owner of a Lot or other party to priority over an institutional Holder of any First Security Interest or equivalent security interest on a Lot with respect to any distribution to such Lot of the proceeds of any award or settlement.

ARTICLE X

DISPUTES

Section 10.1 Legal Proceedings. The Board shall not institute any civil action¹

¹Defined as an action for damages or equitable relief. The term does not include an action for injunctive relief in which there is an immediate threat of irreparable harm, or relating to title to real property.

against any person without first providing the Members at least twenty-one (21) days' prior written notice of the meeting of the Association to consider institution of a civil action.

The notice shall describe the purpose of the legal proceeding, the parties to the proceeding, the anticipated cost to the Association (including attorneys' fees) in the proceeding, the source of funds to fund the proceedings (reserves or special or regular assessments), and suggested information that should be disclosed to third parties, such as prospective purchasers and lenders, while the proceeding is being prosecuted, except as otherwise provided in this Section, the Association may commence a civil action only upon a vote or agreement of the Owners of Lots to which at least a majority of the votes of the Members of the Association are allocated. The provisions of this Section do not apply to a civil action that is commenced:

- (a) To enforce the payment of an assessment;
- (b) To enforce the Declaration, Bylaws, or Rules of the Association;
- (c) To proceed with a counterclaim; or
- (d) To protect the health, safety, and welfare of the Members of the Association.

Section 10.2 Arbitration/Mediation. Notwithstanding the foregoing and subject to NRS Chapter 38, the Association, the Declarant and any Owner shall have the right to enforce by an "Action" at law or in equity, each covenant, condition, restriction and reservation, now or hereafter imposed by this Declaration. Each Owner shall have a right of Action against the Association for any failure by the Association to comply with the provisions of this Declaration, the Bylaws or Articles. In any Action, including Arbitration, reasonable attorney's fees may be awarded to the prevailing party.

ARTICLE XI

GENERAL PROVISIONS

Section 11.1 Non-Waiver. Failure by the Association, the Declarant, or any Owner to enforce any covenant, condition, restriction or reservation contained in this Declaration shall not be deemed a waiver of the right to do so thereafter.

Section 11.2 Severability. Should any provision in this Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions hereof shall be and remain in full force and effect.

Section 11.3 Amendments. During the period of time prior to expiration of the Declarant's Control Period, this Declaration may be amended by an instrument approved by sixty-seven percent (67%) of the Voting Power of each class of Members of the Association. The amendment shall become effective upon its recording in the Office of the County Recorder of Clark County, Nevada. At the expiration of the Declarant's Control Period, the Declaration may be amended by approval of (i) Sixty-seven percent (67%) of the total Voting Power of the Association, and (ii) at least sixty-seven percent (67%) of the Voting Power of Members of the Association other than Declarant.

Notwithstanding any other provisions of this Section 11.3, for so long as the Declarant owns any portion of the Property, but not later than seven (7) years from the recording of this Declaration, the Declarant may unilaterally amend this Declaration by recording a written instrument signed by the Declarant in order to conform this Declaration to the requirements then in effect for the State of Nevada or any County or City or other applicable agency which has jurisdiction over the Project.

In the event this Declaration is amended, as provided herein, the Secretary of the

Association shall, within thirty (30) days of the adoption of such amendment, prepare a copy of the amendment that was made and cause it to be hand-delivered or sent prepaid, by United States mail to the mailing address of each Residence, or to any other mailing address designated in writing by a Lot Owner.

Section 11.4 Extension of Declaration. Each and all of these covenants, conditions, and restrictions shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which date they shall automatically be extended for successive periods of ten (10) years unless they are canceled in writing by Owners of at least fifty-one percent (51 %) of the Voting Power of the Association. All amendments must be recorded in the Office of the County Recorder of Clark County, Nevada.

ARTICLE XII

ANNEXATION

Section 12.1 Annexation of Additional Property by Association. Upon approval in writing of the Association, pursuant to two-thirds (2/3) of a majority of the Voting Power of its Members, or the written assent of such Members, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file or record a Declaration of Annexation which shall extend the scheme of this Declaration to such Project.

Section 12.2 Annexation by Declarant. If within seven (7) years from the date of the recording of this Declaration with the Clark County, Nevada, Recorder, the Declarant should develop the additional Phases (as set forth in Recital D), such additional Phases or any portion thereof may be added to the Property and be subject to this Declaration and included within the

jurisdiction of the Association by action of the Declarant without the assent of Members of the Association; provided, however, that the development of the additional land shall be consistent with Improvements in the initial Phase of development in terms of quality of construction. All Improvements in each Phase will be substantially completed prior to annexation.

Said annexation may be accomplished by the recording of a Declaration of Annexation or separate Declaration of Restrictions which requires Lot Owners therein to be Members of the Association. At the time of recording of the Declaration of Annexation, Declarant shall also by deed transfer to the Association the Association Property in the area being annexed.

The obligation of Lot Owner to pay dues to the Association and the right of such Lot Owners to exercise voting rights in the Association in such annexed property shall not commence until the first day of the month following close of the first sale of a Lot by the Declarant in that particular Phase of development.

Subject to annexation of additional property as set forth in this subsection:

(a) The Declarant hereby reserves for the benefit of and appurtenant to subsequent Phases described in Recital D, the non-exclusive easements to use the Association Property on the Property, until such time as all Phases are annexed pursuant to this Section, or until expiration of the right to annex.

(b) The Declarant hereby reserves the right to grant, until expiration of the right to annex, for the benefit of and appurtenant to each Lot in the Property in Phase 1 a non-exclusive easement to use the Association Property in the Phased Areas not yet annexed pursuant to the provisions of and in the same manner prescribed by this Declaration to the same extent and with the same effect as if each of the Owners of Lots in Phase 1 owned a Lot in the Association

Property of the Phased Areas to be annexed.

These reciprocal cross-easements shall be effective as to each Phase, and as to the Property, only until such time as each Phase has been annexed by the recording of a Declaration of Annexation or a separate Declaration of Covenants, Conditions, and Restrictions by the Declarant, or expiration of the right to annex pursuant to this Article.

Section 12.3 De-annexation. The Declarant may delete all or any portion of a Phase of development from coverage of this Declaration and the jurisdiction of the Association, so long as the Declarant is the Owner of all of said Phase or Phases to be annexed, and provided that:

- (a) The Notice of De-Annexation is recorded in the same manner as the applicable Declaration of Annexation was recorded;
- (b) The Declarant has not exercised any Association vote with respect to any portion of such Phase;
- (c) Assessments have not yet commenced with respect to any portion of such Phase;
- (d) No Lot has been sold in said Phase to a member of the general public; and
- (e) The Association has not made any expenditures of any obligation respecting any portion of said Phase.

ARTICLE XIII

BOUNDARY WALLS

Section 13.1 General Rules of Law to Apply. Each Boundary Wall which is built as a part of the original construction of the Project, or subsequently built on the dividing line between Lots, shall constitute a "Boundary Wall," and the Owner of each adjoining Lot shall have joint use, and when not inconsistent with this Article, the rules of law as to the rights and liabilities

regarding Boundary and Party Walls shall apply.

Section 13.2 Repair/Restoration. Should the Boundary Wall or Party Wall be damaged or destroyed by the fault, negligence, or other act or omission of one of the Owners, then that Owner(s) shall repair or rebuild the wall at his/her/their expense and compensate for any damages to the property of the other Lot Owner(s) or the Association, as the case may be. Should the Boundary Wall or Party Wall at any time be damaged by any cause other than the act or omission of an Owner, then the wall shall be repaired or rebuilt at the joint expense of the Owners sharing the Party Wall, less any funds received as a result of insurance coverage.

Section 13.3 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 Owner's successors in title.

Section 13.4 Disputes. Any dispute relating to a Boundary Wall or a Party Wall shall, at the option of any affected Owner, be subject to resolution before the Architectural Committee, who shall conduct the hearing in accordance with its applicable rules. In the absence of such

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