

DECLARATION of  
COVENANT, CONDITIONS AND RESTRICTIONS  
FOR  
HEARTHSTONE

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR

HEARTHSTONE

This Declaration made this 8TH day of JULY, 1983, by U.S. HOME CORPORATION, a Delaware corporation ("Declarant"), pursuant to the provisions of Nevada Revised Statutes Chapter 117 (hereinafter referred to as "the Nevada Condominiums Act" or "the Act").

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain real property situated in Clark County, Nevada, more particularly described in Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as the "Property"), and

WHEREAS, Declarant is the owner of buildings and certain other improvements heretofore constructed or hereafter to be constructed on the aforesaid premises which Property constitutes a Condominium Project under the provisions of the Act, as hereinafter defined, and it is the desire and intention of Declarant to divide the Project into Condominiums and to sell and convey the same to various purchasers, subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, on the 8th day of July, 1983 Declarant filed for record in the Office of the County Recorder of Clark County, Nevada, in Plan, as hereinafter defined, pursuant to NRS 117,020, which Plan was recorded in Book 29 of Records, Instrument No. 1727294, Office of the County Recorder, Clark County, Nevada; and

WHEREAS, Declarant desires and intends by filing this Restated Declaration and the Plan to submit the above described Property and the buildings and other improvements heretofore constructed or hereafter to be constructed thereon to the provisions of the Act as a Condominium Project and to impose mutually beneficial covenants, conditions, restrictions, reservations, uses, limitations and obligations

(hereinafter collectively referred to as "Restrictions") upon said Property and on said Condominiums and the Owners, as hereinafter defined,

NOW, THEREFORE, Declarant does hereby declare that all of the Property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the Restrictions hereinafter set forth, all of which are declared and agreed to be in furtherance of a plan for the improvement of said Property and the division thereof into Condominiums, all of which shall be enforceable equitable servitudes and shall run with the land and shall be binding on all parties, including Owners having or acquiring any right, title or interest in the Project, as hereinafter defined, or any part thereof, and shall be for the benefit of each Owner of any portion of the Project, or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest or the Owners thereof.

#### ARTICLE 1

##### DEFINITIONS

Certain terms as used in this Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefor:

Section 1.01. "Act" shall mean the Nevada Condominiums Act (Chapter 117, Nevada Revised Statutes), as the same may be amended from time to time.

Section 1.02. "Association" shall mean the governing body of the Project, the Hearthstone Condominiums Homeowners Association, a non-profit cooperative Nevada corporation, acting as a group in accordance with its bylaws and this Declaration.

Section 1.03. "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

Section 1.04. "Boundaries" shall mean that in interpreting deeds and plans, the then existing physical boundaries of a Living Unit or covered carport, whether in its original state or reconstructed in substantial accordance with the original plans thereof, 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 the building and regardless of minor variance between boundaries shown on the plan or deed, and those of the building.

Section 1.05. "Common Areas" shall mean the entire Project excepting all Units; and shall include, but are not limited to, the land within the Project, floors, roofs, foundations, halls, columns, girders, beams, supports, central heating, central refrigeration and central air conditioning equipment, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations wherever located, except the outlets thereof when located within a Unit shall be a part of the Unit; bearing walls, perimeter walls, columns and girders, to the interior surfaces thereof, regardless of locations; walkways, greens, gardens, storage spaces and sheds, carports and parking areas; all limited common areas and facilities as hereinafter described; recreational and other community facilities; all installations of power, lights, gas, and hot and cold water existing for common use; all apparatus and installations existing for common use; the tangible personal property located upon or within said common areas as required for the maintenance thereof, and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

Section 1.06. "Common Expense" shall mean all expenditures lawfully made or liabilities incurred by or on behalf of the Association, together with all funds assessed for the creation and/or maintenance of reserves, including but not limited to:

(a) Expenses related to the administration, insuring, maintenance, management, operation, repair, replacement, improvement and betterment of the common areas and of the portions of the Units to be maintained by the Association;

(b) Expenses deemed to be common expenses by reason of provisions contained in the Act or this Restated



Declaration or the Articles of Incorporation, Bylaws or Rules and Regulations of the Association;

(c) Any valid charge against the Project or the Association or charges payable by all Owners and assumed, in total, by the Association; and

(d) All utility fees and expenses not mentioned and not charged directly to each Unit.

Section 1.07. "Condominium" shall mean the entire fee simple estate in the real property owned by any Owner, consisting of an undivided interest in the Common Areas equal to the percentage of ownership for the specific unit set forth on Exhibit B attached hereto and incorporated herein by reference or in the Declaration of Annexation, together with ownership of a separate interest in a specific Unit.

Section 1.08. "Declarant" shall mean U.S. HOME CORPORATION, a Delaware corporation, its successors and any assignee, other than an Owner, who shall receive by assignment from the said U.S. HOME CORPORATION, all, or a portion, of its rights hereunder as such Declarant, by an instrument expressly assigning such rights of Declarant to such assignee.

Section 1.09. "Declaration" shall mean this enabling declaration of covenants, conditions and restrictions as the same may be amended from time to time.

Section 1.10. "Eligible Mortgage Holder," "Eligible Insurer" or "Eligible Guarantor", as the case may be, shall mean a holder of a first mortgage on a Unit or an insurer or governmental guarantor of a first mortgage on a Unit who has requested or is entitled to notice of certain matters in accordance with the provisions of this Declaration.

Section 1.11. "FHA" shall mean and refer to the Federal Housing Administration and to the Dept. of Housing and Urban Development.

Section 1.12. "Limited Common Areas and Facilities" shall mean common facilities as reserved for use of certain living units to the exclusion of the others, for example, carports, parking spaces, patios, decks, balconies and storage areas.

Section 1.13. "Member of Association" shall mean and refer to an Owner as defined in Section 1.18 herein.

Section 1.14. "Mortgage" shall mean any recorded mortgage having priority over other mortgages and shall include a recorded deed of trust.

Section 1.15. "Mortgagee" shall mean a beneficiary under or a holder of a deed of trust as well as a mortgagee.

Section 1.16. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, or a fee simple interest to any Condominium which is part of the Condominium Project but excluding those having such interest merely as security for the performance of an obligation.

Section 1.17 "Plan" or "Condominium Plan" shall mean the Condominium Plan of the Project filed for record by Declarant as set forth above.

Section 1.18. "Property" or "Condominium Property" shall mean that real property described in Exhibit A, together with all easements, servitudes, rights and appurtenances belonging thereto.

Section 1.19. "Project" or "Condominium Project" shall mean the Property and all structures and improvements now or hereafter erected thereon, divided or to be divided into condominiums, including all construction on the Additional Land any additions as may hereafter be brought within the jurisdiction of the Association.

Section 1.20. "Project Unit" shall mean for "Project Unit #1," Bldg. 1, 2 and 3 of the Project.

Section 1.21. "Unit" or "Living Unit" shall mean the elements of a Condominium which are not owned in common with the Owners of other Condominiums in the Project.

Each unit is identified in a diagrammatic floor plan of a building as shown on the Plan and shall consist of a fee simple interest bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors thereof, and a Unit included both the portions of the building so described and the airspace so encompasses. Heating, plumbing and air conditioning equipment serving a Unit exclusively shall be a part of such Unit; these shall include, among other things, the air conditioning equipment on the roof of a Unit and the lines running from it to the inside of the Unit and the fireplace for a Unit, its outside chimney and flue.

Section 1.22. "Units" shall mean, for purposes of determining whether a stated percentage of units have been sold or votes therefor cast by the Owners thereof, the total number of units to be built in the Project.

Section 1.23. "VA" shall mean and refer to the Veterans Administration.

Section 1.24. "Working Capital Fund" shall mean a capital fund which must be established for the initial months of the Project operations equal to at least two (2) months' estimated common area charge for each Unit.

## ARTICLE 2

### PURPOSE

Section 2.01. General Purpose. The purpose of the Project is to provide residential housing, parking, and recreational facilities for Unit Owners, their respective families, tenants, guests, and servants. The purpose of this Declaration is to create restrictions, liens, and charges upon the Condominiums pursuant to authority granted in the Act for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project and every part thereof for the benefit of all of the Condominiums and the Unit Owners.

Section 2.02. Provision Acceptance. The acceptance of an instrument of grant, assignment, or conveyance or the entering into the occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the

Plan, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association, as they may be amended from time to time, are accepted by such Owner, tenant or occupant as though such provisions were recited and stipulated at length in each and every instrument of grant, assignment or conveyance. 13

### ARTICLE 3

#### PROPERTY SUBJECT TO THIS DECLARATION

Section 3.01. Project Description. The Project covered by this Declaration is called "Hearthstone". The Project will consist of three (3) buildings, containing a total of forty two (42) Units, parking spaces, Common Areas and other improvements. The land on which the Project is located is in Clark County, Nevada (and is more particularly described in Exhibit A). Each Owner shall be entitled to exclusive ownership and possession of his Unit.

Section 3.02. Percentage of Interest. The unit number and maximum percentage of undivided interest in the common areas and facilities appurtenant to each unit and its owner for all purposes, including voting, shall be set forth in Exhibit B or the Declaration of Annexation. Such percentages have been computed by dividing the square footage of each unit by the total square footage of all of the units in Hearthstone. The percentage of undivided interest in the common areas and facilities appurtenant to any unit shall not be changed except with the consent of sixty seven percent (67%) of the Unit Owners in the Condominium Project expressed in an amendment to this Declaration duly executed by all such owners and recorded. The fractional undivided interest of each Owner in the Common Areas, as more fully set forth in Exhibit B or the Declaration of Annexation, shall not be deemed to be conveyed or encumbered or released from liens with the Unit

even though such interest is not expressly mentioned or described in the conveyance or other instrument. 14

Section 3.03. Parking Rights. The Owners of each Condominium shall, in addition to owning a fee simple interest in their Condominium, have an exclusive right as to the limited common area for such carport or parking spaces appurtenant to their Condominium or otherwise as are assigned by the Declarant. Such easements shall not entitle any Owner to construct or allow to be constructed any garage, carport, or other structure upon a non-carport parking space or spaces or elsewhere within or on the Project.

Section 3.04. Balconies and Patios. The balconies and patios shown and graphically described in the floor plan attached to the Plan are Limited Common Areas. Each Owner whose Unit has sole access to a balcony or patio shall have an exclusive limited common area for the use thereof, but such limited common area shall not entitle an Owner to change any structural part thereof.

Section 3.05. Interest in Common Areas. Each Owner shall own an undivided interest in the Common Areas, as more fully set forth on Exhibit B, as a tenant in common with all other Owners of the Project, and except as otherwise limited in this Declaration, shall have the right to use the Common Areas for all purposes incident to the use and occupancy of his Unit as a place of residence and such other incidental uses permitted by this Declaration, without hindering or encroaching upon the lawful rights of other Owners, which right shall be appurtenant to and run with the Unit.

Section 3.06. Amendment of the Plan. Declarant reserves the right (a) to change the size and number of buildings in the Project, including, but not limited to the right to change the number of square feet in any Unit as well as the number of units, (b) the right to change the boundaries of the Common Areas and (c) the right to change the interior design and arrangement

of all Units and to alter the boundaries between Units, so long as Declarant owns the Units so altered. No such change shall be made without an amendment to this Declaration approved (a) where required, by the Veterans Administration, and the Dept. of Housing and Urban Development ("HUD") and (b) by fifty-one percent (51%) of all eligible mortgage holders. Changes in the boundaries between Units, as hereinabove provided, shall be reflected by an amendment of the Plan, and, if necessary, of this Declaration. If more than one Unit is affected, Declarant shall apportion between the affected Units the shares in the Common Areas which are appurtenant to the Units affected.

Section 3.07. Utility Easements. Easements are reserved throughout the Project as may be reasonably necessary for utility services of whatsoever nature or description including, but not limited to, those relating to telephone, electric, gas, hot and cold water, heating, refrigeration, air conditioning, ventilation, garbage and sewer disposal, in order to adequately serve the ongoing development and operation of the Project and the Association is given the right to grant such easements; provided, however, that easements of such nature through a Unit shall only be such as are shown in the plans for the building to be constructed, or as the building shall be constructed, unless approved in writing by the Owner of the servient Unit.

Section 3.08. Physical Boundaries. The existing physical boundaries of a Living Unit or carport or a Living Unit or carport reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than any metes and bounds expressed in the Plan or in an instrument conveying, granting or transferring a Unit, regardless of settling or lateral movement and regardless of minor variances between boundaries shown on the Plan or reflected in the instrument of grant, assignment or conveyance and those existing from time to time.

MEMBERSHIP, VOTING RIGHTS, ORGANIZATION  
AND MANAGEMENT

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Section 4.01. Unit Owners Association. The Project shall be organized and operated as a condominium residential development. The Owners shall operate the Project as provided herein through the Unit Owners' Association. There shall be one association created for the entire Project; the association for the entire Project shall be called "Hearthstone Condominiums Homeowners Association" (hereinafter referred to as "the Association").

Section 4.02. Organization of the Association. The Association shall be organized pursuant to and governed by NRS 81.410 - 81.540 (1975) and successor statutes governing non-stock, non-profit cooperative corporations. The governing board of the Association shall be its Board of Directors which shall manage and maintain the property and business of the Project pursuant to the provisions of this Declaration, its Articles of Incorporation, and its Bylaws. Until a date five (5) years from the date the first Unit in the Project is conveyed to an Owner, or until one hundred twenty (120) days after the date by which seventy-five percent (75%) of all Units have been sold, whichever shall first occur: (a) all rights, duties, and functions of the Board of Directors shall, at Declarant's option, be exercised by Declarant or by the members of the Board of Directors from time to time appointed by Declarant and (b) upon such first date to occur, unless earlier done by Declarant, Declarant shall relinquish all special rights, expressed or implied, through which the Declarant may directly or indirectly control, direct, modify, or veto any action of the Association, its Board of Directors, or a majority of Unit Owners, and control of the Association shall pass to the owners of Units within the Project. The requirements of the preceeding sentence of this section shall not affect the Declarant's rights, as a Unit Owner, to exercise the votes allocated to Units which Declarant owns. Notwithstanding

the foregoing, Declarant shall relinquish any such special rights and such control shall pass to the Unit Owners, if Declarant shows, by its failure to actively market Units for a period of six (6) months, that it does not intend to develop the Project beyond the Project phase for which Units have been built. Within a reasonable period of time after control passes to the Unit Owners, all records maintained by or on behalf of Declarant relating to the budget for the maintenance and day-to-day operation of the Project shall be delivered to the Association in an orderly fashion.

Section 4.03. Membership . Every Owner of a Condominium subject to these Restrictions shall be a member of the Association. Membership shall be appurtenant to and may not be separated from any Condominium which is subject to these Restrictions. Each Owner is obligated to comply with the Articles of Incorporation, Bylaws and the Rules and Regulations adopted by the Board of Directors of the Association. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Condominium to which it is appurtenant, and then only to the purchaser of such Condominium. Any attempt to make a prohibited transfer is void. In the event the Owner of any Condominium should fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, 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 4.04. Voting Rights. The Association shall have one class of membership, and all Owners shall automatically be members thereof. The Owners shall have votes in proportion to their ownership in the Common Areas as more fully set forth in Exhibit B or in the Declaration of Annexation. When more than one person holds an interest in any Condominium, all such persons shall be members. The vote for such Condominium shall be



exercised as they among themselves determine. If more than one person is the Owner of a Condominium, and such persons are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any such person or persons jointly owning a certain Condominium cast a vote representing that Condominium it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other persons. In the event more than one vote is cast for a particular Condominium, such votes shall be void and shall not be counted. If a Condominium is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a Certificate of Appointment signed by the President or Vice President of the corporation and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A vote may be exercised in person or by proxy. Any other provision to the contrary notwithstanding, Declarant shall appoint the first Board of Directors of the Association and that Board of Directors and its successor as appointed by Declarant shall be the sole voting members of the Association until the first annual meeting of members which shall be called by the Board of Directors of the Association and held not later than the first to occur of the sale of seventy-five percent (75%) of all the Units in all phases, or a date five (5) years from the date the first Unit in the Project is conveyed to an owner.

Section 4.05. Bonding. The Board of Directors, professional manager or his employees and any other entity or person handling Association funds, may be covered by an appropriate fidelity bond. The bond shall name the Association as obligee, and shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating expenses of the Project, including reserves.

Section 4.06. Association Powers. The Association shall have all the powers of a management body referred to in NRS 117.060 or any successor statute or statutes. In addition, the Association shall have all the powers and duties necessary or appropriate for the management and operation of the Project. Such powers and duties shall include, but shall not be limited to, the following:

(a) Engaging a managing agent or a manager to perform such duties and services as the Association shall authorize; provided, however, any agreement for professional management must be terminable for cause upon thirty (30) days notice and run for a reasonable period of from one (1) to three (3) years and be renewable by consent of the Association and management;

(b) Making of repairs, additions and improvements to or alterations of the Project; provided, however, each single expenditure that will be greater than Five Thousand Dollars (\$5,000.00) must have the vote or written assent of members representing sixty seven percent (67%) of the voting power in the Association. Said amount shall be automatically increased to reflect any increase in the cost of living between the date hereof and the date of any such assessment, based upon the U.S. Consumer Price Index for Urban Wage Earners and Clerical Workers for all items (1967=100), for the Los Angeles, California area, published by the Bureau of Labor Statistics of the U.S. Department of Labor;

(c) Executing all declarations or ownership for tax assessment purposes with regard to the Common Areas on behalf of all Owners;

(d) Borrowing funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners, if the Association sees fit;

(e) Dedicating or transferring all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association;

(f) Limiting the hours of use and the number of guests of members using the Common Areas;

(g) Charging reasonable fees for the use of any recreational facility situated upon the Common Areas;

(h) Suspending the voting rights and the right to use any Common Areas by an Owner for any period during which any assessment against his Condominium remains unpaid and suspending such voting rights and such rights of use for a period not in excess of thirty (30) days for any infraction of the Association's Rules and Regulations;

(i) ~~Levying a reasonable fine and taking such other action as it deems reasonable against any Owner for violation of this Declaration, the Bylaws or Rules and Regulations of the Association.~~ Said fine shall be deemed an individual special assessment against the Condominium of such Owner, ~~shall be a lien thereon and shall be enforced as herein provided for other liens and assessments;~~ and

(j) Acquiring and holding, for the benefit of the Unit Owners, tangible and intangible personal property and disposing of the same by sale or otherwise, and the beneficial interest in such personal property shall be owned by the Unit Owners in the same proportion as their respective interests in the Common Areas, and shall not be transferable except with a transfer of a Condominium.

Section 4.07. Additional Powers of the Association. The powers of the Association provided for in this Declaration are by way of illustration only and nothing herein shall prevent the Association from exercising additional powers not inconsistent with this Declaration.

Section 4.08. Approval of the Association. Whenever the approval of the Association is required, unless otherwise stated, said approval shall mean the written approval of the Board of Directors of the Association. Whenever regulations or other requirements or actions of the Association are referred to, unless otherwise stated, said regulations, requirements or actions shall be such as are adopted or authorized by the Board.

Section 4.09. Liability and Indemnification. The Association's officers and directors shall not be personally liable to the Owners or others for any mistake or judgment or for any acts or omissions made in good faith. The Association's officers and directors shall be indemnified by the Owners and the Association against all expenses and liabilities including attorney's fees, reasonably incurred by or imposed upon any of them in connection with any proceeding to which any of them may be a party, or in which any of them may become involved, by reason of their being or having been an officer or director of the Association, or any settlement thereof, whether or not they are an officer or director at the time such expenses are incurred, except in

such cases wherein the officer or director to adjudged to have committed willful misfeasance or malfeasance in the performance of his duties, provided that in the event of a settlement the indemnification shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being for the best interests of the Association. The liability of any Owner arising out of any contract made by the Association or out of the aforesaid indemnity in favor of the Association's officers and directors shall be limited to such proportion of the total liability thereunder as is equal to his fractional interest in the Common Areas; provided, however, that nothing herein shall be deemed to impose on any Owner any liability which would not otherwise exist other than the within indemnity. Notwithstanding the duty of the Association to maintain and repair portions of the Project as hereinafter specified, the Association, its officers and directors, shall not be liable to Owners, tenants, occupants or others for injury or damage other than the cost of maintenance and repair, caused by any latent condition, the elements, or others, including Owners.

Section 4.10. Delegation of Powers. The Articles of Incorporation, Bylaws and Rules and Regulations of the Association may provide that any or all of the powers of the Association provided for in this Declaration may be delegated to the Board of Directors, an Architectural Control Committee, or a committee of either. A majority of the membership of the Architectural Committee shall always be appointees of the Declarant.

Section 4.11. Governing Rules. The Articles of Incorporation, Bylaws and Rules and Regulations of the Association and this Declaration shall provide for voting majorities, quorums, notices, meeting dates and other rules governing the Association.

Section 4.12. Availability of Project Documents. The Association shall make available to any Unit Owner, lender, eligible mortgage holder, eligible insurer and eligible guarantor, current copies of the Declaration, Bylaws and Rules and Regulations governing the Project and other books, records and financial statements of the Association. The Association shall also make available to prospective purchasers current copies of the Declaration, Bylaws and Rules and Regulations, and the most recent annual audited financial statement, if such is prepared. The holders of fifty one percent (51%) or more of the first mortgages on units shall be entitled to have such an audited statement prepared at their expense if one is not otherwise available. "Available" shall at least mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

## ARTICLE 5

### COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 5.01. Obligation for Assessments. Each Owner for any Condominium by acceptance of a deed or contract of sale therefor, whether or not it shall be so expressed in such deed or contract of sale, is deemed to covenant and agree with each other, with the Association and with the Association's Board of Directors, to pay to the Association, in such amounts and at such times as determined by the Board of Directors: (a) annual assessments (or charges), including those for common expenses and payments or obligations to reserve accounts, including an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Areas, (b) general special assessments for common expenses and capital improvements, (c) ~~individual special assessments levied against individual Condominium Owners to reimburse the Association as provided for in Section 5.07 hereof,~~

and (d) such other assessments as are provided for or permitted herein.

Such assessments are to be established and collected as provided for herein and in the Articles of Incorporation and Bylaws of the Association. The annual, general special, individual special, and such other assessments, together with interest, costs, penalties and reasonable attorney's fees, shall be a charge on the Condominium and a continuing lien upon the Condominium against which each such assessment is made. Each such assessment, together with interest, costs (including attorney's fees) and penalties, shall also be the personal obligation of the person who was the Owner of such Condominium at the time when the assessment was made. The personal obligations for delinquent assessments shall not pass to a successor in title or interest unless expressly assumed by such successor or required by local law.

Section 5.02. Allocation of Assessments. Annual and general special assessments shall be allocated among all the Condominiums in proportion to their ownership in the common areas as more fully set forth in Exhibit B or in the Declaration of Annexation.

Section 5.03. Determination of Assessments. The Board of Directors of the Association shall fix all assessments. In no event shall the annual assessments be less than that necessary to raise revenue sufficient to pay for all common expenses, including adequate reserves for the year for which such assessments are levied. Annual assessments shall be due in twelve (12) equal monthly installments payable in advance on the first of each month. The Board shall fix the amount of the annual assessment against each Condominium 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 due dates shall be established by the Board,

Section 5.04. Remedy for Insufficient Assessment. In the event the annual assessment proves to be insufficient, for any reason whatsoever, including, but not limited to, increased expenses, emergencies, delinquencies, or termination of assessments, the budget and assessments therefor may be amended at any time by the Board of Directors.

Section 5.05. Reserve Funds. In addition to the Working Capital Fund provided for in 6.12, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and those Limited Common Areas which the Association may be obligated to maintain. The fund shall be maintained out of regular assessments for common expenses.

Section 5.06. General Special Assessments. In addition to the annual assessments, the Association may levy a general special assessment for the purpose, among other things, of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessment in excess of Five Thousand Dollars (\$5,000.00) shall have the vote or written assent of members representing sixty-seven percent (67%) of the voting power in the Association. Said amount shall be automatically increased to reflect any increase in the cost of living between the date hereof and the date of any such assessment based upon the U.S. Consumer Price Index for Urban Wage Earners and Clerical Workers for all items (1967=100), for the Los Angeles, California area, published by the Bureau of Labor Statistics of the U.S. Department of Labor.

Section 5.07. Right to Action. Whenever under any provision of this Declaration, the Association's Articles of Incorporation and Bylaws or any



Rules or Regulations adopted by the Association, or whenever in accordance with a decision of the Association made pursuant to authority granted to the Association pursuant to such documents, an Owner shall be obligated to do any act or thing or to refrain from doing any act or thing, the Association and any aggrieved Unit Owner shall be entitled but shall not be obligated to do any such act or thing required of the Owner, or to do anything necessary to rectify any action or omission by an Owner in violation of this Declaration or the Articles of Incorporation, Bylaws, Rules and Regulations or decisions of the Association, all on behalf of and at the cost and for the account of said Owner, and in such event the Association may levy an individual special assessment against such Owner and his Condominium to reimburse the Association or aggrieved Unit Owner for the cost thereof, which assessment shall be due upon notice thereof to such Owner. Unit Owners shall have similar rights of action against the Association.

Section 5.08. Disposition of Excess Assessments. In any year in which there is an excess of assessments received over amounts actually used for the purposes described in this Declaration, such excess may, upon written consent of members representing sixty-seven percent (67%) of the voting power of the Association or by an equivalent vote at a duly called membership meeting at which a quorum is present, either in person or by proxy, be applied against and reduce the subsequent year's assessment or be refunded to the members. The preceding sentence shall automatically be repealed upon the revocation of Rev. Rul. 70-604, 1970-2, CB 9, promulgated by the Internal Revenue Service or upon a court of competent appellate jurisdiction declaring such Revenue Ruling invalid or upon amendment of the Internal Revenue Code or the Treasury Regulations thereunder obviating the requirement of a membership vote to apply such excess to the subsequent years assessments

or to refund the same in order that such excess be excluded from gross income of the Association.

Section 5.09. Assessment Power for Maintenance and Repairs. The Association may make expenditures for maintenance and repair of any Unit or Common Area of a type normally the sole responsibility of the Owner of a Unit if such maintenance and repair is reasonably necessary in the discretion of the Association to protect the interests of the Owners generally and if the Owner of the Unit has failed or refused to perform such maintenance or repair. In such event, however, the Association shall levy an individual special assessment against the Condominium of which the Unit is a part for repayment of the cost of such maintenance or repair, which assessment shall be due upon notice thereof to such Owner.

Section 5.10. Enforcement. Any assessment provided for elsewhere herein may be enforced as provided for in this Article 5.

Section 5.11. Assessment Payments. Assessments and installments thereon paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interest at fifteen percent (15%) per annum from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due. The Association may bring any action at law or in equity against the Owner personally obligated to pay the same, or foreclose the lien against the property without waiving any right to a deficiency. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Condominium.

Section 5.12. Default. If an Owner shall be in default in the payment of an installment upon an assessment, the Board may, accelerate the remaining

installments of the assessment upon notice thereof to the Owner, and thereupon the unpaid balance of the assessment shall come due on the date stated in the notice.

Section 5.13. Assessment Liens. The provisions of NRS 117.070-117.075, or any successor statute or statutes, are hereby adopted and incorporated herein for the purpose, among other things, of establishing the manner in which assessments and other charges referred to herein shall be and become a lien upon the Condominiums, the priority of such liens, and the manner in which they may be enforced. Any lien so created shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or the enforcement of such lien. For purposes of NRS 117.070-3, the percentage to be used for Covenant No. 7 of NRS 107.030 shall be twenty five percent (25%).

Section 5.14. Assessment Payment Subsequent to Unit Transfer. No Owner shall be liable for the payment of any part of the common expenses assessed against his Condominium subsequent to a sale, assignment, conveyance or other transfer by him made in accordance with the provisions of this Declaration and the Bylaws of the Association. Except as provided in Article 8 hereof, the Condominium of a transferee, whether by assignment, grant, operation of law or otherwise, other than the Association or its designee, shall be subject to a lien for payment of assessment assessed against such Condominium prior to any such acquisition.

Section 5.15. Payment of Rent During Foreclosure. In any foreclosure of a lien for assessments, the Owner whose Condominium shall be subject to the lien shall be required to pay a reasonable rental for the use and occupancy of the Unit and the Association shall be entitled to the appointment of a receiver to collect the same.

Section 5.16. Uniform Rate of Assessment. Except as otherwise provided herein, both annual and special assessments shall be fixed at a uniform rate for all Condominiums and may be collected on a monthly basis or as otherwise determined by the Board. A special assessment against members to raise funds for the rebuilding or major repair of a portion of the structural Common Area shall be levied upon the basis of the ratio of the square footage of the floor area of the Living Unit of the Condominium to be assessed to the total square footage of the aggregate floor area of the Living Units in all Condominiums to be assessed. A special assessment against a member to reimburse the Association for costs incurred in bringing the member and his Condominium into compliance with the provisions of the Condominium documents shall be assessed only against that member and his Condominium. Any assessment not paid within thirty (30) days after the due date shall be delinquent and shall bear interest at the rate of fifteen percent (15%) per annum from the date date until paid.

Section 5.17. Estoppel Certificate. The Association shall furnish or cause an appropriate officer to furnish, upon demand by any person, a certificate signed by an officer of the Association setting forth whether the assessments on a specified Condominium have been paid. A properly executed certificate of the Association as to the status of assessments on a Condominium is binding upon the Association as of the date of its issuance.

Section 5.18. Taxation of Association. In the event that any taxes are assessed against the common area or the personal property of the Association, rather than against the individual Condominiums, said taxes shall be added to the annual assessments and, if necessary, a special assessment may be levied

against the Condominiums in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

Section 5.19. Capitalization of Association. Upon acquisition of record title to a Condominium from Declarant, each Owner shall contribute to the capital of the Association an amount equal to one-sixth (1/6) the amount of the then annual assessment for the Condominium as determined by the Board. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed therefrom to the Association.

Section 5.20. Commencement of Assessment. Notwithstanding any of the provisions of this Article 5, there shall be no assessments made until the first Unit is conveyed to an Owner, at which time assessments as to all Units will begin, and no first owner of a Unit shall be liable for any assessment made prior to his having taken title to such Unit.

## ARTICLE 6

### MAINTENANCE, ALTERATIONS AND IMPROVEMENTS

Section 6.01. Declarant's Responsibility. Except as otherwise limited by 6.07, the Declarant shall maintain, repair and replace at the Declarant's expense, until control of the Association shall pass to the Owners of the Units within the Project, at which time all such responsibility shall pass to the Association:

- (a) All portions of the buildings and Common Areas, except interior surfaces and areas of Units and that maintenance and repair which is the obligation of Owners as set forth in Article 6.03 hereof;

(b) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services including water, gas, electricity, heat and air conditioning, which are contained in the portions of the buildings maintained by the Declarant or the Association; and all such facilities contained within a Unit which service part or parts of the Project other than the Unit within which contained.

Section 6.02. Sewer Service. All sewer service bills will be paid in accordance with one annual or quarterly composite statement from the City of Henderson. The Association will collect sewer service fees from the individual Owners for all property, on a monthly basis.

Section 6.03. Owner's Responsibility. The responsibility of an Owner shall be as follows:

(a) To maintain, repair and replace, and keep in a clean and sanitary condition, at his expense, all portions of his Unit except the portions to be maintained, repaired and replaced by the Declarant or the Association; to paint or otherwise maintain interior walls, and to maintain, repair and replace plumbing, electrical, gas and heating and air conditioning equipment serving only his Unit, including, but not limited to, fireplaces, hot water heaters, refrigerators, stoves, lighting fixtures, dishwashers, garbage disposal units, tubs, toilet bowls, and wash basins and to maintain and repair the plumbing, electrical, heating and air conditioning system servicing his Unit and located within the outside perimeter of the

exterior bearing walls thereof. The Common Areas are subject to an easement in favor of each Unit for the purpose of making such repairs; provided, however, all such work shall be done without disturbing the right of other Owners, and provided, further, that no such work requiring entry into a Common Area shall be commenced without the prior written approval of the Association; and

(b) To keep his carport, parking space, storage area, balcony, patio, and any other limited common areas, if any, in a clean and sanitary condition, and to maintain and repair his balcony or patio. The Association shall not be responsible to the Owner for loss or damage by theft or otherwise of articles which may be stored by the Owner in his Unit, balcony, patio, carport, parking space, storage area, or other general or limited common area; and

(c) To promptly report to the Declarant or the Association, as the case may be, any defect or need for repairs, the responsibility for the remedying of which is that of Declarant or the Association.

Section 6.04. Alterations, Repairs or Additions to Limited Common Areas.

Except as elsewhere reserved to Declarant, no Owner shall make any alterations, repairs of, or additions to, his Unit or his Limited Common Area which would affect the exterior appearance thereof, including, but not limited to, combining two or more Units, building or placing a cover on a balcony or patio, erecting a radio or television antenna upon a building, or painting

any part of the exterior of his Unit, or doing anything which would jeopardize the safety or soundness of a building, or impairing any easement, without the prior written approval of the plans and specifications therefor by the Declarant or the Association, as the case may be. In the event that the Declarant or the Association, as the case may be, fails to approve or disapprove within thirty (30) days after the appropriate plans and specifications have been submitted to it, or in any event, if no suit to enjoin such work has been commenced before thirty (30) days after commencement thereof, approval will be deemed given and compliance with the terms of this Article 6.04 conclusively presumed.

Section 6.05. Approval of Plans; Lack of Waiver. The approval by the Declarant or the Association of any plans, drawings or specifications for any work done or proposed, or of any other matter requiring the approval of the Declarant or the Association, 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 any other Owner.

Section 6.06. Liability for Approval or Disapproval of Plans Or for Work Performed. Neither the Declarant, the Association nor any member thereof, shall be liable to any Owner or to any other party, for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, or (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, or specifications; provided that with respect to the liability of a member, such member has acted in good faith on the basis of actual knowledge possessed by him.



Section 6.07. Responsibility for Common Areas. The maintenance, repair and management of the Common Areas shall be the responsibility of the Declarant, until such passes to the Association at the same point in time as set forth in Sections 4.02 and 6.01; provided, however, notwithstanding anything in this Declaration to the contrary, Declarant shall at no time be liable for or required to pay any greater portion of the expense of maintaining, repairing and managing the Common Areas than is equal to that fraction wherein the numerator is the number of Units owned by Declarant and the denominator is the total number of Units in that Project Unit.

Section 6.08. Alteration of Improvement of Common Areas. After the completion of the improvements included in the Common Areas which are contemplated by the Plan, there shall be no material alteration or further improvement of the Common Areas without the prior approval of Owners representing not less than sixty-seven percent (67%) of the voting power in the Association, but regardless of such approval, no such alteration or improvement shall substantially interfere with the use and occupancy by an Owner of his Unit without such Owner's consent. There will be no change in the share and rights of an Owner in the Common Area which is altered or further improved.

Section 6.09 Rules and Regulations - Promulgation and Amendment. Rules and Regulations concerning the use of the Units, the Common Areas and Limited Common Areas and Facilities may be promulgated and amended by whichever of the Declarant or the Association as is charges under this Article 6 with the responsibility for the maintenance and management of such areas.

Section 6.10. Work Compliance. All maintenance, alterations and improvements shall be made promptly and in good and workmanlike manner and in compliance with all insurance requirements and with all applicable permits and authorizations and building regulations, zoning laws and all other governmental rules, regulations, ordinances, statutes and laws now or hereafter in effect pertaining to the Project.

Section 6.11. Responsibility for Incidental Damage. All incidental damage that is reasonably determined by the Declarant or the Association to have been caused to a Unit by work which is the responsibility of the Declarant or the Association shall be promptly repaired at the expense of the Declarant or the Association as the case may be.

Section 6.12. Working Capital Fund. Declarant shall establish a Working Capital Fund. Each Unit's share of the Working Capital Fund must be collected and transferred to the Association at the time of closing of the sale of each Unit and maintained in a segregated account for the use and benefit of the Association. The contribution to the Working Capital Fund for each unsold Unit shall be paid to the Association on a Unit-by Unit basis as such funds are needed. Amounts paid into the fund are not to be considered as advance payments of regular assessments. Each Unit's share of such Fund shall be equal to two (2) month's share of the annual estimated Association Common Area expense allocable to such Unit.

## ARTICLE 7

### PROHIBITION OR PARTITION OR SEPARATION OF INTEREST

Section 7.01. Separation of Interest. No Owner may sell, assign, lease or convey (i) his interest in the Common Area separate and apart from his Unit and Carport, nor (ii) his Unit separate and apart from his Carport, nor

(iii) his interest in any Limited Common Area and Facility separate and apart from his interest in the Common Area, his Unit and Carport.

Section 7.02. Prohibition of Partition. Except as otherwise provided in Article 10, each of the Owners of a Condominium, whether such ownership is in fee simple or as a tenant-in-common, is hereby prohibited from partitioning or in any other way severing or separating such ownership from any of the other ownerships in the Project, except upon the showing that: (i) more than three (3) year before the filing of the action, the Project was damaged or destroyed so that a material part thereof was unfit for its use and the Project has not been rebuilt or repaired substantially to its state prior to its damage or destruction, or (ii) that three-fourths (3/4) or more of the Project has been destroyed or substantially damaged, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project, or (iii) that the Project has been in existence in excess of fifty (50) years, that it is obsolete and uneconomic, and that Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project; provided, however, that if any Condominium shall be owned by two (2) or more co-tenants as tenants-in-common or as joint tenants, nothing therein shall be deemed to prevent a judicial partition as between such co-tenants and no Condominium may be partitioned or subdivided without the prior written approval of the Mortgagee holding the first Mortgage on that Condominium.

## ARTICLE 8

### MORTGAGEE PROTECTION

Section 8.01. Roster of Owners, Mortgagees, Insurers or Guarantors.

The Board of Directors shall maintain a roster of Unit Owners from the

evidence of change of ownership furnished to the Board of Directors, which roster shall include the mailing addresses of Unit Owners. If the Board of Directors has been given sufficient information by Unit Owners or their mortgagees, insurers or guarantors, the Board of Directors shall maintain another roster which shall contain the name and address of each eligible mortgage holder, insurer or guarantor of a Unit. Each notice shall consist of a certified copy of the recorded instrument evidencing the title of the mortgage holder or statute of the insurer or guarantor.

Section 8.02. Right to Written Notice. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any such eligible mortgage holder, insurer or guarantor will be entitled to timely written notice of:

(a) any default by the mortgagor of such Unit in the performance of such mortgagor's obligation under the Declaration, or under the Articles of Incorporation, Bylaws and Rules and Regulations of the Association;

(b) Any condemnation loss or casualty loss which affects a material portion of the Project or any Unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder, insurer or guarantor, as applicable;

(c) Any delinquency in the payment of assessments or charges owed by an Owner of a Unit estate subject to a first mortgage held, insured or guaranteed by such eligible mortgage holder, insurer or guarantor, which remains uncured for a period of sixty (60) days;

(d) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(e) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders.

The Board of Directors shall be deemed to have complied with this 8.02 if such notice is mailed, postage prepaid, to the mortgage holder, insurer or guarantor at the address given pursuant to 8.01.

Section 8.03. Subordination of the Lien to First Deed of Trust and First Mortgages. Notwithstanding all other provisions hereof, liens created under Article 5 hereof upon any Condominium, as well as any fees, late charges, fines or interest that may be levied by the Association in connection with unpaid assessments, shall be subject and subordinate to, and shall not affect the rights of, the mortgagee under any recorded first mortgage upon such Condominium made in good faith and for value, including a Veterans Administration guaranteed mortgage, and a Dept. of Housing and Urban Development mortgage. A lien for common expense charges and assessments shall not be affected by any sale or transfer of a Unit except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for common expense charges and assessments which became payable prior to such sale or transfer. However, any such delinquent assessments which were extinguished pursuant to the foregoing provision may be reallocated and assessed to all Units as a common expense. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit so sold or transferred from the lien of, any common

expense charges or assessments thereafter becoming due.

Section 8.04. Change of Interest in Units or Common Areas. Unless at least seventy-five percent (75%) of all first mortgagees give their prior written approval, the Association shall not: (a) change the pro rata interest or obligations of any Condominium for purposes of levying assessments and charges and determining shares of the Common Areas and proceeds of the Project, (b) partition or subdivide any Condominium, or (c) seek, by act or omission, to abandon, partition, subdivide, encumber, sell or transfer the Common Area; provided, however, that the granting of easements for public utility or other public purposes consistent with the uses of the Common Area shall not be deemed a transfer within the meaning of this provision.

Section 8.05. Subordination to Other Mortgagees. By an appropriate subordination agreement executed by the Association, the benefits of this Article 8 may be extended to mortgagees not otherwise entitled thereto.

Section 8.06. Validity and Binding. No breach of this Declaration shall defeat or render invalid the lien of any first mortgage made in good faith and for value, but this Declaration shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

Section 8.07. Affect of Amendment. No amendment to this paragraph shall affect the rights of a mortgagee whose interest evidenced by a mortgage was recorded prior to the recordation of any such amendment not otherwise entitled thereto.

## ARTICLE 9

### INSURANCE

Section 9.01. Insurance Coverage Requirement. The Association, taking

action through its Board of Directors, shall obtain and maintain at all times insurance coverage to carry out the purposes of Article 10 of the Declaration. Such coverage shall be of the type and kind as provided herein and include insurance for such other risks, of a similar or dissimilar nature, including workmen's compensation insurance covering any employees of the Association, as are or shall hereafter customarily be covered with respect to other properties similar to the Project in construction, design, and use. The Board of Directors shall make every reasonable effort to obtain insurance with the following provisions or endorsements:

(a) Exclusive authority to adjust losses shall be vested in the Board of Directors or its authorized representative as insurance trustee;

(b) The insurance coverage shall not be brought into contribution with insurance purchased by individual Unit Owners or their respective mortgagees;

(c) Each Unit Owner may obtain additional insurance covering his real property interest at his own expense.

(d) The insurer waives its right of subrogation as to any claims against each Unit Owner;

(e) The insurance coverage cannot be cancelled, invalidated, or suspended because of the conduct of any one or more individual Unit Owners or their respective lessees, employees, agents, contractors, and guests;

(f) The insurance coverage cannot be cancelled, invalidated, or suspended because of the conduct of any

officer or employee of the Association or Board of Directors or their employees, agents or contractors, without prior demand in writing that the Board of Directors cure the defect and then only if the defect is not cured within fifteen (15) days.

Section 9.02. Master Property Insurance. The Board of Directors, for the benefit of the Project and the Unit Owners, shall obtain, maintain, and pay the premiums, as a common expense, upon a "master" or "blanket" type policy of fire and property insurance covering all of the general Common Areas and Limited Common Areas and Facilities (except land, foundation, excavation and other items normally excluded from coverage), including fixtures and building service equipment to the extent that they are part of the Common Areas of the Project, as well as common personal property and supplies, and other common personal property belonging to the Association. The limits and coverage of said insurance shall be reviewed at least annually by the Board of Directors and shall include an appraisal of the Project by a qualified representative of the insurance company writing the master policy on the Project. The limits of such coverage shall be sufficient to insure to 100% of the current replacement cost of the property to be covered. Said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees, if any, of each Unit.

Section 9.03. Liability Insurance. The Board of Directors shall obtain a comprehensive general liability insurance policy or policies covering at least all of the Common Areas and Limited Common Areas and Facilities and insuring the Association, its Board of Directors and their employees, including the manager, the Unit Owners and their respective lessees, servants, agents or guests, against any liability to the public or to the Owners of Units, members of the households of Unit Owners, their respective invitees or tenants, incident to the ownership and/or use of the Project, including the personal



liability exposure to the Unit Owners incident to the ownership and/or use of the Project, and against liability arising out of law suits related to employment contracts of the Association. Limits of liability under such insurance shall not be less than \$1,000,000 for all persons injured in any one occurrence and for property damage in each occurrence. The limits in coverage of said liability policy or policies shall be reviewed at least annually by the Board of Directors and increased at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and, if possible, shall provide cross-liability endorsements for possible claims for any one or more or group of insured against any one or more or group of insureds, without prejudice to the right of a named insured under the policies to maintain an action against another named insured.

Section 9.04. Fidelity Bonds. Blanket fidelity bonds shall be maintained by the Association for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, naming the Association as obligee and written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, including reserves.

Section 9.05. Premium Payment. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Association as a common expense; except that the amount of increase over the usual premium occasioned by the use, misuse, occupancy, or abandonment of a Unit or its appurtenances or of the Common Areas or the Limited Common Areas and Facilities by an Owner shall be assessed against that Owner. Each Owner shall be responsible to pay any deductible amount for any loss to his Condominium.

Section 9.06. Filing Unit Owners Policy. Any Unit Owner who obtains individual insurance coverage covering any portion of the Project, other than personal property belonging to such Unit Owner, shall be required to file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after obtaining such insurance coverage.

Section 9.07. Diminution of Proceeds. No Unit Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount that the Board of Directors, on behalf of all of the Unit Owners, may realize under any insurance policy that the Board of Directors may have in force covering the Project or any part thereof at any time. Should any Unit Owner violate this provision and 9.06, he shall be responsible to the Association for any such diminution.

Section 9.08. Other Named Insureds. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom such Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance under Sections 9.02 and 9.03.

Each Unit Owner appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts

necessary to accomplish such purpose. The Association or any insurance trustee must receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Unit Owners and their first mortgage holders, as their interests may appear.

Section 9.09. Distribution of Insurance Proceeds. Proceeds of insurance policies payable under Section 9.02 hereof, received by the Association or any designated Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) If the damage for which the proceeds are paid is to be reconstructed or repaired, the proceeds shall be used to defray the cost thereof as herein provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners in proportion to their interests in the Common Areas, remittances to Unit Owners and their first mortgagees being payable jointly to them.

(b) If it is determined in the manner herein provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, except as provided in Article 10 hereof, remaining proceeds shall be distributed to the beneficial owners of the damaged improvements (including the Association with respect to the Common Areas) as their interest may appear in such a way as to give consideration to the relative degree of damage to such improvements and the relative original value of improvements which have sustained the same degree of damage, remittances to Unit Owners and their first mortgagees being payable jointly to them.

## ARTICLE 10

RECONSTRUCTION OR REPAIR AFTER CASUALTY OR CONDEMNATION

Section 10.01. Casualty Destruction of Project. If any part of the Project shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(a) If fifty percent (50%) or more of the Units are found by the Association to be tenantable after the casualty, the damaged property shall be reconstructed or repaired; and

(b) If more than fifty percent (50%) of the Units are found by the Association to be not tenantable after the casualty, whether the damaged property will be reconstructed or repaired or the Project terminated shall be determined in the following manner:

(1) Immediately after the casualty, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair; and

(2) Immediately after the determination of the amount of insurance proceeds and the cost to rebuild or repair, the Association shall give notice to all Owners and eligible mortgage holders of the casualty, the extent of the damage, the estimated cost to rebuild or repair, the amount of insurance proceeds and the estimated amount of assessments required to pay the excess of the cost of reconstruction or repair over the amount of insurance proceeds.

Such notice shall call a meeting of Owners and eligible mortgage holders to be held within thirty (30) days from the mailing of such notice. If the reconstruction and repair is approved at such meeting by the Owners representing at least seventy-five percent (75%) of the voting power in the Association and by eligible holders holding mortgages on Units which have at least fifty one percent (51%) of the votes of Units subject to eligible holder mortgages, the damaged property will be reconstructed or repaired; but if not so approved, the Project shall be terminated without agreement as elsewhere herein provided. Such approval may be expressed by vote or in writing filed with the Association at or prior to the meeting. The expense of such determination shall be assumed against all Owners in proportion to their interests in the Common Areas.

Section 10.02. Conformance to Declaration, Plans and Specifications.

Any reconstruction, restoration or repair of the Project, after a partial condemnation or casualty, must be performed substantially in accordance with this Declaration and the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by the Association, and if the damaged property is a residential building, also by eligible holders holding mortgages on Units in the building having

fifty one percent (51%) of the votes of those Units subject to eligible holder mortgages in the building.

Section 10.03. Responsibility after Casualty. The responsibility of reconstruction and repair after casualty shall be that of the Association.

Section 10.04. Reconstruction Covered. Any reconstruction undertaken pursuant to the foregoing provisions shall cover only the exterior and structural components of the damaged or destroyed building or buildings and such other damage to such buildings as may be covered by insurance maintained by the Association. If a destroyed building is so rebuilt, the Owner of any Unit therein shall be obligated to repair and rebuild the damaged portions of such Unit in a good and workmanlike manner at such Owner's expense.

Section 10.05. Insufficient Insurance. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments shall be in proportion to the Owner's undivided interest in the Common Area.

Section 10.06. Disbursement of Construction Fund. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the funds in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owner that is

attributable to assessments paid by such Owner into the construction fund shall not be made payable to any mortgagee.

Section 10.07. Notice of Proceeding of Proposed Taking. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury, or destruction of all or part of the Common Areas and facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Association and each Unit Owner shall be entitled to notice thereof and the Association shall, and the Unit Owner may, at their respective expense, participate in the proceedings incident thereto. Each non-participating Unit Owner does hereby appoint the Association his attorney-in-fact for such purpose.

Section 10.08. Determination of Damages or Awards. With respect to Common Areas and facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Unit Owner's interest therein. After such determination, each Unit Owner shall be entitled to a share in the damages in the same proportion as his percentage of undivided interest in the Common Areas and facilities. This provision does not prohibit a majority of Unit Owners from authorizing the Board of Directors to use such damages or awards for replacing or restoring the Common Areas and facilities so taken on the remaining land, or on other acquired land, provided that this Declaration and Plan are duly amended.

Section 10.09. Awards to Owners. The awards to which the Owners shall be entitled as a result of the taking of a portion of a Unit by eminent domain shall be utilized in the same manner as proceeds from insurance on account of casualty except as hereinafter set forth. Even though the awards may be payable to Owners, the Owners shall deposit the awards with the Association and in the event of failure to do so, in the discretion of the

Association, a special assessment shall be made against a defaulting Owner in the amount of his award, or the amount of such award shall be set off against the sums hereafter made payable to such Owner. When the Project is not to be terminated and one or more Units are taken in part, the taking shall have the following effects:

(a) If the taking reduces the size of a Unit and the remaining portion of that Unit can be made tenantable, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) The Unit shall be made tenantable and if the cost of such work exceeds the amount of the award, the additional funds shall be assessed against the Owner of the Unit.

(2) The balance of the award, if any, shall be distributed to the Owner of the Unit and to the Mortgagee of the Unit, the remittance being payable jointly to such Owner and mortgagee.

(3) If the floor space of the Unit is reduced, the share in the Common Area appurtenant to the Unit, the Unit's voting power and liability for assessments shall not be adjusted.

(b) If the taking destroys or so reduces the size of a Unit that it cannot be made tenantable, the award for



the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) The market value of the Condominium of which the Unit is an element, immediately prior to the taking, shall be paid to the Owner of the Condominium and to each mortgagee of the Condominium, the remittance being payable jointly to the Owner and mortgagee.

(2) The remaining portion of such Unit, if any, shall become a part of the Common Areas and shall be placed in condition for use by all of the Owners, in the manner approved by the Association; provided, however, that if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for further improvements of the Common Areas.

(3) The shares in the Common Areas appurtenant to the Units which continue as a part of the Project shall be equitably adjusted to distribute the ownership of the Common Areas among the reduced number of Owners by recomputing the shares of such continuing Owners in the Common Areas as a percentage of the total of the shares of such Owners as they existed prior to the adjustment.

(4) If the amount of the award for the taking is not sufficient to pay the market value of the condemned Unit to the Owner and to restore the remaining portion of the Unit in the condition for use as a part of the Common Areas, the funds required for restoring the remaining portion shall be raised by assessments against all of the Owners who will continue as Owners of Condominiums after the changes in the Project effected by the taking. Such assessments shall be made in proportion to the shares of such Owners in the Common Areas after the changes effected by the taking.

Section 10.10. Changes Evidenced by Amendment. The changes in Units, in the Common Areas, in the ownership of Common Areas, and in shares of liability for common expenses which are effected by eminent domain or partial destruction, shall be evidenced by an amendment of this Declaration which need be approved only by a majority of the directors of the Association.

## ARTICLE II

### TERMINATION

Section 11.01. Provision for Termination. The Condominium Plan of ownership may be terminated as herein provided in addition to the manner provided by the Act.

Section 11.02. Nonreconstruction Termination. If it is determined in the manner elsewhere provided that the residential buildings shall not be reconstructed, the Condominium Plan of ownership shall be thereby terminated without agreement, by an instrument duly recorded to that effect, as soon as

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is reasonably possible.

Section 11.03. Voluntary Termination. The Condominium Plan of ownership may be voluntarily terminated at any time after completion of the Project or after substantial taking in condemnation by approval in writing, as provided in 11.04 hereof, by the Unit Owners and by the eligible mortgage lien holders.

Section 11.04. Removal from the Provisions of the Act. If the proposed termination is submitted to a meeting of the members of the Association and the eligible mortgage holders, the notices of the meeting having given notice of the proposed termination, and if approved by Unit Owners representing not less than eighty-five percent (85%) of the voting power in the Association and, in the case of termination occasioned by a substantial taking in condemnation of the property, by eligible holders holding mortgages on Units having fifty one percent (51%) of the votes of Units subject to eligible holder mortgages, and in all other instances, except as otherwise provided in 10.01, by eligible holders holding mortgages on Units having sixty seven percent (67%) of the votes of Units subject to eligible holder mortgages, the Project shall be removed from the provisions of the Act by an instrument duly recorded to that effect.

Section 11.05. Certificate of Termination. The termination of the Condominium Plan of ownership shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Official Records of Clark County, Nevada.

Section 11.06. Ownership Interest Subsequent to Termination. After termination of the Condominium Plan of Ownership the Unit Owners shall own the Condominium property and all assets of the Association as tenants in common (in undivided shares,) and their respective mortgagees and lienors shall have

mortgages and liens upon the respective undivided interest of the Unit Owners. Such undivided interests of the Unit Owners shall be the same as the undivided interest in the Common Areas appurtenant to the Unit Owners' Units prior to the termination.

Section 11.07. Amendment of Article 11. This article concerning termination cannot be amended without consent of all Unit Owners and of all mortgagees of record.

## ARTICLE 12

### RESTRICTIONS ON USE

Section 12.01. Exclusive Residential Use. Each Unit shall be used exclusively for residential purposes, and parking spaces shall be used exclusively for the parking of passenger automobiles, except for certain designated parking spaces that may be assigned by the Association, at its sole discretion, to an Owner for the parking or storage of boats, campers or other recreational vehicles and as limited in Section 12.10 below.

Section 12.02. Obstruction of the Common Areas. There shall be no obstruction of the Common Areas. Except in the case of designated storage areas, nothing shall be kept or stored in the Common Areas, nor shall anything be altered or constructed or planted in, or removed from, the Common Areas, without the prior written consent of the Association.

Section 12.03. Hazardous Actions or Storage. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas or Limited Common Areas and Facilities which will result in any increase of fire insurance premiums or the cancellation of insurance on any part of the Project, or which would be in violation of any law. No waste shall be committed in the Common Areas or Limited Common Areas and Facilities.

Section 12.04. Signs. No sign of any kind shall be displayed to the public view on or from any part of the Project, without the prior written consent of the Association, except signs temporarily used by Declarant in the original development and sale or leasing of Condominiums.

Section 12.05. Quiet Possession. No noxious, dangerous or offensive activity shall be carried on, nor shall any outside lighting or loudspeakers or other sound producing devices be used, nor shall anything be done, in any part of the Project, which, in the judgment of the Association, may be or become an unreasonable annoyance or nuisance to the other Owners, nor will any Owner commit or permit any illegal act to be committed at the Project. Each Owner shall comply with all requirements of all governmental authorities with respect to the Project.

Section 12.06. Exterior Fixtures. No Owner shall cause or permit anything to be placed on the outside walls of his Unit, and no sign, awning, canopy, window air conditioning unit, shutter or other fixture shall be affixed to or placed upon the exterior walls or roof of any building or any part thereof, without the prior written consent of the Association.

Section 12.07. Unsightly Materials. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any Unit or on any part of the Common Areas or Limited Common Areas and Facilities. Each Unit and the Common Areas and Limited Common Areas and Facilities shall be kept clear of rubbish, debris and other unsightly materials.

Section 12.08. Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept in any Unit, in any Common Area, or in any Limited Common Area or Facility, except that dogs, cats or other household pets that are the property of Unit Owners only may be kept in Units subject to approval of the Association, provided that no animal shall be kept, bred or maintained for any commercial purposes. The total number of animals that may be kept by any Unit Owner shall not exceed such number as is

established, from time to time, by the Association.

Section 12.09. Commercial Use. No professional, commercial or industrial operation of any kind shall be conducted in any Unit, in the Common Areas or in the Limited Common Areas and Facilities except such temporary uses as shall be permitted by Declarant while the Project is being constructed and Condominiums are being sold by the Declarant.

Section 12.10. Parking and Repairs. Except as may be used by Declarant while the Project is being constructed and Condominiums are being sold by Declarant, no vehicle shall be repaired or rebuilt nor shall any Owner park any truck, trailer, boat, camper or other commercial or recreational vehicle in any carport of parking space or elsewhere in the Common Areas, or any street or driveway adjoining the Project, so that the same is visible from adjacent public thoroughfares or other Units or Common Areas; however, the Association may establish rules and regulations for parking of such vehicles. Such vehicles may be parked in accordance with such rules and regulations, provided such parking is also specifically approved by the Association.

Section 12.11. Negligence and Willful Misconduct. Each Owner shall be liable and a special assessment against such Owner may be levied by the Association for any damage caused by the negligence or willful misconduct of the Owner or his family, guests, or invitees, to the extent that the damage shall not be covered by insurance. Each Owner shall indemnify, hold harmless, and pay any costs of defense of each other Owner from claims for personal injury or property damage occurring within the Unit of the indemnifying Owner, provided that this protection shall not extend to any Owner whose negligence or willful misconduct caused or contributed to the cause of the injury or damage.

Section 12.12. Project Rules and Regulations. The Association is authorized to adopt rules not inconsistent with the provisions contained in this Declaration for the use of the Project, including the use of the Common Areas and Limited Common Areas and Facilities, to prescribe penalties for any violation thereof, and to amend the same from time to time relating to the use of the Common Area and the Limited Common Areas and Facilities situated thereon by Owners and by their tenants or guests, and the conduct of such persons with respect to automobile parking, outside storage of boats, trailers, bicycles and other objects, disposal of waste materials, drying of laundry, control of pets and other activities which, if not so regulated, might detract from the appearance of the community or offend or cause inconvenience or danger to persons residing or visiting therein. Such rules may provide that the Owner of a Condominium whose occupant leaves property on the Common Areas in violation of the rules may be assessed to cover the expense incurred by the Association in removing such property and storing or disposing thereof, after appropriate notice and an opportunity for a hearing before the Board, and a two-thirds (2/3) vote of approval by the Board. The Board may suspend the voting rights and right to use the recreational facilities located on the Common Area of a Member who is in default in the payment of any assessment for any period during which such assessment remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations, after ten (10) days written notice and an opportunity for a hearing before the Board. The Association shall furnish such rules in writing to the Unit Owners and occupants, who shall abide by all such Rules and Regulations adopted by the Association and be bound thereby. The Association shall have the power to enforce compliance with said Rules and Regulations by all appropriate legal and equitable remedies, and an Owner or occupant, determined by judicial action to have violated said Rules and

Regulations, shall be liable to the Association for all damages and costs including attorneys' fees.

Section 12.13. Enforcement of Rules, Regulations or Declaration. The violation of any rule or regulation adopted by the Association, or the breach of the Declaration, shall give the Association the right, in addition to any other right or remedy elsewhere available to it:

(a) To enter into a Unit in which, or as to which, such violation or breach exists, and to summarily abate and remove, at the expense of its Owners(s), any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of any of the Rules or Regulations or this Declaration, and the Association shall not be deemed to have trespassed; or

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

All expenses of the Association in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at twelve percent (12%) per annum until paid, shall be charged to and assessed against such defaulting Owner(s), and the Association shall have a lien for all the same upon the Condominium of such defaulting Owner(s), upon all his additions and improvements thereto, and upon all of his personal property in his Unit or located elsewhere on the Project. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association.



Section 12.14. Association's Right of Entry. For the purpose of performing the maintenance of the Common Area or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, each Owner grants the Association agents or employees the right to enter any Unit or upon any portion of the Common Area to effect emergency repairs. For other than emergency repairs, the Association's agents or employees shall have the right to enter any Living Unit or any portion of the Common Area to effect repairs, improvements, replacements or maintenance which the Association, after approval by two-thirds (2/3) vote of the Board, reasonably deems necessary. Such entry shall be made with as little inconvenience to the Owner as possible and any damage caused thereby shall be repaired by the Association. Further, such entry for other than emergency repairs shall be made only after not less than three (3) days' notice has been given to the Owner.

Section 12.15. Subrogation. Should any Owner or any mortgagee of any Condominium advance any sum toward discharge of an obligation of the Association on behalf of the Project in order to protect the Project against the consequences of a delinquency in discharging such obligation, such Owner or mortgagee, in connection with such advance, shall be subrogated to all rights of the Association, including the right to collect interest, against those Owners whose defaults have made necessary the advance concerned, until such advance shall have been repaid together with interest thereon at twelve percent (12%) per annum plus any reasonable attorneys' fees or other reasonable costs incurred in collection. No Owner or mortgagee may make such advance unless the Association has failed to make such expenditure for ten (10) days after written demand to so act by such Owner or mortgagee.

Section 12.16. Failure of Association to Act. If the Association has failed to act to enforce any provision of this Declaration, the Bylaws or any Rule or Regulation for ten (10) days after written demand by any Owner or mortgagee of any Condominium, then any such Owner or mortgagee shall be entitled to prosecute on behalf of the Association and all the Owners, any action authorized hereunder to be prosecuted by the Association, and shall be entitled to any other appropriate equitable relief.

Section 12.17. Association's Failure to Enforce. The failure of the Association to insist in any one or more instances upon the strict performance of any of the terms or restrictions of this Declaration, the Bylaws or of any Rule or Regulation, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future of such term or restriction. The receipt by the Association of any assessment from an Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Association of any provision thereof shall be deemed to have been made unless expressed in writing and signed by the Association.

Section 12.18. Declarant's Rights. Until Declarant has completed all of the contemplated improvements and closed the sales of all of the Condominiums in the Project, neither the Owners, nor the Association, nor the use of the Project, nor the application of this Declaration, shall interfere with the completion of the contemplated improvements and the sale of the Condominiums. Declarant may make such use of the unsold Units and have such right of ingress and egress over, upon and across the Common Areas and Limited Common Areas and Facilities as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, storage of materials, the showing of the Project and the Units therein, the display of signs thereon and therein

and the transient use of Units and parking spaces therein. So long as Declarant is obligated to perform any maintenance pursuant to Section 6.01 hereof, Declarant shall have all rights of the Association, including, but not limited to, ingress and egress, necessary or appropriate in connection therewith.

Section 12.19. Lease or Rental of Units. All leases or rental agreements for Condominiums shall be in writing and specifically subject to the requirements of this Declaration, the Articles of Incorporation, Bylaws of the Association and all Rules and Regulations adopted. No Unit may be leased or rented for a period of less than thirty (30) days. Units may be leased only upon securing the written approval of the Board of Directors of the Association. No Unit may be leased or rented in any manner directly or indirectly, for hotel, motel or similar transient use.

Section 12.20. Encroachment Easement. None of the rights and obligations of the Owners created herein, or by the deeds conveying the Condominiums, shall be altered in any way by minor encroachments due to the construction, reconstruction, repair, settlement, shifting or movement of any portion of any structures or any other cause. There shall be valid easements for the maintenance of said minor encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners. In the event any portion of a structure on the Project is partially or totally destroyed and then repaired or rebuilt, each Owner agrees that minor encroachments over adjoining Living Units, Carports, Common Areas or Limited Common Areas and Facilities shall be easements for the maintenance of said encroachments so long as they shall exist.

MODEL UNITS AND SALES OFFICE

Section 13.01. Declarant and its duly authorized agents, representatives, and employees shall have the right to maintain a sales office on land within the Project, and to use the sales office during the period that Units remain unsold. The rights under this Article 13 shall expire seven (7) years after the date of the first conveyance of a Unit to a Unit Owner.

## ARTICLE 14

DEVELOPER'S EASEMENT

Section 14.01. Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the general and limited common areas and facilities, and the right to store materials thereon and make such other use thereof as may be reasonably necessary incident to construction, development, and sales of the Condominiums and operation of the Units and common areas, limited common areas and facilities in connection with Hearthstone. Declarant and its agent shall retain the right to use the sales office and the general, common and limited common areas and facilities in connection therewith during the period of development and sale of Hearthstone. The rights under this Article 14 shall expire seven (7) years after the date of the first conveyance of Unit to a Unit Owner.

## ARTICLE 15

CONVEYANCES AND EASEMENTS

Section 15.01. Description of Unit for Conveyance. Every deed, lease, mortgage, or other instrument may describe a Unit by its identifying number set forth in Exhibit B and in the floor plans, Exhibit A. Every such description shall be deemed good and sufficient for all purposes and shall be

deemed to convey, transfer, encumber, or otherwise effect the Owner's corresponding percentage of undivided ownership in the Common Areas and Facilities, as a tenant in common, as set forth in Exhibit B, including the Owner's beneficial interest in any tangible and intangible personal property held by the Association for the benefit of Owners pursuant to 117.090 (or the successor thereto) of the Act, even though the same is not exactly mentioned or described.

Section 15.02. Declarant's Easements. Every deed, lease, mortgage, or other similar instrument shall be deemed to except and reserve to Declarant easements:

(1) Over and upon the Common Areas and upon lands appurtenant to the Project for the purpose of completing improvements for which provision is made in the Declaration, but only if access thereto is otherwise not reasonably available, and

(2) Over and upon the Common areas for the purpose of making repairs required pursuant to the Declaration or contracts of sale made with Unit purchasers.

The easements excepted and reserved to Declarant under this Section 15.02 shall expire seven (7) years after the date of the first conveyance of a Unit to a Unit Owner.

Section 15.03. Unit Easements. To the extent not inconsistent with 15.02, every deed, lease, mortgage, or similar instrument shall be deemed to:

(a) Except and reserve with respect to a Unit: (1) any portion of the Common Areas and Facilities and Limited Common Areas and Facilities lying within said Unit; (2) easements through said Unit, appurtenant to

the Common Areas and Facilities and Limited Common Areas and Facilities and all other Units; (3) easements, appurtenant to the Common Areas and Facilities and Limited Common Areas and Facilities, for encroachment upon the air space of said Unit by those portions of the Common Areas and Facilities located within said Unit;

(b) Include with respect to a Unit a grant of an easement to each Owner and for the Association for ingress and support of said Unit through the Common Areas and facilities and Limited Common Areas and Facilities for the purpose of effecting emergency repairs of said Unit through all other Units and through the Common Areas and facilities and Limited Common Areas and Facilities and a reasonable right of entry for the Association in the same manner with respect to said Unit to effect other repairs, improvements, replacement or maintenance as necessary. Such easement shall be subject to the following limitations: Entry into a Unit for emergency purposes may be immediate; provided, however, such entry shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party. Entry into a Unit for other than emergency repairs shall be made only after three (3) days notice has been given to the Owner and shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party;

(c) Except and reserve, with respect to the undivided percentage interest in the Common Areas and Facilities, nonexclusive easements appurtenant to all Units for ingress, egress, support, and repair;

(d) Include with respect to the undivided percentage interest in the Common Areas and Facilities, nonexclusive easements through each Unit for support and repair of the Common Areas and Facilities and Limited Common Areas and Facilities and nonexclusive easements for encroachments upon the air space of all of the Units by and for the portions of the Common Areas and facilities and Limited Common Areas and Facilities lying within the Units; and

(e) Reserve to each Unit Owner an unrestricted right of ingress and egress to his Unit, which right shall be perpetual and appurtenant to Unit ownership.

Section 15.04. Right to Grant Easements. The Association shall have the right to grant permits, licenses and easements over the common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

#### ARTICLE 16

##### AMENDMENTS

Section 16.01. The consent of the Owners of Units to which at least sixty-seven percent (67%) of the votes in Association are allocated and the approval of eligible holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to eligible holder

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mortgages, shall be required to add or amend any material provisions of the Declaration and the Bylaws and Rules and Regulations adopted by the Association, which establish, provide for, govern or regulate any of the following:

- a. Voting.
- b. Assessments, assessment liens or subordination of such liens;
- c. Reserves for maintenance, repair or replacement of the Common Areas (or Limited Common Areas and Facilities or Units if applicable);
- d. Insurance or Fidelity Bonds;
- e. Rights to use of the Common Areas;
- f. Responsibility for maintenance and repair of the several portions of the Project;
- g. Except as otherwise provided in the Declaration therefor, expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
- h. Except as otherwise provided in the Declaration (see, for example, 3.06), boundaries of any Unit;
- i. The interests in the General or Limited Common Areas;
- j. Convertibility of Units into Common Areas or of Common Areas into Units;
- k. Leasing of Units; and
- l. Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgages on Units.

The immediately preceding voting requirements shall not apply to amendments to this Declaration, the Bylaws and Rules and Regulations



adopted by the Association or to the termination of the Condominium Project when those are made as a result of destruction, damage or condemnation of the Project, except to the extent voting requirements for amendments occasioned by those events are not otherwise provided for in this Declaration.

#### ARTICLE 17

##### MISCELLANEOUS

Section 17.01. Term, Force and Effect of the Declaration. This Declaration shall run with the land, and shall continue in full force and effect until it is terminated as provided for in Article 11 hereof. Each purchaser by accepting a deed to a Condominium accepts the interest thereby conveyed subject to all of the provisions of this Declaration and agrees to be bound thereby. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Project. This Declaration shall take effect when recorded.

Section 17.02. Amendments. Except as prohibited by the Act, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged (a) by Declarant alone, prior to recordation of the sale of any Condominium in the Project, or thereafter (b) as provided in Article 17, or (c) where not otherwise provided for, by the record Owners representing a sixty-seven percent (67%) of the voting power in the Association, which amendment shall be effective upon recordation in the Office of the County Recorder, Clark County, Nevada. In addition, Declarant shall have the right to amend this Declaration without the consent of other Owners as required by an instrument lender as a condition of making a loan secured by an interest in a Condominium; no amendment shall, however, change the fractional ownership or the fractional assessments of Unit Owners, or reduce the rights of a holder of a record mortgage made in good faith and for value, without the approval of all the parties affected.

Section 17.03. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforcement of any other provision hereof.

Section 17.04. Power of Attorney. An irrevocable power of attorney coupled with an interest is granted by the Unit Owners to the Association to the extent of the powers and rights given to the Association by the provisions of this Declaration.

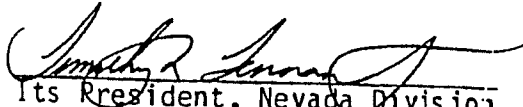
Section 17.05. Captions. The captions of this Declaration are for convenience and reference only, and in no way define, limit or describe the scope or intent of this Declaration, nor are intended in any way to affect this instrument.

Section 17.06. Notices. All notices required hereunder shall be in writing and shall be deemed to have been properly given when served personally or mailed by United States mail, postage prepaid and addressed to Unit Owners at the Project, and to the Association at its address at the Project.

Section 17.07. Nevada Law. This Declaration, the condominium plat and plans, the Articles of Incorporation, the Bylaws and the Rules and Regulations shall be construed and controlled by and under the laws of the State of Nevada.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

U.S. HOME CORPORATION  
A Delaware Corporation

By   
Its President, Nevada Division

## EXHIBIT A

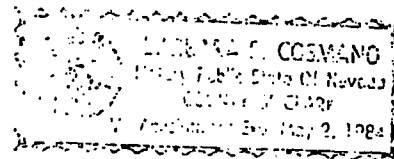
## LEGAL DESCRIPTION

BEGINNING AT A POINT THAT IS 16.01 FEET NORTH AND 1358.76 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 1, T 22 S, R 62 E, M.D.M. THENCE S 0°20'19" W 446.96 FEET; TO A POINT ON A 1146.50 FOOT RADIUS CURVE ( BEARING TO THE CENTER OF THE CURVE BEARS S 01°36'56" E ) THENCE 245.509 FEET ALONG THE ARC OF SAID CURVE ( CORD BEARING BEARS S 32°14' 59" W ); THENCE N 13°53'05" W 114.06 FEET; TO A POINT ON A 350.00 FOOT RADIUS CURVE ( BEARING TO THE CENTER OF THE CURVE BEARS N 76°06'55" E ) THENCE 86.885 FEET ALONG THE ARC OF SAID CURVE ( CORD BEARING BEARS N 06°46'22" W ); THENCE N 0°20'19" E 286.54 FEET; THENCE S 89° 19'30" E 281.36 FEET TO THE POINT OF BEGINNING CONTAINS 2.925 ACRES.

STATE OF NEVADA)  
 )  
 COUNTY OF CLARK) SS.

On this 8th day of July, 1983, before me, the undersigned, a Notary Public in and for the County of Clark, State of Nevada, personally appeared TIMOTHY TENNANT, and for himself, duly acknowledged to me that he is the person named in and who executed the above and foregoing instrument and that he executed the same voluntarily and for the use and purposes therein mentioned.

Barbara J. Cosmano  
 NOTARY PUBLIC



WILL CALL

KN TO.

U.S. HOME CORPORATION  
 c/o GOLDEN WEST MANAGEMENT CORP.  
 POST OFFICE BOX 19338  
 LAS VEGAS, NEVADA, 89132

CLARK COUNTY, NEVADA  
 JOAN L. SWIFT, RECORDER  
 RECORDED AT REQUEST OF  
U.S. Home Corp.  
 Nov 17 4 55 PM '83

FEE 74.10 DEPUTY [Signature]  
 OFFICIAL RECORDS  
 INSTRUMENT

BOOK 1835

1794840

30-30

Will Call

RETURN TO:

U.S. HOME CORPORATION  
% GOLDEN WEST MANAGEMENT CORP.  
POST OFFICE BOX 19338  
LAS VEGAS, NEVADA, 89132

CLARK COUNTY, NEVADA  
JOAN L. SWIFT, RECORDER  
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*U.S. Home Corp.*

Nov 17 4 56 PM '83

FEE *34.00* DEPUTY *CL*  
OFFICIAL RECORDS  
BOOK INSTRUMENT

1835

1794840

*34 1/2*