

**CC&Rs**  
**Eagle Ridge at Skye Canyon Community Association**

Order: MQGJNN4TN  
Address: 8106 Skye Sweep St  
Order Date: 06-13-2023  
Document not for resale  
HomeWiseDocs

APN: Portion of 126-12-410-002

Inst #: 20180216-0002015  
Fees: \$40.00  
02/16/2018 02:10:04 PM  
Receipt #: 3325019  
Requestor:  
PULTE HOMES OF NEVADA  
Recorded By: GYOUNG Pgs: 73  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: MAIN OFFICE

**WHEN RECORDED, RETURN TO:**

Pulte Homes of Nevada  
7255 S. Tenaya Way, Suite 200  
Las Vegas, NV 89113  
Attn: John F. Cahlan, Esq.

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**EAGLE RIDGE AT SKYE CANYON, a planned community**

Order: MQGJNN4TN  
Address: 8106 Skye Sweep St  
Order Date: 06-13-2023  
Document not for resale  
HomeWiseDocs

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**EAGLE RIDGE AT SKYE CANYON, a planned community**

**Table of Contents**

**Page**

**ARTICLE 1  
DEFINITIONS**

1.1	General Definitions.....	2
1.2	Defined Terms.....	2

**ARTICLE 2  
SUBMISSION AND DEVELOPMENT OF PROPERTY; UNIT BOUNDARIES;  
ALLOCATION OF FRACTIONAL INTERESTS, VOTES, COMMON EXPENSE  
LIABILITY AND LIMITED COMMON ELEMENTS; EXPANSION OF COMMUNITY**

2.1	Submission of Property.....	8
2.2	Name of Planned Community.....	9
2.3	Name of Association.....	9
2.4	Identifying Numbers of Units.....	9
2.5	Unit Boundaries.....	9
2.6	Allocation of Common Expense Liability.....	9
2.7	Allocation of Votes in the Association.....	9
2.8	Allocation of Limited Common Elements.....	9
2.9	Expansion of the Planned Community.....	9

**ARTICLE 3  
EASEMENTS**

3.1	Utility Easements.....	11
3.2	Easements for Ingress and Egress.....	11
3.3	Unit Owners' Easements of Enjoyment.....	12
3.4	Declarant's Use for Sales and Leasing Purposes.....	13
3.5	Declarant's Rights and Easements.....	14
3.6	Units' Easement in Favor of Association.....	14
3.7	Easement Data.....	15
3.8	Easement for Unintended Encroachments.....	15
3.9	Landscape Easements.....	15

ARTICLE 4  
PERMITTED USES AND RESTRICTIONS

4.1	Restrictions Imposed by Master Association Governing Documents. ....	16
4.2	Signs.....	17
4.3	Restriction on Further Subdivision, Property Restrictions and Rezoning. ....	17
4.4	Trucks, Trailers, Recreational Vehicles, Campers and Boats.....	17
4.5	Motor Vehicles.....	18
4.6	Towing and Immobilization of Vehicles. ....	18
4.7	Leasing.....	19
4.8	Solar Energy Systems. ....	19
4.9	Variances; Diminution of Restrictions.....	22

ARTICLE 5  
MAINTENANCE AND REPAIR

5.1	Duties of the Association. ....	23
5.2	Duties of Unit Owners. ....	23
5.3	Party Walls and Fences. ....	23
5.4	Maintenance of Walls and Fences Other Than Party Walls and Fences.....	23
5.5	Maintenance of Retaining Walls.....	24
5.6	Installation of Landscaping.....	24

ARTICLE 6  
THE ASSOCIATION

6.1	Rights, Powers and Duties of the Association. ....	24
6.2	Directors and Officers.....	25
6.3	Association Rules.....	26
6.4	Composition of Members.....	26
6.5	Personal Liability. ....	27
6.6	Implied Rights.....	27
6.7	Voting Rights. ....	27
6.8	Voting Procedures.....	27
6.9	Transfer of Membership.....	27
6.10	Suspension of Voting Rights.....	28
6.11	Conveyance or Encumbrance of Common Element. ....	28
6.12	Change of Use of Common Elements.....	28
6.13	Contracts with Others for Performance of Association's Duties. ....	28
6.14	Commencement of Civil Action. ....	29

ARTICLE 7  
ASSESSMENTS

7.1	Preparation of Budgets.....	29
7.2	Common Expense Assessment.....	30
7.3	Special Assessments.....	31
7.4	Maintenance Assessments.....	31
7.5	Declarant Subsidy.....	32
7.6	Assessment Period.....	32
7.7	Commencement Date of Assessment Obligation.....	33
7.8	Rules Regarding Billing and Collection Procedure.....	33
7.9	Effect of Nonpayment of Assessments; Remedies of the Association.....	33
7.10	Notice of Delinquent Assessment.....	35
7.11	Foreclosure Sale.....	35
7.12	Curing of Default.....	36
7.13	Cumulative Remedies.....	36
7.14	Exemption of Unit Owner.....	36
7.15	Certificate of Payment.....	36
7.16	No Offsets.....	36
7.17	Working Capital Fund.....	37
7.18	Reserve Assessments.....	37
7.19	Surplus Funds.....	37
7.20	Administrative Fee.....	37

ARTICLE 8  
INSURANCE

8.1	Scope of Coverage.....	38
8.2	Payment of Premiums.....	39
8.3	Allocation of Insurance Deductible.....	39
8.4	Payment of Insurance Proceeds.....	40
8.5	Certificate of Insurance.....	40
8.6	Annual Insurance Review.....	40
8.7	Repair and Replacement of Damaged or Destroyed Property.....	40

ARTICLE 9  
RIGHTS AND OBLIGATIONS OF MORTGAGEES

9.1	First Mortgagee's Right of Inspection of Records.....	41
9.2	No Priority over First Mortgagees.....	41
9.3	Obligations of Mortgagees.....	41

ARTICLE 10  
RESERVATION OF DEVELOPMENTAL AND  
SPECIAL DECLARANT'S RIGHTS

10.1	Developmental Rights.....	41
10.2	Right to Complete Improvements and Construction Easement. ....	42
10.3	Offices, Model Homes and Promotional Signs. ....	42
10.4	Use of Easements. ....	42
10.5	Master Association.....	42
10.6	Merger or Consolidation. ....	42
10.7	Appointment and Removal of Directors and Officers. ....	42

ARTICLE 11  
ADDITIONAL DISCLOSURES, DISCLAIMERS AND RELEASES

11.1	Post Tension Concrete System.....	43
11.2	Restricted Access Gate.....	43
11.3	High Power Electric Transmission Lines; Release of Claims. ....	44
11.4	Paseo. ....	44
11.5	Park. ....	44
11.6	Views Not Guaranteed. ....	45
11.7	Relationship Between Master Association and Association.....	45
11.8	Release. ....	45

ARTICLE 12  
GENERAL PROVISIONS

12.1	Enforcement. ....	46
12.2	Severability. ....	47
12.3	Duration. ....	47
12.4	Termination of Community. ....	47
12.5	Amendment. ....	47
12.6	Remedies Cumulative. ....	48
12.7	Notices. ....	48
12.8	Binding Effect. ....	48
12.9	Gender. ....	49
12.10	Topic Headings. ....	49
12.11	Survival of Liability. ....	49
12.12	Joint and Several Liability. ....	49
12.13	Guests and Tenants. ....	49
12.14	Number of Days. ....	49
12.15	Notice of Violation.....	50
12.16	No Absolute Liability.....	50
12.17	Governing Law. ....	50

12.18	Interpretation.....	50
12.19	References to this Declaration in Deeds. ....	51
12.20	Dispute Notification and Resolution Procedure.....	51
12.21	Rule Against Perpetuities.....	56
12.22	Master Association.....	57
12.23	Protection of Master Declarant and Master Association.....	57
12.24	Coexistence of Master Declaration. ....	57
12.25	Effect on Agreements Between Declarant and Master Declarant.....	57
12.26	Unit Owner's Acknowledgment of Limited Warranty. ....	58
12.27	Limitation of Liability.....	58

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

### FOR

#### EAGLE RIDGE AT SKYE CANYON, a planned community

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EAGLE RIDGE AT SKYE CANYON, a planned community (this “**Declaration**”) is made as of February 15, 2018, by PN II, INC., a Nevada corporation d/b/a Pulte Homes of Nevada (the “**Declarant**”).

### RECITALS

A. Declarant is the owner of certain real property located in Clark County, Nevada, which is more particularly described in **Exhibit A** attached hereto (“**Eagle Ridge at Skye Canyon**”).

B. A Master Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Skye Canyon (a Nevada Master Common-Interest Planned Community) was recorded in the Office of the Clark County Recorder, Clark County, Nevada, by KAG Development South LLC, a Delaware limited liability company, on October 15, 2014, as Instrument No. 0000113 in Book 20141015 (the “**Master Declaration**”) for the master common-interest planned community of Skye Canyon (“**Skye Canyon**”) for the purposes of providing a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance and preservation of Skye Canyon as a master planned community and developing and conveying portions of Skye Canyon subject to the Master Declaration and jurisdiction of the Skye Canyon Community Association, a Nevada nonprofit corporation (the “**Master Association**”).

C. Eagle Ridge at Skye Canyon is a part of Skye Canyon and is also a “neighborhood” within Skye Canyon. Eagle Ridge at Skye Canyon is subject to the Master Declaration and the jurisdiction of the Master Association. This Declaration of Covenants, Conditions and Restrictions for Eagle Ridge at Skye Canyon is a “supplemental declaration,” as such term is defined in the Master Declaration.

D. It is Declarant’s intent to establish certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all supplemental and in addition to those contained in the Master Declaration, upon the properties within Eagle Ridge at Skye Canyon, all for the purpose of enhancing and protecting the value, desirability and attractiveness of Eagle Ridge at Skye Canyon and enhancing the quality of life therein. All property within Eagle Ridge at Skye Canyon shall be held and conveyed subject to such covenants, conditions restrictions, reservations, easements, equitable servitudes, liens and charges.



E. In furtherance of its desire for efficient management and preservation of the values and amenities in Eagle Ridge at Skye Canyon, Declarant has deemed it desirable to create a corporation to which shall be delegated and assigned the powers of owning, maintaining and administering the Common Elements (as hereinafter defined) for the private use of its Members (as hereinafter defined) and authorized guests, administering and enforcing the covenants, conditions restrictions, reservations, easements, equitable servitudes, liens and charges, collecting and disbursing the assessments and charges hereafter created and performing such other acts as shall generally benefit Eagle Ridge at Skye Canyon. Eagle Ridge at Skye Canyon Community Association, a Nevada nonprofit corporation (the "**Association**"), the Members of which shall be the respective Unit Owners (as hereinafter defined) of Units (as hereinafter defined) in Eagle Ridge at Skye Canyon, has been incorporated under the laws of the State of Nevada for the purpose of exercising the powers and functions stated above. The Association is a "neighborhood association," as such term is defined in the Master Declaration.

F. Eagle Ridge at Skye Canyon is a common-interest community, as defined in the Nevada Uniform Common-Interest Ownership Act (N.R.S. § 116). For the purposes of N.R.S. 116.2105(a), the common-interest community is a "planned community."

## **ARTICLE 1 DEFINITIONS**

**1.1 General Definitions.** Capitalized terms not otherwise defined in this Declaration shall have the meanings specified for such terms in the Uniform Common-Interest Ownership Act, N.R.S. § 116.001, et seq., as amended from time to time.

**1.2 Defined Terms.** The following capitalized terms shall have the general meanings described in the Act and for purposes of this Declaration shall have the specific meanings set forth below:

**1.2.1 "Act"** means the Uniform Common-Interest Ownership Act, N.R.S. § 116.001, et seq., as amended from time to time.

**1.2.2 "Additional Property"** means the real property located in Clark County, Nevada, which is described on **Exhibit B** attached to this Declaration, together with all buildings and other Improvements located thereon, and any other real property that Declarant may designate as "Additional Property" pursuant to N.R.S. § 116.2122, together with all buildings and other Improvements located thereon.

**1.2.3 "Areas of Common Responsibility"** means (i) all Common Elements; (ii) all real property, and the Improvements situated thereon, located within the boundaries of a Unit that the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration, any Plat, or the terms of another Recorded document executed by the Declarant or the Association (subject to the prior written approval of Master Declarant); (iii)

all real property, and the Improvements situated thereon, within or adjacent to the Community that the Association is obligated to maintain, repair, and replace pursuant to the terms of this Declaration, any Plat, or the terms of another Recorded document executed by the Declarant or the Association (subject to the prior written approval of Master Declarant); and (iv) all real property, and the Improvements situated thereon, within or adjacent to the Community located within dedicated rights-of-way with respect to which the Master Association, State of Nevada or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the Master Association, State of Nevada or any county or municipality has accepted all responsibility for the maintenance, repair and replacement of such areas.

**1.2.4 "Articles"** means the Articles of Incorporation of the Association, as amended from time to time.

**1.2.5 "Assessments"** means the Common Expense Assessments, Maintenance Assessments, Special Assessments and Reserve Assessments levied and assessed against each Unit pursuant to **Article 7** of this Declaration.

**1.2.6 "Assessment Lien"** means the lien granted to the Association by the Act and/or this Declaration to secure the payment of Assessments, fines and other charges owed to the Association.

**1.2.7 "Association"** means Eagle Ridge at Skye Canyon Community Association, a Nevada nonprofit corporation, its successors and assigns.

**1.2.8 "Association Rules"** means the rules and regulations adopted by the Association, as amended from time to time.

**1.2.9 "Board of Directors"** means the Board of Directors of the Association.

**1.2.10 "Bylaws"** means the Bylaws of the Association, as amended from time to time.

**1.2.11 "Common Elements"** means any real estate within the Community owned or leased, or designated by Declarant to be maintained, by the Association, other than the Units, and any other interests in real estate for the benefit of Unit Owners. The Common Elements initially subjected to this Declaration are as described on **Exhibit A**, and any additional Common Elements annexed by Declarant shall be described in an amendment to this Declaration or a Declaration of Annexation annexing such Common Elements.

**1.2.12 "Common Expenses"** means expenditures made by or financial liabilities of the Association, including (i) the cost of maintenance, management, operation, repair and replacement of the Common Elements and all Improvements thereon and all other Areas of Common Responsibility, including clustered mailboxes, private streets, gated entries, private sidewalks, private street lights and private utility lines and other facilities and

equipment not maintained by a utility provider; (ii) the cost of centrally metered utilities that serve the Units and/or the Common Elements and the cost of trash removal for the Units if so elected by the Board of Directors; (iii) the cost of insurance premiums for fire, liability, workers' compensation, directors, officers and agents liability and fidelity and any other insurance deemed appropriate by the Board of Directors, (iv) the cost of compensation, wages, services, supplies and other expenses required for the administration and operation of the Association and for the maintenance and repair of that portion of the Community for which the Association has responsibility, Including fees, charges and costs payable to any governmental entity pursuant to law; (v) the cost of rendering to the Unit Owners all services required to be rendered by the Association under the Governing Documents; (vi) such amount as is established by the Association as adequate reserves for the cost of repair and replacement for the major components of the Common Elements and other Areas of Common Responsibility, which may be used only for Common Expenses that involve major repairs or replacement and that may not be used for daily maintenance, Including repairing and replacing private streets and private sidewalks; (vii) such other funds as may be necessary to provide general operating reserves and reserves for contingencies and replacements deemed appropriate by the Board of Directors; and (viii) the cost of any other item or items incurred by the Association, for any reason whatsoever in connection with the Community for the common benefit of the Unit Owners.

**1.2.13 "Common Expense Assessment"** means the assessment levied against the Units pursuant to **Section 7.2** of this Declaration.

**1.2.14 "Common Expense Liability"** means the liability for Common Expenses allocated to each Unit by this Declaration.

**1.2.15 "Community"** means the real property located in Clark County, Nevada, which is described in **Exhibit A** attached to this Declaration, together with all Improvements located thereon, and any portion of the Additional Property that is annexed by the Declarant pursuant to **Section 2.9** of this Declaration, together with all Improvements located thereon.

**1.2.16 "Declarant"** means PN II, Inc., a Nevada corporation d/b/a Pulte Homes of Nevada, and its successors and any Person to which it may transfer any Special Declarant's Right.

**1.2.17 "Declarant Party" or "Declarant Parties"** means, collectively, Declarant, the shareholders of Declarant, parent, affiliates and subsidiaries of Declarant, the officers, directors and employees of all of the foregoing, and as to **Section 12.20** of this Declaration, to the extent such Persons agree to be bound by **Section 12.20**, any contractors, subcontractors, brokers, suppliers, architects, engineers and any other Person providing materials or services in connection with the construction of any Improvement upon or benefiting the Community.

**1.2.18 “Declaration”** means this Declaration of Covenants, Conditions and Restrictions for Eagle Ridge at Skye Canyon, as amended from time to time.

**1.2.19 “Developmental Rights”** means any right or combination of rights reserved by the Declarant in this Declaration to do any of the following:

- (i) Add real estate to the Community;
- (ii) Create Units, Common Elements and Limited Common Elements within the Community;
- (iii) Subdivide Units or convert Units into Common Elements; or
- (iv) Withdraw real estate from the Community.

**1.2.20 “Dwelling”** means any building situated upon a Unit and designed and intended for independent ownership and for use and occupancy as a residence.

**1.2.21 “First Mortgage”** means any mortgage or deed of trust encumbering a Unit with first priority over any other mortgage or deed of trust on the same Unit.

**1.2.22 “First Mortgagee”** means the holder of any First Mortgage.

**1.2.23 “Governing Documents”** means this Declaration together with the Articles, Bylaws, Association Rules, and any other documents that govern the operation of the Community or the Association.

**1.2.24 “Identifying Number”** means the number assigned to a particular Unit that identifies only that one Unit in the Community and that is shown on a Plat as a “Lot Number.”

**1.2.25 “Improvement”** means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Community, including buildings, basketball hoops and poles, play equipment, private drives, paving, fences, walls, hedges, plants, trees and shrubs of every type and kind.

**1.2.26 “Include” or “Including”** means include or including, without limitation.

**1.2.27 “Limited Common Elements”** means a portion of the Common Elements allocated by this Declaration or as designated on a Plat or by operation of Subsection 2 or 4 of N.R.S. § 116.2102 for the exclusive use of the Unit Owners of one or more but fewer than all of the Units.

**1.2.28 “Maintenance Assessment”** means any assessment levied against a Unit pursuant to **Section 7.4** of this Declaration.

**1.2.29 “Maintenance Standard”** means the standard of maintenance of Improvements established from time to time by the Board of Directors, which shall be equal to or superior to the “Community Standards” established pursuant to the Master Declaration.

**1.2.30 “Master Association”** means Skye Canyon Community Association, a Nevada nonprofit corporation, its successors and assigns.

**1.2.31 “Master Association Governing Documents”** means the Master Declaration, and the articles of incorporation and bylaws of the Master Association, and any architectural guidelines, rules, regulations, policies and resolutions established or adopted by the Master Association, as any of the foregoing documents may be supplemented and amended from time to time.

**1.2.32 “Master Declarant”** means the “declarant” under the Master Declaration.

**1.2.33 “Master Declaration”** means the Master Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Skye Canyon (a Nevada Master Common-Interest Planned Community) Recorded on October 15, 2014, as Instrument No. 0000113 in Book 20141015, as supplemented and amended from time to time.

**1.2.34 “Member”** means any Person who is or becomes a member of the Association.

**1.2.35 “Period of Declarant Control”** means the time period commencing on the date this Declaration is Recorded and ending on the earlier of:

(i) Sixty (60) days after the conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than the Declarant; or

(ii) Five (5) years after Declarant has ceased to offer Units for sale in the ordinary course of business; or

(iii) Five (5) years after any right to add new Units was last exercised; or

(iv) Such later date as may be permitted under the Act; or

(v) Such earlier date as may be elected by Declarant pursuant to **Subsection 6.2.3** of this Declaration.

**1.2.36 "Person"** means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

**1.2.37 "Plat"** means a Recorded final subdivision map for any portion of the Community, and all amendments, supplements and corrections thereto, and any subdivision map that may be Recorded against any part of the Additional Property that is annexed by the Declarant pursuant to **Section 2.9** of this Declaration, and any amendments, replats, supplements or corrections thereto.

**1.2.38 "Purchaser"** means any Person who by means of a voluntary transfer becomes a Unit Owner, except for (i) the Declarant, (ii) a Person who purchases a Unit and then leases it to the Declarant for use as a model in connection with the sale of other Units, and (iii) a Person who, in addition to purchasing a Unit, is assigned any Special Declarant's Right.

**1.2.39 "Record"** or any derivative thereof, means to place, or having been placed, in the office of the County Recorder of Clark County, Nevada.

**1.2.40 "Reserve Assessment"** means the assessment levied against the Units pursuant to **Section 7.18** of this Declaration.

**1.2.41 "Resident"** means each individual occupying or residing in any Unit.

**1.2.42 "Special Assessment"** means any assessment levied against the Units pursuant to **Section 7.3** of this Declaration.

**1.2.43 "Special Declarant's Rights"** means rights reserved for the benefit of the Declarant in this Declaration or by the Act to do any of the following:

- (i) Construct Improvements provided for in this Declaration or shown on the Plat;
- (ii) Exercise any Developmental Right;
- (iii) Maintain sales offices, management offices, models, and signs advertising the Community and models;
- (iv) Use easements through the Common Elements and other Areas of Common Responsibility for the purpose of making Improvements within the Community or within the Additional Property;
- (v) Make the Community subject to a master association other than the Master Association;

(vi) Merge or consolidate the Community with another common-interest community of the same form of ownership; or

(vii) Appoint or remove any officer of the Association and any member of the Board of Directors during the Period of Declarant Control.

**1.2.44 "Unit"** means a physical portion of the Community designated for separate ownership or occupancy, the boundaries of which are described in **Section 2.5** of this Declaration.

**1.2.45 "Unit Owner"** means the Record Owner (Including Declarant), whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Unit. Unit Owner shall not include Persons having an interest in a Unit merely as security for the performance of an obligation, or a lessee or tenant of a Unit. Unit Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts that are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of a Unit, the fee simple title to which is vested in a trustee under a deed of trust, the Trustor shall be deemed to be the Unit Owner. In the case of a Unit, the fee simple title to which is vested in a trustee pursuant to a trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the Unit shall be deemed to be the Unit Owner.

**1.2.46 "Visible From Neighboring Property"** means, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing at ground level on any part of a neighboring property, Including a Unit, Common Element or street.

## **ARTICLE 2**

### **SUBMISSION AND DEVELOPMENT OF PROPERTY; UNIT BOUNDARIES; ALLOCATION OF FRACTIONAL INTERESTS, VOTES, COMMON EXPENSE LIABILITY AND LIMITED COMMON ELEMENTS; EXPANSION OF COMMUNITY**

**2.1 Submission of Property.** Declarant hereby submits the real property described on **Exhibit A** attached to this Declaration, together with all Improvements situated thereon and all easements, rights and appurtenances thereto, to the provisions of the Act for the purpose of creating a planned community in accordance with the provisions of the Act and hereby declares that the real property described on **Exhibit A** attached to this Declaration, together with all Improvements situated thereon, and all easements, rights and appurtenances thereto, and any part of the Additional Property annexed pursuant to **Section 2.9** of this Declaration, together with all Improvements situated thereon and easements, rights and appurtenances thereto, shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration.

**2.2 Name of Planned Community.** The name of the planned community created by this Declaration is Eagle Ridge at Skye Canyon.

**2.3 Name of Association.** The name of the Association is Eagle Ridge at Skye Canyon Community Association.

**2.4 Identifying Numbers of Units.** The Identifying Numbers of the Units are as set forth on **Exhibit A** and defined in **Subsection 1.2.24**.

**2.5 Unit Boundaries.**

**2.5.1** The boundaries of each Unit are as shown on a Plat.

**2.5.2** Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant, and between adjoining Units owned by Declarant and any Unit Owner with the written consent of such Unit Owner, and to reallocate each such Unit's votes in the Association and Common Expense Liability subject to and in accordance with the Act.

**2.6 Allocation of Common Expense Liability.** The liability for the Common Expenses of the Association shall be allocated equally among the Units. Accordingly, each Unit's initial fractional interest in the Common Expenses of the Association shall be 1/4. If the Community is expanded by the annexation of all or any part of the Additional Property pursuant to **Section 2.9** of this Declaration, the liability for the Common Expenses of the Association shall be reallocated in the manner set forth in **Subsection 2.9.1(iv)** of this Declaration. Nothing contained in this **Section 2.6** shall prohibit certain Common Expenses from being apportioned to particular Unit(s) under **Articles 5 and 7** and other provisions of this Declaration.

**2.7 Allocation of Votes in the Association.** The total votes in the Association shall be equal to the number of Units in the Community. The votes in the Association shall be allocated equally among all the Units, with each Unit having one (1) vote.

**2.8 Allocation of Limited Common Elements.** The Board of Directors shall have the right, without a vote of the Members, to allocate as a Limited Common Element any portion of the Common Elements not previously allocated as a Limited Common Element. Any such allocation by the Board of Directors shall be made by an amendment to this Declaration.

**2.9 Expansion of the Planned Community.**

**2.9.1** Declarant hereby expressly reserves the right, but not the obligation, to expand the planned community created by this Declaration, without the consent of the Association or any other Unit Owner, by annexing and submitting to this Declaration all or any portion of the Additional Property. The Declarant shall exercise its right to expand the



planned community by preparing and Recording an amendment or a declaration of annexation (a **"Declaration of Annexation"**) to this Declaration containing the following:

- (i) a legal description of the portion of the Additional Property being annexed;
- (ii) the number of Units being added by the annexation and the Identifying Number assigned to each new Unit;
- (iii) a description of the Common Elements and Limited Common Elements created;
- (iv) a reallocation to each Unit of the fractional undivided interest in the liability for Common Expenses of the Association and the current number of votes in the Association, all of which shall be allocated equally to each Unit; and
- (v) a description of any Developmental Rights reserved by the Declarant within the Additional Property being annexed.

**2.9.2** Unless otherwise provided in the amendment or Declaration of Annexation adding Additional Property, the effective date for reallocating to each Unit a fractional undivided interest in the liability for Common Expenses of the Association and in the votes in the Association shall be the date on which the amendment or Declaration of Annexation annexing additional Units is Recorded.

**2.9.3** This option to expand the planned community shall expire twenty-five (25) years from the date of the Recording of this Declaration.

**2.9.4** The Additional Property may be added as a whole at one time or in one or more portions at different times, or it may never be added, and there are no limitations upon the order of addition or the boundaries thereof. The property submitted to the Community need not be contiguous, and the exercise of the option as to any portion of the Additional Property shall not bar the further exercise of the option as to any other portions of the Additional Property.

**2.9.5** There are no limitations on the locations or dimensions of Improvements to be located on the Additional Property. No assurances are made as to what, if any, further Improvements will be made by Declarant on any portion of the Additional Property.

**2.9.6** The Additional Property, when and if added to the Community, shall be subject to the use restrictions contained in this Declaration and the Master Declaration and shall be subject in all respect to the Governing Documents and the Master Association Governing Documents.

**2.9.7** Declarant reserves the right to create and develop, directly or through merchant builders to which the various Units may be conveyed, up to an aggregate maximum of one hundred and two (102) Units in the Community to wit: four (4) Unit on the real property described in **Exhibit A** and ninety-eight (98) Units on the Additional Property described in **Exhibit B**, or otherwise annexed pursuant to **Subsection 2.9.8** below, in the event Declarant exercises its right of annexation pursuant to the terms of this Declaration. The foregoing maximum number of Units in the Community may not be increased without the prior written consent of the Master Declarant. Declarant makes no representations, assurances or warranties whatsoever that: (i) all of such Units will be created or developed, nor that the Community will be completed in accordance with the plans for the Community as they exist on the date this Declaration is Recorded; (ii) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (iii) the sequence, timing or location of further development; or (iv) the use of any property subject to this Declaration will not be changed in the future. Unless otherwise expressly provided elsewhere herein, any "Developmental Rights" or "Special Declarant's Rights" (as those terms are defined in the Act) reserved to Declarant in this Declaration may be exercised with respect to different portions of the Community or Additional Property at different times, and the exercise of such rights in a portion of the Community or Additional Property shall not necessitate the exercise of any such right in all or any portion of the remaining Community or Additional Property.

**2.9.8** Notwithstanding anything in this Declaration to the contrary, Declarant reserves the right to expand the Community by adding additional property not described on **Exhibit B** attached hereto so long as (i) such additional property is annexed and submitted to this Declaration in the same manner described in this **Section 2.9**, (ii) the maximum number of Units set forth in **Subsection 2.9.7** is not increased, and (iii) the addition of such additional property complies with the provisions of N.R.S. § 116.2122.

### **ARTICLE 3 EASEMENTS**

**3.1 Utility Easements.** There is hereby created an easement upon, across, over and under the Common Elements for reasonable ingress, egress, installation, construction, replacing, repairing or maintaining of all utilities, Including gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Elements, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Elements except as initially designed, approved and constructed by the Declarant or as approved by the Board of Directors. The exercise of rights under this easement shall not unreasonably interfere with the rights granted under other Recorded easements on the Common Elements.

**3.2 Easements for Ingress and Egress.** There are hereby created permanent, perpetual and non-exclusive easements for ingress and egress for pedestrian traffic over,

through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Elements. There is also created a permanent, perpetual and non-exclusive easement for ingress and egress for pedestrian and vehicular traffic over, through and across such private streets, driveways and parking areas upon the Common Elements as from time to time may be paved and intended for such purposes, except that such easements shall not extend to any Limited Common Elements. Such easements shall run in favor of and be for the benefit of the Unit Owners and Residents and their guests, families, tenants and invitees.

### **3.3 Unit Owners' Easements of Enjoyment.**

**3.3.1** Every Unit Owner shall have a right to use the Common Elements (Including the right to use the private streets for ingress and egress to and from the Unit Owner's Unit) for the purposes for which they were intended, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(i) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Elements and to prohibit access to such portions of the Common Elements, such as landscaped areas, not intended for use by the Unit Owners and Residents;

(ii) The right of the Association to grant easements through or over the Common Elements, convey the Common Elements or subject the Common Elements to a mortgage, deed of trust, or other security interest, in the manner and subject to the limitations set forth herein and in the Act;

(iii) The right of the Association to change the use of a Common Element as provided in **Section 6.12**;

(iv) All rights and easements set forth in this Declaration, Including the rights and easements granted to the Declarant by **Sections 3.4 and 3.5** of this Declaration; and

(v) The right of the Association to suspend the right of a Unit Owner, any Resident of the Unit and their invitees to use the Common Elements for any period during which the Unit Owner, any Resident of the Unit or their invitees are in violation of any provision of the Governing Documents; provided, however, that any such suspension shall not affect the easements granted pursuant to **Section 3.2** of this Declaration.

**3.3.2** If a Unit is leased or rented, the lessee and the Residents residing with the lessee shall have the right to use the Common Elements during the term of the lease, and the Unit Owner shall have no right to use the Common Elements until the termination or expiration of the lease, except for the right to use the private streets for ingress and egress to and from the Unit Owner's Unit.

**3.3.3** The guests and invitees of any Unit Owner or other person entitled to use the Common Elements pursuant to **Subsection 3.3.1** of this Declaration or of any lessee who is entitled to use the Common Elements pursuant to **Subsection 3.3.2** of this Declaration may use the Common Elements provided they are accompanied by a Unit Owner, lessee or other person entitled to use the Common Elements pursuant to **Subsection 3.3.1 or 3.3.2** of this Declaration or as otherwise permitted by the Association Rules. The Board of Directors shall have the right to limit the number of guests and invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by guests and invitees to certain specified times.

**3.3.4** A Unit Owner's right and easement of enjoyment in and to the Common Elements shall not be conveyed, transferred, alienated or encumbered separate and apart from a Unit. Such right and easement of enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Unit, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement.

**3.3.5** The provisions of this **Section 3.3** shall not apply to any of the Limited Common Elements that are allocated to one or more but less than all of the Units.

#### **3.4 Declarant's Use for Sales and Leasing Purposes.**

**3.4.1** Declarant and its affiliates shall have the right and an easement to maintain sales and leasing offices, management offices, a design center, construction offices, model homes and parking areas (collectively, "**Sales and Construction Facilities**") throughout the Community and to maintain one or more advertising, identification or directional signs on the Common Elements or on the Units owned or leased by Declarant. Declarant reserves the right to place Sales and Construction Facilities on any Units owned or leased by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

**3.4.2** Declarant may from time to time relocate Sales and Construction Facilities to different locations within the Community. Upon the relocation of Sales and Construction Facilities from a portion of the Community constituting a Common Element, Declarant may remove all personal property and fixtures therefrom.

**3.4.3** Declarant shall have the right to restrict the use of the parking spaces on Common Elements, including the right to reserve such spaces for use by prospective Unit purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction and management activities.

**3.4.4** Declarant reserves the right to allow any gated entrance to remain open during business and construction hours for the period of time necessary to sell and construct all Units and other Improvements in the Community.

**3.4.5** Declarant reserves the right to erect temporary barriers on private streets to establish traffic patterns for the purpose of separating Sales and Construction Facilities from occupied Dwellings.

**3.4.6** Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Community that has not been represented to the Association as property of the Association. The Declarant reserves the right to remove from the Community any and all goods and Improvements used in development, marketing and construction, whether or not they have become fixtures.

**3.4.7** In the event of any conflict or inconsistency between this Section and any other provision of the Declaration, this Section shall control.

**3.5 Declarant's Rights and Easements.**

**3.5.1** Declarant shall have the right and an easement on and over the Common Elements to construct the Common Elements shown on a Plat and all other Improvements the Declarant may deem necessary without the approval of any Unit Owner or the Association, and to use the Common Elements and any Units owned by Declarant for construction or renovation related purposes, Including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work in the Community.

**3.5.2** Declarant shall have the right and an easement on, over and under the Common Elements for the purpose of maintaining and correcting drainage of surface, roof or storm water. The easement created by this Subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

**3.5.3** Declarant shall have an easement through the Units and Common Elements for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

**3.5.4** The Declarant shall have the right and an easement on, over, and through the Common Elements and Units as may be reasonably necessary for the purpose of discharging its obligations and exercising Special Declarant's Rights whether arising under the Act or reserved in this Declaration.

**3.5.5** In the event of any conflict or inconsistency between this Section and any other provision of the Declaration, this Section shall control.

**3.6 Units' Easement in Favor of Association.** In addition to any rights that the Association may have pursuant to Nevada Law, Including N.R.S. Chapter 40, the Units are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

(i) For inspection of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible;

(ii) For inspection, maintenance, repair and replacement of the Common Elements or Limited Common Elements situated in or accessible from such Units or Limited Common Elements;

(iii) For inspection, maintenance, repair and replacement of those portions of Units to be maintained by the Association as set forth in this Declaration or other Recorded instrument;

(iv) For correction of emergency conditions in one or more Units or Limited Common Elements or casualties to the Common Elements, the Limited Common Elements or the Units;

(v) For the purpose of enabling the Association, the Board of Directors or any other committees appointed by the Board of Directors to exercise and discharge their respective rights, powers and duties under the Governing Documents; and

(vi) For inspection, at reasonable times and upon reasonable notice to the Unit Owners, of the Units and the Limited Common Elements in order to verify that the provisions of the Governing Documents are being complied with by the Unit Owners and Residents and their guests, tenants and invitees.

**3.7 Easement Data.** The Recording data required to be contained herein pursuant to N.R.S. § 116.2105(l)(m) for any easements or licenses appurtenant to or included in this common-interest community or to which any portion of this common-interest community is or may become subject by means of a reservation of this Declaration is as follows: The Recording data for all easements and licenses reserved pursuant to the terms of this Declaration is the same as the Recording data for this Declaration. The Recording data for any easements and licenses created by a Plat is the same as the Recording data for the Plat.

**3.8 Easement for Unintended Encroachments.** To the extent that any Unit or Common Element encroaches on any other Unit or Common Element as a result of the original construction shifting or settling, or alteration or restoration authorized by this Declaration or any other reason other than the intentional encroachment on the Common Elements or any Unit by a Unit Owner, a valid easement for the encroachment, and for the maintenance thereof, exists.

**3.9 Landscape Easements.** There is hereby created a permanent, perpetual and non-exclusive easement for the benefit of the Association and its directors, officers, agents, employees and independent contractors upon, under, over and across certain Units in the locations designated on a Plat as "**Landscape Easement**" or similar notation (the

**“Landscape Easement Area”**) for the purpose of permitting the Association to maintain, repair and replace all landscaping Improvements installed within the Landscape Easement Area. Unless otherwise provided in a Declaration of Annexation, all landscaping Improvements installed within the Landscape Easement Area, Including all irrigation facilities, shall be deemed to be Areas of Common Responsibility; provided, however, that each Unit Owner of a Unit subject to a Landscape Easement shall be responsible for providing and maintaining access to irrigation water and paying the cost of all irrigation water required for the Unit’s applicable Landscape Easement Area by connection of the landscape irrigation lines to the Unit’s domestic water lines. A Unit Owner (i) shall not alter, remove, replace or disturb the Improvements within the Landscape Easement Area that are to be maintained by the Association, (ii) shall not construct or install any Improvements within the Landscape Easement Area without the prior written consent of the Board of Directors, and (iii) shall cooperate with the Board of Directors in any way required by the Board of Directors in order for the Association to fulfill its obligations under this Section. The Association shall have the right to adopt reasonable rules and regulations governing the use of the Landscape Easement Areas.

#### **ARTICLE 4 PERMITTED USES AND RESTRICTIONS**

**4.1 Restrictions Imposed by Master Association Governing Documents.** All Improvements constructed on Units and use of the Units within the Community shall be in accordance with the requirements of, and applicable limitations and restrictions set forth in, the Master Association Governing Documents. In addition to and without limiting the covenants, conditions and restrictions imposed by the Master Association Governing Documents, the following covenants, conditions and restrictions shall apply to the Community and the Unit Owners and Residents and their guests, families, tenants and invitees. The following restrictions and approval requirements are in addition to those imposed by the Master Association Governing Documents; accordingly, even though a Unit Owner or Resident obtains a consent, approval or variance from the Board of Directors, such consent, approval or variance shall not substitute for, nor eliminate any requirement to obtain, any approval, consent or variance that may be required under the Master Association Governing Documents, and even though certain activities may not be restricted hereunder, such activities may be restricted under the Master Association Governing Documents. Likewise, even though a Unit Owner or Resident obtains a consent, approval or variance in accordance with the Master Association Governing Documents, such consent, approval or variance shall not substitute for, nor eliminate any requirement to obtain, any approval, consent or variance from the Board of Directors that may be required to be obtained in accordance with this Declaration or the other Governing Documents. Each Unit Owner and Resident is advised to obtain and review the Master Association Governing Documents and the Governing Documents.

## **4.2 Signs.**

**4.2.1** Subject to the provisions of **Subsection 4.2.2**, any sign to be erected or maintained on any Unit shall be in accordance with the provisions of the Master Declaration.

**4.2.2** So long as the Declarant owns any property described on **Exhibit A** or **Exhibit B**, "for sale," "for rent," "for lease," and "open house" signs are prohibited. When Declarant no longer owns any property described on **Exhibit A** or **Exhibit B**, the Board of Directors shall have the authority, but not the obligation, to permit such signs, and if so permitted, such signs shall conform to the specifications promulgated (from time to time) by the Master Association relating to dimensions, design, number, style and location of display.

**4.3 Restriction on Further Subdivision, Property Restrictions and Rezoning.** No Unit shall be further subdivided or separated into smaller units or parcels by any Unit Owner, no portion less than all of any such Unit shall be conveyed or transferred by any Unit Owner and two or more Units shall not be combined into fewer Units than originally shown on a Plat without the prior written approval of the Board of Directors. If two or more Units are combined into fewer Units than as originally shown on a Plat pursuant to the prior written approval of the Board of Directors and the approval of the Master Association and any other governmental authority that may be required, the provisions of **Article 6** and **Article 7** of this Declaration shall apply to such Units as originally shown on the Plat, and no diminution of voting rights or decrease in Assessments shall be applicable to the Units so combined. No further covenants, conditions, restrictions or easements shall be Recorded by any Unit Owner or other Person against any Unit without the provisions thereof having been first approved in writing by the Board of Directors. No application for rezoning, variances or use permits pertaining to any Unit shall be filed with any governmental authority by any Person unless the application has been approved by the Board of Directors and the proposed use otherwise complies with this Declaration.

**4.4 Trucks, Trailers, Recreational Vehicles, Campers and Boats.** No truck (other than pick-up trucks for the personal use of any Unit Owner or Resident), bus, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar vehicle or related equipment (collectively, "**Restricted Vehicles**") may be parked, maintained, constructed, reconstructed or repaired on any Unit, Common Element or street so as to be Visible From Neighboring Property without the prior written approval of the Board of Directors, except for (i) vehicles that, by applicable law, cannot be prohibited from parking on a Unit or street; (ii) Restricted Vehicles parked entirely within garages of Units; and (iii) contractor and delivery vehicles temporarily parked in the street for loading, unloading and performing work on Units. Notwithstanding the foregoing permitted exceptions, Restricted Vehicles shall not be parked in such a manner as to block the sidewalks or impede pedestrian traffic in any way.



#### **4.5    Motor Vehicles.**

**4.5.1** Except for emergency vehicle repairs, no automobile or other motor vehicle shall be constructed, reconstructed or repaired upon a Unit or other property in the Community, and no inoperable vehicle may be stored or parked on any such Unit so as to be Visible From Neighboring Property.

**4.5.2** No unlicensed vehicle, and no dirt bike, motor scooter, all-terrain vehicle, off-road vehicle or other similar loud, mechanized vehicle shall be parked, maintained or operated on any portion of the Community, except such vehicles may be parked in garages of Units. This restriction shall not prohibit any type of licensed motor scooter or similar vehicle from being operated in the Community if it is electrically powered or is equipped with a muffler that minimizes noise.

**4.5.3** Motor vehicles of Residents and guests of Residents shall be parked in the garage or on the concrete driveway of such Resident's Unit at all times when sufficient parking area exists in the garage or on the concrete driveway. Street parking shall be limited to occasions when sufficient parking area does not exist in the garage or on the concrete driveway of a Unit. Parking on unpaved portions of Units is prohibited.

**4.5.4** Any Unit Owner or Resident desiring to operate or maintain a golf cart within the Community shall obtain and maintain a valid permit from the State of Nevada for such golf cart. The Board of Directors shall be entitled to establish additional rules and regulations governing golf carts, including equipment required to be installed on golf carts in addition to equipment required by law. A Unit Owner or Resident shall not park or store a golf cart on any portion of his Unit except in the garage.

**4.5.5** The Board of Directors shall have the right to establish additional rules and regulations governing the parking and operation of motor vehicles within the Community.

**4.6    Towing and Immobilization of Vehicles.** Upon compliance with applicable law, the Board of Directors shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle that is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Governing Documents immobilized or towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the immobilization or towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by a Unit Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner provided for in the Declaration for the collection of Assessments.

#### **4.7    Leasing.**

**4.7.1** A Unit may be leased to a lessee from time to time by a Unit Owner provided that each of the following conditions is satisfied:

(i) A Unit may be leased only in its entirety. No fraction or portion of a Unit or Dwelling may be leased.

(ii) The lease or rental agreement must be in writing and for a term not less than six (6) months.

(iii) The lease or rental agreement must contain a provision that the lease or rental agreement is subject to this Declaration, the Master Declaration and all other Governing Documents and Master Association Governing Documents and that any violation of any of the foregoing shall be a default under the lease or rental agreement.

(iv) Within ten (10) days after execution of a lease or rental agreement, the Unit Owner shall provide the Association with (a) a fully executed copy of the lease, (b) the names of the lessees and each person who will reside in the Dwelling, (c) the address and telephone number of the Unit Owner, and (d) any additional information as may be required by the Board of Directors.

(v) The Unit Owner shall make available to the lessee copies of all Governing Documents and Master Association Governing Documents.

**4.7.2** Any Unit Owner that leases or rents a Unit shall keep the Association informed at all times of the Unit Owner's address and telephone number. Any lease or rental agreement shall be subject to the Governing Documents and the Master Association Governing Documents, and any breach of the Governing Documents and the Master Association Governing Documents shall constitute a default under the lease or rental agreement, regardless of whether it so provides in the lease or rental agreement. If any lessee breaches any restriction contained in the Governing Documents or the Master Association Governing Documents, the Unit Owner, upon demand by the Association, immediately shall take such actions as may be necessary to correct the breach, including, if necessary, eviction of the lessee. Notwithstanding the foregoing, the Association and Master Association shall have all rights and remedies provided for under the Governing Documents and Master Association Governing Documents respectively.

**4.8    Solar Energy Systems.** In connection with the residential development of Units that are annexed to the Community, Declarant may offer fixed devices, structures or devices or structures that are used primarily to transform solar energy into thermal, chemical or electrical energy including roof-integrated photovoltaic roof tiles, roof-mounted panels or other roof-mounted devices that collect solar energy and generate energy by exposure to the sun (collectively "**Solar Energy System**"). The generation of energy will be reduced or even

eliminated if trees, shrubs and other landscaping (“**Landscaping**”) or if structures, including room additions, patio structures/covers and play structures (“**Structures**”) are allowed to cause shading of the fixed devices within a Solar Energy System which are designed to collect solar energy. For purposes of this **Section 4.8**, the term “**Solar Collection Devices**” shall mean all fixed devices within a Solar Energy System on a Unit which are designed to collect solar energy, and the term “**Potential Shading Improvements**” shall mean all Landscaping and Structures on a Unit. For optimal operation and efficiency it is essential that the Solar Collection Devices have direct access to sunlight. To increase the potential for optimal operation of the Solar Energy Systems, Declarant desires to establish certain restrictions to limit certain obstructions to the Solar Collection Devices.

**4.8.1 Shading Restrictions.** The restrictions set forth in this **Subsection 4.8.1** are collectively referred to herein as the “**Shading Restrictions**.”

(i) **Structures.** No Unit Owner shall allow any Structures to be installed within the Unit Owner’s Unit that cast or may at any time in the future cast a shadow over greater than ten percent (10%) of the Solar Collection Devices located on a neighboring Unit at any one time between the hours of 10 a.m. and 2 p.m. local standard time or which otherwise is not in conformance with the requirements set forth in **Exhibit D (“Prohibited Shading”)**. Before constructing or installing any Structure on a Unit, the Unit Owner of such Unit shall ensure all Potential Shading Improvements comply with this restriction. As provided in **Subsection 4.8.2** below, this **Subsection 4.8.1(i)** does not apply to Structures installed by Declarant.

(ii) **Landscaping.** No Unit Owner shall plant any Landscaping on any portion of the Unit Owner’s Unit that, at its generally-accepted mature height, will likely cause Prohibited Shading on Solar Collection Devices located on a neighboring Unit. Unit Owners shall select tree species that at maturity will not cause Prohibited Shading. As provided in **Subsection 4.8.2** below, this **Subsection 4.8.1(ii)** does not apply to Landscaping installed by Declarant.

**4.8.2 Application of Restrictions.**

(i) **Generally:** The Shading Restrictions shall **not** apply to any Prohibited Shading of Solar Collection Devices caused by Improvements that were installed or constructed prior to the installation of the Solar Collection Devices. Subject to **Subsection 4.8.2(ii)**, the Shading Restrictions shall apply to any Prohibited Shading of Solar Collection Devices caused by Potential Shading Improvements that were installed or constructed by a Unit Owner other than Declarant either after the installation of the Solar Collection Devices or in violation of **Subsections 4.8.6 and 4.8.7**.

(ii) **Declarant Exemption:** Declarant is undertaking the work of developing the Community and the completion of the development is essential to the establishment and welfare of the Community. In order that the work may be completed and

the Units annexed to the Community and established as occupied portions of the Community as rapidly as possible, the limitations on Structures and Landscaping established by **Subsection 4.8.1(i) and (ii)** shall not apply to Declarant.

**4.8.3 Impact of Shading Restrictions.** Depending upon the dimensions and topography of certain Units, the Shading Restrictions may prevent or severely restrict (a) the planting of any trees, or the planting of medium or large trees, in the yard area of a Unit, and (b) the installation of any upper-floor additions, roof-top Structures or other tall Structures. For example, the planting of shade trees and the construction of upper-floor additions may be prohibited as a result of the Shading Restrictions. Also, the Shading Restrictions may have the foregoing impacts on Units on which no Solar Energy Systems are installed or constructed.

**4.8.4 No Restriction on Adjacent Property.** In some cases the Units may be adjacent to other real property that is not encumbered by this Declaration or any other Shading Restrictions. In such cases, adjacent real property may only be subject to applicable laws and the documents of the governing homeowners' association that do not control Prohibited Shading.

**4.8.5 No Restrictions on Installation of Solar Energy Systems.** Nothing in this Declaration shall be interpreted to restrict the right of any Unit Owner to install or use any Solar Energy System on a Unit in conformance with applicable laws, the Master Association Governing Documents and this Declaration.

**4.8.6 Approval by Declarant of Unit Owner-Installed Improvements.** If a Unit is adjacent to a Unit owned by Declarant (whether or not such Unit has been annexed to the Community), the Unit Owner shall obtain Declarant's approval before constructing any Improvement or installing any Solar Energy System on the Unit Owner's Unit, which approval shall be for the sole purpose of determining: (a) whether the Improvements will adversely impact any proposed Declarant-installed Solar Energy Systems on the adjacent Unit owned by Declarant, and/or (b) whether a Solar Energy System proposed on the Unit Owner's Unit will be adversely impacted by any proposed Declarant-installed Dwellings, Landscaping and/or other Improvements on the Unit owned by Declarant. The Unit Owner must obtain Declarant's written approval of the Improvements before submitting any application for the Improvements to the Master Association and the Board of Directors pursuant to **Subsection 4.8.7**, and Unit Owner applications to the Board of Directors must include the Declarant's written approval of the Improvement.

**4.8.7 Design and Approval of Improvements.** In addition to the architectural review approval required under the Master Declaration, all Improvements installed by Unit Owners that are subject to this **Section 4.8** shall also be approved by the Board of Directors prior to installation of such Improvements. If any of the Dwellings surrounding a Unit Owner's Unit contain Solar Energy Systems, the Unit Owner of the proposed Improvements shall consider whether the Improvements will result in a violation of the Shading Restrictions,

Including whether any trees or shrubs have the potential to grow to a height that would result in a violation of the Shading Restrictions and the height of any other Improvements as described on the attached **Exhibit D**. In evaluating the impact of such proposed Improvements, the Unit Owner must provide to the Board of Directors a certification from a landscape architect, architect, engineer, solar or other consultant otherwise acceptable to the Board of Directors ("**Shading Certification**") that the proposed Improvement will not result in Prohibited Shading of existing Solar Collection Devices, and that the requirements set forth in **Exhibit D** have been met. The Board of Directors has the right, but not the obligation, to review the Shading Certification and any approvals required under **Subsection 4.8.6**. The Board of Directors shall be entitled to rely upon such Shading Certification and shall have no obligation to conduct any other independent review and shall have no liability to any Unit Owner for any inaccuracies in the Shading Certification.

**4.8.8 Resolution of Disputes.** If a dispute among: (a) Unit Owner(s), on the one hand and (b) the Declarant or any Declarant Parties, on the other hand, arises regarding the Shading Restrictions or any rights under this **Section 4.8**, Including the interpretation and/or enforcement thereof ("**Solar Dispute**"), the parties shall meet to attempt to resolve the Solar Dispute and use their best efforts to resolve the dispute. The Association shall have no obligation to assist in the resolution of disputes.

**4.8.9 No Enforcement by Master Association.** Notwithstanding anything contained herein to the contrary, the Master Association shall have no responsibility to review, approve or disapprove Structures or Landscaping for the purposes set forth in this **Section 4.8**, nor shall the Master Association have any obligation to enforce the provisions of **Section 4.8**. Any approvals required pursuant to this Section shall be as provided in **Subsections 4.8.6 and 4.8.7**.

**4.9 Variances; Diminution of Restrictions.** The Board of Directors may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this **Article 4** if the Board of Directors determines in its discretion that: (i) a restriction would create an unreasonable hardship or burden on a Unit Owner or Resident or a change of circumstances since the Recordation of this Declaration has rendered such restriction obsolete; and (ii) the activity permitted under the variance will not have any substantial adverse effect on the Unit Owners and Residents and is consistent with the high quality of life intended for Residents of the Community. Notwithstanding the foregoing, the Board of Directors shall not grant variances permitting uses that are not consistent with applicable law or the Master Association Governing Documents. If any restriction set forth in this **Article 4** is adjudged or deemed to be invalid or unenforceable as written by reason of any federal, state or local law, ordinance, rule or regulation, then a court or the Board of Directors, as applicable, may interpret, construe, rewrite or revise such restriction to the fullest extent allowed by law so as to make such restriction valid and enforceable. Such modification shall not serve to extinguish any restriction not adjudged or deemed to be unenforceable. Upon expiration of the Period of Declarant Control and for so long as the Declarant owns any property described on **Exhibit A** or **Exhibit B**, any variance granted by the Board of

Directors shall be subject to review and approval by the Declarant, to the extent permitted by Nevada law.

## **ARTICLE 5 MAINTENANCE AND REPAIR**

**5.1 Duties of the Association.** Unless otherwise provided in this Declaration, the Association shall maintain, repair and replace all Areas of Common Responsibility. The cost of all such maintenance, repairs and replacements shall be a Common Expense and shall be paid for by the Association. The Board of Directors shall be the sole judge as to the appropriate maintenance of the Areas of Common Responsibility, and all Unit Owners shall cooperate with the Board of Directors in any way required by the Board of Directors in order for the Board of Directors to fulfill its obligations under this Section.

**5.2 Duties of Unit Owners.** Each Unit Owner shall maintain, repair and replace, at such Unit Owner's expense, (i) all portions of such Unit Owner's Unit, (ii) all Improvements situated on the Unit, and (iii) any landscaping located between the boundary of the Unit and the pavement of a street, except for any portion of the Unit that is an Area of Common Responsibility. The foregoing Improvements shall be maintained in good condition and repair and in accordance with the Maintenance Standard. All grass, hedges, shrubs, vines and plants shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Plant materials that die shall be promptly replaced with living foliage of like kind, unless different foliage is approved by the Master Association. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property.

**5.3 Party Walls and Fences.** The rights and duties of Unit Owners with respect to party walls or fences shall be as provided in Article 14 of the Master Declaration.

### **5.4 Maintenance of Walls and Fences Other Than Party Walls and Fences.**

**5.4.1** Except for party walls or fences covered by **Section 5.3** and walls and fences (hereinafter, a "fence") covered by **Subsections 5.4.2** and **5.4.3** below, fences located on a Unit shall be maintained, repaired and replaced by the Unit Owner.

**5.4.2** Any fence that is placed on or along the boundary line between a Unit and a Common Element shall be maintained, repaired and replaced by the Unit Owner, except that the Association shall be responsible for the repair and maintenance of the surface of the fence that faces the Common Element. The Association shall have no responsibility for any structural repair and maintenance that would require rebuilding all or a portion of any such fence. Notwithstanding the foregoing, if any such fence or portion thereof is a metal view fence, the Association shall maintain the entire metal view portion of the fence, and the Unit Owner shall pay to the Association, upon demand, one-half (1/2) the cost of any such maintenance performed on the metal view portion of the fence. The Association may enforce

collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments. A perpetual, nonexclusive easement in favor of the applicable Unit Owner and the Association is hereby created on, over, under, through and across any such Unit and Common Element, to the extent reasonably necessary, for the purpose of the applicable Unit Owner and/or the Association maintaining, repairing and replacing any fences subject to this **Subsection 5.4.2**. Any damage to a Unit or the Common Elements resulting from the exercise of any easement right granted to a Unit Owner or the Association in this Section shall be promptly restored or repaired by, and at the expense of, the party exercising the easement right. If any fence described in this **Subsection 5.4.2** encroaches upon a Unit or the Common Elements, a valid easement for such encroachment and for the maintenance of the fence shall and does exist in favor of the Unit Owner or the Association, as applicable.

**5.4.3** Any fence that is placed on or along a boundary line between a Unit or a Common Element and a parcel of property that is owned or will be owned by the Master Association shall be maintained, repaired and replaced in accordance with Section 7.2(a)(5) of the Master Declaration.

**5.5 Maintenance of Retaining Walls.** Retaining walls are designed to support and retain soil. If retaining walls have been constructed on a Unit, the Unit Owner shall not permit excess water to saturate the retained soil and shall maintain the Unit so that surface waters flow freely away from retaining walls. No grass or other heavily irrigated landscape materials may be installed closer than five (5) feet from a retaining wall. Any landscaping closer than five (5) feet from a retaining wall shall be irrigated with a drip system. A Unit Owner shall take all corrective action necessary to immediately repair any leaking irrigation pipes and correct any excess irrigation of plant materials that may cause the retained soil to become saturated. Each Unit Owner shall be responsible for any damage to retaining walls resulting from the failure to comply with this **Section 5.5**.

**5.6 Installation of Landscaping.** Unless previously installed by the Declarant, within one hundred eighty (180) days after acquiring a Unit from the Declarant, each Unit Owner shall install trees, grass, plants or other landscaping Improvements (together with any sprinkler system or drip irrigation system sufficient to adequately water the trees, grass, plants or other landscaping Improvements) within the front, side and rear yards of the Unit. Prior to installing the landscaping, a Unit Owner shall maintain all such yard areas in a weed-free and attractive manner. Notwithstanding anything herein to the contrary, all landscaping installed pursuant to this **Section 5.6** shall be approved by the Master Association prior to installation.

## **ARTICLE 6 THE ASSOCIATION**

**6.1 Rights, Powers and Duties of the Association.** No later than the date on which the first Unit is conveyed to a Person other than the Declarant, the Association shall be organized as a Nevada nonprofit corporation. The Association shall be the entity through

which the Unit Owners shall act with respect to all matters contained in this Declaration. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Governing Documents, together with such rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes of the Association as set forth in this Declaration and the Act. The Association shall have the right to finance capital Improvements in the Community by encumbering future Assessments if such action is approved by (i) the written consent or affirmative vote of Unit Owners representing more than fifty percent (50%) of the votes in the Association and, (ii) upon the expiration of the Period of Declarant Control and for so long as the Declarant owns any property described on **Exhibit A** or **Exhibit B**, the written consent of the Declarant, to the extent permitted by Nevada law.

## **6.2 Directors and Officers.**

**6.2.1** During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board of Directors and the officers of the Association. Members of the Board of Directors and officers of the Association appointed by the Declarant are not required to be Unit Owners.

**6.2.2** Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Board of Directors, which must consist of at least three (3) members, all of whom must be Unit Owners. The Board of Directors elected by the Unit Owners shall then elect the officers of the Association.

**6.2.3** The Declarant, after giving notice to Unit Owners, may Record an instrument voluntarily surrendering its right to appoint and remove the members of the Board of Directors and the officers of the Association before termination of the Period of Declarant Control, and in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in such Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

**6.2.4** Not later than sixty (60) days after the conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after the conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than the Declarant, not less than one-third (1/3) of the members of the Board of Directors must be elected by Unit Owners other than the Declarant. Any member of the Board of Directors elected by Unit Owners pursuant to this Subsection shall be (i) a Unit Owner, or (ii) an officer, employee, agent or director of a corporate Unit Owner, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, a member or manager of a limited liability company that owns a Unit or a fiduciary of an estate that owns a Unit. Prior to having a person's name placed on a ballot for election of directors, such person shall take all actions required by Nevada law to prove such person's



eligibility to serve on the Board of Directors. A person shall not be eligible to serve on the Board of Directors if, at the time a person's name is proposed to be placed on a ballot for election of directors, such person (or the Unit Owner if such person is an officer, employee, agent or director of a corporate Unit Owner) is not in compliance with the provisions of the Governing Documents, Including the current payment of all Assessments, charges and other fees required thereunder, or any other provision of Nevada law governing the eligibility of directors.

**6.2.5** The affairs of the Association shall be conducted by the Board of Directors and such officers as the Board of Directors may elect or appoint in accordance with the Articles and the Bylaws. Unless the Governing Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given and taken by the Board of Directors. The Board of Directors, from time to time and subject to the provisions of this Declaration and the Act, shall have the power to levy reasonable fines against a Unit Owner for a violation of the Governing Documents by the Unit Owner, a guest of the Unit Owner, a lessee of the Unit Owner or by any Resident of the Unit Owner's Unit, provided that (i) a fine may not be levied for a violation of the Governing Documents committed by an invitee or lessee of the Unit Owner unless the Unit Owner participated in or authorized the violation, had prior notice of the violation or had an opportunity to stop the violation and failed to do so, and (ii) a fine may not be levied for a violation of the Governing Documents that involves a vehicle and is committed by a person who is delivering goods to, or performing services for, the Unit Owner or Unit Owner's lessee or an invitee of the Unit Owner or Unit Owners' lessee. If the Association adopts a policy imposing fines for any violations of the Governing Documents, the Association shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each Unit, or to any other mailing address designated in writing by the Unit Owner, a schedule of the fines that may be imposed for those violations.

**6.3 Association Rules.** The Board of Directors, from time to time and subject to the provisions of this Declaration and the Act, may adopt, amend, and repeal rules and regulations (collectively, the "**Association Rules**"). Except as otherwise provided in this Declaration or under the Act, the Association Rules may, among other things, restrict and govern the use of any area within the Community by any Unit Owner, by the family of such Unit Owner, or by any invitee, licensee or lessee of such Unit Owner. Upon expiration of the Period of Declarant Control and for so long as Declarant owns any property described on **Exhibit A** or **Exhibit B**, the adoption, amendment and repeal of any rules and regulations by the Board of Directors shall be subject to review and approval of the Declarant, to the extent permitted by Nevada law.

**6.4 Composition of Members.** Each Unit Owner shall be a Member of the Association. The membership of the Association at all times shall consist exclusively of all the Unit Owners. A Unit Owner (Including Declarant) of a Unit shall automatically, upon becoming the Unit Owner thereof, be a Member of the Association and shall remain a

Member of the Association until such time as his ownership of the Unit ceases for any reason, at which time the Unit Owner's membership in the Association shall automatically cease.

**6.5 Personal Liability.** Neither Declarant Parties nor any member of the Board of Directors or of any committee of the Association, any officer of the Association nor any manager or other employee of the Association shall be personally liable to any Member, or to any other Person, Including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Declarant Parties, the Association, the Board of Directors, the manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section shall not apply to any Person who has failed to act in good faith or has engaged in willful or intentional misconduct.

**6.6 Implied Rights.** The Association may exercise any right or privilege given to the Association expressly by the Governing Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Governing Documents or reasonably necessary to effectuate any such right or privilege.

**6.7 Voting Rights.** Subject to **Section 6.8** below, each Unit Owner, Including Declarant, shall be entitled to cast one (1) vote for each Unit owned by such Unit Owner on any Association matter that is put to a vote of the membership in accordance with this Declaration, the Articles and/or Bylaws.

**6.8 Voting Procedures.** No change in the ownership of a Unit shall be effective for voting purposes unless and until the Board of Directors is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Unit must be cast as a unit, and fractional votes shall not be allowed. In the event that a Unit is owned by more than one (1) Person and such Unit Owners 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 Member casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that such Unit Owner was acting with the authority and consent of all other Unit Owners of the same Unit unless objection thereto is made at the time the vote is cast. In the event more than one (1) vote is cast by a Member for a particular Unit, none of the votes shall be counted and all of the votes shall be deemed void.

**6.9 Transfer of Membership.** The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of a Unit and then only to the transferee of ownership to the Unit. A transfer of ownership to a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of Record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Nevada. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit shall operate to transfer the membership appurtenant to said Unit to the new Unit

Owner thereof. Each purchaser of a Unit shall notify the Association of its purchase within ten (10) days after becoming a Unit Owner.

**6.10 Suspension of Voting Rights.** If any Unit Owner fails to pay any Assessment or other amounts due to the Association under the Governing Documents within fifteen (15) days after such payment is due, or if any Unit Owner or the Unit Owner's lessee or invitee violates any other provision of the Governing Documents and such violation is not cured within fifteen (15) days after the Association notifies the Unit Owner of the violation, the Board of Directors shall have the right to suspend the Unit Owner's right to vote until such time as all payments, including interest and attorneys' fees, are brought current and until any other infractions or violations of the Governing Documents are corrected.

**6.11 Conveyance or Encumbrance of Common Element.** The Common Elements shall not be mortgaged, transferred, dedicated or encumbered without the prior written consent or affirmative vote of Unit Owners representing at least a majority of the votes in the Association, including a majority of the votes allocated to Units not owned by Declarant. Upon the expiration of the Period of Declarant Control and for so long as the Declarant owns any property described on **Exhibit A** or **Exhibit B**, the Common Elements shall not be mortgaged, transferred, dedicated or encumbered without the prior written consent of the Declarant, to the extent permitted by Nevada law.

**6.12 Change of Use of Common Elements.** Upon (i) adoption of a resolution by the Board of Directors stating that in the opinion of the Board of Directors the then present use of a designated part of the Common Elements is no longer in the best interests of the Unit Owners, (ii) the approval of such resolution by Unit Owners casting at least sixty-seven percent (67%) of the votes entitled to be cast by Unit Owners who are present in person, by proxy or by absentee ballot at a meeting duly called for such purpose and who are entitled to use such part of the Common Elements under the terms of this Declaration, and (iii) the prior written consent of the Declarant after the expiration of the Period of Declarant Control and for so long as the Declarant owns any property described on **Exhibit A** or **Exhibit B**, to the extent permitted by Nevada law, the Board of Directors shall have the power and right to change the use of such property (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and Improvements thereon in any manner deemed necessary by the Board of Directors to accommodate the new use), provided such new use shall be (a) for the benefit of the Members and Residents, as determined by the Board of Directors, (b) consistent with any deed restrictions, zoning and other municipal regulations restricting or limiting the use of the land, and (c) approved as required pursuant to the Master Declaration. Notwithstanding the foregoing, if the new use requires the expansion of an existing building or structure or construction of a new building or structure, the Board of Directors shall first obtain the written consent of a majority of the Unit Owners and Residents who own Units or reside within five hundred (500) feet of the proposed location of such building or structure.

**6.13 Contracts with Others for Performance of Association's Duties.** Subject to the restrictions and limitations contained herein, and subject to applicable law, the

Association may enter into contracts and transactions with others, Including Declarant and its affiliates, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board of Directors or committee of which such person is a member that shall authorize any contract or transaction described above or grant or deny any approval sought by Declarant, its affiliates or any competitor thereof and may vote at the meeting to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

**6.14 Commencement of Civil Action.** With respect to any disputes or claims not subject to the requirements of **Section 12.20** of this Declaration, the Association may not commence a civil action without the prior written consent or affirmative vote of Unit Owners to which at least a majority of the votes of the Members of the Association are allocated. In addition to the notice and meeting requirements set forth in the Act, at least ten (10) days before the Association commences a civil action, the Association shall provide a written statement to all Unit Owners that includes a reasonable estimate of the costs of the civil action, Including reasonable attorneys' fees, an explanation of the potential benefits of the civil action and the potential adverse consequences if the Association does not commence the action or if the outcome of the action is not favorable to the Association, and all other disclosures required by law. The provisions of this Section do not apply to a civil action that is commenced to (i) enforce the payment of an Assessment, (ii) enforce the Governing Documents, (iii) enforce a contract with a vendor, (iv) proceed with a counterclaim, or (v) protect the health, safety and welfare of the Members of the Association.

## **ARTICLE 7 ASSESSMENTS**

### **7.1 Preparation of Budgets.**

**7.1.1** At least sixty (60) days before the beginning of each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the Board of Directors shall adopt (i) a budget for the Association containing an estimate of the annual revenue of the Association and an estimate of the total amount of funds that the Board of Directors believes will be required during the ensuing fiscal year to pay all Common Expenses (other than Common Expenses that are to be assessed against less than all of the Units pursuant to **Subsections 7.2.3 and 7.2.4** of this Declaration), Including contributions to be made to the reserve fund, and (ii) a budget to provide adequate funding for the reserves for the repair, replacement and restoration of the major components of the Common Elements prepared in accordance with applicable law.

**7.1.2** Within thirty (30) days after the adoption of the budgets, the Board of Directors shall send to each Unit Owner a summary of the budgets (with the complete budgets available for review and/or copying at the Association's office upon request) and a statement of the amount of the Common Expense Assessment assessed against each Unit in accordance with **Section 7.2** of this Declaration and shall set a date for the meeting of the Unit Owners to consider ratification of the budgets not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners reject the budgets, the budgets are ratified, whether or not a quorum is present. If the proposed budgets are rejected, the periodic budgets last ratified by the Unit Owners must be continued until such time as the Unit Owners ratify subsequent budgets proposed by the Board of Directors. The failure or delay of the Board of Directors to prepare or adopt budgets for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay such Unit Owner's allocable share of the Common Expenses as provided in **Section 7.2** of this Declaration, and each Unit Owner shall continue to pay the Common Expense Assessment against his Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been established by the Board of Directors.

## **7.2 Common Expense Assessment.**

**7.2.1** For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors (except for Common Expenses that are to be assessed against less than all of the Units pursuant to **Subsections 7.2.3 and 7.2.4** of this Declaration) shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in **Section 2.6** of this Declaration, for the purpose of providing funds for the Association to pay Common Expenses. The amount of the Common Expense Assessment assessed pursuant to this **Subsection 7.2.1** shall be in the sole discretion of the Board of Directors. If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including nonpayment of Assessments by Members, it may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date designated by the Board of Directors.

**7.2.2** Except as otherwise expressly provided for in this Declaration, all Common Expenses shall be assessed against all of the Units in accordance with **Subsection 7.2.1** of this Declaration.

**7.2.3** If damage to a Unit or other part of the Community is caused, or if any other Common Expense is caused, by the willful misconduct or gross negligence of any Unit Owner or lessee or invitee of a Unit Owner or lessee, the Association shall assess that Common Expense exclusively against such Unit Owner's Unit pursuant to **Section 7.4**, even if the Association maintains insurance with respect to that damage or Common Expense.

**7.2.4** Assessments to pay a judgment against the Association may be made only against the Units in the Community at the time the judgment was entered, in proportion to their Common Expense Liabilities.

**7.2.5** All Assessments, fines and other fees and charges levied against a Unit shall be in addition to any assessments levied by the Master Association pursuant to the Master Declaration and shall be the personal obligation of the Unit Owner of the Unit at the time the Assessments, fines or other fees and charges became due. The personal obligation of a Unit Owner for Assessments, fines and other fees and charges levied against such Unit shall not pass to the Unit Owner's successors in title unless expressly assumed by them; provided that any lien on such Unit Owner's Unit shall remain in effect and shall be enforceable according to the terms of this Declaration and the Act.

**7.3 Special Assessments.** In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital Improvement of the Common Elements or any other Area of Common Responsibility, Including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any Special Assessment shall have first been approved by Unit Owners representing at least sixty-seven percent (67%) of the votes in the Association who are voting in person, by proxy or by absentee ballot at a meeting duly called for such purpose, which meeting was noticed in compliance with the requirements set forth in N.R.S. § 116.3115(9), as amended from time to time. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Unit Owners. After the expiration of the Period of Declarant Control and for so long as the Declarant owns any property described on **Exhibit A** or **Exhibit B**, any Special Assessment may be levied only if consented to or approved by the Declarant, to the extent permitted by Nevada law.

**7.4 Maintenance Assessments.**

**7.4.1** If a Dwelling is vacant and the Unit Owner has failed to pay Assessments for more than sixty (60) days, and the Association has provided the Unit Owner with notice and an opportunity for a hearing in the same manner as provided for in the Bylaws for the imposition of a fine, the Association, Including its employees, agents and community manager, may, but is not required to, enter the Unit to maintain the exterior of the Dwelling in accordance with the Maintenance Standard or abate a public nuisance as described in N.R.S. § 116.310312 if the Unit Owner refuses or fails to do so.

**7.4.2** If an action or notice described in **Section 9.3** of this Declaration has been filed or Recorded regarding a Unit and the Association has provided the Unit Owner with notice and an opportunity for hearing in the same manner as provided for in the Bylaws for the imposition of a fine, the Association, Including its employees, agents and community

manager, may, but is not required to, enter the Unit, whether or not the Dwelling is vacant, to maintain the exterior of the Dwelling in accordance with the Maintenance Standard or abate a public nuisance as described in N.R.S. § 116.310312 if the Unit owner refuses or fails to take any action or comply with any requirement imposed on the Unit Owner within the time specified by the Association.

**7.4.3** If a Unit Owner otherwise fails to maintain his Unit (including landscaping) in good condition and repair and in accordance with the Maintenance Standard; or if any portion of a Unit is so maintained as to present a public nuisance as described in N.R.S. § 116.310312; or if any portion of a Unit is being used in a manner that violates this Declaration; or if damage to a Unit is caused by the willful misconduct or gross negligence of any Unit Owner or lessee or invitee of a Unit Owner or lessee; or if a Unit Owner is failing to perform any of his obligations under the Governing Documents, the Association, after providing the Unit Owner with notice of such infraction and an opportunity for hearing in the same manner as provided for in the Bylaws for the imposition of a fine, may, but is not required to, enter the Unit and perform the required maintenance, repair or replacement if the Unit Owner refuses or fails to take any action or comply with any requirement imposed on the Unit Owner within the time specified by the Association.

**7.4.4** The costs of any maintenance, repair, replacement or abatement authorized pursuant to this **Section 7.4**, including reasonable inspection fees, notification and collection costs and interest, may be levied against the Unit. The Association shall keep a record of such costs and interest charged against the Unit and has a lien on the Unit for any unpaid amount of the charges. The lien may be foreclosed by the Association in accordance with the provisions of **Section 7.11** of this Declaration.

**7.5** **Declarant Subsidy.** Declarant may, but shall not be obligated to, reduce the Common Expense Assessment for any fiscal year by payment of a subsidy, which shall be in addition to the Assessments paid by Declarant pursuant to **Section 7.2** and may be either a contribution or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget, and if Declarant elects to provide the subsidy as a loan to the Association, such loan also shall be disclosed on the financial statement of the Association. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

**7.6** **Assessment Period.** The period for which the Common Expense Assessment is to be levied (the "**Assessment Period**") shall be the calendar year. The first Assessment Period, and the obligation of the Unit Owners to pay Common Expense Assessments, shall commence upon the conveyance of the first Unit to a Purchaser and shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors, in its sole discretion from time to time may change the Assessment Period.

**7.7 Commencement Date of Assessment Obligation.** Until the conveyance of the first Unit to a Purchaser, the Declarant shall pay all Common Expenses. All Units described on **Exhibit A** to this Declaration shall be subject to Assessments upon the conveyance of the first Unit to a Purchaser. Units annexed pursuant to **Section 2.9** of this Declaration shall be subject to Assessments on the date that the amendment or Declaration of Annexation annexing the additional Units is Recorded or upon the conveyance of the first Unit to a Purchaser, whichever is later.

**7.8 Rules Regarding Billing and Collection Procedure.**

**7.8.1** Common Expense Assessments shall be collected on a monthly or quarterly basis or such other basis as may be selected by the Board of Directors. Special Assessments may be collected as specified by the Board of Directors. The Board of Directors shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of Assessments, fees, fines and any other costs imposed against a Unit Owner (the "**Collection Policy**"), provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration. The Association shall be under no duty to refund any payments received by it even though the ownership of a Unit changes during an Assessment Period, but successor Unit Owners of Units shall be given credit for prepayments, on a prorated basis, made by prior Unit Owners. Any such credits shall be paid directly between the applicable Unit Owners upon conveyance of the Unit.

**7.8.2** The Board of Directors shall, at the same time and in the same manner that the Board of Directors makes the budgets described in **Section 7.1** available to each Unit Owner, make available to each Unit Owner the Collection Policy. The Collection Policy must include the responsibility of the Unit Owner to pay the Assessments, fees, fines and other costs imposed against the Unit Owner in a timely manner and the Association's rights concerning the collection thereof if the Unit Owner fails to pay such Assessments, fees, fines and other costs in a timely manner.

**7.9 Effect of Nonpayment of Assessments; Remedies of the Association.**

**7.9.1** Any Assessment, or any installment of an Assessment, not paid within sixty (60) days after the Assessment, or the installment of the Assessment, first became due shall bear interest at the rate prescribed by Nevada law pursuant to N.R.S. § 116.3115(3) until the balance is satisfied. In addition, the Board of Directors may establish a late fee to be charged to any Unit Owner who has not paid any Assessment, or any installment of an Assessment, within fifteen (15) days after such payment was due.

**7.9.2** The Association shall have a lien on each Unit for: (i) all Assessments levied against the Unit; (ii) all interest, lien fees, late charges and other fees and charges assessed against the Unit or payable by the Unit Owner of the Unit to cover the costs of



collecting any past-due obligation; (iii) all fines levied against the Unit Owner of the Unit; (iv) all attorneys' fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to a Unit Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by a Unit Owner; (v) any amounts payable to the Association pursuant to **Subsection 7.2.3** or any other provision of this Declaration, and (vi) any other costs of collecting any of the foregoing as permitted by the Act. The Recording of this Declaration constitutes Record notice and perfection of the Assessment Lien, and no further Recordation of any claim of lien shall be required. The Association may, at its option, Record a Notice of Lien setting forth the name of the delinquent Unit Owner as shown in the records of the Association, the legal description or street address of the Unit against which the Notice of Lien is Recorded and the amount claimed to be past due as of the date of the Recording of the Notice of Lien, Including interest, lien Recording fees and reasonable attorneys' fees. Before Recording any Notice of Lien against a Unit, the Association shall make a written demand to the delinquent Unit Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the delinquency is not paid within ten (10) days after delivery of the demand, the Association may proceed with Recording a Notice of Lien against the Unit.

**7.9.3** Unless otherwise provided by applicable law, the Assessment Lien shall have priority over all liens and encumbrances except for: (i) liens and encumbrances Recorded prior to the Recordation of this Declaration; (ii) liens for real property taxes and other governmental assessments and charges; (iii) the assessment lien of the Master Association under the Master Declaration; and (iv) the lien of any bona fide First Mortgage Recorded before the date on which the Assessment sought to be enforced by the Association became delinquent; provided, however, that the Assessment Lien is also prior to any such First Mortgage to the extent of any charges incurred by the Association on a Unit pursuant to N.R.S. §116.310312 and also to the extent of the Common Expense Assessments that became due during the nine (9) months immediately preceding the institution of an action to enforce the Assessment Lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation ("FHLMC") or the Federal National Mortgage Association ("FNMA") require a shorter period of priority for the Assessment Lien. If federal regulations adopted by FHLMC or FNMA require a shorter period of priority for the Assessment Lien, the period during which the Assessment Lien is prior to the lien of any bona fide First Mortgage described in (iv) above must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the Assessment Lien must not be less than the six (6) months immediately preceding institution of an action to enforce the Assessment Lien, unless otherwise provided by applicable law. All Assessments and charges against the Unit, Including those that accrue before the six (6) month or nine (9) month period, as applicable, prior to the institution of an action to enforce the Assessment Lien, shall remain the obligation of the defaulting Unit Owner; provided, however, that the Association shall credit such amount as it receives toward payment of any

such delinquent Assessments from the First Mortgagee or any other Person acquiring title or coming into possession of the Unit through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure. Any delinquent Assessments, fines and other fees and charges that are extinguished or otherwise uncollectible by the Association pursuant to this Section may be reallocated and assessed to all Units as a Common Expense.

**7.9.4** Except as otherwise provided in the Act, the Association shall not be obligated to release the Assessment Lien as to any portion of past due Assessments until all such delinquent Assessments, interest, lien fees, fines, reasonable attorneys' fees, court costs, title report fees, collection costs and all other sums payable to the Association by the Unit Owner of the Unit have been paid in full. In no event shall such release of the Assessment Lien for past due Assessments release the lien of this Declaration as to all other Assessments to become due hereunder.

**7.9.5** The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, fees, charges, late charges, penalties and fines, together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including (i) bringing an action at law against the Unit Owner personally obligated to pay the delinquent Assessments, and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments, or (ii) bringing an action to foreclose the Assessment Lien against the Unit in the manner provided under the Act. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale.

**7.10 Notice of Delinquent Assessment.** No action shall be brought to foreclose the Assessment Lien unless a "**Notice of Delinquent Assessment**" is deposited in the United States mail, certified or registered, postage prepaid with return receipt requested, to the delinquent Unit Owner. Such Notice of Delinquent Assessment must state (i) the amount of the Assessment and other sums that are due (including interest, costs and attorneys' fees), (ii) a description of the Unit against which the Assessment was made, (iii) the name of the Record Unit Owner, and (iv) all other information required by the Act. The Notice of Delinquent Assessment shall be signed and acknowledged by an officer of the Association. If a Unit Owner subject to the lien under this Article files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

**7.11 Foreclosure Sale.** The Association may enforce the lien by sale of the applicable Unit. In exercising its power of sale, the Association shall comply with such requirements and conditions and shall follow such procedure as may be established under the Act relative to the enforcement of such liens. Unless otherwise permitted by law, no sale to foreclose an Assessment Lien may be conducted until (i) the Association, its agent or attorney has first executed and Recorded a notice of default and election to sell the Unit to satisfy the

Assessment Lien ("**Notice of Default**"), which contains all information required by the Act, and (ii) the delinquent Unit Owner or such Unit Owner's successor in interest has failed to pay the amount of the delinquent Assessment and interest, costs (Including attorneys' fees) and expenses incident to its enforcement for a period of ninety (90) days. Such ninety (90) day period shall commence on the later of (a) the date on which the Notice of Default is Recorded, or (b) the date on which a copy of the Notice of Default is mailed by certified or registered mail with postage prepaid and return receipt requested to the Unit Owner or such Unit Owner's successor in interest at his address, if the address is known, and otherwise to the address of the Unit. The Association, its agent or attorney shall, after the expiration of such ninety (90) day period and before the foreclosure sale, give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the notice of sale must be mailed on or before the first publication or posting, by certified or registered mail with postage prepaid and return receipt requested, to the Unit Owner or such Unit Owner's successor in interest at his address if known, and otherwise to the address of the Unit, and a copy of the notice of sale must be served on or before the date of first publication or posting in the manner prescribed by law.

**7.12 Curing of Default.** Upon the timely curing of any default for which a Notice of Lien or a Notice of Delinquent Assessment was Recorded by the Association, the Association shall Record an appropriate release of the applicable Notice(s) upon payment by the defaulting Unit Owner of a reasonable fee to be determined by the Board of Directors to cover the cost of preparing and Recording such release.

**7.13 Cumulative Remedies.** The Assessment Lien and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies that the Association and its assigns may have hereunder and by law, Including a suit to recover a money judgment for unpaid Assessments, as above provided.

**7.14 Exemption of Unit Owner.** No Unit Owner may claim an exemption from liability for payment of Assessments, fines and other fees and charges levied pursuant to the Governing Documents by waiver and nonuse of any of the Common Elements and facilities or by the abandonment of his Unit.

**7.15 Certificate of Payment.** The Association on written request shall furnish to a lienholder, Unit Owner or person designated by a Unit Owner a Recordable statement setting forth the amount of unpaid Assessments against his Unit. The statement shall be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board of Directors, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement.

**7.16 No Offsets.** All Assessments, fines and other fees and charges shall be payable in accordance with the provisions of this Declaration, and no offsets against such Assessments, fines, other fees and charges shall be permitted for any reason, Including a

claim that the Association is not properly exercising its duties and powers as provided in the Governing Documents or the Act.

**7.17 Working Capital Fund.** To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Person acquiring a Unit from the Declarant shall pay to the Association immediately upon becoming a Unit Owner the sum of \$250. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Governing Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

**7.18 Reserve Assessments.** The Association shall establish and maintain, from Common Expense Assessments, an adequate reserve fund to provide for the replacement of Improvements to the Areas of Common Responsibility. In addition to the funds collected through Common Expense Assessments, each Person acquiring a Unit from the Declarant shall pay to the Association immediately upon becoming a Unit Owner the sum of \$250. Funds paid to the Association pursuant to this Section shall be deposited in the reserve fund of the Association. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. Notwithstanding any provision of the Governing Documents to the contrary, to establish adequate reserves, the Board of Directors may, without seeking or obtaining the approval of the Unit Owners, impose any necessary and reasonable Reserve Assessments against the Units. Any Reserve Assessments imposed by the Board of Directors must be based on the reserve study prepared in accordance with applicable law.

**7.19 Surplus Funds.** Surplus funds of the Association remaining after payment of or provisions for Common Expenses and any prepayment of reserves may, in the discretion of the Board of Directors and with the written approval of Declarant during the Period of Declarant Control, either be returned to the Unit Owners pro rata in accordance with each Unit Owner's Common Expense Liability or be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Assessments.

**7.20 Administrative Fee.** Each Person acquiring a Unit (other than Declarant) shall pay to the Association, or to its community manager if directed to do so by the Board of Directors, immediately upon becoming a Unit Owner an administrative fee in such amount as is established from time to time by the Board of Directors to compensate the Association for the administrative cost resulting from the transfer of a Unit.

## ARTICLE 8 INSURANCE

### 8.1 Scope of Coverage.

**8.1.1** Commencing not later than the date of the first conveyance of a Unit to a Person other than Declarant, the Association shall maintain, to the extent reasonably available and subject to reasonable deductibles, the following insurance coverages in accordance with the requirements of the Act:

(i) Property insurance on the Areas of Common Responsibility issued under a form that provides "All Risk of Direct Physical Loss" coverage in an amount equal to the maximum insurable replacement value of the Areas of Common Responsibility as determined by the Board of Directors; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from a property insurance policy.

(ii) Commercial general liability insurance, for a limit to be determined by the Board of Directors, but not less than \$2,000,000.00 for any single occurrence. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or relating to the use, ownership or maintenance of the Areas of Common Responsibility or arising out of or relating to the performance by the Association of its maintenance and other obligations under the Governing Documents, whether on the Common Elements, any Unit or any public or private right-of-way. Such policy shall include a cross liability clause to cover liabilities of the Unit Owners as a group to a Unit Owner.

(iii) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Nevada.

(iv) Directors' and officers' liability and errors and omissions insurance, with limits to be determined by the Board of Directors but not less than \$1,000,000, covering all the directors, officers, committee members, employees, agents and volunteers of the Association, naming the Association as the owner and named insured.

(v) Crime insurance that includes coverage for dishonest acts by members of the Board of Directors and the officers, employees, agents and volunteers of the Association and that extends coverage to any business entity that acts as the community manager of the Association and the employees of that entity. Such insurance may not contain a conviction requirement, and the minimum amount of the policy must be not less than an amount equal to three (3) months of aggregate Common Expense Assessments on all Units plus reserve funds, or \$5,000,000, whichever is less.

(vi) Such other insurance (Including employment practices liability insurance) as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board of Directors, the officers and the members of any committee of the Board of Directors or the Unit Owners.

**8.1.2** If the insurance described in **Subsections 8.1.1(i) through (v)** is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

**8.1.3** The insurance policies purchased by the Association shall name the Association as the insured for use and benefit of the individual Unit Owners (designated by name if required by the insurer) and contain the following provisions:

(i) Each Unit Owner shall be an insured under the policy with respect to liability arising out of his interest in the Common Elements or his membership in the Association.

(ii) The insurer waives its rights to subrogation under the policies against Unit Owners and members of their household.

(iii) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, voids the policy or is a condition to recovery under the policy.

(iv) If, at the time of a loss insured under an insurance policy purchased by the Association the loss is also insured under an insurance policy purchased by a Unit Owner, the Association's policy shall provide primary coverage

**8.1.4** The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(i) A "severability of interest" endorsement that shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners.

(ii) "Agreed Amount" and "Inflation Guard" endorsements.

**8.2 Payment of Premiums.** Premiums for all insurance obtained by the Association pursuant to this Article shall be Common Expenses and shall be included in the budget of the Association and shall be paid for by the Association.

**8.3 Allocation of Insurance Deductible.** The Association shall maintain in its reserve account an amount sufficient to pay the deductible amounts applicable to its insurance policies. If the Association submits a claim to an insurance carrier that is then or later determined by the Board of Directors to be the result of negligence or willful misconduct of a

Unit Owner, the cost to the Association of any insurance deductible shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments.

**8.4 Payment of Insurance Proceeds.** Any loss covered by property insurance obtained by the Association in accordance with this Article shall be adjusted with the Association and the insurance proceeds shall be payable to the Association or an insurance trustee designated for that purpose and not to any mortgagee or beneficiary under a deed of trust. The Association or insurance trustee shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in N.R.S. § 116.31135.

**8.5 Certificate of Insurance.** An insurer that has issued an insurance policy pursuant to **Section 8.1** of this Declaration shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

**8.6 Annual Insurance Review.** The Board of Directors shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Areas of Common Responsibility in light of increased construction costs, inflation, practice in the area of which the Community is located or any other factor that tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interest of the Unit Owners and of the Association. If the Board of Directors determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

**8.7 Repair and Replacement of Damaged or Destroyed Property.** Any portion of the Areas of Common Responsibility that are damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Unit Owners representing at least eighty percent (80%) of the total authorized votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association, and the Board of Directors may, without the necessity of a vote of the Unit Owners, levy an equal assessment against all Unit Owners. Additional assessments may be made in a like manner at any time during or following the completion of any repair or reconstruction. Any assessment levied pursuant to this **Section 8.7** will be deemed to be a part of the Assessments and will be secured by the Assessment Lien. If all of the Common Elements are not repaired or replaced, insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with

the remainder of the Community and that is not in violation of any state or local health or safety statute or ordinance. The remainder of the proceeds shall either (a) be distributed to all Unit Owners or lien holders in proportion to the allocated interest of each Unit Owner as determined pursuant to **Section 2.6** of this Declaration, or (b) be retained by the Association as an additional capital reserve or used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Association.

## **ARTICLE 9 RIGHTS AND OBLIGATIONS OF MORTGAGEES**

**9.1 First Mortgagee's Right of Inspection of Records.** Any First Mortgagee will be entitled, upon written request, to: (i) inspect the books and records of the Association during normal business hours; (ii) receive within ninety (90) days following the end of any fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

**9.2 No Priority over First Mortgagees.** No provision of this Declaration gives or shall be construed as giving any Unit Owner or other Person priority over any rights of a First Mortgagee of a Unit in the case of the distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Elements.

**9.3 Obligations of Mortgagees.** A Person who holds a security interest in a Unit shall provide the Association with the Person's contact information as soon as reasonably practicable, but not later than thirty (30) days after the Person: (i) files an action for recovery of a debt or enforcement of any right secured by the Unit pursuant to N.R.S. § 40.430; or (ii) Records or has Recorded on such Person's behalf a notice of a breach of obligation secured by the Unit and the election to sell or have the Unit sold pursuant to N.R.S. § 107.080.

## **ARTICLE 10 RESERVATION OF DEVELOPMENTAL AND SPECIAL DECLARANT'S RIGHTS**

Pursuant to N.R.S. § 116.2105(1)(h), Declarant reserves all of the developmental and special declarant's rights in the Community afforded under N.R.S. § 116.039 and N.R.S. § 116.089, subject to the expiration deadlines set forth below. Specifically, but without limitation, Declarant reserves the following rights:

**10.1 Developmental Rights.** Declarant hereby reserves, for a period of twenty-five (25) years following the Recordation of this Declaration, all developmental rights under N.R.S. § 116.039. Declarant specifically reserves the right to withdraw real estate described



on **Exhibit A** from the Community until the first Unit has been conveyed to a Person other than Declarant. If Declarant elects to add any portion of the Additional Property to the Community pursuant to **Section 2.9** of this Declaration, each Unit and Common Element within such portion of the Additional Property, when annexed, shall be deemed a "separate portion" of the Community (for purposes of N.R.S. § 116.211(4)), and Declarant hereby reserves the right to withdraw any such Unit or Common Element so annexed during the time period set forth in this Section.

**10.2 Right to Complete Improvements and Construction Easement.** Declarant hereby reserves the right, for a period of twenty-six (26) years following the Recordation of this Declaration, to complete the construction of Improvements in the Community and an easement over the Community for the purpose of doing so. Any damage caused to a Unit or the Common Elements by Declarant or its agents in the use or exercise of such right and/or easement shall be repaired by and at the expense of Declarant.

**10.3 Offices, Model Homes and Promotional Signs.** Declarant reserves the right to maintain offices for sales and management and models as provided in **Section 3.4** above, and to maintain signs on the Common Elements until Declarant no longer owns any property described on **Exhibit A** or **Exhibit B**, or for a period of twenty-six (26) years following Recordation of this Declaration, whichever occurs first.

**10.4 Use of Easements.** Declarant reserves the right to use easements through the Common Elements for the purpose of making Improvements within the Community or within the Additional Property until Declarant no longer owns any property described on **Exhibit A** or **Exhibit B**, or for a period of twenty-six (26) years following the Recordation of this Declaration, whichever occurs first.

**10.5 Master Association.** Declarant reserves the right to make the Community subject to any additional master homeowners association at any time during the Period of Declarant Control, subject to the reasonable consent of the Master Association, and further subject to the reasonable consent of Master Declarant.

**10.6 Merger or Consolidation.** Declarant reserves the right to merge or consolidate the Association with another common-interest community of the same form of ownership at any time during the Period of Declarant Control.

**10.7 Appointment and Removal of Directors and Officers.** Declarant reserves the right to appoint and remove a majority of the Board of Directors and the officers of the Association or any master association (except the Master Association) or any member of the Board of Directors as set forth in **Section 6.2** above, for the time period set forth therein.

**ARTICLE 11**  
**ADDITIONAL DISCLOSURES, DISCLAIMERS AND RELEASES**

**11.1 Post Tension Concrete System.** Due to expansive soil conditions, Dwellings will be built using a post-tension concrete system (“**System**”). The System involves placing steel cables under high tension in the concrete slab located beneath the Dwelling. Therefore, any attempt to alter or pierce the foundation (e.g., sawing, cutting or drilling) could damage the integrity of the System and/or cause serious injury or damage to persons and personal property. Each Unit Owner and Resident hereby agrees (i) to not cut into or otherwise tamper with the System; (ii) to not knowingly permit or allow any other person to cut into or tamper with the System so long as the Unit Owner or Resident owns or occupies the Unit; (iii) to disclose the existence of the System to any person who rents, leases or purchases the Unit; and (iv) that such Unit Owner and/or Resident will not be able to install a floor safe.

**11.2 Restricted Access Gate.** Declarant intends to construct a gated entrance leading into the Community in order to limit vehicular access to the Community and to provide some privacy for the Unit Owners and Residents. Each Unit Owner and Resident, for himself and his family, invitees and licensees, acknowledges, understands and agrees as follows:

(i) Declarant Parties make no representations or warranties that a gated entrance will provide security and safety to Unit Owners, Residents and their families, invitees and licensees.

(ii) The gated entrance may restrict or delay entry into the Community by the police, fire department, ambulances and other emergency vehicles or personnel.

(iii) Installation and operation of an entry gate shall not create any presumption or duty whatsoever of Declarant or the Association (or their respective officers, directors, managers, employees, agents and/or contractors) with regard to security or protection of persons or property within or adjacent to the Community.

Each Unit Owner and Resident, for himself and his family, invitees and licensees, assumes the risk that the gated entrance may not provide security and safety and may restrict or delay entry into the Community by the police, fire department, ambulances and other emergency vehicles and personnel. Neither the Declarant Parties, the Association, nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Unit Owner, Resident or his family, invitees or licensees for any claims or damages resulting, directly or indirectly, from the construction, operation, existence or maintenance of the gated entrance.

### **11.3 High Power Electric Transmission Lines; Release of Claims.**

**11.3.1** High power electric transmission lines and related towers, systems and other equipment are located along N. Shaumber Road and Grand Teton Drive, in the vicinity of the Community, and may be upgraded and supplemented from time to time. The high power electric transmission lines, related towers, systems and other equipment are hereinafter referred to as the “**Electric Facilities.**” Each Unit Owner and Resident, for himself and his family, invitees and licensees, acknowledges and agrees as follows:

(i) The Community may now or in the future be exposed to electromagnetic fields from the Electric Facilities.

(ii) The Declarant Parties do not claim any expertise concerning such conditions and make no representations, warranties or statements, express or implied, regarding such Electric Facilities (except to note their existence), or regarding any damage or injury that may occur as a result of the proximity of the Electric Facilities to the Property.

**11.3.2** Each Unit Owner and Resident, for himself and his family, invitees and licensees, assumes any and all risks as may now or hereafter be or become associated with Electric Facilities or any new or replacement equipment or systems. Neither the Declarant Parties, the Association nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Unit Owner or Resident or his family, invitees or licensees for any claims or damages to persons or property resulting, directly or indirectly, from the existence, operation or maintenance of the Electric Facilities.

**11.4 Paseo.** A paseo is planned to be developed on land adjacent to the eastern and southern boundaries of the Community. This paseo, if built, will not be part of the Community and will not be controlled by the Association or Declarant, but will be an amenity of Skye Canyon. Unit Owners are advised that the Community may experience increased noise, traffic, and lighting because of the activities that may take place in the paseo. Neither Declarant nor the Association make any representation or warranty concerning whether the paseo will be constructed or the timeline for construction, or concerning the types or frequency of activities that may occur in the paseo.

**11.5 Park.** A park is planned to be developed on land adjacent to the northeast corner of the Community. This park, if built, will not be part of the Community and will not be controlled by the Association or Declarant, but will be an amenity of Skye Canyon. This park may contain an area for a dog park. Unit Owners are advised that the Community may experience increased noise, traffic, and lighting because of the activities that may take place at the park. Neither Declarant nor the Association make any representation or warranty concerning whether the park will be constructed or the timeline for construction, or concerning the types or frequency of activities that may occur in the park.

**11.6 Views Not Guaranteed.** Although certain Units in the Community at any point in time may have particular views, no express or implied easements exist for views or for the passage of light and air to any Unit. Declarant Parties and the Association make no representations or warranties whatsoever, express or implied, concerning the view that any Unit will have whether at the date this Declaration is Recorded or thereafter. Further, the payment of any premium for any Unit does not constitute a guarantee of any view the Unit may have now or in the future. Any view that exists at any point in time for a Unit may be impaired or obstructed by further construction within the Community, Including by construction of Improvements (Including landscaping) by Declarant, construction of Improvements by third parties and by the natural growth of landscaping. No third party, Including any broker or salesperson, has any right to bind Declarant or the Association with respect to the preservation of any view from any Unit or any view of a Unit from any other property.

**11.7 Relationship Between Master Association and Association.** MASTER ASSOCIATION AND THE ASSOCIATION ARE SEPARATE LEGAL ENTITIES, AND NEITHER IS RESPONSIBLE TO ANY OWNER FOR THE ACTS OR OMISSIONS OF THE OTHER. ALL ASSESSMENTS, ADMINISTRATIVE FEES, WORKING CAPITAL CONTRIBUTIONS AND ANY OTHER AMOUNTS DUE TO THE ASSOCIATION UNDER THIS DECLARATION ARE IN ADDITION TO ALL MASTER ASSESSMENTS, MASTER ADMINISTRATIVE TRANSFER FEES AND MASTER CAPITAL CONTRIBUTIONS AND ANY OTHER AMOUNTS DUE TO THE MASTER ASSOCIATION UNDER THE MASTER DECLARATION. Neither Master Declarant nor Master Association shall have any responsibility for or under the Governing Documents for the Community. The Governing Documents for the Association and the Master Association Governing Documents shall be construed to be consistent with each other to the extent reasonably feasible, and in the event of a conflict, the terms and provisions of the Master Declaration and the other Master Association Governing Documents shall control; provided, however, that the terms and provisions of the Governing Documents for the Community may be more restrictive than those in the Master Association Governing Documents and in such event, the more restrictive terms and provisions of the Governing Documents shall control.

**11.8 Release.** Each Unit Owner and Resident hereby releases the Declarant Parties and the Association from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (Including strict liability) arising out of or relating to any nuisance, inconvenience, disturbance, injury or damage to persons and property resulting from activities or occurrences described in this **Article 11**.

## ARTICLE 12 GENERAL PROVISIONS

### 12.1 Enforcement.

**12.1.1** The Association or any Unit Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Governing Documents. Failure by the Association or by any Unit Owner to enforce any covenant or restriction contained in the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter. The Master Association shall have no duty or obligation to enforce this Declaration.

**12.1.2** All remedies set forth in this Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In the event the Declarant, the Association or any Unit Owner employs an attorney or attorneys to enforce a lien or to collect any amounts due from a Unit Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Governing Documents, the prevailing party in any such action (Including any such action maintained under **Section 12.20**) shall be entitled to recover from the other party its reasonable attorneys' fees and costs incurred in the action.

**12.1.3** The Association shall be obligated to investigate allegations of violations of any covenant, restriction, or rule set forth in any of the Governing Documents; provided that the Association may, but shall not be obligated to, investigate anonymous allegations. Following such investigation, the decision to take or not take enforcement action shall, in each case, be in the discretion of the Board of Directors, in the exercise of its business judgment. Without limiting the generality of the Board of Directors' discretion, if the Board of Directors reasonably determines that, under the facts and circumstances (i) a covenant, restriction, or rule is, or is likely to be construed as, inconsistent with the applicable law; (ii) the Association's position is not strong enough to justify taking enforcement action, (iii) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) it is not in the Association's best interests to pursue an enforcement action, the Board of Directors shall not be obligated to take such action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision at a later time or under other circumstances, or estop the Association from enforcing any other covenant, restriction, or rule. Notwithstanding the above, if, in the discretion of the Declarant as long as Declarant owns any property described in **Exhibit A** or **Exhibit B**, the Association fails to take appropriate action to enforce any provision of the Governing Documents in accordance with its rights and responsibilities, the Declarant may take such enforcement action on behalf of the Association. Declarant shall not take such action without first providing the Association written notice and a reasonable opportunity to take such action on its own.

**12.2 Severability.** Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof, and the remainder of the Declaration shall remain in full force and effect. If any provision herein is adjudged or deemed to be invalid or unenforceable as written by reason of any federal, state or local law, ordinance, rule or regulations, then a court or the Association, as applicable, may interpret, construe, rewrite or revise such provision to the fullest extent allowed by law, so as to make such provision valid and enforceable. Such modification shall not serve to extinguish any restriction not adjudged or deemed to be unenforceable.

**12.3 Duration.** Unless amended in accordance with the provisions of **Section 12.5** below, the covenants and restrictions of this Declaration shall run with and bind the Community, for a term of fifty (50) years from the date this Declaration is Recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

**12.4 Termination of Community.** The Community may be terminated only in the manner provided for in the Act.

**12.5 Amendment.**

**12.5.1** Except as otherwise provided by the Act, and except in cases of amendments that may be executed by a Declarant under N.R.S. §§ 116.2109 or 116.211, by the Association under N.R.S. §§ 116.1107, 116.2106, Subsection 3 of N.R.S. § 116.2108, Subsection 1 of N.R.S. § 116.2112 or N.R.S. § 116.2113, or by certain Unit Owners under Subsection 2 of N.R.S. § 116.2108, Subsection 1 of N.R.S. § 116.2112, Subsection 2 of N.R.S. § 116.2113 or Subsection 2 of N.R.S. § 116.2118, and except as limited by **Subsections 12.5.2, 12.5.3 and 12.20.9** of this Declaration, and subject to the provisions of **Subsection 12.5.4** of this Declaration, this Declaration, including the Plat, may be amended only by the affirmative vote or written consent, or any combination thereof, of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

**12.5.2** Except to the extent expressly permitted or required by the Act, an amendment to the Declaration shall not change the boundaries of any Unit, change the allocated interests of a Unit or change the uses to which any Unit is restricted, in the absence of unanimous consent of only those Unit Owners whose Units are affected and the consent of a majority of the Unit Owners of the remaining Units in the Community.

**12.5.3** An amendment to the Declaration shall not terminate or decrease any unexpired Developmental Right, Special Declarant's Right or Period of Declarant Control unless the Declarant approves the amendment in writing.

**12.5.4** During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, Including the Plat, to (i) comply with the Act or any other

applicable law if the amendment does not materially and adversely affect the rights of any Unit Owner, (ii) correct any error or inconsistency in the Declaration if the amendment does not materially and adversely affect the rights of any Unit Owner, (iii) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, or (iv) comply with the rules or requirements of any federal, state or local governmental entity or agency whose approval of the Community, the Plat or the Governing Documents is required by law or requested by Declarant; provided, however, that Declarant may not unilaterally amend this Declaration under this **Subsection 12.5.4** without the prior written consent of Master Declarant.

**12.5.5** Any amendment adopted by the Unit Owners pursuant to **Subsection 12.5.1** of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to **Subsection 12.5.4** of this Declaration or the Act shall be executed by the Declarant and shall be Recorded. Any amendment shall be effective only upon Recordation.

**12.6 Remedies Cumulative.** Each remedy provided herein is cumulative and not exclusive.

**12.7 Notices.** Except as otherwise provided in this Declaration or applicable law, all notices, demands, statements or other communications required to be given to or served on a Unit Owner under this Declaration shall be delivered to any mailing or electronic mail address designated by the Unit Owner. If a Unit Owner has not designated a mailing or electronic mail address to which a notice must be delivered, the Association may deliver notices by (a) hand delivery to each Unit Owner, (b) United States mail, postage paid, or commercially reasonable delivery service to the mailing address of the Unit, (c) electronic means, if the Unit Owner has given the Association an electronic mail address, or (d) any other method reasonably calculated to provide notice to the Unit Owner. A Unit Owner may change his address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association pursuant to this Section. A notice given by mail shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is mailed. If a Unit is owned by more than one (1) person, notice to one (1) of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Each Unit Owner shall file his correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

**12.8 Binding Effect.** By acceptance of a deed or by acquiring any ownership interest in any portion of the Community, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal

representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by the Governing Documents and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that the Governing Documents set forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained in the Governing Documents shall run with the land and be binding on all subsequent and future Unit Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Person fully understands and acknowledges that the Governing Documents shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Unit Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Units and the membership in the Association and the other rights created by the Governing Documents shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

**12.9 Gender.** The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to corporations or individuals, or men or women, shall in all cases be assumed as though in each case fully expressed.

**12.10 Topic Headings.** The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or of this Declaration.

**12.11 Survival of Liability.** The termination of membership in the Association shall not relieve or release any such former Unit Owner or Member from any liability or obligation arising out of or relating to the Association during the period of such ownership or membership, or impair any rights or remedies that the Association may have against such former Unit Owner or Member arising out of, or in any way connected with, such ownership or membership and the covenants and obligations incident thereto.

**12.12 Joint and Several Liability.** In the case of joint ownership of a Unit, the liabilities and obligations of each of the joint Unit Owners set forth in, or imposed by, the Governing Documents shall be joint and several.

**12.13 Guests and Tenants.** Each Unit Owner shall be responsible for compliance by his agents, tenants, guests, invitees, licensees and their respective servants, agents, and employees with the provisions of the Governing Documents. A Unit Owner's failure to insure compliance by such Persons shall be grounds for the same action available to the Association or any other Unit Owner by reason of such Unit Owner's own noncompliance.

**12.14 Number of Days.** In computing the number of days for purposes of any provision of the Governing Documents, all days shall be counted including Saturdays,



Sundays and legal holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the next day that is not a Saturday, Sunday or legal holiday shall be deemed to be the final day.

**12.15 Notice of Violation.** The Association shall have the right to Record a written notice of a violation by any Unit Owner of any restriction or provision of the Governing Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (i) the name of the Unit Owner; (ii) the legal description of the Unit against which the notice is being Recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps that must be taken by the Unit Owner to cure the violation. Recordation of a notice of violation shall serve as a notice to the Unit Owner and to any subsequent purchaser of the Unit that there is a violation of the provisions of the Governing Documents. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the actual violation referred to in the notice has been cured, the Association shall Record a notice of compliance that shall state the legal description of the Unit against which the notice of violation was Recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured, or if such be the case, that it did not exist.

**12.16 No Absolute Liability.** No provision of the Governing Documents shall be interpreted or construed as imposing on any Unit Owner absolute liability for damage to the Common Elements or the Units. A Unit Owner shall only be responsible for damage to the Common Elements or Units caused by the Unit Owner's negligence or intentional acts.

**12.17 Governing Law.** The provisions of this Declaration shall be liberally construed to promote and effectuate the purpose of the Association as set forth in this Declaration. The provisions of this Declaration shall be construed and governed by the laws of the State of Nevada. This Declaration is intended to comply with the provisions of the Act. In the event any provision of this Declaration is held to be in violation of the Act, this Declaration shall be deemed amended to the extent necessary to comply with the Act.

**12.18 Interpretation.** Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration. In the event of any conflict between this Declaration and the Articles, Bylaws or Association Rules, this Declaration shall control except to the extent the Declaration is inconsistent with the Act. In the event of any conflict between the Articles and the Bylaws, the Articles shall control. In the event of any conflict between the Bylaws and the Association Rules, the Bylaws shall control.

**12.19 References to this Declaration in Deeds.** Deeds to and instruments affecting any Unit or any other part of the Community may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee, Unit Owner or other Person claiming through any instrument and such grantee's, Unit Owner's or other Person's heirs, executors, administrators, successors and assigns.

**12.20 Dispute Notification and Resolution Procedure.** All actions or claims (i) by the Association against any one or more of the Declarant Parties, (ii) by any Unit Owner(s) against any one or more of the Declarant Parties (other than claims under the limited warranty provided by Declarant to a Unit Owner (the "**Limited Warranty**") to the extent applicable), or (iii) by both the Association and any Unit Owner(s) against any one or more of the Declarant Parties (other than claims under the Limited Warranty to the extent applicable), arising out of or relating to the Community, Including the Declaration or any other Governing Documents, the use or condition of the Community or the design or construction of or any condition on or affecting the Community, Including construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (Including Dwellings) or disputes that allege negligence or other tortious conduct, fraud, misrepresentation, breach of contract or breach of implied or express warranties as to the condition of the Community or any Improvements (collectively, "**Dispute(s)**") shall be subject to the provisions of this **Section 12.20**. Declarant and each Unit Owner acknowledge that the provisions set forth in this **Section 12.20** shall be binding upon current and future Unit Owners of the Community and upon the Association, whether acting for itself or on behalf of any Unit Owner(s). Nothing in this Declaration is intended to limit, expand or otherwise modify the terms of the Limited Warranty, and claims under the Limited Warranty will, subject to the terms of the Limited Warranty, be arbitrated in accordance with the arbitration provisions set forth in the Limited Warranty (to the extent applicable).

**12.20.1 Claim Notice.** Any Person (Including the Association) with a Dispute claim shall notify the applicable Declarant Party (the "**Notified Declarant Party**") in writing within sixty (60) days after becoming aware of the Dispute by certified mail, return receipt requested, of the claim, which writing shall include (i) in reasonable detail, the defects or any damages or injuries to each Improvement that is the subject of the Dispute, (ii) in reasonable detail, the cause of the defects if the cause is known, the nature and extent that is known of the damage or injury resulting from the defects and the location of each defect within each Improvement, and (iii) an expert opinion concerning the cause of the defects and the nature and extent of the damage or injury resulting from the defects based on a representative sample of the components of the Improvements involved in the Dispute (the "**Claim Notice**").

**12.20.2 Right to Inspect.** Within forty-five (45) days after receipt of the Claim Notice, the Notified Declarant Party and the Notified Declarant Party's representatives, upon written request to the claimant, shall be entitled to inspect the property that is the subject

of the Dispute to determine the nature and cause of the defect, damage or injury and the nature and extent of repairs necessary to remedy the defect. After reasonable notice to the claimant and at reasonable times, the Notified Declarant Party and the Notified Declarant Party's representatives shall have the right to conduct inspections, testing and/or destructive or invasive testing in a manner deemed appropriate by the Notified Declarant Party (provided the Notified Declarant Party shall repair or replace any property damaged or destroyed during such inspection or testing), provided that all such activities are reasonably necessary to establish the existence of the defect, which right shall continue until such time as the Dispute is resolved as provided in **Subsection 12.20.3**.

**12.20.3** Right to Corrective Action. Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, the Notified Declarant Party and the claimant shall meet at a mutually acceptable place within the Community or some other mutually acceptable place to discuss the Dispute. The parties shall negotiate in good faith in an attempt to resolve the Dispute. If the Notified Declarant Party elects to take any corrective action, the Notified Declarant Party and the Notified Declarant Party's representatives and agents shall be provided full access to the Community and the property that is the subject of the Dispute at reasonable times and upon reasonable notice to the claimant to take and complete corrective action.

**12.20.4** No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in **Subsections 12.20.2 and 12.20.3** shall be construed to impose any obligation on the Notified Declarant Party to inspect, test, repair or replace any item of the Community for which the Notified Declarant Party is not otherwise obligated under applicable law or the Limited Warranty. The right of the Notified Declarant Party to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing executed and Recorded by the Notified Declarant Party.

**12.20.5** Mediation. If the parties to the Dispute fail to resolve the Dispute pursuant to the procedures described in **Subsection 12.20.3** above within ninety (90) days after delivery of the Claim Notice, the Person who delivered the Claim Notice shall select a mediator within ten (10) days after such ninety (90) day period. The mediator shall be subject to the approval of the Notified Declarant Party. If the Notified Declarant Party and the claimant fail to agree upon a mediator within twenty (20) days after a mediator is first selected by the claimant, either party may petition the American Arbitration Association, the Nevada Arbitration Association, Nevada Dispute Resolution Services or any other mediation service acceptable to the parties for the appointment of a mediator qualified in the area pertaining to the Dispute. If the Person who delivered the Claim Notice fails to timely submit the Dispute to mediation, then the claim of the Person who delivered the Claim Notice shall be deemed waived and abandoned and all applicable Declarant Parties shall be relieved and released from any and all liability relating to the Dispute. No person shall serve as a mediator in the Dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment,

the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. No litigation or other action shall be commenced against the Notified Declarant Party or any other Declarant Party without complying with the procedures described in this **Subsection 12.20.5**.

(i) Position Memoranda; Dispute Materials; Pre-Mediation Conference. Within fifteen (15) days after the selection of the mediator, each party shall (i) submit a brief memorandum setting forth its position with regard to the issues that need to be resolved, and (ii) provide the other party, or shall make a reasonable effort to assist the other party to obtain, all relevant reports, photos, correspondence, plans, specifications, warranties, contracts, subcontracts, work orders for repair, videotapes, technical reports, soil and other engineering reports and other documents or materials relating to the Dispute that are not privileged. The mediator shall have the right to schedule a pre-mediation conference and all parties shall attend unless otherwise agreed. The mediation shall be commenced within thirty (30) days following the submittal of the memoranda and shall be concluded within forty-five (45) days following the submittal of the memoranda unless the parties mutually agree to extend the mediation period. The mediation shall be held in the county in which the Community is located or such other place as is mutually acceptable by the parties.

(ii) Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

(iii) Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

(iv) Parties Permitted at Sessions. Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of both parties and the consent of the mediator. Notwithstanding the foregoing, applicable contractors, subcontractors, brokers, suppliers, architects, engineers and any other Persons providing materials or services in connection with the construction of any Improvement upon or benefiting the Community designated by a Notified Declarant Party may attend mediation sessions and may be made parties to the mediation. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall be confidential. There shall be no stenographic record of the mediation process.

(v) Expenses. Before the mediation begins, the Person who delivered the Claim Notice shall deposit \$50.00 with the mediation service, and each other party to the mediation shall deposit with the mediation service, in equal shares, the remaining

amount estimated by the mediation service as necessary to pay the fees and expenses of the mediator for the first session of mediation and shall deposit additional amounts demanded by the mediation service as incurred for that purpose. Unless otherwise agreed, the total fees for each day of mediation and the mediator must not exceed \$750.00 per day. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise. Each party to the mediation shall bear its own attorneys' fees and costs in connection with such mediation.

**12.20.6 Arbitration.** Should mediation pursuant to **Subsection 12.20.5** above not be successful in resolving the Dispute, then the Person who delivered the Claim Notice shall have ninety (90) days after the date of termination of the mediation to submit the Dispute to binding arbitration. If timely submitted, such Dispute shall be resolved by binding arbitration through the American Arbitration Association in accordance with the Construction Industry AAA Rules, as modified or as otherwise provided in this **Subsection 12.20.6**. If the Person who delivered the Claim Notice fails to timely submit the Dispute to arbitration within the ninety (90) day period, then the claim of the Person who delivered the Claim Notice shall be deemed waived and abandoned and all applicable Declarant Parties shall be relieved and released from any and all liability relating to the Dispute. A Person with any Dispute may only submit such Dispute in arbitration on such Person's own behalf. No Person may submit a Dispute in arbitration as a representative or member of a class, and no Dispute may be arbitrated as a class action. All Declarant Parties and any Person(s) with a Dispute and/or submitting a Claim Notice, together with any additional Persons who agree to be bound by this **Subsection 12.20.6**, such as contractors, subcontractors, brokers, suppliers, architects, engineers and any other Person providing materials or services in connection with the construction of any Improvement upon or benefiting the Community (collectively, the "**Bound Parties**"), agree that all Disputes that are not resolved by negotiation or mediation shall be resolved exclusively by arbitration conducted in accordance with this **Subsection 12.20.6**, and waive the right to have the Dispute resolved by a court, including the right to file a legal action as the representative or member of a class or in any other representative capacity. The parties shall cooperate in good faith to attempt to cause any Person who may be liable to any other Bound Party to be included in the arbitration proceeding. Subject to the limitations imposed in this **Subsection 12.20.6**, the arbitrator shall have the authority to try all issues, whether of fact or law.

(i) **Place.** The proceedings shall be heard in the county in which the Community is located.

(ii) **Arbitrator.** A single arbitrator shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the American Arbitration Association with experience in relevant real estate matters or construction. The arbitrator shall not have any relationship to the parties or interest in the Community. The parties to the Dispute shall meet to select the arbitrator within ten (10) days

after service of the demand for arbitration on all respondents named therein or in the manner prescribed by the American Arbitration Association.

(iii) Commencement and Timing of Proceeding. The arbitrator shall promptly commence the proceeding at the earliest convenient date in light of all of the facts and circumstances and shall conduct the proceeding without undue delay. The arbitrator shall, not later than five (5) days after his selection provide to the parties to the Dispute an informational statement relating to the arbitration of the Dispute. The written informational statement (a) must be written in plain English; (b) must explain the procedures and applicable law relating to the arbitration of the Dispute, including the procedures, timelines and applicable law relating to confirmation of an award pursuant to N.R.S. § 39.239, vacation of an award pursuant to N.R.S. § 38.241, judgment on an award pursuant to N.R.S. § 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and (c) must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than ten (10) days after receipt of the informational statement.

(iv) Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

(v) Discovery. The parties shall be entitled only to limited discovery, consisting of the exchange between the parties of only the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Dispute, including destructive or invasive testing; and (vi) hearing briefs. The parties shall also be entitled to conduct further tests and inspections as provided in **Subsection 12.20.2** above. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(vi) Motions. The arbitrator shall have the power to hear and dispose of motions, including motions to dismiss, motions for judgment on the pleadings and summary judgment motions, in the same manner as a trial court judge, except the arbitrator shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies, whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(vii) Arbitration Award. Unless otherwise agreed by the parties, the arbitrator shall render a written arbitration award within thirty (30) days after conclusion of the arbitration hearing. The arbitrator's award may be enforced as provided for in N.R.S. § 38.105 and Nevada Arbitration Rule 19, or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held, or, as applicable, pursuant to the Federal Arbitration Act (Title 9 of the United States Code).

**12.20.7** WAIVERS.

NOTICE: BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE COMMUNITY, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY DISPUTE RESOLVED ACCORDING TO THE PROVISIONS OF THIS **SECTION 12.20** AND WAIVES THE RIGHT TO PURSUE ANY DISPUTE IN ANY MANNER OTHER THAN AS PROVIDED IN THIS **SECTION 12.20**. SPECIFICALLY, AND WITHOUT LIMITATION, EACH SUCH PERSON WAIVES THE RIGHT TO SUBMIT A DISPUTE IN ARBITRATION AS A REPRESENTATIVE OR MEMBER OF A CLASS AND TO HAVE SUCH DISPUTE ARBITRATED AS A CLASS ACTION AND ALSO WAIVES THE RIGHT TO HAVE THE DISPUTE RESOLVED BY A COURT, INCLUDING THE RIGHT TO FILE A LEGAL ACTION AS THE REPRESENTATIVE OR MEMBER OF A CLASS OR IN ANY OTHER REPRESENTATIVE CAPACITY. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS **SECTION 12.20**, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH DISPUTES TRIED BEFORE A JURY. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A DISPUTE. BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE COMMUNITY, EACH UNIT OWNER HAS VOLUNTARILY ACKNOWLEDGED THAT HE IS GIVING UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A DISPUTE.

**12.20.8** Statutes of Limitation and Repose. Except as otherwise provided under N.R.S. § 40.695, nothing in this **Section 12.20** shall be considered to toll, stay, reduce or extend any applicable statute of limitation or repose.

**12.20.9** Required Consent of Declarant to Modify. This **Section 12.20** shall not be amended except in accordance with **Subsection 12.5.1** of this Declaration and with the express written consent of the Declarant.

**12.21** Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the rule against perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest. The "lives in being" for computing the period of perpetuities shall be (i) those that would be used in determining the validity of the challenged interest, plus (ii) those of the issue of the Board of Directors who are living at the time the period of perpetuities starts to run on the challenged interest.

**12.22 Master Association.** The Community is part of a master planned community known as Skye Canyon and is subject to the terms and conditions of the Master Declaration and all other Master Association Governing Documents, as such documents may from time to time be amended. The Unit Owners and Residents subject to this Declaration must comply with the Master Association Governing Documents, as well as comply with all covenants, conditions and restrictions set forth in this Declaration. All assessments and amounts payable to the Master Association pursuant to the Master Association Governing Documents shall be in addition to any Assessments or other amounts due to the Association pursuant to this Declaration. Each Unit Owner subject to this Declaration and the Association acknowledges and agrees that the Master Association shall not be responsible for the maintenance, repair or replacement of the Common Elements. Any action that requires the consent of the Master Association shall be deemed approved or consented to if approved in writing by the Board of Directors of the Master Association, except as otherwise provided for in the Master Declaration.

**12.23 Protection of Master Declarant and Master Association.** No provision for the benefit of or affecting the Master Declarant and/or the Master Association can be amended, altered, suspended or superseded without the express prior written consent of Master Declarant and/or the Master Association (as applicable, in their respective reasonable discretion), which consent must be acknowledged in a Recorded document (and any purported amendment in the absence of such prior written consent shall be null and void).

**12.24 Coexistence of Master Declaration.**

**12.24.1** The provisions of this Declaration shall supplement, and shall not supersede, the provisions of the Master Declaration, and in the event of a conflict, the terms and provisions of the Master Declaration shall control; provided, however, that the terms and provisions of this Declaration may be more restrictive than the Master Declaration and in such event, the terms and provisions of this Declaration shall control. Nothing herein contained shall be construed to relieve any Unit Owner or Unit within the Community from the conditions, covenants, and restrictions contained in the Master Declaration, or as limiting or preventing any rights of enforcement granted or available to the Master Association or by virtue thereof.

**12.24.2** Unit Owners and Residents and other Persons subject to this Declaration are also subject to and must comply with the Master Declaration and the Master Association Governing Documents. All assessments, working capital contributions and administrative transfer fees payable to the Master Association pursuant to the Master Declaration, and any other amounts payable to the Master Association pursuant to the Master Association Governing Documents shall be in addition to any Assessments and other amounts due to the Association pursuant to this Declaration.

**12.25 Effect on Agreements Between Declarant and Master Declarant.** No provision contained in this Declaration shall rescind, modify or amend any previous



agreement(s) and/or instruments between Declarant and Master Declarant, whether such agreements are Recorded or not Recorded, with respect or related to the creation and development of Units and Common Elements, and the Community.

**12.26 Unit Owner's Acknowledgment of Limited Warranty.** Each Unit Owner, by accepting any interest in any portion of the Community and becoming a Unit Owner, acknowledges and agrees that Declarant has provided a Limited Warranty protecting the Unit Owner against deficiencies and structural defects in the construction of the Unit and the Common Elements as more particularly set forth in the Limited Warranty (the "**Defects**"). The Limited Warranty describes the terms and conditions of the Unit Owner's rights and remedies with respect to the Defects. Each Unit Owner agrees to comply with the terms and conditions of the Limited Warranty in the event any Defects occur during the term of the Limited Warranty.

**12.27 Limitation of Liability.** Notwithstanding anything to the contrary in this Declaration, each Unit Owner, by accepting any interest in any portion of the Community and becoming a Unit Owner, acknowledges and agrees that the Declarant Parties shall not have any personal liability to the Association or any Unit Owner, Member or any other Person, arising out of, relating to or resulting from (Including resulting from action or failure to act with respect to) this Declaration or the Association, except, in the case of Declarant (or its assignee) to the extent of its interest in the Community and, in the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets or be a lien upon such other assets of the judgment debtor.

**/SIGNATURES APPEAR ON FOLLOWING PAGES/**

**DECLARANT:**

PN II, INC., a Nevada corporation d/b/a Pulte Homes  
of Nevada

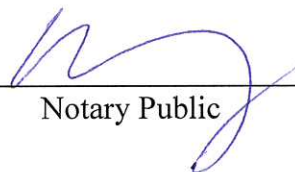
By: 

Printed Name: Quincy Edwards

Its: Vice President of Land

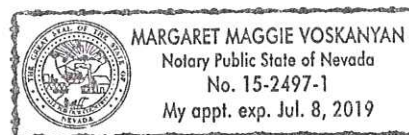
STATE OF NEVADA       )  
                                  ) ss.  
County of Clark        )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of February, 2018  
by Quincy Edwards, the Vice President of Land for PN II, INC., a Nevada corporation d/b/a Pulte  
Homes of Nevada, on behalf of the corporation.

  
Notary Public

My Commission Expires:

July 8, 2019



**EXHIBIT A**

**PROPERTY SUBMITTED TO COMMUNITY**

**UNITS:**

Lots 1, 2, 3 and 4, SKYE CANYON PARCEL 2.23B, according to the Final Map recorded in Book 154 of Plats page 0088, Official Records of Clark County, Nevada.

## **EXHIBIT B**

### **ADDITIONAL PROPERTY**

#### **UNITS:**

Lots 5 through 102, inclusive, SKYE CANYON PARCEL 2.23B, according to the Final Map recorded in Book 154 of Plats page 0088, Official Records of Clark County, Nevada.

#### **COMMON ELEMENTS:**

Common Lots A, B, C, D, E, F, G, H and Z (private streets), SKYE CANYON PARCEL 2.23B, according to the Final Map recorded in Book 154 of Plats page 0088, Official Records of Clark County, Nevada.

## EXHIBIT D

### APPLICATION OF SHADING RESTRICTIONS

This Exhibit describes the steps that must be taken to determine the maximum allowable height of landscaping, structures and Improvements (as applicable an "Obstacle") to insure that it does not interfere with the output of neighboring Solar Collection Devices resulting in Prohibited Shading.

There are three pieces of information that are needed to determine the maximum allowable height of an Obstacle ("Maximum Obstacle Height"):

- The horizontal distance between the closest point of the Obstacle and the Solar Collection Devices ("D")
- The height of the lowest point of the Solar Collection Devices from the ground ("H1")
- The difference in height between the base of the house and the base of the Obstacle ("H2")

The distances in Figure 1 will be referenced throughout this Exhibit.

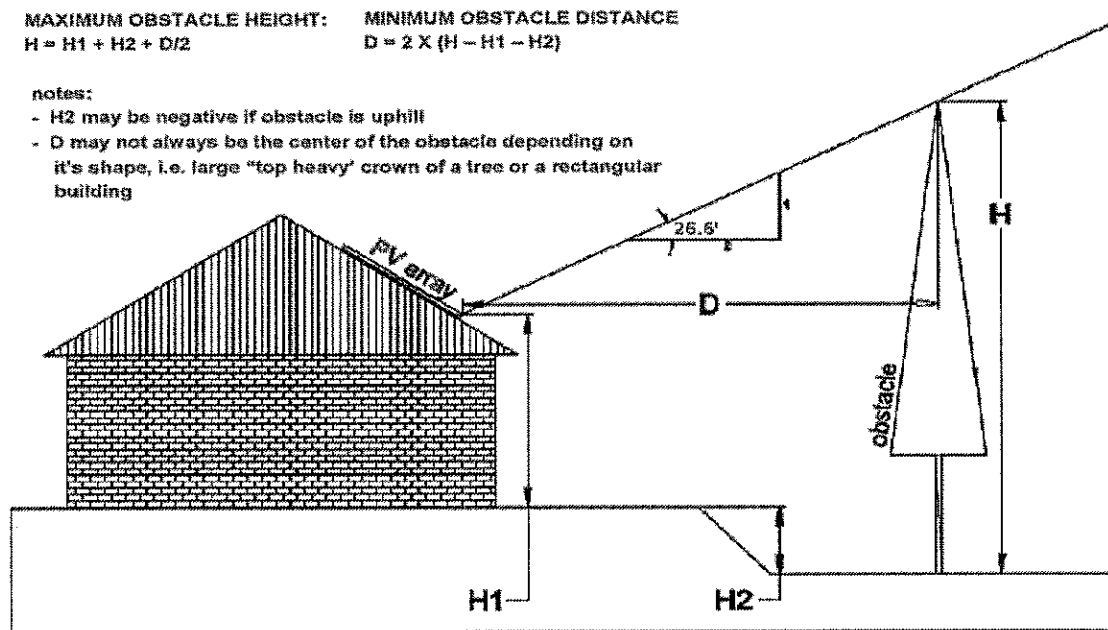
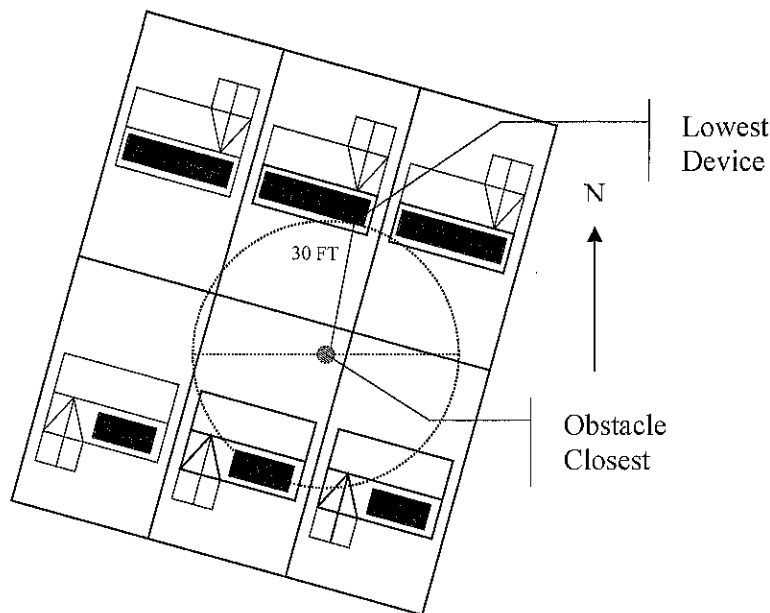


Figure 1 - Determining Height between Two Relevant Points

**STEP 1** To begin, identify the closest point of the Obstacle, where the Obstacle is at its tallest height ("Closest Obstacle Point"). For example, trees are often tallest at their trunk. For trees that are tallest at their trunk, the Closest Obstacle

Point would be the side of the trunk nearest to the Solar Array. For a second example, if the Obstacle is a rectangular building with a flat roof, then the Closest Obstacle Point would be the side of the building nearest to the Solar Collection Devices.

**STEP 2** The second step is to measure the horizontal distance (“D”) (not the angled distance) between the Closest Obstacle Point and the lowest point of the subject Solar Collection Devices (“Lowest Device Point”) (see Figure 2). The Lowest Device Point is the same as the closest point on the Solar Collection Devices. This distance should be measured for all subject Solar Collection Devices that are located within the potential shading area of the Obstacle. The potential shading area is North of due East or West of the Obstacle. In the example shown in Figure 2, the Closest Obstacle Point is 30 horizontal feet (D) from the Lowest Device Point, and the potential shading area is indicated by the top half of the circle in Figure 2.



**Figure 2 - Measuring Horizontal Distance between Lowest Device Point and Closest Obstacle Point**

**STEP 3** The third step is to measure the distance from the Lowest Device Point to the ground (as displayed in Figure 3 (“H1”)). This should be the vertical distance from the bottom of the Solar Collection Devices to the ground, and should not be angled.

**STEP 4** The fourth step is to measure the difference in ground height between the base of the subject house and the base of the Closest Obstacle Point. This measurement is required when the ground slopes in a certain direction. If the ground slopes downward away from the subject house, then the Obstacle base will be at a lower ground level than the home.

In Figure 3, that difference in ground height is displayed as "H2". A simple way to determine H2 is to take a string and run it from the base of the subject house to the Closest Obstacle Point. Make sure that the string is level. At the Closest Obstacle Point, measure the distance to the ground from the level string. That is the distance H2. If the Obstacle is uphill from the base of the house, run the string from the Closest Obstacle Point to the house, and measure the distance to the ground from the level string at the house. That distance is negative (-) H2.

When H1 and H2 are added together, the resulting number is the distance between the Lowest Device Point and the base of the Closest Obstacle Point.

**STEP 5.1** Now the Maximum Obstacle Height ("H" in Figure 3) can be calculated, using the information gathered above. The Maximum Obstacle Height is equal to  $\frac{1}{2}$  the distance (D) between the Closest Obstacle Point and the Lowest Device Point, plus H1 and H2 (the height of the Solar Collection Devices relative to the Closest Obstacle Point).

**MAXIMUM OBSTACLE HEIGHT (H) =  $D/2 + H1 + H2$**

*where:*

- *H= Maximum Obstacle Height*
- *D= the horizontal distance between the Closest Obstacle Point and the Lowest Device Point*
- *H1= distance from the Lowest Device Point to the ground*
- *H2= difference in ground height between the base of the house and the base of the Closest Obstacle Point*

Use this formula when the base of subject house with Solar Collection Devices is LOWER than base of Obstacle:

- **MAXIMUM OBSTACLE HEIGHT (H) =  $D/2 + H1 - H2$**

**STEP 5.2** If the maximum height of the Obstacle is known, but the minimum horizontal distance that the Obstacle can be located from the Solar Collection Devices is not known, that can be calculated using this formula:

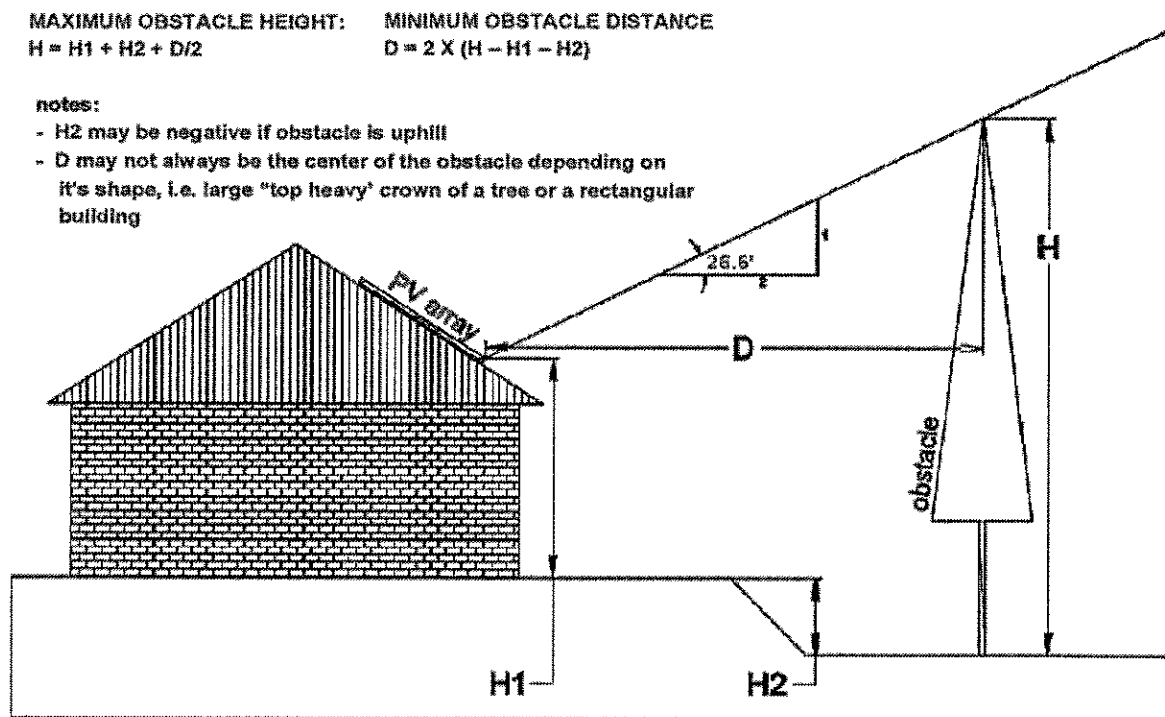
**MINIMUM OBSTACLE DISTANCE (D) =  $2 \times (H - H1 - H2)$**

where:

- $D$  = the horizontal distance between the Closest Obstacle Point and the Lowest Device Point
- $H$  = Obstacle Height
- $H1$  = distance from the Lowest Device Point to the ground
- $H2$  = difference in ground height between the base of the house and the base of the Closest Obstacle Point

Use this formula when the base of subject house with Solar Collection Devices is LOWER than base of Obstacle:

- **MINIMUM OBSTACLE DISTANCE ( $D$ ) =  $2 \times (H - H1 + H2)$**



**Figure 3 - Determining Height between Two Relevant Points**

Below are examples of how the formulas from above can be applied. The distances will vary for every Obstacle.

**Example 1** - Ground slopes downward away from subject house, and Maximum Obstacle Height is to be determined:



- The distance between the Lowest Device Point and the ground at the base of the house is 12 feet (H1).
- The ground at the base of the house is 4 feet higher than the ground at the Obstacle base (H2).
- The distance between the Lowest Device Point and the Closest Obstacle Point is 30 feet (D).
- Outcome: The Obstacle can be no more than 15 feet taller than the Lowest Device Point ( $D/2$ ).
- Outcome: The Obstacle can be no more than **31 feet tall in total** ( $D/2 + H1 + H2$ ) ( $15 + 12 + 4$ ).

***Example 2 – Ground slopes downward towards subject house, and Maximum Obstacle Height is to be determined:***

- The distance between the Lowest Device Point and the ground at the base of the house is 12 feet (H1).
- The ground at the base of the Obstacle is 5 feet higher than the ground at the home base (H2).
- The distance between the Lowest Device Point and the Closest Obstacle Point is 30 feet (D).
- Outcome: The Obstacle can be no more than 15 feet taller than the Lowest Device Point ( $D/2$ ).
- Outcome: The Obstacle can be no more than **22 feet tall in total** ( $D/2 + H1 - H2$ ) ( $15 + 12 - 5$ ).

***Example 3 - Ground slopes downward away from subject house, and Minimum Obstacle Distance is to be determined:***

- The total Obstacle height is 24 feet (H).
- The distance between the Lowest Device Point and the ground at the base of the house is 12 feet (H1).
- The ground at the base of the house is 4 feet higher than the ground at the Obstacle base (H2).
- Outcome: The Obstacle must be at least **16 feet away** from the Lowest Device Point ( $2 \times (H - H1 - H2)$ ) ( $2 \times (24 - 12 - 4)$ ).

***Example 4 – Ground slopes downward towards subject house, and Minimum Obstacle Distance is to be determined:***

- The total Obstacle height is 24 feet (H).
- The distance between the Lowest Device Point and the ground at the base of the house is 12 feet (H1).
- The ground at the base of the Obstacle is 5 feet higher than the ground at the home base (H2).
- Outcome: The Obstacle must be at least **34 feet away** from the Lowest Device Point ( $2 \times (H - H1 + H2)$ ) ( $2 \times (24 - 12 + 5)$ ).

## CONSENT

Pursuant to Section 10.5 of the Master Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Skye Canyon (a Nevada Master Common-Interest Planned Community) recorded on October 15, 2014, as Instrument No. 0000113 in Book 20141015, Official Records of Clark County, Nevada, KAG DEVELOPMENT SOUTH LLC, a Delaware limited liability ("Master Declarant"), hereby consents to the recording of the foregoing Declaration of Covenants, Conditions and Restrictions for Eagle Ridge at Skye Canyon ("Declaration") in the Official Records of Clark County, Nevada solely for purposes of compliance with the Master Declaration and for no other purpose whatsoever, and without rescinding, modifying or amending any previous agreement and/or instrument between the Master Declarant and Declarant. Master Declarant further consents to the Recordation of any Declaration of Annexation made by Declarant pursuant to Section 2.9.1 of this Declaration for the sole purpose of expanding the Community by adding thereto any real property described in **Exhibit B** attached hereto without the formality of a separate consent signed by Master Declarant.

Date: February 16, 2018

KAG DEVELOPMENT SOUTH LLC, a Delaware limited liability company

By: *[Signature]*

Printed Name Douglas W Hensley

Its: Authorized Signatory

STATE OF NEVADA)

) ss.

County of Clark )

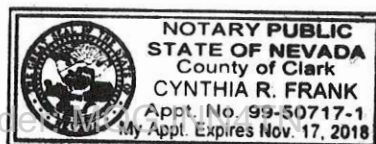
Acknowledged before me this 16<sup>th</sup> day of February, 2018, by Douglas W. Hensley, the Authorized Signatory of KAG DEVELOPMENT SOUTH LLC, a Delaware limited liability company, on behalf of the company.

*[Signature]*

Notary Public

My Commission Expires:

Nov. 17, 2018



Order # 06132023  
Address: 8106 Skye Sweep St  
Order Date: 06-13-2023  
Document not for resale  
HomeWiseDocs