

IN THE SUPREME COURT OF THE STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY,

Appellant,

vs.

CHERSUS HOLDINGS, LLC, A
DOMESTIC LIMITED LIABILITY
COMPANY; AND SOUTHERN
TERRACE HOMEOWNERS
ASSOCIATION, A DOMESTIC
NON-PROFIT CORPORATION,

Respondents.

Supreme Court Case No. 82680

District Case No.: AP96137
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APPELLANT'S APPENDIX - VOLUME I

WRIGHT, FINLAY & ZAK, LLP
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
(702) 475-7964; Fax: (702) 946-1345
cmiller@wrightlegal.net
*Attorney for Appellant/Plaintiff, Ocwen
Loan Servicing, LLC*

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DATED this 21st day of January, 2022.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller

Christina V. Miller, Esq.

Nevada Bar No. 12448

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

*Attorneys for Appellant/Plaintiff, Ocwen Loan
Servicing, LLC*

CERTIFICATE OF SERVICE

I certify that I electronically filed on the 21st day of January, 2022, the foregoing **APPELLANT'S APPENDIX - VOLUME I** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

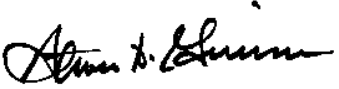
Service via electronic notification will be sent to the following:

Michelle Adams	michellea@nelsonlawfirmnv.com
Legal Assistant	legalassistant@nelsonlawfirmnv.com
Master Calendering	mail@nelsonlawfirmnv.com
Vernon A. Nelson	vnelson@nelsonlawfirmnv.com
Ashlie Surur	ashlie@sururlaw.com

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions

An Employee of WRIGHT, FINLAY & ZAK, LLP



CLERK OF THE COURT

COMP

Jason Peck, Esq.
Nevada Bar No. 010183
THE COOPER CASTLE LAW FIRM, LLP
A Multi Jurisdictional Law firm
5275 S. Durango Dr.
Las Vegas, NV 89113
(702) 435-4175 Telephone
(702) 877-7424 Facsimile
japeck@ccfirm.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

OCWEN LOAN SERVICING, LLC, a Foreign
Limited Liability Company

Plaintiff,

vs.

CHERSUS HOLDINGS, LLC, a Domestic
Limited-Liability Company; DOES I through X;
and ROE CORPORATIONS XI through XX,
inclusive,

Defendants.

Case No: A-14-696357-C

Dept. No.: IV

COMPLAINT

**AUTOMATIC EXEMPTION FROM
ARBITRATION**

Action concerns title to Real Estate

Plaintiff, OCWEN LOAN SERVICING, LLC by and through its attorney of record,
THE COOPER CASTLE LAW FIRM, and hereby complains and alleges as follows:

GENERAL ALLEGATIONS

1. At all relevant times herein Plaintiff OCWEN LOAN SERVICING, LLC is a
foreign limited liability company and is qualified to do business in the State of Nevada.

2. At all relevant times herein, Defendant CHERSUS HOLDINGS, LLC, was and
is a limited liability corporation organized under the laws of the State of Nevada.

1 3. The names given to the defendants sued herein as DOES I through X and ROE
2 CORPORATIONS XI through XX, inclusive, are fictitious names. Said defendants may have
3 an interest in the subject property, may have acted in concert with defendant, or may have
4 otherwise caused Plaintiffs to incur damages as pled herein. Plaintiff prays that if and when
5 the true names of said defendants, or anyone of them, and the nature of their alleged actions is
6 ascertained, that they may be inserted herein by proper amendment. Plaintiff has no
7 knowledge of the addresses or places of residence of the fictitious defendants.

8 4. Plaintiff is the owner of the real property located at 5946 Lingerin Breeze
9 Street, Las Vegas, NV 89148, APN No. 163-31-611-022 (the "Lingerin Breeze Property").
10 The legal description of the Lingerin Breeze Property is:

11 **PARCEL I:**

12 **LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF**
13 **RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN**
14 **BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY**
15 **RECORDER OF CLARK COUNTY, NEVADA.**

16 **PARCEL II:**

17 **A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND**
18 **ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS**
19 **THE PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED**
20 **HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE**
21 **(1).**

22 5. Plaintiff obtained its ownership interest in the Lingerin Breeze Property by
23 being the highest bidder at a foreclosure sale conducted December 20, 2013.

24 6. The foreclosure sale was conducted pursuant to a first position deed of trust
25 recorded March 31, 2009 (the "Deed of Trust").

 7. The Trustee's Deed Upon Sale conveying the Lingerin Breeze Property to
Plaintiff was recorded January 7, 2014.

1 8. On May 29, 2013, a Foreclosure Deed Upon Sale was recorded conveying the
2 Lingerin Breeze Property to First 100, LLC. According to this deed, the property was sold
3 to First 100, LLC at public auction on May 25, 2013 pursuant to a homeowners association
4 lien governed by NRS Chapter 116.

5 9. Any interest First 100, LLC may have obtained in the Lingerin Breeze
6 Property was subject to the Deed of Trust.

7 10. The subsequent foreclosure on December 20, 2013 pursuant to the Deed of
8 Trust extinguished First 100, LLC's interest in the Lingerin Breeze Property.

9 11. On January 13, 2014, a Deed of Sale was recorded whereby First 100, LLC
10 conveyed its interest in the Lingerin Breeze Property to Chersus Holdings, LLC.

11 12. Any interest that Chersus Holdings, LLC may have obtained in the Lingerin
12 Breeze Property pursuant to the Deed of Sale was extinguished by the foreclosure on
13 December 20, 2013 pursuant to the Deed of Trust.

14 **FIRST CAUSE OF ACTION**
15 **(Quiet Title)**

16 13. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1
17 through 12 of this Complaint as though set forth in full herein.

18 14. Upon information and belief, Chersus Holdings, LLC claims an interest in the
19 Lingerin Breeze Property pursuant to the Deed of Sale recorded January 13, 2014.

20 15. Chersus Holdings, LLC's claim is adverse to Plaintiff's ownership interest.

21 16. Pursuant to NRS 41.010, Plaintiff is entitled to a determination from this Court
22 quieting Chersus Holdings, LLC's claim to title of the Lingerin Breeze Property.

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SECOND CAUSE OF ACTION
(Declaratory Relief)

17. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 16 of this Complaint as though set forth in full herein.

18. Pursuant to NRS 30.040, Plaintiff is entitled to a declaration from this Court that any interest in the Lingerin Breeze Property that Chersus Holdings, LLC may have obtained pursuant to the Deed of Sale has been extinguished by the foreclosure on December 20, 2013.

PRAYER FOR RELIEF

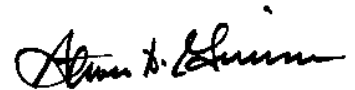
WHEREFORE, Plaintiffs pray:

1. For a determination and/or declaration from this Court that the Defendant has no right, title, or interest in the Lingerin Breeze Property;
2. For such other and further relief as the Court deems just and proper.

Dated this 19th day of February, 2014

THE COOPER CASTLE LAW FIRM, LLP

/s/ Jason Peck, Esq.
Jason Peck, Esq.
Nevada Bar No. 010183
5275 S. Durango Dr.
Las Vegas, NV 89113
(702) 435-4175 Telephone
(702) 877-7424 Facsimile
Attorneys for Plaintiff



CLERK OF THE COURT

1 AACC

2 Neil B. Durrant, Esq.

3 Nevada Bar No. 7324

4 C. Robert Peterson, Esq.

5 Nevada Bar No. 11680

6 WEIL & DRAGE, APC

7 2500 Anthem Village Drive

8 Henderson, NV 89052

9 (702) 314-1905 • Fax (702) 314-1909

10 ndurrant@weildrage.com

11 bpeterson@weildrage.com

12 Attorneys for Defendant/Counter-Claimant,

13 CHERSUS HOLDINGS, LLC

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 OCWEN LOAN SERVICING, LLC, a

17 Foreign Limited Liability Company

18 Plaintiff,

19 vs.

20 CHERSUS HOLDINGS, LLC, a Domestic
21 Limited-Liability Company; DOES I through
22 X; and ROE CORPORATIONS XI through
23 XX, inclusive

24 Defendants.

25 CHERSUS HOLDINGS, LLC, a Domestic
26 Limited Liability Company

27 Counterclaimant,

28 vs.

OCWEN LOAN SERVICING, LLC, a
Foreign Limited Liability Company,

Counterdefendant

Case No. A-14-696357-C

Dept No. IV

ANSWER AND COUNTER-CLAIM

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ANSWER

COMES NOW Defendant, CHERSUS HOLDINGS, LLC (“Defendant”), by and through its attorneys of record, the law firm of WEIL & DRAGE, APC, and hereby files this Answer to Plaintiff OCWEN LOAN SERVICING, LLC’s (“Plaintiff”) Complaint by admitting, denying, and alleging as follows:

- 1. As to paragraphs 1, 3, 6, and 7 of Plaintiff’s Complaint, Defendant is without sufficient knowledge, information or belief to admit or deny and therefore denies the allegations contained therein.
- 2. As to paragraphs 2, 8, 11, 14, and 15 of Plaintiff’s Complaint, Defendant admits the allegations contained therein.
- 3. As to paragraphs 4, 5, 8, 9, 10, 12, 16, and 18 of Plaintiff’s Complaint, Defendant denies the allegations contained therein.
- 4. As to paragraphs 13 and 17 of Plaintiff’s Complaint, Defendant repeats and re-alleges by reference every response to each paragraph of Plaintiff’s Complaint and incorporates the same by reference as though fully set forth herein.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff’s Complaint fails to state claims upon which relief can be granted.

Second Affirmative Defense

Plaintiff’s claims are barred by the doctrine of unclean hands.

Third Affirmative Defense

Plaintiff’s claims are barred by the doctrine of laches.

Fourth Affirmative Defense

Plaintiff lacks standing to bring the claims contained in the Complaint.

Fifth Affirmative Defense

Without admitting that Plaintiff is entitled to any damages whatsoever, any award to Plaintiff should be reduced or precluded by reason Plaintiff’s bad faith.

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1 **Sixth Affirmative Defense**

2 Plaintiff's Complaint, and each cause of action or claim for relief asserted therein, is barred
3 by the equitable doctrines of waiver, estoppel, duress and/or abandonment.

4 **Seventh Affirmative Defense**

5 Plaintiff's claims have been waived as a result of Plaintiff's acts and conduct.

6 **Eighth Affirmative Defense**

7 Plaintiff's claims are barred by reason of its own misrepresentations, fraud, deceitful actions
8 with Defendants.

9 **Ninth Affirmative Defense**

10 Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8
11 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation
12 or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek leave
13 of court to amend this answer to specifically assert any such defense. Such defenses are herein
14 incorporated by reference for the specific purpose of not waiving any such defense.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Defendant prays for judgment against Plaintiff as follows:

- 17 1. That Plaintiff take nothing by way of its Complaint;
18 2. That Plaintiff's Complaint be dismissed with prejudice;
19 3. For costs incurred in the defense of this action;
20 4. For reasonable attorney's fees incurred in defending this action; and
21 5. For such other relief as the court deems just and proper.

22 **COUNTER-CLAIM**

23 COMES NOW Counter-claimant, CHERSUS HOLDINGS, LLC ("Counter-claimant"),
24 by and through its attorneys of record, the law firm of WEIL & DRAGE, APC, and hereby files
25 its Counter-claim against Counter-defendant OCWEN LOAN SERVICING, LLC ("Counter-
26 defendant"), upon information and belief, as follows:

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1 **GENERAL ALLEGATIONS**

2 1. Counter-claimant Chersus Holdings, LLC is a Nevada limited liability company
3 doing business in Clark County, Nevada.

4 2. On information and belief, Counter-defendant OCWEN Loan Servicing, LLC is a
5 foreign limited liability company doing business in Clark County, Nevada.

6 3. On May 28, 2013, a Foreclosure Deed upon Sale was executed conveying the real
7 property located at 5946 Lingerin Breeze St., Las Vegas, NV 89148 (APN 163-31-611-022) (the
8 "Property") to First 100, LLC pursuant to a sale held under NRS 116 foreclosing on Southern
9 Terrace Homeowners Association's Lien for Delinquent Assessments.

10 4. On or about October 23, 2013, First 100, LLC sold the Property to Counter-claimant.
11 Counter-claimant recorded its deed on January 13, 2014 as instrument number 201401130001734.

12 5. On November 13, 2014, First 100, LLC put Counter-defendant and its agent on actual
13 notice that the homeowners association's lien for delinquent assessment had been foreclosed on and
14 accordingly, the first deed of trust had been extinguished.

15 6. Despite being on constructive and actual notice of the May 28, 2013, foreclosure sale,
16 on information and belief, Counter-defendant proceeded to purport to foreclose on its now-
17 extinguished first deed of trust.

18 7. On information and belief, Counter-defendant purported to sell and purchase the
19 Property at a foreclosure sale on or about December 20, 2013, and recorded its deed on or about
20 January 7, 2014.

21 **FIRST CAUSE OF ACTION**

22 **(Wrongful Foreclosure)**

23 8. Counterclaimant incorporates the foregoing allegations as if the same were fully set
24 forth herein.

25 9. Counter-defendant was on constructive and actual notice that its first deed of trust was
26 extinguished at the HOA foreclosure sale held on or about May 28, 2013.

27 10. Counter-defendant nonetheless knowingly held a foreclosure sale on December 20,
28 2013.

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1 11. Because the first deed of trust was extinguished at the HOA foreclosure sale, Counter-
2 defendant had no rights in the Property allowing for foreclosure or any other sale.

3 12. Counterclaimant and Counter-defendant have no contractual privity and as such,
4 Counter-claimant was never in default of any agreement that would have given Counter-defendant
5 the right to foreclose on the Property.

6 13. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered
7 damages in excess of \$10,000 to be proven at trial.

8 14. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
9 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
10 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

11 **SECOND CAUSE OF ACTION**

12 **(Quiet Title)**

13 15. Counter-claimant incorporates the foregoing allegations as if the same were fully set
14 forth herein.

15 16. Counter-claimant is the rightful owner of the Property via chain of title starting with
16 First 100's purchase of the Property at the HOA foreclosure sale and reflected in the deed recorded
17 May 29, 2013.

18 17. Counter-defendant was on actual and constructive notice of First 100's superior claim
19 to the Property.

20 18. On information and belief, Counter-defendant claims an interest in the Property.

21 19. Counter-defendant's claim to the Property is adverse to Counter-claimant's.

22 20. Counter-claimant is entitled to a determination from this Court quieting Counter-
23 defendant's claim to title of the Property.

24 21. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
25 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
26 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

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1 **THIRD CAUSE OF ACTION**

2 **(Declaratory Relief)**

3 22. Counter-claimant incorporates the foregoing allegations as if the same were fully set
4 forth herein.

5 23. A dispute has arisen between Counter-claimant and Counter-defendant that is ripe for
6 adjudication concerning ownership of the Property and interpretation of NRS 116.3116 et. seq.

7 24. Pursuant to NRS 30.030 and 30.040, Counter-claimant is entitled to declaratory
8 judgment concerning the proper interpretation and enforcement Nevada statute.

9 25. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
10 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
11 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

12 **FOURTH CAUSE OF ACTION**

13 **(Conversion)**

14 26. Counterclaimant incorporates the foregoing allegations as if the same were fully set
15 forth herein.

16 27. Counter-defendant wrongfully committed distinct acts of dominion over Counter-
17 claimant's property by purporting to sell/purchase the Property despite Plaintiff's ownership rights
18 over such property.

19 28. The act was in denial of, or inconsistent with, Counter-claimant's title or right therein.

20 29. The act was in derogation, exclusion, or defiance of Counter-claimant's title or right
21 therein.

22 30. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered
23 damages in an amount to be proven at trial.

24 31. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
25 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
26 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Counter-claimant prays to this Court for relief as follows:

- 3 1. For general, special, and consequential damages;
- 4 2. For costs and attorney's fees associated with bringing this action;
- 5 3. For declaratory relief as requested herein;
- 6 4. For injunctive relief, including, but not limited to, an injunction prohibiting Counter-
- 7 defendant from taking any action inconsistent with Counter-claimant's right to own and possess the
- 8 Property;
- 9 5. For pre and post-judgment interest; and
- 10 6. For such other and additional relief as the Court may deem just, equitable, and proper.

11 DATED this 28th day of March, 2014.

12 WEIL & DRAGE, APC

13

14

15 By: /s/ C. Robert Peterson

16 Neil B. Durrant, Esq.

17 Nevada Bar No. 7324

18 C. Robert Peterson, Esq.

19 Nevada Bar No. 11680

20 2500 Anthem Village Drive

21 Henderson, NV 89052

22 ndurrant@weildrage.com

23 bpeterson@weildrage.com

24 Attorneys for Defendant/Counter-Claimant,

25 CHERSUS HOLDINGS, LLC

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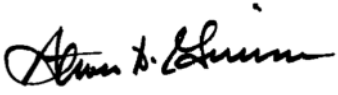
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of March, 2014, service of the foregoing
ANSWER AND COUNTER-CLAIM was made this date by mailing a true and correct copy of the
same, via first-class mail, at Henderson, Nevada, addressed as follows:

Jason Peck, Esq.
THE COOPER CASTLE LAW FIRM, LLP
A Multi Jurisdiction Law Firm
5275 S. Durango Drive
Las Vegas, NV 89113
Attorney for Plaintiff,
OCWEN LOAN SERVICING, LLC

/s/ Joanna Medina

Joanna Medina, an Employee of
WEIL & DRAGE, APC



CLERK OF THE COURT

CERT

Jason Peck, Esq.
Nevada Bar No. 010183
THE CASTLE LAW GROUP, LLP
A Multi Jurisdictional Law firm
5275 S. Durango Dr.
Las Vegas, NV 89113
(702) 435-4175 Telephone
(702) 877-7424 Facsimile
japeck@ccfirm.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

OCWEN LOAN SERVICING, LLC, a Foreign
Limited Liability Company

Plaintiff,

vs.

CHERSUS HOLDINGS, LLC, a Domestic
Limited-Liability Company; DOES I through X;
and ROE CORPORATIONS XI through XX,
inclusive,

Defendants.

Case No: A-14-696357-C

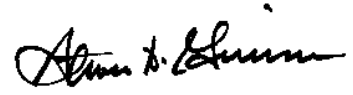
Dept. No.: IV

AMENDED CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of April, 2014, I served a true and correct copy of
the foregoing MOTION FOR SUMMARY JUDGMENT via US Mail, in a sealed envelope,
postage fully prepaid, to the following party:

C. Robert Peterson, Esq.
WEIL & DRAGE, APC
2500 Anthem Village Drive
Henderson, Nevada 89052
Attorney for Chersus Holdings, LLC

/s/ Jennifer Shumway
An Employee of
THE CASTLE LAW GROUP, LLP



CLERK OF THE COURT

McCARTHY & HOLTHUS, LLP
Kristin A. Schuler-Hintz (NSB# 7171)
Thomas N. Beckom, Esq (NSB# 12554)
9510 West Sahara Avenue, Suite 200
Las Vegas, NV 89117
(702)685-0329(Phone)
(866)339-5691(Fax)
Attorneys for Defendant *Ocwen Loan Servicing*

**IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

OCWEN LOAN SERVICING, a Foreign
Limited Liability Company

Plaintiff,

v.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company and DOES I-X; and
ROES 1-10

Defendants.

And all related claims

Case No. A-14-696357-C

Dept.: IV

ANSWER TO COUNTERCLAIM

COMES NOW OCWEN LOAN SERVICING. (herein after "Ocwen") by and through its attorney of record Thomas N. Beckom, Esq and Kristin Schuler-Hintz, Esq of the law firm of McCarthy Holthus and hereby files this Answer to the Counterclaim of Chersus Holdings, LLC.

1. This answering Defendant is without sufficient information to either admit or deny the allegations contained in paragraph 1 and therefore DENIES the allegations contained in paragraph 1.
2. This answering Defendant ADMITS the allegations contained in paragraph 2.
3. The property records speak for themselves. This answering Defendant DENIES anything inconsistent with the property records

1 4. This answering Defendant is without sufficient information to either admit or deny the
2 allegations contained in paragraph 4 and therefore DENIES the allegations contained in
3 paragraph 4.

4 5. This answering Defendant is without sufficient information to either admit or deny the
5 allegations contained in paragraph 5 and therefore DENIES the allegations contained in
6 paragraph 5.

7 6. Paragraph 6 calls for a legal conclusion and as such no response is required. To the extent
8 a response is required this answering Defendant DENIES the allegations contained in
9 paragraph 6.

10 7. The property records speak for themselves. This answering Defendant DENIES anything
11 inconsistent with the property records.

12 **FIRST CAUSE OF ACTION**
13 **(Wrongful Foreclosure)**

14 8. This answering Defendant incorporates it's answer to paragraph 1 through 7 as if fully set
15 forth herein.

16 9. Paragraph 9 calls for a legal conclusion and as such no response is required. To the extent
17 a response is required this answering Defendant DENIES the allegations contained in
18 paragraph 9.

19 10. The property records speak for themselves. This answering Defendant DENIES anything
20 inconsistent with the property records.

21 11. Paragraph 11 calls for a legal conclusion and as such no response is required. To the
22 extent a response is required this answering Defendant DENIES the allegations contained
23 in paragraph 11.

12. Paragraph 12 calls for a legal conclusion and as such no response is required. To the extent a response is required this answering Defendant DENIES the allegations contained in paragraph 12.

13. This answering Defendant DENIES the allegations in paragraph 13.

14. This answering Defendant does not have sufficient information to either admit or deny the allegations contained in this paragraph and therefore DENIES the allegations contained therein.

SECOND CAUSE OF ACTION
(Quiet Title)

15. This answering Defendant incorporates it's answer to paragraph 1 through 14 as if fully set forth herein.

16. The property records speak for themselves. This answering Defendant DENIES anything inconsistent with the property records.

17. Paragraph 17 calls for a legal conclusion and as such no response is required. To the extent a response is required this answering Defendant DENIES the allegations contained in paragraph 17.

18. This answering Defendant ADMITS they claim an interest in the property.

19. This answering Defendant ADMITS their claim is adverse.

20. This answering Defendant DENIES the allegations contained in paragraph 20.

21. This answering Defendant does not have sufficient information to either admit or deny the allegations contained in this paragraph and therefore DENIES the allegations contained therein.

THIRD CAUSE OF ACTION
(Declaratory Relief)

22. This answering Defendant incorporates it's answers to paragraph 1 through 21 as if fully set forth herein.

23. This answering Defendant ADMITS the allegations contained in paragraph 23.

24. Paragraph 24 calls for a legal conclusion and as such no response is required. To the extent a response is required this answering Defendant DENIES the allegations contained in paragraph 24

25. This answering Defendant is with sufficient information to either admit or deny the allegations contained in paragraph 25 and therefore DENIES the allegations contained in paragraph 25.

FOURTH CAUSE OF ACTION
(Conversion)

26. This answering Defendant incorporates it's answers to paragraph 1 through 26 as if fully set forth herein.

27. This answering Defendant DENIES the allegations contained in paragraph 27.

28. This answering Defendant DENIES the allegations contained in paragraph 28.

29. This answering Defendant DENIES the allegations contained in paragraph 29.

30. This answering Defendant does not have sufficient information to either admit or deny the allegations contained in paragraph 30 and therefore DENIES the allegations contained in paragraph 30.

31. This answering Defendant does not have sufficient information to either admit or deny the allegations contained in paragraph 30 and therefore DENY the allegations contained in paragraph 31.

AFFIRMATIVE DEFENSES

Ocwen asserts the following defenses. Discovery and investigation in this case is not complete, and Ocwen reserves the right to amend this Answer by adding, deleting, or amending defenses as may be appropriate. Any allegations not specifically admitted are denied. In further answer to the Complaint, and by way of additional defenses, Ocwen avers as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state facts sufficient to constitute any cause of action against Ocwen.

SECOND AFFIRMATIVE DEFENSE

The super-priority lien was satisfied prior to the homeowners' association foreclosure under the doctrines of tender, estoppels, laches, or waiver.

THIRD AFFIRMATIVE DEFENSE

The homeowners' association foreclosure sale was not commercially reasonable and the circumstances of sale of the property violated the homeowners' association's obligation of good faith under NRS 116.1113 and duty to act in a commercially reasonable manner.

FOURTH AFFIRMATIVE DEFENSE

Counter Plaintiff's claims are barred in whole or in part because of its failure to take reasonable steps to mitigate its damages, if any.

FIFTH AFFIRMATIVE DEFENSE

The Counter Plaintiff lacks standing to bring some or all of their claims and causes of action.

SIXTH AFFIRMATIVE DEFENSE

The Counter Plaintiff received a deed which was void and/ or voidable pursuant to NRS Chapter 112.

SEVENTH AFFIRMATIVE DEFENSE

Ocwen asserts the affirmative defense of unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

Ocwen denies that the Plaintiff is entitled to any relief for which it prays.

NINTH AFFIRMATIVE DEFENSE

Ocwen asserts the affirmative defense that the Plaintiff has failed to do equity to receive equity.

TENTH AFFIRMATIVE DEFENSE

The homeowners' association did not provide proper notice of the "super-priority" assessment amount and/or the homeowners' association foreclosure sale, and any such notices failed to comply with the statutory and common law requirements of Nevada and/or with state and federal constitutional law.

ELEVENTH AFFIRMATIVE DEFENSE

The homeowners' association foreclosure sale is void for failure to comply with the provisions of NRS Chapter 116, and other provisions of law.

TWELVTH AFFIRMATIVE DEFENSE

The Counter Plaintiff's claims are federally pre-empted as the instant loan is FHA insured.

THIRTEENTH AFFIRMATIVE DEFENSE

The HOA foreclosure statutes are void under the Due Process and Takings Clauses of the Nevada and U.S. Constitutions.

/.../...

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/.../...

1 **PRAYER FOR RELIEF**

2 WHEREFORE the Counter Defendant prays to this Honorable Court as follows:

- 3 1. For a declaration and determination that Ocwen has an interest in the Subject Property;
- 4 2. For a declaration and determination that Ocwen's interest is superior to the interest of
- 5 all other parties;
- 6 3. In the alternative, for a declaration and determination that the HOA was invalid and
- 7 conveyed no interest to any party;
- 8 4. For general and special damages;
- 9 5. For costs incurred herein, including post-judgment costs;
- 10 6. For attorney's fees pursuant to NRS §18.010(2)(a);
- 11 7. Any other relief which is just and proper.

12 DATED: August 17, 2015.

13 By: /s/ Thomas N. Beckom, Esq

14 **McCARTHY HOLTHUS LLP**

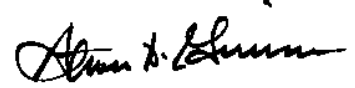
15 Kristin A. Schuler-Hintz (NSB# 7171)

16 Thomas N. Beckom, Esq (NSB# 12554)

17 9510 West Sahara Avenue, Suite 200

18 Las Vegas, NV 89117

19 Attorney for Plaintiff *Ocwen Loan Servicing*



CLERK OF THE COURT

1 ACOM

2 WRIGHT, FINLAY & ZAK, LLP

3 Dana Jonathon Nitz, Esq.

4 Nevada Bar No. 0050

5 Paterno C. Jurani, Esq.

6 Nevada Bar No. 8136

7 7785 W. Sahara Ave., Suite 200

8 Las Vegas, Nevada 89117

9 (702) 475-7964 Telephone

10 (702) 946-1345 Facsimile

11 dnitz@wrightlegal.net

12 pjurani@wrightlegal.net

13 Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 OCWEN LOAN SERVICING, LLC, a foreign
12 Limited Liability Company,

13 Plaintiff,

14 vs.

15 CHERSUS HOLDINGS, LLC, a Domestic
16 Limited Liability Company; FIRST 100, LLC, a
17 Domestic Limited Liability Company;
18 SOUTHERN TERRACE HOMEOWNERS
19 ASSOCIATION, a Domestic Non-Profit
20 Corporation; RED ROCK FINANCIAL
21 SERVICES, LLC, a Foreign Limited Liability
22 Company; UNITED LEGAL SERVICES, INC.,
23 a Domestic Corporation; DOES I through X;
24 and ROE CORPORATIONS XI through XX,
25 inclusive,

26 Defendants.

24 CHERSUS HOLDINGS, LLC, a Domestic
25 Limited Liability Company,

26 Counterclaimant,

27 vs.
28

Case No.: A-14-696357-C

Dept. No.: IV

FIRST AMENDED COMPLAINT

**AUTOMATIC EXEMPTION FROM
ARBITRATION**

Action concerns title to Real Estate

1 OCWEN LOAN SERVICING, LLC, a Foreign
2 Limited Liability Company,

3 Counter-Defendants.
4

5 Plaintiff/Counter-Defendant, OCWEN LOAN SERVICING, LLC, by and through its
6 attorneys of record, Dana Jonathon Nitz, Esq. and Paterno C. Jurani, Esq., of the law firm of
7 Wright, Finlay & Zak, LLP, and hereby complains and alleges as follows:
8

9 **INTRODUCTION**

- 10 1. Plaintiff is authorized to bring this action in the State of Nevada by NRS 40.430.
11 2. The real property at issue is known as 5946 Lingerin Breeze Street, Las Vegas,
12 NV 89148, APN: 163-31-611-022 (hereinafter the "Property").
13

14 **JURISDICTION AND VENUE**

- 15 3. Venue and jurisdiction are proper in this judicial district because Defendants
16 conduct business in this district; a substantial part of the events or omissions giving rise to U.S.
17 Bank's claims occurred in this district; and the property that is the subject of this action is
18 situated in this district, in Las Vegas, Clark County, Nevada.
19

20 **PARTIES**

- 21 4. At all relevant times herein Plaintiff, OCWEN LOAN SERVICING, LLC
22 (hereinafter "Oewen" or "Plaintiff"), is a foreign limited liability company and is qualified to
23 do business in the State of Nevada.

- 24 5. At all relevant times herein, Defendant, CHERSUS HOLDINGS, LLC
25 (hereinafter "Chersus" or "Buyer"), was and is a limited liability corporation organized under
26 the laws of the State of Nevada.
27

- 28 6. Upon information and belief, Defendant, FIRST 100, LLC (hereinafter "First

100"), is a Nevada limited liability company, licensed to do business in the State of Nevada.

7. Upon information and belief, Defendant, SOUTHERN TERRACE HOMEOWNERS ASSOCIATION (hereinafter "HOA"), is a Nevada non-profit corporation, licensed to do business in the State of Nevada.

8. Upon information and belief, Defendant, RED ROCK FINANCIAL SERVICES, LLC (hereinafter "Red Rock" or "HOA Trustee"), is a foreign limited liability company and at all times relevant was doing business in the State of Nevada.

9. Upon information and belief, Defendant, UNITED LEGAL SERVICES, INC. (hereinafter "United"), is a domestic corporation and at all times relevant was doing business in the State of Nevada.

10. The names given to the defendants sued herein as DOES I through X and ROE CORPORATIONS XI through XX, inclusive, are fictitious names. Said defendants may have an interest in the subject property, may have acted in concert with defendant, or may have otherwise caused Plaintiffs to incur damages as pled herein. Plaintiff prays that if and when the true names of said defendants, or anyone of them, and the nature of their alleged actions is ascertained, that they may be inserted herein by proper amendment. Plaintiff has no knowledge of the addresses or places of residence of the fictitious defendants.

GENERAL ALLEGATIONS

11. Plaintiff is the owner and current titleholder of the real property located at 5946 Lingering Breeze Street, Las Vegas, NV 89148, APN No. 163-31-611-022 (the "Lingering Breeze Property"). The legal description of the Lingering Breeze Property is:

PARCEL I:

LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF
RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN

1 BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER
2 OF CLARK COUNTY, NEVADA.

3 PARCEL II:

4 A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND
5 ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE
6 PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED
7 HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

8 12. Plaintiff obtained its ownership interest in the Lingering Breeze Property by
9 being the highest bidder at a foreclosure sale conducted December 20, 2013.

10 13. The foreclosure sale was conducted pursuant to a first position deed of trust
11 recorded March 31, 2009 (the "Deed of Trust").¹

12 14. The Trustee's Deed Upon Sale conveying the Lingering Breeze Property to
13 Plaintiff was recorded January 7, 2014.²

14 15. Public records show that on December 8, 2011, a Lien for Delinquent
15 Assessments was recorded against the Property by Red Rock, on behalf of HOA.³

16 16. Public records show that on February 2, 2012, a Notice of Default and Election
17 to Sell Pursuant to Lien for Delinquent Assessments was recorded against the Property by Red
18 Rock, on behalf of HOA.⁴

21
22
23 ¹ A true and correct copy of the Deed of Trust recorded in the Clark County Recorder's Office as
24 Book and Instrument Number 20090331-0004948 is attached hereto as **Exhibit 1**. All other
25 recordings stated hereafter are recorded in the same manner.

26 ² A true and correct copy of the Trustee's Deed Upon Sale recorded in the Clark County
27 Recorder's Office as Book and Instrument Number 201401070000775 is attached hereto as
28 **Exhibit 2**.

³ A true and correct copy of the Lien for Delinquent Assessments recorded as Book and
Instrument Number 201112080002960 is attached hereto as **Exhibit 3**.

⁴ A true and correct copy of the Notice of Default (HOA) recorded as Book and Instrument
Number 201202020000465 is attached hereto as **Exhibit 4**.

1 17. Public records show that on May 2, 2013, a Notice of Foreclosure Sale was
2 recorded against the Property by United, on behalf of HOA.⁵

3 18. On May 29, 2013, a Foreclosure Deed Upon Sale was recorded by United
4 conveying the Lingerin Breeze Property to First 100. According to this deed, the property
5 was sold to First 100 at public auction on May 25, 2013 pursuant to a homeowners association
6 lien governed by NRS Chapter 116.⁶

7
8 19. Any interest First 100 may have obtained in the Lingerin Breeze Property was
9 subject to the Deed of Trust.

10 20. The subsequent foreclosure on December 20, 2013 pursuant to the Deed of Trust
11 extinguished First 100's interest in the Lingerin Breeze Property.

12
13 21. On January 13, 2014, a Deed of Sale was recorded whereby First 100 conveyed
14 its interest in the Lingerin Breeze Property to Chersus.⁷

15 22. Any interest that Chersus may have obtained in the Lingerin Breeze Property
16 pursuant to the Deed of Sale was extinguished by the foreclosure on December 20, 2013
17 pursuant to the Deed of Trust.

18
19 23. A homeowner's association sale conducted pursuant to NRS Chapter 116 must
20 comply with all notice provisions as stated in NRS 116.31162 through NRS 116.31168.

21
22
23
24 ⁵ A true and correct copy of the Notice of Sale (HOA) recorded as Book and Instrument Number
25 201305020000105 is attached hereto as **Exhibit 5**.

26 ⁶ A true and correct copy of the Foreclosure Deed Upon Sale recorded in the Clark County
27 Recorder's Office as Book and Instrument Number 201305290002514 is attached hereto as
28 **Exhibit 6**.

⁷ A true and correct copy of the Deed of Sale recorded in the Clark County Recorder's Office as
Book and Instrument Number 201401130001734 is attached hereto as **Exhibit 7**.

1 24. A lender or holder of a beneficial interest in a senior deed of trust, such as U.S.
2 Bank and its predecessors-in-interest in the Deed of Trust, has a right to cure a delinquent
3 homeowner's association lien in order to protect its interest.

4 25. Upon information and belief, the HOA and its agents, Red Rock and United, did
5 not comply with all mailing and noticing requirements stated in NRS 116.31162 through NRS
6 116.31168.
7

8 26. A recorded notice of default must "describe the deficiency in payment."

9 27. The HOA Sale occurred without adequate notice to Plaintiff.

10 28. The HOA Sale occurred without notice to Plaintiff what portion of the lien, if
11 any, that HOA and HOA Trustee claimed constituted a "super-priority" lien.
12

13 29. The HOA Sale occurred without notice to Plaintiff whether HOA was
14 foreclosing on the "super-priority" portion of its lien, if any, or under the non-super-priority
15 portion of the lien.

16 30. The HOA Sale occurred without notice to Plaintiff of a right to cure the
17 delinquent assessment and the super-priority lien, if any.
18

19 31. The HOA Sale violated Plaintiff's rights to due process because Plaintiff was
20 not given proper, adequate notice and the opportunity to cure the deficiency or default in the
21 payment of the HOA's assessments and the super-priority lien, if any.
22

23 32. The HOA Sale was an invalid sale and could not have extinguished Plaintiff's
24 secured interest because of defects in the notices given to Plaintiff.

25 33. Under NRS Chapter 116, a lien under NRS 116.3116(1) can only include costs
26 and fees that are specifically enumerated in the statute.

27 34. A homeowner's association may only collect as a part of the super priority lien
28

1 (a) nuisance abatement charges incurred by the association pursuant to NRS 116.310312 and
2 (b) nine months of common assessments which became due prior to the institution of an action
3 to enforce the lien (unless Fannie Mae and Freddie Mac regulations require a shorter period of
4 not less than six months).

5 35. Upon information and belief, the HOA Foreclosure Notices included improper
6 fees and costs in the amount required to cure, thus invalidating the lien.
7

8 36. The attorney's fees and the costs of collecting on a homeowner's association
9 lien cannot be included in the lien or super-priority lien.

10 37. Upon information and belief, the HOA assessment lien and foreclosure notices
11 included fines, interest, late fees, dues, attorney's fees, and costs of collection that are not
12 properly included in an HOA lien or super-priority lien under Nevada law and that are not
13 permissible under NRS 116.3102 et seq.
14

15 38. The HOA Sale is unlawful and void under NRS 116.3102 et seq.

16 39. The HOA Sale is unlawful and void because the "opt-in" provision in NRS
17 116.3116 does not satisfy Constitutional Due Process safeguards under the 5th and 14th
18 Amendment to the United States Constitution, nor Article 1, Section 8, of the Nevada
19 Constitution, so that the statute is unconstitutional on its face.
20

21 40. The HOA Sale is unlawful and void because the statutory scheme set forth in
22 NRS 116.3116, et seq. constitutes a regulatory taking of private property without adequate
23 compensation, making the statute is unconstitutional on its face.
24

25 41. NRS Chapter 116 is unconstitutional on its face as it lacks any express
26 requirement for a homeowner's association or its agents to provide notice of a foreclosure to
27 the lender, beneficiary, or holder of a first deed of trust or mortgage.
28

1 42. NRS 116.31162 through NRS 116.31168 do not contain any provision requiring
2 notice of a foreclosure to the lender, beneficiary or holder of a first mortgage or deed of trust,
3 thus violating their constitutional right to due process.

4 43. NRS Chapter 116 is unconstitutional on its face as it lacks any express right by
5 the lender, beneficiary or holder, or their respective trustees, servicers, agents, or
6 representatives, to obtain payoff information for the super-priority portion, if any, of the
7 homeowner's association lien or the express right to cure the default and protect the Deed of
8 Trust, and it lacks an express obligation for a homeowner's association or its agents to accept a
9 tendered payoff and release the super-priority portion of the lien.
10

11 44. NRS Chapter 116 is unconstitutional on its face due to vagueness and
12 ambiguity.
13

14 45. The HOA Sale deprived Plaintiff of its right to due process because the
15 foreclosure notices failed to identify the super-priority amount, or to adequately describe the
16 deficiency in payment, to provide Plaintiff notice of the correct super-priority amount, or to
17 provide a reasonable opportunity for Plaintiff to protect its priority by payment to satisfy that
18 amount.
19

20 46. A homeowner's association sale must be done in a commercially reasonable
21 manner.
22

23 47. At the time of the HOA Sale, the amount owed on the Borrower Loan exceeded
24 \$225,000.00.

25 48. Upon information and belief, at the time of the HOA Sale, the fair market value
26 of the Property greatly exceeded the purchase price.

27 49. The HOA Sale was not commercially reasonable, and not done in good faith, in
28

light of the sales price, the market value of the property, and the errors alleged above.

50. The HOA Sale by which First 100 took its interest was commercially unreasonable if it extinguished Plaintiff's Deed of Trust.

51. In the alternative, the HOA Sale was an invalid sale and could not have extinguished Plaintiff's secured interest because it was not a commercially reasonable sale.

52. Without providing Plaintiff notice of the correct super-priority amount and a reasonable opportunity to tender payment to satisfy that amount, including the failure to set out the super-priority amount and the failure to adequately describe the deficiency in payment as required by Nevada law, the HOA Sale is commercially unreasonable and deprived Plaintiff of its right to due process.

53. The CC&Rs for the HOA provide in Sections 7.8 and 7.9 that the HOA's lien was subordinate to Plaintiff's Deed of Trust.⁸

54. Because the CC&Rs contained a Mortgagee Protection Clause in Section 7.8, and because Plaintiff was not given proper notice that the HOA intended to foreclose on the super-priority portion of the dues owing, Plaintiff did not know that it had to attend the HOA Sale to protect its security interest.

55. Because the CC&Rs contained a Mortgagee Protection Clause, and because proper notice that the HOA intended to foreclose on the super-priority portion of the dues owing was not given, prospective bidders did not appear for the HOA Sale, making the HOA Sale commercially unreasonable.

56. Buyer, First 100, HOA, Red Rock, and United knew that Plaintiff would rely on the Mortgagee Protection Clause contained in the recorded CC&Rs, and knew that Plaintiff

⁸ A true and correct copy of the HOA CC&R's is attached hereto as **Exhibit 8**.

1 would not know that HOA was foreclosing on super-priority amounts because of the failure of
2 HOA, Red Rock, and United to provide such notice. Plaintiff's absence from the HOA Sale
3 allowed First 100 to appear at the HOA Sale and purchase the Property for a fraction of market
4 value, making the HOA Sale commercially unreasonable.

5 57. Buyer, First 100, HOA, Red Rock, and United knew that prospective bidders
6 would be less likely to attend the HOA Sale because the public at large believed that Plaintiff
7 was protected under the Mortgagee Protection Clause in the CC&Rs of public record, and that
8 the public at large did not receive notice, constructive or actual, that HOA was foreclosing on a
9 super-priority portion of its lien because HOA, Red Rock, and United improperly failed to
10 provide such notice. The general public's belief therefore was that a buyer at the HOA Sale
11 would take title to the Property subject to Plaintiff's Deed of Trust. This general belief resulted
12 in the absence of prospective bidders at the HOA Sale, which allowed Buyer to appear at the
13 HOA Sale and purchase the Property for a fraction of market value, making the HOA Sale
14 commercially unreasonable.

15 58. The circumstances of the HOA Sale of the Property breached the HOA's and the
16 HOA Trustee's obligations of good faith under NRS 116.1113 and their duty to act in a
17 commercially reasonable manner.

18 59. Plaintiff is informed and believes that First 100 and Buyer were professional
19 foreclosure sale property purchasers.

20 60. The circumstances of the HOA Sale of the Property and their status as
21 professional property purchasers preclude First 100 or Buyer from being deemed bona fide
22 purchasers for value.

23 61. Upon information and belief, First 100 and Buyer had actual, constructive or
24
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1 inquiry notice of Plaintiff's first Deed of Trust, which prevents First 100 or Buyer from being
2 deemed a bona fide purchaser or encumbrancer for value.

3 62. In the event Plaintiff's interest in the Property is not reaffirmed nor restored,
4 Plaintiff suffered damages in the amount of the fair market value of the Property or the unpaid
5 balance of the Borrower Loan and Deed of Trust, at the time of the HOA Sale, whichever is
6 greater, as a proximate result of Defendant's acts and omissions.
7

8 **FIRST CAUSE OF ACTION**
9 **(Quiet Title/Declaratory Relief versus Buyer, First 100, and all fictitious Defendants)**

10 63. Plaintiff incorporates by reference the allegations of all previous paragraphs, as
11 if fully set forth herein.

12 64. Pursuant to NRS 30.010 et seq. and NRS 40.010, this Court has the power and
13 authority to declare Plaintiff's rights and interests in the Property and to resolve Defendants'
14 adverse claims in the Property.
15

16 65. Further, pursuant to NRS 30.010 et seq., this Court has the power and authority
17 to declare the rights and interest of the parties following the acts and omissions of the HOA and
18 HOA Trustee in foreclosing the Property.

19 66. Upon information and belief, Chersus Holdings, LLC claims an interest in the
20 Lingering Breeze Property pursuant to the Deed of Sale recorded January 13, 2014.
21

22 67. Chersus Holdings, LLC's claim is adverse to Plaintiff's ownership interest.

23 68. Upon information and belief, the HOA, the HOA Trustee and the fictitious
24 Defendants failed to provide proper, adequate and sufficient notices required by Nevada
25 statutes and the CC&Rs to assure due process to Plaintiff, and therefore the HOA Sale is void
26 and should be set aside or rescinded.
27

28 69. Based on the adverse claims being asserted by the parties, Plaintiff is entitled to

1 a judicial determination regarding the rights and interests of the respective parties to the case.

2 70. Pursuant to NRS 41.010, Plaintiff is entitled to a determination from this Court
3 quieting Chersus Holdings, LLC's claim to title of the Lingerin Breeze Property.

4 71. In the alternative, if it is found under state law that Plaintiff's interest could have
5 been extinguished by the HOA sale, for all the reasons set forth above and in the General
6 Allegations, Plaintiff is entitled to a determination from this Court, pursuant to NRS 30.010 and
7 NRS 40.010, that the HOA Sale is unlawful and void and conveyed no legitimate interest to
8 Buyer.
9

10 72. Plaintiff has furthermore been required to retain counsel and is entitled to
11 recover reasonable attorney's fees for having brought the underlying action.
12

13 **SECOND CAUSE OF ACTION**
14 **(Preliminary and Permanent Injunctions versus Buyer, HOA, Red Rock, United, and**
15 **fictitious Defendants)**

16 73. Plaintiff incorporates by reference the allegations of all previous paragraphs, as
17 if fully set forth herein.

18 74. As set forth above, Buyer may claim an ownership interest in the Property that is
19 adverse to Plaintiff.

20 75. Any sale or transfer of the Property, prior to a judicial determination concerning
21 the respective rights and interests of the parties to the case, may be rendered invalid if
22 Plaintiff's Deed of Trust still encumbered the Property in first position and was not
23 extinguished by the HOA Sale.
24

25 76. Plaintiff has a reasonable probability of success on the merits of the Complaint,
26 for which compensatory damages will not compensate Plaintiff for the irreparable harm of the
27 loss of title to a bona fide purchaser.
28

1 77. Plaintiff has no adequate remedy at law due to the uniqueness of the Property
2 involved in the case.

3 78. Plaintiff is entitled to a preliminary and permanent injunction prohibiting Buyer,
4 their successors, assigns, and agents from conducting a sale, transfer or encumbrance of the
5 Property.
6

7 79. Plaintiff is entitled to a preliminary injunction requiring Buyer to segregate and
8 deposit all rents with the Court or a Court-approved trust account over which Buyer has no
9 control during the pendency of this action.

10 80. Plaintiff is entitled to a mandatory injunction that the HOA, Red Rock, and
11 United be compelled to deliver to the Clerk of the Court and deposit all funds collected at the
12 HOA Sale pending determination by the Court of the validity of the sale and the respective
13 rights of the parties to the sale proceeds.
14

15 81. Plaintiff has been required to retain counsel to prosecute this action and is
16 entitled to recover reasonable attorney's fees to prosecute this action.
17

18 **THIRD CAUSE OF ACTION**

19 **(Wrongful Foreclosure versus the HOA, Red Rock, United, and fictitious Defendants)**

20 82. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
21 fully set forth herein.

22 83. Upon information and belief, the HOA, Red Rock, United, and all fictitious
23 Defendants did not comply with all mailing and noticing requirements stated in NRS 116.31162
24 through NRS 116.31168.

25 84. The HOA, Red Rock, United, and all fictitious Defendants failed to provide
26 notice pursuant to the CC&Rs.

27 85. Because the HOA Sale was wrongfully conducted and violated applicable law, the
28 Court should set it aside to the extent that it purports to have extinguished Plaintiff's first Deed

1 of Trust and delivered free and clear title to the Property to First 100 and Buyer.

2 86. Because the HOA Sale was not commercially reasonable, it was invalid, wrongful
3 and should be set aside.

4 87. Because the HOA, Red Rock, United, and fictitious Defendants did not give
5 Plaintiff, or its agents, servicers or predecessors in interest, the proper, adequate notice and the
6 opportunity to cure the deficiency or default in the payment of the HOA's assessments required
7 by Nevada statutes, the CC&Rs and due process, the HOA Sale was wrongfully conducted and
8 should be set aside.

9 88. As a proximate result of HOA, Red Rock, United, and fictitious Defendants'
10 wrongful foreclosure of the Property by the HOA Sale, as more particularly set forth above and
11 in the General Allegations, Plaintiff has suffered general and special damages in an amount not
12 presently known. Plaintiff will seek leave of court to assert said amounts when they are
13 determined.

14 89. If it is determined that Plaintiff's Deed of Trust has been extinguished by the
15 HOA Sale, as a proximate result of HOA, Red Rock, United, and fictitious Defendants' wrongful
16 foreclosure of the Property by the HOA Sale, Plaintiff has suffered special damages in the
17 amount equal to the fair market value of the Property or the unpaid balance of the Harrison Loan,
18 plus interest, at the time of the HOA Sale, whichever is greater, in an amount not presently
19 known. Plaintiff will seek leave of court to assert said amounts when they are determined.

20 90. Plaintiff has been required to retain counsel to prosecute this action and is entitled
21 to recover reasonable attorney's fees to prosecute this action.

22 **FOURTH CAUSE OF ACTION**

23 **(Negligence versus HOA, Red Rock, United, and the fictitious Defendants)**

24 91. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
25 fully set forth herein

26 92. The HOA, Red Rock, United, and fictitious Defendants owed a duty to Plaintiff
27 and subordinate lienholders to conduct the HOA foreclosure sale at issue in this case properly
28 and in a manner that would fairly allow them an opportunity to protect their interest and cure the

1 super-priority lien threatening their security interests.

2 93. The HOA, Red Rock, United, and fictitious Defendants breached their duty by
3 failing to disclose the amount of the super-priority lien, by failing to specify that it was
4 foreclosing on the super-priority portion of its lien as opposed to the non-super-priority portion,
5 and by failing to provide notice that Plaintiff and subordinate lienholders had an opportunity to
6 cure.

7 94. As a proximate result of the HOA, Red Rock, United, and fictitious Defendants'
8 breaches of their duties, Plaintiff was unable to cure by tendering a pay-off of the super-priority
9 lien threatening its security interest.

10 95. As a proximate result of the HOA, Red Rock, United, and fictitious Defendants'
11 breaches of their duties, Plaintiff has incurred general and special damages in an amount in
12 excess of \$10,000.00.

13 96. If Plaintiff is found to have lost its first secured interest in the Property, it was the
14 proximate result of the HOA, Red Rock, United, and fictitious Defendants' breaches of their
15 duties, and Plaintiff have thereby suffered general and special damages in an amount in excess of
16 \$10,000.00.

17 97. Plaintiff has been required to retain counsel to prosecute this action and is entitled
18 to recover reasonable attorney's fees to prosecute this action.

19 **FIFTH CAUSE OF ACTION**

20 **(Negligence Per Se versus HOA, Red Rock, United, and the fictitious Defendants)**

21 98. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
22 fully set forth herein.

23 99. NRS Chapter 116 imposes a duty on HOAs to conduct HOA foreclosure sales in a
24 manner that is consistent with its provisions and, by reference, the provisions of NRS 107.090.

25 100. HOA, Red Rock, United, and fictitious Defendants breached the statutory duties
26 imposed by NRS Chapter 116 concerning notice.

27 101. HOA, Red Rock, United, and fictitious Defendants violated NRS
28 116.31162(1)(b)(1) by failing to describe the deficiency in payment of a super-priority lien.

1 102. Plaintiff is a member of the class of persons whom NRS Chapter 116 is intended
2 to protect.

3 103. The injury that Plaintiff faces—extinguishment of its first-position Deed of
4 Trust—is the type against which NRS Chapter 116 is intended to protect.

5 104. As a proximate result of HOA's, Red Rock's, United's, and the fictitious
6 Defendants' breaches of their statutory duties, Plaintiff was unable to cure by tendering a pay-off
7 of the super-priority lien threatening its security interest.

8 105. As a proximate result of HOA's, Red Rock's, United's, and the fictitious
9 Defendants' breaches of their duties, Plaintiff has incurred general and special damages in an
10 amount in excess of \$10,000.00.

11 106. If Plaintiff is found to have lost its first secured interest in the Property, it was the
12 proximate result of HOA's, Red Rock's, United's, and the fictitious Defendants' breaches of
13 their statutory duties, and Plaintiff has thereby suffered general and special damages in an
14 amount in excess of \$10,000.00.

15 107. Plaintiff has been required to retain counsel to prosecute this action and is entitled
16 to recover reasonable attorney's fees to prosecute this action.

17 **SIXTH CAUSE OF ACTION**

18 **(Breach of Contract versus the HOA, Red Rock, and United)**

19 108. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
20 fully set forth herein.

21 109. Plaintiff was an intended beneficiary of the HOA's CC&Rs.

22 110. The HOA, Red Rock, United, and fictitious Defendants breached the obligations,
23 promises, covenants and conditions of the CC&Rs owed to Plaintiff by the circumstances under
24 which they conducted the HOA Sale of the Property.

25 111. The HOA, Red Rock, United, and fictitious Defendants' breaches of the
26 obligations, promises, covenants and conditions of the CC&Rs proximately caused Plaintiff
27 general and special damages in an amount in excess of \$10,000.00.

28 112. Plaintiff has been required to retain counsel to prosecute this action and is entitled

1 to recover reasonable attorney's fees to prosecute this action.

2 **SEVENTH CAUSE OF ACTION**
3 **(Misrepresentation versus the HOA)**

4 113. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
5 fully set forth herein.

6 114. Plaintiff is within the class or persons or entities the HOA intended or had reason
7 to expect to act or to refrain from action in reliance upon the provisions of the CC&Rs, including
8 without limitation, the Mortgagee Protection Clause.

9 115. Plaintiff, and its predecessors in interest, justifiably relied upon the provisions of
10 the CC&Rs and NRS 116.3116(2)(b) in giving consideration for the Deed of Trust, and the
11 Harrison Loan it secures, and the HOA intended or had reason to expect their conduct would be
12 influenced.

13 116. The HOA's representations in the provisions of the CC&Rs, including without
14 limitation, the Mortgagee Protection Clause, were false.

15 117. The HOA had knowledge or a belief that the representations in the provisions of
16 the CC&Rs, including without limitation, the Mortgagee Protection Clause, were false or it had
17 an insufficient basis for making the representations.

18 118. The HOA had a pecuniary interest in having Plaintiff and its predecessors in
19 interest rely on the provisions of the CC&Rs, including without limitation, the Mortgagee
20 Protection Clause.

21 119. The HOA failed to exercise reasonable care or competence in communicating the
22 information within the provisions of the CC&Rs, including without limitation, the Mortgagee
23 Protection Clause, which was false or it had an insufficient basis for making.

24 120. The HOA, the HOA Trustee and fictitious Defendants acted in contravention to
25 the provisions of the CC&Rs, including without limitation, the Mortgagee Protection Clause,
26 when it conducted the HOA Sale in a manner that could extinguish Plaintiff's Deed of Trust.

27 121. Plaintiff suffered general and special damages in an amount in excess of
28 \$10,000.00 as a proximate result of its reliance.

1 122. Plaintiff has been required to retain counsel to prosecute this action and is entitled
2 to recover reasonable attorney's fees to prosecute this action.

3 **EIGHTH CAUSE OF ACTION**

4 **(Unjust Enrichment versus Buyer, the HOA, Red Rock, United, and fictitious
5 defendants)**

6 123. Plaintiff incorporates and re-alleges all previous paragraphs, as if fully set forth
7 herein.

8 124. Plaintiff, or its predecessor, has been deprived of the benefit of its secured deed of
9 trust by the actions of Buyer, the HOA, Red Rock, United, and fictitious defendants.

10 125. Buyer, the HOA, Red Rock, United, and fictitious defendants have benefitted
11 from the unlawful HOA Sale and nature of the real property.

12 126. Buyer, the HOA, Red Rock, United, and fictitious defendants benefitted from
13 Plaintiff's payment of taxes, insurance or homeowner's association assessments since the time of
14 the HOA Sale.

15 127. Should Plaintiff's Complaint be successful in quieting title against Buyer, the
16 HOA, and the HOA Trustee and setting aside the HOA Sale, Buyer, the HOA, Red Rock,
17 United, and fictitious defendants will have been unjustly enriched by the HOA Sale and usage of
18 the Property.

19 128. Plaintiff will have suffered damages if Buyer, the HOA, Red Rock, United, and
20 fictitious defendants are allowed to retain their interests in the Property and the funds received
21 from the HOA Sale.

22 129. Plaintiff will have suffered damages if Buyer, the HOA, Red Rock, United, and
23 fictitious defendants are allowed to retain their interests in the Property and Plaintiff's payment
24 of taxes, insurance or homeowner's association assessments since the time of the HOA Sale.

25 130. Plaintiff is entitled to general and special damages in excess of \$10,000.00.

26 131. Plaintiff has furthermore been required to retain counsel and is entitled to recover
27 reasonable attorney's fees for having brought the underlying action.

28 ///

///

NINTH CAUSE OF ACTION

(Tortious Interference with Contract versus Buyer, the HOA, Red Rock, United, and fictitious defendants)

132. Plaintiff incorporates and re-alleges all previous paragraphs, as if fully set forth herein.

133. At all times mentioned, Plaintiff had a valid and existing contract with the Harrisons (the Borrowers), and the contract terms included the power of sale in the Deed of Trust.

134. The Deed of Trust evidencing the contract was and is a matter of public record, and therefore known to Buyer, the HOA, Red Rock, United, and fictitious defendants.

135. Buyer, the HOA, Red Rock, United, and fictitious defendants engaged in acts intended or designed to disrupt the contractual relationship between Plaintiff and the Borrower by ostensibly electing to enforce the "super priority" rights of the Association through a power of sale, notwithstanding: (i) the covenants contained in the CC&R's; (ii) no notice to Plaintiff or its predecessors in interest of the intent to do so; (iii) no notice to Plaintiff or its predecessors in interest of the foreclosure proceedings; and (iv) failing to provide an opportunity to cure to Plaintiff before the sale.

136. At all times Buyer, the HOA, Red Rock, United, and fictitious defendants could have elected to honor the covenant in its CC&R's evidenced by the Mortgagee Protection Clause and chosen not to enforce the super priority portion of the lien, or to do so only after ensuring Plaintiff had notice and was prepared to waive its rights to foreclose under the Deed of Trust.

137. Plaintiff's contractual rights to enforce the power of sale have been disrupted and frustrated through Counter- Defendants' actions.

138. As an actual and proximate result of the Counter- Defendants' actions and inactions, Plaintiff has sustained damages in excess of Ten Thousand Dollars (\$10,000).

139. As an actual and proximate results of the Counter- Defendants' actions and inactions, Plaintiff has sustained special damages, in the form of costs and attorney's fees, in an amount not yet liquidated, to defend its rights under the Deed of Trust in this action.

1 PRAYER

2 Wherefore, Plaintiff prays for judgment against the Counter- Defendants, jointly and
3 severally, as follows:

- 4 1. For a declaration and determination that the HOA Sale was invalid to the extent it
5 purports to convey the Property free and clear to Buyer;
- 6 2. For a declaration and determination that Plaintiff's interest still encumbers the
7 Property, and that Plaintiff's first Deed of Trust was not extinguished by the HOA
8 Sale;
- 9 3. For a declaration and determination that Plaintiff's interest is superior to the
10 interest of Buyer and all other parties;
- 11 4. In the alternative, for a declaration and determination that the HOA Sale was
12 invalid and conveyed no legitimate interest to Buyer;
- 13 5. For a preliminary and permanent injunction that Buyer, its successors, assigns,
14 and agents are prohibited from conducting any sale, transfer or encumbrance of
15 the Property that is claimed to be superior to Plaintiff's Deed of Trust or not
16 subject to that Deed of Trust;
- 17 6. For a preliminary injunction that Buyer, its successors, assigns, and agents be
18 required to pay all taxes, insurance and homeowner's association dues during the
19 pendency of this action.
- 20 7. If it is determined that Plaintiff's Deed of Trust has been extinguished by the
21 HOA Sale, for special damages in the amount of the fair market value of the
22 Property or the unpaid balance of the Katchen Loan and Deed of Trust, at the time
23 of the HOA Sale, whichever is greater;

24 ///

25 ///

26 ///

27 ///

28 ///

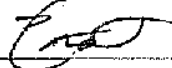
1 8. For general and special damages in excess of \$10,000.00;

2 9. For attorney's fees;

3 10. For costs incurred herein, including post-judgment costs;

4 DATED this 22 day of June, 2016.

5 WRIGHT, FINLAY & ZAK, LLP

6 
7 Dana Jonathon Nitz, Esq.

8 Nevada Bar No. 0050

9 Paterno C. Jurani, Esq.

10 Nevada Bar No. 8136

11 7785 W. Sahara Ave., Suite 200

12 Las Vegas, Nevada 89117

13 Attorneys for Plaintiff/Counter-Defendant, Ocwen
14 Loan Servicing, LLC

Exhibit 1

Exhibit 1

Exhibit 1

Recording Requested By: 163-31-611-022
DIRECT EQUITY MORTGAGE, LLC

Return To:
DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

Prepared By:

DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

TITLE NO.: 09030356SPR
ESCROW NO.: 09030356SPR
LOAN NO.: 4680
Assessor's Parcel Number: 163-31-611-022



20090331-0004948

Fee: \$22.00 RPTT: \$0.00

N/C Fee: \$25.00

03/31/2009 15:09:00

T20090110401

Requestor:

NEVADA TITLE LAS VEGAS

Debbie Conway

MSH

Clark County Recorder Pgs: 9

09-03-0356-SPR
State of Nevada

[Space Above This Line For Recording Data]

DEED OF TRUST

FHA Case No.

332-4848778-703 - 203(b)

MIN 100521800000037987

THIS DEED OF TRUST ("Security Instrument") is made on **MARCH 26, 2009**.
The Grantor is
JOSEPH F HARRISON AND BONNIE L HARRISON, HUSBAND AND WIFE, AS JOINT TENANTS

("Borrower"). The trustee is
NEVADA TITLE COMPANY

("Trustee"). The beneficiary is Mortgage Electronic Registration Systems, Inc. ("MERS"), (solely as nominee for Lender, as hereinafter defined, and Lender's successors and assigns). MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

DIRECT EQUITY MORTGAGE, LLC, A NEVADA CORPORATION

("Lender") is organized and existing under the laws of **NEVADA**, and

has an address of

3285 NORTH FORT APACHE ROAD; LAS VEGAS, NEVADA 89129

Borrower owes Lender the principal sum of
TWO HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED THIRTY NINE AND 00/100

Dollars (U.S. \$ **234,739.00**).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument

Initials

FHA Nevada Deed of Trust with MERS - 4/96

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Amended 2/98

4N(NV) (0307).01

VMP Mortgage Solutions (800)521-7281

DOC PREP SERVICES, INC. FORM - MDOENVQ-3228

ORIGINAL

("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on **APRIL 01, 2039**. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to the Trustee, in trust, with power of sale, the following described property located in

CLARK

County, Nevada:

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

which has the address of **5946 LINGERING BREEZE STREET**

[Street]

LAS VEGAS

[City], Nevada

89148

[Zip Code]

("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS, (as nominee for Lender and Lender's successors and assigns), has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS.

1. Payment of Principal, Interest and Late Charge. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. Monthly Payment of Taxes, Insurance and Other Charges. Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either: (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to Lender are called "Escrow Funds."

LOAN NO.: 4680

4N(INV) 103071.01

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Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 *et seq.* and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

3. Application of Payments. All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note; and

Fifth, to late charges due under the Note.

4. Fire, Flood and Other Hazard Insurance. Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or

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4N(NV) (0307) 01

DOC PREP SERVICES, INC. FORM - MDOTNV8-3229

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ORIGINAL

abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) **Default.** Lender may, except as limited by regulations issued by the Secretary, in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) **Sale Without Credit Approval.** Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

LOAN NO.: 4680

4N(NV) (0307).01

DOC PREP SERVICES, INC. FORM - MDT0NVG-3229

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ORIGINAL

Initials 

(i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and

(ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property but his or her credit has not been approved in accordance with the requirements of the Secretary.

(c) **No Waiver.** If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

(d) **Regulations of HUD Secretary.** In many circumstances regulations issued by the Secretary will limit Lender's rights, in the case of payment defaults, to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

(e) **Mortgage Not Insured.** Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9(b). Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

LOAN NO.: 4680

4N(NV) 103071.01

DOC PREP SERVICES, INC. FORM - MDOENVG-S228

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ORIGINAL

Initials 

13. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. Governing Law; Severability. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

15. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

16. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. Assignment of Rents. Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

LOAN NO.: 4680

4N(NV) (0807)01

DOCPREP SERVICES, INC. FORM - MDOENVG-3228

Initials 

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ORIGINAL

18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by applicable law to Borrower and to the persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the time required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 *et seq.*) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

20. Substitute Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

21. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$ **TO BE DETERMINED AT TIME OF REQUEST.**

22. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)].

☐ Condominium Rider ☐ Adjustable Rate Rider ☐ Growing Equity Rider
☐ Planned Unit Development Rider ☐ Graduated Payment Rider ☐ Other [Specify]

LOAN NO.: 4680

4N(NV) 10307,01

DDCPREP SERVICES, INC. FORM - MDOENV3-3229

Initials 

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ORIGINAL

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

Joseph F. HARRISON (Seal)
JOSEPH F HARRISON -Borrower

Bonnie L. HARRISON (Seal)
BONNIE L HARRISON -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

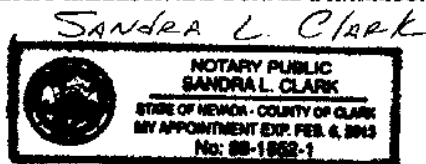
(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

STATE OF NEVADA COUNTY OF *Clark*

This instrument was acknowledged before me on *March 26, 2009* by
JOSEPH F HARRISON AND BONNIE L HARRISON



Sandra L. Clark

Feb 6, 2013
NO 88-1652-1

Mail Tax Statements To:
JOSEPH F HARRISON AND BONNIE L HARRISON

5946 LINGERING BREEZE STREET
LAS VEGAS, NEVADA 89148

LOAN NO.: 4680

4N(NV) (0807)01

DOC PREP SERVICES, INC. FORM - MDOENVG-3229

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ORIGINAL

Escrow No.: 09-03-0356-SPR

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF
RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN
BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER
OF CLARK COUNTY, NEVADA.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND
ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE
PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED
HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

Exhibit 2

Exhibit 2

Exhibit 2

A.P.N.: 163-31-611-022
Requested and Prepared by:
Cooper Castle Law Firm, LLP

When Recorded Mail To:
Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, NV 89113

Forward Tax Statements to
the address given below

SPACE ABOVE THIS LINE FOR RECORDER'S USE

T.S. NO.: 12-05-42957-NV
TITLE ORDER # 6734622

Inst #: 201401070000775

Fees: \$19.00 N/C Fee: \$0.00

RPTT: \$879.75 Ex: #

01/07/2014 08:18:28 AM

Receipt #: 1893423

Requestor:

THE CASTLE LAW GROUP, LLC.

Recorded By: ECM Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

TRUSTEE'S DEED UPON SALE

A.P.N.: 163-31-611-022 TRANSFER TAX: \$879.75

The Grantee Herein Was the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was \$227,324.19, plus any Accrued Interest, Late Charges, Escrow Shortages, and other Collection Costs pursuant to the Promissory Note/Deed of Trust/Loan Modification Agreement.

The Amount Paid by the Grantee Was \$172,200.00

Said Property is in the City of Las Vegas, County of Clark

Cooper Castle Law Firm, LLP, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

Ocwen Loan Servicing LLC

(herein called Grantee), whose legal address is 110 Virginia Drive, Fort Washington PA 19034 but without covenant or warranty, expressed or implied, all right title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Clark, State of Nevada, described as follows:

SEE EXHIBIT A HERE TO AND INCORPORATED HEREIN BY REFERENCE

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by Joseph F Harrison and Bonnie L Harrison, as Trustors, dated March 26, 2009 of the Official Records in the office of the Recorder of Clark County, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on March 31, 2009, 20090331-0004948 of Official records. The Trustee has complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified mail, postage prepaid, to each person entitled to notice in compliance with Nevada Revised Statutes Chapter 107.

TRUSTEE'S DEED UPON SALE

T.S. NO.: 12-05-42957-NV
TITLE ORDER # 6734622

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on **December 20, 2013**. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid, being **\$172,200.00**, in lawful money of the United States, receipt thereof is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, Cooper Castle Law Firm, LLP as Trustee, has this day, caused its name to be hereunto affixed by its officer thereunto duly authorized by its corporation by-laws.

Date: 1/3/14**THE COOPER CASTLE LAW FIRM, LLP**By: 

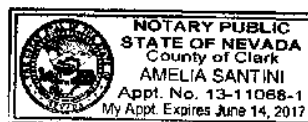
Justin Gourley

Attorney at Law

State of Nevada } SS.
County of Clark }

On 1-3-14 before me, the undersigned, Amelia Santini, Notary Public, personally appeared Justin Gourley personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Amelia Santini (Seal)

Joseph F Harrison and Bonnie L Harrison / 12-05-42957-NV

EXHIBIT A

**THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF NEVADA,
COUNTY OF CLARK, CITY OF LAS VEGAS, AND IS DESCRIBED AS FOLLOWS:**

PARCEL I:

**LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF RUSSELL/FORT APACHE-UNIT 3,
AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101, OF PLATS,PAGE 45, IN THE OFFICE OF
THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.**

PARCEL II:

**A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND ENJOYMENT AND PUBLIC
UTILITY PURPOSES ON, OVER AND ACROSS THE PRIVATE STREETS AND COMMON AREAS
ON THE MAP REFERENCED HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO
PARCEL ONE (I).**

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022
b.
c.
d.

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Townhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm/Indl
g. ☐ Agricultural h. ☐ Mobile Home
i. ☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page _____
Date of Recording: _____
Notes: _____

3.a. Total Value/Sales Price of Property \$ 172,200.00
b. Deed in Lieu of Foreclosure Only (value of property) _____
c. Transfer Tax Value: \$ 172,500.00
d. Real Property Transfer Tax Due \$ 879.75

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity: Attorney At Law
Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Cooper Castle Law Firm
Address: 5275 S. Durango Drive
City: Las Vegas
State: NV Zip: 89113

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Owen Loan Servicing LLC
Address: 110 Virginia Drive
City: Fort Washington
State: PA Zip: 19034

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: Cooper Castle Law Firm
Address: 5275 S. Durango Drive
City: Las Vegas
Escrow # _____
State: NV Zip: 89113

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit 3

Exhibit 3

Exhibit 3

Assessor Parcel Number: 163-31-611-022
File Number: R98668

Accommodation

Inst #: 201112080002960

Fees: \$17.00

N/C Fee: \$0.00

12/08/2011 09:26:38 AM

Receipt #: 1002082

Requestor:

NORTH AMERICAN TITLE COMPAN

Recorded By: KGP Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

LIEN FOR DELINQUENT ASSESSMENTS

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

NOTICE IS HEREBY GIVEN: Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Southern Terrace Homeowners Association, herein also called the Association, in accordance with Nevada Revised Statutes 116 and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 08/09/2001, in Book Number 20010809, as Instrument Number 01455 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada, which have been supplied to and agreed upon by said owner.

Said Association imposes a Lien for Delinquent Assessments on the commonly known property:

5946 Lingering Breeze St, Las Vegas, NV 89148

RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, in the County of Clark

Current Owner(s) of Record:

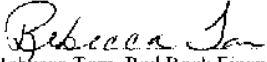
JOSEPH F. HARRISON, BONNIE L. HARRISON

The amount owing as of the date of preparation of this lien is **\$737.04.

This amount includes assessments, late fees, interest, fines/violations and collection fees and costs.

** The said amount may increase or decrease as assessments, late fees, interest, fines/violations, collection fees, costs or partial payments are applied to the account.

Dated: December 1, 2011


Prepared By Rebecca Tom, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

STATE OF NEVADA)

COUNTY OF CLARK)

On December 1, 2011, before me, personally appeared Rebecca Tom, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

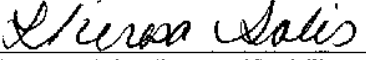

When Recorded Mail To: Red Rock Financial Services
7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



Exhibit 4

Exhibit 4

Exhibit 4

Assessor Parcel Number: 163-31-611-022
File Number: R98668
Property Address: 5946 Lingerin Breeze St
Las Vegas, NV 89148
Title Order Number: 36904

Inst #: 201202020000465
Fees: \$17.00
N/C Fee: \$0.00
02/02/2012 10:26:14 AM
Receipt #: 1054640
Requestor:
AMERICAN LOT BOOK
Recorded By: LEX Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE
LIEN FOR DELINQUENT ASSESSMENTS**

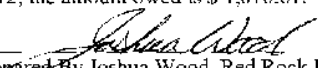
◆ IMPORTANT NOTICE ◆

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN
THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE
AMOUNT IS IN DISPUTE!**

NOTICE IS HEREBY GIVEN: Red Rock Financial Services officially assigned as agent by the Southern Terrace Homeowners Association, under the Lien for Delinquent Assessments, recorded on 12/08/2011, in Book Number 20111208, as Instrument Number 0002960, reflecting JOSEPH F. HARRISON, BONNIE L. HARRISON as the owner(s) of record on said lien, land legally described as RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 08/09/2001, in Book Number 20010809, as Instrument Number 01455, has been breached. As of 09/01/2011 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

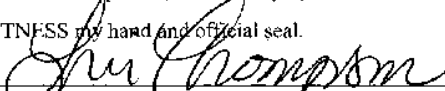
Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes 116, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of January 27, 2012, the amount owed is \$ 1,870.61. This amount will continue to increase until paid in full.

 Dated: January 27, 2012
Prepared By Joshua Wood, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

STATE OF NEVADA)
COUNTY OF CLARK)

On January 27, 2012, before me, personally appeared Joshua Wood, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


When Recorded Red Rock Financial Services
Mail To: 7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887

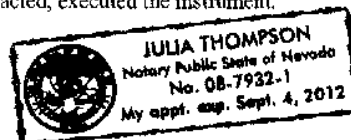


Exhibit 5

Exhibit 5

Exhibit 5

APN: 163-31-611-022
ULS#: NV-SO3-04

When recorded mail to:
United Legal Services Inc.
A Nevada Law Firm
9484 South Eastern Ave. #163
Las Vegas, NV 89123
Phone: (702) 617-3263

Inst #: 201305020000105
Fees: \$17.00
N/C Fee: \$0.00
05/02/2013 08:01:15 AM
Receipt #: 1598818
Requestor:
UNITED LEGAL SERVICES INC.
Recorded By: ECM Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

**NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR DELINQUENT ASSESSMENTS**

**WARNING! A SALE OF YOUR PROPERTY IS IMMINENT!
UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE
BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME,
EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE
THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL
UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED
ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF
THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION,
AT (877) 829-9907.**

YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on December 8, 2011 as instrument 201112080002960 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Southern Terrace Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on February 2, 2012 as instrument 201202020000465 in the Official Records. The property owner(s) of record is/are: **Joseph F and Bonnie L Harrison**. The total amount necessary to satisfy the lien as of the proposed sale date is \$4,197.60.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

NOTICE IS HEREBY GIVEN THAT on May 25, 2013 at 9:00 AM at 8965 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 116, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: **5946 Lingering Breeze St, Las Vegas, Nevada 89148**. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 1, 2013


By: 
Mia Fregeau
An employee of United Legal Services Inc.
As authorized agent for, and on behalf of, Southern Terrace Homeowners Association

Exhibit 6

Exhibit 6

Exhibit 6

APN: 163-31-611-022

Return document and mail tax statements to:

First 100, LLC
10620 Southern Highlands Pkwy, Ste. 110-485
Las Vegas NV 89141

Inst #: 201305290002514

Fees: \$18.00 N/C Fee: \$0.00

RPTT: \$691.05 Ex: #

05/29/2013 12:22:37 PM

Receipt #: 1633728

Requestor:

UNITED LEGAL SERVICES INC.

Recorded By: DXI Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

FORECLOSURE DEED UPON SALE

Foreclosing lienholder **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**, under power of sale pursuant to NRS Chapter 116, does hereby sell, without warranty, expressed or implied, to:

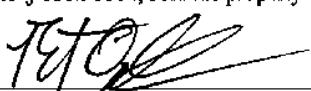
FIRST 100, LLC

the real property situated in Clark County, Nevada legally described as:

SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on December 8, 2011 as instrument 201112080002960 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on February 2, 2012 as instrument 201202020000465 in the Official Records of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on May 25, 2013.

By: 
Robert Opdyke, Esq.
United Legal Services Inc.
As authorized agent for, and on behalf of, foreclosing Association

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me
on May 28, 2013, by: Robert Opdyke.


NOTARY PUBLIC

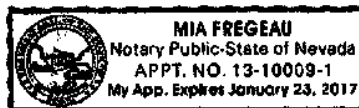


EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
Other _____

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____
Date of Recording: _____
Notes: _____

3.a. Total Value/Sales Price of Property \$ 135,500.00
b. Deed in Lieu of Foreclosure Only (value of property (_____))
c. Transfer Tax Value: \$ 135,500.00
d. Real Property Transfer Tax Due \$ 691.05

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity: Seller's Agent

Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: United Legal Services Inc.*
Address: 9484 S. Eastern Ave. #163
City: Las Vegas
State: NV Zip: 89123

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: First 100, LLC
Address: 10620 Southern Highland 110-485
City: Las Vegas
State: NV Zip: 89141

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: United Legal Services Inc. Escrow # _____
Address: 9484 S. Eastern Ave. #163
City: Las Vegas State: NV Zip: 89123

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

**As agent for Southern Terrace Homeowners Association*

Exhibit 7

Exhibit 7

Exhibit 7

APN: 163-31-611-022

Return document and mail tax statements to:

Chersus Holdings, LLC
1354 Opal Valley St
Henderson NV 89052

Inst #: 201401130001734

Fees: \$18.00 N/C Fee: \$0.00

RPTT: \$889.95 Ex: #

01/13/2014 03:17:13 PM

Receipt #: 1900145

Requestor:

CHERUS HOLDINGS LLC

Recorded By: SCA Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

DEED OF SALE

THIS INDENTURE WITNESSETH: That first party

FIRST 100, LLC

for valuable consideration, the receipt of which is hereby acknowledged, does hereby convey
without warranty, express or implied, to grantee:

CHERSUS HOLDINGS, LLC

the real property situated in Clark County, State of Nevada, described as follows:

**** SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION ****

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

Together with all and singular the tenements, hereditaments and appurtenances thereunto
belonging or in any way appertaining.

Subject to: (i) Property taxes; (ii) conditions, covenants, restrictions, reservations, rights, rights of
way, and easements now of record, if any; and (iii) liens, deeds of trust, and other encumbrances
now in force, if any.

By:

Authorized Signatory, First 100 LLC

Print Name:

Carlos Cardenas
Carlos Cardenas

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me on October 23rd 2013,

by:

Carlos Cardenas
(print name of above signatory)

NOTARY PUBLIC



Exp. 07-30-16

EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022

b. _____

c. _____

d. _____

2. Type of Property:

- | | |
|--|---|
| a. <input type="checkbox"/> Vacant Land | b. <input checked="" type="checkbox"/> Single Fam. Res. |
| c. <input type="checkbox"/> Condo/Twnhse | d. <input type="checkbox"/> 2-4 Plex |
| e. <input type="checkbox"/> Apt. Bldg | f. <input type="checkbox"/> Comm'l/Ind'l |
| g. <input type="checkbox"/> Agricultural | h. <input type="checkbox"/> Mobile Home |
| i. <input type="checkbox"/> Other | |

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property

\$ 174,083.00

b. Deed in Lieu of Foreclosure Only (value of property (_____))

c. Transfer Tax Value:

\$ 174,083.00

d. Real Property Transfer Tax Due

\$ 889.95

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity: Seller (Grantor) Representative

Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: First 100, LLC

Address: 11920 Southern Highlands Ste 200

City: Las Vegas

State: Nevada

Zip: 89141

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Chersus Holdings, LLC

Address: 1354 Opal Valley St

City: Henderson

State: Nevada

Zip: 89052

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: First 100, LLC

Address: 11920 Southern Highlands Ste 200

City: Las Vegas

Escrow # _____

State: Nevada

Zip: 89141

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit 8

Exhibit 8

Exhibit 8

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APN: part of 163-31-501-010, 163-31-501-013,
163-31-501-014, 163-31-501-021

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WHEN RECORDED, RETURN TO

WILBUR M. ROADHOUSE, ESQ.
Goold Patterson DeVore Ales & Roadhouse
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

(Space Above Line for Recorder's Use Only)

MASTER DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE

(a Nevada Residential Common-Interest Planned Community)
CLARK COUNTY, NEVADA

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**MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE**

THIS MASTER DECLARATION ("Declaration"), made as of the 8th day of August, 2001, by PERMA-BILT, a Nevada corporation ("Declarant"),

WITNESSETH:

WHEREAS:

A. Declarant owns certain real property located in Clark County, Nevada, on which Declarant intends to subdivide, develop, construct, market and sell a single family detached residential common-interest planned community, to be known generally as "SOUTHERN TERRACE"; and

B. A portion of said property, as more particularly described in Exhibit "A" attached hereto, shall constitute the property initially covered by this Declaration ("Original Property"); and

C. Declarant intends that, upon Recordation of this Declaration, the Original Property shall be a Nevada Common-Interest Community, as defined in NRS § 116.110323, and a Nevada Planned Community, as defined in NRS § 116.110368 ("Community"); and

D. The name of the Community shall be SOUTHERN TERRACE, and the name of the Nevada nonprofit corporation organized in connection therewith shall be SOUTHERN TERRACE HOMEOWNERS ASSOCIATION ("Association"); and

E. Declarant further reserves the right from time to time to add all or any portion of certain other real property, more particularly described in Exhibit "B" hereto ("Annexable Area"); and

F. The total maximum number of Units that may (but need not) be created in the Community is one thousand two hundred (1,200) aggregate Units ("Units That May Be Created"); and

G. Declarant intends to develop and convey all of the Original Property, and any Annexable Area which may be annexed from time to time thereto ("Annexed Property"), pursuant to a general plan and subject to certain protective covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges; and

H. Declarant has deemed it desirable, for the efficient preservation of the value and amenities of the Properties, to organize the Association, to which shall be delegated and assigned the powers of owning, maintaining and administering the Common Elements (as defined herein), administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created. Declarant will cause or has caused, the Association to be formed for the purpose of exercising such functions; and

I. This Declaration is intended to set forth a dynamic and flexible plan of governance of the Community, for the overall development, administration, maintenance and preservation of a master residential community in which the Owners enjoy a quality life style as "good neighbors".

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NOW, THEREFORE, Declarant hereby declares that all of the Original Property, and, from the date(s) of respective annexation, all Annexed Property (collectively, "Properties") shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties (as defined in Article 1 hereof), in furtherance of a general plan for the protection, maintenance, subdivision, improvement, sale and lease of the Properties or any portion thereof. The protective covenants, conditions, restrictions, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Properties and shall be binding upon all Persons having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon, and may be enforced by, Declarant, the Association, each Owner, and their respective heirs, executors and administrators, and successive owners and assigns. All Units within this Community shall be used, improved, and limited exclusively to single Family residential use.

ARTICLE 1 **DEFINITIONS**

Section 1.1 "Annexable Area" shall mean the real property described in Exhibit "B" hereto, all or any portion of which real property may from time to time be made subject to this Declaration pursuant to the provisions of Article 15 hereof. At no time shall any portion of the Annexable Area be deemed to be a part of the Community or a part of the Properties until such portion of the Annexable Area has been duly annexed hereto pursuant to Article 15 hereof.

Section 1.2 "Annexed Property" shall mean any and all portion(s) of the Annexable Area from time to time added to the Properties covered by this Declaration, by Recordation of Annexation Amendment(s) pursuant to Article 15 hereof.

Section 1.3 "ARC" shall mean the Architectural Review Committee created pursuant to Article 8 hereof.

Section 1.4 "Articles" shall mean the Articles of Incorporation of the Association as filed in the office of the Secretary of State of Nevada, as such Articles may be amended from time to time.

Section 1.5 "Assessments" shall refer collectively to Annual Assessments, Capital Assessments, and any applicable Special Assessments (and, if applicable with regard to a particular Neighborhood, Neighborhood Assessments).

Section 1.6 "Assessment, Annual" shall mean the annual or supplemental charge against each Owner and his Unit, representing a portion of the Common Expenses, which are to be paid in equal periodic installments (monthly, quarterly, or annually, as determined from time to time by the Board), commencing as of the Assessment Commencement Date, by each Owner to the Association in the manner and proportions provided herein.

Section 1.7 "Assessment, Capital" shall mean a charge against each Owner and his Unit, representing a portion of the costs to the Association for installation, construction or reconstruction of any Improvements on any portion of the Common Elements which the Association may from time to time authorize, pursuant to the provisions of this Declaration. Such charge shall be levied among all Owners and their Units in the same proportion as Annual Assessments.

Section 1.8 "Assessment, Special" shall mean a charge against a particular Owner and his Unit, directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty

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assessed by the Association, plus interest and other charges on such Special Assessments as provided for herein.

Section 1.9 "Assessment Commencement Date" shall mean that date, pursuant to Section 6.7 hereof, duly established by the Board, on which Annual Assessments shall commence.

Section 1.10 "Association" shall mean SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, a Nevada nonprofit corporation, its successors and assigns.

Section 1.11 "Association Funds" shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article 6 hereof.

Section 1.12 "Beneficiary" shall mean a Mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such mortgagee or beneficiary.

Section 1.13 "Board" or "Board of Directors" shall mean the Board of Directors of the Association. The Board of Directors is an "Executive Board" as defined by NRS § 116.110345.

Section 1.14 "Budget" shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration, prepared and approved pursuant to the provisions of this Declaration, including, but not limited to, Section 6.4 below.

Section 1.15 "Bylaws" shall mean the Bylaws of the Association which have or will be adopted by the Board, as such Bylaws may be amended from time to time.

Section 1.16 "Close of Escrow" shall mean the date on which a deed is Recorded conveying a Unit from Declarant to a Purchaser.

Section 1.17 "Common Elements" shall mean all real property or interests therein (including, but not necessarily limited to, those easements over portions of certain Lots, designated on the Plat as pedestrian access corridor easements, landscape easements, drainage easements, and certain other easements) owned or leased by the Association, and includes entry monumentation, private entry gates for the Properties, Common Recreational Area, Private Streets and public utility easements shown on the Plat, street lights, street signs, curbs and gutters, certain drainage and sewer easements, certain water and power easements, Common Element landscaping, access and ingress/egress easements (including, but not necessarily limited to, those areas respectively designated "Private Drive and P.U.E.", and any areas designated as "Private Drainage Easement," "Water Easement," "Power Easement," "Sewer Easement," "Access Easement," "Ingress/Egress Easement," and/or other similar easements on the Plat) but otherwise, shall exclude Units. Portions of Perimeter Walls, pursuant to Section 9.6 below, are located on and constitute portions of Lots, and are not Common Elements. The Common Elements shall constitute Common Elements as to the Properties, as provided in NRS § 116.110318.

Section 1.18 "Common Expenses" shall mean expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, including the actual and estimated costs of: maintenance, management, operation, repair, replacement and insurance of the Common Elements; painting over or removing graffiti on the exterior side of perimeter walls; unpaid Special Assessments or Capital Assessments; costs of any commonly metered utilities and other commonly metered charges for the Properties; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to Managers, accountants, attorneys and employees; costs of all utilities, gardening, trash pickup and disposal, and other services benefiting the Common Elements; costs of fire, casualty and liability insurance, workers' compensation insurance, and any other insurance covering the Common Elements or Properties or deemed prudent and necessary by the Board; costs of bonding the Board, Officers, any Managers, or any other Person handling the funds of the Association; any statutorily required "ombudsman" fees; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Elements or Properties, or portions thereof; costs of any other

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item or items incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of the Owners; prudent reserves; and any other expenses for which the Association is responsible pursuant to this Declaration or pursuant to any applicable provision of NRS Chapter 116.

Section 1.19 "Common Recreational Area" shall mean a common recreational area for the Community, and the building and other improvements on such area which shall be a part of the Common Elements

Section 1.20 "Community" shall mean a Common-Interest Community, as defined in NRS § 116.110323, and a Planned Community, as defined in NRS § 116.110368.

Section 1.21 "County" shall mean the county in which the Properties are located (i.e., Clark County, Nevada).

Section 1.22 "Declarant" shall mean PERMA-BILT, a Nevada corporation, its successors and any Person to which it shall have assigned any rights hereunder by an express written and Recorded assignment (but specifically excluding Purchasers as defined in NRS § 116.110375).

Section 1.23 "Declarant Control Period" shall have the meaning set forth in Section 3.7, below.

Section 1.24 "Declaration" shall mean this instrument, as may be amended from time to time.

Section 1.25 "Deed of Trust" shall mean a Recorded mortgage or a deed of trust, as the case may be, pursuant to Section 1.42, below.

Section 1.26 "Director" shall mean a duly appointed or elected and current member of the Board of Directors

Section 1.27 "Dwelling" shall mean a residential building located on a Unit designed and intended for use and occupancy as a residence by a single Family.

Section 1.28 "Eligible Holder" shall mean each Beneficiary, insurer and/or guarantor of a first Mortgage encumbering any Unit, which has filed with the Board a written request for notification as to relevant specified matters.

Section 1.29 "Exterior Wall(s)" shall mean the exterior only face of Perimeter Walls (visible from public streets or other areas outside of and generally abutting the exterior boundary of the Properties).

Section 1.30 "Family" shall mean (a) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (b) a group of natural persons not all so related, but who maintain a common household in a Dwelling, all as subject to and in compliance with all applicable federal and Nevada laws and local health codes and other applicable County ordinances.

Section 1.31 "FHA" shall mean the Federal Housing Administration.

Section 1.32 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporations

Section 1.33 "Fiscal Year" shall mean the twelve (12) month fiscal accounting and reporting period of the Association selected from time to time by the Board.

Section 1.34 "FNMA" shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

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Section 1.35 "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successors to such association.

Section 1.36 "Governing Documents" shall mean the Declaration, Articles, Bylaws, Plat, and the Rules and Regulations together with, if applicable, any Supplemental Declaration (and, if applicable, any Neighborhood Rules and Regulations or other Neighborhood governing documents, collectively referred to as "Neighborhood Governing Documents", which are specific with regard to a particular Neighborhood). Any inconsistency among the Governing Documents shall be governed pursuant to Section 19.10, below.

Section 1.37 "Identifying Number", pursuant to NRS § 116.110348, shall mean the number which identifies a Unit on the Plat.

Section 1.38 "Improvement" shall mean any structure or appurtenance thereto of every type and kind, whether above or below the land surface, placed in the Properties, including but not limited to Dwellings and other buildings, walkways, sprinkler pipes, swimming pools, spas and other recreational facilities, carports, garages, roads, driveways, parking areas, hardscape, Private Streets, streetlights, curbs, gutters, walls, perimeter walls, party walls, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures or equipment.

Section 1.39 "Lot" shall mean the residential real property of any residential lot to be owned separately by an Owner, as shown on the Plat (subject to Common Element easements over Lots as shown on the Plat, including, but not limited to, any Private Street easements). Notwithstanding the foregoing, in the event that certain Lots, shown as such on the Plat, are expressly designated by Declarant, in its sole and absolute discretion, by separate Recorded instrument to constitute Common Elements, pursuant to Declarant's reserved rights as set forth in Article 14 below, then such specifically designated Lots shall not be Lots for purposes of this Declaration and the other Governing Documents, but shall be conclusively deemed a portion of the Common Elements.

Section 1.40 "Manager" shall mean the Person, if any, whether an employee or independent contractor, appointed by the Association, acting through the Board, and delegated the authority to implement certain duties, powers or functions of the Association as provided in this Declaration.

Section 1.41 "Member," "Membership," "Member" shall mean any Person holding a membership in the Association, as provided in this Declaration. "Membership" shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations, including liability for Assessments, contained in the Governing Documents.

Section 1.42 "Mortgage," "Mortgagee," "Mortgagor," "Mortgage" shall mean any unreleased mortgage or deed of trust or other similar instrument of Record, given voluntarily by an Owner, encumbering his Unit to secure the performance of an obligation or the payment of a debt, which will be released and reconveyed upon the completion of such performance or payment of such debt. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." "Mortgage" shall not include any judgment lien, mechanic's lien, tax lien, or other similarly involuntary lien on or encumbrance of a Unit. The term "Mortgagee" shall mean a Person to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. "Mortgagor" shall mean a Person who mortgages his Unit to another (i.e., the maker of a Mortgage), and shall include the trustor of a Deed of Trust. "Trustor" shall be synonymous with the term "Mortgagor," and "Beneficiary" shall be synonymous with "Mortgagee."

Section 1.43 "Neighborhood" shall have the meaning set forth in Section 17.1, below.

Section 1.44 "Neighborhood Assessments" shall have the meaning set forth in Section 17.1, below.

Section 1.45 "Neighborhood Common Area" shall have the meaning set forth in Section 17.1, below.

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Section 1.46 "Neighborhood Expenses" shall have the meaning set forth in Section 17.1, below.

Section 1.47 "Notice and Hearing" shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at Owner's expense, in the manner further provided in the Bylaws.

Section 1.48 "Officer" shall mean a duly elected or appointed and current officer of the Association.

Section 1.49 "Original Property" shall mean that real property described on Exhibit "A," attached hereto and incorporated by this reference herein, which shall be the initial real property made subject to this Declaration, immediately upon the Recordation of this Declaration.

Section 1.50 "Owner" shall mean the Person or Persons, including Declarant, holding fee simple interest of Record to any Unit. The term "Owner" shall include sellers under executory contracts of sale, but shall exclude Mortgagees.

Section 1.51 "Perimeter Walls" shall mean the walls, initially constructed by Declarant, and located generally around the exterior perimeter of the Properties.

Section 1.52 "Person" shall mean a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

Section 1.53 "Plat" shall mean the final plat maps of SOUTHERN TERRACE, as the same from time to time are Recorded, including the final map of _____, (Recorded on _____, 2001, in Book _____ of Plats, Page _____), and any other final plat maps of the Properties, as all of the same from time to time may be amended or supplemented.

Section 1.54 "Private Streets" shall mean all private streets, rights of way, street scapes, and vehicular ingress and egress easements, in the Properties, shown as such on the Plat.

Section 1.55 "Properties" shall mean all of the Original Property described in Exhibit "A," attached hereto, together with such portions of the Annexable Area, described in Exhibit "B" hereto, as hereafter from time to time may be annexed thereto pursuant to Article 15 of this Declaration.

Section 1.56 "Purchaser" shall have that meaning as provided in NRS § 116.110375.

Section 1.57 "Record," "Recorded," "Filed" or "Recordation" shall mean, with respect to any document, the recordation of such document in the official records of the County Recorder of Clark County, Nevada.

Section 1.58 "Resident" shall mean any Owner, tenant, or other person who is physically residing in a Unit.

Section 1.59 "Rules and Regulations" shall mean the rules and regulations adopted by the Board pursuant to the Declaration and Bylaws, as such Rules and Regulations from time to time may be amended.

Section 1.60 "Sight Visibility Restriction Area" shall mean those areas, portions of which are or may be located on portions of Common Elements and/or Lots, identified on the Plat as "Sight Visibility Restriction Easements," in which the height of landscaping and other sight restricting improvements (other than official traffic control devices) is restricted to a maximum height as set forth on the Plat.

Section 1.61 "Supplemental Declaration" shall mean an instrument Recorded by Declarant or with the express prior written consent of Declarant, in its sole discretion, which shall be supplemental to this

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Declaration, as set forth in further detail in Section 18.1, below. Any purported Supplemental Declaration Recorded without the express prior written consent of Declarant shall be null and void.

Section 1.62 "Unit" shall mean that residential portion of this Community to be separately owned by each Owner (as shown and separately identified as such on the Plat), and shall include a Lot and all Improvements thereon (which, with regard to certain Units, shall specifically include the portion of Perimeter Walls located on or within the Unit's boundaries, pursuant to Section 9.6 below). Subject to the foregoing, and subject to Section 9.5, below, the boundaries of each Unit shall be the property lines of the Lot, as shown on the Plat.

Section 1.63 "Units That May Be Created" shall mean the total "not to exceed" maximum number of aggregate Units within the Original Property and the Annexable Area (which Declarant has reserved the right, in its sole discretion, to create) (i.e., 1,200 Units).

Section 1.64 "VA" shall mean the U.S. Department of Veterans Affairs.

Any capitalized term not separately defined in this Declaration shall have the meaning ascribed thereto in applicable provision of NRS Chapter 116.

ARTICLE 2 OWNERS' PROPERTY RIGHTS

Section 2.1 Owners' Easements of Enjoyment. Each Owner shall have a nonexclusive right and easement of ingress and egress and of use and enjoyment in, to and over the Common Elements, which easement shall be appurtenant to and shall pass with title to the Owner's Unit, subject to the following:

- (a) the right of the Association to reasonably limit the number of guests and tenants an Owner or his tenant may authorize to use the Common Elements;
- (b) the right of the Association to establish uniform Rules and Regulations pertaining to the use of the Common Elements;
- (c) the right of the Association, in accordance with the Declaration, Articles and Bylaws, with the vote of at least two-thirds (2/3) of the voting power of the Association and a majority of the voting power of the Board, to borrow money for the purpose of improving or adding to the Common Elements, and in aid thereof, and further subject to the Mortgagee protection provisions of Article 13 of this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners;
- (d) subject to the provisions of Article 13 of this Declaration, and subject further to the voting requirements set forth in subsection 2.1(c) above, the right of the Association to dedicate, release, alienate, transfer or grant easements, licenses, permits and rights of way in all or any portion of the Common Elements to any public agency, authority, utility or other Person for such purposes and subject to such conditions as may be agreed to by the Members;
- (e) subject to the provisions of Article 14 hereof, the right of Declarant and its sales agents, representatives and prospective Purchasers, to the nonexclusive use of the Common Elements, without cost, for access, ingress, egress, use and enjoyment, in order to show and dispose of the Properties and/or any other development(s) until the last Close of Escrow for the marketing and/or sale of a Unit in the Properties or such other development(s); provided, however, that such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein;

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(f) the other easements, and rights and reservations of Declarant as set forth in Article 14 and elsewhere in this Declaration;

(g) the right of the Association (by action of the Board) to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Elements in accordance with the original design, finish or standard of construction of such Improvement, or of the general Improvements within the Properties, as the case may be; and if not materially in accordance with such original design, finish or standard of construction only with the vote or written consent of the Owners holding seventy-five percent (75%) of the voting power of the Association, and the vote or written consent of a majority of the voting power of the Board, and the approval of the Eligible Holders of fifty-one percent (51%) of the first Mortgages on Units in the Properties;

(h) the right of the Association, acting through the Board, to replace destroyed trees or other vegetation and to plant trees, shrubs and other ground cover upon any portion of the Common Elements;

(i) the right of the Association, acting through the Board, to place and maintain upon the Common Elements such signs as the Board reasonably may deem appropriate for the identification, marketing, advertisement, sale, use and/or regulation of the Properties, or any portion thereof, or any other project of Declarant;

(j) the right of the Association, acting through the Board, to reasonably restrict access to and use of portions of the Common Elements;

(k) the right of the Association, acting through the Board, to reasonably suspend voting rights and to impose fines as Special Assessments, and to suspend the right of an Owner or Resident to use Common Elements, for nonpayment of any regular or special Assessment levied by the Association against the Owner's Unit, or if an Owner or Resident is otherwise in breach of obligations imposed under the Governing Documents;

(l) the obligations and covenants of Owners as set forth in Article 9 and elsewhere in this Declaration;

(m) the use restrictions set forth in Article 10 and elsewhere in this Declaration;

(n) the easements reserved in Sections 2.2 through 2.7, inclusive, Section 2.13, Article 14, Article 15, Article 17, and/or any other provision of this Declaration; and

(o) the rights of any other easement holders.

Section 2.2 Easements for Parking. Subject to the parking and vehicular restrictions set forth in Section 10.19 below, the Association, through the Board, is hereby empowered to establish "parking" and/or "no parking" areas within the Common Elements, and to establish Rules and Regulations governing such matters, as well as to reasonably enforce such parking rules and limitations by all means lawful for such enforcement on public streets, including the removal of any violating vehicle, by those so empowered, at the expense of the Owner of the violating vehicle. If any temporary guest or recreational parking is permitted within the Common Elements, such parking shall be permitted only within any spaces and areas clearly marked or designated by the Board for such purpose.

Section 2.3 Easements for Vehicular and Pedestrian Traffic. In addition to the general easements for use of the Common Elements reserved herein, there shall be reserved to Declarant and all future Owners, and each of their respective agents, employees, guests, invitees and successors, nonexclusive, appurtenant easements for vehicular and pedestrian traffic over private main entry gate areas and all Private Streets, and any walkways within the Common Elements, subject to parking, vehicular, and/or use provisions set forth in Section 2.2 above and Section 10.19, below.

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Section 2.4 Easement Right of Declarant Incident to Construction and/or Marketing and Sales Activities An easement is reserved by and granted to Declarant, its successors and assigns, and their respective officers, managers, employees, agents, contractors, sales representatives, prospective purchasers of Units, guests and other invitees, for access, ingress, and egress over, in, upon, under, and across the Properties, including Common Elements (including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's use, development, advertising, marketing and/or sales related to the Properties, or any portions thereof); provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to interfere unreasonably with the occupancy, use, enjoyment, or access by any Owner, his Family, guests, or invitees, to or of that Owner's Lot, or the Common Elements. The easement created pursuant to this Section 2.4 is subject to the time limit set forth in Section 14.1(a) below. Without limiting the generality of the foregoing, until such time as the Close of Escrow of the last Unit in the Properties, Declarant reserves the right to control entry gate(s) to the Properties and/or to Neighborhoods, and neither the Association nor any one or more of the Owners shall at any time, without the prior written approval of Declarant in its discretion, cause any entry gate in the Properties to be closed during regular marketing, sales, and/or construction hours (including weekend and/or holiday sales or construction hours) of Declarant, or shall in any other way impede or hinder Declarant's marketing, sales and/or construction activities.

Section 2.5 Easements for Public Service Use. In addition to the foregoing easements over the Common Elements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for (a) placement of any fire hydrants on portions of certain Lots and/or Common Elements, and other purposes regularly or normally related thereto; and (b) County, state, and federal public services, including but not limited to, the right of postal, law enforcement, and fire protection services and their respective employees and agents, to enter upon any part of the Common Elements or any Lot, for the purpose of carrying out their official duties.

Section 2.6 Easements for Water, Sewage, Utility, and Irrigation Purposes. In addition to the foregoing easements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for purposes of public and private utilities, power, telephone, cable TV, water, and gas lines and appurtenances (including but not limited to, the right of any public or private utility or mutual water and/or sewage district, of ingress or egress over the Properties, including portions of Lots, for purposes of reading and maintaining meters, and using and maintaining any fire hydrants located on the Properties). There is hereby created a blanket easement in favor of Declarant and the Association upon, across, over, and under all Units and the Common Elements, for the installation, replacement, repair, and maintenance of utilities (including, but not limited to, water, sewer, gas, telephone, electricity, "smart" data cabling, if any, and master and cable television systems, if any), provided that said easement shall not extend beyond, across, over, or under any structure located on any Unit. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances in the Properties and to install, repair, and maintain water, sewer and gas pipes, electric, telephone and television wires, circuits, conduits and meters. Notwithstanding anything to the contrary contained in this Section, no sewer, electric, water or gas lines or other utilities or service lines may be installed or relocated within the Properties until the Close of Escrow of the last Unit in the Properties, except as approved by Declarant. This easement shall in no way affect any other Recorded easements in the Properties. There is also hereby reserved to Declarant during such period the non-exclusive right and power to grant such specific easements as may be necessary in the sole discretion of Declarant in connection with the orderly development of any property in the Properties. Any damage to a Unit resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant thereof Properties. Declarant further reserves and covenants for itself and the Association, and their respective agents, employees and contractors, easements over the Common Elements and all Lots, for the control, installation, maintenance, repair and replacement of water and/or sewage lines and systems for watering or irrigation of any landscaping on, and/or sewage disposal from or related to, Common Elements. In the event that any utility exceeds the scope of this

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or any other easement reserved in this Declaration, and causes damage to property, the Owner of such property shall pursue any resultant claim against the offending utility, and not against Declarant or the Association.

Section 2.7 Additional Reservation of Easements. Declarant hereby expressly reserves for the benefit of each Owner and his Unit, reciprocal, nonexclusive easements over the adjoining Unit(s), for the control, maintenance and repair of the utilities serving such Owner's Unit. Declarant further expressly reserves, for the benefit of all of the real property in the Properties, and for the benefit of all of the Units, the Association and the Owners, reciprocal, nonexclusive easements over all Units and the Common Elements, for the control, installation, maintenance and repair of utility services and drainage facilities serving any portion of the Properties, (which may be located on portions of Lots, pursuant to the Plat), for drainage of water resulting from the normal use thereof or of neighboring Units and/or Common Elements, for the use, maintenance, repair and replacement of Private Streets and/or Perimeter Walls (subject to Section 9.6 below), and for any required customer service work and/or maintenance and repair of any Dwelling or other Improvement, wherever located in the Properties, and for compliance with Sight Visibility Restriction Area maximum permitted height requirements. In the event that any utility or governmental body exceeds the scope of any easement pertaining to the Properties, and thereby causes bodily injury or damage to property, the injured or damaged Owner or Resident shall pursue any and all resultant claims against the offending utility, and not against Declarant or the Association. In the event of any minor encroachment upon the Common Elements or Unit(s), as a result of initial construction or as a result of reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for minor encroachment and for the maintenance of the same shall exist so long as the minor encroachment exists. Declarant, and each Owner of a Unit, on which there is constructed a Dwelling along or adjacent to the property line, shall have an easement appurtenant to such property, over such property line, to and over the adjacent Unit and/or adjacent Common Elements, for the purposes of accommodating any natural movement or settling of such Improvement, any encroachment of such Improvement due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs, patio walls and architectural features comprising parts of the original construction of such Improvement. Declarant further reserves (a) a nonexclusive easement, on or over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of Declarant and its agents and/or contractors, for any required warranty repairs, and (b) a nonexclusive easement on and over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of the Association, and its agents, contractors, and/or any other authorized party, for the maintenance and/or repair of any and all landscaping and/or other improvements located on the Common Elements and/or Units.

Section 2.8 Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Unit or other property owned by said Owner from the liens and charges hereof, by waiver of the use and enjoyment of the Common Elements or any facilities thereon or by abandonment of his Unit or any other property in the Properties.

Section 2.9 Easement Data. 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 the Plat is the same as the Recording data for the Plat.

Section 2.10 Owners' Right of Ingress and Egress. Each Owner shall have an unrestricted right of ingress and egress to his Unit reasonably over and across the Common Elements, which right shall be appurtenant to the Unit, and shall pass with any transfer of title to the Unit.

Section 2.11 No Transfer of Interest in Common Elements. No Owner shall be entitled to sell, lease, encumber, or otherwise convey (whether voluntarily or involuntarily) his interest in any of the Common Elements, except in conjunction with conveyance of his Unit. No transfer of Common Elements, or any interest therein, shall deprive any Unit of its rights of access. Any attempted or purported transaction in violation of this provision shall be void and of no effect.

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Section 2.12 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each Unit. If any taxes or assessments of any Owner may, in the opinion of the Association, become a lien on the Common Elements, or any part thereof, they may be paid by the Association as a Common Expense or paid by the Association and levied against such Owner as a Special Assessment.

Section 2.13 Telecommunications System. In cooperation with one or more telecommunication service provider(s) selected by Declarant ("Provider"), Declarant may, but is not required to, develop an integrated broadband network, linking homes, offices, schools, health care and public facilities to provide the necessary transport platform for network-based services such as integrated voice, messaging, data, CATV, and interactive multimedia applications. Declarant's technology vision ultimately is to provide capability for high speed data connectivity, video teleconferencing, video transport, and interactive multimedia services such as movies on demand, distance learning, remote diagnostic health care, and energy information services to help address the needs of an interactive community, where home, office, retail and commercial needs are met through cooperative and centrally managed network strategies. In addition, Declarant contemplates that a community server platform will create an "intranet" of electronic connections between all homes, offices, schools and other facilities. In connection with the foregoing: (a) Declarant may pre-wire each Dwelling in accordance with specifications furnished to Declarant by a Provider selected by Declarant; (b) each Owner, by acceptance of a deed to a Lot (whether or not so expressed in such deed), shall be deemed to acknowledge and agree that such system, including all components thereof as so installed on the Lot, shall be the sole property of Declarant, or, at the option of Declarant, of Provider; (c) Declarant hereby expressly reserves ownership of the portion of such system located on Lots or otherwise within the Properties; and (d) Declarant further expressly reserves a non-exclusive easement in gross on, over, under or across each lot and the other portions of the Properties for purposes of installation and maintenance of such system and for the benefit of Declarant and/or Provider.

ARTICLE 3 SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

Section 3.1 Organization of Association. The Association is or shall be incorporated under the name of SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, or similar name, as a non-profit corporation under NRS §§81.410 through 81.540, inclusive. Upon dissolution of the Association, the assets of the Association shall be disposed of as set forth in the Governing Documents and in compliance with applicable Nevada law.

Section 3.2 Duties, Powers and Rights. Duties, powers and rights of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers as a non-profit corporation, generally to do any and all things that a corporation organized under the laws of the State of Nevada may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, including any applicable powers set forth in NRS § 116.3102, subject to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents, or in any expressly applicable provision of NRS Chapter 116. The Association shall make available for inspection at its office by any prospective purchaser of a Unit, any Owner, and the Beneficiaries, insurers and guarantors of the first Mortgage on any Unit, during regular business hours and upon reasonable advance notice, current copies of the Governing Documents, and all other books, records, and financial statements of the Association.

Section 3.3 Membership. Each Owner, upon acquiring title to a Lot, shall automatically become a Member and shall remain a Member until such time as his ownership of the Unit ceases, at which time his membership in the Association shall automatically cease. Memberships shall not be assignable, except to the Person to which title to the Unit has been transferred, and each Membership shall be appurtenant to and may not be separated from the fee ownership of such Unit. Ownership of such Unit shall be the sole qualification for Membership, and shall be subject to the Governing Documents.

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Section 3.4 Transfer of Membership. The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Unit, and then only to the purchaser or Mortgagee of such Unit. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. An Owner who has sold his Unit to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser said Owner's Membership rights. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Unit until fee title to the Unit sold is transferred. If any Owner should fail or refuse to transfer his Membership to the purchaser of such Unit upon transfer of fee title thereto, the Board shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer (which may, but need not necessarily be, a copy of the Recorded deed of transfer) first has been presented to the reasonable satisfaction of the Board, the purchaser shall not be entitled to vote at meetings of the Association, unless the purchaser shall have a valid proxy from the seller of said Unit, pursuant to Section 4.6, below. The Association may levy a reasonable transfer fee against a new Owner and his Unit (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the records of the Association. The new Owner shall, if requested by the Board or Manager, timely attend an orientation to the Community and the Properties, conducted by an Association Officer or Manager, and will be required to pay any costs necessary to obtain entry gate keys and/or remote controls, if not obtained from the prior Owner at Close of Escrow.

Section 3.5 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws, including any reasonable provisions with respect to corporate matters; but in the event that any such provisions may be, at any time, inconsistent with any provisions of this Declaration, the provisions of this Declaration shall govern. The Bylaws shall provide:

- (a) the number of Directors (subject to Section 3.6 below) and the titles of the Officers;
- (b) for election by the Board of an Association president, treasurer, secretary and any other Officers specified by the Bylaws;
- (c) the qualifications, powers and duties, terms of office and manner of electing and removing Directors and Officers, and filling vacancies;
- (d) which, if any, respective powers the Board or Officers may delegate to other Persons or to a Manager;
- (e) which of the Officers may prepare, execute, certify and record amendments to the Declaration on behalf of the Association;
- (f) procedural rules for conducting meetings of the Association; and
- (g) a method for amending the Bylaws.

Section 3.6 Board of Directors

(a) The affairs of the Association shall be managed by a Board of not less than three (3), nor more than seven (7) Directors, all of whom (other than Directors appointed by Declarant pursuant to Section 3.7 below) must be Members of the Association. In accordance with the provisions of Section 3.7 below, upon the formation of the Association, Declarant shall appoint the Board, which shall initially consist of three (3) Directors. The number of Directors may be increased to five (5) or seven (7) by Declarant (during the Declarant Control Period), or by resolution of the Board, and otherwise may be changed by amendment of the Bylaws, provided that there shall not be less than any minimum number of Directors nor more than any maximum number of Directors from time to time required by applicable Nevada law. The Board may act in

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all instances on behalf of the Association, except as otherwise may be provided in the Governing Documents or any applicable provision of NRS Chapter 116 or other applicable law. The Directors, in the performance of their duties, are fiduciaries, and are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule. Notwithstanding the foregoing, the Board may not act on behalf of the Association to amend the Declaration, to terminate the Community, or to elect Directors or determine their qualifications, powers and duties or terms of office, provided that the Board may fill vacancies in the Board for the unexpired portion of any term. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any Director with or without cause, other than a Director appointed by Declarant. If a Director is sued for liability for actions undertaken in his role as a Director, the Association shall indemnify him for his losses or claims, and shall undertake all costs of defense, unless and until it is proven that the Director acted with wilful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the costs of defense, and may recover, from the Director who so acted, costs already expended. Directors are not personally liable to the victims of crimes occurring within the Properties. Punitive damages may not be recovered against Declarant or the Association, subject to applicable Nevada law. An officer, employee, agent or director of a corporate Owner, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, or a fiduciary of an estate that owns a Unit, may be an Officer or Director. In every event where the person serving or offering to serve as an Officer or Director is a record Owner, he shall file proof of authority in the records of the Association. No Director shall be entitled to delegate his or her vote on the Board, as a Director, to any other Director or any other Person, and any such attempted delegation of a Director's vote shall be void. Each Director shall serve in office until the appointment (or election, as applicable) of his successor.

(b) The term of office of a Director shall not exceed two (2) years. A Director may be elected to succeed himself. Following the Declarant Control Period, elections for Directors (whose terms are expiring) must be held at the Annual Meeting, as set forth in Section 4.3 below.

(c) A quorum is deemed present throughout any Board meeting if Directors entitled to cast fifty percent (50%) of the votes on that Board are present at the beginning of the meeting.

Section 3.7 Declarant's Control of the Board. During the period of Declarant's control ("Declarant Control Period"), as set forth below, Declarant at any time, with or without cause, may remove or replace any Director appointed by Declarant. Directors appointed by Declarant need not be Owners. Declarant shall have the right to appoint and remove the Directors, subject to the following limitations:

(a) Not later than sixty (60) days after conveyance from Declarant to Purchasers of twenty-five percent (25%) of the Units That May Be Created, at least one Director and not less than twenty-five percent (25%) of the total Directors must be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance from Declarant to Purchasers of fifty percent (50%) of the Units That May Be Created, not less than one-third of the total Directors must be elected by Owners other than Declarant.

(c) The Declarant Control Period shall terminate on the earliest of: (i) sixty (60) days after conveyance from Declarant to Purchasers of seventy-five percent (75%) of the Units That May Be Created; (ii) five years after Declarant has ceased to offer any Units for sale in the ordinary course of business; or (iii) five years after any right to annex any portion of the Annexable Area was last exercised pursuant to Article 15 hereof.

Section 3.8 Control of Board by Owners. Subject to and following the Declarant Control Period: (a) the Owners shall elect a Board of at least three (3) Directors, and (b) the Board may fill vacancies in its membership (e.g., due to death or resignation of a Director), subject to the right of the Owners to elect a replacement Director for the unexpired portion of any term. After the Declarant Control Period, all of the Directors must be Owners, and each Director shall, within thirty (30) days of his appointment or election, certify

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in writing that he is an Owner and has read and reasonably understands the Governing Documents and applicable provisions of NRS Chapter 116 to the best of his or her ability. The Board shall elect the Officers, all of whom (after the Declarant Control Period) must be Owners and Directors. The Owners, upon a two-thirds (2/3) affirmative vote of all Owners present and entitled to vote at any Owners' meeting at which a quorum is present, may remove any Director(s) with or without cause; provided, however that any Director(s) appointed by Declarant may only be removed by Declarant.

Section 3.9 Election of Directors. Not less than thirty (30) days before the preparation of a ballot for the election of Directors, which shall normally be conducted at an Annual Meeting, the Association Secretary or other designated Officer shall cause notice to be given to each Owner of his eligibility to serve as a Director. Each Owner who is qualified to serve as a Director may have his name placed on the ballot along with the names of the nominees selected by the Board or a nominating committee established by the Board. The election of any Director must be conducted by secret written ballot. The Association Secretary or other designated Officer shall cause to be sent prepaid by United States mail to the mailing address of each Unit within the Community or to any other mailing address designated in writing by the Unit Owner, owner, a secret ballot and a return envelope. Election of Directors must be conducted by secret written ballot, with the vote publicly counted (which may be done as the meeting progresses).

Section 3.10 Board Meetings

(a) A Board meeting must be held at least once every 90 days. Except in an emergency, the Secretary or other designated Officer shall, not less than 10 days before the date of a Board meeting, cause notice of the meeting to be given to the Owners. Such notice must be: (1) sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Owner; or (2) published in a newsletter or other similar publication circulated to each Owner. In an emergency, the Secretary or other designated Officer shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each Unit. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each Unit within the Community or posted in a prominent place or places within the Common Elements.

(b) As used in this Section 3.10, "emergency" means any occurrence or combination of occurrences that: (1) could not have been reasonably foreseen; (2) affects the health, welfare and safety of the Owners; (3) requires the immediate attention of, and possible action by, the Board; and (4) makes it impracticable to comply with regular notice and/or agenda provisions.

(c) The notice of the Board meeting must state the time and place of the meeting and include a copy of the agenda for the meeting (or the date on which and the locations where copies of the agenda may be conveniently obtained by Owners). The notice must include notification of the right of an Owner to: (1) have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request (and, if required by the Board, upon payment to the Association of the cost of making the distribution); and (2) speak to the Association or Board, unless the Board is meeting in Executive Session.

(d) The agenda of the Board meeting must comply with the provisions of NRS § 116.3108.3. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the Board may take action on an item which is not listed on the agenda as an item on which action may be taken.

(e) At least once every 90 days, the Board shall review at one of its meetings: (1) a current reconciliation of the Operating Fund (as defined in Section 6.2 below); (2) a current reconciliation of the Reserve Fund (as defined in Section 6.3 below); (3) the actual revenues and expenses for the Reserve Fund, compared to the Reserve Budget for the current year; (4) the latest account statements prepared by the financial institutions in which the accounts of the Association are maintained; (5) an income and expense statement, prepared on at least a quarterly basis, for the Operating Fund and Reserve Fund; and (6) the current status of any civil action or claim submitted to arbitration or mediation in which the Association is a party.

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(f) The minutes of a Board meeting must be made available to Owners in accordance with NRS § 116.3108.5

Section 3.11 Attendance by Owners at Board Meetings; Executive Sessions. Owners are entitled to attend any meeting of the Board (except for Executive Sessions) and may speak at such meeting, provided that the Board may establish reasonable procedures and reasonable limitations on the time an Owner may speak at such meeting. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. Owners may not attend or speak at an Executive Session, unless the Board specifically so permits. An "Executive Session" is an executive session of the Board (which may be a portion of a Board meeting), designated as such by the Board in advance, for the sole purpose of:

(a) consulting with an attorney for the Association on matters relating to proposed or pending litigation, if the contents of the discussion would otherwise be governed by the privilege set forth in NRS §§ 49.035 to 49.115, inclusive; or

(b) discussing Association personnel matters of a sensitive nature, or

(c) discussing any violation ("Alleged Violation") of the Governing Documents (including, without limitation, the failure to pay an Assessment) alleged to have been committed by an Owner ("Involved Owner") (provided that the Involved Owner shall be entitled to request in writing that such hearing be conducted by the Board in open meeting, and provided further that the Involved Owner may attend such hearing and testify concerning the Alleged Violation, but may be excluded by the Board from any other portion of such hearing, including, without limitation, the Board's deliberation)

No other matter may be discussed in Executive Session. Any matter discussed in Executive Session must be generally described in the minutes of the Board meeting, provided that the Board shall maintain detailed minutes of the discussion of any Alleged Violation, and, upon request, shall provide a copy of said detailed minutes to the Involved Owner or his designated representative.

ARTICLE 4 VOTING RIGHTS

Section 4.1 Owners' Voting Rights. Subject to the following provisions of this Section 4.1, and to Section 4.6 below, each member shall be entitled to cast one (1) vote for each Unit owned. In the event that more than one Person holds fee title to a Unit ("co-owners"), all such co-owners shall be one Member, and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Unit is entitled. Such co-owners may from time to time all designate in writing one of their number to vote. Fractional votes shall not be allowed. Where no voting co-owner is designated, or if such designation has been revoked, the vote for such Unit shall be exercised as the majority of the co-owners of the Unit mutually agree. No vote shall be cast for any Unit where the co-owners present in person or by proxy owning the majority interests in such Unit cannot agree to said vote or other action. The nonvoting co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Unit and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws, shall be deemed to be binding on all Owners, their successors and assigns. Notwithstanding the foregoing, the voting rights of an Owner shall be automatically suspended during any time period that Annual Assessments or any Special Assessment levied against such Owner are delinquent.

Section 4.2 Transfer of Voting Rights. The right to vote may not be severed or separated from any Unit, and any sale, transfer or conveyance of fee interest in any Unit to a new Owner shall operate to transfer the appurtenant Membership and voting rights without the requirement of any express reference thereto. Each Owner shall, within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Unit, notify the Association in writing of such sale, transfer or conveyance, with the name and address of the

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transferee, the nature of the transfer and the Unit involved, and such other information relative to the transfer and the transferee as the Board may reasonably request, and shall deliver to the Association a copy of the Recorded deed therefor.

Section 4.3 Meetings of the Membership. Meetings of the Association must be held at least once each year, or as otherwise may be required by applicable law. The annual Association meeting shall be held on a recurring anniversary basis, and shall be referred to as the "Annual Meeting." The business conducted at each such Annual Meeting shall include the election of Directors whose terms are then expiring. If the Members have not held a meeting for one (1) year, a meeting of the Association Membership must be held by not later than the March 1 next following. A special meeting of the Association Membership may be called at any reasonable time and place by written request of: (a) the Association President, (b) a majority of the Directors, or (c) Members representing at least ten percent (10%) of the voting power of the Association, or as otherwise may be required by applicable law. Notice of special meetings shall be given by the Secretary of the Association in the form and manner provided in Section 4.4, below.

Section 4.4 Meeting Notices; Agendas; Minutes. Meetings of the Members shall be held in the Properties or at such other convenient location near the Properties and within Clark County as may be designated in the notice of the meeting.

(a) Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Association Secretary shall cause notice to be hand delivered or sent postage prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by any Owner. The meeting notice must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of an Owner to: have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request, if the Owner pays the Association the cost of making the distribution; and speak to the Association or Board (unless the Board is meeting in Executive Session).

(b) The meeting agenda must consist of

(i) a clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to any of the Governing Documents, any fees or assessments to be imposed or increased by the Association, any budgetary changes, and/or any proposal to remove an Officer or Director; and

(ii) a list describing the items on which action may be taken, and clearly denoting that action may be taken on those items ("Agenda Items"); and

(iii) a period devoted to comments by Owners and discussion of such comments; provided that, except in emergencies, no action may be taken upon a matter raised during this comment and discussion period unless the matter is an Agenda Item. If the matter is not an Agenda Item, it shall be tabled at the current meeting, and specifically included as an Agenda Item for discussion and consideration at the next following meeting, at which time, action may be taken thereon.

(c) In an "emergency" (as said term is defined in Section 3.10(b), above), Members may take action on an item which is not listed on the agenda as an item on which action may be taken.

(d) If the Association adopts a policy imposing a fine on an Owner for the violation of a provision of the Governing Documents, the Board 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 Owner thereof, a specific schedule of fines that may be imposed for those particular violations, at least thirty (30) days prior to any attempted enforcement, and otherwise subject to Section 19.1, below.

(e) Not more than thirty (30) days after any meeting, the Board shall cause the minutes or a summary of the minutes of the meeting to be made available to the Owners. A copy of the minutes or

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a summary of the minutes must be provided to any Owner who pays the Association the cost of providing the copy.

Section 4.5 Record Date The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any Budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for an adjournment of the same meeting. A record date shall not be more than sixty (60) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur.

Section 4.6 Proxies Every Member entitled to attend, vote at, or exercise consents with respect to, any meeting of the Members, may do so either in person, or by a representative, known as a proxy, duly authorized by an instrument in writing, filed with the Board prior to the meeting to which the proxy is applicable. A Member may give a proxy only to a member of his immediate family, a Resident tenant, or another Member. No proxy shall be valid after the conclusion of the meeting (including continuation of such meeting) for which the proxy was executed. Such powers of designation and revocation may be exercised by the legal guardian of any Member or by his conservator, or in the case of a minor having no guardian, by the parent legally entitled to permanent custody, or during the administration of any Member's estate where the interest in the Unit is subject to administration in the estate, by such Member's executor or administrator. Any form of proxy or written ballot shall afford an opportunity therein to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy or written ballot is solicited, and shall provide, subject to reasonably specified conditions, that where the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance with such specification. Unless applicable Nevada law provides otherwise, a proxy is void if: (a) it is not dated or purports to be revocable without notice; (b) it does not designate the votes that must be cast on behalf of the Member who executed the proxy, or (c) the holder of the proxy does not disclose at the beginning of the meeting (for which the proxy is executed) the number of proxies pursuant to which the proxy holder will be casting votes and the voting instructions received for each proxy. If and for so long as prohibited by Nevada law, a vote may not be cast pursuant to a proxy for the election of a Director.

Section 4.7 Quorums The presence at any meeting of Members who hold votes equal to twenty percent (20%) of the total voting power of the Association, in person or by proxy, shall constitute a quorum for consideration of that matter. The Members present at a duly called meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken other than adjournment is approved by at least a majority of the Members required to constitute a quorum, unless a greater vote is required by applicable law or by this Declaration. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which reconvened meeting the quorum requirement shall be the presence, in person or by written proxy, of the Members entitled to vote at least twenty percent (20%) of the total votes of the Association. Notwithstanding the presence of a sufficient number of Owners to constitute a quorum, certain matters, including, without limitation, amendment to this Declaration, require a higher percentage (e.g., 67%) of votes of the total voting Membership as set forth in this Declaration.

Section 4.8 Actions If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two (2) candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by applicable law or by this Declaration.

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Section 4.9 Action by Meeting, and Written Approval of Absentee Owners. The proceedings and transactions of any meeting of Members, either regular or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members, need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the meeting.

Section 4.10 Action By Written Consent, Without Meeting. Any action which may be taken at any regular or special meeting of the Members may be taken without a meeting and without prior notice, if authorized by a written consent setting forth the action so taken, signed by Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members were present and voted, and filed with the Association Secretary, provided, however, that Directors may not be elected by written consent except by unanimous written consent of all Members. Any Member giving a written consent, or such Member's proxy holder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members required to authorize the proposed action have been filed with the Association Secretary, but may not do so thereafter. Such revocation shall be effective upon its receipt by the Association Secretary. Unless the consents of all Members have been solicited in writing and have been received, prompt notice shall be given, in the manner as for regular meetings of Members, to those Members who have not consented in writing, of the taking of any Association action approved by Members without a meeting. Such notice shall be given at least ten (10) days before the consummation of the action authorized by such approval with respect to the following:

- (a) approval of any reorganization of the Association;
- (b) a proposal to approve a contract or other transaction between the Association and one or more Directors, or any corporation, firm or association in which one or more Directors has a material financial interest; or
- (c) approval required by law for the indemnification of any person.

Section 4.11 Adjourned Meetings and Notice Thereof. Any Members' meeting, regular or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members present either in person or by proxy thereat, but in the absence of a quorum, no other business may be transacted at any such meeting except as provided in this Section 4.11. When any Members' meeting, either regular or special, is adjourned for seven (7) days or less, the time and place of the reconvened meeting shall be announced at the meeting at which the adjournment is taken. When any Members' meeting, either regular or special, is adjourned for more than seven (7) days, notice of the reconvened meeting shall be given to each Member as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a reconvened meeting, and at the reconvened meeting the Members may transact any business that might have been transacted at the original meeting.

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ARTICLE 5 FUNCTIONS OF ASSOCIATION

Section 5.1 Powers and Duties. The Association shall have all of the powers of a Nevada nonprofit corporation, subject only to such limitations, if any, upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association. The Association's obligations to maintain the Common Elements shall commence on the date Annual Assessments commence on Units; until commencement of Annual Assessments, the Common Elements shall be maintained by Declarant, at Declarant's expense. Without in any way limiting the generality of the foregoing provisions, the Association may act through the Board, and shall have:

(a) Assessments. The power and duty to levy assessments against the Owners of Units, and to enforce payment of such assessments in accordance with the provisions of Article 6 hereof.

(b) Repair and Maintenance of Common Elements. The power and duty to paint, plant, maintain and repair in a neat and attractive condition, in accordance with standards adopted by the ARC, all Common Elements and all Improvements thereon, and to pay for utilities, gardening, landscaping, and other necessary services for the Common Elements. Notwithstanding the foregoing, the Association shall have no responsibility to provide any of the services referred to in this subsection 5.1(b) with respect to any Improvement which is accepted for maintenance by any state, local or municipal governmental agency or public entity. Such responsibility shall be that respectively of the applicable agency or public entity.

(c) Removal of Graffiti. The power and duty to remove or paint over any graffiti from or on Exterior Walls, pursuant and subject to Section 9.6, below.

(d) Taxes. The power and duty to pay all taxes and assessments levied upon the Common Elements and all taxes and assessments payable by the Association.

(e) Utility Services. The power and duty to obtain, for the benefit of the Common Elements, any necessary commonly metered water, gas, and/or electric services, (or other similar services) and/or refuse collection, and the power but not the duty to provide for all refuse collection and cable or master television service, if any, for all or portions of the Properties.

(f) Easements and Rights-of-Way. The power but not the duty to grant and convey to any Person, (i) easements, licenses and rights-of-way in, on, over or under the Common Elements, and (ii) with the consent of seventy-five percent (75%) of the voting power of the Association, fee title to parcels or strips of land which comprise a portion of the Common Elements, for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder (A) roads, streets, walks, driveways, and slope areas; (B) overhead or underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, television, telephone and other similar purposes; (C) sewers, storm and water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and, (D) any similar public or quasi-public improvements or facilities.

(g) Manager. The power, subject to Section 5.6, below, but not the duty, to employ or contract with a professional Manager to perform all or any part of the duties and responsibilities of the Association, and the power but not the duty to delegate powers to committees, Officers and employees of the Association. Any such management agreement, or any agreement providing for services by Declarant to the Association, shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon ninety (90) days written notice.

(h) Rights of Entry and Enforcement. The power but not the duty, after Notice and Hearing (except in the event of emergency which poses an imminent threat to health or substantial damage to property, in which event, Notice and Hearing shall not be required), to enter upon any area of a Unit, without

being liable to any Owner, except for damage caused by the Association entering or acting in bad faith, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain and repair such area as required by this Declaration. All costs of any such maintenance and repair as described in the preceding sentence (including all amounts due for such work, and the costs and expenses of collection) shall be assessed against such Owner as a Special Assessment, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment pursuant to Article 7, below. The responsible Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection. Unless there exists an emergency, there shall be no entry into a Dwelling without the prior consent of the Owner thereof. Any damage caused by an entry upon any Unit shall be repaired by the entering party. Subject to Section 5.3, below, the Association may also commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory injunctions or otherwise, all of the provisions of the Declaration, and, if such action pertaining to the Declaration is brought by the Association, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be fixed by the court.

(i) Other Services. The power and duty to maintain the integrity of the Common Elements and to provide such other services as may be necessary or proper to carry out the Association's obligations and business under the terms of this Declaration to enhance the enjoyment, or to facilitate the use, by the Members, of the Common Elements.

(j) Employees, Agents and Consultants. The power but not the duty, if deemed appropriate by the Board, to hire and discharge employees and agents and to retain and pay for legal, accounting and other services as may be necessary or desirable in connection with the performance of any duties or exercise of any powers of the Association under this Declaration.

(k) Acquiring Property and Construction on Common Elements. The power but not the duty, by action of the Board, to acquire property or interests in property for the common benefit of Owners, including improvements and personal property. The power but not the duty, by action of the Board, to construct new improvements or additions to the Common Elements, or demolish existing improvements (other than maintenance or repairs to existing improvements).

(l) Contracts. The power, but not the duty, to enter into contracts with Owners to provide services or to maintain and repair improvements within the Properties which the Association is not otherwise required to maintain pursuant to this Declaration, and the power, but not the duty, to contract with third parties for such services. Any such contract or service agreement must, however, provide for payment to the Association of the cost of providing such service or maintenance.

(m) Records and Accounting. The power and the duty to keep, or cause to be kept, true and correct books and records of account at the sole cost and expense of the Association in accordance with generally accepted accounting principles. Financial statements for the Association shall be regularly prepared and distributed to all Members as follows:

(i) pro forma operating statements (Budgets), Reserve Budgets and Reserve Studies, shall be distributed pursuant to Section 6.4, below;

(ii) audited or reviewed Financial Statements (consisting of a reasonably detailed statement of revenues and expenses of the Association for each Fiscal Year, and a balance sheet showing the assets (including, but not limited to, Association Reserve Funds) and liabilities of the Association as at the end of each Fiscal Year), and a statement of cash flow for the Fiscal Year, shall be distributed within one hundred twenty (120) days after the close of each Fiscal Year.

(n) Maintenance of Other Areas. The power but not the duty to maintain and repair slopes, parkways, entry structures and Community signs identifying the Properties, other than the Common Elements, to the extent deemed to be reasonable and prudent by the Board.

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(o) Use Restrictions. The power and the duty to enforce use restrictions pertaining to the Properties

(p) Insurances. The power and the duty to cause to be obtained and maintained the insurance coverages pursuant to Article 12, below.

(q) Licenses and Permits. The power and the duty to obtain from applicable governmental authority any and all licenses and permits reasonably necessary to carry out Association functions hereunder.

Section 5.2 Rules and Regulations. The Board shall be empowered to adopt, amend, repeal, and/or enforce reasonable and uniformly applied Rules and Regulations, which shall not discriminate among Members, for the use and occupancy of the Properties as follows:

(a) General. A copy of the Rules and Regulations, as from time to time may be adopted, amended or repealed, shall be posted in a conspicuous place in the Common Elements and/or shall be mailed or otherwise delivered to each Member and also kept on file with the Association. Upon such mailing, delivery or posting, the Rules and Regulations shall have the same force and effect as if they were set forth herein and shall be binding on all Persons having any interest in, or making any use of any part of, the Properties, whether or not Members; provided, however, that the Rules and Regulations shall be enforceable only to the extent that they are consistent with the other Governing Documents. If any Person has actual knowledge of any of the Rules and Regulations, such Rules and Regulations shall be enforceable against such Person, whether or not a Member, as though notice of such Rules and Regulations had been given pursuant to this Section 5.2. The Rules and Regulations may not be used to amend any of the other Governing Documents.

(b) Limitations. The Rules and Regulations must be:

- (i) reasonably related to the purpose for which adopted;
- (ii) sufficiently explicit in their prohibition, direction, or limitation, so as to reasonably inform an Owner or Resident, or tenant or guest thereof, of any action or omission required for compliance;
- (iii) adopted without intent to evade any obligation of the Association;
- (iv) consistent with the other Governing Documents (and must not arbitrarily restrict conduct, or require the construction of any capital improvement by an Owner if not so required by the other Governing Documents);
- (v) uniformly enforced under the same or similar circumstances against all Owners, provided that any particular rule not so uniformly enforced may not be enforced against any Owner (except as, and to the extent, if any, such enforcement may be permitted from time to time by applicable law); and
- (vi) duly adopted and distributed to the Owners at least thirty (30) days prior to any attempted enforcement.

Section 5.3 Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "Proceeding"). The Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Elements and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

(a) Any Proceeding commenced by the Association: (i) to enforce the payment of an assessment or an assessment lien or other lien against an Owner as provided for in this Declaration, or (ii) to otherwise enforce compliance with the Governing Documents by, or to obtain other relief from, any Owner who has violated any provision thereof, or (iii) to protect against any matter which imminently and substantially threatens all of the health, safety and welfare of the Owners, or (iv) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Ten Thousand Dollars (\$10,000.00) in the aggregate; shall be referred to herein as an "Operational Proceeding." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

(b) Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Section 5.3 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board

(i) The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Members for such additional amount for mediation before proceeding to either arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(1) The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, by obtaining the written opinion of a licensed Nevada attorney regularly residing in Clark County, Nevada, with a Martindale-Hubbell rating of "av", expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association. The Board shall be authorized to spend up to an aggregate of Five Thousand Dollars (\$5,000.00) to obtain such legal opinion, including all amounts paid to said attorney therefor, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said \$5,000.00 limit, with the express consent of more than fifty percent (50%) of all of the Members of the Association, at a special meeting called for such purpose.

(2) Said attorney opinion letter shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "Quoted Litigation Costs") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said opinion letter shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft

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of the attorney's proposed contingent fee agreement. (Such written legal opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "Attorney Letter").

(3) Upon receipt and review of the Attorney Letter, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Members. The written notice to each Member of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, together with a written report ("Special Assessment Report") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Member ("Special Litigation Assessment"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Members, whereupon: (x) if not more than fifty percent (50%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (y) if more than fifty percent (50%) of the total voting power of the Association (i.e., more than fifty percent (50%) of all of the Members of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Members in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees and costs and expenses whatsoever in excess of one hundred twenty percent (120%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Members, not less frequently than quarterly, a written update of the progress and current status of, and the attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of attorneys fees and costs incurred to date in connection therewith.

(4) In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Members of the Association.

(c) In no event shall any Association Reserve Fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Association Reserve Funds, pursuant to Section 6.3, below, are to be used only for the specified replacements, painting and repairs of Common Elements, and for no other purpose whatsoever.

(d) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section 5.3, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section 5.3, shall be unauthorized and ultra vires (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements

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of this Section 5.3 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (ii) this Section 5.3 may not be amended or deleted at any time without the express prior written approval of both: (1) Members representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the total power of the Board of Directors; and any purported amendment or deletion of this Section 5.3, or any portion hereof, without both of such express prior written approvals shall be void.

Section 5.4 Additional Express Limitations on Powers of Association. The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

(a) Incur aggregate expenditures for capital improvements to the Common Elements in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year, or sell, during any Fiscal Year, any property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year.

(b) Enter into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one (1) year, except (i) a contract with a public or private utility or cable television company, if the rates charged for the materials or services are regulated by the Nevada Public Service Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) prepaid casualty and/or liability insurance policies of no greater than three (3) years duration.

(c) Pay compensation to any Association Director or Officer for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or Officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 5.5 Manager. The Association shall have the power to employ or contract with a Manager, to perform all or any part of the duties and responsibilities of the Association, subject to the Governing Documents, for the purpose of operating and maintaining the Properties, subject to the following:

(a) Any agreement with a Manager shall be in writing and shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon not more than ninety (90) days written notice. In the event of any explicit conflict between the Governing Documents and any agreement with a Manager, the Governing Documents shall prevail.

(b) The Manager shall possess sufficient experience, in the reasonable judgment of the Board, in managing residential subdivision projects, similar to the Properties, in the County, and shall be duly licensed as required from time to time by the appropriate licensing and governmental authorities (and must have the qualifications, including education and experience, when and as required for the issuance of the relevant certificate by the Nevada Real Estate Division pursuant and subject to the provisions of NRS Chapter 645 and/or NRS § 116.31139.3, or duly exempted pursuant to NRS § 116.31139.4). Any and all employees of the Manager with responsibilities to or in connection with the Association and/or the Community shall have such experience with regard to similar projects. (If no Manager meeting the above-stated qualifications is available, the Board shall retain the most highly qualified management entity available, which is duly licensed by the appropriate licensing authorities).

(c) No Manager, or any director, officer, shareholder, principal, partner, or employee of the Manager may be a Director or Officer of the Association.

(d) As a condition precedent to the employ of, or agreement with, a Manager, the Manager (or any replacement Manager) first shall be required, at its expense, to review the Governing Documents, Plat, and any and all Association Reserve Studies and inspection reports pertaining to the Properties.

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(e) By execution of its agreement with the Association, a Manager shall be conclusively deemed to have covenanted (1) in good faith to be bound by, and to faithfully perform all duties (including, but not limited to, full and faithful accounting for all Association funds within the possession or control of Manager) required of the Manager under the Governing Documents (and, in the event of any irreconcilable conflict between the Governing Documents and the contract with the Manager, the Governing Documents shall prevail); (2) that any penalties, fines or interest levied upon the Association as the result of Manager's error or omission shall be paid (or reimbursed to the Association) by the Manager; (3) to comply fully, at its expense, with all applicable regulations of the Nevada Real Estate Division, and (4) at Manager's sole expense, to promptly turn over, to the Board, possession and control of all funds, documents, books, records and reports pertaining to the Properties and/or Association, and to coordinate and cooperate in good faith with the Board in connection with such turnover, in any event not later than ten (10) days of expiration or termination of the Association's agreement with Manager (provided that, without limiting its other remedies, the Association shall be entitled to withhold all amounts otherwise due to the Manager until such time as the Manager turnover in good faith has been completed)

(f) Upon expiration or termination of an agreement with a Manager, a replacement Manager meeting the above-stated qualifications shall be retained by the Board as soon as possible thereafter and a limited review performed by qualified Person designated by the Board, of the books and records of the Association, to verify assets

(g) The Association shall also maintain and pay for the services of such other personnel, including independent contractors, as the Board shall determine to be necessary or desirable for the proper management, operation, maintenance, and repair of the Association and the Properties, pursuant to the Governing Documents, whether such personnel are furnished or employed directly by the Association or by any person with whom or which it contracts. Such other personnel shall not all be replaced concurrently, but shall be replaced according to a "staggered" schedule, to maximize continuity of services to the Association.

Section 5.6 Inspection of Books and Records

(a) The Board shall, upon the written request of any Owner, make available the books, records and other papers of the Association for review during the regular working hours of the Association, with the exception of (1) personnel records of employees (if any) of the Association, and (2) records of the Association relating to another Owner.

(b) The Board shall cause to be maintained and made available for review at the business office of the Association or other suitable location (1) the financial statements of the Association; (2) the Budgets and Reserve Budgets; and (3) Reserve Studies

(c) The Board shall cause to be provided a copy of any of the records required to be maintained pursuant to (a) and (b) above, to an Owner or to the Nevada State Ombudsman, as applicable, within 14 days after receiving a written request therefor. The Board may charge a fee to cover the actual costs of preparing such copy, but not to exceed 25 cents per page (or such maximum amount as permitted by applicable Nevada law)

(d) Notwithstanding the foregoing, each Director shall have the unfettered right at any reasonable time, and from time to time, to inspect all such records

Section 5.7 Continuing Rights of Declarant Declarant shall preserve the right, without obligation, to enforce the Governing Documents (including, without limitation, the Association's duties of maintenance and repair, and Reserve Study and Reserve Fund obligations). After the end of Declarant Control Period, throughout the term of this Declaration, the Board shall deliver to Declarant notices and minutes of all Board meetings and Membership meetings, and Declarant shall have the right, without obligation, to attend such meetings, on a non-voting basis. Declarant shall also receive notice of, and have the right, without obligation, to attend, all inspections of the Properties or any portion(s) thereof. The Board shall also, throughout the term

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of this Declaration, deliver to Declarant (without any express or implied obligation or duty on Declarant's part to review or to do anything) all notices and correspondence to Owners, all inspection reports, the Reserve Studies prepared in accordance with Section 6.3 below, and audited annual reports, as required in Section 5.1(m), above. Such notices and information shall be delivered to Declarant at its most recently designated address.

Section 5.8 Compliance with Applicable Laws. The Association shall comply with all applicable laws, including, but not limited to, applicable laws prohibiting discrimination against any person in the provision of services or facilities in connection with a Dwelling because of a handicap of such person. The provisions of the Governing Documents shall be upheld and enforceable to the maximum extent permissible under applicable federal or state law or City or County ordinance. Subject to the foregoing, in the event of irreconcilable conflict between applicable law and any provision of the Governing Documents, the applicable law shall prevail, and the affected provision of the Governing Document shall be deemed automatically amended (or deleted) to the minimum extent reasonably necessary to remove such irreconcilable conflict. In no event shall the Association adhere to or enforce any provision of the Governing Documents which irreconcilably contravenes applicable law.

ARTICLE 6

COVENANT FOR ASSESSMENTS

Section 6.1 Personal Obligation of Assessments. Each Owner of a Unit, by acceptance of a deed therefor, whether or not so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) Annual Assessments, (b) Special Assessments, and (c) any Capital Assessments, such assessments to be established and collected as provided in this Declaration. All assessments, together with interest thereon, late charges, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such assessment is made. Each such assessment, together with interest thereon, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment became due. This personal obligation cannot be avoided by abandonment of a Unit or by an offer to waive use of the Common Elements. The personal obligation only shall not pass to the successors in title of any Owner unless expressly assumed by such successors.

Section 6.2 Association Funds. The Board shall establish at least the following separate accounts ("Association Funds"): into which shall be deposited all moneys paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. The Association Funds shall be established as trust accounts at a federally or state insured banking or savings institution and shall include: (1) an operating fund ("Operating Fund") for current expenses of the Association, and (2) a reserve fund ("Reserve Fund") for capital repairs and replacements as set forth in Section 6.3 below, and (3) any other funds which the Board may establish, to the extent necessary under the provisions of this Declaration. To qualify for higher returns on accounts held at banking or savings institutions, the Board may commingle any amounts deposited into any of the Association Funds, (other than the Reserve Fund, which shall be kept segregated), provided that the integrity of each individual Association Fund shall be preserved on the books of the Association by accounting for disbursements from, and deposits to, each Association Fund separately. Each of the Association Funds shall be established as a separate trust savings or trust checking account, at any federally or state insured banking or lending institution, with balances not to exceed institutionally insured levels. All amounts deposited into the Operating Fund and the Reserve Fund must be used solely for the common benefit of the Owners for purposes authorized by this Declaration. The Manager shall not be authorized to make withdrawals from the Reserve Fund. Withdrawals from the Reserve Fund shall require signatures of both the President and Treasurer (or, in the absence of either the President or Treasurer, the Secretary may sign in place of the absent Officer). The President, Treasurer, and Secretary all must be Directors and (after the Declarant Control Period) must also all be Owners.

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Section 6.3 Reserve Fund; Reserve Studies

(a) Any other provision herein notwithstanding (i) the Association shall establish a **separate** reserve fund ("**Reserve Fund**"); (ii) the Reserve Fund shall be kept in a **segregated account**, withdrawals from which shall **only** be made upon specific approval of the Board subject to the following; (iii) the Reserve Fund shall be used **only** for capital repairs, restoration, and replacement of major components ("**Major Components**") of the Common Elements; (iv) **in no event whatsoever** shall the Reserve Fund be used to pay operating expenses or for regular maintenance recurring on an annual or more frequent basis, or as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding; (v) funds in the Reserve Fund may **not** be withdrawn without the signatures of **both** the President and the Treasurer (provided that the Secretary may sign in lieu of either the President or Treasurer, if either is not reasonably available); (vi) **under no circumstances** shall the Manager (or any one Officer or Director, acting alone) be authorized to make withdrawals from the Reserve Fund; and (vii) **under no circumstances** shall the Manager divert or be authorized to divert funds allocated to the Reserve Fund (including, but not necessarily limited to, use of such funds to pay operating expenses), and any such diversion by the Manager of funds allocated to the Reserve Fund shall constitute a material breach by the Manager of its obligations to the Association.

(b) The Board shall periodically retain the services of a qualified reserve study analyst, with sufficient experience with preparing reserve studies for similar residential projects in the County, to prepare and provide to the Association a reserve study ("**Reserve Study**").

(c) The Board shall cause to be prepared a **Reserve Study** at such times as the Board deems reasonable and prudent, but in any event **initially within one (1) year** after the Close of Escrow for the first Unit within the Properties, and thereafter at least **once every five (5) years** (or at such other intervals as may be required from time to time by applicable Nevada law). The Board shall review the results of the most current Reserve Study **at least annually** to determine if those reserves are sufficient, and shall make such **adjustments** as the Board deems reasonable and prudent to maintain the required reserves from time to time (i.e., by increasing Assessments). It shall be an obligation of the Manager to timely remind the Board in writing of these Reserve Study requirements from time to time as applicable.

(d) Each Reserve Study must be conducted by a person qualified by training and experience to conduct such a study (including, but not limited to, a Director, an Owner or a Manager who is so qualified) ("**Reserve Analyst**"). The Reserve Study must include, without limitation: (i) a summary of an inspection of the Major Components which the Association is obligated to repair, replace or restore; (ii) an identification of the Major Components which have a remaining useful life of less than 30 years; (iii) an estimate of the remaining useful life of each Major Component so identified; (iv) an estimate of the cost of repair, replacement or restoration of each Major Component so identified during and at the end of its useful life; and (v) an estimate of the total annual assessment that may be required to cover the cost of repairing, replacement or restoration the Major Components so identified (after subtracting the reserves as of the date of the Reserve Study).

(e) The Reserve Study shall be conducted in accordance with any applicable regulations adopted by the Nevada Real Estate Division. Unless and until otherwise provided by applicable regulation or law, the Association (upon Recordation of this Declaration) and each Owner (by acquiring title to a Unit) shall be deemed to have unequivocally agreed that: (i) utilization, by a Reserve Analyst, of the "pooling" or "cash flow" method for and in connection with preparation of a Reserve Study shall be deemed reasonable and prudent; and/or (ii) utilization, by a Reserve Analyst, of an assumption that there will be future annual increases in amounts from time to time allocated to reserves (provided that there shall be no assumption of such future increases in excess of 10% per year), with corresponding increases in Assessments, shall be deemed reasonable and prudent for and in connection with preparation of a Reserve Study.

Section 6.4 Budget; Reserve Budget

(a) The Board shall adopt a proposed annual Budget (which shall include a Reserve Budget) at least forty-five (45) days prior to the first Annual Assessment period for each Fiscal Year. Within thirty (30) days after adoption of any proposed Budget, the Board shall provide to all Owners a summary of

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the Budget, and shall set a date for a meeting of the Owners to consider ratification of the Budget. Said meeting shall be held not less than fourteen (14) days, nor more than thirty (30) days after mailing of the summary. Unless at that meeting the proposed Budget is rejected by at least seventy-five percent (75%) of the voting power of the Association, the Budget shall be deemed ratified, whether or not a quorum was present. If the proposed Budget is duly rejected as aforesaid, the annual Budget for the immediately preceding Fiscal Year shall be reinstated, as if duly approved for the Fiscal Year in question, and shall remain in effect until such time as a subsequent proposed Budget is ratified.

(b) Notwithstanding the foregoing, except as otherwise provided in subsection (c) below, the Board shall, not less than 30 days or more than 60 days before the beginning of each Fiscal Year, prepare and distribute to each Owner a copy of:

(1) the Budget (which must include, without limitation, the estimated annual revenue and expenditures of the Association and any contributions to be made to the Reserve Fund); and

(2) The Reserve Budget, which must include, without limitation:

(A) the current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the Common Elements ("Major Component");

(B) as of the end of the Fiscal Year for which the Reserve Budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the Major Components;

(C) a statement as to whether the Board has determined or anticipates that the levy of one or more Capital Assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves for that purpose; and

(D) a general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (B) above, including, without limitation, the qualifications of the person responsible for the preparation of the Reserve Study.

(c) In lieu of distributing copies of the Budget and Reserve Budget, the Board may distribute to each Owner a summary of those budgets, accompanied by a written notice that the budgets are available for review at the business office of the Association or other suitable location and that copies of the budgets will be provided upon request.

Section 6.5 Limitations on Annual Assessment Increases. The Board shall not levy, for any Fiscal Year, an Annual Assessment which exceeds the "Maximum Authorized Annual Assessment" as determined below, unless first approved by the vote of Members representing at least a majority of the voting power of the Association. The "Maximum Authorized Annual Assessment" in any fiscal year following the initial budgeted year shall be a sum which does not exceed the aggregate of (a) the Annual Assessment for the prior Fiscal Year, plus (b) a twenty-five percent (25%) increase thereof. Notwithstanding the foregoing, if, in any Fiscal Year, the Board reasonably determines that the Common Expenses cannot be met by the Annual Assessments levied under the then-current Budget, the Board may, upon the affirmative vote of a majority of the voting power of the Association and a majority of the voting power of the Board, submit a Supplemental Annual Assessment, applicable to that Fiscal Year only, for ratification in like manner as provided in Section 6.4 above.

Section 6.6 Initial Capital Contributions to Association. At the Close of Escrow for the sale of a Unit by Declarant, the Purchaser of such Unit shall be required to pay a capital contribution to the Association, in an amount equal to two (2) full monthly installments of the greater of the initial or then-applicable Annual Assessment, notwithstanding Section 6.7 below. Such capital contribution is in addition to, and is not to be considered an advance payment of, the Annual Assessment for such Unit, and may be applied to initial working capital needs and/or Reserve Fund of the Association.

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Section 6.7 Assessment Commencement Date The Board, by majority vote, shall authorize and levy the amount of the Annual Assessment upon each Unit, as provided herein. Annual Assessments shall commence on Units on the respective Assessment Commencement Date. The "Assessment Commencement Date" hereunder shall be: (a) with respect to Units in the Original Property, the first day of the calendar month following the Close of Escrow to a Purchaser of the first Unit in the Original Property; and (b) with respect to each Unit within Annexed Property, that date on which the Annexation Amendment for such Unit is Recorded; provided that Declarant may establish, in its sole discretion, a later Assessment Commencement Date uniformly as to all Units by agreement of Declarant to pay all Common Expenses for the Properties up through and including such later Assessment Commencement Date. The first Annual Assessment for each Unit shall be pro-rated based on the number of months remaining in the Fiscal Year. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board, at such frequency and on such due dates as the Board shall determine from time to time in its sole discretion. The Association shall, upon demand, and for a reasonable charge, furnish a certificate binding on the Association, signed by an Officer or Association agent, setting forth whether the assessments on a Unit have been paid. At the end of any Fiscal Year, the Board may determine that all excess funds remaining in the operating fund, over and above the amounts used for the operation of the Properties, may be retained by the Association for use in reducing the following year's Annual Assessment or for deposit in the reserve account. Upon dissolution of the Association incident to the abandonment or termination of the maintenance of the Properties, any amounts remaining in any of the Association Funds shall be distributed proportionately to or for the benefit of the Members, in accordance with Nevada law.

Section 6.8 Capital Assessments The Board may levy, in any Fiscal Year, a Capital 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 or other such addition upon the Common Elements, including fixtures and personal property related thereto, provided that any proposed Capital Assessment shall require the advance consent of a majority of the voting power of the Association.

Section 6.9 Uniform Rate of Assessment Annual Assessments, and Capital Assessments shall be assessed at an equal and uniform rate against all Owners and their Units. Each Owner's share of such assessments shall be a fraction, the numerator of which shall be the number of Units owned by such Owner, and the denominator of which shall be the aggregate number of Units in the Original Property (and, upon annexation, of Units in portions of the Annexed Property). Neighborhood Assessments, if any, may vary by Neighborhood, pursuant to Article 17, below, but shall be assessed at an equal and uniform rate against all Owners and their Units within a given Neighborhood.

Section 6.10 Exempt Property The following property subject to this Declaration shall be exempt from the assessments herein:

(a) all portions, if any, of the Properties dedicated to and accepted by, the United States, the State of Nevada, Clark County, or any political subdivision of any of the foregoing, or any public agency, entity or authority, for so long as such entity or political subdivision is the owner thereof, or for so long as such dedication remains effective; and

(b) the Common Elements owned by the Association in fee.

Section 6.11 Special Assessments The Association may, subject to the provisions of Section 9.3 and Section 11.1 (b) hereof, levy Special Assessments against specific Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. Special Assessments also shall include, without limitation, late payment penalties, interest charges, fines, administrative fees, attorneys' fees, amounts expended to enforce assessment liens against Owners as provided for herein, and other charges of similar nature. Special Assessments, if not paid timely when due, shall constitute unpaid or delinquent assessments, pursuant to Article 7, below.

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ARTICLE 7
EFFECT OF NONPAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION

Section 7.1 Nonpayment of Assessments. Any installment of an Annual Assessment, Special Assessment, or Capital Assessment, shall be delinquent if not paid within thirty (30) days of the due date as established by the Board. Such delinquent installment shall bear interest from the due date until paid, at the rate of two (2) percentage points per annum above the prime rate charged from time to time by Bank of America N.T. & S.A. (or, if such rate is no longer published, then a reasonable replacement rate), but in any event not greater than the maximum rate permitted by applicable Nevada law, as well as a reasonable late charge, as determined by the Board, to compensate the Association for increased bookkeeping, billing, administrative costs, and any other appropriate charges. No such late charge or interest on any delinquent installment may exceed the maximum rate or amount allowable by law. The Association may bring an action at law against the Owner personally obligated to pay any delinquent installment or late charge, or foreclose the lien against the Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or by abandonment of his Unit.

Section 7.2 Notice of Delinquent Installment. If any installment of an assessment is not paid within thirty (30) days after its due date, the Board may mail notice of delinquent assessment to the Owner and to each first Mortgagee of the Unit. The notice shall specify: (a) the amount of assessments and other sums due; (b) a description of the Unit against which the lien is imposed; (c) the name of the record Owner of the Unit; (d) the fact that the installment is delinquent; (e) the action required to cure the default; (f) the date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured, and (g) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of such assessment for the then-current Fiscal Year and sale of the Unit. The notice shall further inform the Owner of his right to cure after acceleration. If the delinquent installment of assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of such assessments levied against such Owner and his Unit to be immediately due and payable without further demand, and may enforce the collection of the full assessments and all charges thereon in any manner authorized by law or this Declaration.

Section 7.3 Notice of Default and Election to Sell. No action shall be brought to enforce any assessment lien herein, unless at least sixty (60) days have expired following the later of: (a) the date a notice of default and election to sell is Recorded; or (b) the date the Recorded notice of default and election to sell is mailed in the United States mail, certified or registered, return receipt requested, to the Owner of the Unit. Such notice of default and election to sell must recite a good and sufficient legal description of such Unit, the Record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment as described in Section 7.1 above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by such lien), the name and address of the Association, and the name and address of the Person authorized by the Board to enforce the lien by sale. The notice of default and election to sell shall be signed and acknowledged by an Association Officer, Manager, or other Person designated by the Board for such purpose, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

Section 7.4 Foreclosure Sale. Subject to the limitation set forth in Section 7.5 below, any such sale provided for above may be conducted by the Board, its attorneys, or other Person authorized by the Board in accordance with the provisions of NRS §116.31164 and Covenants Nos. 6, 7 and 8 of NRS § 107.030 and §107.090, as amended, insofar as they are consistent with the provisions of NRS § 116.31164, as amended, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages and Deeds of Trust, or in any other manner permitted by law. The Association, through its duly authorized agents, shall have the power to bid on the Unit at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Notices of default and election to sell shall be provided as required by NRS § 116.31163. Notice of time and place of sale shall be provided as required by NRS § 116.311635.

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Section 7.5 Limitation on Foreclosure Any other provision in the Governing Documents notwithstanding, the Association may not foreclose a lien by sale for the assessment of a fine or for a violation of the Governing Documents, unless the violation is of a type that substantially and imminently threatens the health, safety, and welfare of the Owners and Residents of the Community. The foregoing limitation shall not apply to foreclosure of a lien for Annual Assessments, or Capital Assessments, or any portion respectively thereof, pursuant to this Article 7

Section 7.6 Cure of Default Upon the timely cure of any default for which a notice of default and election to sell was filed by the Association, the Officers thereof shall Record an appropriate release of lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board, to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any two (2) Directors or the Manager, stating the indebtedness secured by the lien upon any Unit created hereunder, shall be conclusive upon the Association and, if acknowledged by the Owner, shall be binding on such Owner as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request, at a reasonable fee, to be determined by the Board.

Section 7.7 Cumulative Remedies The assessment liens and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law or in equity, including a suit to recover a money judgment for unpaid assessments, as provided above.

Section 7.8 Mortgagee Protection Notwithstanding all other provisions hereof, no lien created under this Article 7, nor the enforcement of any provision of this Declaration shall defeat or render invalid the rights of the Beneficiary under any Recorded First Deed of Trust encumbering a Unit, made in good faith and for value, provided that after such Beneficiary or some other Person obtains title to such Unit by judicial foreclosure, other foreclosure, or exercise of power of sale, such Unit shall remain subject to this Declaration and the payment of all installments of assessments accruing subsequent to the date such Beneficiary or other Person obtains title. The lien of the assessments, including interest and costs, shall be subordinate to the lien of any First Mortgage upon the Unit. The release or discharge of any lien for unpaid assessments by reason of the foreclosure or exercise of power of sale by the First Mortgagee shall not relieve the prior Owner of his personal obligation for the payment of such unpaid assessments

Section 7.9 Priority of Assessment Lien Recording of the Declaration constitutes Record notice and perfection of a lien for assessments. A lien for assessments, including interest, costs, and attorneys' fees, as provided for herein, shall be prior to all other liens and encumbrances on a Unit, except for: (a) liens and encumbrances Recorded before the Declaration was Recorded, (b) a first Mortgage Recorded before the delinquency of the assessment sought to be enforced, and (c) liens for real estate taxes and other governmental charges, and is otherwise subject to NRS § 116.3116. The sale or transfer of any Unit shall not affect an assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a First Mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments which thereafter become due. Where the Beneficiary of a First Mortgage of Record or other purchaser of a Unit obtains title pursuant to a judicial or nonjudicial foreclosure or "deed in lieu thereof," the Person who obtains title and his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such Person. Such unpaid share of Common Expenses and assessments shall be deemed to become expenses collectible from all of the Units, including the Unit belonging to such Person and his successors and assigns

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ARTICLE 8

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 8.1 ARC. The Architectural Review Committee, sometimes referred to in this Declaration as the "ARC," shall consist of three (3) committee members, provided, however, that such number may be increased or decreased from time to time by resolution of the Board. Notwithstanding the foregoing, Declarant shall have the sole right and power to appoint and/or remove all of the members to the ARC until such time as Declarant no longer owns any property in, or has any power to annex, the Annexable Area or any portion thereof, provided that Declarant, in its sole discretion, by written instrument, may at any earlier time turn over to the Board the power to appoint the members to the ARC; thereafter, the Board shall appoint all members of the ARC. A member of the ARC may be removed at any time, without cause, by the Person who appointed such member. Unless changed by resolution of the Board, the address of the ARC for all purposes, including the submission of plans for approval, shall be at the principal office of the Association as designated by the Board.

Section 8.2 Review of Plans and Specifications. The ARC shall consider and act upon any and all proposals, plans and specifications, drawings, and other information or other items (collectively in this Article 8, "plans and specifications") submitted, or required to be submitted, for ARC approval under this Declaration and shall perform such other duties as from time to time may be assigned to the ARC by the Board, including the inspection of construction in progress to assure conformance with plans and specifications approved by the ARC.

(a) With the exception of any such activity of Declarant, no construction, alteration, grading, addition, excavation, removal, relocation, repainting, demolition, installation, modification, decoration, redecoration or reconstruction of an Improvement, including Dwelling and landscaping, or removal of any tree, shall be commenced or maintained by any Owner, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to, and approved in writing by, the ARC. No design or construction activity of Declarant shall be subject to ARC approval. The Owner submitting such plans and specifications ("Applicant") shall obtain a written receipt therefor from an authorized agent of the ARC. Until changed by the Board, the address for submission of such plans and specifications shall be the principal office of the Association. The ARC shall approve plans and specifications submitted for its approval only if it deems that: (1) the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole; (2) the appearance of any structure affected thereby will be in harmony with other structures in the vicinity; (3) the construction will not detract from the beauty, wholesomeness and attractiveness of the Common Elements or the enjoyment thereof by the Members; (4) the construction will not unreasonably interfere with existing views from other Units; and (5) the upkeep and maintenance will not become a burden on the Association.

(b) The ARC may condition its review and/or approval of plans and specifications for any Improvement upon such changes therein as the ARC may deem appropriate or necessary, which may, but need not necessarily include any one or more or all of the following conditions: (1) agreement by the Applicant to furnish to the ARC a cash deposit, bond or other security acceptable to the ARC in an amount reasonably sufficient to: (i) assure the completion of such Improvement or the availability of funds adequate to remedy any damage, or any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (ii) to protect the Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Common Elements as a result of such work; (2) such changes therein as the ARC deems appropriate; (3) agreement by the Applicant to grant appropriate easements to the Association for the maintenance of the Improvement; (4) agreement of the Applicant to reimburse the Association for the costs of maintenance; (5) agreement of the Applicant to replace such removed trees as may be designated by the ARC; (6) agreement of the applicant to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvements in detail as actually constructed upon completion of the Improvement; (7) payment or reimbursement, by Applicant, of the ARC and/or its members for their actual costs incurred in considering the plans and specifications; (8) payment by Applicant, of the professional fees of a licensed architect or engineer

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to review the plans and specifications on behalf of the ARC, if such review is deemed by the ARC to be necessary or desirable; and/or (9) such other conditions as the ARC may reasonably determine to be prudent and in the best interests of the Association. The ARC may further require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans and specifications, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The ARC may provide that the amount of such fee shall be uniform, or that the fee may be determined in any other reasonable manner, such as based upon the reasonable cost of the construction, alteration or addition contemplated or the cost of architectural or other professional fees incurred by the ARC in reviewing plans and specifications.

(c) The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of any required plans and specifications, the ARC may postpone review of any plans and specifications submitted for approval. Any application submitted pursuant to this Section 8.2 shall be deemed approved, unless written disapproval or a request for additional information or materials by the ARC shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the ARC of all required materials. The ARC will condition any approval required in this Article 8 upon, among other things, compliance with Declarant's (a) design criteria as may be established from time to time, (b) improvement standards and (c) development standards, as amended from time to time, all of which are incorporated herein by this reference.

(d) Any Owner aggrieved by a decision of the ARC may appeal the decision to the ARC in accordance with procedures to be established by the ARC. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would in the ARC's opinion warrant reconsideration. If the ARC fails to allow an appeal or if the ARC, after appeal, again rules in a manner aggravating the appellant, the decision of the ARC is final. The foregoing notwithstanding, after such time as the Board appoints all members of the ARC, all appeals from ARC decisions shall be made to the Board, which shall consider and decide such appeals.

(e) Notwithstanding the foregoing or any other provision herein, the ARC's jurisdiction shall normally extend only to the external appearance or "aesthetics" of any improvement, and shall not extend to structural matters, method of construction, or compliance with a building code or other applicable legal requirement. ARC approval shall be subject to all applicable requirements of applicable government authority, drainage, and other similar matters, and shall not be deemed to encompass or extend to possible impact on neighboring Lots.

Section 8.3 Meetings of the ARC. The ARC shall meet from time to time as necessary to perform its duties hereunder. The ARC may from time to time, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC, except the granting of variances pursuant to Section 8.8 below. In the absence of such designation, the vote of a majority of the ARC, or the written consent of a majority of the ARC taken without a meeting, shall constitute an act of the ARC.

Section 8.4 No Waiver of Future Approvals. The approval by the ARC of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 8.5 Compensation of Members. Subject to the provisions of Section 8.2(b) above, members of the ARC shall not receive compensation from the Association for services rendered as members of the ARC.

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Section 8.6 Correction by Owner of Nonconforming Items Subject in all instances to compliance by Owner with all applicable requirements of governmental authorities, with jurisdiction, ARC inspection (which shall be limited to inspection of the visible appearance of the size, color, location and materials of work), and Owner correction of visible nonconformance therein, shall proceed as follows:

(a) The ARC or its duly appointed representative shall have the right to inspect any Improvement ("Right of Inspection") whether or not the ARC's approval has been requested or given, provided that such inspection shall be limited to the visible appearance of the size, color, location, and materials comprising such Improvement (and shall not constitute an inspection of any structural item, method of construction, or compliance with any applicable requirement of governmental authority). Such Right of Inspection shall, however, terminate sixty (60) days after receipt by the ARC of written notice from the Owner of the Unit that the work of Improvement has been completed. If, as a result of such inspection, the ARC finds that such Improvement was done without obtaining approval of the plans and specifications therefor or was not done in substantial compliance with the plans and specifications approved by the ARC, it shall, within sixty (60) days from the inspection, notify the Owner in writing of the Owner's failure to comply with this Article 8 specifying the particulars of noncompliance. If work has been performed without approval of plans and specifications therefor, the ARC may require the Owner of the Unit in which the Improvement is located, to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvement in detail as actually constructed. The ARC shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

(b) If, upon the expiration of sixty (60) days from the date of such notification, the Owner has failed to remedy such noncompliance, the ARC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance (with the visible appearance of the size, color, location, and/or materials thereof) and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a notice of noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the noncompliance, and, in addition, may peacefully remedy the noncompliance. The Owner shall reimburse the Association, upon demand, for all expenses (including reasonable attorneys' fees) incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Special Assessment against the Owner for reimbursement as provided in this Declaration. The right of the Association to remove a noncomplying Improvement or otherwise to remedy the noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or in this Declaration.

(c) If for any reason the ARC fails to notify the Owner of any noncompliance with previously submitted and approved plans and specifications within sixty (60) days after receipt of written notice of completion from the Owner, the Improvement shall be deemed to be in compliance with ARC requirements (but, of course, shall remain subject to compliance by Owner with all requirements of applicable governmental authority).

(d) All construction, alteration or other work shall be performed as promptly and as diligently as possible and shall be completed within one hundred eighty (180) days of the date on which the work commenced.

Section 8.7 Scope of Review The ARC shall review and approve, conditionally approve, or disapprove, all proposals, plans and specifications submitted to it for any proposed Improvement, alteration, or addition, solely on the basis of the considerations set forth in Section 8.2 above, and solely with regard to the visible appearance of the size, color, location, and materials thereof. The ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any proposal, plan or design from the standpoint of structural safety or conformance with building or other codes. Each Owner shall be responsible for obtaining all necessary permits and for complying with all applicable governmental (including, but not necessarily limited to County) requirements.

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Section 8.8 Variances When circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations may require, the ARC may authorize limited variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions on size (including height, size, and/or floor area) or placement of structures, or similar restrictions. Such variances must be evidenced in writing, must be signed by a majority of the ARC, and shall become effective upon Recordation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of any such variance by ARC shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws, regulations and requirements affecting the use of his or her Unit, including but not limited to zoning ordinances and Lot set-back lines or requirements imposed by the County, or any municipal or other public authority with jurisdiction. The granting of a variance by the ARC shall not be deemed to be a variance or approval from the standpoint of compliance with such laws or regulations, nor from the standpoint of structural safety, and the ARC, provided it acts in good faith, shall not be liable for any damage to an Owner as a result of its granting or denying of a variance.

Section 8.9 Non-Liability for Approval of Plans The ARC's approval of proposals or plans and specifications shall not constitute a representation, warranty or guarantee, whether express or implied, that such proposals or plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such proposals or plans and specifications, neither the ARC, the members thereof, the Association, the Board, nor Declarant, assumes any liability or responsibility therefor, or for any defect in the structure constructed from such proposals or plans or specifications. Neither the ARC, any member thereof, the Association, the Board, nor Declarant, shall be liable to any Member, Owner, occupant, or other Person or entity for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any proposals, plans and specifications and drawings, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved proposals, plans and specifications and drawings.

Section 8.10 Declarant Exemption The ARC shall have no authority, power or jurisdiction over Units owned by Declarant, and the provisions of this Article 8 shall not apply to improvements built by Declarant, or, until such time as Declarant conveys title to the Unit to a Purchaser, to Units owned by Declarant. This Article 8 shall not be amended without Declarant's written consent set forth on the amendment.

ARTICLE 9 MAINTENANCE AND REPAIR OBLIGATIONS

Section 9.1 Maintenance Obligations of Owners It shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration requiring ARC approval, to maintain, repair, replace and restore all improvements located on his Unit, the Unit itself, and any "Limited Common Element" (as said term is defined by NRS § 116.110355) allocated to his Unit, and the Unit itself, in a neat, sanitary and attractive condition, except for any areas expressly required to be maintained by the Association under this Declaration. If any Owner shall permit any improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe or unsightly, or otherwise to violate this Declaration, the Board shall have the right to seek any remedies at law or in equity which the Association may have. In addition, the Board shall have the right, but not the duty, after Notice and Hearing as provided in the Bylaws, to enter upon such Unit to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Special Assessment, enforceable as set forth in this Declaration.

The foregoing notwithstanding: (a) the Association shall have an easement for the maintenance, repair and replacement of any easement on a portion of a Lot which constitutes a Common Element and any improvements constructed by Declarant or the Association thereon, and (b) each Owner (other than

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Declarant), by acceptance of a deed to a Unit, whether or not so expressed in such deed, is deemed to covenant and agree not to place or install any Improvement on a Common Element, and not to hinder, obstruct, modify, change, add to or remove, partition, or seek partition of, any Common Element or any Improvement installed by Declarant or the Association thereon.

Section 9.2 Maintenance Obligations of Association. No Improvement, excavation or work which in any way alters the Common Elements shall be made or done by any Person other than the Association or its authorized agents after the completion of the construction or installation of the Improvements thereto by Declarant. Subject to the provisions of Sections 9.3 and 11.1(b) hereof, upon the Assessment Commencement Date, the Association shall provide for the maintenance, repair, and replacement of the Common Elements. The Common Elements shall be maintained in a safe, sanitary and attractive condition, and in good order and repair. The Association shall also provide for any utilities serving the Common Elements. The Association shall also ensure that any landscaping on the Common Elements is regularly and periodically maintained in good order and in a neat and attractive condition. The Association shall not be responsible for the maintenance of any portions of the Common Elements which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate.

Section 9.3 Damage by Owners to Common Elements. The cost of any maintenance, repairs or replacements by the Association within the Common Elements arising out of or caused by the willful or negligent act of an Owner, his tenants, or their respective Families, guests or invitees shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner as provided in Section 11.1(b) hereof.

Section 9.4 Damage and Destruction Affecting Dwellings and Duty to Rebuild. If all or any portion of any Unit or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Unit to rebuild, repair or reconstruct the same in a manner which will restore the Unit substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the ARC. The Owner of any damaged Unit shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause reconstruction to commence within three (3) months after the damage occurs and to be completed within six (6) months after the damage occurs, unless prevented by causes beyond his reasonable control. A transferee of title to the Unit which is damaged shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner at the time of the damage still held title to the Unit. However, in no event shall such transferee of title be required to commence or complete such reconstruction in less than ninety (90) days from the date such transferee acquired title to the Unit.

Section 9.5 Party Walls. Each wall which is built as a part of the original construction by Declarant and placed approximately on the property line between Units shall constitute a party wall. In the event that any party wall is not constructed exactly on the property line, the Owners affected shall accept the party wall as the property boundary. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use such wall in proportion to such use (e.g., if the party wall is the boundary between two Owners, then each such Owner shall bear half of such cost). If a party wall is destroyed or damaged by fire or other casualty, the party wall shall be promptly restored, to its condition and appearance before such damage or destruction, by the Owner(s) whose Units have or had use of the wall. Subject to the foregoing, any Owner whose Unit has or had use of the wall may restore the wall to the way it existed before such destruction or damage, and any other Owner whose Unit makes use of the wall shall contribute to the cost of restoration thereof in proportion to such use, subject to the right of any such Owner to call for a larger contribution from another Owner pursuant to any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section 9.5, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements, or otherwise damaged or destroyed, shall bear the entire cost of furnishing the necessary protection repair or replacement. The right of any Owner to contribution from any other Owner under this Section 9.5 shall be appurtenant to the land and shall pass to such Owner's successors in title. The foregoing, and any other provision in this Declaration notwithstanding, no Owner shall

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alter, add to, or remove any party wall constructed by Declarant, or portion of such wall, without the prior written consent of the other Owner(s) who share such party wall, which consent shall not be unreasonably withheld, and the prior written approval of the ARC. In the event of any dispute arising concerning a party wall under the provisions of this Section 9.5, each party shall choose one arbitrator, such arbitrator shall choose one additional arbitrator, and the decision of a majority of such panel of arbitrators shall be binding upon the Owners which are a party to the arbitration.

Section 9.6 Penmeter Walls. Portions of Penmeter Walls, constructed or to be constructed by Declarant, abutting or located on individual Lots, are Improvements all portions of which are located, or conclusively deemed to be located, within the boundaries of individual Units. By acceptance of a deed to his Unit, each Owner on whose Unit a portion of the penmeter wall is located, hereby covenants, at the Owner's sole expense, with regard to the portion of the Penmeter Wall ("Unit Wall") located or deemed located on his Unit to maintain at all times in effect thereon property and casualty insurance, on a current replacement cost, to maintain and keep the Unit Wall at all times in good repair; and, if and when reasonably necessary, to replace the Unit Wall to its condition and appearance as originally constructed by Declarant. No changes or alterations (including, without limitation, temporary alterations, such as removal for construction of a swimming pool or other improvement) shall be made to any penmeter wall, or any portion thereof, without the prior written approval of the ARC (and any request therefor shall be subject to the provisions of Article 8 above, including, but not necessarily limited to, any conditions imposed by the ARC pursuant to Section 8.2(b) above). The foregoing and any other provision herein notwithstanding, under no circumstances shall any wall, or portion thereof, originally constructed by Declarant, be changed, altered or removed by any Owner (or agent or contractor thereof) if such wall, or portion thereof, is shown on any improvement plan as a flood control wall, or any other wall, or if such change, alteration or removal in the sole judgment (without any obligation to make such judgment) of the ARC would adversely affect surface water, drainage, or other flood control considerations or requirements. If any Owner shall fail to insure, or to maintain, repair or replace his Unit Wall within sixty (60) days when reasonably necessary, in accordance with this Section 9.6, the Association shall be entitled (but not obligated) to insure, or to maintain, repair or replace such Unit Wall, and to assess the full cost thereof against the Owner as a Special Assessment, which may be enforced as provided for in this Declaration. The foregoing notwithstanding, the Association, at its sole expense, shall be responsible for removing or painting over any graffiti from or on Exterior Walls.

Section 9.7 Installed Landscaping

(a) Declarant shall have the option, in its sole and absolute discretion, to install landscaping on the front yards and other portions of Lots ("Declarant Installed Landscaping"). Subject to the foregoing and to Section 9.9 below, and subject further to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have, following the close of escrow on his Lot: (a) sixty (60) days in which to complete front yard landscaping (provided that front yard landscaping shall be completed on any Custom Lot within sixty (60) days after issuance of an occupancy permit for the Dwelling thereon), and (b) six (6) months within which to commence and thereafter diligently prosecute and complete installation of all other landscaping on the Lot (all, collectively, "Homeowner Installed Landscaping"). Declarant Installed Landscaping and Homeowner Installed Landscaping shall collectively be referred to herein as "Installed Landscaping."

(b) Subject to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have an aggregate period, following the Close of Escrow on his or her Lot, of (i) not more than six (6) months (with regard to front yard landscaping other than Declarant Installed Landscaping), and one (1) year (with regard to rear yard landscaping), in which to apply for and obtain approval of plans for landscaping and to commence and complete, in accordance with such approved plans, installation of such landscaping on the Lot ("Homeowner Installed Landscaping"). Each Owner shall be responsible, at his sole expense, for (1) maintenance, repair, replacement, and watering of all landscaping on his Unit (whether initially installed by Declarant or an Owner) in a neat and attractive condition; and (2) maintenance, repair, and/or replacement of any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping, subject to subsections (c) through (f), below.

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(c) Each Owner covenants to pay promptly when due all water bills for his or her Unit, and (subject to bona-fide force majeure events) to not initiate or continue any act or omission which would have the effect of water being shut off to the Unit. In the event that all or any portion of landscaping and/or related systems is or are damaged because of any Owner's act or omission, then such Owner shall be solely liable for the costs of repairing such damage, and any and all costs reasonably related thereto, and the Association may, in its discretion, perform or cause to be performed such repair, and to assess all related costs against such Owner as a Special Assessment, and the Association, and its employees, agents and contractors, shall have an easement over Lots to perform such function.

(d) In the event that any plants (including, but not necessarily limited to, trees, shrubs, bushes, lawn, flowers, and ground cover) on a Unit require replacement, then the cost of such replacement, and costs reasonably related thereto, shall be the responsibility of the Owner of the Unit.

(e) To help prevent and/or control water damage to foundations and/or walls, each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not cause or permit irrigation water or sprinkler water on his Unit to seep or flow onto, or to strike upon, any foundation, slab, side or other portion of Dwelling, wall (including, but not necessarily limited to, party wall and/or Perimeter Wall), and/or any other Improvement. Without limiting the generality of the foregoing or any other provision in this Declaration, each Owner shall at all times ensure that: (1) there are no unapproved grade changes (including, but not necessarily limited to, mounding) within three (3) feet of any such foundation or wall located on or immediately adjacent to the Owner's Unit; and (2) only non-irrigated desert landscaping is located on the Owner's Unit within three feet of any such foundation, slab, side or other portion of Dwelling, wall (including, but not necessarily limited to, party wall and/or Perimeter Wall).

(f) Absent prior written approval of the ARC, in its sole discretion, no Owner may add to, delete, modify, or change, any landscaping or related system.

Section 9.8 Maintenance of Security Lighting. Each Owner shall maintain in good and operating condition the exterior security landscape lighting (if any) installed on the exterior and/or front yard or rear yard area of the Dwelling. Such maintenance shall include, but not be limited to, the replacement of light bulbs and photoelectric cells, the provision of electrical power to such lights, and timely payment of electrical service, as applicable. Absent prior written approval of the ARC, in its sole discretion, no Owner may delete, modify, or change any photoelectric cell as initially installed by Declarant, or any lighting activated thereby (including, without limitation, disconnecting lighting from such photoelectric cell and/or connecting such lighting to a timer device). If any Owner shall fail to so maintain such exterior lighting, or permit such lighting to fall into disrepair, or delete or modify such lighting without prior approval of the ARC, the Association shall have the right to correct such condition. If any such condition is corrected by the Association, the Association shall be fully reimbursed by the Lot Owner for all costs incurred.

Section 9.9 Modification of Improvements. Maintenance and repair of Common Elements shall be the responsibility of the Association, and the costs of such maintenance and repair shall be Common Expenses; provided that, in the event that any Improvement located on a Common Element is damaged because of any Owner's act or omission, such Owner shall be solely liable for the costs of repairing such damage and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration. Each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not: add to, remove, delete, modify, change, obstruct, or landscape, all or any portion of the Common Elements, or Site Visibility Restriction Area, or Perimeter Wall, and/or any other wall or fence constructed by Declarant on such Owner's Lot, without prior written approval of the ARC, in its sole discretion.

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ARTICLE 10

USE RESTRICTIONS

Subject to the rights and exemptions of Declarant as set forth in this Declaration, and subject further to the fundamental "good neighbor" policy underlying the Community and this Declaration, all real property within the Properties shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth in this Declaration. The strict application of the limitations and restrictions set forth in this Article 10 may be modified or waived in whole or in part by the Board in specific circumstances where such strict application would be unduly harsh, provided that any such waiver or modification shall not be valid unless in writing and executed by the Board. Any other provision herein notwithstanding, neither Declarant, the Association, the Board, nor their respective directors, officers, members, agents or employees shall be liable to any Owner or to any other Person as a result of the failure to enforce any use restriction or for the granting or withholding of a waiver or modification of a use restriction as provided herein.

Section 10.1 Single Family Residence. Each Unit shall be improved and used solely as a residence for a single Family and for no other purpose. No part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, primary storage, vending, "reverse engineering" destructive testing, or any other nonresidential purposes; provided that Declarant may exercise the reserved rights described in Article 14 hereof. The provisions of this Section 10.1 shall not preclude a professional or administrative occupation, or an occupation of child care, provided that the number of non-Family children, when added to the number of Family children being cared for at the Unit, shall not exceed a maximum aggregate of five (5) children, and provided further that there is no nuisance under Section 10.5, below, and no external evidence of any such occupation, for so long as such occupation is conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Dwelling as a residential home. This provision shall not preclude any Owner from renting or leasing his entire Unit by means of a written lease or rental agreement subject to this Declaration and any Rules and Regulations; provided that no such lease shall be for a term of less than six (6) months.

Section 10.2 No Further Subdivision. Except as may be expressly authorized by Declarant, no Unit or all or any portion of the Common Elements may be further subdivided (including, without limitation, any division into time-share estates or time-share uses) without the prior written approval of the Board; provided, however, that this provision shall not be construed to limit the right of an Owner: (1) to rent or lease his entire Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Unit is not leased for transient or hotel purposes; (2) to sell his Unit; or (3) to transfer or sell any Unit to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be made expressly subject to the Governing Documents. Any failure by the lessee of such Unit to comply with the terms of the Governing Documents shall constitute a default under the lease or rental agreement. No two or more Units in the Properties may be combined in any manner whether to create a larger Unit or otherwise, and no Owner may permanently remove any block wall or other intervening partition between Units.

Section 10.3 Insurance Rates. Without the prior written approval of the Board, nothing shall be done or kept in the Properties which will increase the rate of insurance on any Unit or other portion of the Properties, nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any Unit or other portion of the Properties or which would be a violation of any law. Any other provision herein notwithstanding, the Board shall have no power whatsoever to waive or modify this restriction.

Section 10.4 Animal Restrictions. No animals, reptiles, poultry, fish, or fowl or insects of any kind ("animals") shall be raised, bred or kept on any Unit, except that a reasonable number of dogs, cats, birds or fish may be kept, provided that they are not kept, bred or maintained for any commercial purpose, nor in unreasonable quantities nor in violation of any applicable City or County ordinance or any other provision of the Declaration, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The

Association, acting through the Board, shall have the right to prohibit maintenance of any animal in any Unit which constitutes, in the opinion of the Board, a nuisance to other Owners or Residents. Subject to the foregoing, animals belonging to Owners, Residents, or their respective Families, licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed yard or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, any Owner and/or Resident shall be liable to each and all other Owners, Residents, and their respective Families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or Resident or respective Family, tenants or guests; and it shall be the absolute duty and responsibility of each such Owner and Resident to clean up after such animals in the Properties or streets abutting the Properties. Without limiting the foregoing: (a) no "dog run" or similar structure pertaining to animals shall be placed or permitted in any Lot, unless approved by the Board in advance and in writing (and, in any event, any such "dog run" or similar Improvement shall not exceed the height of any party wall on the Lot, and shall otherwise not be permitted, or shall be immediately removed, if it constitutes a nuisance in the reasonable judgment of the Board), and (b) all Owners shall comply fully in all respects with all applicable County and City ordinances and rules regulating and/or pertaining to animals and the maintenance thereof on the Owner's Unit and/or any other portion of the Properties.

Section 10.5 Nuisances. No rubbish, clippings, refuse, scrap lumber or metal; no grass, shrub or tree clippings, and no plant waste, compost, bulk materials or other debris of any kind; (all, collectively, hereafter, "rubbish and debris") shall be placed or permitted to accumulate anywhere within the Properties, and no odor shall be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, or offensive. Without limiting the foregoing, all rubbish and debris shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purposes. Such containers shall be exposed to the view of the neighboring Units only when set out for a reasonable period of time (not to exceed twelve (12) hours before or after scheduled trash collection hours). No noxious or offensive activities (including, but not limited to the repair of motor vehicles) shall be carried out on the Properties. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Unit so as to be offensive or detrimental to any other Unit or to occupants thereof, or to the Common Elements. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other similar or unusually loud sound devices (other than devices used exclusively for safety, security, or fire protection purposes), noisy or smokey vehicles, large power equipment or large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), inoperable vehicle, unlicensed off-road motor vehicle, or other item which may unreasonably disturb other Owners or Residents or any equipment or item which may unreasonably interfere with television or radio reception within any Unit, shall be located, used or placed on any portion of the Properties without the prior written approval of the Board. No unusually loud motorcycles, dirt bikes or similar mechanized vehicles may be operated on any portion of the Common Elements without the prior written approval of the Board, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security of a Dwelling and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms. The Board shall have the right to reasonably determine if any noise, odor, activity, or circumstance, constitutes a nuisance. Each Owner and Resident shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Unit, including Dwelling. Each Owner and Resident shall be accountable to the Association and other Owners and Residents for the conduct and behavior of children and other Family members or persons residing in or visiting his Unit; and any damage to the Common Elements, personal property of the Association or property of another Owner or Resident, caused by such children or other Family members, shall be repaired at the sole expense of the Owner of the Unit where such children or other Family members or persons are residing or visiting.

Section 10.6 Exterior Maintenance and Repair, Owner's Obligations. No Improvement anywhere within the Properties shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. If any Owner or Resident shall permit any Improvement, which is the responsibility of such Owner or Resident to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after consulting with the ARC, and after affording such Owner or Resident reasonable notice, shall have the right but not the obligation to correct such condition, and to enter

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upon such Owner's Unit, for the purpose of so doing, and such Owner and/or Resident shall promptly reimburse the Association for the cost thereof. Such cost may be assessed as a Special Assessment pursuant to Section 6.11 above, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment for all purposes of Article 7, above. The Owner and/or Resident of the offending Unit shall be personally liable for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner and/or Resident shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

Section 10.7 Drainage By acceptance of a deed to a Unit, each Owner agrees for himself and his assigns that he will not in any way interfere with or alter, or permit any Resident to interfere with or alter, the established drainage pattern over any Unit, so as to affect said Unit, any other Unit, or the Common Elements, unless adequate alternative provision is made for proper drainage and approved in advance and in writing by the ARC, and any request therefor shall be subject to Article 8 above, including, but not necessarily limited to, any condition imposed by the ARC pursuant to Section 8.2(b) above. Without limiting the generality of the foregoing, any request by an Owner for ARC approval of alteration of established drainage pattern shall be subject to payment, by the Owner, of the professional fees of a licensed engineer to review the plans and specifications on behalf of the ARC, pursuant to Section 8.2(b)(8) above, which shall be required in all such cases, and further shall be subject to the Owner obtaining all necessary governmental approvals pursuant to Section 8.7, above. For the purpose hereof, "established drainage pattern" is defined as the drainage which exists at the time that such Unit is conveyed to a Purchaser from Declarant, or later grading changes which are shown on plans and specifications approved by the ARC.

Section 10.8 Water Supply and Sewer Systems No individual water supply system, or cesspool, septic tank, or other sewage disposal system, or exterior water softener system, shall be permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water or sewer district serving the Properties, County health department, and any applicable utility and governmental authorities having jurisdiction, and has been approved in advance and in writing by the ARC.

Section 10.9 No Hazardous Activities No activities shall be conducted, nor shall any improvements be constructed, anywhere in the Properties which are or might be unsafe or hazardous to any Person, Unit, Common Elements. Without limiting the foregoing, (a) no firearm shall be discharged within the Properties, and (b) there shall be no exterior or open fires whatsoever, except within a barbecue and contained within a receptacle commercially designed therefor, while attended and in use for cooking purposes, or except within a fireplace designed to prevent the dispersal of burning embers, so that no fire hazard is created, or except as specifically authorized in writing by the Board (all as subject to applicable ordinances and fire regulations).

Section 10.10 No Unsightly Articles No unsightly article, facility, equipment, object, or condition (including, but not limited to, clotheslines, and garden and maintenance equipment, or inoperable vehicle) shall be permitted to remain on any Unit so as to be visible from any street, or from any other Unit, Common Elements, or neighboring property. Without limiting the foregoing or any other provision herein, all refuse, garbage and trash shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purpose. Such containers shall be exposed to view of the public, or neighboring Units, only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours).

Section 10.11 No Temporary Structures Unless required by Declarant during the initial construction of Dwellings and other Improvements, or unless approved in writing by the Board in connection with the construction of authorized Improvements, no outbuilding, tent, shack, shed or other temporary or portable structure or Improvement of any kind shall be placed upon any portion of the Properties. No garage, carport, trailer, camper, motor home, recreational vehicle, or other vehicle, or any Improvement other than a Dwelling, shall be used as a residence in the Properties, either temporarily or permanently.

Section 10.12 No Drilling No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted upon,

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in, or below any Unit or the Common Elements, nor shall oil, water or other wells, tanks, tunnels or mineral excavations or shafts be permitted upon or below the surface of any portion of the Properties. No derrick or other structure designed for use in boring for water, oil, geothermal heat, or natural gas, or other mineral or depleting asset shall be erected.

Section 10.13 Alterations There shall be no excavation, construction, alteration or erection of any projection which in any way alters the exterior appearance of any Improvement from any street, or from any other portion of the Properties (other than minor repairs or rebuilding pursuant to Section 10.6 above) without the prior approval of the ARC pursuant to Article 8 hereof. There shall be no violation of the setback, side yard or other requirements of local governmental authorities, notwithstanding any approval of the ARC. This Section 10.13 shall not be deemed to prohibit minor repairs or rebuilding which may be necessary for the purpose of maintaining or restoring a Unit to its original condition.

Section 10.14 Signs Subject to the reserved rights of Declarant contained in Article 14 hereof, no flag, flag pole, balloon, beacon, banner, sign, poster, display, billboard or other advertising device or other display of any kind shall be installed or displayed to public view on any portion of the Properties, or on any public street abutting the Properties, without the prior written approval of the ARC, except: (a) one (1) sign for each Unit, not larger than eighteen (18) inches by thirty (30) inches, advertising the Unit for sale or rent; or (b) traffic and other signs installed by Declarant as part of the original construction of the Properties; or (c) signs regulated to the maximum extent permitted by applicable law. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the regulations of all applicable governmental ordinances.

Section 10.15 Improvements.

(a) Unless otherwise designated in the Declaration (or unless an ancillary guest house or "casita" is originally constructed on a Lot by Declarant, in its sole and absolute discretion, without obligation to do so, subject to the proviso that any such "casita" shall be subject to all applicable County ordinances, shall be ancillary and appurtenant to a Unit, and shall not separately comprise another Unit), no Lot shall be improved except with one (1) Dwelling designated to accommodate no more than a single Family and its servants and occasional guests, plus a garage, fencing and such other Improvements as are necessary or customarily incident to a single-Family Dwelling, provided that one additional small permanent building (e.g., a small "pool house" or "hobby house") may (but need not necessarily) be authorized on a Lot by the ARC, subject to the following: (1) full compliance with the requirements of Article 8, above; (2) the ARC, in its sole discretion, must determine that the Lot is large enough and otherwise suitable to accommodate such proposed Improvement; (3) such Improvement in all regards must comply with the Governing Documents, and all applicable governmental ordinances and laws; and (4) such Improvement may not and shall not be used for any commercial purpose whatsoever, pursuant to Section 10.1 above. No part of the construction on any Lot shall exceed the height limitations set forth in the applicable provisions of the Governing Documents, or any applicable governmental regulation(s). No projections of any type shall be placed or permitted to remain above the roof of any building within the Properties, except one or more chimneys or vent stacks. No permanent or attached basketball backboard, jungle gym, play equipment, or other sports apparatus shall be constructed, erected, or maintained on the Properties without the prior written approval of the Board. A portable basketball hoop or other portable sports apparatus shall be permitted on a Lot, provided that such item: (i) is not placed in any street, (ii) is used only daylight hours, (iii) during non-daylight hours, is stored on the Lot so as to be out of sight of any street, and (iv) does not otherwise constitute a nuisance in the reasonable judgment of the Board. Apart from any installation by Declarant as part of its original construction, no patio cover, antennae, wiring, air conditioning fixture, water softeners or other devices shall be installed on the exterior of a Dwelling or allowed to protrude through the walls or roof of the Dwelling (with the exception of items installed by Declarant during the original construction of the Dwelling), unless the prior written approval of the ARC is obtained, subject to Section 10.16, below.

(b) All utility and storage areas and all laundry rooms, including all areas in which clothing or other laundry is hung to dry, must be completely covered and concealed from view from other areas of the Properties and neighboring properties.

(c) No fence or wall shall be erected or altered without prior written approval of the ARC. All alterations or modifications of existing fences or walls of any kind shall require the prior written approval of the ARC, in its discretion (and the ARC may, but need not necessarily, require written consent of the Owners of all adjacent Lots as a prerequisite thereto)

(d) Garages shall be used only for their ordinary and normal purposes. Unless constructed or installed by Declarant as part of its original construction, no Owner or Resident may convert the garage on his or her Unit into living space or otherwise use or modify a garage so as to preclude regular and normal parking of vehicles therein. The foregoing notwithstanding, Declarant may convert a garage located in any Unit owned by Declarant into a sales office or related purposes.

Section 10.16 Antennas and Satellite Dishes. Expressly subject to the Declarant exemption set forth in Section 10.23, below, no exterior radio antenna or aerial, television antenna or aerial, microwave antenna, aerial or satellite dish, "C.B." antenna or other antenna or aerial of any type, which is visible from any street or from anywhere in the Properties, shall be erected or maintained anywhere in the Properties. Notwithstanding the foregoing, "Permitted Devices" (defined as antennas or satellite dishes: (i) which are one meter or less in diameter and designed to receive direct broadcast satellite service; or (ii) which are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multi-point distribution services) shall be permitted, provided that such Permitted Device is:

(a) located in the attic, crawl space, garage, or other interior space of the Dwelling, or within another approved structure on the Unit, so as not to be visible from outside the Dwelling or other structure, or, if such location is not reasonably practicable, then,

(b) located in the rear yard of the Unit (i.e., the area between the plane formed by the front facade of the Dwelling and the rear lot line) and set back from all lot lines at least such distance as may be established in the Rules and Regulations and/or by the Board; or, if such location is not reasonably practicable, then,

(c) attached to or mounted on a deck or patio and extending no higher than the eaves of that portion of the roof of the Dwelling directly in front of such antenna; or, if such location is not reasonably practicable, then,

(d) attached to or mounted on the rear wall of the Dwelling so as to extend no higher than the eaves of the Dwelling at a point directly above the position where attached or mounted to the wall; provided that,

(e) if an Owner reasonably determines that a Permitted Device cannot be located in compliance with the foregoing portions of this Section 10.16 without precluding reception of an acceptable quality signal, then the Owner may install such Permitted Device in the least conspicuous alternative location within the Unit where an acceptable quality signal can be obtained; provided that,

(f) Permitted Devices shall be reasonably screened from view from the street or any other portion of the Properties, and shall be subject to Rules and Regulations adopted by the Board, establishing a preferred hierarchy of alternative locations, so long as the same do not unreasonably increase the cost of installation, or use of the Permitted Device.

Declarant or the Association may, but are in no way obligated to, provide a master antenna or cable television antenna for use of all or some Owners. Declarant may grant easements for installation, maintenance, repair and/or replacement of any such master or cable television service.

Section 10.17 Landscaping. Subject to the provisions of Articles 8 and 9 (including, but not limited to, Section 9.7 above), each Owner shall install and shall thereafter maintain the landscaping on his Unit in a neat and attractive condition. No plants or seeds infected with insects or plant diseases shall be brought

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upon, grown or maintained upon any part of the Properties. The Board may adopt Rules and Regulations to regulate landscaping permitted and required in the Properties. If an Owner fails to install and maintain landscaping in conformance with the Governing Documents, or allows his landscaping to deteriorate to a dangerous, unsafe, unsightly, or unattractive condition, the Board shall have the right to either (a) after thirty (30) days' written notice, seek any remedies at law or in equity which it may have; or (b) after reasonable notice (unless there exists a bona-fide unsafe or dangerous condition, in which case, the right shall be immediate, and no notice shall be required), to correct such condition and to enter upon the exterior portion of such Owner's Unit for the purpose of so doing, and such Owner shall promptly reimburse the Association for the cost thereof, as a Special Assessment enforceable in the manner set forth in Article 7, above. Each Owner shall be responsible, at his sole expense, for maintenance, repair, replacement, and watering of any and all landscaping on the Lot, as well as any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping.

Section 10.18 Prohibited Plant Types. Without limiting the generality of any other provision herein, the following plant types are hereby specifically declared to be nuisances, and shall not be permitted anywhere within the Properties: (a) *Olea europaea* ("olive") (other than "fruitless olive," which shall be permitted); (b) *Morus alba* or *nigra* ("mulberry"); or (c) *Cynodon dactylon* ("bermuda grass"); (d) *Amaranthus palmeri* ("careless weed"); (e) *Salsola kali* ("Russian thistle"); and/or (f) *Franseria dumosa* ("desert ragweed"). Declarant may, from time to time and at any time, add or delete any plant species to the foregoing list of prohibited plants. If Declarant adds a plant species to the foregoing list of prohibited plants, each Owner shall refrain from planting or placing such plant species on the Properties, provided, however, that Owners shall not be obligated to unearth landscaping existing at such time to remove such newly prohibited plant species from the Properties.

Section 10.19 Parking and Vehicular Restrictions. No Person shall park, store or keep anywhere within the Properties, any inoperable or similar vehicle, or any large commercial-type vehicle, including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck, bus, aircraft, or any vehicular equipment, mobile or otherwise, except wholly within the Owner's garage as originally constructed by Declarant ("Garage") and only with the Garage door closed. Any boat, trailer, camper, motor home, and similar recreational vehicle (collectively and individually, "RV"), shall be parked only (i) wholly within a Garage, with the Garage door completely closed, or (ii) wholly between the building lines (i.e., wholly behind the front building lines and wholly in front of the rear building lines) of the homes on both immediately adjacent Lots (or, if there is only one immediately adjacent Lot, then the building lines of the home on such adjacent Lot, provided that the Board shall have the power and authority, in its sole discretion, to entirely disapprove and/or prohibit parking of an RV on any Lot with only one other Lot immediately adjacent thereto) if such parking reasonably may be deemed to constitute a nuisance, and appropriately screened from view from all streets as determined by the Board in its reasonable discretion, and no variance from this requirement shall be authorized or permitted. The foregoing shall not be deemed to prohibit a pickup or camper truck or similar vehicle up to and including one (1) ton when used for daily transportation of the Owner or Resident, or the Family respectively thereof, which vehicle shall be permitted, subject to the Garage, nuisance, and parking provisions herein. No Person shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Properties or on any street abutting the Properties. However, repair and/or restoration of one (1) such item only shall be permitted within the Garage so long as the Garage door remains closed, provided, however, that such activity may be prohibited entirely by the Board if the Board determines in its reasonable discretion that such activity constitutes a nuisance. Vehicles owned, operated or within the control of any Owner or of a resident of such Owner's Dwelling shall be parked in the Garage to the extent of the space available therein. All garages shall be kept neat and free of stored materials so as to permit the parking of at least one (1) standard sized American sedan automobile therein at all times. Garage doors shall not remain open for prolonged periods of time, and must be closed when not reasonably required for immediate ingress and egress. The Association, through the Board, is hereby empowered to establish and enforce any additional parking limitations, rules and/or regulations (collectively, "parking regulations") which it may deem necessary, including, but not limited to, the levying of fines for violation of parking regulations, and/or removal of any violating vehicle at the expense of the owner of such vehicle. No parking of any vehicle shall be permitted along any curb or otherwise on any street within the Properties, except only for ordinary and reasonable guest parking, subject to parking regulations established by the Board. Notwithstanding the

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foregoing, these restrictions shall not be interpreted in such a manner as to permit any parking or other activity which would be contrary to any County ordinance, or which is determined by the Board, in its reasonable discretion, to constitute a bona-fide nuisance.

Section 10.20 Sight Visibility Restriction Areas. The maximum height of any and all sight restricting improvements (including, but not necessarily limited to, landscaping), on all Sight Visibility Restriction Areas, shall be restricted to a maximum height not to exceed twenty-four (24) inches, or such other height set forth in the Plat ("Maximum Permitted Height"). In the event that any improvement located on any Sight Visibility Restriction Area on a Unit exceeds the Maximum Permitted Height, the Association shall have the power and easement to enter upon such Unit and to bring such improvement into compliance, and the Owner shall be solely liable for the costs thereof and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration.

Section 10.21 Prohibited Direct Access. Any other provision herein notwithstanding, there shall be no vehicular access from any Lot directly onto such streets as designated on the Plat, and no vehicular access from said streets directly onto any abutting Lot, all of which direct vehicular access is hereby prohibited.

Section 10.22 No Waiver. The failure of the Board to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restrictions shall remain in full force and effect. The receipt by the Board or Manager of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board or the Manager.

Section 10.23 Declarant Exemption. Units owned by Declarant, shall be exempt from the provisions of this Article 10, until such time as Declarant conveys title to the Unit to a Purchaser, and activities of Declarant reasonably related to Declarant's development, construction, and marketing efforts, shall be exempt from the provisions of this Article 10. This Article 10 may not be amended without Declarant's prior written consent.

ARTICLE 11 **DAMAGE TO OR CONDEMNATION OF COMMON ELEMENTS**

Section 11.1 Damage or Destruction. Damage to, or destruction or condemnation of, all or any portion of the Common Elements shall be handled in the following manner:

(a) **Repair of Damage.** Any portion of this Community, for which insurance is required by this Declaration or by any applicable provision of NRS Chapter 116, which is damaged or destroyed, must be repaired or replaced promptly by the Association unless: (i) the Community is terminated, in which case the provisions of NRS § 116.2118, 116.21183 and 116.21185 shall apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) eighty percent (80%) of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced, the proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community; (A) the proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units; and (B) the remainder of the proceeds must be distributed to all the Owners or lien holders, as their interests may appear, in proportion to the liabilities of all the Units for Common Expenses. If the Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and Record an amendment to this Declaration reflecting the reallocations.

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(b) Damage by Owner To the full extent permitted by law, each Owner shall be liable to the Association for any damage to the Common Elements not fully reimbursed to the Association by insurance proceeds, provided the damage is sustained as a result of the negligence, willful misconduct, or unauthorized or improper installation or maintenance of any Improvement by said Owner or the Persons deriving their right and easement of use and enjoyment of the Common Elements from said Owner, or by his respective Family and guests, both minor and adult. The Association reserves the right, acting through the Board, after Notice and Hearing, to: (1) determine whether any claim shall be made upon the insurance maintained by the Association; and (2) levy against such Owner a Special Assessment equal to any deductible paid and the increase, if any, in the insurance premiums directly attributable to the damage caused by such Owner or the Person for whom such Owner may be responsible as described above. In the case of joint ownership of a Unit, the liability of the co-owners thereof shall be joint and several, except to any extent that the Association has previously contracted in writing with such co-owners to the contrary. After Notice and Hearing, the Association may levy a Special Assessment in the amount of the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, against any Unit owned by such Owner, and such Special Assessment may be enforced as provided herein.

Section 11.2 Condemnation If at any time, all or any portion of the Common Elements, or any interest therein, is taken for any governmental or public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Association. Any such award payable to the Association shall be deposited in the operating fund. No Member shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation. The Association shall have the exclusive right to participate in such proceedings and shall, in its name alone, represent the interests of all Members. Immediately upon having knowledge of any taking by eminent domain of Common Elements, or any portion thereof, or any threat thereof, the Board shall promptly notify all Owners and all Eligible Holders.

Section 11.3 Condemnation Involving a Unit For purposes of NRS § 116.1107(2)(a), if part of a Unit is required by eminent domain, the award shall compensate the Owner for the reduction in value of the Unit's interest in the Common Elements. The basis for such reduction shall be the extent to which the occupants of the Unit are impaired from enjoying the Common Elements. In cases where the Unit may still be used as a Dwelling, it shall be presumed that such reduction is zero (0).

ARTICLE 12 INSURANCE

Section 12.1 Casualty Insurance The Board shall cause to be obtained and maintained a master policy of fire and casualty insurance with extended coverage for loss or damage to all of the Association's insurable improvements on the Common Elements, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance, and shall obtain insurance against such other hazards and casualties as the Board deems reasonable and prudent. The Board, in its reasonable judgment, may also insure any other property whether real or personal, owned by the Association or located within the Properties, against loss or damage by fire and such other hazards as the Board may deem reasonable and prudent, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Elements shall be maintained for the benefit of the Association, the Owners, and the Eligible Holders, as their interests may appear as named insured, subject however to the loss payment requirements as set forth herein. Premiums for all insurance carried by the Association are Common Expenses included in the Annual Assessments levied by the Association.

The Association, acting through the Board, shall be the named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any policies shall be paid to the Board as trustee. The Board shall have full power to receive and receipt for the proceeds and to deal therewith as deemed necessary and appropriate. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim,

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and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of insurance maintained by the Association and of all the renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Eligible Holders who have expressly requested the same in writing.

Section 12.2 Liability and Other Insurance. The Association shall have the power and duty to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it shall deem desirable (but in no event less than \$1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence), insuring the Association, Board, Directors, Officers, Declarant, and Manager, and their respective agents and employees, and the Owners and Residents of Units and their respective Families, guests and invitees, against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property maintained or required to be maintained by the Association including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such insurance shall also include coverage, to the extent reasonably available, against liability for non-owned and hired automobiles, liability for property of others, and any other liability or risk customarily covered with respect to projects similar in construction, location, and use. The Association may also obtain, through the Board, Worker's Compensation insurance (which shall be required if the Association has one or more employees) and other liability insurance as it may deem reasonable and prudent, insuring each Owner and the Association, Board, and any Manager, from liability in connection with the Common Elements, the premiums for which are a Common Expense included in the Annual Assessment levied against the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its reasonable business judgment.

Section 12.3 Fidelity Insurance. The Board shall further cause to be obtained and maintained errors and omissions insurance, blanket fidelity insurance coverage (in an amount at least equal to 100% of Association Funds from time to time handled by such Persons) and such other insurance as it deems prudent, insuring the Board, the Directors, and Officers, and any Manager against any liability for any act or omission in carrying out their respective obligations hereunder, or resulting from their membership on the Board or on any committee thereof. If reasonably feasible, the amount of such coverage shall be at least \$1,000,000.00, and said policy or policies of insurance shall also contain an extended reporting period endorsement (a tail) for a six-year period. The Association shall require that the Manager maintain fidelity insurance coverage which names the Association as an obligee, in such amount as the Board deems prudent. From and after the end of the Declarant Control Period, blanket fidelity insurance coverage which names the Association as an obligee shall be obtained by or on behalf of the Association for any Person handling funds of the Association, including but not limited to, Officers, Directors, trustees, employees, and agents of the Association, whether or not such Persons are compensated for their services, in such an amount as the Board deems prudent; provided that in no event may the aggregate amount of such bonds be less than the maximum amount of Association Funds that will be in the custody of the Association or Manager at any time while the policy is in force (but in no event less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Units, plus Reserve Funds), or such other amount as may be required by FNMA, VA or FHA from time to time, if applicable.

Section 12.4 Other Insurance Provisions. The Board shall also obtain such other insurances customarily required with respect to projects similar in construction, location, and use, or as the Board may deem reasonable and prudent from time to time, including, but not necessarily limited to, Worker's Compensation insurance (which shall be required if the Association has any employees). All premiums for insurances obtained and maintained by the Association are a Common Expense included in the Annual Assessment levied upon the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its sound business judgment. In addition, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and fidelity insurance coverage necessary to meet the requirements for similar developments, as set forth or modified from time to time by any governmental body with jurisdiction, except to the extent such coverage is not available or has been waived in writing by the applicable agency.

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Section 12.5 Insurance Obligations of Owners. Each Owner is required, at Close of Escrow on his Unit, at his sole expense to have obtained, and to have furnished his Mortgagee (or, in the event of a cash transaction involving no Mortgagee, then to the Board) with duplicate copies of, a homeowner's policy of fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements and fixtures originally installed by Declarant on such Owner's Unit in accordance with the original plans and specifications, or installed by the Owner on the Unit, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance. By acceptance of the deed to his Unit, each Owner agrees to maintain in full force and effect at all times, at said Owner's sole expense, such homeowner's insurance policy, and shall provide the Board with duplicate copies of such insurance policy upon the Board's request. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability, damage to person or property occurring inside his Unit or elsewhere upon the Properties. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied. Notwithstanding the foregoing, or any other provision herein, each Owner shall be solely responsible for full payment of any and all deductible amounts under such Owner's policy or policies of insurance.

Section 12.6 Waiver of Subrogation. All policies of physical damage insurance maintained by the Association shall provide, if reasonably possible, for waiver of (1) any defense based on coinsurance; (2) any right of set-off, counterclaim, apportionment, prororation or contribution by reason of other insurance not carried by the Association; (3) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured; (4) any rights of the insurer to repair, rebuild or replace, and, in the event any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; or (5) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Unit. The Association hereby waives and releases all claims against the Board, the Owners, Declarant, and Manager, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss; provided, however, that such waiver shall not be effective as to any loss covered by a policy of insurance which would be voided or impaired thereby.

Section 12.7 Notice of Expiration Requirements. If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days' prior written notice to the Board and Declarant and to each Owner and each Eligible Holder who has filed a written request with the carrier for such notice, and every other Person in interest who requests in writing such notice of the insurer. All insurance policies carried by the Association pursuant to this Article 12, to the extent reasonably available, must provide that: (a) each Owner is an insured under the policy with respect to liability arising out of his interest in the Common Elements or Membership; (b) the insurer waives the right to subrogation under the policy against any Owner or member of his Family; (c) no act or omission by any Owner or member of his Family will void the policy or be a condition to recovery under the policy; and (d) if, at the time of a loss under the policy there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

ARTICLE 13

MORTGAGEE PROTECTION CLAUSE

In order to induce any FHA, VA, FHLMC, GNMA and FNMA and any other governmental agency or other Mortgagees to participate in the financing of the sale of Units within the Properties, the following

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provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control)

(a) Each Eligible Holder, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation or the Bylaws, which default is not cured within thirty (30) days after the Association learns of such default. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Unit, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Governing Documents.

(c) Except as provided in NRS § 116.3116(2), each Beneficiary of a first Mortgage encumbering any Unit which obtains title to such Unit or by foreclosure of such Mortgage, shall take title to such Unit free and clear of any claims of unpaid assessments or charges against such Unit which accrued prior to the acquisition of title to such Unit by the Mortgagee.

(d) Unless at least sixty-seven percent (67%) of first Eligible Holders (based upon one (1) vote for each first Mortgage owned) or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(i) subject to Nevada nonprofit corporation law to the contrary, by act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Elements and the Improvements thereon which are owned by the Association; provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association as provided in this Declaration shall not be deemed a transfer within the meaning of this clause.

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner, or the method of allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwellings and other Improvements on the Units, the maintenance of the Exterior Walls or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(iv) fail to maintain Fire and Extended Coverage on any insurable Common Elements on a current replacement cost basis in an amount as near as possible to one hundred percent (100%) of the insurance value (based on current replacement cost);

(v) except as provided by any provision of NRS Chapter 116 applicable hereto, use hazard insurance proceeds for losses to any Common Elements property for other than the repair, replacement or reconstruction of such property; or

(vi) amend those provisions of this Declaration or the Articles of Incorporation or Bylaws which provide for rights or remedies of first Mortgagees.

(e) Eligible Holders, upon written request, shall have the right to: (1) examine the books and records of the Association during normal business hours, (2) require from the Association the submission of an annual audited financial statement (without expense to the Beneficiary, insurer, or guarantor requesting

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such statement) and other financial data, (3) receive written notice of all meetings of the Members, and (4) designate in writing a representative to attend all such meetings.

(f) All Beneficiaries, insurers, and guarantors of first Mortgages, who have filed a written request for such notice with the Board, shall be given thirty (30) days' written notice prior to: (1) any abandonment or termination of the Association; (2) the effective date of any proposed, material amendment to this Declaration or the Articles or Bylaws; and (3) the effective date of any termination of any agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties. Such first Mortgagees shall be given immediate notice: (i) following any damage to the Common Elements whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000.00), and (ii) when the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Properties.

(g) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Elements property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(h) The Reserve Fund described in Article 6 above must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large extraordinary assessments.

(i) The Board shall require that any Manager, and any employee or agent thereof, maintain at all times fidelity bond coverage which names the Association as an obligee; and, at all times from and after the end of the Declarant Control Period, the Board shall secure and cause to be maintained in force at all times fidelity bond coverage which names the Association as an obligee for any Person handling funds of the Association.

(j) When professional management has been previously required by a Beneficiary, insurer, or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of at least sixty-seven percent (67%) of the voting power of the Association and of the Board respectively, and the Beneficiaries of at least fifty-one percent (51%) of the Eligible Holders.

(k) So long as VA is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties, then, pursuant to applicable VA requirement, for so long as Declarant shall control the Association Board, Declarant shall obtain prior written approval of the VA for any material proposed action which may affect the basic organization, subject to Nevada nonprofit corporation law, of the Association (i.e., merger, consolidation, or dissolution of the Association); dedication, conveyance, or mortgage of the Common Elements; or amendment of the provisions of this Declaration, the Articles of Incorporation, Bylaws, or other document which may have been previously approved by the VA; provided that no such approval shall be required in the event that the VA no longer regularly requires or issues such approvals at such time.

In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to reasonably satisfy the express applicable requirements of FHA, VA, FNMA or GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the Membership, as a class of potential Mortgage borrowers and potential sellers of their Units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Unit.

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ARTICLE 14
DECLARANT'S RESERVED RIGHTS

Section 14.1 Declarant's Reserved Rights. Any other provision herein notwithstanding, pursuant to NRS § 116.2105(1)(h), Declarant reserves, in its sole discretion, the following developmental rights and other special Declarant's rights, on the terms and conditions and subject to the expiration deadlines, if any, set forth below:

(a) Right to Complete Improvements and Construction Easement. Declarant reserves, for a period terminating on the fifteenth (15th) anniversary of the Recordation of this Declaration, the right, in Declarant's sole discretion, to complete the construction of the Improvements on the Properties and an easement over the Properties for such purpose; provided, however, that if Declarant still owns any property in the Properties on such fifteenth (15th) anniversary date, then such rights and reservations shall continue for one additional successive period of ten (10) years thereafter.

(b) Exercise of Developmental Rights. Pursuant to NRS Chapter 116, Declarant reserves the right to annex all or portions of the Annexable Area to the Community, pursuant to the provisions of Article 15 hereof, for as long as Declarant owns any portion of the Annexable Area. No assurances are made by Declarant with regard to the boundaries of those portions of the Properties which may be annexed or the order in which such portions may be annexed. Declarant also reserves the right to withdraw real property from the Community.

(c) Offices, Model Homes and Promotional Signs. Declarant reserves the right to maintain signs, sales and management offices, and models in any Unit owned or leased by Declarant in the Properties, and signs anywhere on the Common Elements, for so long as Declarant owns or leases any Unit.

(d) Appointment and Removal of Directors. Declarant reserves the right to appoint and remove a majority of the Board during the Declarant Control Period, as set forth in Section 3.7 hereof.

(e) Designation of Neighborhoods and Neighborhood Common Areas. Declarant reserves the right to designate Neighborhoods and Neighborhood Common Areas, as set forth in Article 17, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(f) Supplemental Declarations. Declarant reserves the right to Record (or to cause to be subject to prior written approval of Declarant, in its sole discretion), all Supplemental Declarations from time to time, as set forth in detail in Article 18, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(g) Amendments. Declarant reserves the right to amend this Declaration from time to time, as set forth in detail in Section 19.5, below, and any other provision of this Declaration, during the time periods set forth therein.

(h) Appointment and Removal of ARC. Declarant reserves the right to appoint and remove the ARC, for the time period set forth in Section 8.1, above.

(i) Easements. Declarant has reserved certain easements, and related rights, as set forth in this Declaration.

(j) Control of Entry Gates. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities.

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(k) Restriction of Traffic. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties.

(l) Marketing Names. Declarant reserves the right, for so long as Declarant owns or has any interest in any of the Annexable Area, to market and/or advertise different portions of the Properties under different marketing names.

(m) Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, including, but not limited to, Article 17 below, and, to the maximum extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all Development Rights and Special Declarant Rights as set forth or referenced therein).

Section 14.2 Exemption of Declarant. Notwithstanding anything to the contrary in this Declaration, the following shall apply:

(a) Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to complete excavation and grading and the construction of Improvements to and on any portion of the Properties, or to alter the foregoing and Declarant's construction plans and designs, or to construct such additional improvements as Declarant deems advisable in the course of development of the Properties, for so long as any Unit owned by Declarant remains unsold.

(b) This Declaration shall in no way limit the right of Declarant to grant additional licenses, easements, reservations and rights-of-way to itself, to governmental or public authorities (including without limitation public utility companies), or to others, as from time to time may be reasonably necessary to the proper development and disposal of Units; provided, however, that if FHA or VA approval is sought by Declarant, then the FHA and/or the VA shall have the right to approve any such grants as provided herein.

(c) Prospective purchasers and Declarant shall have the right to use all and any portion of the Common Elements for access to the sales facilities of Declarant and for placement of Declarant's signs.

(d) Without limiting Section 14.1(c), above, or any other provision herein, Declarant may use any structures owned or leased by Declarant, as model home complexes or real estate sales or management offices, subject to the time limitations set forth herein, after which time, Declarant shall restore the Improvement to the condition necessary for the issuance of a final certificate of occupancy by the appropriate governmental entity. Any garages which have converted into sales offices by Declarant shall be converted back to garages at the time of sale to a Purchaser of such Unit.

(e) All or any portion of the rights of Declarant in this Declaration may be assigned by Declarant to any successor in interest, by an express and written Recorded assignment which specifies the rights of Declarant so assigned.

(f) The prior written approval (which shall not be unreasonably withheld) of Declarant, as developer of the Properties, shall be required before any amendment to the Declaration affecting Declarant's rights or interests (including, without limitation, this Article 14) can be effective.

(g) The rights and reservations of Declarant referred to herein, if not earlier terminated pursuant to the Declaration, shall terminate on the date set forth in Section 14.1(a) above.

Section 14.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article 14 operate in part to benefit the Declarant, no amendment to this Article 14, and no amendment in derogation of any other provisions of this Declaration benefitting the Declarant, may be made without the written approval

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of the Declarant, and any purported amendment of Article 14, or any portion thereof, or the effect respectively thereof, without such express prior written approval, shall be void, provided that the foregoing shall not apply to amendments made by Declarant.

ARTICLE 15 **ANNEXATION**

Section 15.1 Annexation of Property. Declarant may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portion of the Annexable Area then owned by Declarant, by Recording an annexation amendment ("Annexation Amendment") with respect to the real property to be annexed ("Annexed Property").

Upon the recording of an Annexation Amendment covering any portion of the Annexable Area and containing the provisions set forth herein, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Property in the same manner as if the Annexed Property were originally covered in this Declaration and originally constituted a portion of the Original Property; and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the Annexed Property shall be the same as with respect to the Original Property and the rights, obligations, privileges, duties and liabilities of the Owners and occupants of Units within the Annexed Property shall be the same as those of the Owners and occupants of Units originally affected by this Declaration. By acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B" hereto), in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter (and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his successors and assigns) to unilaterally execute and Record an Annexation Amendment, annexing said real property to the Community, in the manner provided for in this Article 15.

Section 15.2 Annexation Amendment. Each Annexation Amendment shall conform to the requirements of NRS § 116.211, and shall include:

- (a) the written and acknowledged consent of Declarant;
- (b) a reference to this Declaration, which reference shall state the date of Recordation hereof and the County, book and instrument number, and any other relevant Recording data;
- (c) a statement that the provisions of this Declaration shall apply to the Annexed Property as set forth therein;
- (d) a sufficient description of the Annexed Property;
- (e) assignment of an Identifying Number to each new Unit created;
- (f) a reallocation of the allocated interests among all Units; and
- (g) a description of any Common Elements created by the annexation of the Annexed Property

Section 15.3 FHA/VA Approval. In the event that, and for so long as, the FHA or VA is insuring or guaranteeing loans (or has agreed to insure or guarantee loans) on any portion of the Properties with respect to the initial sale by Declarant to a Purchaser of any Unit, then a condition precedent to any annexation of any property other than the Annexable Area shall be written confirmation by the FHA or the VA that the annexation is in accordance with the development plan submitted to and approved by the FHA or the VA; provided,

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however, that such written confirmation shall not be a condition precedent if at such time the FHA or the VA has ceased to regularly require or issue such written confirmations.

Section 15.4 Disclaimers Regarding Annexation. Portions of the Annexable Area may or may not be annexed, and if annexed, may be annexed at any time by Declarant, and no assurances are made with respect to the boundaries or sequence of annexation of such portions. Annexation of a portion of the Annexable Area shall not necessitate annexation of any other portion of the remainder of the Annexable Area. Declarant has no obligation to annex the Annexable Area, or any portion thereof.

Section 15.5 Expansion of Annexable Area. In addition to the provisions for annexation specified in Section 15.2 above, the Annexable Area may, from time to time, be expanded to include additional real property, not as yet identified. Such property may be annexed to the Annexable Area upon the Recordation of a written instrument describing such real property, executed by Declarant and any other owner of such property.

Section 15.6 Contraction of Annexable Area. So long as real property has not been annexed to the Properties subject to this Declaration, the Annexable Area may be contracted to delete such real property effective upon the Recordation of a written instrument describing such real property, executed by Declarant and all other owners, if any, of such real property, and declaring that such real property shall thereafter be deleted from the Annexable Area. Such real property may be deleted from the Annexable Area without a vote of the Association or the approval or consent of any other Person, except as provided herein.

ARTICLE 16 **ADDITIONAL DISCLOSURES, DISCLAIMERS, AND RELEASES**

Section 16.1 Additional Disclosures and Disclaimers of Certain Matters. Without limiting any other provision in this Declaration, by acceptance of a deed to a Unit, each Owner (for purposes of this Section 16.1, the term "Owner" shall include the Owner, and the Owner's Family, guests and tenants), and by residing within the Properties, each Resident (for purposes of this Article 16, the term "Resident" shall include each Resident, and the Resident's family and guests) shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

(a) that there are or may be major electrical power system components (high voltage transmission or distribution lines, transformers, etc.) presently and from time to time located within, adjacent to, or nearby the Properties (including, but not limited to, the Common Elements and/or the Unit), which generate certain electric and magnetic fields ("EMF") around them, and that Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to EMF;

(b) that the Unit and the other portions of the Properties are or from time to time may be located within or nearby: (1) airplane flight patterns or clear zones, and subject to significant levels of airplane noise, and (2) major roadways, and subject to significant levels of noise, dust, and other nuisance resulting from proximity to major roadways and/or vehicles. Also, each Unit is located in proximity to streets and other Dwellings in the Community, and subject to substantial levels of sound and noise. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to such airplane flight patterns or clear zones and/or roadways or vehicles or noise;

(c) that there are presently and may in the future be a water reservoir site and/or other additional water retention facilities located nearby or adjacent to, or within the Community, and the Community is located adjacent to or nearby major water and drainage channels, major washes, and a major water detention basin (all of the foregoing, collectively, "Facilities"), the ownership, use, regulation, operation, maintenance, improvement and repair of which are not within Declarant's control, and over which Declarant has no jurisdiction or authority, and, in connection therewith: (1) the Facilities may be an attractive nuisance; (2) maintenance and use of the Facilities may involve various operations and applications, including (but not necessarily limited to) noisy electric, gasoline or other power driven vehicles and/or equipment used by

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Facilities maintenance and repair personnel during various times of the day, including, without limitation, early morning and/or late evening hours, and (3) the possibility of damage to Improvements and property on the Properties, particularly in the event of overflow of water or other substances from or related to the Facilities, as the result of nonfunction, malfunction, or overtaxing of the Facilities or any other reason, and (4) any or all of the foregoing may cause inconvenience and disturbance to Purchaser and other persons in or near the Unit and/or Common Elements, and possible injury to person and/or damage to property;

(d) that, additionally, there is a channel located on or over an easement through the Properties with related improvements (all of the foregoing, collectively, "Channel"), intended to help route flood waters through the Properties; it is presently contemplated that the Channel will constitute a Common Element, to be owned, maintained, repaired and/or replaced by the Association as a Common Expense; the disclosures and disclaimers set forth in the foregoing subsections (c)(1) through (4), inclusive, modified only to apply to the Channel, are incorporated herein by this reference;

(e) that the Properties are or may be located within designated flood plain areas, and the mortgage-holder(s), if any, of Purchaser (and/or subsequent Owners) will or may require flood insurance coverage for the dwelling and any other structures located on the Unit, until such time, if any, as the Properties may be removed from the designated flood plain area; and Declarant specifically disclaims any and all representations and warranties, express or implied, with regard to or pertaining to flood plains, floods, water damage, and/or flood insurance;

(f) that certain governmental officials in Clark County, Nevada, have indicated that Clark County may construct a water detention basin ("Detention Basin") generally to the northwest of the Properties; if and when the Detention Basin is constructed by Clark County and is fully operational, it is possible that the Association and/or Owners may petition to have the Channel vacated and the Properties, or portion(s) thereof, removed from designated flood plain area; Declarant makes no representation whatsoever whether the Detention Basin ever may be constructed or operational, and, if the Detention Basin is constructed and operational, what its effect may be, and whether the Channel may be vacated or the Properties removed from designated flood plain area;

(g) that the Unit and other portions of the Properties are or may be nearby major regional underground natural gas transmission pipelines. Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to gas transmission pipelines;

(h) that the Las Vegas Valley contains a number of earthquake faults, and the Unit and other portions of the Properties may be located on or nearby an identified or yet to be identified seismic fault line. Declarant specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to earthquake or seismic activities;

(i) that construction or installation of Improvements by Declarant, other Owners, or third parties, and/or installation or growth of trees or other plants, may impair or eliminate the view, if any, of or from a Unit. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to the impairment or elimination of any existing or future view;

(j) that residential subdivision and new home construction is an industry inherently subject to variations and imperfections. Purchaser acknowledges and agrees that items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including, but not limited to: reasonable wear, tear or deterioration, shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading, touch-up painting; minor flaws or corrective work; and like items) and are not constructional defects. Purchaser acknowledges that, (1) the finished construction of the Unit and the Common Elements, while within the standards of the industry in the Las Vegas Valley, Clark County, Nevada, and while in substantial compliance with the plans and specifications, will be subject to expected minor flaws; and (2) issuance of a Certificate of Occupancy by the relevant governmental authority with jurisdiction shall be deemed conclusive evidence that the relevant Improvement has been built within such industry standards;

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(k) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(l) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(m) that installation and maintenance of a gated community and/or any security device shall not create any presumption or duty whatsoever of Declarant or Association (or their respective officers, directors, managers, employees, agents, and/or contractors) with regard to security or protection of person or property within or adjacent to the Properties;

(n) that gated entrances may restrict or delay entry into the Properties by law enforcement, fire protection, and/or emergency medical care personnel and vehicles; and each Owner, by acceptance of a deed to a Unit, whether or not so stated in the deed, shall be deemed to have voluntarily assumed the risk of such restricted or delayed entry,

(o) that the Unit and other portions of the Properties are located adjacent or nearby to certain undeveloped areas which may contain various species of wild creatures (including, but not limited to, coyotes and foxes), which may from time to time stray onto the Properties, and which may otherwise pose a nuisance or hazard;

(p) that the Unit and other portions of the Properties from time to time may, but need not necessarily, experience problems with scorpions, bees, ants, spiders, termites, pigeons, or other insect or pest problems (collectively, "pests"), and that Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to any pest, and each Owner must make its own independent determination regarding the existence or non-existence of any pest(s) which may be associated with the Unit or other portions of the Properties,

(q) that there is a high degree of alkalinity in soils and/or water in the Las Vegas Valley; that such alkalinity tends to produce, by natural chemical reaction, discoloration, leaching and erosion or deterioration of concrete walls and other Improvements ("alkaline effect"); that the Unit and other portions of the Properties may be subject to such alkaline effect, which may cause inconvenience, nuisance, and/or damage to property; and that the Governing Documents require Owners other than Declarant to not change the established grading and/or drainage, and to not permit any sprinkler or irrigation water to strike upon any wall or similar Improvement,

(r) that Purchaser acknowledges having received from Declarant information regarding the zoning designations and the designations in the master plan regarding land use, adopted pursuant to NRS Chapter 278, for the parcels of land adjoining the Properties to the north, south, east, and west, together with a copy of the most recent gaming enterprise district map made available for public inspection by the jurisdiction in which the Unit is located, and related disclosures. Declarant makes no further representation, and no warranty (express or implied), with regard to any matters pertaining to adjoining land or uses thereof or to gaming uses. Purchaser is hereby advised that the master plan and zoning ordinances are subject to change from time to time. If Purchaser desires additional or more current information concerning these zoning and gaming designations, Purchaser should contact the City of Las Vegas or Clark County Planning Department. Purchaser acknowledges and agrees that its decision to purchase is based solely upon Purchaser's own investigation and not upon any information provided by any sales agent;

(s) that Declarant presently plans to develop only those Lots which have already been released for construction and sale, and Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Unit. The Purchaser or Owner of a Unit may have seen proposed or contemplated residential and other developments which may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or may have been

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advised of the same in discussions with sales personnel; however, notwithstanding such plot plans, sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct such future or planned developments or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. A Purchaser or Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions;

(t) that residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, construction-related traffic and traffic restrictions, and other construction-related "nuisances". Each Owner acknowledges and agrees that it is purchasing a Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accepts substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of land being developed) have been completed and sold out;

(u) that Declarant shall have the right, from time to time, in its sole discretion, to establish and/or adjust sales prices or price levels for new homes and/or Lots;

(v) that model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver the Unit in conformity with any model home, and any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded flooring, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to Purchaser unless an authorized officer of Declarant has specifically agreed in a written Addendum to the Purchase Agreement to make specific items a part of the Purchase Agreement;

(w) that the Unit and other portions of the Properties are or may be located adjacent to or nearby a school, and school bus drop off/pickup areas, and subject to levels of noise, dust, and other nuisance resulting from or related to proximity to such school and/or school bus stops;

(x) that some, but not all, Units, are large enough to accommodate parking of a recreational vehicle ("RV") on the side yard area of the Unit, subject to all restrictions set forth in the Declaration. If a Purchaser desires to purchase a Unit suitable for accommodating parking of an RV on the Unit, it is solely the Purchaser's responsibility and obligation to specifically confirm and verify with Declarant in a written addendum to the Purchase Agreement, whether the Unit being purchased may legitimately accommodate parking of an RV, subject to all use and other restrictions set forth in the Declaration;

(y) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities;

(z) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities, provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties;

(aa) that Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all special declarant's rights referenced in NRS § 116.110385);

(ab) that Declarant has reserved certain easements, and related rights and powers, as set forth in this Declaration; and

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(ac) that each Purchaser understands, acknowledges, and agrees that Declarant has reserved certain rights in the Declaration, which may limit certain rights of Purchaser and Owners other than Declarant.

Section 16.2 Disclaimers and Releases. As an additional material inducement to Declarant to sell the Unit to Purchaser, and without limiting any other provision in the Purchase Agreement, Purchaser (for itself and all persons claiming under or through Purchaser) acknowledges and agrees: (a) that Declarant specifically disclaims any and all representations and warranties, express and implied, with regard to any of the foregoing disclosed or described matters (other than to the extent expressly set forth in the foregoing disclosures); and (b) fully and unconditionally releases Declarant and the Association, and their respective officers, managers, agents, employees, suppliers and contractors, from any and all loss, damage or liability (including, but not limited to, any claim for nuisance or health hazards) related to or arising in connection with any disturbance, inconvenience, injury, or damage resulting from or pertaining to all and/or any one or more of the conditions, activities, and/or occurrences described in the foregoing portions of this Declaration.

ARTICLE 17

ADDITIONAL PROVISIONS PERTAINING TO NEIGHBORHOODS

Section 17.1 Designation of Neighborhoods and Neighborhood Common Areas. Declarant additionally reserves the right, in its sole discretion to designate Neighborhoods (and to unilaterally redesignate Neighborhood names, designations, and/or boundaries) and Neighborhood Common Areas, as set forth below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration. Each Unit shall be located within a Neighborhood.

(a) **"Neighborhood"** shall mean a group of particular Units designated by Declarant as a specific neighborhood for purposes of sharing Neighborhood Common Area (and/or receiving other benefits or services which are not provided to other Units within the Community but outside of such Neighborhood), subject to sharing by Units within the Neighborhood of Neighborhood Expenses through supplemental periodic Neighborhood Assessments, if any, as established by the Board from time to time. Any and all Neighborhoods shall be subject to the Governing Documents, provided that a Neighborhood may (in Declarant's sole discretion), but need not necessarily, also be subject to a Supplemental Declaration or within the jurisdiction of a Sub-Association. In such case, in the event of any irreconcilable conflict, the Governing Documents shall prevail, and the Board shall have the power and right, but not the obligation, to veto any action taken or contemplated to be taken by any such Sub-Association or Owner (other than Declarant, whose rights and actions shall not be subject to any such Board veto) or group of Owners which the Board determines, in its reasonable business judgment, to be inconsistent with Community-wide standards or incompatible with the best interests of the Association as a whole.

(b) **"Neighborhood Assessments"** shall mean those periodic assessments, which shall be supplemental to all Community Assessments, levied by the Board or Board of directors of a Sub-Association, if permitted by Declarant in its sole discretion, uniformly upon the Units within a particular Neighborhood to pay for the Neighborhood Expenses within such Neighborhood.

(c) **"Neighborhood Common Area"** shall mean a portion of the Common Elements which shall constitute Limited Common Elements allocated for the use and benefit of one or more Neighborhood(s) (but less than the entire Community) as designated by Declarant in its sole discretion. Neighborhood Common Area is available for the use and enjoyment of only the Owners (subject to the Sub-Association, if any) within such Neighborhood. Neighborhood Common Area may vary by Neighborhood. Without limiting the preceding sentence, certain Neighborhoods may be gated, and other Neighborhoods may not be gated, in Declarant's sole discretion. The level of maintenance of Neighborhood Common Area shall be determined from time to time by the Board, provided that the Owners of Units within a Neighborhood may request the Board to enhance the level of maintenance in such Neighborhood (at the sole cost of such Neighborhood and the

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Owners thereof), pursuant to Rules and Regulations governing same which may be established and/or revised by the Board from time to time in its reasonable business judgment.

(d) "Neighborhood Expenses" shall mean the expenditures made by, or financial liabilities of, the Association (or Sub-Association, if applicable), together with any allocations to reserves, for maintenance, management, operation, repair, replacement and insurance of Neighborhood Common Area, or for the particular benefit of Owners of Units within a particular Neighborhood, as may be authorized pursuant to this Declaration or in any applicable Supplemental Declaration.

(e) Initially, Declarant contemplates that there will be four Neighborhoods: Autumn Hills, Monterey, Somerset, and Ridgmont; however, Declarant reserves the right from time to time to designate fewer, different, and/or additional Neighborhoods.

Section 17.2 Neighborhood Common Areas. Certain portions of the Common Elements from time to time may be designated by Declarant, in its sole discretion, as Neighborhood Common Area, which shall constitute Limited Common Elements allocated and reserved for the exclusive use or primary benefit of Owners and Residents within a particular Neighborhood. By way of illustration and not limitation, Neighborhood Common Area may, but need not necessarily, include Neighborhood entry features, entry gates, Private Streets, landscaping, and other Limited Common Elements within a particular Neighborhood. Certain Neighborhoods may be gated, and other Neighborhoods may be non-gated, in Declarant's sole discretion. All costs associated with maintenance, management, operation, repair, replacement, and insurance of Neighborhood Common Area shall be a Neighborhood Expense, allocated uniformly and levied as Neighborhood Assessments among the Owners in the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.3 Designation of Neighborhood Common Areas. Any Neighborhood Common Area initially shall be designated as such from time to time in: (a) a separate instrument Recorded by Declarant in its sole discretion, or (b) in the deed conveying such Neighborhood Common Area to the Association (or, if applicable, to a Sub-Association for the Neighborhood); or (c) on the relevant Recorded subdivision plat; provided, however, that any such designation shall not preclude Declarant from later assigning use of the same Neighborhood Common Area to additional Units and/or Neighborhood(s), so long as Declarant has a right to subject additional property to this Declaration pursuant to Article 15, above. Thereafter, allocation of Neighborhood Common Area may be reassigned upon written approval of the Board and the affirmative vote of a majority of the votes within the Neighborhood(s) affected by the proposed reallocation. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article 15 above, any such allocation or reallocation shall also require Declarant's prior written consent, in its sole discretion.

Section 17.4 Use of Neighborhood Common Area. Subject to all of the other provisions of this Declaration (including, without limitation, the easements, use restrictions, maintenance and repair obligations, and architectural and landscaping control provisions), Neighborhood Common Area (which, by way of illustration and not limitation, may but need not necessarily include separate Neighborhood entry gates and Private Streets within the Neighborhood) is exclusively allocated to and reserved for the exclusive use of Owners and Residents of Units within the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.5 Maintenance, Repair, and Replacement of Neighborhood Common Area. Costs of management, operation, maintenance, repair, replacement and insurance of Neighborhood Common Area shall be a Neighborhood Expense assessed as Neighborhood Assessments to the Owners of Units in the Neighborhood(s) to which the Neighborhood Common Areas are allocated.

Section 17.6 Allocation and Budgeting of Neighborhood Expenses. As part of the annual Budget process set forth in, and, subject to the provisions of Section 6.4 above, the Board shall cause to be prepared and delivered, to each Owner of a Unit in a Neighborhood, a supplemental budget covering the estimated Neighborhood Expenses for a Neighborhood (which shall also include a reasonably prudent allocation for

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reserves for capital repairs and replacement of Neighborhood Common Area). The Association is hereby authorized to levy Neighborhood Assessments uniformly against all Units in the Neighborhood subject to assessment, to fund Neighborhood Expenses. Such Neighborhood budget and Neighborhood Assessments promulgated by the Association shall become effective unless disapproved by Owners of seventy-five percent (75%) of the affected Units in the Neighborhood; however, there shall be no obligation to call a special meeting of the Owners of Units in such Neighborhood. If the proposed budget for a Neighborhood is disapproved, or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board may revise the budget for any Neighborhood, and the amount of any Neighborhood Assessment from time to time during the year, subject to notice and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above. Notwithstanding the foregoing, if a Supplemental Declaration has been duly Recorded, and a Sub-Association has been duly created, with respect to such Neighborhood, then, subject to express delegation set forth in said Supplemental Declaration or separate Recorded delegation by Declarant, the Sub-Association shall be obligated to prepare, notice, and administer a Neighborhood budget in like manner as set forth in Section 6.4 above.

ARTICLE 18

SUPPLEMENTAL DECLARATIONS; SUB-ASSOCIATIONS

Section 18.1 Supplemental Declarations Supplemental Declaration(s) may be Recorded from time to time by Declarant, in its sole discretion. A Supplemental Declaration shall be supplemental to this Declaration, and may but need not necessarily create a Sub-Association and/or impose supplemental obligations, covenants, conditions, or restrictions, or reservations of easements, with respect to a particular Neighborhood or other land described in such instrument. This Declaration and any Supplemental Declaration shall be construed to be consistent with each other to the greatest extent reasonably possible; however, in the event of any irreconcilable conflict the provisions of this Declaration shall prevail. Any purported Supplemental Declaration Recorded by a Person other than Declarant, without the express prior written consent of Declarant, shall be null and void.

Section 18.2 Sub-Associations No Sub-Association may be validly organized except pursuant to the authority and jurisdiction of a Supplemental Declaration as set forth in Section 18.1, above, and approval of Declarant in its sole discretion. Subject to the foregoing, a duly created Sub-Association shall be a supplemental Neighborhood homeowners association organized pursuant to the authority and jurisdiction of a Supplemental Declaration with concurrent and supplemental jurisdiction (subject to this Declaration and the other Community Governing Documents) with the Association with respect to a particular Neighborhood. A Sub-Association shall have the power to establish standards and conduct activities for the property under its responsibility, subject to the Community Governing Documents and the Neighborhood Governing Documents. Notwithstanding the foregoing, the Association shall have the power and authority to veto any action taken or contemplated to be taken by any Sub-Association which the Board reasonably determines to be in violation of the Community Governing Documents, or adverse or detrimental to the best interests of the Association, or its Members. The Association also shall have the power to reasonably require specific action to be taken by any Sub-Association in connection with the Sub-Association's obligations and responsibilities (for example, without limitation, requiring specific maintenance or repairs, or requiring that a proposed Neighborhood budget include certain items and that expenditures be made therefor). A Sub-Association shall take appropriate action required by the Association by written notice, within the reasonable time frame set forth in such notice. If the Sub-Association fails to so comply, the Association shall have the power and authority to effectuate such action on behalf of the Sub-Association and to levy Special Assessments to cover the reasonable costs thereof.

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**ARTICLE 19
GENERAL PROVISIONS**

Section 19.1 Enforcement. Subject to Section 5.3 above, the Governing Documents may be enforced by the Association as follows:

(a) Breach of any of the provisions contained in the Declaration or Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal or equitable proceedings instituted, in compliance with applicable Nevada law, by any Owner, including Declarant so long as Declarant owns a Unit, by the Association, or by the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. Each Owner shall have a right of action against the Association for any material, unreasonable, and continuing failure by the Association to comply with the material and substantial provisions of this Declaration, or of the Articles or Bylaws.

(b) The Association further shall have the right to enforce the obligations of any Owner under any material provision of this Declaration, by assessing a reasonable fine as a Special Assessment against such Owner or Resident, and/or suspending the right of such Owner to vote at meetings of the Association and/or the right of the Owner or Resident to use Common Elements (other than ingress and egress, by the most reasonably direct route, to the Unit), subject to the following:

(1) the person alleged to have violated the material provision of the Declaration must have had written notice (either actual or constructive, by inclusion in any Recorded document) of the provision for at least thirty (30) days before the alleged violation; and

(2) such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation, provided that if any such violation continues for a period of ten (10) days or more after actual notice of such violation has been given to such Owner or Resident, each such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties;

(3) notwithstanding the foregoing, each Owner shall have an unrestricted right of ingress and egress to his Unit by the most reasonably direct route over and across the relevant streets;

(4) no fine imposed under this Section may exceed the maximum amount(s) permitted from time to time by applicable provision of NRS Chapter 116 for each failure to comply. No fine may be imposed until the Owner or Resident has been afforded the right to be heard, in person, by submission of a written statement, or through a representative, at a regularly noticed hearing (unless the violation is of a type that substantially and imminently threatens the health, safety and/or welfare of the Owners and Community, in which case, the Board may take expedited action, as the Board may deem reasonable and appropriate under the circumstances, subject to any limitations set forth in this Declaration or applicable law);

(5) subject to this Section 19.1(b), if any such Special Assessment imposed by the Association on an Owner or Resident by the Association is not paid or reasonably disputed in writing delivered to the Board by such Owner or Resident (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then such Special Assessment shall be enforceable pursuant to Articles 6 and 7 above; and

(6) subject to Section 5.3 above, and to applicable Nevada law (which may first require mediation or arbitration), the Association may also take judicial action against any Owner or Resident to enforce compliance with provisions of the Governing Documents, or other obligations, or to obtain damages for noncompliance, all to the fullest extent permitted by law.

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(c) Responsibility for Violations. Should any Resident violate any material provision of the Rules and Regulations or Declaration, or should any Resident's act, omission or neglect cause damage to the Common Elements, then such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Unit in which the Resident resides. Likewise, should any guest of an Owner or Resident commit any such violation or cause such damage to Common Elements, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident. Reasonable efforts first shall be made to resolve any alleged material violation, or any dispute, by friendly discussion or informal mediation by the ARC or Board (and/or mutually agreeable or statutorily authorized third party mediator), in a "good neighbor" manner. Fines or suspension of voting privileges shall be utilized only after reasonable efforts to resolve the issue by friendly discussion or informal mediation have failed.

(d) The result of every act or omission whereby any of the provisions contained in this Declaration or the Bylaws are materially violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

(e) The remedies herein provided for breach of the provisions contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(f) The failure of the Association to enforce any of the provisions contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.

(g) If any Owner, his Family, guest, licensee, lessee or invitee violates any such provisions, the Board may impose a reasonable Special Assessment upon such Owner for each violation and, if any such Special Assessment is not paid or reasonably disputed in writing to the Board (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then the Board may suspend the voting privileges of such Owner, and such Special Assessment shall be collectible in the manner provided hereunder, but the Board shall give such Owner appropriate Notice and Hearing before invoking any such Special Assessment or suspension.

Section 19.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 19.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, until duly terminated in accordance with NRS § 116.2118.

Section 19.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Elements. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 19.5 Amendment. Except as otherwise provided by this Declaration, and except in cases of amendments that may be executed by a Declarant, this Declaration, including the Plat, may only be amended by both: (a) the vote and agreement of Owners constituting at least sixty-seven percent (67%) of the voting power of the Association, and (b) the written assent or vote of at least a majority of the total voting power of the Board. Notwithstanding the foregoing, termination of this Declaration and any of the following amendments, to be effective, must be approved in writing by the Eligible Holders of at least two-thirds (2/3)

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of the first Mortgages on all of the Units in the Properties at the time of such amendment or termination, based upon one (1) vote for each first Mortgage owned:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers, and guarantors of first Mortgages as provided in Articles 7, 11, 12, 13, 14 and 19 hereof.

(b) Any amendment which would necessitate a Mortgagee, after it has acquired a Unit through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Unit not being separately assessed for tax purposes.

(d) Any amendment relating to the insurance provisions as set out in Article 12 hereof, or to the application of insurance proceeds as set out in Article 12 hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would or could result in termination or abandonment of the Properties or subdivision of a Unit, in any manner inconsistent with the provisions of this Declaration.

(f) Any amendment which would subject any Owner to a right of first refusal or other such restriction if such Unit is proposed to be sold, transferred or otherwise conveyed.

(g) Any amendment materially and substantially affecting: (i) voting rights; (ii) rights to use the Common Elements; (iii) reserves and responsibility for maintenance, repair and replacement of the Common Elements; (iv) leasing of Units; (v) establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage; (vi) boundaries of any Unit; (vii) Declarant's right and power to annex or de-annex property to or from the Properties; and (viii) assessments, assessment liens, or the subordination of such liens.

Notwithstanding the foregoing, if a first Mortgagee who receives a written request from the Board to approve a proposed termination, amendment or amendments to the Declaration does not deliver a negative response to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed termination, amendment or amendments. Notwithstanding anything contained in this Declaration to the contrary, nothing contained herein shall operate to allow any Mortgagee to: (a) deny or delegate control of the general administrative affairs of the Association by the Members or the Board; (b) prevent the Association or the Board from commencing, intervening in or settling any litigation or proceeding, or (c) prevent any trustee or the Association from receiving and distributing any proceeds of insurance, except pursuant to NRS §§ 116.31133 & 116.31135.

A copy of each amendment (other than any amendment which may be accomplished unilaterally by Declarant) shall be certified by at least two (2) Officers, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) Officers, that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Eligible Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Eligible Beneficiaries has been obtained. Until the first Close of Escrow for the sale of a Unit, Declarant shall have the right to terminate or modify this Declaration by Recordation of a supplement hereto setting forth such termination or modification.

Notwithstanding all of the foregoing, for so long as Declarant owns a Lot or Unit, Declarant shall have the power from time to time to unilaterally amend this Declaration to correct any scrivener's errors, to clarify

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any ambiguous provision, to modify or supplement the Exhibits hereto, to make and process through appropriate governmental authority, minor revisions to the Plat deemed appropriate by Declarant in its discretion, and otherwise to ensure that the Declaration conforms with requirements of applicable law. Additionally, by acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B") hereto, in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter, and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his successors and assigns, to unilaterally execute and Record an Annexation Amendment, adding said real property to the Community, in the manner provided for in NRS § 116.2110 and in Article 15 above, and to make and process through appropriate governmental authority, any and all minor revisions to the Plat deemed appropriate by Declarant in its reasonable discretion, and each and every Owner, by acceptance of a deed to his Unit, covenants to sign such further documents and to take such further actions as to reasonably implement and consummate the foregoing.

Section 19.6 Notice of Change to Governing Documents. If any change is made to the Governing Documents, the Secretary (or other designated Officer) shall, within 30 days after the change is made, 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 Owner, a copy of the changes made.

Section 19.7 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public, or for any public use.

Section 19.8 Constructive Notice and Acceptance. Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

Section 19.9 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 19.10 Priorities and Inconsistencies. The Governing Documents shall be construed to be consistent with one another to the extent reasonably possible. If there exist any irreconcilable conflicts or inconsistencies among the Governing Documents, the terms and provisions of this Declaration shall prevail (unless and to the extent only that the Declaration fails to comply with any applicable provision of NRS Chapter 116 or other applicable law). In the event of any inconsistency between the Articles and Bylaws, the Articles shall prevail. In the event of any inconsistency between the Rules and Regulations and any other Governing Document, the other Governing Document shall prevail. In the event of any inconsistency between any Community Governing Document and any other Governing Document which is specific to a particular Neighborhood, the former shall prevail. Any inconsistency between any Neighborhood-specific Governing Document shall be resolved in like manner as set forth above.

Section 19.11 Limited Liability. Except to the extent, if any, expressly prohibited by applicable Nevada law, none of Declarant, Association, and/or ARC, and none of their respective directors, officers, any committee representatives, employees, or agents, shall be liable to any Owner or any other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was reasonable or in good faith. The Association shall indemnify every present and former Officer and Director and every present and former committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

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Section 19.12 Indemnity. Each Owner shall, to the maximum extent not prohibited by law, indemnify and hold free and harmless each and every one of: Declarant, the Association, and their respective partners, members, divisions, subsidiaries and affiliated companies (if any), and their and their respective employees, officers, directors, members, shareholders, agents, committee members, attorneys, professional consultants and representatives, and all of their respective successors and assigns (collectively, "Indemnitees") from and against any and all claims, damages, losses, liabilities, demands, and expenses, including, but not limited to, reasonable attorneys' fees, court costs and expenses of litigation (collectively, hereinafter referred to as "Liabilities"), arising out of or resulting from, or claimed to arise out of or result from, in whole or in part, any fault, act, or omission of the Owner, any contractor or subcontractor employed by the Owner, anyone directly or indirectly employed by any of the foregoing entities, or anyone for whose acts any of the foregoing entities may be liable, in connection with: (a) any work by or of the Owner within the Properties and/or the performance of the Owner's obligations with respect to any and all Improvements designed, installed, constructed, added, altered or remodeled by the Owner pursuant and subject to the Governing Documents, including, without limitation, any such loss, damage, injury or claim arising from or caused by or alleged to have arisen from or have been caused by (i) any use of the Lot, or any part thereof, (ii) any defect in the design, construction of, or material in, any structure or other Improvement upon the Lot, (iii) any defect in soils or in the preparation of soils or in the design and accomplishment of grading, including a spill of any contaminants or hazardous materials in or on the soil, (iv) any accident or casualty on the Lot or in the Properties, (v) any representations by Owner or any of its agents or employees, (vi) a violation or alleged violation by the Owner, its employees or agents, of any applicable law, (vii) any slope failure or subsurface geologic or groundwater condition, (viii) any work of design, construction, engineering or other work with respect to the Lot or Properties provided or performed by or for the Owner at any time whatsoever, or (ix) any other cause whatsoever in connection with Owner's use of the Lot or the Properties, or Owner's performance under this Declaration, or any other Governing Document; or (b) the negligence or wilful misconduct of Owner or its agents, employees, licensees, invitees or contractors in the development, construction, grading or other work performed off the Properties by Owner pursuant to the Governing Documents, and/or the Master Association Documents, or any defect in any such work. Notwithstanding anything to the contrary contained in any of the documents referenced in the preceding sentence, Owner agrees and acknowledges that Indemnitees shall not be liable to Owner for any Liabilities caused by (i) any act or omission of Indemnitees with respect to the review of the Owner's Improvements and/or the drawings or specifications related to the Owner's Improvements, or (ii) any inspection or failure to inspect the construction activities of Owner by any of the Indemnitees, or (iii) any direction or suggestion given by any of the Indemnitees with respect to construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Owner's Improvements, or the failure to give any such direction or suggestion, or for any Liabilities which are covered by insurance or would be covered by insurance required to be maintained by the Owner, and Owner expressly waives any such Liabilities and releases Indemnitees therefrom. The covenants in this Section 19.12 and the obligations of each Owner, and shall be binding on the Owner until such date as any claim or action for which indemnification or exculpation may be claimed under this Section 19.12 is fully and finally barred (or, if applicable, fully and finally resolved, and any payment required thereby has been made in full).

Section 19.13 Business of Declarant. Except to the extent expressly provided herein or as required by any applicable provision of NRS Chapter 116, no provision of this Declaration shall be applicable to limit or prohibit any act of Declarant, or its agents or representatives in connection with or incidental to Declarant's improvement and/or development of the Properties, so long as any Unit therein owned by Declarant remains unsold.

Section 19.14 Compliance With NRS Chapter 116. It is the intent of Declarant that this Declaration and the Community shall be in all respects consistent with, and not in violation of, applicable provisions of NRS Chapter 116. In the event any provision of this Declaration is found to irreconcilably conflict with or violate any such applicable provision of NRS Chapter 116, such offending Declaration provision shall be automatically deemed modified or severed herefrom to the minimum extent necessary to remove the irreconcilable conflict with or violation of the applicable provision of NRS Chapter 116. Notwithstanding the foregoing or any other provision set forth herein, if any provision of Senate Bill 451 (1999) should, in the future, be removed or made

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less burdensome (from the perspective of Declarant), as a matter of law, then the future change in such provision shall automatically be deemed to have been made and reflected in this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first written above.

DECLARANT:

PERMA-BILT,
a Nevada corporation

By:


Daniel Schwartz, President

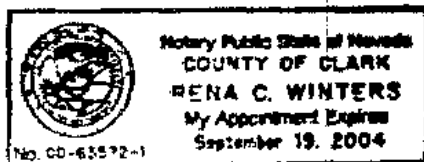
STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on this 8th day of August, 2001, by DANIEL SCHWARTZ, as President of PERMA-BILT, a Nevada corporation.


NOTARY PUBLIC
(SEAL)

My Commission Expires:

9-19-2004



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EXHIBIT "A"

ORIGINAL PROPERTY

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF CLARK, STATE OF NEVADA, DESCRIBED AS FOLLOWS

Lots One Hundred Seven through One Hundred Nine (107 - 109), inclusive, of Block Three (3), of Russell/Fort Apache - Unit 2, as shown by map thereof on file in Book 101 of Plats, Page 3, in the Office of the County Recorder of Clark County, Nevada;

TOGETHER WITH a non-exclusive easement of ingress and egress over and across the entry area and private streets therein, and a non-exclusive easement of use and enjoyment of the other Common Elements thereof (subject to and as set forth in the foregoing Declaration, as the same from time to time may be amended and/or supplemented by instrument recorded in the Office of the County Recorder of Clark County, Nevada).

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EXHIBIT "B"

RUSSELL / FORT APACHE - UNIT 1

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF FORT APACHE ROAD AND OQUENDO ROAD; THENCE SOUTH 00°51'26" WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER (SE 1/4), COINCIDENT WITH THE CENTERLINE OF FORT APACHE ROAD, 56.54 FEET; THENCE NORTH 89°08'34" WEST, DEPARTING SAID EAST LINE AND SAID CENTERLINE, 50.00 FEET RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY, 39.78 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°09'52", THENCE NORTH 89°41'34" WEST, 577.37 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE SOUTH 89°41'34" WEST, 70.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE SOUTH 89°41'34" WEST, 940.92 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET; THENCE SOUTHWESTERLY, 346.87 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST; THENCE SOUTHWESTERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'08"; THENCE SOUTH 49°39'24" WEST, 35.00 FEET; THENCE NORTH 40°20'36" WEST, 1.91 FEET; THENCE SOUTH 49°39'24" WEST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET; THENCE WESTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 39°02'13" EAST; THENCE SOUTHWESTERLY, 438.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°53'09"; THENCE NORTH 89°09'05" WEST, 183.24 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHWESTERLY, 34.13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 97°45'54"; THENCE SOUTH 83°05'01" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1000.00 FEET; THENCE NORTHWESTERLY, 10.67 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°36'41"; THENCE SOUTH 83°41'42" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY, 28.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°50'46"; THENCE NORTH 00°50'55" EAST, 35.00 FEET; THENCE NORTH 89°09'05" WEST, 8.02 FEET; THENCE NORTH 00°50'55" EAST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHEASTERLY, 31.83 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°11'22" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 89°39'33" WEST.

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**RUSSELL / FORT APACHE - UNIT 1
CONTINUED**

THENCE NORTHERLY, 229.94 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°40'04" TO THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY HAVING A RADIUS OF 960.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 77°40'23" EAST, THENCE NORTHERLY, 192.32 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°28'42"; THENCE NORTH 00°50'55" EAST, 86.61 FEET; THENCE NORTH 89°47'31" EAST, 310.36 FEET, THENCE SOUTH 87°22'43" EAST, 182.33 FEET; THENCE NORTH 89°47'31" EAST, 97.89 FEET; THENCE SOUTH 49°50'38" EAST, 68.20 FEET; THENCE SOUTH 40°09'22" WEST, 25.94 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'58"; THENCE SOUTH 40°20'36" EAST, 13.22 FEET, THENCE SOUTH 49°39'24" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET; THENCE WESTERLY, 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02"; THENCE SOUTH 40°09'22" WEST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHERLY, 29.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 46°50'15" EAST; THENCE SOUTHEASTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09"; THENCE SOUTH 40°20'36" EAST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 31°00'31" EAST, THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53"; THENCE SOUTH 40°20'36" EAST, 76.62 FEET; THENCE NORTH 49°39'24" EAST, 5.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET; THENCE EASTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°53'50" WEST; THENCE NORTHEASTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24"; THENCE NORTH 89°41'34" EAST, 0.59 FEET; THENCE SOUTH 00°49'12" WEST, 30.01 FEET TO THE CENTERLINE OF SAID OQUENDO ROAD; THENCE NORTH 89°41'34" EAST, ALONG SAID CENTERLINE, 677.73 FEET; THENCE NORTH 00°48'22" EAST, DEPARTING SAID CENTERLINE, 30.01 FEET; THENCE NORTH 89°41'34" EAST, 262.61 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE NORTH 89°41'34" EAST, 70.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 15.00 FEET, THENCE SOUTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE NORTH 89°41'34" EAST, 315.18 FEET, THENCE SOUTH 00°47'52" WEST, 30.01 FEET; THENCE NORTH 89°41'34" EAST, 333.90 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 1
CONTINUED**

CONTAINING 10.78 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY, RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

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RUSSELL / FORT APACHE - UNIT 2

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE NORTHWESTERLY CORNER COMMON ELEMENT LOT 18 OF THAT SUBDIVISION KNOWN AS "RUSSELL / FORT APACHE - UNIT 1" ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN BOOK 99, OF PLATS AT PAGE 54, SAME BEING ON THE EASTERLY RIGHT-OF-WAY OF GRAND CANYON PARKWAY; THENCE NORTH 00°50'55" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY, 419.98 FEET; THENCE NORTH 89°47'31" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY, 1314.81 FEET, THENCE SOUTH 00°48'37" WEST, 340.03 FEET; THENCE SOUTH 89°44'33" WEST, 338.77 FEET, THENCE SOUTH 00°49'12" WEST, 310.32 FEET TO THE NORTHERLY RIGHT-OF-WAY OF OQUENDO ROAD, THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 89°41'34" WEST, 0.59 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 630.00 FEET; THENCE SOUTHWESTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 35°53'50" EAST; THENCE WESTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE NORTHEASTERLY RIGHT-OF-WAY OF SWEET JASMINE DRIVE; THENCE FOLLOWING ALONG SAID NORTHEASTERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 49°39'24" WEST, 5.00 FEET, THENCE NORTH 40°20'36" WEST, 76.62 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET; THENCE NORTHWESTERLY 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 31°00'31" WEST; THENCE NORTHWESTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53", THENCE NORTH 40°20'36" WEST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET, THENCE NORTHWESTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 46°50'15" WEST, THENCE NORTHWESTERLY, 29.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF WISPY WINDS STREET, THENCE NORTH 40°09'22" EAST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET; THENCE 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02"; THENCE NORTH 49°39'24" EAST, 39.00 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF STRAIT FIELD PLACE; THENCE NORTH 40°20'36" WEST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, 13.22 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'58" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID WISPY WINDS STREET, THENCE NORTH 40°09'22" EAST, ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY, 25.94 FEET THENCE NORTH 49°50'38" WEST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY, 68.20 FEET, TO THE NORTHERLY BOUNDARY OF SAID "RUSSELL / FORT APACHE - UNIT 1", THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89°47'31" WEST, 97.89 FEET THENCE NORTH 87°22'43" WEST, 182.33 FEET; THENCE SOUTH 89°47'31" WEST, 230.35 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 2
CONTINUED**

CONTAINING 15.10 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY, RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

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RUSSELL / FORT APACHE - UNIT 3

BEING A PORTION OF THE SOUTH HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST SIXTEENTH SECTION CORNER OF SAID SECTION 31, BEING ON THE CENTERLINE OF OQUENDO ROAD; THENCE NORTH 89°41'34" EAST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SAID NORTHEAST QUARTER (NE 1/4) COINCIDENT WITH THE CENTERLINE OF SAID OQUENDO ROAD 452.09 FEET; THENCE SOUTH 00°18'26" EAST, 30.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OQUENDO ROAD SAME BEING THE POINT OF BEGINNING.

THENCE CONTINUING SOUTH 00°18'26" EAST, 170.00 FEET; THENCE SOUTH 89°41'34" WEST, 18.32 FEET; THENCE SOUTH 00°18'26" EAST, 389.58 FEET; THENCE SOUTH 89°41'34" WEST, 721.80 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 50.00 FEET; THENCE WESTERLY, 23.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°26'15" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 100.00 FEET; A RADIAL LINE TO SAID BEGINNING BEARS NORTH 26°07'48" EAST THENCE WESTERLY, 66.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°58'15" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 280.50 FEET; A RADIAL LINE TO SAID BEGINNING BEARS NORTH 11°50'25" EAST, THENCE SOUTHWESTERLY, 14.07 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°52'30"; THENCE NORTH 14°42'55" WEST, 39.00 FEET; THENCE NORTH 00°18'26" WEST, 174.21 FEET; THENCE SOUTH 60°12'51" WEST, 228.01 FEET; THENCE SOUTH 89°32'50" WEST, 152.72 FEET; THENCE SOUTH 12°49'01" EAST, 21.38 FEET; THENCE SOUTH 77°10'59" WEST, 112.15 FEET; THENCE SOUTH 70°55'12" WEST, 39.00 FEET; RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 319.50 FEET; THENCE NORTHWESTERLY, 17.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°12'53"; THENCE SOUTH 81°20'09" WEST, 123.52 FEET; THENCE NORTH 08°39'51" WEST, 212.30 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET; A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 08°19'28" EAST, THENCE NORTHEASTERLY, 337.70 FEET ALONG THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD AND SAID CURVE THROUGH A CENTRAL ANGLE OF 30°42'45" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET; A RADIAL LINE TO SAID BEGINNING BEARS NORTH 39°02'13" WEST, THENCE EASTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37"; THENCE NORTH 49°39'24" EAST, 35.00 FEET TO THE CENTERLINE OF SWEET JASMINE DRIVE; THENCE SOUTH 40°20'36" EAST, ALONG SAID CENTERLINE, 1.91 FEET; THENCE NORTH 49°39'24" EAST, 35.00 FEET; RADIALLY TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'08" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET; A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST; THENCE NORTHEASTERLY, 346.87 FEET CONTINUING ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02"; THENCE NORTH 89°41'34" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, 790.92 FEET TO THE POINT OF BEGINNING.

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**RUSSELL / FORT APACHE - UNIT 3
CONTINUED**

CONTAINING 15.17 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY, RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

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RUSSELL / FORT APACHE - UNIT 4

BEING A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF PATRICK LANE AND GRAND CANYON DRIVE, THENCE SOUTH 89°33'42" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 31 COINCIDENT WITH THE CENTERLINE OF SAID PATRICK LANE, 63.56 FEET, THENCE NORTH 00°26'18" WEST, DEPARTING SAID SOUTH LINE AND SAID CENTERLINE, 40.00 FEET TO THE NORTHERLY RIGHT OF WAY OF SAID PATRICK LANE, SAME BEING THE POINT OF BEGINNING, THENCE SOUTH 89°33'42" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY, 954.06 FEET, THENCE NORTH 00°53'34" EAST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, 611.93 FEET, THENCE NORTH 89°33'42" EAST, 76.74 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 189.00 FEET, THENCE SOUTH 00°26'18" EAST, 105.77 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE SOUTH 00°26'18" EAST, 39.00 FEET, THENCE SOUTH 89°33'42" WEST, 7.97 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 27.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 77°33'47" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 78°00'05" EAST, THENCE SOUTHWESTERLY, 66.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°56'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 66°03'51" WEST, THENCE SOUTHWESTERLY, 44.96 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°11'01", THENCE NORTH 89°33'42" EAST, 479.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 80°58'43" WEST, THENCE SOUTHWESTERLY, 148.35 FEET ALONG SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°10'22", THENCE SOUTH 00°50'55" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY, 119.02 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET, THENCE SOUTHWESTERLY, 38.71 FEET ALONG SAID CURVE, DEPARTING WESTERLY RIGHT-OF-WAY OF SAID GRAND CANYON DRIVE THROUGH A CENTRAL ANGLE OF 88°42'47" TO THE NORTHERLY RIGHT-OF-WAY OF SAID PATRICK LANE, BEING THE POINT OF BEGINNING

CONTAINING 10.27 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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RUSSELL / FORT APACHE - UNIT 5

BEING A SUBDIVISION OF GOVERNMENT LOTS 15 AND 18 AND A PORTION GOVERNMENT LOTS 14 AND LOT 19, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 50 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 31, SAME BEING THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 OF SAID SECTION 31, THENCE NORTH 89°31'58" EAST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW 1/4), COINCIDENT WITH THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 17, AND THE CENTERLINE OF PATRICK LANE, A DISTANCE OF 227.80 FEET TO THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE POINT OF BEGINNING:

THENCE NORTH 00°51'50" EAST, DEPARTING SAID CENTERLINE AND ALONG THE EAST BOUNDARY OF SAID GOVERNMENT LOT 17, COINCIDENT WITH THE WEST BOUNDARY OF SAID GOVERNMENT LOT 18, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 15; THENCE CONTINUING NORTH 00°51'50" EAST, ALONG THE WEST BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 15, THENCE NORTH 89°42'59" EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 340.09 FEET TO THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 15, SAME BEING THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 14, THENCE CONTINUING NORTH 89°42'59" EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 224.92 FEET, THENCE SOUTH 00°28'02" WEST, DEPARTING THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 121.20 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 02°25'26" EAST; THENCE NORTHEASTERLY, 43.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°55'55", THENCE SOUTH 11°21'21" EAST, 155.63 FEET, THENCE SOUTH 68°00'54" WEST, 58.02 FEET, THENCE SOUTH 33°19'55" EAST, 167.53 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, THENCE SOUTHWESTERLY, 48.61 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°34'08" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 36°54'01" WEST THENCE SOUTHERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°58'38", THENCE SOUTH 50°07'21" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, THENCE WESTERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°58'38" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 42°51'18" WEST, THENCE SOUTHWESTERLY, 400.97 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°26'05" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 72°17'23" WEST, THENCE SOUTHEASTERLY, 35.17 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 100°45'59", THENCE SOUTH 06°56'38" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET,

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**RUSSELL / FORT APACHE - UNIT 5
CONTINUED**

THENCE WESTERLY 11 62 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°22'23" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20 00 FEET. A RADIAL LINE TO SAID BEGINNING BEARS NORTH 04°34'15" EAST. THENCE SOUTHWESTERLY, 28 93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°53'13" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780 50 FEET. A RADIAL LINE TO SAID BEGINNING BEARS NORTH 78°18'58" WEST. THENCE SOUTHERLY, 165 52 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°09'04". THENCE SOUTH 00°28'02" EAST, 58 11 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20 00 FEET. THENCE SOUTHEASTERLY, 35 26 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 101°01'27". THENCE SOUTH 11°29'29" EAST, 39 00 FEET. RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 319 50 FEET. THENCE SOUTHWESTERLY, 0 80 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°08'34". THENCE SOUTH 00°28'02" EAST, 75 74 FEET. RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30 00 FEET. THENCE SOUTHEASTERLY, 31 42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30 00 FEET. A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 59°31'58" WEST. THENCE SOUTHEASTERLY, 31 42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00". THENCE SOUTH 00°28'02" EAST, 60 00 FEET TO THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, SAME BEING THE CENTERLINE OF SAID PATRICK LANE. THENCE SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, AND ALONG SAID CENTERLINE, 93 75 FEET TO THE SOUTHEAST CORNER OF GOVERNMENT LOT 18. THENCE CONTINUING SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 18 AND ALONG SAID CENTERLINE, A DISTANCE OF 338 36 FEET TO THE POINT OF BEGINNING

CONTAINING 15 25 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°41'34" WEST -- BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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RUSSELL / FORT APACHE - UNIT 6

BEING A SUBDIVISION OF PORTIONS OF GOVERNMENT LOTS 14, 19 AND 20, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE WEST SIXTEENTH CENTER SECTION CORNER OF SAID SECTION 31, SAME BEING THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 20 AND THE CENTERLINE INTERSECTION OF CONQUISTADOR STREET AND PATRICK LANE, THENCE SOUTH 89°31'58" WEST, ALONG THE CENTERLINE OF SAID PATRICK LANE, 582.97 FEET, THENCE NORTH 00°28'02" WEST, DEPARTING THE CENTERLINE OF SAID PATRICK LANE, 60.00 FEET, RADially TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET; THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 59°31'58" EAST, THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00"; THENCE NORTH 00°28'02" WEST, 75.74 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF CLIFTON FORGE STREET, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 11°20'55" WEST, THENCE EASTERLY, 0.80 FEET ALONG SAID CURVE AND THE SOUTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET THROUGH A CENTRAL ANGLE OF 00°08'34", THENCE NORTH 11°29'29" WEST, DEPARTING SAID SOUTHERLY RIGHT-OF-WAY, 39.00 FEET, RADially TO THE NORTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 35.26 FEET ALONG SAID CURVE, DEPARTING SAID NORTHERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 101°01'27" TO THE EASTERLY RIGHT-OF-WAY OF OQUENDO ROAD; THENCE NORTH 00°28'02" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, 58.11 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780.50 FEET; THENCE NORTHERLY, 165.52 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 12°09'04" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 78°18'58" WEST, THENCE NORTHEASTERLY, 28.93 FEET ALONG SAID CURVE AND DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 82°53'13" TO THE SOUTHERLY RIGHT-OF-WAY OF FLOKTON STREET BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 04°34'15" EAST, THENCE EASTERLY, 11.62 FEET ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF 02°22'23"; THENCE NORTH 06°56'38" EAST, DEPARTING THE SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, 39.00 FEET, RADially TO THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY, 35.17 FEET ALONG SAID CURVE, DEPARTING THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF 100°45'59" TO THE EASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 72°17'23" WEST;

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**RUSSELL / FORT APACHE - UNIT 6
CONTINUED**

THENCE NORTHEASTERLY, 400.97 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 29°26'05" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 42°51'18" WEST. THENCE NORTHEASTERLY, 32.46 FEET ALONG SAID CURVE, DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 92°58'38" TO THE SOUTHWESTERLY RIGHT-OF-WAY OF WONDERFUL DAY AVENUE. THENCE SOUTH 39°52'39" EAST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, 55.45 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 219.50 FEET. THENCE SOUTHEASTERLY, 33.87 FEET ALONG SAID CURVE AND SAID SOUTHWESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°50'29", THENCE SOUTH 39°21'25" WEST, DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY, 217.22 FEET. THENCE SOUTH 82°58'49" EAST, 69.68 FEET. THENCE NORTH 89°31'58" EAST, 408.27 FEET TO THE EASTERLY BOUNDARY LINE OF SAID GOVERNMENT LOT 20, SAME BEING THE CENTERLINE OF SAID CONQUISTADOR STREET. THENCE SOUTH 00°54'26" WEST ALONG SAID EASTERLY BOUNDARY LINE AND CENTERLINE OF SAID CONQUISTADOR STREET, 613.34 FEET TO THE POINT OF BEGINNING

CONTAINING 9.76 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°31'58" WEST - BEING THE SOUTH LINE OF THE SOUTHWEST (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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EXHIBIT "B"

ANNEXABLE AREA

[ALL, OR ANY PORTIONS OF WHICH, FROM TIME TO TIME MAY, BUT NEED NOT NECESSARILY, BE ANNEXED BY DECLARANT TO THE PROPERTIES]

CERTAIN REAL PROPERTY PRESENTLY OWNED OR TO BE ACQUIRED FROM TIME TO TIME BY DECLARANT AND GENERALLY BOUNDED BY RUSSELL ROAD (TO THE NORTH), FORT APACHE (TO THE EAST), PATRICK LANE (TO THE SOUTH), AND HUALAPAI (TO THE WEST), CLARK COUNTY, NEVADA, SAID PROPERTY TO BE FURTHER DESCRIBED FROM TIME TO TIME BY INSTRUMENT(S) RECORDED BY DECLARANT IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, INCLUDING, BUT NOT LIMITED TO:

- 1 All of the real property in **RUSSELL/FORT APACHE - UNIT 1**, as shown by map final map thereof, on file in **Book 99** of Plats, **Page 54**, in the Office of the County Recorder of Clark County, Nevada;
- 2 All of the real property in **RUSSELL/FORT APACHE - UNIT 2**, as shown by map final map thereof, on file in **Book 101** of Plats, **Page 3**, in the Office of the County Recorder of Clark County, Nevada; EXCEPTING THEREFROM the Original Property described on the foregoing Exhibit "A"

[ADDITIONAL SUBDIVISION MAP DESCRIPTIONS TO BE SUPPLIED FOLLOWING RECORDATION FROM TIME TO TIME OF RELEVANT FINAL MAPS]

[NOTE: DECLARANT HAS SPECIFICALLY RESERVED THE RIGHT FROM TIME TO TIME TO UNILATERALLY ADD TO AND/OR MODIFY OF RECORD ALL OR ANY PARTS OF THE FOREGOING DESCRIPTIONS]

When Recorded, Return To:

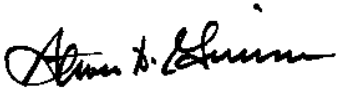
WILBUR M. ROADHOUSE, ESQ.
Gould Patterson DeVore Ales & Roadhouse
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

(wmtf1389 28 1 CCRS 91 wpd)

CLARK COUNTY, NEVADA
JUDITH A. VANDEVER, RECORDER
RECORDED AT REQUEST OF:
GOULD PATTERSON ET AL
06-09-2001 13:23 JVB 84
OFFICIAL RECORDS
BOOK: 20010809 INST: 01455
FEE: 90.00 RPTT. .00

-80-

AA0155



CLERK OF THE COURT

AACC
NEIL B. DURRANT, ESQ.
Nevada Bar No. 7324
C. ROBERT PETERSON, ESQ.
Nevada Bar No. 11680
JASON G. MARTINEZ, ESQ.
Nevada Bar No. 13375
WEIL & DRAGE, APC
2500 Anthem Village Drive
Henderson, NV 89052
(702) 314-1905 • Fax (702) 314-1909
ndurrant@weildrage.com
bpeterson@weildrage.com
jmartinez@weildrage.com
Attorneys for Defendant/Counter-Claimant,
CHERSUS HOLDINGS, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

OCWEN LOAN SERVICING, LLC, a) Case No.: A-14-696357-C
Foreign Limited Liability Company,)
Plaintiff,)
Dept. No.: IV

vs.

CHERSUS HOLDINGS, LLC, a Domestic) **ANSWER TO FIRST AMENDED**
Limited-Liability Company; DOES I through) **COMPLAINT AND COUNTER-CLAIM**
X; and ROE CORPORATIONS XI through) **AGAINST PLAINTIFF**
XX, inclusive,)
Defendants.)

CHERSUS HOLDINGS, LLC, a Domestic)
Limited Liability Company,)
Counter-Claimant,)

vs.

OCWEN LOAN SERVICING, LLC, a)
Foreign Limited Liability Company,)
Counter-Defendant.)

1 **ANSWER TO FIRST AMENDED COMPLAINT**

2 COMES NOW Defendant, CHERSUS HOLDINGS, LLC (“Defendant”), by and through
3 its attorneys of record, the law firm of WEIL & DRAGE, APC, and hereby files this Answer to
4 Plaintiff OCWEN LOAN SERVICING, LLC’s (“Plaintiff”) First Amended Complaint (“Amended
5 Complaint”) by admitting, denying, and alleging as follows:

6 **INTRODUCTION**

7 1. Answering Paragraph 1 of Plaintiff’s Amended Complaint, the allegations
8 contained therein are legal conclusions of law to which no response is required. To the extent a
9 response is required, Defendant denies the allegations contained in said Paragraph.

10 2. Answering Paragraph 2 of Plaintiff’s Amended Complaint, Defendant admits the
11 allegations contained therein.

12 **JURISDICTION AND VENUE**

13 3. Answering Paragraph 3 of Plaintiff’s Amended Complaint, Defendant admits the
14 allegations contained therein.

15 **PARTIES**

16 4. Answering Paragraphs 4, 6, 7, 8 and 9 of Plaintiff’s Amended Complaint,
17 Defendant is without sufficient information or knowledge as to form a belief as to the truth of the
18 allegations contained in said Paragraphs and, therefore, denies the same.

19 5. Answering Paragraph 5 of Plaintiff’s Amended Complaint, Defendant admits the
20 allegations contained therein.

21 6. Answering Paragraph 10 of Plaintiff’s Amended Complaint, said Paragraph pertains
22 to fictitious parties and Defendant is without sufficient information or knowledge as to form a
23 belief as to the truth of the allegations contained in said Paragraph and, therefore, denies the same.

24 **GENERAL ALLEGATIONS**

25 7. Answering Paragraphs 11, 13, 19, 20, 22, 25, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38,
26 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 54, 55, 56, 57, 58, 59, 60, 61 and 62 of Plaintiff’s
27 Amended Complaint, Defendant denies the allegations contained in said Paragraphs.

28 ///

8. Answering Paragraphs 12, 26 and 47 of Plaintiff's Amended Complaint, Defendant is without sufficient information or knowledge as to form a belief as to the truth of the allegations contained in said Paragraphs and, therefore, denies the same.

9. Answering Paragraphs 14, 15, 16, 17, 18 and 21 of Plaintiff's Amended Complaint, Defendant contends the allegations are improper and no response is required, as the documents speak for themselves. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

10. Answering Paragraphs 23, 24, 33, 34, 46 and 53 of Plaintiff's Amended Complaint, the allegations contained therein are legal conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

FIRST CAUSE OF ACTION

(Quiet Title/Declaratory Relief versus Buyer, First 100, and all fictitious Defendants)

11. Answering Paragraph 63 of Plaintiff's Amended Complaint, Defendant repeats and re-alleges its answers to Paragraphs 1 through 62 as though fully set forth herein.

12. Answering Paragraphs 64 and 65 of Plaintiff's Amended Complaint, the allegations contained therein are legal conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

13. Answering Paragraphs 66 and 67 of Plaintiff's Amended Complaint, Defendant admits the allegations contained therein.

14. Answering Paragraphs 68, 69, 70, 71 and 72 of Plaintiff's Amended Complaint, Defendant denies the allegations contained in said Paragraphs.

SECOND CAUSE OF ACTION

(Preliminary and Permanent Injunctions versus Buyer, HOA, Red Rock, United, and fictitious Defendants)

15. Answering Paragraph 73 of Plaintiff's Amended Complaint, Defendant repeats and re-alleges its answers to Paragraphs 1 through 72 as though fully set forth herein.

16. Answering Paragraph 74 of Plaintiff's Amended Complaint, Defendant admits the allegations contained therein.

17. Answering Paragraphs 75, 76, 77, 78, 79, 80 and 81 of Plaintiff's Amended Complaint, Defendant denies the allegations contained in said Paragraphs.

THIRD CAUSE OF ACTION

(Wrongful Foreclosure versus the HOA, Red Rock, United, and fictitious Defendants)

18. Answering Paragraphs 82 through 90 of Plaintiff's Amended Complaint, said Paragraphs do not pertain to Defendant, therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

FOURTH CAUSE OF ACTION

(Negligence versus HOA, Red Rock, United, and the fictitious Defendants)

19. Answering Paragraphs 91 through 97 of Plaintiff's Amended Complaint, said Paragraphs do not pertain to Defendant, therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

FIFTH CAUSE OF ACTION

Negligence Per Se versus HOA, Red Rock, United, and the fictitious Defendants

20. Answering Paragraphs 98 through 107 of Plaintiff's Amended Complaint, said Paragraphs do not pertain to Defendant, therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

SIXTH CAUSE OF ACTION

(Breach of Contract versus the HOA, Red Rock, and United)

21. Answering Paragraphs 108 through 112 of Plaintiff's Amended Complaint, said Paragraphs do not pertain to Defendant, therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

SEVENTH CAUSE OF ACTION

(Misrepresentation versus the HOA)

22. Answering Paragraphs 113 through 122 of Plaintiff's Amended Complaint, said Paragraphs do not pertain to Defendant, therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

///

EIGHTH CAUSE OF ACTION

(Unjust Enrichment versus Buyer, the HOA, Red Rock, United, and fictitious defendants)

23. Answering Paragraph 123 of Plaintiff's Amended Complaint, Defendant repeats and re-alleges its answers to Paragraphs 1 through 122 as though fully set forth herein.

24. Answering Paragraphs 124, 125, 126, 127, 128, 129, 130 and 131 of Plaintiff's Amended Complaint, Defendant denies the allegations contained in said Paragraphs.

NINTH CAUSE OF ACTION

(Tortious Interference with Contract versus Buyer, the HOA, Red Rock, United, and fictitious defendants)

25. Answering Paragraph 132 of Plaintiff's Amended Complaint, Defendant repeats and re-alleges its answers to Paragraphs 1 through 131 as though fully set forth herein.

26. Answering Paragraph 133 of Plaintiff's Amended Complaint, Defendant is without sufficient information or knowledge as to form a belief as to the truth of the allegations contained in said Paragraph and, therefore, denies the same.

27. Answering Paragraphs 134, 135, 136, 137, 138 and 139 of Plaintiff's Amended Complaint, Defendant denies the allegations contained in said Paragraphs.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. Plaintiff's Amended Complaint fails to state claims upon which relief can be granted.

Second Affirmative Defense

2. Plaintiff's claims are barred by the doctrine of unclean hands.

Third Affirmative Defense

3. Plaintiff's claims are barred by the doctrine of laches.

Fourth Affirmative Defense

4. Plaintiff lacks standing to bring the claims contained in the Amended Complaint.

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Fifth Affirmative Defense

5. Without admitting that Plaintiff is entitled to any damages whatsoever, any award to Plaintiff should be reduced or precluded by reason of Plaintiff's bad faith.

Sixth Affirmative Defense

6. Plaintiff's Amended Complaint, and each cause of action or claim for relief asserted therein, is barred by the equitable doctrines of waiver, estoppel, duress and/or abandonment.

Seventh Affirmative Defense

7. Plaintiff's claims have been waived as a result of Plaintiff's acts and conduct.

Eighth Affirmative Defense

8. Plaintiff's claims are barred by reason of its own misrepresentations, fraud, deceitful actions with Defendant.

Ninth Affirmative Defense

9. Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek leave of court to amend this answer to specifically assert any such defense. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defense.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment against Plaintiff as follows:

- 1. That Plaintiff take nothing by way of its Amended Complaint;
- 2. That Plaintiff's Amended Complaint be dismissed with prejudice;
- 3. For costs incurred in the defense of this action;
- 4. For reasonable attorney's fees incurred in defending this action; and
- 5. For such other relief as the court deems just and proper.

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1 **COUNTER-CLAIM**

2 COMES NOW Counter-claimant, CHERSUS HOLDINGS, LLC ("Counter-claimant"),
3 by and through its attorneys of record, the law firm of WEIL & DRAGE, APC, and hereby
4 files its Counter-claim against Counter-defendant OCWEN LOAN SERVICING, LLC
5 ("Counter-defendant"), upon information and belief, as follows:

6 **GENERAL ALLEGATIONS**

7 1. Counter-claimant Chersus Holdings, LLC is a Nevada limited liability company
8 doing business in Clark County, Nevada.

9 2. On information and belief, Counter-defendant OCWEN Loan Servicing, LLC is a
10 foreign limited liability company doing business in Clark County, Nevada.

11 3. On May 28, 2013, a Foreclosure Deed upon Sale was executed conveying the real
12 property located at 5946 Lingering Breeze St., Las Vegas, NV 89148 (APN 163-31-611-022) (the
13 "Property") to First 100, LLC pursuant to a sale held under NRS 116 foreclosing on Southern
14 Terrace Homeowners Association's Lien for Delinquent Assessments.

15 4. On or about October 23, 2013, First 100, LLC sold the Property to Counter-
16 claimant. Counter-claimant recorded its deed on January 13, 2014 as instrument number
17 201401130001734.

18 5. On November 13, 2014, First 100, LLC put Counter-defendant and its agent on
19 actual notice that the homeowners association's lien for delinquent assessment had been foreclosed
20 on and accordingly, the first deed of trust had been extinguished.

21 6. Despite being on constructive and actual notice of the May 28, 2013, foreclosure
22 sale, on information and belief, Counter-defendant proceeded to purport to foreclose on its now-
23 extinguished first deed of trust.

24 7. On information and belief, Counter-defendant purported to sell and purchase the
25 Property at a foreclosure sale on or about December 20, 2013, and recorded its deed on or about
26 January 7, 2014.

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28 ///

1 **FIRST CAUSE OF ACTION**

2 **(Wrongful Foreclosure)**

3 8. Counterclaimant incorporates the foregoing allegations as if the same were fully set
4 forth herein.

5 9. Counter-defendant was on constructive and actual notice that its first deed of trust
6 was extinguished at the HOA foreclosure sale held on or about May 28, 2013.

7 10. Counter-defendant nonetheless knowingly held a foreclosure sale on December 20,
8 2013.

9 11. Because the first deed of trust was extinguished at the HOA foreclosure sale,
10 Counter-defendant had no rights in the Property allowing for foreclosure or any other sale.

11 12. Counterclaimant and Counter-defendant have no contractual privity and as such,
12 Counter-claimant was never in default of any agreement that would have given Counter-defendant
13 the right to foreclose on the Property.

14 13. As a result of Counter-defendant's wrongful conduct, Counter-claimant has
15 suffered damages in excess of \$10,000 to be proven at trial.

16 14. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
17 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
18 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

19 **SECOND CAUSE OF ACTION**

20 **(Quiet Title)**

21 15. Counter-claimant incorporates the foregoing allegations as if the same were fully
22 set forth herein.

23 16. Counter-claimant is the rightful owner of the Property via chain of title starting
24 with First 100's purchase of the Property at the HOA foreclosure sale and reflected in the deed
25 recorded May 29, 2013.

26 17. Counter-defendant was on actual and constructive notice of First 100's superior
27 claim to the Property.

28 18. On information and belief, Counter-defendant claims an interest in the Property.

1 19. Counter-defendant's claim to the Property is adverse to Counter-claimant's.

2 20. Counter-claimant is entitled to a determination from this Court quieting Counter-
3 defendant's claim to title of the Property.

4 21. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
5 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
6 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

7 **THIRD CAUSE OF ACTION**

8 **(Declaratory Relief)**

9 22. Counter-claimant incorporates the foregoing allegations as if the same were fully
10 set forth herein.

11 23. A dispute has arisen between Counter-claimant and Counter-defendant that is ripe
12 for adjudication concerning ownership of the Property and interpretation of NRS 116.3116 et. seq.

13 24. Pursuant to NRS 30.030 and 30.040, Counter-claimant is entitled to declaratory
14 judgment concerning the proper interpretation and enforcement Nevada statute.

15 25. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
16 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
17 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

18 **FOURTH CAUSE OF ACTION**

19 **(Conversion)**

20 26. Counterclaimant incorporates the foregoing allegations as if the same were fully set
21 forth herein.

22 27. Counter-defendant wrongfully committed distinct acts of dominion over Counter-
23 claimant's property by purporting to sell/purchase the Property despite Plaintiff's ownership rights
24 over such property.

25 28. The act was in denial of, or inconsistent with, Counter-claimant's title or right
26 therein.

27 29. The act was in derogation, exclusion, or defiance of Counter-claimant's title or
28 right therein.

30. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered damages in an amount to be proven at trial.

31. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law, Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

FIFTH CAUSE OF ACTION

(Unjust Enrichment)

32. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.

33. Counter-defendant has been unjustly enriched by retaining and asserting dominion over the Property.

34. The principles of justice, equity and good conscience require that such Property be returned to Plaintiff.

35. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered damages in an amount in excess of \$10,000.00, to be proven at trial.

36. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law, Counter-claimant is entitled to recover its attorney's fees and costs incurred herein.

SIXTH CAUSE OF ACTION

(Slander of Title)

37. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.

38. Counter-defendant made false and malicious communications disparaging Counter-claimant's title in the Property, specifically, knowingly holding itself out to have an interest in the Property when it had actual and constructive and/or actual notice that its interest, if any, had been extinguished or void by virtue of the Foreclosure Sale.

39. Counter-claimant sustained special damage as a result of the Counter-defendant's communication and actions in purporting to sell the Property despite its knowledge it held no right

1 to sell the Property.

2 40. As a result of Counter-defendant's wrongful conduct, Counter-claimant has
3 suffered damages in an amount in excess of \$10,000.00, to be proven at trial.

4 41. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been
5 forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law,
6 Counter-claimant is entitled to recover its attorney's fees and costs incurred herein.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Counter-claimant prays to this Court for relief as follows:

- 9 1. For general, special, and consequential damages;
10 2. For costs and attorney's fees associated with bringing this action;
11 3. For declaratory relief as requested herein;
12 4. For injunctive relief, including, but not limited to, an injunction prohibiting Counter-
13 defendant from taking any action inconsistent with Counter-claimant's right to own and possess the
14 Property;
15 5. For pre and post-judgment interest; and
16 6. For such other and additional relief as the Court may deem just, equitable, and
17 proper.

18 DATED this 29th day of July, 2016.

19 WEIL & DRAGE, APC

20 */s/ Jason G. Martinez*

21 By: _____

22 NEIL B. DURRANT, ESQ.

23 Nevada Bar No. 7324

24 C. ROBERT PETERSON, ESQ.

25 Nevada Bar No. 11680

26 JASON G. MARTINEZ, ESQ.

27 Nevada Bar No. 13375

28 2500 Anthem Village Drive

Henderson, NV 89052

Attorneys for Defendant/Counter-Claimant,

CHERSUS HOLDINGS, LLC

1 **CERTIFICATE OF SERVICE**

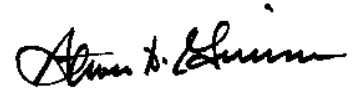
2 I HEREBY CERTIFY that on the 29th day of July, 2016, service of the foregoing
3 **ANSWER TO FIRST AMENDED COMPLAINT AND COUNTER-CLAIM AGAINST**
4 **PLAINTIFF** was made this date by electronically serving, through Clark County Document
5 Access Program (DAP), a true and correct copy of the same, to the following parties:

6 Dana Jonathon Nitz, Esq.
7 Paterno C. Jurani, Esq.
8 WRIGHT, FINLAY & ZAK, LLP
9 7785 W. Sahara Ave., Suite 200
10 Las Vegas, NV 89117
11 Attorneys for Plaintiff/Counter-defendant,
12 OCWEN LOAN SERVICING, LLC

Kristin A. Schuler-Hintz, Esq.
Gary S. Fink, Esq.
MCCARTHY & HOLTHUS, LLP
9510 W. Sahara Ave., Suite 200
Las Vegas, NV89117
Co-Counsel for Plaintiff/Counter-defendant,
OCWEN LOAN SERVICING, LLC

13 */s/ Joanna Medina*

14 _____
15 Joanna Medina, an Employee of
16 WEIL & DRAGE, APC
17
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27
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CLERK OF THE COURT

McCARTHY & HOLTHUS, LLP
Kristin A. Schuler-Hintz (NSB# 7171)
Thomas N. Beckom, Esq (NSB# 12554)
9510 West Sahara Avenue, Suite 200
Las Vegas, NV 89117
Telephone: (702) 685-0329
Facsimile: (866) 339-5691

Attorneys for Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

OCWEN LOAN SERVICING, a Foreign
Limited Liability Company

Plaintiff,

v.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company and DOES I-X; and
ROES 1-10

Defendants.

Case No. A-14-696357-C

Dept.: IV

ANSWER TO COUNTERCLAIM

AND ALL RELATED CLAIMS

COMES NOW OCWEN LOAN SERVICING ("OCWEN") by and through its attorney of record Thomas N. Beckom, Esq and Kristin A. Schuler-Hintz, Esq of the law firm of McCarthy Holthus LLP and hereby files this answer..

PARTIES AND VENUE

1. This answering Defendant does not know what the incorporation status of Chersus is. On this basis deny.
2. This answering Defendant admits the allegations in paragraph 2.
3. The property records speak for themselves and this answering Defendant denies anything inconsistent with the property records.

1 4. This answering Defendant contends that the property records speak for themselves and would
2 deny anything inconsistent with the property records. Moreover, Ocwen does not actual
3 knowledge of any sale transaction between Chersus and First 100, LLC.

4 5. This allegation is rife with legal conclusions. On this basis, this allegation is denied.

5 6. This allegation is rife with legal conclusions. On this basis, this allegation is denied.

6 7. This answering Defendant contends that the property records speak for themselves and would
7 deny anything inconsistent with the property records.

8 **FIRST CAUSE OF ACTION**
9 **(Wrongful Foreclosure)**

10 8. This answering Defendant incorporates it's answer to paragraph 1 through 7 as if fully set
11 forth herein.

12 9. Paragraph 9 calls for a legal conclusion and implicates information outside of Ocwen's
13 generally knowledge. On this basis, deny.

14 10. This answering Defendant contends that the property records speak for themselves and would
15 deny anything inconsistent with the property records.

16 11. Paragraph 11 calls for a legal conclusion and implicates information outside of Ocwen's
17 generally knowledge. On this basis, deny.

18 12. Paragraph 12 calls for a legal conclusion and implicates information outside of Ocwen's
19 generally knowledge. On this basis, deny.

20 13. Ocwen denies this allegation.

21 14. Ocwen denies this allegation.

22 **SECOND CAUSE OF ACTION**
23 **(Quiet Title)**

24 15. This answering Defendant repeats it's responses to paragraph 1 through 14 as if fully set forth
25 herein.

1 16. Paragraph 16 calls for a legal conclusion and implicates information outside of Ocwen's
2 generally knowledge. On this basis, deny.

3 17. Paragraph 17 calls for a legal conclusion and implicates information outside of Ocwen's
4 generally knowledge. On this basis, deny.

5 18. Ocwen admits they claim an interest in the property.

6 19. Ocwen admits the parties have adverse claims

7 20. Ocwen denies this allegation.

8 21. Ocwen denies this allegation.

9 **THIRD CAUSE OF ACTION**
10 **(Declaratory Relief)**

11 22. This answering Defendant repeats it's responses to paragraph 1 through 21 as if fully set forth
12 herein.

13 23. Ocwen admits there is a dispute which is ripe for determination.

14 24. Ocwen denies the allegation in paragraph 24 to the extent it implicates that Chersus has
15 brought any form of meritorious claim.

16 25. This answering Defendant denies the allegation in paragraph 25.

17 **FOURTH CAUSE OF ACTION**
18 **(Conversion)**

19 26. This answering Defendant incorporates it's answers to paragraphs 1-26 as if fully set forth
20 herein.

21 27. Ocwen denis the allegations in paragraph 27.

22 28. Ocwen denies the allegations in paragraph 28.

23 29. Ocwen denies the allegations in paragraph 29.

24 30. Ocwen denies the allegation in paragraph 30.

25 31. Ocwen denies the allegation in paragraph 31.

FIFTH CAUSE OF ACTION
(Unjust Enrichment)

32. This answering Defendant incorporates it's answers to paragraph 1 through 31 as if fully set forth herein.

33. Paragraph 33 calls for a legal conclusion which is outside of the scope of Ocwen's general knowledge. On this basis deny.

34. This answering Defendant denies the allegations in paragraph 34.

35. This answering Defendant denies the allegations in paragraph 35.

36. This answering Defendant denies the allegations in paragraph 36.

SIXTH CAUSE OF ACTION
(Slander to Title)

37. This answering Defendant incorporates it's answers to paragraph 1 through 31 as if fully set forth herein.

38. This answering Defendant denies the allegations in paragraph 38.

39. This answering Defendant denies the allegations in paragraph 39.

40. This answering Defendant denies the allegations in paragraph 40.

41. The answering Defendant denies the allegations in paragraph 41.

AFFIRMATIVE DEFENSES

Ocwen asserts the following additional defenses. Discovery and investigation of this case is not yet complete, and Ocwen reserves the right to amend this Answer by adding, deleting, or amending defenses as may be appropriate. Any allegations not specifically admitted are denied. Ocwen further expressly incorporates all affirmative defenses delineated in Nev. R. Civ. Pro 8. In further answer to the Complaint, and by way of additional defenses Ocwen avers as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state facts sufficient to constitute any cause of action against Ocwen.

SECOND AFFIRMATIVE DEFENSE

1 To the extent that Plaintiff's interpretation of NRS 116.3116 is accurate, the statute, and
2 Chapter 116 are void for vagueness as applied to this matter.

3 **THIRD AFFIRMATIVE DEFENSE**

4 The super-priority lien was satisfied prior to the homeowners' association foreclosure
5 under the doctrines of tender, estoppels, laches, or waiver.

6 **FOURTH AFFIRMATIVE DEFENSE**

7 The homeowners' association foreclosure sale was not commercially reasonable and the
8 circumstances of sale of the property violated the homeowners' association's obligation of good
9 faith under NRS §116.1113 and duty to act in a commercially reasonable manner.

10 **FIFTH AFFIRMATIVE DEFENSE**

11 Plaintiff's claims are barred in whole or in part because of its failure to take reasonable
12 steps to mitigate its damages, if any.

13 **SIXTH AFFIRMATIVE DEFENSE**

14 The Plaintiff lacks standing to bring some or all of their claims and causes of action.

15 **SEVENTH AFFIRMATIVE DEFENSE**

16 Plaintiff has cited no rule and/ or statute to override the American Rule regarding attorney
17 fee shifting.

18 **EIGHTH AFFIRMATIVE DEFENSE**

19 The sale of the property is unconstitutional pursuant to Federal Law, the due process
20 clause of the 14th amendment of the United States Constitution, and Article 1 Sec. 8 of the Nevada
21 Constitution.

22 **NINTH AFFIRMATIVE DEFENSE**

23 The Plaintiff received a deed which was void and/ or voidable pursuant to NRS Chapter
24 112.

TENTH AFFIRMATIVE DEFENSE

Ocwen avers the affirmative defense of unclean hands.

ELEVENTH AFFIRMATIVE DEFENSE

Ocwen denies that the Plaintiff is entitled to any relief for which it prays.

TWELETH AFFIRMATIVE DEFENSE

Ocwen avers the affirmative defense of failure to do equity.

THIRTEENTH AFFIRMATIVE DEFENSE

The homeowners' association did not provide proper notice of the "superpriority" assessment amount and the homeowners' association foreclosure sale, and any such notice failed to comply with the statutory and common law requirements of Nevada and with state and federal constitutional law.

FOURTEENTH AFFIRMATIVE DEFENSE

The homeowner's association foreclosure sale is void for failure to comply with the provisions of NRS Chapter 116, and other provisions of law.

FIFTEENTH AFFIRMATIVE DEFENSE

Ocwen is entitled to an offset of some, if not all, of the Plaintiffs alleged damages, if any.

SIXTEENTH AFFIRMATIVE DEFENSE

The Plaintiff assumed the risk in taking the actions they now aver caused them damage.

SEVENTEETH AFFIRMATIVE DEFENSE

NRS 116.3116 *et seq* violates the 5th amendment takings clause.

EIGHTEENTH AFFIRMATIVE DEFENSE

NRS 116.3116 *et seq* violates U.S. Bank's Substantive Due Process Right and Fundamental rights under the Nevada and Federal Constitution

NINETEENTH AFFIRMATIVE DEFENSE

1 The foreclosure sale price is low, the sale is the result of oppression, fraud, and unfairness,
2 and further Chersus is not a bona fide purchaser.

3 **TWENTIETH AFFIRMATIVE DEFENSE**

4 This entire action is barred by the statute of limitations.

5 WHEREFORE the Counter Plaintiff prays to this Honorable Court that the Court:

- 6 1. Void the Sale under NRS Chapter 112;
7 2. In the alternative, enter judgment against Chersus in an amount equal to Ocwen's
8 interest in the property.
9 3. In the alternative, Quiet Title in the name of the Homeowner;
10 4. Issue a order an order declaring that the HOA sale did not comply with NRS Chapter
11 116 and is void or voidable;
12 5. Use the Equitable Powers of this Court to Void the Sale
13 6. Issue an order declaring the sale unconstitutional under the United States Constitution;
14 7. Any other relief which is just and proper.

15
16 DATED: August 25, 2016

17 McCarthy & Holthus, LLP

18
19 By: /s/ Thomas N. Beckom Esq
Thomas N. Beckom, Esq

AFFIDAVIT OF SERVICE

DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

Alvin D. Quinn
CLERK OF THE COURT

OCWEN LOAN SERVICING, LLC, a foreign Limited Liability Company,

Plaintiff(s)

v.

CHERSUS HOLDING, LLC, a Domestic Limited Liability Company; et al.,

Defendant(s)

Case No. A-14-696357-C
Thomas N. Beckom, Esq. Bar No. 12554
MCCARTHY HOLTHUS-LITIGATIONS
9510 W. Sahara Avenue, 200
Las Vegas, NV 89117
(702) 685-0329
Attorneys for the Plaintiff
Client File# NV-14-636728-CV

I, Tanner Trowet, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons; Lis Pendens; First Amended Complaint, from MCCARTHY HOLTHUS-LITIGATIONS

That on 10/11/2016 at 3:40 PM I served the above listed documents to United Legal Services, Inc. - c/o Atkinson Law Associates, Ltd., Registered Agent by personally delivering and leaving a copy at 8965 S. Eastern Avenue, Suite 260, Las Vegas, NV 89123 with Robert Atkinson - Attorney, a person of suitable age and discretion, authorized by Registered Agent to accept service of process at the above address shown on the current certificate of designation filed with the Secretary of State.

That the description of the person actually served is as follows:

Gender: Male, Race: Caucasian, Age: 30's, Height: 5'9", Weight: 150 lbs., Hair: Black, Eyes: Blue

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under perjury that the foregoing is true and correct.

Date: 10/19/2016

Tanner Trowet
Tanner Trowet
Registered Work Card# R-075655
State of Nevada

(No Notary Per NRS 53.045)

Service Provided for:
Nationwide Legal Nevada, LLC
720 S. 4th Street, Suite 305
Las Vegas, NV 89101
(702) 385-5444
Nevada Lic # 1656



Order #: NV41267
Their File NV-14-636728-CV

AA0175

AFFIDAVIT OF SERVICE
DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

Alvin D. Quinn
CLERK OF THE COURT

OCWEN LOAN SERVICING, LLC, a foreign Limited Liability Company,

Plaintiff(s)

v.

CHERSUS HOLDING, LLC, a Domestic Limited Liability Company; et al.,

Defendant(s)

Case No.: A-14-696357-C
Thomas N. Beckom, Esq. Bar No. 12554
MCCARTHY HOLTHUS-LITIGATIONS
9510 W. Sahara Avenue, 200
Las Vegas, NV 89117
(702) 685-0329
Attorneys for the Ocwen Loan Servicing
Client File# NV-14-636728-CV

I, Tanner Trewet, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons; Lis Pendens; First Amended Complaint, from MCCARTHY HOLTHUS-LITIGATIONS

That on 10/11/2016 at 3:21 PM I served the above listed documents to Southern Terrace Homeowners Association - c/o FirstService Residential, Nevada, LLC, Registered Agent by personally delivering and leaving a copy at 8290 Arville Street, Las Vegas, NV 89139 with Erin Pinegar - Executive Assistant, a person of suitable age and discretion, authorized by Registered Agent to accept service of process at the above address shown on the current certificate of designation filed with the Secretary of State.

That the description of the person actually served is as follows:

Gender: Female, Race: Caucasian, Age: 20's, Height: 5'9", Weight: 140 lbs., Hair: Brown, Eyes: Brown

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under perjury that the foregoing is true and correct.

Date: 10/17/2016

Tanner Trewet
Tanner Trewet
Registered Work Card# R-075655
State of Nevada

(No Notary Per NRS 53.045)

Service Provided for:
Nationwide Legal Nevada, LLC
720 S. 4th Street, Suite 305
Las Vegas, NV 89101
(702) 385-5444
Nevada Lic # 1656



Order #: NV41257
Their File NV-14-636728-CV

AA0176

AFFIDAVIT OF SERVICE

DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

Alvin D. Quinn
CLERK OF THE COURT

OCWEN LOAN SERVICING, LLC, a foreign Limited Liability Company,

Plaintiff(s)

v.

CHERSUS HOLDING, LLC, a Domestic Limited Liability Company; et al.,

Defendant(s)

Case No.: A-14-696357-C

Thomas N. Beckom, Esq. Bar No. 12554

MCCARTHY HOLTHUS-LITIGATIONS

9510 W. Sahara Avenue, Suite 200 200

Las Vegas, NV 89117

(702) 685-0329

Attorneys for the Ocwen Loan Servicing, LLC

Client File# NV-14-636728-CV

I, Judith Mae All, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons; Lis Pendens; First Amended Complaint, from MCCARTHY HOLTHUS-LITIGATIONS

That on 10/11/2016 at 1:36 PM I served the above listed documents to Red Rock Financial Services, LLC - c/o CSC Services of Nevada, Inc., Registered Agent by personally delivering and leaving a copy at 2215-B Renaissance Drive, Las Vegas, NV 89119 with Taylor Lee - Customer Service Specialist, a person of suitable age and discretion, authorized by Registered Agent to accept service of process at the above address shown on the current certificate of designation filed with the Secretary of State.

That the description of the person actually served is as follows:

Gender: Female, Race: Caucasian, Age: 20's, Height: 5'6", Weight: 120 lbs., Hair: Burgundy/Orange/Red, Eyes: Brown/Glasses

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under perjury that the foregoing is true and correct.

Date: 10/17/16

Judith Mae All
Judith Mae All

Registered Work Card# R-040570

State of Nevada

(No Notary Per NRS 53.045)

Service Provided for:

Nationwide Legal Nevada, LLC

720 S. 4th Street, Suite 305

Las Vegas, NV 89101

(702) 385-5444

Nevada Lic # 1656



Order #: NV41262
Their File NV-14-636728-CV

AA0177

AFFIDAVIT OF SERVICE

DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

Adam D. Levine
CLERK OF THE COURT

OCWEN LOAN SERVICING, LLC, a foreign Limited Liability Company,

Plaintiff(s)

v.

CHERSUS HOLDINGS, LLC, a Domestic Limited Liability Company; et al.,

Defendant(s)

Case No.: A-14-696357-C
Thomas N. Beckom, Esq. Bar No. 12554
MCCARTHY HOLTHUS-LITIGATIONS
9510 W. Sahara Avenue, 200
Las Vegas, NV 89117
(702) 685-0329
Attorneys for the Ocwen Loan Servicing
Client File# NV-14-636728-CV

I, Diana Brown, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons; Lis Pendens; First Amended Complaint, from MCCARTHY HOLTHUS-LITIGATIONS

That on 10/16/2016 at 1:52 PM at 7426 Yonie Court, Las Vegas, NV 89117 I served First 100, LLC - c/o Jay Bloom, by personally delivering and leaving a copy of the above-listed document(s) with Jay Bloom - Authorized to Accept, a person of suitable age and discretion authorized to accept service of process.

That the description of the person actually served is as follows:

Gender: Male, Race: Caucasian, Age: 40, Height: 5'7", Weight: 165 lbs., Hair: Light color, Eyes: Green

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under perjury that the foregoing is true and correct.

Date: 10/21/16

[Signature]
Diana Brown
Registered Work Card# R-033810
State of Nevada

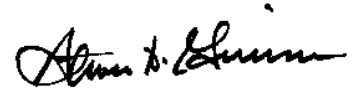
(No Notary Per NRS 53.045)

Service Provided for:
Nationwide Legal Nevada, LLC
720 S. 4th Street, Suite 305
Las Vegas, NV 89101
(702) 385-5444
Nevada Lic # 1656



Order #: NV41252
Their File NV-14-636728-CV

AA0178



CLERK OF THE COURT

ANAC
ROBERT E. ATKINSON, ESQ., Bar No. 9958
Email: robert@nv-lawfirm.com
ATKINSON LAW ASSOCIATES LTD.
8965 S Eastern Ave, Suite 260
Las Vegas, NV 89123
Telephone: (702) 614-0600
Facsimile: (702) 614-0647
Attorney for United Legal Services Inc.

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

OCWEN LOAN SERVICING, LLC, a foreign
Limited Liability Company;
Plaintiff,

v.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company; FIRST 100, LLC, a
Domestic Limited Liability Company;
SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION, a Domestic Non-Profit
Corporation; RED ROCK FINANCIAL
SERVICES, LLC, a Foreign Limited Liability
Company; UNITED LEGAL SERVICES, INC.,
a Domestic Corporation; DOES I through X;
and ROE CORPORATIONS XI through XX,
inclusive,
Defendants.

CASE NO. A-14-696357-C
DEPT NO. 4

**UNITED LEGAL SERVICES INC.'S
ANSWER TO AMENDED COMPLAINT**

AND RELATED PROCEEDINGS

Defendant UNITED LEGAL SERVICES INC. ("ULS"), by and through counsel, hereby
answers the amended complaint filed by plaintiff OCWEN LOAN SERVICING, LLC ("Plaintiff")
on June 24, 2016, as follows:

PARTIES

1. ULS is without knowledge of the matter asserted.
2. Admit.
3. Admit.
4. ULS is without knowledge of the matter asserted.

5. ULS is without knowledge of the matter asserted.
6. ULS is without knowledge of the matter asserted.
7. Admit.
8. Admit.
9. Admit.
10. ULS is without knowledge of the matter asserted.

GENERAL ALLEGATIONS

11. ULS is without knowledge of the matter asserted.
12. ULS is without knowledge of the matter asserted.
13. ULS is without knowledge of the matter asserted.
14. ULS is without knowledge of the matter asserted.
15. The recorded document speaks for itself.
16. The recorded document speaks for itself.
17. The recorded document speaks for itself.
18. Admit. Also, the recorded document speaks for itself.
19. ULS is without knowledge of the matter asserted.
20. ULS is without knowledge of the matter asserted.
21. ULS is without knowledge of the matter asserted.
22. ULS is without knowledge of the matter asserted.
23. Admit.
24. ULS is without knowledge of the matter asserted.
25. Deny as to ULS.
26. The statute speaks for itself.
27. Deny.
28. Deny that this was a statutory requirement at the time.
29. Deny that this was a statutory requirement at the time.
30. Deny that this was a statutory requirement at the time.
31. Deny.
32. Deny.
33. The statute speaks for itself.
34. The statute speaks for itself.
35. Deny.

- 1 36. The statute speaks for itself.
2 37. Deny.
3 38. Deny.
4 39. Deny.
5 40. Deny.
6 41. Deny.
7 42. Deny.
8 43. Deny.
9 44. Deny.
10 45. Deny.
11 46. This paragraph is a legal conclusion.
12 47. ULS is without knowledge of the matter asserted.
13 48. Deny. What was sold was sold at market value.
14 49. Deny.
15 50. This paragraph is a legal conclusion.
16 51. This paragraph is a legal conclusion.
17 52. This paragraph is a legal conclusion.
18 53. ULS is without knowledge of the matter asserted.
19 54. ULS is without knowledge of the matter asserted.
20 55. ULS is without knowledge of the matter asserted.
21 56. ULS is without knowledge of the matter asserted. Deny as to ULS.
22 57. Deny.
23 58. ULS is without knowledge of the matter asserted as to Buyer. Admit to First 100.
24 59. This paragraph is a legal conclusion.
25 60. ULS is without knowledge of the matter asserted.
26 61. Deny.

27 **FIRST CAUSE OF ACTION**

- 28 62. This cause of action is not against ULS, and thus no response is required.

SECOND CAUSE OF ACTION

73. This paragraph does not require a response.
74. ULS is without knowledge of the matter asserted.

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- 75. Deny.
- 76. Deny.
- 77. Deny.
- 78. Deny.
- 79. Deny.
- 80. Deny.
- 81. Deny.

THIRD CAUSE OF ACTION

- 82. This paragraph does not require a response.
- 83. Deny.
- 84. Deny.
- 85. Deny.
- 86. Deny.
- 87. Deny.
- 88. Deny.
- 89. Deny.
- 90. Deny.

FOURTH CAUSE OF ACTION

- 91. This paragraph does not require a response.
- 92. Deny.
- 93. Deny.
- 94. Deny.
- 95. Deny.
- 96. Deny.
- 97. Deny.

FIFTH CAUSE OF ACTION

- 98. This paragraph does not require a response.
- 99. The statute speaks for itself.
- 100. Deny.
- 101. Deny.
- 102. ULS is without knowledge of the matter asserted, and denies on that basis.
- 103. ULS is without knowledge of the matter asserted, and denies on that basis.

1 104. Deny.

2 105. Deny.

3 106. Deny.

4 107. Deny.

5 **SIXTH CAUSE OF ACTION**

6 108. This paragraph does not require a response.

7 109. ULS is without knowledge of the matter asserted, and denies on that basis.

8 110. Deny.

9 111. Deny.

10 112. Deny.

11 **SEVENTH CAUSE OF ACTION**

12 113. This cause of action is not against ULS, and thus no response is required.

13 **EIGHTH CAUSE OF ACTION**

14 123. This paragraph does not require a response.

15 124. Deny.

16 125. Deny.

17 126. Deny.

18 127. Deny.

19 128. Deny.

20 129. Deny.

21 130. Deny.

22 131. Deny.

23 **NINTH CAUSE OF ACTION**

24 132. This paragraph does not require a response.

25 133. ULS is without knowledge of the matter asserted, and denies on that basis.

26 134. Admit as to ULS; ULS is without knowledge of the matter asserted as to other
27 parties.

28 135. Deny.

136. Deny.

137. Deny.

138. Deny.

139. Deny.

AFFIRMATIVE DEFENSES

62. Plaintiff has failed to properly plead one or more claims against ULS upon which relief can be granted.

63. ULS has no interest in the Property against which injunctive relief can be obtained.

64. The statute of limitations has run on the Third Cause of Action against ULS.

65. The statute of limitations has run on the Fourth Cause of Action against ULS.

66. The statute of limitations has run on the Fifth Cause of Action against ULS.

67. The statute of limitations has run on the Sixth Cause of Action against ULS.

68. The statute of limitations has run on the Eighth Cause of Action against ULS.

69. The statute of limitations has run on the Ninth Cause of Action against ULS.

70. ULS was not the foreclosing lienholder (the HOA was), and thus ULS does not need to be a party to this action.

71. The HOA Sale was a valid sale.

72. The HOA Sale was noticed out in conformance with the requirements of NRS 116.

73. The HOA Sale was a public auction that obtained the market price for the Property.

63. The true party-in-interest has failed to bring the complaint.

74. Plaintiff and/or its predecessors had timely notice of the HOA Sale, and failed to act to preserve its property interest. Any damages suffered by it as a result of the HOA Sale are a direct result of its own inaction.

ULS reserves the right to assert additional affirmative defenses that are deemed appropriate because of the discovery of new information.

#

DATED: October 22, 2016

ATKINSON LAW ASSOCIATES LTD.

By: /s/ Robert Atkinson
ROBERT E. ATKINSON, ESQ.
Nevada Bar No. 9958
Attorney for United Legal Services Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on October 22, 2016, I caused to be served the foregoing document on the following persons and entities, using the means so indicated:

☒ **BY ELECTRONIC SERVICE:** Pursuant to EDCR 8.05(a) and (f), via the Eighth Judicial District Court's electronic filing system, on:

Atkinson Law Associates Ltd.

Contact	Email
Paralegal	bknotices@nv-lawfirm.com
Robert E. Atkinson, Esq.	robert@nv-lawfirm.com

Weil & Drage, APC

Contact	Email
Joanna Medina	jmedina@weildrage.com
NV E-File	nvefile@weildrage.com

WEIL & DRAGE, APC

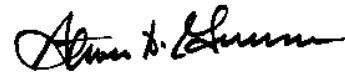
Contact	Email
Lisa Robison	lrobison@weildrage.com

Wright, Finlay & Zak, LLP

Contact	Email
Faith Harris	fharris@wrightlegal.net
Marissa Resnick	mresnick@wrightlegal.net
Paterno Jurani	pjurani@wrightlegal.net

DATED: October 22, 2016

/s/ Robert Atkinson
ROBERT ATKINSON, ESQ.



CLERK OF THE COURT

1 WRIGHT, FINLAY & ZAK, LLP

2 Dana Jonathon Nitz, Esq.

3 Nevada Bar No. 0050

4 Paterno C. Jurani, Esq.

5 Nevada Bar No. 8136

6 7785 W. Sahara Ave., Suite 200

7 Las Vegas, Nevada 89117

8 (702) 475-7964 Fax: (702) 946-1345

9 pjurani@wrightlegal.net

10 Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 OCWEN LOAN SERVICING, LLC, a foreign
14 Limited Liability Company,

15 Plaintiff,

16 vs.

17 CHERSUS HOLDINGS, LLC, a Domestic
18 Limited Liability Company; FIRST 100, LLC, a
19 Domestic Limited Liability Company;
20 SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION, a Domestic Non-Profit
Corporation; RED ROCK FINANCIAL
SERVICES, LLC, a Foreign Limited Liability
Company; UNITED LEGAL SERVICES, INC.,
a Domestic Corporation; DOES I through X;
and ROE CORPORATIONS XI through XX,
inclusive,

21 Defendants.

22
23 CHERSUS HOLDINGS, LLC, a Domestic
24 Limited Liability Company,

25 Counterclaimant,

26 vs.

27 OCWEN LOAN SERVICING, LLC, a Foreign
28 Limited Liability Company,

Case No.: A-14-696357-C

Dept. No.: IV

**STIPULATION AND ORDER TO
DISMISS DEFENDANT RED ROCK
FINANCIAL SERVICES, LLC
WITHOUT PREJUDICE**

Counter-Defendants.

STIPULATION AND ORDER TO DISMISS DEFENDANT RED ROCK FINANCIAL SERVICES, LLC WITHOUT PREJUDICE

Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC (hereinafter "Ocwen" or "Plaintiff"), by and through its attorneys of record, Dana Jonathon Nitz, Esq. and Paterno C. Jurani, Esq., of the law firm of Wright, Finlay & Zak, LLP, and Defendant, Red Rock Financial Services, LLC (hereinafter "Red Rock"), by and through its attorneys of record, David R. Koch, Esq., Steven B. Scow, Esq., and Brody R. Wight, Esq., of the law firm of Koch & Scow, LLC, hereby stipulate and agree as follows:

In the following Stipulation the term "foreclosure file" includes any and all communications, documents, written policies and procedures, and documented payments concerning the Homeowner Association's lien(s), and all actions taken by the Homeowners Association and its agents to enforce the lien(s). Communications which enjoy attorney-client privilege and which would not normally be discoverable under NRCP 26(b)(1) may be excluded from the produced file, or produced with the privileged portions redacted.

IT IS HEREBY STIPULATED AND AGREED that Defendant Red Rock Financial Services, LLC is hereby dismissed WITHOUT PREJUDICE;

IT IS FURTHER STIPULATED AND AGREED that Red Rock will provide to Ocwen's counsel, within twenty (20) days, each of the following:

1. Red Rock's entire file, cover to cover, with respect to 5946 LINGERING BREEZE STREET, LAS VEGAS, NEVADA 89148, APN 163-31-611-022, including the lien, collection, and foreclosure files;
2. All communications in Red Rock's possession by and between the parties of this action with each other and with Chersus Holdings, LLC, and all persons or entities purporting to act for Chersus Holdings, LLC, before and after the HOA lien sale conducted on May 25, 2013;
3. Upon request, an NRCP 30(b)(6) designee of each entity as to the HOA lien and foreclosure referenced herein, and the HOA lien and foreclosure policies and

procedures during the relevant time period, shall be made available to counsel for Ocwen for deposition and to provide witness testimony at trial.

IT IS FURTHER STIPULATED AND AGREED that Red Rock waives all statutes of limitation related to the HOA lien sale conducted on May 25, 2013.

IT IS FURTHER STIPULATED AND AGREED that the hearing currently scheduled for December 7, 2016 shall be vacated, and the pending Motion to Dismiss Ocwen Loan Servicing, LLC's First Amended Complaint or, in the alternative, Motion for Summary Judgment, shall be denied without prejudice as moot.

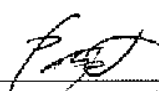
IT IS SO STIPULATED AND AGREED.

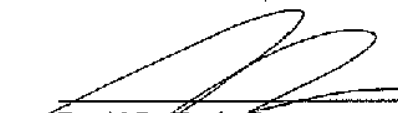
Dated this 30 day of November, 2016.

Dated this 28 day of November, 2016.

WRIGHT, FINLAY & ZAK, LLP

KOCH & SCOW, LLC


Paterio C. Jurani, Esq.
Nevada Bar No. 8136
7785 W. Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
Attorney for Plaintiff/Counter-Defendant,
Ocwen Loan Servicing, LLC


David R. Koch, Esq.
Nevada Bar No. 8830
Steven B. Scow, Esq.
Nevada Bar No. 9906
Brody R. Wight, Esq.
Nevada Bar No. 13615
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
Attorneys for Defendant, Red Rock Financial
Services, LLC

ORDER

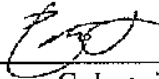
Based upon the foregoing Stipulation by and between the parties, and good cause appearing, IT IS SO ORDERED. *The hearing scheduled for December 7, 2016 is hereby vacated.*

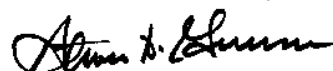
DATED: December 2, 2016


DISTRICT COURT JUDGE

1 Respectfully submitted,

2 **WRIGHT FINLAY & ZAK, LLP**

3 
4 _____
5 Paterno C. Jurani, Esq.
6 Nevada Bar No. 8136
7 7785 W. Sahara Avenue, Suite 200
8 Las Vegas, Nevada 89117
9 *Attorneys for Plaintiff/Counter-Defendant,*
10 *Ocwen Loan Servicing, LLC*
11
12
13
14
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28



CLERK OF THE COURT

ANS
ASHLIE L. SURUR, ESQ.
Nevada Bar No. 11290
asurur@lawhjc.com

HALL, JAFFE & CLAYTON, LLP
7425 Peak Drive
Las Vegas, Nevada 89128
(702) 316-4111
Fax (702)316-4114

*Attorneys for Southern Terrace
Homeowners Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

OCWEN LOAN SERVICING, LLC, a
foreign Limited Liability Company,

Plaintiff,

vs.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company; FIRST 100,
LLC, a Domestic Limited Liability
Company; SOUTHERN TERRACE
HOMEOWNERS ASSOCIATION, a
Domestic Non-Profit Corporation; RED
ROCK FINANCIAL SERVICES, LLC, a
Foreign Limited Liability Company;
UNITED LEGAL SERVICES, INC., a
Domestic Corporation; DOES I through X:
and ROE CORPORATIONS XI through XX,
inclusive;

Defendants.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimants,

vs.

OCWEN LOAN SERVICING, LLC, a
foreign Limited Liability Company,

Counter-Defendant.

Case No.: A-14-696357-C
Dept. No.: 4

**SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION'S ANSWER TO FIRST
AMENDED COMPLAINT**

1 **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION'S ANSWER TO FIRST**
2 **AMENDED COMPLAINT**

3 Defendant, Southern Terrace Homeowners Association ("Southern Terrace"), by and
4 through it attorney, Ashlie L. Surur, Esq. of Hall, Jaffe & Clayton, LLP, answers Plaintiff,
5 Ocwen Loan Servicing, LLC's ("Ocwen") First Amended Complaint, filed June 24, 2016,
6 ("Complaint") as follows:

7 **INTRODUCTION**

8 1. Paragraph 1 of the Complaint contains legal conclusions and questions of law
9 and, therefore, no response is required. However, Southern Terrace denies all allegations to
10 the extent a response is required.

11 2. Answering Paragraph 2 of the Complaint, Southern Terrace admits all
12 allegations.

13 **JURISDICTION AND VENUE**

14 3. Answering Paragraph 3 of the Complaint, Southern Terrace admits that the
15 property that is the subject of this action is situated in this district, in Las Vegas, Clark County,
16 Nevada. The remaining allegations in Paragraph 3 contain legal conclusions and/or questions
17 of law and, therefore, no response is required. However, Southern Terrace denies all
18 remaining allegations to the extent a response is required.

19 **PARTIES**

20 4. Answering Paragraphs 4, 5, 6, 8, 9 and 10 of the Complaint, Southern Terrace is
21 without sufficient knowledge or information to form a belief as to the truth or falsity of the
22 allegations and, accordingly, the allegations are denied.

23 5. Answering Paragraph 7 of the Complaint, Southern Terrace admits it is a
24 Nevada non-profit corporation authorized to operate in the State of Nevada and denies all
25 remaining allegations.

26 **GENERAL ALLEGATIONS**

27 6. Paragraphs 11, 19, 20, 22, 23, 24, 26, 33, 34, 36, 38, 39, 40, 41, 42, 43, 44, 45,
28 and 46 of the Complaint contain legal conclusions and/or questions of law and, therefore, no

1 response is required. However, Southern Terrace denies all allegations to the extent a
2 response is required.

3 7. Answering Paragraph 12, 47, and 59 of the Complaint, Southern Terrace is
4 without sufficient knowledge or information to form a belief as to the truth or falsity of the
5 allegations and, accordingly, the allegations are denied.

6 8. Answering Paragraphs 13, 14, 15, 16, 17, 18, 21, and 53 of the Complaint,
7 Southern Terrace states that each document referenced in the allegations speaks for itself and
8 denies any allegations inconsistent the documents. Southern Terrace reserves the right to
9 object to each referenced document as inadmissible for not being not genuine or authentic, as
10 lacking foundation, as hearsay, and for any other reasons set forth within the Rules of
11 Evidence or any other applicable law. Southern Terrace denied any remaining allegations.

12 9. Answering Paragraphs 25, 27, 28, 29, 30, 31, 32, 35, 37, 48, 49, 50, 51, 52, 54,
13 55, 58, and 62 of the Complaint, Southern Terrace denies all allegations.

14 10. Answering Paragraph 56 and 57 of the Complaint, Southern Terrace denies all
15 allegations to the extent that they refer to Southern Terrace. As to all other parties, Southern
16 Terrace is without sufficient knowledge or information to form a belief as to the truth or falsity
17 of the allegations, and accordingly, those allegations are denied.

18 11. Paragraphs 60 and 61 of the Complaint contain legal conclusions and questions
19 of law and, therefore, no response is required. To the extent a response is required, Southern
20 Terrace is without sufficient knowledge or information to form a belief as to the truth or falsity
21 of the allegations and, accordingly, the allegations are denied.

22 **FIRST CAUSE OF ACTION**
23 **(Quiet Title/Declaratory Relief versus Buyer, First 100, and all fictitious Defendants)**

24 12. Answering Paragraph 63 of the Complaint, Southern Terrace repeats and
25 realleges its answers and responses to Paragraphs 1 through 62 and incorporates them by
26 reference.

27 13. Paragraphs 64, 65, 69, 70, and 71 of the Complaint contain legal conclusions and
28 questions of law and, therefore, no response is required. However, Southern Terrace denies all

allegations to the extent a response is required.

14. Answering Paragraphs 66 of the Complaint, Southern Terrace is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, accordingly, the allegations are denied.

15. Paragraph 67 of the Complaint contains legal conclusions and questions of law and, therefore, no response is required. To the extent a response is required, Southern Terrace is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, accordingly, the allegations are denied.

16. Answering Paragraphs 68 and 72 of the Complaint, Southern Terrace denies all allegations.

SECOND CAUSE OF ACTION
(Preliminary and Permanent Injunctions versus Buyer, HOA, Red Rock, United and fictitious Defendants)

17. Answering Paragraph 73 of the Complaint, Southern Terrace repeats and realleges its answers and responses to Paragraphs 1 through 72 and incorporates them by reference.

18. Answering Paragraph 74 of the Complaint, Southern Terrace is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, accordingly, the allegations are denied.

19. Paragraphs 75, 76, 77, 78, 79, and 80 of the Complaint contain legal conclusions and questions of law and, therefore, no response is required. However, Southern Terrace denies all allegations to the extent a response is required.

20. Answering Paragraphs 81 of the Complaint, Southern Terrace denies all allegations.

THIRD CAUSE OF ACTION
(Wrongful Foreclosure versus the HOA, Red Rock, United, and fictitious Defendants)

21. Answering Paragraph 82 of the Complaint, Southern Terrace repeats and realleges its answers and responses to Paragraphs 1 through 81 and incorporates them by reference.

22. Answering Paragraphs 83, 84, 85, 86, 87, 88, 89 and 90 of the Complaint Southern Terrace denies all allegations.

FOURTH CAUSE OF ACTION
(Negligence versus HOA, Red Rock, United and the fictitious Defendants)

23. Answering Paragraph 91 of the Complaint, Southern Terrace Southern Terrace repeats and realleges its answers and responses to Paragraphs 1 through 90 and incorporates them by reference.

24. Paragraph 92 of the Complaint contains legal conclusions and questions of law and, therefore, no response is required. However, Southern Terrace denies all allegations to the extent a response is required.

25. Answering Paragraphs 93, 94, 95, 96, and 97 of the Complaint, Southern Terrace denies all allegations.

FIFTH CAUSE OF ACTION
(Negligence Per Se versus HOA, Red Rock, United and the fictitious Defendants)

26. Answering Paragraph 98 of the Complaint, Southern Terrace repeats and realleges its answers and responses to Paragraphs 1 through 97 and incorporates them by reference.

27. Paragraphs 99, 102, and 103 of the Complaint contain legal conclusions and questions of law and, therefore, no response is required. However, Southern Terrace denies all allegations to the extent a response is required.

28. Answering Paragraphs 100, 101, 104, 106, 106 and 107 of the Complaint, Southern Terrace denies all allegations.

SIXTH CAUSE OF ACTION
(Breach of Contract versus the HOA, Red Rock, and United)

29. Answering Paragraph 108 of the Complaint, Southern Terrace repeats and realleges its answers and responses to Paragraphs 1 through 107 and incorporates them by reference.

30. Paragraph 109 of the Complaint contains legal conclusions and questions of law

1 and, therefore, no response is required. However, Southern Terrace denies all allegations to
2 the extent a response is required.

3 31. Answering Paragraphs 110, 111, and 112 of the Complaint, Southern Terrace
4 denies all allegations.

5 **SEVENTH CAUSE OF ACTION**
6 **(Misrepresentation versus the HOA)**

7 32. Answering Paragraph 113 of the Complaint, Southern Terrace repeats and
8 realleges its answers and responses to Paragraphs 1 through 112 and incorporates them by
9 reference.

10 33. Answering Paragraphs 114, 115, 116, 117, 118, 119, 120, 121 and 122 of the
11 Complaint, Southern Terrace denies all allegations.

12 **EIGHTH CAUSE OF ACTION**
13 **(Unjust Enrichment versus Buyer, the HOA, Red Rock, United, and fictitious**
14 **defendants)**

15 34. Answering Paragraph 123 of the Complaint, Southern Terrace repeats and
16 realleges its answers and responses to Paragraphs 1 through 122 and incorporates them by
17 reference.

18 35. Answering Paragraphs 124, 125, 126, and 127 of the Complaint, Southern
19 Terrace denies all allegations that refer to Southern Terrace. As to all other parties, Southern
20 Terrace is without sufficient knowledge or information to form a belief as to the truth or falsity
21 of the allegations, and accordingly, those allegations are denied.

22 36. Answering Paragraphs 128, 129, 130, and 131 of the Complaint, Southern
23 Terrace denies all allegations.

24 **NINTH CAUSE OF ACTION**
25 **(Tortious Interference with Contract versus Buyer, the HOA, Red Rock, United, and**
26 **fictitious defendants)**

27 37. Answering Paragraph 132 of the Complaint, Southern Terrace repeats and
28 realleges its answers and responses to Paragraphs 1 through 131 and incorporates them by
reference.

38. Answering Paragraph 133 of the Complaint, Southern Terrace is without

sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, accordingly, the allegations are denied.

39. Answering Paragraphs 134, 135, and 136 of the Complaint, Southern Terrace admits all allegations to the extent that they refer to Southern Terrace. As to all other Defendants, Southern Terrace is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations, and accordingly, those allegations are denied.

40. Answering Paragraphs 137, 138, and 139 of the Complaint, Southern Terrace denies all allegations.

AFFIRMATIVE DEFENSES

Southern Terrace asserts the following affirmative defenses:

1. Southern Terrace asserts that there was insufficient process.
2. Southern Terrace asserts that there was insufficient service of process.
3. Southern Terrace asserts that Ocwen fails to state an essential element of one or more of its claims or causes of action against Southern Terrace.
4. Southern Terrace asserts that the applicable statutes of limitations bar Ocwen's claims and causes of actions.
5. Southern Terrace asserts that the doctrine of laches bars Ocwen's claims and causes of action because Ocwen waited an unreasonably long time to file this lawsuit, which delay prejudiced Southern Terrace's ability to defend this lawsuit.
6. Southern Terrace asserts that Ocwen has waived its right to sue through representations or actions.
7. Southern Terrace asserts that it substantially complied with all statutory requirements.
8. Southern Terrace asserts that Ocwen did not suffer any damages.
9. Southern Terrace asserts that Ocwen's damages, if any, were proximately caused or contributed to by Ocwen's own conduct or by the conduct of its agents.
10. Southern Terrace asserts that Ocwen failed to mitigate its damages.
11. Southern Terrace asserts that the consequences of Ocwen's claims and causes of

1 action were avoidable.

2 12. Southern Terrace asserts that Ocwen's damages were caused in whole or in part
3 by the actions of a third party over which Southern Terrace had no control.

4 13. Ocwen's claims and causes of action against Southern are barred because Solis's
5 alleged damages were caused in whole or in part by the intervening actions, omissions,
6 representations, misrepresentations, negligence or breach of duty of other persons or entities
7 that Southern Terrace does not control and for whom Southern Terrace is not legally liable and
8 whose conduct it could not foresee or anticipate.

9 14. Southern Terrace asserts that Ocwen is barred from recovering any special
10 damages for failure to specifically allege the items of special damages claims under Fed. R.
11 Civ. P. 9(g).

12 15. Southern Terrace asserts that Ocwen is seeking to recover more than it is entitled
13 to recover in this case and award of the judgment sought by Ocwen would unjustly enrich
14 Ocwen.

15 16. Southern Terrace asserts that Ocwen intentionally or negligently destroyed
16 critical evidence to Southern Terrace's prejudice.

17 17. Southern Terrace asserts that Ocwen is barred from bringing some or all of its
18 claims and causes of action because it failed to exhaust the administrative remedies of NRS
19 Chapter 30.

20 18. Southern Terrace asserts that Ocwen lacks standing to bring some or all of its
21 claims and causes to action.

22 19. Southern Terrace asserts that the acts giving rise to this lawsuit are not the result
23 of government action.

24 20. Southern Terrace asserts that another person or entity owes it indemnity for
25 Ocwen's damages.

26 21. Southern Terrace asserts that Ocwen's failure to join an indispensable party bars
27 its claims and causes of actions.

28 22. Southern Terrace asserts that the doctrine of unclean hands bars Ocwen's

1 recovery.

2 23. Ocwen's claims and causes of action against Southern are barred because
3 Southern Terrace made no false, material or knowing misrepresentation to Ocwen or any other
4 person or entity, nor did Southern conceal or omit any material information from Ocwen or
5 any person or other entity.

6 24. Southern Terrace reserves its right to assert additional affirmative defenses in the
7 event discovery indicates that additional affirmative defenses would be appropriate.

8 **PRAYER FOR RELIEF**

9 Southern Terrace prays for relief as follows:

- 10 1. That Ocwen take nothing by virtue of the Complaint;
11 2. That a judgment of dismissal be entered in favor of Southern Terrace;
12 3. That Southern Terrace be dismissed with costs incurred and reasonable
13 attorney's fees; and
14 4. For such other and further relief as the Court deems just and proper.

15 Dated: April 7, 2017.

16 HALL, JAFFE & CLAYTON, LLP
17

18 By: /s/ Ashlie L. Surur

19 Ashlie L. Surur, Esq.
20 Nevada Bar No.11290
21 7425 Peak Drive
22 Las Vegas, Nevada 89128
23 Attorneys for Southern Terrace
24 Homeowners Association
25
26
27
28

CERTIFICATE OF SERVICE

I certify that on April 7, 2017, I served a true and correct copy of the foregoing
Southern Terrace Homeowners Association's Answer to First Amended Complaint on
the following parties by electronic transmission through the Court's electronic filing system:

Atkinson Law Associates Ltd.

Contact

Email

Paralegal

bknotices@nv-lawfirm.com

Robert E. Atkinson, Esq.

robert@nv-lawfirm.com

Koch & Scow LLC

Contact

Email

Brody Wight

bwight@kochscow.com

David R. Koch

dkoch@kochscow.com

Staff

aeshenbaugh@kochscow.com

Steven B. Scow

sscow@kochscow.com

McCarthy & Holthus, LLP.

Contact

Email

Kristin Schuler-Hintz

dcnv@mccarthyholthus.com

McCarty & Holthus, LLP.

Contact

Email

Thomas N. Beckom

tbeckom@mccarthyholthus.com

Weil & Drage, APC

Contact

Email

Joanna Medina

jmedina@weildrage.com

NV E-File

nvefile@weildrage.com

WEIL & DRAGE, APC

Contact

Email

Lisa Robison

lrobison@weildrage.com

Wright, Finlay & Zak, LLP

Contact

Email

Faith Harris

fharris@wrightlegal.net

NVEfile

nvefile@wrightlegal.net

Paterno Jurani

pjurani@wrightlegal.net

/s/Alexandria Raleigh
An Employee of HALL JAFFE & CLAYTON, LLP

AMENDED
AFFIDAVIT OF SERVICE

DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

Electronically Filed
5/31/2017 12:55 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

OCWEN LOAN SERVICING, LLC, a foreign Limited
Liability Company,

Plaintiff(s)

v.

CHERSUS HOLDINGS, LLC, a Domestic Limited
Liability Company; et al.,

Defendant(s)

Case No.:A-14-696357-C
Thomas N. Beckom, Esq. Bar No. 12554
MCCARTHY HOLTHUS-LITIGATIONS
9510 W.Sahara Avenue, Suite 200
Las Vegas, NV 89117
(702) 685-0329
Attorneys for the Ocwen Loan Servicing
Client File# NV-14-636728-CV

I, Diana Brown, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons; Lis Pendens; First Amended Complaint, from MCCARTHY HOLTHUS-LITIGATIONS

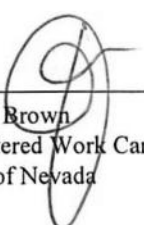
That on 10/16/2016 at 1:52 PM at 7426 Yonie Court, Las Vegas, NV 89117 I served First 100, LLC with the above-listed documents by personally delivering a true and correct copy of the documents by leaving with Jay Bloom whose relationship is Former Managing Member.

That the description of the person actually served is as follows:

Gender: Male, Race: Caucasian, Age: 40, Height: 5'7", Weight: 165 lbs., Hair: Light color, Eyes:Green

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under perjury that the foregoing is true and correct.

Date: 5-19-17


Diana Brown
Registered Work Card# R-033810
State of Nevada

(No Notary Per NRS 53.045)

Service Provided for:
Nationwide Legal Nevada, LLC
720 S. 4th Street, Suite 305
Las Vegas, NV 89101
(702) 385-5444
Nevada Lic # 1656



Order #:NV41252
Their File NV-14-636728-CV

AA0200

IN THE SUPREME COURT OF THE STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY,

Appellant,

vs.

CHERSUS HOLDINGS, LLC, A
DOMESTIC LIMITED LIABILITY
COMPANY; AND SOUTHERN
TERRACE HOMEOWNERS
ASSOCIATION, A DOMESTIC
NON-PROFIT CORPORATION,

Respondents.

Supreme Court Case No. 82680

District Case No.: A696357

APPELLANT'S APPENDIX - VOLUME II

WRIGHT, FINLAY & ZAK, LLP
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
(702) 475-7964; Fax: (702) 946-1345
cmiller@wrightlegal.net
*Attorney for Appellant/Plaintiff, Ocwen
Loan Servicing, LLC*

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Affidavit of Service	I	AA0175
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Answer to Second Amended Complaint and Counterclaim Against Plaintiff	III	AA0338- AA0349
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Chersus Holdings, LLC's Reply to Ocwen Loan Servicing, LLC's Opposition to Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVIII	AA3422- AA3431
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Declaration of Jagdish Mehta in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to	XVII	AA3331- AA3333

DOCUMENT	VOL	PAGE
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Declaration of Vernon Nelson in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3334-AA3338
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Exhibits to Errata to Motion for Summary Judgment (Part 3)	IX	AA1518-AA1756
Exhibits to Errata to Motion for Summary Judgment (Part 4)	X	AA1757-AA1990
Exhibits to Errata to Motion for Summary Judgment (Part 5)	XI	AA1991-AA2228
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Memorandum of Costs and Disbursements	XVII	AA3339-AA3351
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Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance. (Part 2)	XVI	AA3153-AA3328
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Notice of Entry of Order Denying Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P. 59 and 60	XVIII	AA3454-AA3458
Notice of Entry of Order Granting Judgment in Favor of Counterclaimant Chersus Holdings, LLC.	XVIII	AA3486-AA3497
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DATE	DOCUMENT	VOL	PAGE
01/23/18	Second Amended Complaint	II	AA0201- AA0334

DATED this 21st day of January, 2022.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller

Christina V. Miller, Esq.

Nevada Bar No. 12448

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

*Attorneys for Appellant/Plaintiff, Ocwen Loan
Servicing, LLC*

CERTIFICATE OF SERVICE

I certify that I electronically filed on the 21st day of January, 2022, the foregoing **APPELLANT'S APPENDIX - VOLUME II** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

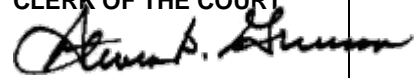
Service via electronic notification will be sent to the following:

Michelle Adams	michellea@nelsonlawfirmnv.com
Legal Assistant	legalassistant@nelsonlawfirmnv.com
Master Calendering	mail@nelsonlawfirmnv.com
Vernon A. Nelson	vnelson@nelsonlawfirmnv.com
Ashlie Surur	ashlie@sururlaw.com

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions

An Employee of WRIGHT, FINLAY & ZAK, LLP



1 WRIGHT, FINLAY & ZAK, LLP

2 Dana Jonathon Nitz, Esq.

3 Nevada Bar No. 0050

4 Paterno C. Jurani, Esq.

5 Nevada Bar No. 8136

6 Natalie C. Lehman, Esq.

7 Nevada Bar No. 12995

8 7785 W. Sahara Ave., Suite 200

9 Las Vegas, Nevada 89117

10 (702) 475-7964 Telephone

11 (702) 946-1345 Facsimile

12 pjurani@wrightlegal.net

13 *Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 OCWEN LOAN SERVICING, LLC, a foreign
12 Limited Liability Company,

13 Plaintiff,

14 vs.

15 CHERSUS HOLDINGS, LLC, a Domestic
16 Limited Liability Company; FIRST 100, LLC, a
17 Domestic Limited Liability Company;
18 SOUTHERN TERRACE HOMEOWNERS
19 ASSOCIATION, a Domestic Non-Profit
20 Corporation; RED ROCK FINANCIAL
21 SERVICES, LLC, a Foreign Limited Liability
22 Company; UNITED LEGAL SERVICES, INC.,
23 a Domestic Corporation; DOES I through X; and
24 ROE CORPORATIONS XI through XX,
25 inclusive,

26 Defendants.

23 CHERSUS HOLDINGS, LLC, a Domestic
24 Limited Liability Company,

25 Counterclaimant,

26 vs.

27 OCWEN LOAN SERVICING, LLC, a Foreign
28 Limited Liability Company,

Counter-Defendants.

Case No.: A-14-696357-C

Dept. No.: IV

SECOND AMENDED COMPLAINT

**AUTOMATIC EXEMPTION FROM
ARBITRATION**

Action concerns title to Real Estate

1 Plaintiff/Counter-Defendant, OCWEN LOAN SERVICING, LLC, by and through its
2 attorneys of record, Dana Jonathon Nitz, Esq., Paterno C. Jurani, Esq., and Natalie C. Lehman,
3 Esq. of the law firm of Wright, Finlay & Zak, LLP, and hereby complains and alleges as
4 follows:

5 **INTRODUCTION**

- 6
- 7 1. Plaintiff is authorized to bring this action in the State of Nevada by NRS 40.430.
- 8 2. The real property at issue is known as 5946 Lingerin Breeze Street, Las Vegas,
9 NV 89148, APN: 163-31-611-022 (hereinafter the "Property").

10 **JURISDICTION AND VENUE**

- 11
- 12 3. Venue and jurisdiction are proper in this judicial district because Defendants
13 conduct business in this district; a substantial part of the events or omissions giving rise to U.S.
14 Bank's claims occurred in this district; and the property that is the subject of this action is
15 situated in this district, in Las Vegas, Clark County, Nevada.

16 **PARTIES**

- 17
- 18 4. At all relevant times herein Plaintiff, OCWEN LOAN SERVICING, LLC
19 (hereinafter "Ocwen" or "Plaintiff"), is a foreign limited liability company and is qualified to
20 do business in the State of Nevada.

- 21
- 22 5. At all relevant times herein, Defendant, CHERSUS HOLDINGS, LLC
23 (hereinafter "Chersus" or "Buyer"), was and is a limited liability corporation organized under
24 the laws of the State of Nevada.

- 25
- 26 6. Upon information and belief, Defendant, FIRST 100, LLC (hereinafter "First
27 100"), is a Nevada limited liability company, licensed to do business in the State of Nevada.
- 28

1 7. Upon information and belief, Defendant, SOUTHERN TERRACE
2 HOMEOWNERS ASSOCIATION (hereinafter "HOA"), is a Nevada non-profit corporation,
3 licensed to do business in the State of Nevada.

4 8. Upon information and belief, Defendant, RED ROCK FINANCIAL
5 SERVICES, LLC (hereinafter "Red Rock" or "HOA Trustee"), is a foreign limited liability
6 company and at all times relevant was doing business in the State of Nevada.
7

8 9. Upon information and belief, Defendant, UNITED LEGAL SERVICES, INC.
9 (hereinafter "United"), is a domestic corporation and at all times relevant was doing business in
10 the State of Nevada.
11

12 10. The names given to the defendants sued herein as DOES I through X and ROE
13 CORPORATIONS XI through XX, inclusive, are fictitious names. Said defendants may have
14 an interest in the subject property, may have acted in concert with defendant, or may have
15 otherwise caused Plaintiffs to incur damages as pled herein. Plaintiff prays that if and when the
16 true names of said defendants, or anyone of them, and the nature of their alleged actions is
17 ascertained, that they may be inserted herein by proper amendment. Plaintiff has no knowledge
18 of the addresses or places of residence of the fictitious defendants.
19

20 **GENERAL ALLEGATIONS**

21 11. Plaintiff is the owner and current titleholder of the real property located at 5946
22 Lingering Breeze Street, Las Vegas, NV 89148, APN No. 163-31-611-022 (the "Lingering
23 Breeze Property"). The legal description of the Lingering Breeze Property is:
24

25 PARCEL I:

26 LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF
27 RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN
28 BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER
OF CLARK COUNTY, NEVADA.

1 PARCEL II:

2 A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND
3 ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE
4 PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED
5 HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

6 12. Plaintiff obtained its ownership interest in the Lingering Breeze Property by
7 being the highest bidder at a foreclosure sale conducted December 20, 2013.

8 13. The foreclosure sale was conducted pursuant to a first position deed of trust
9 recorded March 31, 2009 (the "Deed of Trust").¹

10 14. The Trustee's Deed Upon Sale conveying the Lingering Breeze Property to
11 Plaintiff was recorded January 7, 2014.²

12 15. Public records show that on December 8, 2011, a Lien for Delinquent
13 Assessments was recorded against the Property by Red Rock, on behalf of HOA.³

14 16. Public records show that on February 2, 2012, a Notice of Default and Election
15 to Sell Pursuant to Lien for Delinquent Assessments was recorded against the Property by Red
16 Rock, on behalf of HOA.⁴

17 17. Public records show that on May 2, 2013, a Notice of Foreclosure Sale was
18 recorded against the Property by United, on behalf of HOA.⁵

19
20
21
22
23 ¹ A true and correct copy of the Deed of Trust recorded in the Clark County Recorder's Office as
24 Book and Instrument Number 20090331-0004948 is attached hereto as **Exhibit 1**. All other
25 recordings stated hereafter are recorded in the same manner.

26 ² A true and correct copy of the Trustee's Deed Upon Sale recorded in the Clark County
27 Recorder's Office as Book and Instrument Number 201401070000775 is attached hereto as
28 **Exhibit 2**.

³ A true and correct copy of the Lien for Delinquent Assessments recorded as Book and
Instrument Number 201112080002960 is attached hereto as **Exhibit 3**.

⁴ A true and correct copy of the Notice of Default (HOA) recorded as Book and Instrument
Number 201202020000465 is attached hereto as **Exhibit 4**.

1 18. On May 29, 2013, a Foreclosure Deed Upon Sale was recorded by United
2 conveying the Lingerin Breeze Property to First 100. According to this deed, the property
3 was sold to First 100 at public auction on May 25, 2013 pursuant to a homeowners association
4 lien governed by NRS Chapter 116.⁶

5 19. Any interest First 100 may have obtained in the Lingerin Breeze Property was
6 subject to the Deed of Trust.

7 20. The subsequent foreclosure on December 20, 2013 pursuant to the Deed of Trust
8 extinguished First 100's interest in the Lingerin Breeze Property.

9 21. On January 13, 2014, a Deed of Sale was recorded whereby First 100 conveyed
10 its interest in the Lingerin Breeze Property to Chersus.⁷

11 22. Any interest that Chersus may have obtained in the Lingerin Breeze Property
12 pursuant to the Deed of Sale was extinguished by the foreclosure on December 20, 2013
13 pursuant to the Deed of Trust.

14 23. A homeowner's association sale conducted pursuant to NRS Chapter 116 must
15 comply with all notice provisions as stated in NRS 116.31162 through NRS 116.31168.

16 24. A lender or holder of a beneficial interest in a senior deed of trust, such as U.S.
17 Bank and its predecessors-in-interest in the Deed of Trust, has a right to cure a delinquent
18 homeowner's association lien in order to protect its interest.

19
20
21
22
23
24 ⁵ A true and correct copy of the Notice of Sale (HOA) recorded as Book and Instrument Number
25 201305020000105 is attached hereto as **Exhibit 5**.

26 ⁶ A true and correct copy of the Foreclosure Deed Upon Sale recorded in the Clark County
27 Recorder's Office as Book and Instrument Number 201305290002514 is attached hereto as
28 **Exhibit 6**.

⁷ A true and correct copy of the Deed of Sale recorded in the Clark County Recorder's Office as
 Book and Instrument Number 201401130001734 is attached hereto as **Exhibit 7**.

1 25. Upon information and belief, the HOA and its agents, Red Rock and United, did
2 not comply with all mailing and noticing requirements stated in NRS 116.31162 through NRS
3 116.31168.

4 26. A recorded notice of default must “describe the deficiency in payment.”

5 27. The HOA Sale occurred without adequate notice to Plaintiff.

6 28. The HOA Sale occurred without notice to Plaintiff what portion of the lien, if
7 any, that HOA and HOA Trustee claimed constituted a “super-priority” lien.
8

9 29. The HOA Sale occurred without notice to Plaintiff whether HOA was
10 foreclosing on the “super-priority” portion of its lien, if any, or under the non-super-priority
11 portion of the lien.
12

13 30. The HOA Sale occurred without notice to Plaintiff of a right to cure the
14 delinquent assessment and the super-priority lien, if any.

15 31. The HOA Sale violated Plaintiff’s rights to due process because Plaintiff was
16 not given proper, adequate notice and the opportunity to cure the deficiency or default in the
17 payment of the HOA’s assessments and the super-priority lien, if any.
18

19 32. The HOA Sale was an invalid sale and could not have extinguished Plaintiff’s
20 secured interest because of defects in the notices given to Plaintiff.

21 33. Under NRS Chapter 116, a lien under NRS 116.3116(1) can only include costs
22 and fees that are specifically enumerated in the statute.
23

24 34. A homeowner’s association may only collect as a part of the super priority lien
25 (a) nuisance abatement charges incurred by the association pursuant to NRS 116.310312 and
26 (b) nine months of common assessments which became due prior to the institution of an action
27 to enforce the lien (unless Fannie Mae and Freddie Mac regulations require a shorter period of
28

1 not less than six months).

2 35. Upon information and belief, the HOA Foreclosure Notices included improper
3 fees and costs in the amount required to cure, thus invalidating the lien.

4 36. The attorney's fees and the costs of collecting on a homeowner's association
5 lien cannot be included in the lien or super-priority lien.

6 37. Upon information and belief, the HOA assessment lien and foreclosure notices
7 included fines, interest, late fees, dues, attorney's fees, and costs of collection that are not
8 properly included in an HOA lien or super-priority lien under Nevada law and that are not
9 permissible under NRS 116.3102 et seq.
10

11 38. The HOA Sale is unlawful and void under NRS 116.3102 et seq.
12

13 39. The HOA Sale deprived Plaintiff of its right to due process because the
14 foreclosure notices failed to identify the super-priority amount, or to adequately describe the
15 deficiency in payment, to provide Plaintiff notice of the correct super-priority amount, or to
16 provide a reasonable opportunity for Plaintiff to protect its priority by payment to satisfy that
17 amount.
18

19 40. A homeowner's association sale must be done in a commercially reasonable
20 manner.

21 41. At the time of the HOA Sale, the amount owed on the Borrower Loan exceeded
22 \$225,000.00.
23

24 42. Upon information and belief, at the time of the HOA Sale, the fair market value
25 of the Property greatly exceeded the purchase price.

26 43. The HOA Sale was not commercially reasonable, and not done in good faith, in
27 light of the sales price, the market value of the property, and the errors alleged above.
28

1 44. The HOA Sale by which First 100 took its interest was commercially
2 unreasonable if it extinguished Plaintiff's Deed of Trust.

3 45. In the alternative, the HOA Sale was an invalid sale and could not have
4 extinguished Plaintiff's secured interest because it was not a commercially reasonable sale.

5 46. Without providing Plaintiff notice of the correct super-priority amount and a
6 reasonable opportunity to tender payment to satisfy that amount, including the failure to set out
7 the super-priority amount and the failure to adequately describe the deficiency in payment as
8 required by Nevada law, the HOA Sale is commercially unreasonable and deprived Plaintiff of
9 its right to due process.
10

11 47. The CC&Rs for the HOA provide in Sections 7.8 and 7.9 that the HOA's lien
12 was subordinate to Plaintiff's Deed of Trust.⁸
13

14 48. Because the CC&Rs contained a Mortgagee Protection Clause in Section 7.8,
15 and because Plaintiff was not given proper notice that the HOA intended to foreclose on the
16 super-priority portion of the dues owing, Plaintiff did not know that it had to attend the HOA
17 Sale to protect its security interest.
18

19 49. Because the CC&Rs contained a Mortgagee Protection Clause, and because
20 proper notice that the HOA intended to foreclose on the super-priority portion of the dues
21 owing was not given, prospective bidders did not appear for the HOA Sale, making the HOA
22 Sale commercially unreasonable.
23

24 50. Buyer, First 100, HOA, Red Rock, and United knew that Plaintiff would rely on
25 the Mortgagee Protection Clause contained in the recorded CC&Rs, and knew that Plaintiff
26 would not know that HOA was foreclosing on super-priority amounts because of the failure of
27

28 ⁸ A true and correct copy of the HOA CC&R's is attached hereto as **Exhibit 8**.

1 HOA, Red Rock, and United to provide such notice. Plaintiff's absence from the HOA Sale
2 allowed First 100 to appear at the HOA Sale and purchase the Property for a fraction of market
3 value, making the HOA Sale commercially unreasonable.

4 51. Buyer, First 100, HOA, Red Rock, and United knew that prospective bidders
5 would be less likely to attend the HOA Sale because the public at large believed that Plaintiff
6 was protected under the Mortgagee Protection Clause in the CC&Rs of public record, and that
7 the public at large did not receive notice, constructive or actual, that HOA was foreclosing on a
8 super-priority portion of its lien because HOA, Red Rock, and United improperly failed to
9 provide such notice. The general public's belief therefore was that a buyer at the HOA Sale
10 would take title to the Property subject to Plaintiff's Deed of Trust. This general belief resulted
11 in the absence of prospective bidders at the HOA Sale, which allowed Buyer to appear at the
12 HOA Sale and purchase the Property for a fraction of market value, making the HOA Sale
13 commercially unreasonable.

14 52. The circumstances of the HOA Sale of the Property breached the HOA's and the
15 HOA Trustee's obligations of good faith under NRS 116.1113 and their duty to act in a
16 commercially reasonable manner.

17 53. Plaintiff is informed and believes that First 100 and Buyer were professional
18 foreclosure sale property purchasers.

19 54. The circumstances of the HOA Sale of the Property and their status as
20 professional property purchasers preclude First 100 or Buyer from being deemed bona fide
21 purchasers for value.

22 55. Upon information and belief, First 100 and Buyer had actual, constructive or
23 inquiry notice of Plaintiff's first Deed of Trust, which prevents First 100 or Buyer from being
24

1 deemed a bona fide purchaser or encumbrancer for value.

2 56. In the event Plaintiff's interest in the Property is not reaffirmed nor restored,
3 Plaintiff suffered damages in the amount of the fair market value of the Property or the unpaid
4 balance of the Borrower Loan and Deed of Trust, at the time of the HOA Sale, whichever is
5 greater, as a proximate result of Defendant's acts and omissions.

6
7 **FIRST CAUSE OF ACTION**
8 **(Quiet Title/Declaratory Relief versus Buyer, First 100, and all fictitious Defendants)**

9 57. Plaintiff incorporates by reference the allegations of all previous paragraphs, as
10 if fully set forth herein.

11 58. Pursuant to NRS 30.010 et seq. and NRS 40.010, this Court has the power and
12 authority to declare Plaintiff's rights and interests in the Property and to resolve Defendants'
13 adverse claims in the Property.

14 59. Further, pursuant to NRS 30.010 et seq., this Court has the power and authority
15 to declare the rights and interest of the parties following the acts and omissions of the HOA and
16 HOA Trustee in foreclosing the Property.

17 60. Upon information and belief, Chersus Holdings, LLC claims an interest in the
18 Lingering Breeze Property pursuant to the Deed of Sale recorded January 13, 2014.

19 61. Chersus Holdings, LLC's claim is adverse to Plaintiff's ownership interest.

20 62. Upon information and belief, the HOA, the HOA Trustee and the fictitious
21 Defendants failed to provide proper, adequate and sufficient notices required by Nevada
22 statutes and the CC&Rs to assure due process to Plaintiff, and therefore the HOA Sale is void
23 and should be set aside or rescinded.

24 63. Based on the adverse claims being asserted by the parties, Plaintiff is entitled to
25 a judicial determination regarding the rights and interests of the respective parties to the case.
26
27
28

64. Pursuant to NRS 41.010, Plaintiff is entitled to a determination from this Court quieting Chersus Holdings, LLC's claim to title of the Lingerin Breeze Property.

65. In the alternative, if it is found under state law that Plaintiff's interest could have been extinguished by the HOA sale, for all the reasons set forth above and in the General Allegations, Plaintiff is entitled to a determination from this Court, pursuant to NRS 30.010 and NRS 40.010, that the HOA Sale is unlawful and void and conveyed no legitimate interest to Buyer.

66. Plaintiff has furthermore been required to retain counsel and is entitled to recover reasonable attorney's fees for having brought the underlying action.

SECOND CAUSE OF ACTION
(Preliminary and Permanent Injunctions versus Buyer, HOA, Red Rock, United, and fictitious Defendants)

67. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if fully set forth herein.

68. As set forth above, Buyer may claim an ownership interest in the Property that is adverse to Plaintiff.

69. Any sale or transfer of the Property, prior to a judicial determination concerning the respective rights and interests of the parties to the case, may be rendered invalid if Plaintiff's Deed of Trust still encumbered the Property in first position and was not extinguished by the HOA Sale.

70. Plaintiff has a reasonable probability of success on the merits of the Complaint, for which compensatory damages will not compensate Plaintiff for the irreparable harm of the loss of title to a bona fide purchaser.

1 71. Plaintiff has no adequate remedy at law due to the uniqueness of the Property
2 involved in the case.

3 72. Plaintiff is entitled to a preliminary and permanent injunction prohibiting Buyer,
4 their successors, assigns, and agents from conducting a sale, transfer or encumbrance of the
5 Property.

6 73. Plaintiff is entitled to a preliminary injunction requiring Buyer to segregate and
7 deposit all rents with the Court or a Court-approved trust account over which Buyer has no
8 control during the pendency of this action.

9 74. Plaintiff is entitled to a mandatory injunction that the HOA, Red Rock, and
10 United be compelled to deliver to the Clerk of the Court and deposit all funds collected at the
11 HOA Sale pending determination by the Court of the validity of the sale and the respective
12 rights of the parties to the sale proceeds.

13 75. Plaintiff has been required to retain counsel to prosecute this action and is
14 entitled to recover reasonable attorney's fees to prosecute this action.

15
16
17
18 **THIRD CAUSE OF ACTION**

19 **(Wrongful Foreclosure versus the HOA, Red Rock, United, and fictitious Defendants)**

20 76. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
21 fully set forth herein.

22 77. Upon information and belief, the HOA, Red Rock, United, and all fictitious
23 Defendants did not comply with all mailing and noticing requirements stated in NRS 116.31162
24 through NRS 116.31168.

25 78. The HOA, Red Rock, United, and all fictitious Defendants failed to provide
26 notice pursuant to the CC&Rs.

27 79. Because the HOA Sale was wrongfully conducted and violated applicable law, the
28 Court should set it aside to the extent that it purports to have extinguished Plaintiff's first Deed

1 of Trust and delivered free and clear title to the Property to First 100 and Buyer.

2 80. Because the HOA Sale was not commercially reasonable, it was invalid, wrongful
3 and should be set aside.

4 81. Because the HOA, Red Rock, United, and fictitious Defendants did not give
5 Plaintiff, or its agents, servicers or predecessors in interest, the proper, adequate notice and the
6 opportunity to cure the deficiency or default in the payment of the HOA's assessments required
7 by Nevada statutes, the CC&Rs and due process, the HOA Sale was wrongfully conducted and
8 should be set aside.

9 82. As a proximate result of HOA, Red Rock, United, and fictitious Defendants'
10 wrongful foreclosure of the Property by the HOA Sale, as more particularly set forth above and
11 in the General Allegations, Plaintiff has suffered general and special damages in an amount not
12 presently known. Plaintiff will seek leave of court to assert said amounts when they are
13 determined.

14 83. If it is determined that Plaintiff's Deed of Trust has been extinguished by the
15 HOA Sale, as a proximate result of HOA, Red Rock, United, and fictitious Defendants' wrongful
16 foreclosure of the Property by the HOA Sale, Plaintiff has suffered special damages in the
17 amount equal to the fair market value of the Property or the unpaid balance of the Harrison Loan,
18 plus interest, at the time of the HOA Sale, whichever is greater, in an amount not presently
19 known. Plaintiff will seek leave of court to assert said amounts when they are determined.

20 84. Plaintiff has been required to retain counsel to prosecute this action and is entitled
21 to recover reasonable attorney's fees to prosecute this action.

22 **FOURTH CAUSE OF ACTION**

23 **(Negligence versus HOA, Red Rock, United, and the fictitious Defendants)**

24 85. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
25 fully set forth herein

26 86. The HOA, Red Rock, United, and fictitious Defendants owed a duty to Plaintiff
27 and subordinate lienholders to conduct the HOA foreclosure sale at issue in this case properly
28 and in a manner that would fairly allow them an opportunity to protect their interest and cure the

1 super-priority lien threatening their security interests.

2 87. The HOA, Red Rock, United, and fictitious Defendants breached their duty by
3 failing to disclose the amount of the super-priority lien, by failing to specify that it was
4 foreclosing on the super-priority portion of its lien as opposed to the non-super-priority portion,
5 and by failing to provide notice that Plaintiff and subordinate lienholders had an opportunity to
6 cure.

7 88. As a proximate result of the HOA, Red Rock, United, and fictitious Defendants'
8 breaches of their duties, Plaintiff was unable to cure by tendering a pay-off of the super-priority
9 lien threatening its security interest.

10 89. As a proximate result of the HOA, Red Rock, United, and fictitious Defendants'
11 breaches of their duties, Plaintiff has incurred general and special damages in an amount in
12 excess of \$10,000.00.

13 90. If Plaintiff is found to have lost its first secured interest in the Property, it was the
14 proximate result of the HOA, Red Rock, United, and fictitious Defendants' breaches of their
15 duties, and Plaintiff have thereby suffered general and special damages in an amount in excess of
16 \$10,000.00.

17 91. Plaintiff has been required to retain counsel to prosecute this action and is entitled
18 to recover reasonable attorney's fees to prosecute this action.

19 **FIFTH CAUSE OF ACTION**

20 **(Negligence Per Se versus HOA, Red Rock, United, and the fictitious Defendants)**

21 92. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
22 fully set forth herein.

23 93. NRS Chapter 116 imposes a duty on HOAs to conduct HOA foreclosure sales in a
24 manner that is consistent with its provisions and, by reference, the provisions of NRS 107.090.

25 94. HOA, Red Rock, United, and fictitious Defendants breached the statutory duties
26 imposed by NRS Chapter 116 concerning notice.

27 95. HOA, Red Rock, United, and fictitious Defendants violated NRS
28 116.31162(1)(b)(1) by failing to describe the deficiency in payment of a super-priority lien.

96. Plaintiff is a member of the class of persons whom NRS Chapter 116 is intended to protect.

97. The injury that Plaintiff faces—extinguishment of its first-position Deed of Trust—is the type against which NRS Chapter 116 is intended to protect.

98. As a proximate result of HOA's, Red Rock's, United's, and the fictitious Defendants' breaches of their statutory duties, Plaintiff was unable to cure by tendering a pay-off of the super-priority lien threatening its security interest.

99. As a proximate result of HOA's, Red Rock's, United's, and the fictitious Defendants' breaches of their duties, Plaintiff has incurred general and special damages in an amount in excess of \$10,000.00.

100. If Plaintiff is found to have lost its first secured interest in the Property, it was the proximate result of HOA's, Red Rock's, United's, and the fictitious Defendants' breaches of their statutory duties, and Plaintiff has thereby suffered general and special damages in an amount in excess of \$10,000.00.

101. Plaintiff has been required to retain counsel to prosecute this action and is entitled to recover reasonable attorney's fees to prosecute this action.

SIXTH CAUSE OF ACTION

(Breach of Contract versus the HOA, Red Rock, and United)

102. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if fully set forth herein.

103. Plaintiff was an intended beneficiary of the HOA's CC&Rs.

104. The HOA, Red Rock, United, and fictitious Defendants breached the obligations, promises, covenants and conditions of the CC&Rs owed to Plaintiff by the circumstances under which they conducted the HOA Sale of the Property.

105. The HOA, Red Rock, United, and fictitious Defendants' breaches of the obligations, promises, covenants and conditions of the CC&Rs proximately caused Plaintiff general and special damages in an amount in excess of \$10,000.00.

1 106. Plaintiff has been required to retain counsel to prosecute this action and is entitled
2 to recover reasonable attorney's fees to prosecute this action.

3 **SEVENTH CAUSE OF ACTION**
4 **(Misrepresentation versus the HOA)**

5 107. Plaintiff incorporates by reference the allegations of all previous paragraphs, as if
6 fully set forth herein.

7 108. Plaintiff is within the class or persons or entities the HOA intended or had reason
8 to expect to act or to refrain from action in reliance upon the provisions of the CC&Rs, including
9 without limitation, the Mortgagee Protection Clause.

10 109. Plaintiff, and its predecessors in interest, justifiably relied upon the provisions of
11 the CC&Rs and NRS 116.3116(2)(b) in giving consideration for the Deed of Trust, and the
12 Harrison Loan it secures, and the HOA intended or had reason to expect their conduct would be
13 influenced.

14 110. The HOA's representations in the provisions of the CC&Rs, including without
15 limitation, the Mortgagee Protection Clause, were false.

16 111. The HOA had knowledge or a belief that the representations in the provisions of
17 the CC&Rs, including without limitation, the Mortgagee Protection Clause, were false or it had
18 an insufficient basis for making the representations.

19 112. The HOA had a pecuniary interest in having Plaintiff and its predecessors in
20 interest rely on the provisions of the CC&Rs, including without limitation, the Mortgagee
21 Protection Clause.

22 113. The HOA failed to exercise reasonable care or competence in communicating the
23 information within the provisions of the CC&Rs, including without limitation, the Mortgagee
24 Protection Clause, which was false or it had an insufficient basis for making.

25 114. The HOA, the HOA Trustee and fictitious Defendants acted in contravention to
26 the provisions of the CC&Rs, including without limitation, the Mortgagee Protection Clause,
27 when it conducted the HOA Sale in a manner that could extinguish Plaintiff's Deed of Trust.
28

1 115. Plaintiff suffered general and special damages in an amount in excess of
2 \$10,000.00 as a proximate result of its reliance.

3 116. Plaintiff has been required to retain counsel to prosecute this action and is entitled
4 to recover reasonable attorney's fees to prosecute this action.

5 **EIGHTH CAUSE OF ACTION**
6 **(Unjust Enrichment versus Buyer, the HOA, Red Rock, United, and fictitious**
7 **defendants)**

8 117. Plaintiff incorporates and re-alleges all previous paragraphs, as if fully set forth
9 herein.

10 118. Plaintiff, or its predecessor, has been deprived of the benefit of its secured deed of
11 trust by the actions of Buyer, the HOA, Red Rock, United, and fictitious defendants.

12 119. Buyer, the HOA, Red Rock, United, and fictitious defendants have benefitted
13 from the unlawful HOA Sale and nature of the real property.

14 120. Buyer, the HOA, Red Rock, United, and fictitious defendants benefitted from
15 Plaintiff's payment of taxes, insurance or homeowner's association assessments since the time of
16 the HOA Sale.

17 121. Should Plaintiff's Complaint be successful in quieting title against Buyer, the
18 HOA, and the HOA Trustee and setting aside the HOA Sale, Buyer, the HOA, Red Rock,
19 United, and fictitious defendants will have been unjustly enriched by the HOA Sale and usage of
20 the Property.

21 122. Plaintiff will have suffered damages if Buyer, the HOA, Red Rock, United, and
22 fictitious defendants are allowed to retain their interests in the Property and the funds received
23 from the HOA Sale.

24 123. Plaintiff will have suffered damages if Buyer, the HOA, Red Rock, United, and
25 fictitious defendants are allowed to retain their interests in the Property and Plaintiff's payment
26 of taxes, insurance or homeowner's association assessments since the time of the HOA Sale.

27 124. Plaintiff is entitled to general and special damages in excess of \$10,000.00.

28 125. Plaintiff has furthermore been required to retain counsel and is entitled to recover
reasonable attorney's fees for having brought the underlying action.

1 **NINTH CAUSE OF ACTION**

2 **(Tortious Interference with Contract versus Buyer, the HOA, Red Rock, United, and**
3 **fictitious defendants)**

4 126. Plaintiff incorporates and re-alleges all previous paragraphs, as if fully set forth
5 herein.

6 127. At all times mentioned, Plaintiff had a valid and existing contract with the
7 Harrison (the Borrowers), and the contract terms included the power of sale in the Deed of
8 Trust.

9 128. The Deed of Trust evidencing the contract was and is a matter of public record,
10 and therefore known to Buyer, the HOA, Red Rock, United, and fictitious defendants.

11 129. Buyer, the HOA, Red Rock, United, and fictitious defendants engaged in acts
12 intended or designed to disrupt the contractual relationship between Plaintiff and the Borrower
13 by ostensibly electing to enforce the “super priority” rights of the Association through a power of
14 sale, notwithstanding: (i) the covenants contained in the CC&R’s; (ii) no notice to Plaintiff or its
15 predecessors in interest of the intent to do so; (iii) no notice to Plaintiff or its predecessors in
16 interest of the foreclosure proceedings; and (iv) failing to provide an opportunity to cure to
17 Plaintiff before the sale.

18 130. At all times Buyer, the HOA, Red Rock, United, and fictitious defendants could
19 have elected to honor the covenant in its CC&R’s evidenced by the Mortgagee Protection Clause
20 and chosen not to enforce the super priority portion of the lien, or to do so only after ensuring
21 Plaintiff had notice and was prepared to waive its rights to foreclose under the Deed of Trust.

22 131. Plaintiff’s contractual rights to enforce the power of sale have been disrupted and
23 frustrated through Counter- Defendants’ actions.

24 132. As an actual and proximate result of the Counter- Defendants’ actions and
25 inactions, Plaintiff has sustained damages in excess of Ten Thousand Dollars (\$10,000).

26 133. As an actual and proximate results of the Counter- Defendants’ actions and
27 inactions, Plaintiff has sustained special damages, in the form of costs and attorney’s fees, in an
28 amount not yet liquidated, to defend its rights under the Deed of Trust in this action.

1 **PRAYER**

2 Wherefore, Plaintiff prays for judgment against the Counter- Defendants, jointly and
3 severally, as follows:

- 4 1. For a declaration and determination that the HOA Sale was invalid to the extent it
5 purports to convey the Property free and clear to Buyer;
- 6 2. For a declaration and determination that Plaintiff's interest still encumbers the
7 Property, and that Plaintiff's first Deed of Trust was not extinguished by the HOA
8 Sale;
- 9 3. For a declaration and determination that Plaintiff's interest is superior to the
10 interest of Buyer and all other parties;
- 11 4. In the alternative, for a declaration and determination that the HOA Sale was
12 invalid and conveyed no legitimate interest to Buyer;
- 13 5. For a preliminary and permanent injunction that Buyer, its successors, assigns,
14 and agents are prohibited from conducting any sale, transfer or encumbrance of
15 the Property that is claimed to be superior to Plaintiff's Deed of Trust or not
16 subject to that Deed of Trust;
- 17 6. For a preliminary injunction that Buyer, its successors, assigns, and agents be
18 required to pay all taxes, insurance and homeowner's association dues during the
19 pendency of this action.
- 20 7. If it is determined that Plaintiff's Deed of Trust has been extinguished by the
21 HOA Sale, for special damages in the amount of the fair market value of the
22 Property or the unpaid balance of the Harrison Loan and Deed of Trust, at the
23 time of the HOA Sale, whichever is greater;
- 24 8. For general and special damages in excess of \$10,000.00;

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Exhibit 1

Exhibit 1

Exhibit 1

Recording Requested By: 163-31-611-022
DIRECT EQUITY MORTGAGE, LLC

Return To:
DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

Prepared By:

DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

TITLE NO.: 09030356SPR
ESCROW NO.: 09030356SPR
LOAN NO.: 4680
Assessor's Parcel Number: 163-31-611-022



20090331-0004948

Fee: \$22.00 RPTT: \$0.00

N/C Fee: \$25.00

03/31/2009 15:09:00

T20090110401

Requestor:

NEVADA TITLE LAS VEGAS

Debbie Conway

MSH

Clark County Recorder Pgs: 9

09-03-0356-SPR [Space Above This Line For Recording Data]

State of Nevada

DEED OF TRUST

FHA Case No.

332-4848778-703 - 203(b)

MIN 100521800000037987

THIS DEED OF TRUST ("Security Instrument") is made on **MARCH 26, 2009**.
The Grantor is
JOSEPH F HARRISON AND BONNIE L HARRISON, HUSBAND AND WIFE, AS JOINT TENANTS

("Borrower"). The trustee is
NEVADA TITLE COMPANY

("Trustee"). The beneficiary is Mortgage Electronic Registration Systems, Inc. ("MERS"), (solely as nominee for Lender, as hereinafter defined, and Lender's successors and assigns). MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

DIRECT EQUITY MORTGAGE, LLC, A NEVADA CORPORATION

("Lender") is organized and existing under the laws of **NEVADA**, and
has an address of

3285 NORTH FORT APACHE ROAD; LAS VEGAS, NEVADA 89129

Borrower owes Lender the principal sum of
TWO HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED THIRTY NINE AND 00/100

Dollars (U.S. \$ **234,739.00**).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument

Initials 

FILA Nevada Deed of Trust with MERS - 4/96

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Amended 2/98

4N(NV) (0307).01

VMP Mortgage Solutions (800) 521-7291

DOCPREP SERVICES, INC. FORM - MDOOTNVG-3228

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("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on **APRIL 01, 2039**. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to the Trustee, in trust, with power of sale, the following described property located in

CLARK

County, Nevada:

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

which has the address of **5946 LINGERING BREEZE STREET**

[Street]

LAS VEGAS

[City], Nevada

89148

[Zip Code]

("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS, (as nominee for Lender and Lender's successors and assigns), has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS.

1. Payment of Principal, Interest and Late Charge. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. Monthly Payment of Taxes, Insurance and Other Charges. Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either: (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to Lender are called "Escrow Funds."

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Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 *et seq.* and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

3. Application of Payments. All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note; and

Fifth, to late charges due under the Note.

4. Fire, Flood and Other Hazard Insurance. Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or

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abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) **Default.** Lender may, except as limited by regulations issued by the Secretary, in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) **Sale Without Credit Approval.** Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

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(i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and

(ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property but his or her credit has not been approved in accordance with the requirements of the Secretary.

(c) **No Waiver.** If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

(d) **Regulations of HUD Secretary.** In many circumstances regulations issued by the Secretary will limit Lender's rights, in the case of payment defaults, to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

(e) **Mortgage Not Insured.** Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9(b). Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

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13. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. Governing Law; Severability. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

15. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

16. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. Assignment of Rents. Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

LOAN NO.: 4680

4N(NV) (0307).01

DOCPREP SERVICES, INC. FORM - MDOENVG-3228

Initials 

Page 6 of 8

ORIGINAL

18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by applicable law to Borrower and to the persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the time required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 *et seq.*) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

20. Substitute Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

21. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$ TO BE DETERMINED AT TIME OF REQUEST.

22. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)].

☐ Condominium Rider ☐ Adjustable Rate Rider ☐ Growing Equity Rider
☐ Planned Unit Development Rider ☐ Graduated Payment Rider ☐ Other [Specify]

LOAN NO.: 4680

4N(NV) (0307) 01

DOCPREP SERVICES, INC. FORM - MDOENVG-3229

Initials 

Page 7 of 8

ORIGINAL

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

Joseph F. Harrison (Seal)
 JOSEPH F HARRISON -Borrower

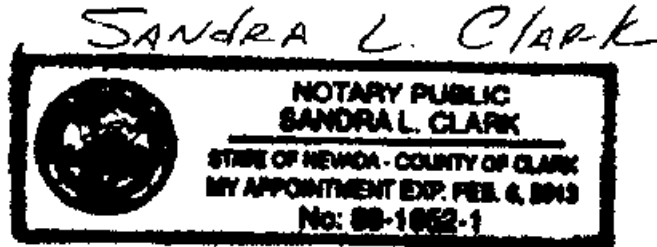
Bonnie L Harrison (Seal)
 BONNIE L HARRISON -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

STATE OF NEVADA COUNTY OF *Clark*
 This instrument was acknowledged before me on *March 26, 2009* by
 JOSEPH F HARRISON AND BONNIE L HARRISON



Sandra L. Clark

Feb 6, 2013
NO 88-1652-1

Mail Tax Statements To:
 JOSEPH F HARRISON AND BONNIE L HARRISON

5946 LINGERING BREEZE STREET
 LAS VEGAS, NEVADA 89148

LOAN NO.: 4680

4N(NV) (0307).01

DocPREP SERVICES, INC. FORM - MDOENVG-3228

Page 6 of 8

ORIGINAL

Escrow No.: 09-03-0356-SPR

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF
RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN
BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER
OF CLARK COUNTY, NEVADA.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND
ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE
PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED
HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

Exhibit 2

Exhibit 2

Exhibit 2

A.P.N.: 163-31-611-022
Requested and Prepared by:
Cooper Castle Law Firm, LLP

When Recorded Mail To:
Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, NV 89113

Forward Tax Statements to
the address given below

Inst #: 201401070000775

Fees: \$19.00 N/C Fee: \$0.00

RPTT: \$879.75 Ex: #

01/07/2014 08:18:28 AM

Receipt #: 1893423

Requestor:

THE CASTLE LAW GROUP, LLC.

Recorded By: ECM Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

T.S. NO.: 12-05-42957-NV
TITLE ORDER # 6734622

TRUSTEE'S DEED UPON SALE

A.P.N.: 163-31-611-022 TRANSFER TAX: \$879.75

The Grantee Herein Was the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was \$227,324.19, plus any Accrued Interest, Late Charges, Escrow Shortages, and other Collection Costs pursuant to the Promissory Note/Deed of Trust/Loan Modification Agreement.

The Amount Paid by the Grantee Was \$172,200.00

Said Property is in the City of Las Vegas, County of Clark

Cooper Castle Law Firm, LLP, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

Ocwen Loan Servicing LLC

(herein called Grantee), whose legal address is 110 Virginia Drive, Fort Washington PA 19034 but without covenant or warranty, expressed or implied, all right title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Clark, State of Nevada, described as follows:

SEE EXHIBIT A HERE TO AND INCORPORATED HEREIN BY REFERENCE

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by Joseph F Harrison and Bonnie L Harrison, as Trustors, dated March 26, 2009 of the Official Records in the office of the Recorder of Clark County, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on March 31, 2009, 20090331-0004948 of Official records. The Trustee has complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified mail, postage pre-paid, to each person entitled to notice in compliance with Nevada Revised Statutes Chapter 107.

TRUSTEE'S DEED UPON SALE

T.S. NO.: 12-05-42957-NV

TITLE ORDER # 6734622

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on **December 20, 2013**. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid, being **\$172,200.00**, in lawful money of the United States, receipt thereof is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, Cooper Castle Law Firm, LLP as Trustee, has this day, caused its name to be hereunto affixed by its officer thereunto duly authorized by its corporation by-laws.

Date: 1/3/14**THE COOPER CASTLE LAW FIRM, LLP**By: 

Justin Gourley

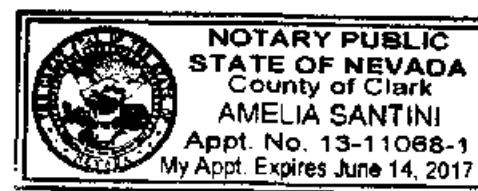
Attorney at Law

State of Nevada } SS.

County of Clark }

On 1-3-14 before me, the undersigned, Amelia Santini, Notary Public, personally appeared Justin Gourley personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Amelia Santini (Seal)

Joseph F Harrison and Bonnie L Harrison / 12-05-42957-NV

EXHIBIT A

**THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF NEVADA,
COUNTY OF CLARK, CITY OF LAS VEGAS, AND IS DESCRIBED AS FOLLOWS:**

PARCEL I:

**LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF RUSSELL/FORT APACHE-UNIT 3,
AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101, OF PLATS,PAGE 45, IN THE OFFICE OF
THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.**

PARCEL II:

**A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND ENJOYMENT AND PUBLIC
UTILITY PURPOSES ON, OVER AND ACROSS THE PRIVATE STREETS AND COMMON AREAS
ON THE MAP REFERENCED HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO
PARCEL ONE (I).**

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
Other _____

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property \$ 172,200.00
b. Deed in Lieu of Foreclosure Only (value of property) _____
c. Transfer Tax Value: \$ 172,500.00
d. Real Property Transfer Tax Due \$ 879.75

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity: Attorney At Law

Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: Cooper Castle Law Firm
Address: 5275 S. Durango Drive
City: Las Vegas
State: NV Zip: 89113

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Ocwen Loan Servicing LLC
Address: 110 Virginia Drive
City: Fort Washington
State: PA Zip: 19034

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: Cooper Castle Law Firm
Address: 5275 S. Durango Drive
City: Las Vegas

Escrow # _____
State: NV Zip: 89113

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit 3

Exhibit 3

Exhibit 3

Assessor Parcel Number: 163-31-611-022
File Number: R98668

Accommodation

Inst #: 201112080002960

Fees: \$17.00

N/C Fee: \$0.00

12/08/2011 09:26:38 AM

Receipt #: 1002082

Requestor:

NORTH AMERICAN TITLE COMPAN

Recorded By: KGP Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

LIEN FOR DELINQUENT ASSESSMENTS

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

NOTICE IS HEREBY GIVEN: Red Rock Financial Services, a division of RMI Management I.L.C., officially assigned as agent by the Southern Terrace Homeowners Association, herein also called the Association, in accordance with Nevada Revised Statutes 116 and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 08/09/2001, in Book Number 20010809, as Instrument Number 01455 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada, which have been supplied to and agreed upon by said owner.

Said Association imposes a Lien for Delinquent Assessments on the commonly known property:

5946 Lingering Breeze St, Las Vegas, NV 89148

RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, in the County of Clark

Current Owner(s) of Record:

JOSEPH F. HARRISON, BONNIE L. HARRISON

The amount owing as of the date of preparation of this lien is **\$737.04.

This amount includes assessments, late fees, interest, fines/violations and collection fees and costs.

** The said amount may increase or decrease as assessments, late fees, interest, fines/violations, collection fees, costs or partial payments are applied to the account.

Dated: December 1, 2011

Rebecca Tom

Prepared By Rebecca Tom, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

STATE OF NEVADA)

COUNTY OF CLARK)

On December 1, 2011, before me, personally appeared Rebecca Tom, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Theresa Solis

When Recorded Mail To: Red Rock Financial Services
7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



Exhibit 4

Exhibit 4

Exhibit 4

Assessor Parcel Number: 163-31-611-022
 File Number: R98668
 Property Address: 5946 Lingering Breeze St
 Las Vegas, NV 89148
 Title Order Number: 36904

Inst #: 201202020000465
 Fees: \$17.00
 N/C Fee: \$0.00
 02/02/2012 10:26:14 AM
 Receipt #: 1054640
 Requestor:
 AMERICAN LOT BOOK
 Recorded By: LEX Pgs: 1
 DEBBIE CONWAY
 CLARK COUNTY RECORDER

**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE
 LIEN FOR DELINQUENT ASSESSMENTS**

◆ IMPORTANT NOTICE ◆

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN
 THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE
 AMOUNT IS IN DISPUTE!**

NOTICE IS HEREBY GIVEN: Red Rock Financial Services officially assigned as agent by the Southern Terrace Homeowners Association, under the Lien for Delinquent Assessments, recorded on 12/08/2011, in Book Number 20111208, as Instrument Number 0002960, reflecting JOSEPH F. HARRISON, BONNIE L. HARRISON as the owner(s) of record on said lien, land legally described as RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 08/09/2001, in Book Number 20010809, as Instrument Number 01455, has been breached. As of 09/01/2011 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

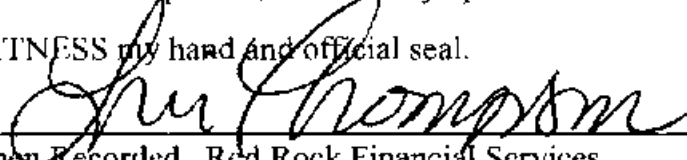
Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes 116, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of January 27, 2012, the amount owed is \$ 1,870.61. This amount will continue to increase until paid in full.

 Dated: January 27, 2012
 Prepared By Joshua Wood, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

STATE OF NEVADA)
 COUNTY OF CLARK)

On January 27, 2012, before me, personally appeared Joshua Wood, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


 When Recorded Red Rock Financial Services
 Mail To: 7251 Amigo Street, Suite 100
 Las Vegas, Nevada 89119
 702-932-6887

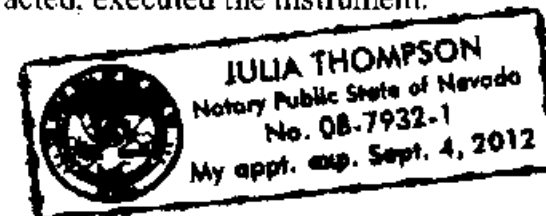


Exhibit 5

Exhibit 5

Exhibit 5

APN: 163-31-611-022

ULS#: NV-SO3-04

When recorded mail to:
United Legal Services Inc.
A Nevada Law Firm
9484 South Eastern Ave. #163
Las Vegas, NV 89123
Phone: (702) 617-3263

Inst #: 201305020000105

Fees: \$17.00

N/C Fee: \$0.00

05/02/2013 08:01:15 AM

Receipt #: 1598818

Requestor:

UNITED LEGAL SERVICES INC.

Recorded By: ECM Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR DELINQUENT ASSESSMENTS

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-9907.

YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on December 8, 2011 as instrument 20112080002960 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Southern Terrace Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on February 2, 2012 as instrument 201202020000465 in the Official Records. The property owner(s) of record is/are: **Joseph F and Bonnie L Harrison**. The total amount necessary to satisfy the lien as of the proposed sale date is \$4,197.60.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

NOTICE IS HEREBY GIVEN THAT on May 25, 2013 at 9:00 AM at 8965 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 116, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 5946 Lingering Breeze St, Las Vegas, Nevada 89148. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 1, 2013

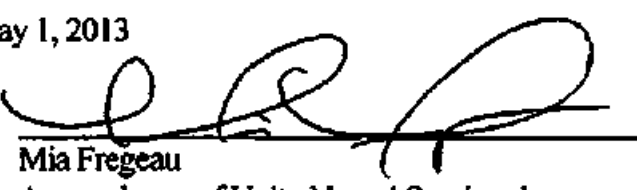
By: 
Mia Fregeau
An employee of United Legal Services Inc.
As authorized agent for, and on behalf of, Southern Terrace Homeowners Association

Exhibit 6

Exhibit 6

Exhibit 6

APN: 163-31-611-022

Return document and mail tax statements to:

First 100, LLC
10620 Southern Highlands Pkwy, Ste. 110-485
Las Vegas NV 89141

Inst #: 201305290002514

Fees: \$18.00 N/C Fee: \$0.00

RPTT: \$691.05 Ex: #

05/29/2013 12:22:37 PM

Receipt #: 1633728

Requestor:

UNITED LEGAL SERVICES INC.

Recorded By: DXI Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

FORECLOSURE DEED UPON SALE

Foreclosing lienholder **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**, under power of sale pursuant to NRS Chapter 116, does hereby sell, without warranty, expressed or implied, to:


FIRST 100, LLC

the real property situated in Clark County, Nevada legally described as:

SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on December 8, 2011 as instrument 201112080002960 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on February 2, 2012 as instrument 201202020000465 in the Official Records of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on May 25, 2013.

By: 
Robert Opdyke, Esq.
United Legal Services Inc.
As authorized agent for, and on behalf of, foreclosing Association

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me
on May 28, 2013, by: Robert Opdyke.


NOTARY PUBLIC

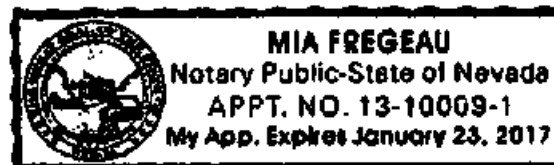


EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
Other _____

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property \$ 135,500.00
b. Deed in Lieu of Foreclosure Only (value of property (_____))
c. Transfer Tax Value: \$ 135,500.00
d. Real Property Transfer Tax Due \$ 691.05

4. **If Exemption Claimed:**

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity: Seller's Agent

Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: United Legal Services Inc.*
Address: 9484 S. Eastern Ave. #163
City: Las Vegas
State: NV Zip: 89123

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: First 100, LLC
Address: 10620 Southern Highland 110-485
City: Las Vegas
State: NV Zip: 89141

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: United Legal Services Inc.
Address: 9484 S. Eastern Ave. #163
City: Las Vegas

Escrow # _____
State: NV Zip: 89123

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

**As agent for Southern Terrace Homeowners Association*

Exhibit 7

Exhibit 7

Exhibit 7

Inst #: 201401130001734

Fees: \$18.00 N/C Fee: \$0.00

RPTT: \$889.95 Ex: #

01/13/2014 03:17:13 PM

Receipt #: 1900145

Requestor:

CHERUS HOLDINGS LLC

Recorded By: SCA Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 163-31-611-022

Return document and mail tax statements to:

Chersus Holdings, LLC
1354 Opal Valley St
Henderson NV 89052

DEED OF SALE

THIS INDENTURE WITNESSETH: That first party

FIRST 100, LLC

for valuable consideration, the receipt of which is hereby acknowledged, does hereby convey without warranty, express or implied, to grantee:

CHERSUS HOLDINGS, LLC

the real property situated in Clark County, State of Nevada, described as follows:

**** SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION ****

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining.

Subject to: (i) Property taxes; (ii) conditions, covenants, restrictions, reservations, rights, rights of way, and easements now of record, if any; and (iii) liens, deeds of trust, and other encumbrances now in force, if any.

By:

Authorized Signatory, First 100 LLC

Print Name:

Carlos Cardenas
Carlos Cardenas

STATE OF NEVADA)

COUNTY OF CLARK)

This instrument was acknowledged before me on October 23rd 2013,

by:

Carlos Cardenas
(print name of above signatory)

NOTARY PUBLIC

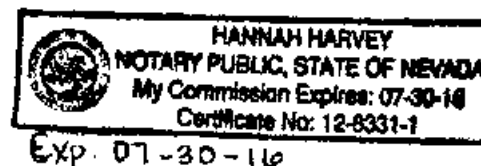


EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

- a. 163-31-611-022
b. _____
c. _____
d. _____

2. Type of Property:

- a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
Other _____

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property

\$ 174,083.00

b. Deed in Lieu of Foreclosure Only (value of property (_____))

c. Transfer Tax Value:

\$ 174,083.00

d. Real Property Transfer Tax Due

\$ 889.95


4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity: Seller (Grantor) Representative

Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: First 100, LLC

Address: 11920 Southern Highlands Ste 200

City: Las Vegas

State: Nevada Zip: 89141

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Chersus Holdings, LLC

Address: 1354 Opal Valley St

City: Henderson

State: Nevada Zip: 89052

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: First 100, LLC

Address: 11920 Southern Highlands Ste 200

City: Las Vegas

Escrow # _____

State: Nevada Zip: 89141

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit 8

Exhibit 8

Exhibit 8

20310809
01455

APN: pin of 163-31-501-010, 163-31-501-013,
163-31-501-014, 163-31-501-021

84

WHEN RECORDED, RETURN TO

WILBUR M. ROADHOUSE, ESQ.

Goold Patterson DeVore Ales & Roadhouse
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

(Space Above Line for Recorder's Use Only)

MASTER DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE

(a Nevada Residential Common-Interest Planned Community)
CLARK COUNTY, NEVADA

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**MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE**

THIS MASTER DECLARATION ("Declaration"), made as of the 8th day of August, 2001, by PERMA-BILT, a Nevada corporation ("Declarant"),

WITNESSETH:

WHEREAS:

A. Declarant owns certain real property located in Clark County, Nevada, on which Declarant intends to subdivide, develop, construct, market and sell a single family detached residential common-interest planned community, to be known generally as "SOUTHERN TERRACE"; and

B. A portion of said property, as more particularly described in Exhibit "A" attached hereto, shall constitute the property initially covered by this Declaration ("Original Property"); and

C. Declarant intends that, upon Recordation of this Declaration, the Original Property shall be a Nevada Common-Interest Community, as defined in NRS § 116.110323, and a Nevada Planned Community, as defined in NRS § 116.110368 ("Community"); and

D. The name of the Community shall be SOUTHERN TERRACE, and the name of the Nevada nonprofit corporation organized in connection therewith shall be SOUTHERN TERRACE HOMEOWNERS ASSOCIATION ("Association"); and

E. Declarant further reserves the right from time to time to add all or any portion of certain other real property, more particularly described in Exhibit "B" hereto ("Annexable Area"); and

F. The total maximum number of Units that may (but need not) be created in the Community is one thousand two hundred (1,200) aggregate Units ("Units That May Be Created"); and

G. Declarant intends to develop and convey all of the Original Property, and any Annexable Area which may be annexed from time to time thereto ("Annexed Property"), pursuant to a general plan and subject to certain protective covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges; and

H. Declarant has deemed it desirable, for the efficient preservation of the value and amenities of the Properties, to organize the Association, to which shall be delegated and assigned the powers of owning, maintaining and administering the Common Elements (as defined herein), administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created. Declarant will cause or has caused, the Association to be formed for the purpose of exercising such functions; and

I. This Declaration is intended to set forth a dynamic and flexible plan of governance of the Community, for the overall development, administration, maintenance and preservation of a master residential community in which the Owners enjoy a quality life style as "good neighbors".

NOW, THEREFORE, Declarant hereby declares that all of the Original Property, and, from the date(s) of respective annexation, all Annexed Property (collectively, "Properties") shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties (as defined in Article 1 hereof), in furtherance of a general plan for the protection, maintenance, subdivision, improvement, sale and lease of the Properties or any portion thereof. The protective covenants, conditions, restrictions, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Properties and shall be binding upon all Persons having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon, and may be enforced by, Declarant, the Association, each Owner, and their respective heirs, executors and administrators, and successive owners and assigns. All Units within this Community shall be used, improved, and limited exclusively to single Family residential use.

ARTICLE 1

DEFINITIONS

Section 1.1 "Annexable Area" shall mean the real property described in Exhibit "B" hereto, all or any portion of which real property may from time to time be made subject to this Declaration pursuant to the provisions of Article 15 hereof. At no time shall any portion of the Annexable Area be deemed to be a part of the Community or a part of the Properties until such portion of the Annexable Area has been duly annexed hereto pursuant to Article 15 hereof.

Section 1.2 "Annexed Property" shall mean any and all portion(s) of the Annexable Area from time to time added to the Properties covered by this Declaration, by Recordation of Annexation Amendment(s) pursuant to Article 15 hereof.

Section 1.3 "ARC" shall mean the Architectural Review Committee created pursuant to Article 8 hereof.

Section 1.4 "Articles" shall mean the Articles of Incorporation of the Association as filed in the office of the Secretary of State of Nevada, as such Articles may be amended from time to time.

Section 1.5 "Assessments" shall refer collectively to Annual Assessments, Capital Assessments, and any applicable Special Assessments (and, if applicable with regard to a particular Neighborhood, Neighborhood Assessments).

Section 1.6 "Assessment, Annual" shall mean the annual or supplemental charge against each Owner and his Unit, representing a portion of the Common Expenses, which are to be paid in equal periodic installments (monthly, quarterly, or annually, as determined from time to time by the Board), commencing as of the Assessment Commencement Date, by each Owner to the Association in the manner and proportions provided herein.

Section 1.7 "Assessment, Capital" shall mean a charge against each Owner and his Unit, representing a portion of the costs to the Association for installation, construction or reconstruction of any Improvements on any portion of the Common Elements which the Association may from time to time authorize, pursuant to the provisions of this Declaration. Such charge shall be levied among all Owners and their Units in the same proportion as Annual Assessments.

Section 1.8 "Assessment, Special" shall mean a charge against a particular Owner and his Unit, directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty

assessed by the Association, plus interest and other charges on such Special Assessments as provided for herein.

Section 1.9 "Assessment Commencement Date" shall mean that date, pursuant to Section 6.7 hereof, duly established by the Board, on which Annual Assessments shall commence.

Section 1.10 "Association" shall mean SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, a Nevada nonprofit corporation, its successors and assigns.

Section 1.11 "Association Funds" shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article 6 hereof.

Section 1.12 "Beneficiary" shall mean a Mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such mortgagee or beneficiary.

Section 1.13 "Board" or "Board of Directors" shall mean the Board of Directors of the Association. The Board of Directors is an "Executive Board" as defined by NRS § 116.110345.

Section 1.14 "Budget" shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration, prepared and approved pursuant to the provisions of this Declaration, including, but not limited to, Section 6.4 below.

Section 1.15 "Bylaws" shall mean the Bylaws of the Association which have or will be adopted by the Board, as such Bylaws may be amended from time to time.

Section 1.16 "Close of Escrow" shall mean the date on which a deed is Recorded conveying a Unit from Declarant to a Purchaser

Section 1.17 "Common Elements" shall mean all real property or interests therein (including, but not necessarily limited to, those easements over portions of certain Lots, designated on the Plat as pedestrian access corridor easements, landscape easements, drainage easements, and certain other easements) owned or leased by the Association, and includes entry monumentation, private entry gates for the Properties, Common Recreational Area, Private Streets and public utility easements shown on the Plat, street lights, street signs, curbs and gutters, certain drainage and sewer easements, certain water and power easements, Common Element landscaping, access and ingress/egress easements (including, but not necessarily limited to, those areas respectively designated "Private Drive and P.U.E.", and any areas designated as "Private Drainage Easement," "Water Easement," "Power Easement," "Sewer Easement," "Access Easement," "Ingress/Egress Easement," and/or other similar easements on the Plat) but otherwise, shall exclude Units. Portions of Perimeter Walls, pursuant to Section 9.6 below, are located on and constitute portions of Lots, and are not Common Elements. The Common Elements shall constitute Common Elements as to the Properties, as provided in NRS § 116.110318.

Section 1.18 "Common Expenses" shall mean expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, including the actual and estimated costs of: maintenance, management, operation, repair, replacement and insurance of the Common Elements; painting over or removing graffiti on the exterior side of perimeter walls; unpaid Special Assessments or Capital Assessments; costs of any commonly metered utilities and other commonly metered charges for the Properties; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to Managers, accountants, attorneys and employees; costs of all utilities, gardening, trash pickup and disposal, and other services benefiting the Common Elements; costs of fire, casualty and liability insurance, workers' compensation insurance, and any other insurance covering the Common Elements or Properties or deemed prudent and necessary by the Board; costs of bonding the Board, Officers, any Managers, or any other Person handling the funds of the Association; any statutorily required "ombudsman" fees; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Elements or Properties, or portions thereof; costs of any other

item or items incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of the Owners; prudent reserves; and any other expenses for which the Association is responsible pursuant to this Declaration or pursuant to any applicable provision of NRS Chapter 116.

Section 1.19 "Common Recreational Area" shall mean a common recreational area for the Community, and the building and other improvements on such area which shall be a part of the Common Elements

Section 1.20 "Community" shall mean a Common-Interest Community, as defined in NRS § 116.110323, and a Planned Community, as defined in NRS § 116.110368.

Section 1.21 "County" shall mean the county in which the Properties are located (i.e., Clark County, Nevada)

Section 1.22 "Declarant" shall mean PERMA-BILT, a Nevada corporation, its successors and any Person to which it shall have assigned any rights hereunder by an express written and Recorded assignment (but specifically excluding Purchasers as defined in NRS §116.110375).

Section 1.23 "Declarant Control Period" shall have the meaning set forth in Section 3.7, below.

Section 1.24 "Declaration" shall mean this instrument, as may be amended from time to time.

Section 1.25 "Deed of Trust" shall mean a Recorded mortgage or a deed of trust, as the case may be, pursuant to Section 1.42, below.

Section 1.26 "Director" shall mean a duly appointed or elected and current member of the Board of Directors

Section 1.27 "Dwelling" shall mean a residential building located on a Unit designed and intended for use and occupancy as a residence by a single Family.

Section 1.28 "Eligible Holder" shall mean each Beneficiary, insurer and/or guarantor of a first Mortgage encumbering any Unit, which has filed with the Board a written request for notification as to relevant specified matters.

Section 1.29 "Exterior Wall(s)" shall mean the exterior only face of Perimeter Walls (visible from public streets or other areas outside of and generally abutting the exterior boundary of the Properties).

Section 1.30 "Family" shall mean (a) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (b) a group of natural persons not all so related, but who maintain a common household in a Dwelling, all as subject to and in compliance with all applicable federal and Nevada laws and local health codes and other applicable County ordinances.

Section 1.31 "FHA" shall mean the Federal Housing Administration.

Section 1.32 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporations

Section 1.33 "Fiscal Year" shall mean the twelve (12) month fiscal accounting and reporting period of the Association selected from time to time by the Board.

Section 1.34 "FNMA" shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

Section 1.35 "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successors to such association.

Section 1.36 "Governing Documents" shall mean the Declaration, Articles, Bylaws, Plat, and the Rules and Regulations together with, if applicable, any Supplemental Declaration (and, if applicable, any Neighborhood Rules and Regulations or other Neighborhood governing documents, collectively referred to as "Neighborhood Governing Documents", which are specific with regard to a particular Neighborhood). Any inconsistency among the Governing Documents shall be governed pursuant to Section 19.10, below.

Section 1.37 "Identifying Number", pursuant to NRS § 116.110348, shall mean the number which identifies a Unit on the Plat.

Section 1.38 "Improvement" shall mean any structure or appurtenance thereto of every type and kind, whether above or below the land surface, placed in the Properties, including but not limited to Dwellings and other buildings, walkways, sprinkler pipes, swimming pools, spas and other recreational facilities, carports, garages, roads, driveways, parking areas, hardscape, Private Streets, streetlights, curbs, gutters, walls, perimeter walls, party walls, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures or equipment.

Section 1.39 "Lot" shall mean the residential real property of any residential lot to be owned separately by an Owner, as shown on the Plat (subject to Common Element easements over Lots as shown on the Plat, including, but not limited to, any Private Street easements). Notwithstanding the foregoing, in the event that certain Lots, shown as such on the Plat, are expressly designated by Declarant, in its sole and absolute discretion, by separate Recorded instrument to constitute Common Elements, pursuant to Declarant's reserved rights as set forth in Article 14 below, then such specifically designated Lots shall not be Lots for purposes of this Declaration and the other Governing Documents, but shall be conclusively deemed a portion of the Common Elements.

Section 1.40 "Manager" shall mean the Person, if any, whether an employee or independent contractor, appointed by the Association, acting through the Board, and delegated the authority to implement certain duties, powers or functions of the Association as provided in this Declaration.

Section 1.41 "Member," "Membership," "Member" shall mean any Person holding a membership in the Association, as provided in this Declaration. "Membership" shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations, including liability for Assessments, contained in the Governing Documents.

Section 1.42 "Mortgage," "Mortgagee," "Mortgagor," "Mortgage" shall mean any unreleased mortgage or deed of trust or other similar instrument of Record, given voluntarily by an Owner, encumbering his Unit to secure the performance of an obligation or the payment of a debt, which will be released and reconveyed upon the completion of such performance or payment of such debt. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." "Mortgage" shall not include any judgment lien, mechanic's lien, tax lien, or other similarly involuntary lien on or encumbrance of a Unit. The term "Mortgagee" shall mean a Person to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. "Mortgagor" shall mean a Person who mortgages his Unit to another (i.e., the maker of a Mortgage), and shall include the trustor of a Deed of Trust. "Trustor" shall be synonymous with the term "Mortgagor," and "Beneficiary" shall be synonymous with "Mortgagee."

Section 1.43 "Neighborhood" shall have the meaning set forth in Section 17.1, below.

Section 1.44 "Neighborhood Assessments" shall have the meaning set forth in Section 17.1, below.

Section 1.45 "Neighborhood Common Area" shall have the meaning set forth in Section 17.1, below.

Section 1.46 "Neighborhood Expenses" shall have the meaning set forth in Section 17.1, below.

Section 1.47 "Notice and Hearing" shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at Owner's expense, in the manner further provided in the Bylaws.

Section 1.48 "Officer" shall mean a duly elected or appointed and current officer of the Association.

Section 1.49 "Original Property" shall mean that real property described on Exhibit "A," attached hereto and incorporated by this reference herein, which shall be the initial real property made subject to this Declaration, immediately upon the Recordation of this Declaration.

Section 1.50 "Owner" shall mean the Person or Persons, including Declarant, holding fee simple interest of Record to any Unit. The term "Owner" shall include sellers under executory contracts of sale, but shall exclude Mortgagees.

Section 1.51 "Perimeter Walls" shall mean the walls, initially constructed by Declarant, and located generally around the exterior perimeter of the Properties.

Section 1.52 "Person" shall mean a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

Section 1.53 "Plat" shall mean the final plat maps of SOUTHERN TERRACE, as the same from time to time are Recorded, including the final map of _____, (Recorded on _____, 2001, in Book _____ of Plats, Page _____), and any other final plat maps of the Properties, as all of the same from time to time may be amended or supplemented.

Section 1.54 "Private Streets" shall mean all private streets, rights of way, street scapes, and vehicular ingress and egress easements, in the Properties, shown as such on the Plat.

Section 1.55 "Properties" shall mean all of the Original Property described in Exhibit "A," attached hereto, together with such portions of the Annexable Area, described in Exhibit "B" hereto, as hereafter from time to time may be annexed thereto pursuant to Article 15 of this Declaration.

Section 1.56 "Purchaser" shall have that meaning as provided in NRS § 116.110375.

Section 1.57 "Record," "Recorded," "Filed" or "Recordation" shall mean, with respect to any document, the recordation of such document in the official records of the County Recorder of Clark County, Nevada.

Section 1.58 "Resident" shall mean any Owner, tenant, or other person who is physically residing in a Unit.

Section 1.59 "Rules and Regulations" shall mean the rules and regulations adopted by the Board pursuant to the Declaration and Bylaws, as such Rules and Regulations from time to time may be amended.

Section 1.60 "Sight Visibility Restriction Area" shall mean those areas, portions of which are or may be located on portions of Common Elements and/or Lots, identified on the Plat as "Sight Visibility Restriction Easements," in which the height of landscaping and other sight restricting Improvements (other than official traffic control devices) is restricted to a maximum height as set forth on the Plat.

Section 1.61 "Supplemental Declaration" shall mean an instrument Recorded by Declarant or with the express prior written consent of Declarant, in its sole discretion, which shall be supplemental to this

Declaration, as set forth in further detail in Section 18.1, below. Any purported Supplemental Declaration Recorded without the express prior written consent of Declarant shall be null and void.

Section 1.62 "Unit" shall mean that residential portion of this Community to be separately owned by each Owner (as shown and separately identified as such on the Plat), and shall include a Lot and all Improvements thereon (which, with regard to certain Units, shall specifically include the portion of Perimeter Walls located on or within the Unit's boundaries, pursuant to Section 9.6 below). Subject to the foregoing, and subject to Section 9.5, below, the boundaries of each Unit shall be the property lines of the Lot, as shown on the Plat.

Section 1.63 "Units That May Be Created" shall mean the total "not to exceed" maximum number of aggregate Units within the Original Property and the Annexable Area (which Declarant has reserved the right, in its sole discretion, to create) (i.e., 1,200 Units).

Section 1.64 "VA" shall mean the U.S. Department of Veterans Affairs.

Any capitalized term not separately defined in this Declaration shall have the meaning ascribed thereto in applicable provision of NRS Chapter 116.

ARTICLE 2 OWNERS' PROPERTY RIGHTS

Section 2.1 Owners' Easements of Enjoyment. Each Owner shall have a nonexclusive right and easement of ingress and egress and of use and enjoyment in, to and over the Common Elements, which easement shall be appurtenant to and shall pass with title to the Owner's Unit, subject to the following:

(a) the right of the Association to reasonably limit the number of guests and tenants an Owner or his tenant may authorize to use the Common Elements;

(b) the right of the Association to establish uniform Rules and Regulations pertaining to the use of the Common Elements;

(c) the right of the Association, in accordance with the Declaration, Articles and Bylaws, with the vote of at least two-thirds (2/3) of the voting power of the Association and a majority of the voting power of the Board, to borrow money for the purpose of improving or adding to the Common Elements, and in aid thereof, and further subject to the Mortgagee protection provisions of Article 13 of this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners;

(d) subject to the provisions of Article 13 of this Declaration, and subject further to the voting requirements set forth in subsection 2.1(c) above, the right of the Association to dedicate, release, alienate, transfer or grant easements, licenses, permits and rights of way in all or any portion of the Common Elements to any public agency, authority, utility or other Person for such purposes and subject to such conditions as may be agreed to by the Members;

(e) subject to the provisions of Article 14 hereof, the right of Declarant and its sales agents, representatives and prospective Purchasers, to the nonexclusive use of the Common Elements, without cost, for access, ingress, egress, use and enjoyment, in order to show and dispose of the Properties and/or any other development(s) until the last Close of Escrow for the marketing and/or sale of a Unit in the Properties or such other development(s); provided, however, that such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein;

(f) the other easements, and rights and reservations of Declarant as set forth in Article 14 and elsewhere in this Declaration.

(g) the right of the Association (by action of the Board) to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Elements in accordance with the original design, finish or standard of construction of such Improvement, or of the general Improvements within the Properties, as the case may be; and if not materially in accordance with such original design, finish or standard of construction only with the vote or written consent of the Owners holding seventy-five percent (75%) of the voting power of the Association, and the vote or written consent of a majority of the voting power of the Board, and the approval of the Eligible Holders of fifty-one percent (51%) of the first Mortgages on Units in the Properties.

(h) the right of the Association, acting through the Board, to replace destroyed trees or other vegetation and to plant trees, shrubs and other ground cover upon any portion of the Common Elements.

(i) the right of the Association, acting through the Board, to place and maintain upon the Common Elements such signs as the Board reasonably may deem appropriate for the identification, marketing, advertisement, sale, use and/or regulation of the Properties, or any portion thereof, or any other project of Declarant.

(j) the right of the Association, acting through the Board, to reasonably restrict access to and use of portions of the Common Elements.

(k) the right of the Association, acting through the Board, to reasonably suspend voting rights and to impose fines as Special Assessments, and to suspend the right of an Owner or Resident to use Common Elements, for nonpayment of any regular or special Assessment levied by the Association against the Owner's Unit, or if an Owner or Resident is otherwise in breach of obligations imposed under the Governing Documents.

(l) the obligations and covenants of Owners as set forth in Article 9 and elsewhere in this Declaration.

(m) the use restrictions set forth in Article 10 and elsewhere in this Declaration;

(n) the easements reserved in Sections 2.2 through 2.7, inclusive, Section 2.13, Article 14, Article 15, Article 17, and/or any other provision of this Declaration; and

(o) the rights of any other easement holders.

Section 2.2 Easements for Parking. Subject to the parking and vehicular restrictions set forth in Section 10 19 below, the Association, through the Board, is hereby empowered to establish "parking" and/or "no parking" areas within the Common Elements, and to establish Rules and Regulations governing such matters, as well as to reasonably enforce such parking rules and limitations by all means lawful for such enforcement on public streets, including the removal of any violating vehicle, by those so empowered, at the expense of the Owner of the violating vehicle. If any temporary guest or recreational parking is permitted within the Common Elements, such parking shall be permitted only within any spaces and areas clearly marked or designated by the Board for such purpose.

Section 2.3 Easements for Vehicular and Pedestrian Traffic. In addition to the general easements for use of the Common Elements reserved herein, there shall be reserved to Declarant and all future Owners, and each of their respective agents, employees, guests, invitees and successors, nonexclusive, appurtenant easements for vehicular and pedestrian traffic over private main entry gate areas and all Private Streets, and any walkways within the Common Elements, subject to parking, vehicular, and/or use provisions set forth in Section 2.2 above and Section 10 19, below.

Section 2.4 Easement Right of Declarant Incident to Construction and/or Marketing and Sales Activities An easement is reserved by and granted to Declarant, its successors and assigns, and their respective officers, managers, employees, agents, contractors, sales representatives, prospective purchasers of Units, guests and other invitees, for access, ingress, and egress over, in, upon, under, and across the Properties, including Common Elements (including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's use, development, advertising, marketing and/or sales related to the Properties, or any portions thereof); provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to interfere unreasonably with the occupancy, use, enjoyment, or access by any Owner, his Family, guests, or invitees, to or of that Owner's Lot, or the Common Elements. The easement created pursuant to this Section 2.4 is subject to the time limit set forth in Section 14.1(a) below. Without limiting the generality of the foregoing, until such time as the Close of Escrow of the last Unit in the Properties, Declarant reserves the right to control entry gate(s) to the Properties and/or to Neighborhoods, and neither the Association nor any one or more of the Owners shall at any time, without the prior written approval of Declarant in its discretion, cause any entry gate in the Properties to be closed during regular marketing, sales, and/or construction hours (including weekend and/or holiday sales or construction hours) of Declarant, or shall in any other way impede or hinder Declarant's marketing, sales and/or construction activities.

Section 2.5 Easements for Public Service Use. In addition to the foregoing easements over the Common Elements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for: (a) placement of any fire hydrants on portions of certain Lots and/or Common Elements, and other purposes regularly or normally related thereto; and (b) County, state, and federal public services, including but not limited to, the right of postal, law enforcement, and fire protection services and their respective employees and agents, to enter upon any part of the Common Elements or any Lot, for the purpose of carrying out their official duties.

Section 2.6 Easements for Water, Sewage, Utility, and Irrigation Purposes. In addition to the foregoing easements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for purposes of public and private utilities, power, telephone, cable TV, water, and gas lines and appurtenances (including but not limited to, the right of any public or private utility or mutual water and/or sewage district, of ingress or egress over the Properties, including portions of Lots, for purposes of reading and maintaining meters, and using and maintaining any fire hydrants located on the Properties). There is hereby created a blanket easement in favor of Declarant and the Association upon, across, over, and under all Units and the Common Elements, for the installation, replacement, repair, and maintenance of utilities (including, but not limited to, water, sewer, gas, telephone, electricity, "smart" data cabling, if any, and master and cable television systems, if any), provided that said easement shall not extend beyond, across, over, or under any structure located on any Unit. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances in the Properties and to install, repair, and maintain water, sewer and gas pipes, electric, telephone and television wires, circuits, conduits and meters. Notwithstanding anything to the contrary contained in this Section, no sewer, electric, water or gas lines or other utilities or service lines may be installed or relocated within the Properties until the Close of Escrow of the last Unit in the Properties, except as approved by Declarant. This easement shall in no way affect any other Recorded easements in the Properties. There is also hereby reserved to Declarant during such period the non-exclusive right and power to grant such specific easements as may be necessary in the sole discretion of Declarant in connection with the orderly development of any property in the Properties. Any damage to a Unit resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant thereof Properties. Declarant further reserves and covenants for itself and the Association, and their respective agents, employees and contractors, easements over the Common Elements and all Lots, for the control, installation, maintenance, repair and replacement of water and/or sewage lines and systems for watering or irrigation of any landscaping on, and/or sewage disposal from or related to, Common Elements. In the event that any utility exceeds the scope of this

or any other easement reserved in this Declaration, and causes damage to property, the Owner of such property shall pursue any resultant claim against the offending utility, and not against Declarant or the Association.

Section 2.7 Additional Reservation of Easements Declarant hereby expressly reserves for the benefit of each Owner and his Unit, reciprocal, nonexclusive easements over the adjoining Unit(s), for the control, maintenance and repair of the utilities serving such Owner's Unit. Declarant further expressly reserves, for the benefit of all of the real property in the Properties, and for the benefit of all of the Units, the Association and the Owners, reciprocal, nonexclusive easements over all Units and the Common Elements, for the control, installation, maintenance and repair of utility services and drainage facilities serving any portion of the Properties, (which may be located on portions of Lots, pursuant to the Plat), for drainage of water resulting from the normal use thereof or of neighboring Units and/or Common Elements, for the use, maintenance, repair and replacement of Private Streets and/or Perimeter Walls (subject to Section 9.6 below), and for any required customer service work and/or maintenance and repair of any Dwelling or other Improvement, wherever located in the Properties, and for compliance with Sight Visibility Restriction Area maximum permitted height requirements. In the event that any utility or governmental body exceeds the scope of any easement pertaining to the Properties, and thereby causes bodily injury or damage to property, the injured or damaged Owner or Resident shall pursue any and all resultant claims against the offending utility, and not against Declarant or the Association. In the event of any minor encroachment upon the Common Elements or Unit(s), as a result of initial construction or as a result of reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for minor encroachment and for the maintenance of the same shall exist so long as the minor encroachment exists. Declarant, and each Owner of a Unit, on which there is constructed a Dwelling along or adjacent to the property line, shall have an easement appurtenant to such property, over such property line, to and over the adjacent Unit and/or adjacent Common Elements, for the purposes of accommodating any natural movement or settling of such Improvement, any encroachment of such Improvement due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs, patio walls and architectural features comprising parts of the original construction of such Improvement. Declarant further reserves (a) a nonexclusive easement, on or over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of Declarant and its agents and/or contractors, for any required warranty repairs, and (b) a nonexclusive easement on and over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of the Association, and its agents, contractors, and/or any other authorized party, for the maintenance and/or repair of any and all landscaping and/or other improvements located on the Common Elements and/or Units.

Section 2.8 Waiver of Use No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Unit or other property owned by said Owner from the liens and charges hereof, by waiver of the use and enjoyment of the Common Elements or any facilities thereon or by abandonment of his Unit or any other property in the Properties.

Section 2.9 Easement Data 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 the Plat is the same as the Recording data for the Plat.

Section 2.10 Owners' Right of Ingress and Egress Each Owner shall have an unrestricted right of ingress and egress to his Unit reasonably over and across the Common Elements, which right shall be appurtenant to the Unit, and shall pass with any transfer of title to the Unit.

Section 2.11 No Transfer of Interest in Common Elements No Owner shall be entitled to sell, lease, encumber, or otherwise convey (whether voluntarily or involuntarily) his interest in any of the Common Elements, except in conjunction with conveyance of his Unit. No transfer of Common Elements, or any interest therein, shall deprive any Unit of its rights of access. Any attempted or purported transaction in violation of this provision shall be void and of no effect.

Section 2.12 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each Unit. If any taxes or assessments of any Owner may, in the opinion of the Association, become a lien on the Common Elements, or any part thereof, they may be paid by the Association as a Common Expense or paid by the Association and levied against such Owner as a Special Assessment.

Section 2.13 Telecommunications System. In cooperation with one or more telecommunication service provider(s) selected by Declarant ("Provider"), Declarant may, but is not required to, develop an integrated broadband network, linking homes, offices, schools, health care and public facilities to provide the necessary transport platform for network-based services such as integrated voice, messaging, data, CATV, and interactive multimedia applications. Declarant's technology vision ultimately is to provide capability for high speed data connectivity, video teleconferencing, video transport, and interactive multimedia services such as movies on demand, distance learning, remote diagnostic health care, and energy information services to help address the needs of an interactive community, where home, office, retail and commercial needs are met through cooperative and centrally managed network strategies. In addition, Declarant contemplates that a community server platform will create an "intranet" of electronic connections between all homes, offices, schools and other facilities. In connection with the foregoing: (a) Declarant may pre-wire each Dwelling in accordance with specifications furnished to Declarant by a Provider selected by Declarant, (b) each Owner, by acceptance of a deed to a Lot (whether or not so expressed in such deed), shall be deemed to acknowledge and agree that such system, including all components thereof as so installed on the Lot, shall be the sole property of Declarant, or, at the option of Declarant, of Provider; (c) Declarant hereby expressly reserves ownership of the portion of such system located on Lots or otherwise within the Properties; and (d) Declarant further expressly reserves a non-exclusive easement in gross on, over, under or across each lot and the other portions of the Properties for purposes of installation and maintenance of such system and for the benefit of Declarant and/or Provider.

ARTICLE 3 **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**

Section 3.1 Organization of Association. The Association is or shall be incorporated under the name of SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, or similar name, as a non-profit corporation under NRS §§81.410 through 81.540, inclusive. Upon dissolution of the Association, the assets of the Association shall be disposed of as set forth in the Governing Documents and in compliance with applicable Nevada law.

Section 3.2 Duties, Powers and Rights. Duties, powers and rights of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers as a non-profit corporation, generally to do any and all things that a corporation organized under the laws of the State of Nevada may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, including any applicable powers set forth in NRS § 116.3102, subject to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents, or in any expressly applicable provision of NRS Chapter 116. The Association shall make available for inspection at its office by any prospective purchaser of a Unit, any Owner, and the Beneficiaries, insurers and guarantors of the first Mortgage on any Unit, during regular business hours and upon reasonable advance notice, current copies of the Governing Documents, and all other books, records, and financial statements of the Association.

Section 3.3 Membership. Each Owner, upon acquiring title to a Lot, shall automatically become a Member and shall remain a Member until such time as his ownership of the Unit ceases, at which time his membership in the Association shall automatically cease. Memberships shall not be assignable, except to the Person to which title to the Unit has been transferred, and each Membership shall be appurtenant to and may not be separated from the fee ownership of such Unit. Ownership of such Unit shall be the sole qualification for Membership, and shall be subject to the Governing Documents.

Section 3.4 Transfer of Membership. The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Unit, and then only to the purchaser or Mortgagee of such Unit. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. An Owner who has sold his Unit to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser said Owner's Membership rights. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Unit until fee title to the Unit sold is transferred. If any Owner should fail or refuse to transfer his Membership to the purchaser of such Unit upon transfer of fee title thereto, the Board shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer (which may, but need not necessarily be, a copy of the Recorded deed of transfer) first has been presented to the reasonable satisfaction of the Board, the purchaser shall not be entitled to vote at meetings of the Association, unless the purchaser shall have a valid proxy from the seller of said Unit, pursuant to Section 4.6. below. The Association may levy a reasonable transfer fee against a new Owner and his Unit (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the records of the Association. The new Owner shall, if requested by the Board or Manager, timely attend an orientation to the Community and the Properties, conducted by an Association Officer or Manager, and will be required to pay any costs necessary to obtain entry gate keys and/or remote controls, if not obtained from the prior Owner at Close of Escrow.

Section 3.5 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws, including any reasonable provisions with respect to corporate matters; but in the event that any such provisions may be, at any time, inconsistent with any provisions of this Declaration, the provisions of this Declaration shall govern. The Bylaws shall provide:

- (a) the number of Directors (subject to Section 3.6 below) and the titles of the Officers;
- (b) for election by the Board of an Association president, treasurer, secretary and any other Officers specified by the Bylaws;
- (c) the qualifications, powers and duties, terms of office and manner of electing and removing Directors and Officers, and filling vacancies;
- (d) which, if any, respective powers the Board or Officers may delegate to other Persons or to a Manager;
- (e) which of the Officers may prepare, execute, certify and record amendments to the Declaration on behalf of the Association;
- (f) procedural rules for conducting meetings of the Association; and
- (g) a method for amending the Bylaws.

Section 3.6 Board of Directors

(a) The affairs of the Association shall be managed by a Board of not less than three (3), nor more than seven (7) Directors, all of whom (other than Directors appointed by Declarant pursuant to Section 3.7 below) must be Members of the Association. In accordance with the provisions of Section 3.7 below, upon the formation of the Association, Declarant shall appoint the Board, which shall initially consist of three (3) Directors. The number of Directors may be increased to five (5) or seven (7) by Declarant (during the Declarant Control Period), or by resolution of the Board, and otherwise may be changed by amendment of the Bylaws, provided that there shall not be less than any minimum number of Directors nor more than any maximum number of Directors from time to time required by applicable Nevada law. The Board may act in

all instances on behalf of the Association, except as otherwise may be provided in the Governing Documents or any applicable provision of NRS Chapter 116 or other applicable law. The Directors, in the performance of their duties, are fiduciaries, and are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule. Notwithstanding the foregoing, the Board may not act on behalf of the Association to amend the Declaration, to terminate the Community, or to elect Directors or determine their qualifications, powers and duties or terms of office, provided that the Board may fill vacancies in the Board for the unexpired portion of any term. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any Director with or without cause, other than a Director appointed by Declarant. If a Director is sued for liability for actions undertaken in his role as a Director, the Association shall indemnify him for his losses or claims, and shall undertake all costs of defense, unless and until it is proven that the Director acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the costs of defense, and may recover, from the Director who so acted, costs already expended. Directors are not personally liable to the victims of crimes occurring within the Properties. Punitive damages may not be recovered against Declarant or the Association, subject to applicable Nevada law. An officer, employee, agent or director of a corporate Owner, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, or a fiduciary of an estate that owns a Unit, may be an Officer or Director. In every event where the person serving or offering to serve as an Officer or Director is a record Owner, he shall file proof of authority in the records of the Association. No Director shall be entitled to delegate his or her vote on the Board, as a Director, to any other Director or any other Person, and any such attempted delegation of a Director's vote shall be void. Each Director shall serve in office until the appointment (or election, as applicable) of his successor.

(b) The term of office of a Director shall not exceed two (2) years. A Director may be elected to succeed himself. Following the Declarant Control Period, elections for Directors (whose terms are expiring) must be held at the Annual Meeting, as set forth in Section 4.3 below.

(c) A quorum is deemed present throughout any Board meeting if Directors entitled to cast fifty percent (50%) of the votes on that Board are present at the beginning of the meeting.

Section 3.7 Declarant's Control of the Board. During the period of Declarant's control ("Declarant Control Period"), as set forth below, Declarant at any time, with or without cause, may remove or replace any Director appointed by Declarant. Directors appointed by Declarant need not be Owners. Declarant shall have the right to appoint and remove the Directors, subject to the following limitations:

(a) Not later than sixty (60) days after conveyance from Declarant to Purchasers of twenty-five percent (25%) of the Units That May Be Created, at least one Director and not less than twenty-five percent (25%) of the total Directors must be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance from Declarant to Purchasers of fifty percent (50%) of the Units That May Be Created, not less than one-third of the total Directors must be elected by Owners other than Declarant.

(c) The Declarant Control Period shall terminate on the earliest of: (i) sixty (60) days after conveyance from Declarant to Purchasers of seventy-five percent (75%) of the Units That May Be Created; (ii) five years after Declarant has ceased to offer any Units for sale in the ordinary course of business; or (iii) five years after any right to annex any portion of the Annexable Area was last exercised pursuant to Article 15 hereof.

Section 3.8 Control of Board by Owners. Subject to and following the Declarant Control Period: (a) the Owners shall elect a Board of at least three (3) Directors, and (b) the Board may fill vacancies in its membership (e.g., due to death or resignation of a Director), subject to the right of the Owners to elect a replacement Director, for the unexpired portion of any term. After the Declarant Control Period, all of the Directors must be Owners, and each Director shall, within thirty (30) days of his appointment or election, certify

in writing that he is an Owner and has read and reasonably understands the Governing Documents and applicable provisions of NRS Chapter 116 to the best of his or her ability. The Board shall elect the Officers, all of whom (after the Declarant Control Period) must be Owners and Directors. The Owners, upon a two-thirds (2/3) affirmative vote of all Owners present and entitled to vote at any Owners' meeting at which a quorum is present, may remove any Director(s) with or without cause; provided, however that any Director(s) appointed by Declarant may only be removed by Declarant.

Section 3.9 Election of Directors. Not less than thirty (30) days before the preparation of a ballot for the election of Directors, which shall normally be conducted at an Annual Meeting, the Association Secretary or other designated Officer shall cause notice to be given to each Owner of his eligibility to serve as a Director. Each Owner who is qualified to serve as a Director may have his name placed on the ballot along with the names of the nominees selected by the Board or a nominating committee established by the Board. The election of any Director must be conducted by secret written ballot. The Association Secretary or other designated Officer shall cause to be sent prepaid by United States mail to the mailing address of each Unit within the Community or to any other mailing address designated in writing by the Unit Owner, owner, a secret ballot and a return envelope. Election of Directors must be conducted by secret written ballot, with the vote publicly counted (which may be done as the meeting progresses).

Section 3.10 Board Meetings

(a) A Board meeting must be held at least once every 90 days. Except in an emergency, the Secretary or other designated Officer shall, not less than 10 days before the date of a Board meeting, cause notice of the meeting to be given to the Owners. Such notice must be (1) sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Owner; or (2) published in a newsletter or other similar publication circulated to each Owner. In an emergency, the Secretary or other designated Officer shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each Unit. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each Unit within the Community or posted in a prominent place or places within the Common Elements.

(b) As used in this Section 3.10, "emergency" means any occurrence or combination of occurrences that (1) could not have been reasonably foreseen; (2) affects the health, welfare and safety of the Owners; (3) requires the immediate attention of, and possible action by, the Board; and (4) makes it impracticable to comply with regular notice and/or agenda provisions.

(c) The notice of the Board meeting must state the time and place of the meeting and include a copy of the agenda for the meeting (or the date on which and the locations where copies of the agenda may be conveniently obtained by Owners). The notice must include notification of the right of an Owner to (1) have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request (and, if required by the Board, upon payment to the Association of the cost of making the distribution), and (2) speak to the Association or Board, unless the Board is meeting in Executive Session.

(d) The agenda of the Board meeting must comply with the provisions of NRS § 116.3108.3. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the Board may take action on an item which is not listed on the agenda as an item on which action may be taken.

(e) At least once every 90 days, the Board shall review at one of its meetings: (1) a current reconciliation of the Operating Fund (as defined in Section 6.2 below); (2) a current reconciliation of the Reserve Fund (as defined in Section 6.3 below); (3) the actual revenues and expenses for the Reserve Fund, compared to the Reserve Budget for the current year; (4) the latest account statements prepared by the financial institutions in which the accounts of the Association are maintained; (5) an income and expense statement, prepared on at least a quarterly basis, for the Operating Fund and Reserve Fund; and (6) the current status of any civil action or claim submitted to arbitration or mediation in which the Association is a party.

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(f) The minutes of a Board meeting must be made available to Owners in accordance with NRS § 116.3108.5

Section 3.11 Attendance by Owners at Board Meetings; Executive Sessions. Owners are entitled to attend any meeting of the Board (except for Executive Sessions) and may speak at such meeting, provided that the Board may establish reasonable procedures and reasonable limitations on the time an Owner may speak at such meeting. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. Owners may not attend or speak at an Executive Session, unless the Board specifically so permits. An "Executive Session" is an executive session of the Board (which may be a portion of a Board meeting), designated as such by the Board in advance, for the sole purpose of:

(a) consulting with an attorney for the Association on matters relating to proposed or pending litigation, if the contents of the discussion would otherwise be governed by the privilege set forth in NRS §§ 49.035 to 49.115, inclusive; or

(b) discussing Association personnel matters of a sensitive nature, or

(c) discussing any violation ("Alleged Violation") of the Governing Documents (including, without limitation, the failure to pay an Assessment) alleged to have been committed by an Owner ("Involved Owner") (provided that the Involved Owner shall be entitled to request in writing that such hearing be conducted by the Board in open meeting, and provided further that the Involved Owner may attend such hearing and testify concerning the Alleged Violation, but may be excluded by the Board from any other portion of such hearing, including, without limitation, the Board's deliberation)

No other matter may be discussed in Executive Session. Any matter discussed in Executive Session must be generally described in the minutes of the Board meeting, provided that the Board shall maintain detailed minutes of the discussion of any Alleged Violation, and, upon request, shall provide a copy of said detailed minutes to the Involved Owner or his designated representative.

ARTICLE 4 VOTING RIGHTS

Section 4.1 Owners' Voting Rights. Subject to the following provisions of this Section 4.1, and to Section 4.6 below, each member shall be entitled to cast one (1) vote for each Unit owned. In the event that more than one Person holds fee title to a Unit ("co-owners"), all such co-owners shall be one Member, and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Unit is entitled. Such co-owners may from time to time all designate in writing one of their number to vote. Fractional votes shall not be allowed. Where no voting co-owner is designated, or if such designation has been revoked, the vote for such Unit shall be exercised as the majority of the co-owners of the Unit mutually agree. No vote shall be cast for any Unit where the co-owners present in person or by proxy owning the majority interests in such Unit cannot agree to said vote or other action. The nonvoting co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Unit and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws, shall be deemed to be binding on all Owners, their successors and assigns. Notwithstanding the foregoing, the voting rights of an Owner shall be automatically suspended during any time period that Annual Assessments or any Special Assessment levied against such Owner are delinquent.

Section 4.2 Transfer of Voting Rights. The right to vote may not be severed or separated from any Unit, and any sale, transfer or conveyance of fee interest in any Unit to a new Owner shall operate to transfer the appurtenant Membership and voting rights without the requirement of any express reference thereto. Each Owner shall, within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Unit, notify the Association in writing of such sale, transfer or conveyance, with the name and address of the

transferee, the nature of the transfer and the Unit involved, and such other information relative to the transfer and the transferee as the Board may reasonably request, and shall deliver to the Association a copy of the Recorded deed therefor

Section 4.3 Meetings of the Membership Meetings of the Association must be held at least once each year, or as otherwise may be required by applicable law. The annual Association meeting shall be held on a recurring anniversary basis, and shall be referred to as the "Annual Meeting." The business conducted at each such Annual Meeting shall include the election of Directors whose terms are then expiring. If the Members have not held a meeting for one (1) year, a meeting of the Association Membership must be held by not later than the March 1 next following. A special meeting of the Association Membership may be called at any reasonable time and place by written request of: (a) the Association President, (b) a majority of the Directors, or (c) Members representing at least ten percent (10%) of the voting power of the Association, or as otherwise may be required by applicable law. Notice of special meetings shall be given by the Secretary of the Association in the form and manner provided in Section 4.4, below.

Section 4.4 Meeting Notices, Agendas, Minutes Meetings of the Members shall be held in the Properties or at such other convenient location near the Properties and within Clark County as may be designated in the notice of the meeting

(a) Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Association Secretary shall cause notice to be hand delivered or sent postage prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by any Owner. The meeting notice must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of an Owner to: have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request, if the Owner pays the Association the cost of making the distribution; and speak to the Association or Board (unless the Board is meeting in Executive Session)

(b) The meeting agenda must consist of

(i) a clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to any of the Governing Documents, any fees or assessments to be imposed or increased by the Association, any budgetary changes, and/or any proposal to remove an Officer or Director, and

(ii) a list describing the items on which action may be taken, and clearly denoting that action may be taken on those items ("Agenda Items"), and

(iii) a period devoted to comments by Owners and discussion of such comments; provided that, except in emergencies, no action may be taken upon a matter raised during this comment and discussion period unless the matter is an Agenda Item. If the matter is not an Agenda Item, it shall be tabled at the current meeting, and specifically included as an Agenda Item for discussion and consideration at the next following meeting, at which time, action may be taken thereon

(c) In an "emergency" (as said term is defined in Section 3.10(b), above, Members may take action on an item which is not listed on the agenda as an item on which action may be taken.

(d) If the Association adopts a policy imposing a fine on an Owner for the violation of a provision of the Governing Documents, the Board 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 Owner thereof, a specific schedule of fines that may be imposed for those particular violations, at least thirty (30) days prior to any attempted enforcement, and otherwise subject to Section 19.1, below.

(e) Not more than thirty (30) days after any meeting, the Board shall cause the minutes or a summary of the minutes of the meeting to be made available to the Owners. A copy of the minutes or

a summary of the minutes must be provided to any Owner who pays the Association the cost of providing the copy

Section 4.5 Record Date The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any Budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for an adjournment of the same meeting. A record date shall not be more than sixty (60) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur.

Section 4.6 Proxies Every Member entitled to attend, vote at, or exercise consents with respect to, any meeting of the Members, may do so either in person, or by a representative, known as a proxy, duly authorized by an instrument in writing, filed with the Board prior to the meeting to which the proxy is applicable. A Member may give a proxy only to a member of his immediate Family, a Resident tenant, or another Member. No proxy shall be valid after the conclusion of the meeting (including continuation of such meeting) for which the proxy was executed. Such powers of designation and revocation may be exercised by the legal guardian of any Member or by his conservator, or in the case of a minor having no guardian, by the parent legally entitled to permanent custody, or during the administration of any Member's estate where the interest in the Unit is subject to administration in the estate, by such Member's executor or administrator. Any form of proxy or written ballot shall afford an opportunity thereon to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy or written ballot is solicited, and shall provide, subject to reasonably specified conditions, that where the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance with such specification. Unless applicable Nevada law provides otherwise, a proxy is void if: (a) it is not dated or purports to be revocable without notice; (b) it does not designate the votes that must be cast on behalf of the Member who executed the proxy; or (c) the holder of the proxy does not disclose at the beginning of the meeting (for which the proxy is executed) the number of proxies pursuant to which the proxy holder will be casting votes and the voting instructions received for each proxy. If and for so long as prohibited by Nevada law, a vote may not be cast pursuant to a proxy for the election of a Director.

Section 4.7 Quorums The presence at any meeting of Members who hold votes equal to twenty percent (20%) of the total voting power of the Association, in person or by proxy, shall constitute a quorum for consideration of that matter. The Members present at a duly called meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken other than adjournment is approved by at least a majority of the Members required to constitute a quorum, unless a greater vote is required by applicable law or by this Declaration. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which reconvened meeting the quorum requirement shall be the presence, in person or by written proxy, of the Members entitled to vote at least twenty percent (20%) of the total votes of the Association. Notwithstanding the presence of a sufficient number of Owners to constitute a quorum, certain matters, including, without limitation, amendment to this Declaration, require a higher percentage (e.g., 67%) of votes of the total voting Membership as set forth in this Declaration.

Section 4.8 Actions If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two (2) candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by applicable law or by this Declaration.

Section 4.9 Action by Meeting, and Written Approval of Absentee Owners. The proceedings and transactions of any meeting of Members, either regular or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members, need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the meeting.

Section 4.10 Action By Written Consent, Without Meeting. Any action which may be taken at any regular or special meeting of the Members may be taken without a meeting and without prior notice, if authorized by a written consent setting forth the action so taken, signed by Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members were present and voted, and filed with the Association Secretary, provided, however, that Directors may not be elected by written consent except by unanimous written consent of all Members. Any Member giving a written consent, or such Member's proxy holder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members required to authorize the proposed action have been filed with the Association Secretary, but may not do so thereafter. Such revocation shall be effective upon its receipt by the Association Secretary. Unless the consents of all Members have been solicited in writing and have been received, prompt notice shall be given, in the manner as for regular meetings of Members, to those Members who have not consented in writing, of the taking of any Association action approved by Members without a meeting. Such notice shall be given at least ten (10) days before the consummation of the action authorized by such approval with respect to the following:

- (a) approval of any reorganization of the Association;
- (b) a proposal to approve a contract or other transaction between the Association and one or more Directors, or any corporation, firm or association in which one or more Directors has a material financial interest; or
- (c) approval required by law for the indemnification of any person.

Section 4.11 Adjourned Meetings and Notice Thereof. Any Members' meeting, regular or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members present either in person or by proxy thereat, but in the absence of a quorum, no other business may be transacted at any such meeting except as provided in this Section 4.11. When any Members' meeting, either regular or special, is adjourned for seven (7) days or less, the time and place of the reconvened meeting shall be announced at the meeting at which the adjournment is taken. When any Members' meeting, either regular or special, is adjourned for more than seven (7) days, notice of the reconvened meeting shall be given to each Member as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a reconvened meeting, and at the reconvened meeting the Members may transact any business that might have been transacted at the original meeting.

ARTICLE 5

FUNCTIONS OF ASSOCIATION

Section 5.1 Powers and Duties. The Association shall have all of the powers of a Nevada nonprofit corporation, subject only to such limitations, if any, upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association. The Association's obligations to maintain the Common Elements shall commence on the date Annual Assessments commence on Units; until commencement of Annual Assessments, the Common Elements shall be maintained by Declarant, at Declarant's expense. Without in any way limiting the generality of the foregoing provisions, the Association may act through the Board, and shall have:

(a) Assessments. The power and duty to levy assessments against the Owners of Units, and to enforce payment of such assessments in accordance with the provisions of Article 6 hereof.

(b) Repair and Maintenance of Common Elements. The power and duty to paint, plant, maintain and repair in a neat and attractive condition, in accordance with standards adopted by the ARC, all Common Elements and all Improvements thereon, and to pay for utilities, gardening, landscaping, and other necessary services for the Common Elements. Notwithstanding the foregoing, the Association shall have no responsibility to provide any of the services referred to in this subsection 5.1(b) with respect to any Improvement which is accepted for maintenance by any state, local or municipal governmental agency or public entity. Such responsibility shall be that respectively of the applicable agency or public entity.

(c) Removal of Graffiti. The power and duty to remove or paint over any graffiti from or on Exterior Walls, pursuant and subject to Section 9.6, below.

(d) Taxes. The power and duty to pay all taxes and assessments levied upon the Common Elements and all taxes and assessments payable by the Association.

(e) Utility Services. The power and duty to obtain, for the benefit of the Common Elements, any necessary commonly metered water, gas, and/or electric services, (or other similar services) and/or refuse collection, and the power but not the duty to provide for all refuse collection and cable or master television service, if any, for all or portions of the Properties.

(f) Easements and Rights-of-Way. The power but not the duty to grant and convey to any Person, (i) easements, licenses and rights-of-way in, on, over or under the Common Elements, and (ii) with the consent of seventy-five percent (75%) of the voting power of the Association, fee title to parcels or strips of land which compose a portion of the Common Elements, for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder (A) roads, streets, walks, driveways, and slope areas; (B) overhead or underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, television, telephone and other similar purposes; (C) sewers, storm and water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and, (D) any similar public or quasi-public improvements or facilities.

(g) Manager. The power, subject to Section 5.5, below, but not the duty, to employ or contract with a professional Manager to perform all or any part of the duties and responsibilities of the Association, and the power but not the duty to delegate powers to committees, Officers and employees of the Association. Any such management agreement, or any agreement providing for services by Declarant to the Association, shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon ninety (90) days written notice.

(h) Rights of Entry and Enforcement. The power but not the duty, after Notice and Hearing (except in the event of emergency which poses an imminent threat to health or substantial damage to property, in which event, Notice and Hearing shall not be required), to enter upon any area of a Unit, without

being liable to any Owner, except for damage caused by the Association entering or acting in bad faith, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain and repair such area as required by this Declaration. All costs of any such maintenance and repair as described in the preceding sentence (including all amounts due for such work, and the costs and expenses of collection) shall be assessed against such Owner as a Special Assessment, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment pursuant to Article 7, below. The responsible Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection. Unless there exists an emergency, there shall be no entry into a Dwelling without the prior consent of the Owner thereof. Any damage caused by an entry upon any Unit shall be repaired by the entering party. Subject to Section 5.3, below, the Association may also commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory injunctions or otherwise, all of the provisions of the Declaration, and, if such action pertaining to the Declaration is brought by the Association, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be fixed by the court.

(i) Other Services. The power and duty to maintain the integrity of the Common Elements and to provide such other services as may be necessary or proper to carry out the Association's obligations and business under the terms of this Declaration to enhance the enjoyment, or to facilitate the use, by the Members, of the Common Elements.

(j) Employees, Agents and Consultants. The power but not the duty, if deemed appropriate by the Board, to hire and discharge employees and agents and to retain and pay for legal, accounting and other services as may be necessary or desirable in connection with the performance of any duties or exercise of any powers of the Association under this Declaration.

(k) Acquiring Property and Construction on Common Elements. The power but not the duty, by action of the Board, to acquire property or interests in property for the common benefit of Owners, including improvements and personal property. The power but not the duty, by action of the Board, to construct new improvements or additions to the Common Elements, or demolish existing improvements (other than maintenance or repairs to existing improvements).

(l) Contracts. The power, but not the duty, to enter into contracts with Owners to provide services or to maintain and repair improvements within the Properties which the Association is not otherwise required to maintain pursuant to this Declaration, and the power, but not the duty, to contract with third parties for such services. Any such contract or service agreement must, however, provide for payment to the Association of the cost of providing such service or maintenance.

(m) Records and Accounting. The power and the duty to keep, or cause to be kept, true and correct books and records of account at the sole cost and expense of the Association in accordance with generally accepted accounting principles. Financial statements for the Association shall be regularly prepared and distributed to all Members as follows:

(i) pro forma operating statements (Budgets), Reserve Budgets and Reserve Studies, shall be distributed pursuant to Section 6.4, below;

(ii) audited or reviewed Financial Statements (consisting of a reasonably detailed statement of revenues and expenses of the Association for each Fiscal Year, and a balance sheet showing the assets (including, but not limited to, Association Reserve Funds) and liabilities of the Association as at the end of each Fiscal Year), and a statement of cash flow for the Fiscal Year, shall be distributed within one hundred twenty (120) days after the close of each Fiscal Year.

(n) Maintenance of Other Areas. The power but not the duty to maintain and repair slopes, parkways, entry structures and Community signs identifying the Properties, other than the Common Elements, to the extent deemed to be reasonable and prudent by the Board.

(o) Use Restrictions. The power and the duty to enforce use restrictions pertaining to the Properties

(p) Insurances. The power and the duty to cause to be obtained and maintained the insurance coverages pursuant to Article 12, below.

(q) Licenses and Permits. The power and the duty to obtain from applicable governmental authority any and all licenses and permits reasonably necessary to carry out Association functions hereunder.

Section 5.2 Rules and Regulations. The Board shall be empowered to adopt, amend, repeal, and/or enforce reasonable and uniformly applied Rules and Regulations, which shall not discriminate among Members, for the use and occupancy of the Properties as follows:

(a) General. A copy of the Rules and Regulations, as from time to time may be adopted, amended or repealed, shall be posted in a conspicuous place in the Common Elements and/or shall be mailed or otherwise delivered to each Member and also kept on file with the Association. Upon such mailing, delivery or posting, the Rules and Regulations shall have the same force and effect as if they were set forth herein and shall be binding on all Persons having any interest in, or making any use of any part of, the Properties, whether or not Members; provided, however, that the Rules and Regulations shall be enforceable only to the extent that they are consistent with the other Governing Documents. If any Person has actual knowledge of any of the Rules and Regulations, such Rules and Regulations shall be enforceable against such Person, whether or not a Member, as though notice of such Rules and Regulations had been given pursuant to this Section 5.2. The Rules and Regulations may not be used to amend any of the other Governing Documents.

(b) Limitations. The Rules and Regulations must be:

- (i) reasonably related to the purpose for which adopted;
- (ii) sufficiently explicit in their prohibition, direction, or limitation, so as to reasonably inform an Owner or Resident, or tenant or guest thereof, of any action or omission required for compliance;
- (iii) adopted without intent to evade any obligation of the Association;
- (iv) consistent with the other Governing Documents (and must not arbitrarily restrict conduct, or require the construction of any capital improvement by an Owner if not so required by the other Governing Documents);
- (v) uniformly enforced under the same or similar circumstances against all Owners, provided that any particular rule not so uniformly enforced may not be enforced against any Owner (except as, and to the extent, if any, such enforcement may be permitted from time to time by applicable law); and
- (vi) duly adopted and distributed to the Owners at least thirty (30) days prior to any attempted enforcement.

Section 5.3 Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "Proceeding"). The Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Elements and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

(a) Any Proceeding commenced by the Association: (i) to enforce the payment of an assessment or an assessment lien or other lien against an Owner as provided for in this Declaration, or (ii) to otherwise enforce compliance with the Governing Documents by, or to obtain other relief from, any Owner who has violated any provision thereof, or (iii) to protect against any matter which imminently and substantially threatens all of the health, safety and welfare of the Owners, or (iv) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Ten Thousand Dollars (\$10,000.00) in the aggregate; shall be referred to herein as an "Operational Proceeding." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

(b) Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent, to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Section 5.3 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board

(i) The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Members for such additional amount for mediation before proceeding to either arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(1) The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, by obtaining the written opinion of a licensed Nevada attorney regularly residing in Clark County, Nevada, with a Martindale-Hubbell rating of "av", expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association. The Board shall be authorized to spend up to an aggregate of Five Thousand Dollars (\$5,000.00) to obtain such legal opinion, including all amounts paid to said attorney therefor, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said \$5,000.00 limit, with the express consent of more than fifty percent (50%) of all of the Members of the Association, at a special meeting called for such purpose.

(2) Said attorney opinion letter shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "Quoted Litigation Costs") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said opinion letter shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft

of the attorney's proposed contingent fee agreement. (Such written legal opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "Attorney Letter").

(3) Upon receipt and review of the Attorney Letter, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Members. The written notice to each Member of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, together with a written report ("Special Assessment Report") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Member ("Special Litigation Assessment"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Members, whereupon: (x) if not more than fifty percent (50%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (y) if more than fifty percent (50%) of the total voting power of the Association (i.e., more than fifty percent (50%) of all of the Members of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Members in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees and costs and expenses whatsoever in excess of one hundred twenty percent (120%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Members, not less frequently than quarterly, a written update of the progress and current status of, and the attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of attorneys fees and costs incurred to date in connection therewith.

(4) in the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Members of the Association.

(c) In no event shall any Association Reserve Fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Association Reserve Funds, pursuant to Section 6.3, below, are to be used only for the specified replacements, painting and repairs of Common Elements, and for no other purpose whatsoever.

(d) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section 5.3, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section 5.3, shall be unauthorized and ultra vires (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements

of this Section 5.3 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (iii) this Section 5.3 may not be amended or deleted at any time without the express prior written approval of both: (1) Members representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the total power of the Board of Directors; and any purported amendment or deletion of this Section 5.3, or any portion hereof, without both of such express prior written approvals shall be void.

Section 5.4 Additional Express Limitations on Powers of Association. The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

(a) Incur aggregate expenditures for capital improvements to the Common Elements in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year, or sell, during any Fiscal Year, any property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year.

(b) Enter into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one (1) year, except (i) a contract with a public or private utility or cable television company, if the rates charged for the materials or services are regulated by the Nevada Public Service Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) prepaid casualty and/or liability insurance policies of no greater than three (3) years duration.

(c) Pay compensation to any Association Director or Officer for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or Officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 5.5 Manager. The Association shall have the power to employ or contract with a Manager, to perform all or any part of the duties and responsibilities of the Association, subject to the Governing Documents, for the purpose of operating and maintaining the Properties, subject to the following:

(a) Any agreement with a Manager shall be in writing and shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon not more than ninety (90) days written notice. In the event of any explicit conflict between the Governing Documents and any agreement with a Manager, the Governing Documents shall prevail.

(b) The Manager shall possess sufficient experience, in the reasonable judgment of the Board, in managing residential subdivision projects, similar to the Properties, in the County, and shall be duly licensed as required from time to time by the appropriate licensing and governmental authorities (and must have the qualifications, including education and experience, when and as required for the issuance of the relevant certificate by the Nevada Real Estate Division pursuant and subject to the provisions of NRS Chapter 645 and/or NRS § 116.31139.3, or duly exempted pursuant to NRS § 116.31139.4). Any and all employees of the Manager with responsibilities to or in connection with the Association and/or the Community shall have such experience with regard to similar projects. (If no Manager meeting the above-stated qualifications is available, the Board shall retain the most highly qualified management entity available, which is duly licensed by the appropriate licensing authorities).

(c) No Manager, or any director, officer, shareholder, principal, partner, or employee of the Manager may be a Director or Officer of the Association.

(d) As a condition precedent to the employ of, or agreement with, a Manager, the Manager (or any replacement Manager) first shall be required, at its expense, to review the Governing Documents, Plat, and any and all Association Reserve Studies and inspection reports pertaining to the Properties.

(e) By execution of its agreement with the Association, a Manager shall be conclusively deemed to have covenanted (1) in good faith to be bound by, and to faithfully perform all duties (including, but not limited to, full and faithful accounting for all Association funds within the possession or control of Manager) required of the Manager under the Governing Documents (and, in the event of any irreconcilable conflict between the Governing Documents and the contract with the Manager, the Governing Documents shall prevail); (2) that any penalties, fines or interest levied upon the Association as the result of Manager's error or omission shall be paid (or reimbursed to the Association) by the Manager; (3) to comply fully, at its expense, with all applicable regulations of the Nevada Real Estate Division, and (4) at Manager's sole expense, to promptly turn over, to the Board, possession and control of all funds, documents, books, records and reports pertaining to the Properties and/or Association, and to coordinate and cooperate in good faith with the Board in connection with such turnover, in any event not later than ten (10) days of expiration or termination of the Association's agreement with Manager (provided that, without limiting its other remedies, the Association shall be entitled to withhold all amounts otherwise due to the Manager until such time as the Manager turnover in good faith has been completed)

(f) Upon expiration or termination of an agreement with a Manager, a replacement Manager meeting the above-stated qualifications shall be retained by the Board as soon as possible thereafter and a limited review performed by qualified Person designated by the Board, of the books and records of the Association, to verify assets

(g) The Association shall also maintain and pay for the services of such other personnel, including independent contractors, as the Board shall determine to be necessary or desirable for the proper management, operation, maintenance, and repair of the Association and the Properties, pursuant to the Governing Documents, whether such personnel are furnished or employed directly by the Association or by any person with whom or which it contracts. Such other personnel shall not all be replaced concurrently, but shall be replaced according to a "staggered" schedule, to maximize continuity of services to the Association.

Section 5.6 Inspection of Books and Records

(a) The Board shall, upon the written request of any Owner, make available the books, records and other papers of the Association for review during the regular working hours of the Association, with the exception of (1) personnel records of employees (if any) of the Association, and (2) records of the Association relating to another Owner.

(b) The Board shall cause to be maintained and made available for review at the business office of the Association or other suitable location (1) the financial statements of the Association; (2) the Budgets and Reserve Budgets; and (3) Reserve Studies

(c) The Board shall cause to be provided a copy of any of the records required to be maintained pursuant to (a) and (b) above, to an Owner or to the Nevada State Ombudsman, as applicable, within 14 days after receiving a written request therefor. The Board may charge a fee to cover the actual costs of preparing such copy, but not to exceed 25 cents per page (or such maximum amount as permitted by applicable Nevada law)

(d) Notwithstanding the foregoing, each Director shall have the unfettered right at any reasonable time, and from time to time, to inspect all such records

Section 5.7 Continuing Rights of Declarant Declarant shall preserve the right, without obligation, to enforce the Governing Documents (including, without limitation, the Association's duties of maintenance and repair, and Reserve Study and Reserve Fund obligations). After the end of Declarant Control Period, throughout the term of this Declaration, the Board shall deliver to Declarant notices and minutes of all Board meetings and Membership meetings, and Declarant shall have the right, without obligation, to attend such meetings, on a non-voting basis. Declarant shall also receive notice of, and have the right, without obligation, to attend, all inspections of the Properties or any portion(s) thereof. The Board shall also, throughout the term

of this Declaration, deliver to Declarant (without any express or implied obligation or duty on Declarant's part to review or to do anything) all notices and correspondence to Owners, all inspection reports, the Reserve Studies prepared in accordance with Section 6.3 below, and audited annual reports, as required in Section 5.1(m), above. Such notices and information shall be delivered to Declarant at its most recently designated address.

Section 5.8 Compliance with Applicable Laws. The Association shall comply with all applicable laws, including, but not limited to, applicable laws prohibiting discrimination against any person in the provision of services or facilities in connection with a Dwelling because of a handicap of such person. The provisions of the Governing Documents shall be upheld and enforceable to the maximum extent permissible under applicable federal or state law or City or County ordinance. Subject to the foregoing, in the event of irreconcilable conflict between applicable law and any provision of the Governing Documents, the applicable law shall prevail, and the affected provision of the Governing Document shall be deemed automatically amended (or deleted) to the minimum extent reasonably necessary to remove such irreconcilable conflict. In no event shall the Association adhere to or enforce any provision of the Governing Documents which irreconcilably contravenes applicable law.

ARTICLE 6 COVENANT FOR ASSESSMENTS

Section 6.1 Personal Obligation of Assessments. Each Owner of a Unit, by acceptance of a deed therefor, whether or not so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) Annual Assessments, (b) Special Assessments, and (c) any Capital Assessments, such assessments to be established and collected as provided in this Declaration. All assessments, together with interest thereon, late charges, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such assessment is made. Each such assessment, together with interest thereon, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment became due. This personal obligation cannot be avoided by abandonment of a Unit or by an offer to waive use of the Common Elements. The personal obligation only shall not pass to the successors in title of any Owner unless expressly assumed by such successors.

Section 6.2 Association Funds. The Board shall establish at least the following separate accounts ("Association Funds") into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. The Association Funds shall be established as trust accounts at a federally or state insured banking or savings institution and shall include: (1) an operating fund ("Operating Fund") for current expenses of the Association, and (2) a reserve fund ("Reserve Fund") for capital repairs and replacements as set forth in Section 6.3 below, and (3) any other funds which the Board may establish, to the extent necessary under the provisions of this Declaration. To qualify for higher returns on accounts held at banking or savings institutions, the Board may commingle any amounts deposited into any of the Association Funds, (other than the Reserve Fund, which shall be kept segregated), provided that the integrity of each individual Association Fund shall be preserved on the books of the Association by accounting for disbursements from, and deposits to, each Association Fund separately. Each of the Association Funds shall be established as a separate trust savings or trust checking account, at any federally or state insured banking or lending institution, with balances not to exceed institutionally insured levels. All amounts deposited into the Operating Fund and the Reserve Fund must be used solely for the common benefit of the Owners for purposes authorized by this Declaration. The Manager shall not be authorized to make withdrawals from the Reserve Fund. Withdrawals from the Reserve Fund shall require signatures of both the President and Treasurer (or, in the absence of either the President or Treasurer, the Secretary may sign in place of the absent Officer). The President, Treasurer, and Secretary all must be Directors and (after the Declarant Control Period) must also all be Owners.

Section 6.3 Reserve Fund; Reserve Studies

(a) Any other provision herein notwithstanding (i) the Association shall establish a **separate** reserve fund ("Reserve Fund"); (ii) the Reserve Fund shall be kept in a **segregated account**, withdrawals from which shall **only** be made upon specific approval of the Board subject to the following; (iii) the Reserve Fund shall be used **only** for capital repairs, restoration, and replacement of major components ("Major Components") of the Common Elements; (iv) **in no event whatsoever** shall the Reserve Fund be used to pay operating expenses or for regular maintenance recurring on an annual or more frequent basis, or as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding; (v) funds in the Reserve Fund may **not** be withdrawn without the signatures of **both** the President and the Treasurer (provided that the Secretary may sign in lieu of either the President or Treasurer, if either is not reasonably available); (vi) **under no circumstances** shall the Manager (or any one Officer or Director, acting alone) be authorized to make withdrawals from the Reserve Fund; and (vii) **under no circumstances** shall the Manager divert or be authorized to divert funds allocated to the Reserve Fund (including, but not necessarily limited to, use of such funds to pay operating expenses), and any such diversion by the Manager of funds allocated to the Reserve Fund shall constitute a material breach by the Manager of its obligations to the Association.

(b) The Board shall periodically retain the services of a qualified reserve study analyst, with sufficient experience with preparing reserve studies for similar residential projects in the County, to prepare and provide to the Association a reserve study ("Reserve Study").

(c) The Board shall cause to be prepared a **Reserve Study** at such times as the Board deems reasonable and prudent, but in any event **initially within one (1) year** after the Close of Escrow for the first Unit within the Properties, and thereafter at least **once every five (5) years** (or at such other intervals as may be required from time to time by applicable Nevada law). The Board shall review the results of the most current Reserve Study **at least annually** to determine if those reserves are sufficient, and shall make such **adjustments** as the Board deems reasonable and prudent to maintain the required reserves from time to time (i.e., by increasing Assessments). It shall be an obligation of the Manager to timely remind the Board in writing of these Reserve Study requirements from time to time as applicable.

(d) Each Reserve Study must be conducted by a person qualified by training and experience to conduct such a study (including, but not limited to, a Director, an Owner or a Manager who is so qualified) ("Reserve Analyst"). The Reserve Study must include, without limitation: (i) a summary of an inspection of the Major Components which the Association is obligated to repair, replace or restore; (ii) an identification of the Major Components which have a remaining useful life of less than 30 years; (iii) an estimate of the remaining useful life of each Major Component so identified; (iv) an estimate of the cost of repair, replacement or restoration of each Major Component so identified during and at the end of its useful life; and (v) an estimate of the total annual assessment that may be required to cover the cost of repairing, replacement or restoration the Major Components so identified (after subtracting the reserves as of the date of the Reserve Study).

(e) The Reserve Study shall be conducted in accordance with any applicable regulations adopted by the Nevada Real Estate Division. Unless and until otherwise provided by applicable regulation or law, the Association (upon Recordation of this Declaration) and each Owner (by acquiring title to a Unit) shall be deemed to have unequivocally agreed that: (i) utilization, by a Reserve Analyst, of the "pooling" or "cash flow" method for and in connection with preparation of a Reserve Study shall be deemed reasonable and prudent; and/or (ii) utilization, by a Reserve Analyst, of an assumption that there will be future annual increases in amounts from time to time allocated to reserves (provided that there shall be no assumption of such future increases in excess of 10% per year), with corresponding increases in Assessments, shall be deemed reasonable and prudent for and in connection with preparation of a Reserve Study.

Section 6.4 Budget; Reserve Budget

(a) The Board shall adopt a proposed annual Budget (which shall include a Reserve Budget) at least forty-five (45) days prior to the first Annual Assessment period for each Fiscal Year. Within thirty (30) days after adoption of any proposed Budget, the Board shall provide to all Owners a summary of

the Budget, and shall set a date for a meeting of the Owners to consider ratification of the Budget. Said meeting shall be held not less than fourteen (14) days, nor more than thirty (30) days after mailing of the summary. Unless at that meeting the proposed Budget is rejected by at least seventy-five percent (75%) of the voting power of the Association, the Budget shall be deemed ratified, whether or not a quorum was present. If the proposed Budget is duly rejected as aforesaid, the annual Budget for the immediately preceding Fiscal Year shall be reinstated, as if duly approved for the Fiscal Year in question, and shall remain in effect until such time as a subsequent proposed Budget is ratified.

(b) Notwithstanding the foregoing, except as otherwise provided in subsection (c) below, the Board shall, not less than 30 days or more than 60 days before the beginning of each Fiscal Year, prepare and distribute to each Owner a copy of:

(1) the Budget (which must include, without limitation, the estimated annual revenue and expenditures of the Association and any contributions to be made to the Reserve Fund); and

(2) The Reserve Budget, which must include, without limitation:

(A) the current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the Common Elements ("Major Component");

(B) as of the end of the Fiscal Year for which the Reserve Budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the Major Components;

(C) a statement as to whether the Board has determined or anticipates that the levy of one or more Capital Assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves for that purpose; and

(D) a general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (B) above, including, without limitation, the qualifications of the person responsible for the preparation of the Reserve Study.

(c) In lieu of distributing copies of the Budget and Reserve Budget, the Board may distribute to each Owner a summary of those budgets, accompanied by a written notice that the budgets are available for review at the business office of the Association or other suitable location and that copies of the budgets will be provided upon request.

Section 6.5 Limitations on Annual Assessment Increases. The Board shall not levy, for any Fiscal Year, an Annual Assessment which exceeds the "Maximum Authorized Annual Assessment" as determined below, unless first approved by the vote of Members representing at least a majority of the voting power of the Association. The "Maximum Authorized Annual Assessment" in any fiscal year following the initial budgeted year shall be a sum which does not exceed the aggregate of (a) the Annual Assessment for the prior Fiscal Year, plus (b) a twenty-five percent (25%) increase thereof. Notwithstanding the foregoing, if, in any Fiscal Year, the Board reasonably determines that the Common Expenses cannot be met by the Annual Assessments levied under the then-current Budget, the Board may, upon the affirmative vote of a majority of the voting power of the Association and a majority of the voting power of the Board, submit a Supplemental Annual Assessment, applicable to that Fiscal Year only, for ratification in like manner as provided in Section 6.4 above.

Section 6.6 Initial Capital Contributions to Association. At the Close of Escrow for the sale of a Unit by Declarant, the Purchaser of such Unit shall be required to pay a capital contribution to the Association, in an amount equal to two (2) full monthly installments of the greater of the initial or then-applicable Annual Assessment, notwithstanding Section 6.7 below. Such capital contribution is in addition to, and is not to be considered an advance payment of, the Annual Assessment for such Unit, and may be applied to initial working capital needs and/or Reserve Fund of the Association.

Section 6.7 Assessment Commencement Date The Board, by majority vote, shall authorize and levy the amount of the Annual Assessment upon each Unit, as provided herein. Annual Assessments shall commence on Units on the respective Assessment Commencement Date. The "Assessment Commencement Date" hereunder shall be: (a) with respect to Units in the Original Property, the first day of the calendar month following the Close of Escrow to a Purchaser of the first Unit in the Original Property; and (b) with respect to each Unit within Annexed Property, that date on which the Annexation Amendment for such Unit is Recorded; provided that Declarant may establish, in its sole discretion, a later Assessment Commencement Date uniformly as to all Units by agreement of Declarant to pay all Common Expenses for the Properties up through and including such later Assessment Commencement Date. The first Annual Assessment for each Unit shall be pro-rated based on the number of months remaining in the Fiscal Year. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board, at such frequency and on such due dates as the Board shall determine from time to time in its sole discretion. The Association shall, upon demand, and for a reasonable charge, furnish a certificate binding on the Association, signed by an Officer or Association agent, setting forth whether the assessments on a Unit have been paid. At the end of any Fiscal Year, the Board may determine that all excess funds remaining in the operating fund, over and above the amounts used for the operation of the Properties, may be retained by the Association for use in reducing the following year's Annual Assessment or for deposit in the reserve account. Upon dissolution of the Association incident to the abandonment or termination of the maintenance of the Properties, any amounts remaining in any of the Association Funds shall be distributed proportionately to or for the benefit of the Members, in accordance with Nevada law.

Section 6.8 Capital Assessments The Board may levy, in any Fiscal Year, a Capital 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 or other such addition upon the Common Elements, including fixtures and personal property related thereto, provided that any proposed Capital Assessment shall require the advance consent of a majority of the voting power of the Association.

Section 6.9 Uniform Rate of Assessment Annual Assessments, and Capital Assessments shall be assessed at an equal and uniform rate against all Owners and their Units. Each Owner's share of such assessments shall be a fraction, the numerator of which shall be the number of Units owned by such Owner, and the denominator of which shall be the aggregate number of Units in the Original Property (and, upon annexation, of Units in portions of the Annexed Property). Neighborhood Assessments, if any, may vary by Neighborhood, pursuant to Article 17, below, but shall be assessed at an equal and uniform rate against all Owners and their Units within a given Neighborhood.

Section 6.10 Exempt Property The following property subject to this Declaration shall be exempt from the assessments herein.

(a) all portions, if any, of the Properties dedicated to and accepted by, the United States, the State of Nevada, Clark County, or any political subdivision of any of the foregoing, or any public agency, entity or authority, for so long as such entity or political subdivision is the owner thereof, or for so long as such dedication remains effective; and

(b) the Common Elements owned by the Association in fee.

Section 6.11 Special Assessments The Association may, subject to the provisions of Section 9.3 and Section 11.1 (b) hereof, levy Special Assessments against specific Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. Special Assessments also shall include, without limitation, late payment penalties, interest charges, fines, administrative fees, attorneys' fees, amounts expended to enforce assessment liens against Owners as provided for herein, and other charges of similar nature. Special Assessments, if not paid timely when due, shall constitute unpaid or delinquent assessments, pursuant to Article 7, below.

ARTICLE 7
EFFECT OF NONPAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION

Section 7.1 Nonpayment of Assessments. Any installment of an Annual Assessment, Special Assessment, or Capital Assessment, shall be delinquent if not paid within thirty (30) days of the due date as established by the Board. Such delinquent installment shall bear interest from the due date until paid, at the rate of two (2) percentage points per annum above the prime rate charged from time to time by Bank of America N.T. & S.A. (or, if such rate is no longer published, then a reasonable replacement rate), but in any event not greater than the maximum rate permitted by applicable Nevada law, as well as a reasonable late charge, as determined by the Board, to compensate the Association for increased bookkeeping, billing, administrative costs, and any other appropriate charges. No such late charge or interest or any delinquent installment may exceed the maximum rate or amount allowable by law. The Association may bring an action at law against the Owner personally obligated to pay any delinquent installment or late charge, or foreclose the lien against the Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or by abandonment of his Unit.

Section 7.2 Notice of Delinquent Installment. If any installment of an assessment is not paid within thirty (30) days after its due date, the Board may mail notice of delinquent assessment to the Owner and to each first Mortgagee of the Unit. The notice shall specify: (a) the amount of assessments and other sums due; (b) a description of the Unit against which the lien is imposed; (c) the name of the record Owner of the Unit; (d) the fact that the installment is delinquent; (e) the action required to cure the default; (f) the date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured, and (g) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of such assessment for the then-current Fiscal Year and sale of the Unit. The notice shall further inform the Owner of his right to cure after acceleration. If the delinquent installment of assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of such assessments levied against such Owner and his Unit to be immediately due and payable without further demand, and may enforce the collection of the full assessments and all charges thereon in any manner authorized by law or this Declaration.

Section 7.3 Notice of Default and Election to Sell. No action shall be brought to enforce any assessment lien herein, unless at least sixty (60) days have expired following the later of: (a) the date a notice of default and election to sell is Recorded; or (b) the date the Recorded notice of default and election to sell is mailed in the United States mail, certified or registered, return receipt requested, to the Owner of the Unit. Such notice of default and election to sell must recite a good and sufficient legal description of such Unit, the Record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment as described in Section 7.1 above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by such lien), the name and address of the Association, and the name and address of the Person authorized by the Board to enforce the lien by sale. The notice of default and election to sell shall be signed and acknowledged by an Association Officer, Manager, or other Person designated by the Board for such purpose, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

Section 7.4 Foreclosure Sale. Subject to the limitation set forth in Section 7.5 below, any such sale provided for above may be conducted by the Board, its attorneys, or other Person authorized by the Board in accordance with the provisions of NRS §116.31164 and Covenants Nos. 6, 7 and 8 of NRS § 107.030 and §107.090, as amended, insofar as they are consistent with the provisions of NRS § 116.31164, as amended, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages and Deeds of Trust, or in any other manner permitted by law. The Association, through its duly authorized agents, shall have the power to bid on the Unit at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Notices of default and election to sell shall be provided as required by NRS § 116.31163. Notice of time and place of sale shall be provided as required by NRS § 116.311635.

Section 7.5 Limitation on Foreclosure Any other provision in the Governing Documents notwithstanding, the Association may not foreclose a lien by sale for the assessment of a fine or for a violation of the Governing Documents, unless the violation is of a type that substantially and imminently threatens the health, safety, and welfare of the Owners and Residents of the Community. The foregoing limitation shall not apply to foreclosure of a lien for Annual Assessments, or Capital Assessments, or any portion respectively thereof, pursuant to this Article 7

Section 7.6 Cure of Default Upon the timely cure of any default for which a notice of default and election to sell was filed by the Association, the Officers thereof shall Record an appropriate release of lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board, to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any two (2) Directors or the Manager, stating the indebtedness secured by the lien upon any Unit created hereunder, shall be conclusive upon the Association and, if acknowledged by the Owner, shall be binding on such Owner as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request, at a reasonable fee, to be determined by the Board.

Section 7.7 Cumulative Remedies The assessment liens and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law or in equity, including a suit to recover a money judgment for unpaid assessments, as provided above.

Section 7.8 Mortgagee Protection Notwithstanding all other provisions hereof, no lien created under this Article 7, nor the enforcement of any provision of this Declaration shall defeat or render invalid the rights of the Beneficiary under any Recorded First Deed of Trust encumbering a Unit, made in good faith and for value, provided that after such Beneficiary or some other Person obtains title to such Unit by judicial foreclosure, other foreclosure, or exercise of power of sale, such Unit shall remain subject to this Declaration and the payment of all installments of assessments accruing subsequent to the date such Beneficiary or other Person obtains title. The lien of the assessments, including interest and costs, shall be subordinate to the lien of any First Mortgage upon the Unit. The release or discharge of any lien for unpaid assessments by reason of the foreclosure or exercise of power of sale by the First Mortgagee shall not relieve the prior Owner of his personal obligation for the payment of such unpaid assessments

Section 7.9 Priority of Assessment Lien Recording of the Declaration constitutes Record notice and perfection of a lien for assessments. A lien for assessments, including interest, costs, and attorneys' fees, as provided for herein, shall be prior to all other liens and encumbrances on a Unit, except for: (a) liens and encumbrances Recorded before the Declaration was Recorded, (b) a first Mortgage Recorded before the delinquency of the assessment sought to be enforced, and (c) liens for real estate taxes and other governmental charges, and is otherwise subject to NRS § 116.3116. The sale or transfer of any Unit shall not affect an assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a First Mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments which thereafter become due. Where the Beneficiary of a First Mortgage of Record or other purchaser of a Unit obtains title pursuant to a judicial or nonjudicial foreclosure or "deed in lieu thereof," the Person who obtains title and his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such Person. Such unpaid share of Common Expenses and assessments shall be deemed to become expenses collectible from all of the Units, including the Unit belonging to such Person and his successors and assigns

ARTICLE 8

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 8.1 **ARC.** The Architectural Review Committee, sometimes referred to in this Declaration as the "ARC," shall consist of three (3) committee members, provided, however, that such number may be increased or decreased from time to time by resolution of the Board. Notwithstanding the foregoing, Declarant shall have the sole right and power to appoint and/or remove all of the members to the ARC until such time as Declarant no longer owns any property in, or has any power to annex, the Annexable Area or any portion thereof, provided that Declarant, in its sole discretion, by written instrument, may at any earlier time turn over to the Board the power to appoint the members to the ARC; thereafter, the Board shall appoint all members of the ARC. A member of the ARC may be removed at any time, without cause, by the Person who appointed such member. Unless changed by resolution of the Board, the address of the ARC for all purposes, including the submission of plans for approval, shall be at the principal office of the Association as designated by the Board.

Section 8.2 **Review of Plans and Specifications.** The ARC shall consider and act upon any and all proposals, plans and specifications, drawings, and other information or other items (collectively in this Article 8, "plans and specifications") submitted, or required to be submitted, for ARC approval under this Declaration and shall perform such other duties as from time to time may be assigned to the ARC by the Board, including the inspection of construction in progress to assure conformance with plans and specifications approved by the ARC.

(a) With the exception of any such activity of Declarant, no construction, alteration, grading, addition, excavation, removal, relocation, repainting, demolition, installation, modification, decoration, redecoration or reconstruction of an Improvement, including Dwelling and landscaping, or removal of any tree, shall be commenced or maintained by any Owner, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to, and approved in writing by, the ARC. No design or construction activity of Declarant shall be subject to ARC approval. The Owner submitting such plans and specifications ("Applicant") shall obtain a written receipt therefor from an authorized agent of the ARC. Until changed by the Board, the address for submission of such plans and specifications shall be the principal office of the Association. The ARC shall approve plans and specifications submitted for its approval only if it deems that: (1) the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole; (2) the appearance of any structure affected thereby will be in harmony with other structures in the vicinity; (3) the construction will not detract from the beauty, wholesomeness and attractiveness of the Common Elements or the enjoyment thereof by the Members; (4) the construction will not unreasonably interfere with existing views from other Units, and (5) the upkeep and maintenance will not become a burden on the Association.

(b) The ARC may condition its review and/or approval of plans and specifications for any Improvement upon such changes therein as the ARC may deem appropriate or necessary, which may, but need not necessarily include any one or more or all of the following conditions: (1) agreement by the Applicant to furnish to the ARC a cash deposit, bond or other security acceptable to the ARC in an amount reasonably sufficient to (i) assure the completion of such Improvement or the availability of funds adequate to remedy any damage, or any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (ii) to protect the Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Common Elements as a result of such work; (2) such changes therein as the ARC deems appropriate; (3) agreement by the Applicant to grant appropriate easements to the Association for the maintenance of the Improvement; (4) agreement of the Applicant to reimburse the Association for the costs of maintenance; (5) agreement of the Applicant to replace such removed trees as may be designated by the ARC; (6) agreement of the applicant to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvements in detail as actually constructed upon completion of the Improvement; (7) payment or reimbursement, by Applicant, of the ARC and/or its members for their actual costs incurred in considering the plans and specifications; (8) payment, by Applicant, of the professional fees of a licensed architect or engineer

to review the plans and specifications on behalf of the ARC, if such review is deemed by the ARC to be necessary or desirable; and/or (9) such other conditions as the ARC may reasonably determine to be prudent and in the best interests of the Association. The ARC may further require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans and specifications, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The ARC may provide that the amount of such fee shall be uniform, or that the fee may be determined in any other reasonable manner, such as based upon the reasonable cost of the construction, alteration or addition contemplated or the cost of architectural or other professional fees incurred by the ARC in reviewing plans and specifications.

(c) The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of any required plans and specifications, the ARC may postpone review of any plans and specifications submitted for approval. Any application submitted pursuant to this Section 8.2 shall be deemed approved, unless written disapproval or a request for additional information or materials by the ARC shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the ARC of all required materials. The ARC will condition any approval required in this Article 8 upon, among other things, compliance with Declarant's (a) design criteria as may be established from time to time, (b) Improvement standards and (c) development standards, as amended from time to time, all of which are incorporated herein by this reference.

(d) Any Owner aggrieved by a decision of the ARC may appeal the decision to the ARC in accordance with procedures to be established by the ARC. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would in the ARC's opinion warrant reconsideration. If the ARC fails to allow an appeal or if the ARC, after appeal, again rules in a manner aggrieving the appellant, the decision of the ARC is final. The foregoing notwithstanding, after such time as the Board appoints all members of the ARC, all appeals from ARC decisions shall be made to the Board, which shall consider and decide such appeals.

(e) Notwithstanding the foregoing or any other provision herein, the ARC's jurisdiction shall normally extend only to the external appearance or "aesthetics" of any Improvement, and shall not extend to structural matters, method of construction, or compliance with a building code or other applicable legal requirement. ARC approval shall be subject to all applicable requirements of applicable government authority, drainage, and other similar matters, and shall not be deemed to encompass or extend to possible impact on neighboring Lots.

Section 8.3 Meetings of the ARC. The ARC shall meet from time to time as necessary to perform its duties hereunder. The ARC may from time to time, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC, except the granting of variances pursuant to Section 8.8 below. In the absence of such designation, the vote of a majority of the ARC, or the written consent of a majority of the ARC taken without a meeting, shall constitute an act of the ARC.

Section 8.4 No Waiver of Future Approvals. The approval by the ARC of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 8.5 Compensation of Members. Subject to the provisions of Section 8.2(b) above, members of the ARC shall not receive compensation from the Association for services rendered as members of the ARC.

Section 8.6 Correction by Owner of Nonconforming Items Subject in all instances to compliance by Owner with all applicable requirements of governmental authorities, with jurisdiction, ARC inspection (which shall be limited to inspection of the visible appearance of the size, color, location and materials of work), and Owner correction of visible nonconformance therein, shall proceed as follows:

(a) The ARC or its duly appointed representative shall have the right to inspect any Improvement ("Right of Inspection") whether or not the ARC's approval has been requested or given, provided that such inspection shall be limited to the visible appearance of the size, color, location, and materials comprising such Improvement (and shall not constitute an inspection of any structural item, method of construction, or compliance with any applicable requirement of governmental authority). Such Right of Inspection shall, however, terminate sixty (60) days after receipt by the ARC of written notice from the Owner of the Unit that the work of Improvement has been completed. If, as a result of such inspection, the ARC finds that such Improvement was done without obtaining approval of the plans and specifications therefor or was not done in substantial compliance with the plans and specifications approved by the ARC, it shall, within sixty (60) days from the inspection, notify the Owner in writing of the Owner's failure to comply with this Article 8 specifying the particulars of noncompliance. If work has been performed without approval of plans and specifications therefor, the ARC may require the Owner of the Unit in which the Improvement is located, to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvement in detail as actually constructed. The ARC shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

(b) If, upon the expiration of sixty (60) days from the date of such notification, the Owner has failed to remedy such noncompliance, the ARC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance (with the visible appearance of the size, color, location, and/or materials thereof) and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a notice of noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the noncompliance, and, in addition, may peacefully remedy the noncompliance. The Owner shall reimburse the Association, upon demand, for all expenses (including reasonable attorneys' fees) incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Special Assessment against the Owner for reimbursement as provided in this Declaration. The right of the Association to remove a noncomplying Improvement or otherwise to remedy the noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or in this Declaration.

(c) If for any reason the ARC fails to notify the Owner of any noncompliance with previously submitted and approved plans and specifications within sixty (60) days after receipt of written notice of completion from the Owner, the Improvement shall be deemed to be in compliance with ARC requirements (but, of course, shall remain subject to compliance by Owner with all requirements of applicable governmental authority).

(d) All construction, alteration or other work shall be performed as promptly and as diligently as possible and shall be completed within one hundred eighty (180) days of the date on which the work commenced.

Section 8.7 Scope of Review The ARC shall review and approve, conditionally approve, or disapprove, all proposals, plans and specifications submitted to it for any proposed Improvement, alteration, or addition, solely on the basis of the considerations set forth in Section 8.2 above, and solely with regard to the visible appearance of the size, color, location, and materials thereof. The ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any proposal, plan or design from the standpoint of structural safety or conformance with building or other codes. Each Owner shall be responsible for obtaining all necessary permits and for complying with all applicable governmental (including, but not necessarily limited to County) requirements.

Section 8.8 Variances When circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations may require, the ARC may authorize limited variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions on size (including height, size, and/or floor area) or placement of structures, or similar restrictions. Such variances must be evidenced in writing, must be signed by a majority of the ARC, and shall become effective upon Recordation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of any such variance by ARC shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws, regulations and requirements affecting the use of his or her Unit, including but not limited to zoning ordinances and Lot set-back lines or requirements imposed by the County, or any municipal or other public authority with jurisdiction. The granting of a variance by the ARC shall not be deemed to be a variance or approval from the standpoint of compliance with such laws or regulations, nor from the standpoint of structural safety, and the ARC, provided it acts in good faith, shall not be liable for any damage to an Owner as a result of its granting or denying of a variance.

Section 8.9 Non-Liability for Approval of Plans The ARC's approval of proposals or plans and specifications shall not constitute a representation, warranty or guarantee, whether express or implied, that such proposals or plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such proposals or plans and specifications, neither the ARC, the members thereof, the Association, the Board, nor Declarant, assumes any liability or responsibility therefor, or for any defect in the structure constructed from such proposals or plans or specifications. Neither the ARC, any member thereof, the Association, the Board, nor Declarant, shall be liable to any Member, Owner, occupant, or other Person or entity for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any proposals, plans and specifications and drawings, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved proposals, plans and specifications and drawings.

Section 8.10 Declarant Exemption The ARC shall have no authority, power or jurisdiction over Units owned by Declarant, and the provisions of this Article 8 shall not apply to Improvements built by Declarant, or, until such time as Declarant conveys title to the Unit to a Purchaser, to Units owned by Declarant. This Article 8 shall not be amended without Declarant's written consent set forth on the amendment.

ARTICLE 9 MAINTENANCE AND REPAIR OBLIGATIONS

Section 9.1 Maintenance Obligations of Owners. It shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration requiring ARC approval, to maintain, repair, replace and restore all Improvements located on his Unit, the Unit itself, and any "Limited Common Element" (as said term is defined by NRS § 116.110355) allocated to his Unit, and the Unit itself, in a neat, sanitary and attractive condition, except for any areas expressly required to be maintained by the Association under this Declaration. If any Owner shall permit any Improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe or unsightly, or otherwise to violate this Declaration, the Board shall have the right to seek any remedies at law or in equity which the Association may have. In addition, the Board shall have the right, but not the duty, after Notice and Hearing as provided in the Bylaws, to enter upon such Unit to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Special Assessment, enforceable as set forth in this Declaration.

The foregoing notwithstanding: (a) the Association shall have an easement for the maintenance, repair and replacement of any easement on a portion of a Lot which constitutes a Common Element and any Improvements constructed by Declarant or the Association thereon, and (b) each Owner (other than

Declarant, by acceptance of a deed to a Unit, whether or not so expressed in such deed, is deemed to covenant and agree not to place or install any Improvement on a Common Element, and not to hinder, obstruct, modify, change, add to or remove, partition, or seek partition of, any Common Element or any Improvement installed by Declarant or the Association thereon.

Section 9.2 Maintenance Obligations of Association. No Improvement, excavation or work which in any way alters the Common Elements shall be made or done by any Person other than the Association or its authorized agents after the completion of the construction or installation of the Improvements thereto by Declarant. Subject to the provisions of Sections 9.3 and 11.1(b) hereof, upon the Assessment Commencement Date, the Association shall provide for the maintenance, repair, and replacement of the Common Elements. The Common Elements shall be maintained in a safe, sanitary and attractive condition, and in good order and repair. The Association shall also provide for any utilities serving the Common Elements. The Association shall also ensure that any landscaping on the Common Elements is regularly and periodically maintained in good order and in a neat and attractive condition. The Association shall not be responsible for the maintenance of any portions of the Common Elements which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate.

Section 9.3 Damage by Owners to Common Elements. The cost of any maintenance, repairs or replacements by the Association within the Common Elements arising out of or caused by the willful or negligent act of an Owner, his tenants, or their respective Families, guests or invitees shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner as provided in Section 11.1(b) hereof.

Section 9.4 Damage and Destruction Affecting Dwellings and Duty to Rebuild. If all or any portion of any Unit or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Unit to rebuild, repair or reconstruct the same in a manner which will restore the Unit substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the ARC. The Owner of any damaged Unit shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause reconstruction to commence within three (3) months after the damage occurs and to be completed within six (6) months after the damage occurs, unless prevented by causes beyond his reasonable control. A transferee of title to the Unit which is damaged shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner at the time of the damage still held title to the Unit. However, in no event shall such transferee of title be required to commence or complete such reconstruction in less than ninety (90) days from the date such transferee acquired title to the Unit.

Section 9.5 Party Walls. Each wall which is built as a part of the original construction by Declarant and placed approximately on the property line between Units shall constitute a party wall. In the event that any party wall is not constructed exactly on the property line, the Owners affected shall accept the party wall as the property boundary. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use such wall in proportion to such use (e.g., if the party wall is the boundary between two Owners, then each such Owner shall bear half of such cost). If a party wall is destroyed or damaged by fire or other casualty, the party wall shall be promptly restored, to its condition and appearance before such damage or destruction, by the Owner(s) whose Units have or had use of the wall. Subject to the foregoing, any Owner whose Unit has or had use of the wall may restore the wall to the way it existed before such destruction or damage, and any other Owner whose Unit makes use of the wall shall contribute to the cost of restoration thereof in proportion to such use, subject to the right of any such Owner to call for a larger contribution from another Owner pursuant to any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section 9.5, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements, or otherwise damaged or destroyed, shall bear the entire cost of furnishing the necessary protection repair or replacement. The right of any Owner to contribution from any other Owner under this Section 9.5 shall be appurtenant to the land and shall pass to such Owner's successors in title. The foregoing, and any other provision in this Declaration notwithstanding, no Owner shall

alter, add to, or remove any party wall constructed by Declarant, or portion of such wall, without the prior written consent of the other Owner(s) who share such party wall, which consent shall not be unreasonably withheld, and the prior written approval of the ARC. In the event of any dispute arising concerning a party wall under the provisions of this Section 9.5, each party shall choose one arbitrator, such arbitrator shall choose one additional arbitrator, and the decision of a majority of such panel of arbitrators shall be binding upon the Owners which are a party to the arbitration.

Section 9.6 Perimeter Walls. Portions of Perimeter Walls, constructed or to be constructed by Declarant, abutting or located on individual Lots, are Improvements all portions of which are located, or conclusively deemed to be located, within the boundaries of individual Units. By acceptance of a deed to his Unit, each Owner on whose Unit a portion of the perimeter wall is located, hereby covenants, at the Owner's sole expense, with regard to the portion of the Perimeter Wall ("Unit Wall") located or deemed located on his Unit, to maintain at all times in effect thereon property and casualty insurance, on a current replacement cost; to maintain and keep the Unit Wall at all times in good repair; and, if and when reasonably necessary, to replace the Unit Wall to its condition and appearance as originally constructed by Declarant. No changes or alterations (including, without limitation, temporary alterations, such as removal for construction of a swimming pool or other improvement) shall be made to any perimeter wall, or any portion thereof, without the prior written approval of the ARC (and any request therefor shall be subject to the provisions of Article 8 above, including, but not necessarily limited to, any conditions imposed by the ARC pursuant to Section 8.2(b) above). The foregoing and any other provision herein notwithstanding, under no circumstances shall any wall, or portion thereof, originally constructed by Declarant, be changed, altered or removed by any Owner (or agent or contractor thereof) if such wall, or portion thereof, is shown on any improvement plan as a flood control wall, or any other wall, or if such change, alteration or removal in the sole judgment (without any obligation to make such judgment) of the ARC would adversely affect surface water, drainage, or other flood control considerations or requirements. If any Owner shall fail to insure, or to maintain, repair or replace his Unit Wall within sixty (60) days when reasonably necessary, in accordance with this Section 9.6, the Association shall be entitled (but not obligated) to insure, or to maintain, repair or replace such Unit Wall, and to assess the full cost thereof against the Owner as a Special Assessment, which may be enforced as provided for in this Declaration. The foregoing notwithstanding, the Association, at its sole expense, shall be responsible for removing or painting over any graffiti from or on Exterior Walls.

Section 9.7 Installed Landscaping

(a) Declarant shall have the option, in its sole and absolute discretion, to install landscaping on the front yards and other portions of Lots ("Declarant Installed Landscaping"). Subject to the foregoing and to Section 9.9 below, and subject further to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have, following the close of escrow on his Lot: (a) sixty (60) days in which to complete front yard landscaping (provided that front yard landscaping shall be completed on any Custom Lot within sixty (60) days after issuance of an occupancy permit for the Dwelling thereon), and (b) six (6) months within which to commence and thereafter diligently prosecute and complete installation of all other landscaping on the Lot (all, collectively, "Homeowner Installed Landscaping"). Declarant Installed Landscaping and Homeowner Installed Landscaping shall collectively be referred to herein as "Installed Landscaping."

(b) Subject to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have an aggregate period, following the Close of Escrow on his or her Lot, of (i) not more than six (6) months (with regard to front yard landscaping other than Declarant Installed Landscaping), and one (1) year (with regard to rear yard landscaping), in which to apply for and obtain approval of plans for landscaping and to commence and complete, in accordance with such approved plans, installation of such landscaping on the Lot ("Homeowner Installed Landscaping"). Each Owner shall be responsible, at his sole expense, for (1) maintenance, repair, replacement, and watering of all landscaping on his Unit (whether initially installed by Declarant or an Owner) in a neat and attractive condition; and (2) maintenance, repair, and/or replacement of any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping, subject to subsections (c) through (f), below.

(c) Each Owner covenants to pay promptly when due all water bills for his or her Unit, and (subject to bona-fide force majeure events) to not initiate or continue any act or omission which would have the effect of water being shut off to the Unit. In the event that all or any portion of landscaping and/or related systems is or are damaged because of any Owner's act or omission, then such Owner shall be solely liable for the costs of repairing such damage, and any and all costs reasonably related thereto, and the Association may, in its discretion, perform or cause to be performed such repair, and to assess all related costs against such Owner as a Special Assessment, and the Association, and its employees, agents and contractors, shall have an easement over Lots to perform such function.

(d) In the event that any plants (including, but not necessarily limited to, trees, shrubs, bushes, lawn, flowers, and ground cover) on a Unit require replacement, then the cost of such replacement, and costs reasonably related thereto, shall be the responsibility of the Owner of the Unit.

(e) To help prevent and/or control water damage to foundations and/or walls, each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not cause or permit irrigation water or sprinkler water on his Unit to seep or flow onto, or to strike upon, any foundation, slab, side or other portion of Dwelling wall (including, but not necessarily limited to, party wall and/or Perimeter Wall), and/or any other Improvement. Without limiting the generality of the foregoing or any other provision in this Declaration, each Owner shall at all times ensure that: (1) there are no unapproved grade changes (including, but not necessarily limited to, mounding) within three (3) feet of any such foundation or wall located on or immediately adjacent to the Owner's Unit; and (2) only non-irrigated desert landscaping is located on the Owner's Unit within three feet of any such foundation, slab, side or other portion of Dwelling wall (including, but not necessarily limited to, party wall and/or Perimeter Wall).

(f) Absent prior written approval of the ARC, in its sole discretion, no Owner may add to, delete, modify, or change, any landscaping or related system.

Section 9.8 Maintenance of Security Lighting. Each Owner shall maintain in good and operating condition the exterior security landscape lighting (if any) installed on the exterior and/or front yard or rear yard area of the Dwelling. Such maintenance shall include, but not be limited to, the replacement of light bulbs and photoelectric cells, the provision of electrical power to such lights, and timely payment of electrical service, as applicable. Absent prior written approval of the ARC, in its sole discretion, no Owner may delete, modify, or change any photoelectric cell as initially installed by Declarant, or any lighting activated thereby (including, without limitation, disconnecting lighting from such photoelectric cell and/or connecting such lighting to a timer device). If any Owner shall fail to so maintain such exterior lighting, or permit such lighting to fall into disrepair, or delete or modify such lighting without prior approval of the ARC, the Association shall have the right to correct such condition. If any such condition is corrected by the Association, the Association shall be fully reimbursed by the Lot Owner for all costs incurred.

Section 9.9 Modification of Improvements. Maintenance and repair of Common Elements shall be the responsibility of the Association, and the costs of such maintenance and repair shall be Common Expenses; provided that, in the event that any Improvement located on a Common Element is damaged because of any Owner's act or omission, such Owner shall be solely liable for the costs of repairing such damage and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration. Each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not: add to, remove, delete, modify, change, obstruct, or landscape, all or any portion of the Common Elements, or Site Visibility Restriction Area, or Perimeter Wall, and/or any other wall or fence constructed by Declarant on such Owner's Lot, without prior written approval of the ARC, in its sole discretion.

ARTICLE 10

USE RESTRICTIONS

Subject to the rights and exemptions of Declarant as set forth in this Declaration, and subject further to the fundamental "good neighbor" policy underlying the Community and this Declaration, all real property within the Properties shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth in this Declaration. The strict application of the limitations and restrictions set forth in this Article 10 may be modified or waived in whole or in part by the Board in specific circumstances where such strict application would be unduly harsh, provided that any such waiver or modification shall not be valid unless in writing and executed by the Board. Any other provision herein notwithstanding, neither Declarant, the Association, the Board, nor their respective directors, officers, members, agents or employees shall be liable to any Owner or to any other Person as a result of the failure to enforce any use restriction or for the granting or withholding of a waiver or modification of a use restriction as provided herein.

Section 10.1 Single Family Residence. Each Unit shall be improved and used solely as a residence for a single Family and for no other purpose. No part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, primary storage, vending, "reverse engineering" destructive testing, or any other nonresidential purposes; provided that Declarant may exercise the reserved rights described in Article 14 hereof. The provisions of this Section 10.1 shall not preclude a professional or administrative occupation, or an occupation of child care, provided that the number of non-Family children, when added to the number of Family children being cared for at the Unit, shall not exceed a maximum aggregate of five (5) children, and provided further that there is no nuisance under Section 10.5, below, and no external evidence of any such occupation, for so long as such occupation is conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Dwelling as a residential home. This provision shall not preclude any Owner from renting or leasing his entire Unit by means of a written lease or rental agreement subject to this Declaration and any Rules and Regulations; provided that no such lease shall be for a term of less than six (6) months.

Section 10.2 No Further Subdivision. Except as may be expressly authorized by Declarant, no Unit or all or any portion of the Common Elements may be further subdivided (including, without limitation, any division into time-share estates or time-share uses) without the prior written approval of the Board; provided, however, that this provision shall not be construed to limit the right of an Owner: (1) to rent or lease his entire Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Unit is not leased for transient or hotel purposes; (2) to sell his Unit; or (3) to transfer or sell any Unit to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be made expressly subject to the Governing Documents. Any failure by the lessee of such Unit to comply with the terms of the Governing Documents shall constitute a default under the lease or rental agreement. No two or more Units in the Properties may be combined in any manner whether to create a larger Unit or otherwise, and no Owner may permanently remove any block wall or other intervening partition between Units.

Section 10.3 Insurance Rates. Without the prior written approval of the Board, nothing shall be done or kept in the Properties which will increase the rate of insurance on any Unit or other portion of the Properties, nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any Unit or other portion of the Properties or which would be a violation of any law. Any other provision herein notwithstanding, the Board shall have no power whatsoever to waive or modify this restriction.

Section 10.4 Animal Restrictions. No animals, reptiles, poultry, fish, or fowl or insects of any kind ("animals") shall be raised, bred or kept on any Unit, except that a reasonable number of dogs, cats, birds or fish may be kept, provided that they are not kept, bred or maintained for any commercial purpose, nor in unreasonable quantities nor in violation of any applicable City or County ordinance or any other provision of the Declaration, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The

Association, acting through the Board, shall have the right to prohibit maintenance of any animal in any Unit which constitutes, in the opinion of the Board, a nuisance to other Owners or Residents. Subject to the foregoing, animals belonging to Owners, Residents, or their respective Families, licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed yard or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, any Owner and/or Resident shall be liable to each and all other Owners, Residents, and their respective Families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or Resident or respective Family, tenants or guests; and it shall be the absolute duty and responsibility of each such Owner and Resident to clean up after such animals in the Properties or streets abutting the Properties. Without limiting the foregoing: (a) no "dog run" or similar structure pertaining to animals shall be placed or permitted in any Lot, unless approved by the Board in advance and in writing (and, in any event, any such "dog run" or similar Improvement shall not exceed the height of any party wall on the Lot, and shall otherwise not be permitted, or shall be immediately removed, if it constitutes a nuisance in the reasonable judgment of the Board), and (b) all Owners shall comply fully in all respects with all applicable County and City ordinances and rules regulating and/or pertaining to animals and the maintenance thereof on the Owner's Unit and/or any other portion of the Properties.

Section 10.5 Nuisances. No rubbish, clippings, refuse, scrap lumber or metal; no grass, shrub or tree clippings, and no plant waste, compost, bulk materials or other debris of any kind; (all, collectively, hereafter, "rubbish and debris") shall be placed or permitted to accumulate anywhere within the Properties, and no odor shall be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, or offensive. Without limiting the foregoing, all rubbish and debris shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purposes. Such containers shall be exposed to the view of the neighboring Units only when set out for a reasonable period of time (not to exceed twelve (12) hours before or after scheduled trash collection hours). No noxious or offensive activities (including, but not limited to the repair of motor vehicles) shall be carried out on the Properties. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Unit so as to be offensive or detrimental to any other Unit or to occupants thereof, or to the Common Elements. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other similar or unusually loud sound devices (other than devices used exclusively for safety, security, or fire protection purposes), noisy or smokey vehicles, large power equipment or large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), inoperable vehicle, unlicensed off-road motor vehicle, or other item which may unreasonably disturb other Owners or Residents or any equipment or item which may unreasonably interfere with television or radio reception within any Unit, shall be located, used or placed on any portion of the Properties without the prior written approval of the Board. No unusually loud motorcycles, dirt bikes or similar mechanized vehicles may be operated on any portion of the Common Elements without the prior written approval of the Board, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security of a Dwelling and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms. The Board shall have the right to reasonably determine if any noise, odor, activity, or circumstance, constitutes a nuisance. Each Owner and Resident shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Unit, including Dwelling. Each Owner and Resident shall be accountable to the Association and other Owners and Residents for the conduct and behavior of children and other Family members or persons residing in or visiting his Unit; and any damage to the Common Elements, personal property of the Association or property of another Owner or Resident, caused by such children or other Family members, shall be repaired at the sole expense of the Owner of the Unit where such children or other Family members or persons are residing or visiting.

Section 10.6 Exterior Maintenance and Repair; Owner's Obligations. No Improvement anywhere within the Properties shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. If any Owner or Resident shall permit any Improvement, which is the responsibility of such Owner or Resident to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after consulting with the ARC, and after affording such Owner or Resident reasonable notice, shall have the right but not the obligation to correct such condition, and to enter

upon such Owner's Unit, for the purpose of so doing, and such Owner and/or Resident shall promptly reimburse the Association for the cost thereof. Such cost may be assessed as a Special Assessment pursuant to Section 6.11 above, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment for all purposes of Article 7, above. The Owner and/or Resident of the offending Unit shall be personally liable for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner and/or Resident shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

Section 10.7 Drainage By acceptance of a deed to a Unit, each Owner agrees for himself and his assigns that he will not in any way interfere with or alter, or permit any Resident to interfere with or alter, the established drainage pattern over any Unit, so as to affect said Unit, any other Unit, or the Common Elements, unless adequate alternative provision is made for proper drainage and approved in advance and in writing by the ARC, and any request therefor shall be subject to Article 8 above, including, but not necessarily limited to, any condition imposed by the ARC pursuant to Section 8.2(b) above. Without limiting the generality of the foregoing, any request by an Owner for ARC approval of alteration of established drainage pattern shall be subject to payment, by the Owner, of the professional fees of a licensed engineer to review the plans and specifications on behalf of the ARC, pursuant to Section 8.2(b)(8) above, which shall be required in all such cases, and further shall be subject to the Owner obtaining all necessary governmental approvals pursuant to Section 8.7, above. For the purpose hereof, "established drainage pattern" is defined as the drainage which exists at the time that such Unit is conveyed to a Purchaser from Declarant, or later grading changes which are shown on plans and specifications approved by the ARC.

Section 10.8 Water Supply and Sewer Systems No individual water supply system, or cesspool, septic tank, or other sewage disposal system, or exterior water softener system, shall be permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water or sewer district serving the Properties, County health department, and any applicable utility and governmental authorities having jurisdiction, and has been approved in advance and in writing by the ARC.

Section 10.9 No Hazardous Activities No activities shall be conducted, nor shall any Improvements be constructed, anywhere in the Properties which are or might be unsafe or hazardous to any Person, Unit, Common Elements. Without limiting the foregoing, (a) no firearm shall be discharged within the Properties, and (b) there shall be no exterior or open fires whatsoever, except within a barbecue and contained within a receptacle commercially designed therefor, while attended and in use for cooking purposes, or except within a fireplace designed to prevent the dispersal of burning embers, so that no fire hazard is created, or except as specifically authorized in writing by the Board (all as subject to applicable ordinances and fire regulations).

Section 10.10 No Unsightly Articles No unsightly article, facility, equipment, object, or condition (including, but not limited to, clotheslines, and garden and maintenance equipment, or inoperable vehicle) shall be permitted to remain on any Unit so as to be visible from any street, or from any other Unit, Common Elements, or neighboring property. Without limiting the foregoing or any other provision herein, all refuse, garbage and trash shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purpose. Such containers shall be exposed to view of the public, or neighboring Units, only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours).

Section 10.11 No Temporary Structures Unless required by Declarant during the initial construction of Dwellings and other Improvements, or unless approved in writing by the Board in connection with the construction of authorized Improvements, no outbuilding, tent, shack, shed or other temporary or portable structure or Improvement of any kind shall be placed upon any portion of the Properties. No garage, carport, trailer, camper, motor home, recreational vehicle, or other vehicle, or any Improvement other than a Dwelling, shall be used as a residence in the Properties, either temporarily or permanently.

Section 10.12 No Drilling No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted upon,

in, or below any Unit or the Common Elements, nor shall oil, water or other wells, tanks, tunnels or mineral excavations or shafts be permitted upon or below the surface of any portion of the Properties. No derrick or other structure designed for use in boring for water, oil, geothermal heat, or natural gas, or other mineral or depleting asset shall be erected.

Section 10.13 Alterations There shall be no excavation, construction, alteration or erection of any projection which in any way alters the exterior appearance of any Improvement from any street, or from any other portion of the Properties (other than minor repairs or rebuilding pursuant to Section 10.6 above) without the prior approval of the ARC pursuant to Article 8 hereof. There shall be no violation of the setback, side yard or other requirements of local governmental authorities, notwithstanding any approval of the ARC. This Section 10.13 shall not be deemed to prohibit minor repairs or rebuilding which may be necessary for the purpose of maintaining or restoring a Unit to its original condition.

Section 10.14 Signs Subject to the reserved rights of Declarant contained in Article 14 hereof, no flag, flag pole, balloon, beacon, banner, sign, poster, display, billboard or other advertising device or other display of any kind shall be installed or displayed to public view on any portion of the Properties, or on any public street abutting the Properties, without the prior written approval of the ARC, except (a) one (1) sign for each Unit, not larger than eighteen (18) inches by thirty (30) inches, advertising the Unit for sale or rent; or (b) traffic and other signs installed by Declarant as part of the original construction of the Properties; or (c) signs regulated to the maximum extent permitted by applicable law. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the regulations of all applicable governmental ordinances.

Section 10.15 Improvements.

(a) Unless otherwise designated in the Declaration (or unless an ancillary guest house or "casita" is originally constructed on a Lot by Declarant, in its sole and absolute discretion, without obligation to do so, subject to the proviso that any such "casita" shall be subject to all applicable County ordinances, shall be ancillary and appurtenant to a Unit, and shall not separately comprise another Unit), no Lot shall be improved except with one (1) Dwelling designated to accommodate no more than a single Family and its servants and occasional guests, plus a garage, fencing and such other Improvements as are necessary or customarily incident to a single-Family Dwelling, provided that one additional small permanent building (e.g., a small "pool house" or "hobby house") may (but need not necessarily) be authorized on a Lot by the ARC, subject to the following: (1) full compliance with the requirements of Article 8, above; (2) the ARC, in its sole discretion, must determine that the Lot is large enough and otherwise suitable to accommodate such proposed Improvement; (3) such Improvement in all regards must comply with the Governing Documents, and all applicable governmental ordinances and laws; and (4) such Improvement may not and shall not be used for any commercial purpose whatsoever, pursuant to Section 10.1 above. No part of the construction on any Lot shall exceed the height limitations set forth in the applicable provisions of the Governing Documents, or any applicable governmental regulation(s). No projections of any type shall be placed or permitted to remain above the roof of any building within the Properties, except one or more chimneys or vent stacks. No permanent or attached basketball backboard, jungle gym, play equipment, or other sports apparatus shall be constructed, erected, or maintained on the Properties without the prior written approval of the Board. A portable basketball hoop or other portable sports apparatus shall be permitted on a Lot, provided that such item: (i) is not placed in any street, (ii) is used only daylight hours, (iii) during non-daylight hours, is stored on the Lot so as to be out of sight of any street, and (iv) does not otherwise constitute a nuisance in the reasonable judgment of the Board. Apart from any installation by Declarant as part of its original construction, no patio cover, antennae, wiring, air conditioning fixture, water softeners or other devices shall be installed on the exterior of a Dwelling or allowed to protrude through the walls or roof of the Dwelling (with the exception of items installed by Declarant during the original construction of the Dwelling), unless the prior written approval of the ARC is obtained, subject to Section 10.16, below.

(b) All utility and storage areas and all laundry rooms, including all areas in which clothing or other laundry is hung to dry, must be completely covered and concealed from view from other areas of the Properties and neighboring properties.

(c) No fence or wall shall be erected or altered without prior written approval of the ARC. All alterations or modifications of existing fences or walls of any kind shall require the prior written approval of the ARC, in its discretion (and the ARC may, but need not necessarily, require written consent of the Owners of all adjacent Lots as a prerequisite thereto)

(d) Garages shall be used only for their ordinary and normal purposes. Unless constructed or installed by Declarant as part of its original construction, no Owner or Resident may convert the garage on his or her Unit into living space or otherwise use or modify a garage so as to preclude regular and normal parking of vehicles therein. The foregoing notwithstanding, Declarant may convert a garage located in any Unit owned by Declarant into a sales office or related purposes.

Section 10.16 Antennas and Satellite Dishes. Expressly subject to the Declarant exemption set forth in Section 10.23, below, no exterior radio antenna or aerial, television antenna or aerial, microwave antenna, aerial or satellite dish, "C.B." antenna or other antenna or aerial of any type, which is visible from any street or from anywhere in the Properties, shall be erected or maintained anywhere in the Properties. Notwithstanding the foregoing, "Permitted Devices" (defined as antennas or satellite dishes: (i) which are one meter or less in diameter and designed to receive direct broadcast satellite service; or (ii) which are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multi-point distribution services) shall be permitted, provided that such Permitted Device is:

(a) located in the attic, crawl space, garage, or other interior space of the Dwelling, or within another approved structure on the Unit, so as not to be visible from outside the Dwelling or other structure, or, if such location is not reasonably practicable, then,

(b) located in the rear yard of the Unit (i.e., the area between the plane formed by the front facade of the Dwelling and the rear lot line) and set back from all lot lines at least such distance as may be established in the Rules and Regulations and/or by the Board; or, if such location is not reasonably practicable, then,

(c) attached to or mounted on a deck or patio and extending no higher than the eaves of that portion of the roof of the Dwelling directly in front of such antenna; or, if such location is not reasonably practicable, then,

(d) attached to or mounted on the rear wall of the Dwelling so as to extend no higher than the eaves of the Dwelling at a point directly above the position where attached or mounted to the wall; provided that,

(e) if an Owner reasonably determines that a Permitted Device cannot be located in compliance with the foregoing portions of this Section 10.16 without precluding reception of an acceptable quality signal, then the Owner may install such Permitted Device in the least conspicuous alternative location within the Unit where an acceptable quality signal can be obtained; provided that,

(f) Permitted Devices shall be reasonably screened from view from the street or any other portion of the Properties, and shall be subject to Rules and Regulations adopted by the Board, establishing a preferred hierarchy of alternative locations, so long as the same do not unreasonably increase the cost of installation, or use of the Permitted Device.

Declarant or the Association may, but are in no way obligated to, provide a master antenna or cable television antenna for use of all or some Owners. Declarant may grant easements for installation, maintenance, repair and/or replacement of any such master or cable television service.

Section 10.17 Landscaping. Subject to the provisions of Articles 8 and 9 (including, but not limited to, Section 9.7 above), each Owner shall install and shall thereafter maintain the landscaping on his Unit in a neat and attractive condition. No plants or seeds infected with insects or plant diseases shall be brought

upon, grown or maintained upon any part of the Properties. The Board may adopt Rules and Regulations to regulate landscaping permitted and required in the Properties. If an Owner fails to install and maintain landscaping in conformance with the Governing Documents, or allows his landscaping to deteriorate to a dangerous, unsafe, unsightly, or unattractive condition, the Board shall have the right to either (a) after thirty (30) days' written notice, seek any remedies at law or in equity which it may have, or (b) after reasonable notice (unless there exists a bona-fide unsafe or dangerous condition, in which case, the right shall be immediate, and no notice shall be required), to correct such condition and to enter upon the exterior portion of such Owner's Unit for the purpose of so doing, and such Owner shall promptly reimburse the Association for the cost thereof, as a Special Assessment enforceable in the manner set forth in Article 7, above. Each Owner shall be responsible, at his sole expense, for maintenance, repair, replacement, and watering of any and all landscaping on the Lot, as well as any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping.

Section 10.18 Prohibited Plant Types. Without limiting the generality of any other provision herein, the following plant types are hereby specifically declared to be nuisances, and shall not be permitted anywhere within the Properties: (a) *Olea europaea* ("olive") (other than "fruitless olive," which shall be permitted), (b) *Morus alba* or *nigra* ("mulberry"), or (c) *Cynodon dactylon* ("bermuda grass"); (d) *Amaranthus palmeri* ("careless weed"), (e) *Salsola kali* ("Russian thistle"), and/or (f) *Franseria dumosa* ("desert ragweed"). Declarant may, from time to time and at any time, add or delete any plant species to the foregoing list of prohibited plants. If Declarant adds a plant species to the foregoing list of prohibited plants, each Owner shall refrain from planting or placing such plant species on the Properties, provided, however, that Owners shall not be obligated to unearth landscaping existing at such time to remove such newly prohibited plant species from the Properties.

Section 10.19 Parking and Vehicular Restrictions. No Person shall park, store or keep anywhere within the Properties, any inoperable or similar vehicle, or any large commercial-type vehicle, including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck, bus, aircraft, or any vehicular equipment, mobile or otherwise, except wholly within the Owner's garage as originally constructed by Declarant ("Garage") and only with the Garage door closed. Any boat, trailer, camper, motor home, and similar recreational vehicle (collectively and individually, "RV"), shall be parked only (i) wholly within a Garage, with the Garage door completely closed, or (ii) wholly between the building lines (i.e., wholly behind the front building lines and wholly in front of the rear building lines) of the homes on both immediately adjacent Lots (or, if there is only one immediately adjacent Lot, then the building lines of the home on such adjacent Lot, provided that the Board shall have the power and authority, in its sole discretion, to entirely disapprove and/or prohibit parking of an RV on any Lot with only one other Lot immediately adjacent thereto) if such parking reasonably may be deemed to constitute a nuisance, and appropriately screened from view from all streets as determined by the Board in its reasonable discretion, and no variance from this requirement shall be authorized or permitted. The foregoing shall not be deemed to prohibit a pickup or camper truck or similar vehicle up to and including one (1) ton when used for daily transportation of the Owner or Resident, or the Family respectively thereof, which vehicle shall be permitted, subject to the Garage, nuisance, and parking provisions herein. No Person shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Properties or on any street abutting the Properties. However, repair and/or restoration of one (1) such item only shall be permitted within the Garage so long as the Garage door remains closed, provided, however, that such activity may be prohibited entirely by the Board if the Board determines in its reasonable discretion that such activity constitutes a nuisance. Vehicles owned, operated or within the control of any Owner or of a resident of such Owner's Dwelling shall be parked in the Garage to the extent of the space available therein. All garages shall be kept neat and free of stored materials so as to permit the parking of at least one (1) standard sized American sedan automobile therein at all times. Garage doors shall not remain open for prolonged periods of time, and must be closed when not reasonably required for immediate ingress and egress. The Association, through the Board, is hereby empowered to establish and enforce any additional parking limitations, rules and/or regulations (collectively, "parking regulations") which it may deem necessary, including, but not limited to, the levying of fines for violation of parking regulations, and/or removal of any violating vehicle at the expense of the owner of such vehicle. No parking of any vehicle shall be permitted along any curb or otherwise on any street within the Properties, except only for ordinary and reasonable guest parking, subject to parking regulations established by the Board. Notwithstanding the

foregoing, these restrictions shall not be interpreted in such a manner as to permit any parking or other activity which would be contrary to any County ordinance, or which is determined by the Board, in its reasonable discretion, to constitute a bona-fide nuisance.

Section 10.20 Sight Visibility Restriction Areas. The maximum height of any and all sight restricting improvements (including, but not necessarily limited to, landscaping), on all Sight Visibility Restriction Areas, shall be restricted to a maximum height not to exceed twenty-four (24) inches, or such other height set forth in the Plat ("Maximum Permitted Height"). In the event that any Improvement located on any Sight Visibility Restriction Area on a Unit exceeds the Maximum Permitted Height, the Association shall have the power and easement to enter upon such Unit and to bring such Improvement into compliance, and the Owner shall be solely liable for the costs thereof and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration.

Section 10.21 Prohibited Direct Access. Any other provision herein notwithstanding, there shall be no vehicular access from any Lot directly onto such streets as designated on the Plat, and no vehicular access from said streets directly onto any abutting Lot, all of which direct vehicular access is hereby prohibited.

Section 10.22 No Waiver. The failure of the Board to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restrictions shall remain in full force and effect. The receipt by the Board or Manager of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board or the Manager.

Section 10.23 Declarant Exemption. Units owned by Declarant, shall be exempt from the provisions of this Article 10, until such time as Declarant conveys title to the Unit to a Purchaser, and activities of Declarant reasonably related to Declarant's development, construction, and marketing efforts, shall be exempt from the provisions of this Article 10. This Article 10 may not be amended without Declarant's prior written consent.

ARTICLE 11

DAMAGE TO OR CONDEMNATION OF COMMON ELEMENTS

Section 11.1 Damage or Destruction. Damage to, or destruction or condemnation of, all or any portion of the Common Elements shall be handled in the following manner:

(a) Repair of Damage. Any portion of this Community, for which insurance is required by this Declaration or by any applicable provision of NRS Chapter 116, which is damaged or destroyed, must be repaired or replaced promptly by the Association unless: (i) the Community is terminated, in which case the provisions of NRS § 116.2118, 116.21183 and 116.21185 shall apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) eighty percent (80%) of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced, the proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community; (A) the proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units; and (B) the remainder of the proceeds must be distributed to all the Owners or lien holders, as their interests may appear, in proportion to the liabilities of all the Units for Common Expenses. If the Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and Record an amendment to this Declaration reflecting the reallocations.

(b) Damage by Owner To the full extent permitted by law, each Owner shall be liable to the Association for any damage to the Common Elements not fully reimbursed to the Association by insurance proceeds, provided the damage is sustained as a result of the negligence, willful misconduct, or unauthorized or improper installation or maintenance of any Improvement by said Owner or the Persons deriving their right and easement of use and enjoyment of the Common Elements from said Owner, or by his respective Family and guests, both minor and adult. The Association reserves the right, acting through the Board, after Notice and Hearing, to: (1) determine whether any claim shall be made upon the insurance maintained by the Association; and (2) levy against such Owner a Special Assessment equal to any deductible paid and the increase, if any, in the insurance premiums directly attributable to the damage caused by such Owner or the Person for whom such Owner may be responsible as described above. In the case of joint ownership of a Unit, the liability of the co-owners thereof shall be joint and several, except to any extent that the Association has previously contracted in writing with such co-owners to the contrary. After Notice and Hearing, the Association may levy a Special Assessment in the amount of the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, against any Unit owned by such Owner, and such Special Assessment may be enforced as provided herein.

Section 11.2 Condemnation If at any time, all or any portion of the Common Elements, or any interest therein, is taken for any governmental or public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Association. Any such award payable to the Association shall be deposited in the operating fund. No Member shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation. The Association shall have the exclusive right to participate in such proceedings and shall, in its name alone, represent the interests of all Members. Immediately upon having knowledge of any taking by eminent domain of Common Elements, or any portion thereof, or any threat thereof, the Board shall promptly notify all Owners and all Eligible Holders.

Section 11.3 Condemnation Involving a Unit For purposes of NRS § 116.1107(2)(a), if part of a Unit is required by eminent domain, the award shall compensate the Owner for the reduction in value of the Unit's interest in the Common Elements. The basis for such reduction shall be the extent to which the occupants of the Unit are impaired from enjoying the Common Elements. In cases where the Unit may still be used as a Dwelling, it shall be presumed that such reduction is zero (0).

ARTICLE 12

INSURANCE

Section 12.1 Casualty Insurance The Board shall cause to be obtained and maintained a master policy of fire and casualty insurance with extended coverage for loss or damage to all of the Association's insurable improvements on the Common Elements, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance, and shall obtain insurance against such other hazards and casualties as the Board deems reasonable and prudent. The Board, in its reasonable judgment, may also insure any other property whether real or personal, owned by the Association or located within the Properties, against loss or damage by fire and such other hazards as the Board may deem reasonable and prudent, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Elements shall be maintained for the benefit of the Association, the Owners, and the Eligible Holders, as their interests may appear as named insured, subject however to the loss payment requirements as set forth herein. Premiums for all insurance carried by the Association are Common Expenses included in the Annual Assessments levied by the Association.

The Association, acting through the Board, shall be the named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any policies shall be paid to the Board as trustee. The Board shall have full power to receive and receipt for the proceeds and to deal therewith as deemed necessary and appropriate. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim,

and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of insurance maintained by the Association and of all the renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Eligible Holders who have expressly requested the same in writing.

Section 12.2 Liability and Other Insurance. The Association shall have the power and duty to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it shall deem desirable (but in no event less than \$1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence), insuring the Association, Board, Directors, Officers, Declarant, and Manager, and their respective agents and employees, and the Owners and Residents of Units and their respective Families, guests and invitees, against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property maintained or required to be maintained by the Association including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such insurance shall also include coverage, to the extent reasonably available, against liability for non-owned and hired automobiles, liability for property of others, and any other liability or risk customarily covered with respect to projects similar in construction, location, and use. The Association may also obtain, through the Board, Worker's Compensation insurance (which shall be required if the Association has one or more employees) and other liability insurance as it may deem reasonable and prudent, insuring each Owner and the Association, Board, and any Manager, from liability in connection with the Common Elements, the premiums for which are a Common Expense included in the Annual Assessment levied against the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its reasonable business judgment.

Section 12.3 Fidelity Insurance. The Board shall further cause to be obtained and maintained errors and omissions insurance, blanket fidelity insurance coverage (in an amount at least equal to 100% of Association Funds from time to time handled by such Persons) and such other insurance as it deems prudent, insuring the Board, the Directors, and Officers, and any Manager against any liability for any act or omission in carrying out their respective obligations hereunder, or resulting from their membership on the Board or on any committee thereof. If reasonably feasible, the amount of such coverage shall be at least \$1,000,000.00, and said policy or policies of insurance shall also contain an extended reporting period endorsement (a tail) for a six-year period. The Association shall require that the Manager maintain fidelity insurance coverage which names the Association as an obligee, in such amount as the Board deems prudent. From and after the end of the Declarant Control Period, blanket fidelity insurance coverage which names the Association as an obligee shall be obtained by or on behalf of the Association for any Person handling funds of the Association, including but not limited to, Officers, Directors, trustees, employees, and agents of the Association, whether or not such Persons are compensated for their services, in such an amount as the Board deems prudent; provided that in no event may the aggregate amount of such bonds be less than the maximum amount of Association Funds that will be in the custody of the Association or Manager at any time while the policy is in force (but in no event less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Units, plus Reserve Funds), or such other amount as may be required by FNMA, VA or FHA from time to time, if applicable.

Section 12.4 Other Insurance Provisions. The Board shall also obtain such other insurances customarily required with respect to projects similar in construction, location, and use, or as the Board may deem reasonable and prudent from time to time, including, but not necessarily limited to, Worker's Compensation insurance (which shall be required if the Association has any employees). All premiums for insurances obtained and maintained by the Association are a Common Expense included in the Annual Assessment levied upon the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its sound business judgment. In addition, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and fidelity insurance coverage necessary to meet the requirements for similar developments, as set forth or modified from time to time by any governmental body with jurisdiction, except to the extent such coverage is not available or has been waived in writing by the applicable agency.

Section 12.5 Insurance Obligations of Owners Each Owner is required, at Close of Escrow on his Unit, at his sole expense to have obtained, and to have furnished his Mortgagee (or, in the event of a cash transaction involving no Mortgagee, then to the Board) with duplicate copies of, a homeowner's policy of fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements and fixtures originally installed by Declarant on such Owner's Unit in accordance with the original plans and specifications, or installed by the Owner on the Unit, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance. By acceptance of the deed to his Unit, each Owner agrees to maintain in full force and effect at all times, at said Owner's sole expense, such homeowner's insurance policy, and shall provide the Board with duplicate copies of such insurance policy upon the Board's request. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability, damage to person or property occurring inside his Unit or elsewhere upon the Properties. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied. Notwithstanding the foregoing, or any other provision herein, each Owner shall be solely responsible for full payment of any and all deductible amounts under such Owner's policy or policies of insurance.

Section 12.6 Waiver of Subrogation All policies of physical damage insurance maintained by the Association shall provide, if reasonably possible, for waiver of (1) any defense based on coinsurance; (2) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association; (3) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured; (4) any rights of the insurer to repair, rebuild or replace, and, in the event any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; or (5) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Unit. The Association hereby waives and releases all claims against the Board, the Owners, Declarant, and Manager, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss; provided, however, that such waiver shall not be effective as to any loss covered by a policy of insurance which would be voided or impaired thereby.

Section 12.7 Notice of Expiration Requirements If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days' prior written notice to the Board and Declarant and to each Owner and each Eligible Holder who has filed a written request with the carrier for such notice, and every other Person in interest who requests in writing such notice of the insurer. All insurance policies carried by the Association pursuant to this Article 12, to the extent reasonably available, must provide that: (a) each Owner is an insured under the policy with respect to liability arising out of his interest in the Common Elements or Membership; (b) the insurer waives the right to subrogation under the policy against any Owner or member of his Family; (c) no act or omission by any Owner or member of his Family will void the policy or be a condition to recovery under the policy; and (d) if, at the time of a loss under the policy there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

ARTICLE 13 **MORTGAGEE PROTECTION CLAUSE**

In order to induce any FHA, VA, FHLMC, GNMA and FNMA and any other governmental agency or other Mortgagees to participate in the financing of the sale of Units within the Properties, the following

provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control)

(a) Each Eligible Holder, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation or the Bylaws, which default is not cured within thirty (30) days after the Association learns of such default. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Unit, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Governing Documents.

(c) Except as provided in NRS § 116.3116(2), each Beneficiary of a first Mortgage encumbering any Unit which obtains title to such Unit or by foreclosure of such Mortgage, shall take title to such Unit free and clear of any claims of unpaid assessments or charges against such Unit which accrued prior to the acquisition of title to such Unit by the Mortgagee

(d) Unless at least sixty-seven percent (67%) of first Eligible Holders (based upon one (1) vote for each first Mortgage owned) or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(i) subject to Nevada nonprofit corporation law to the contrary, by act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Elements and the Improvements thereon which are owned by the Association, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association as provided in this Declaration shall not be deemed a transfer within the meaning of this clause.

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner, or the method of allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwellings and other Improvements on the Units, the maintenance of the Exterior Walls or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(iv) fail to maintain Fire and Extended Coverage on any insurable Common Elements on a current replacement cost basis in an amount as near as possible to one hundred percent (100%) of the insurance value (based on current replacement cost);

(v) except as provided by any provision of NRS Chapter 116 applicable hereto, use hazard insurance proceeds for losses to any Common Elements property for other than the repair, replacement or reconstruction of such property; or

(vi) amend those provisions of this Declaration or the Articles of Incorporation or Bylaws which provide for rights or remedies of first Mortgagees.

(e) Eligible Holders, upon written request, shall have the right to: (1) examine the books and records of the Association during normal business hours, (2) require from the Association the submission of an annual audited financial statement (without expense to the Beneficiary, insurer, or guarantor requesting

such statement) and other financial data, (3) receive written notice of all meetings of the Members, and (4) designate in writing a representative to attend all such meetings.

(f) All Beneficiaries, insurers, and guarantors of first Mortgages, who have filed a written request for such notice with the Board, shall be given thirty (30) days' written notice prior to: (1) any abandonment or termination of the Association; (2) the effective date of any proposed, material amendment to this Declaration or the Articles or Bylaws; and (3) the effective date of any termination of any agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties. Such first Mortgagees shall be given immediate notice: (i) following any damage to the Common Elements whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000.00), and (ii) when the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Properties.

(g) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Elements property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(h) The Reserve Fund described in Article 6 above must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large extraordinary assessments.

(i) The Board shall require that any Manager, and any employee or agent thereof, maintain at all times fidelity bond coverage which names the Association as an obligee; and, at all times from and after the end of the Declarant Control Period, the Board shall secure and cause to be maintained in force at all times fidelity bond coverage which names the Association as an obligee for any Person handling funds of the Association.

(j) When professional management has been previously required by a Beneficiary, insurer, or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of at least sixty-seven percent (67%) of the voting power of the Association and of the Board respectively, and the Beneficiaries of at least fifty-one percent (51%) of the Eligible Holders.

(k) So long as VA is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties, then, pursuant to applicable VA requirement, for so long as Declarant shall control the Association Board, Declarant shall obtain prior written approval of the VA for any material proposed action which may affect the basic organization, subject to Nevada nonprofit corporation law, of the Association (i.e., merger, consolidation, or dissolution of the Association); dedication, conveyance, or mortgage of the Common Elements; or amendment of the provisions of this Declaration, the Articles of Incorporation, Bylaws, or other document which may have been previously approved by the VA; provided that no such approval shall be required in the event that the VA no longer regularly requires or issues such approvals at such time.

In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to reasonably satisfy the express applicable requirements of FHA, VA, FNMA or GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the Membership, as a class of potential Mortgage borrowers and potential sellers of their Units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Unit.

ARTICLE 14
DECLARANT'S RESERVED RIGHTS

Section 14.1 Declarant's Reserved Rights. Any other provision herein notwithstanding, pursuant to NRS § 116.2105(1)(h), Declarant reserves, in its sole discretion, the following developmental rights and other special Declarant's rights, on the terms and conditions and subject to the expiration deadlines, if any, set forth below:

(a) Right to Complete Improvements and Construction Easement. Declarant reserves, for a period terminating on the fifteenth (15th) anniversary of the Recordation of this Declaration, the right, in Declarant's sole discretion, to complete the construction of the Improvements on the Properties and an easement over the Properties for such purpose; provided, however, that if Declarant still owns any property in the Properties on such fifteenth (15th) anniversary date, then such rights and reservations shall continue for one additional successive period of ten (10) years thereafter.

(b) Exercise of Developmental Rights. Pursuant to NRS Chapter 116, Declarant reserves the right to annex all or portions of the Annexable Area to the Community, pursuant to the provisions of Article 15 hereof, for as long as Declarant owns any portion of the Annexable Area. No assurances are made by Declarant with regard to the boundaries of those portions of the Properties which may be annexed or the order in which such portions may be annexed. Declarant also reserves the right to withdraw real property from the Community.

(c) Offices, Model Homes and Promotional Signs. Declarant reserves the right to maintain signs, sales and management offices, and models in any Unit owned or leased by Declarant in the Properties, and signs anywhere on the Common Elements, for so long as Declarant owns or leases any Unit.

(d) Appointment and Removal of Directors. Declarant reserves the right to appoint and remove a majority of the Board during the Declarant Control Period, as set forth in Section 3.7 hereof.

(e) Designation of Neighborhoods and Neighborhood Common Areas. Declarant reserves the right to designate Neighborhoods and Neighborhood Common Areas, as set forth in Article 17, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(f) Supplemental Declarations. Declarant reserves the right to Record (or to cause to be subject to prior written approval of Declarant, in its sole discretion), all Supplemental Declarations from time to time, as set forth in detail in Article 18, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(g) Amendments. Declarant reserves the right to amend this Declaration from time to time, as set forth in detail in Section 19.5, below, and any other provision of this Declaration, during the time periods set forth therein.

(h) Appointment and Removal of ARC. Declarant reserves the right to appoint and remove the ARC, for the time period set forth in Section 8.1, above.

(i) Easements. Declarant has reserved certain easements, and related rights, as set forth in this Declaration.

(j) Control of Entry Gates. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities.

(k) Restriction of Traffic. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties

(l) Marketing Names. Declarant reserves the right, for so long as Declarant owns or has any interest in any of the Annexable Area, to market and/or advertise different portions of the Properties under different marketing names

(m) Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, including, but not limited to, Article 17 below, and, to the maximum extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all Development Rights and Special Declarant Rights as set forth or referenced therein).

Section 14.2 Exemption of Declarant. Notwithstanding anything to the contrary in this Declaration, the following shall apply:

(a) Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to complete excavation and grading and the construction of Improvements to and on any portion of the Properties, or to alter the foregoing and Declarant's construction plans and designs, or to construct such additional improvements as Declarant deems advisable in the course of development of the Properties, for so long as any Unit owned by Declarant remains unsold.

(b) This Declaration shall in no way limit the right of Declarant to grant additional licenses, easements, reservations and rights-of-way to itself, to governmental or public authorities (including without limitation public utility companies), or to others, as from time to time may be reasonably necessary to the proper development and disposal of Units; provided, however, that if FHA or VA approval is sought by Declarant, then the FHA and/or the VA shall have the right to approve any such grants as provided herein.

(c) Prospective purchasers and Declarant shall have the right to use all and any portion of the Common Elements for access to the sales facilities of Declarant and for placement of Declarant's signs.

(d) Without limiting Section 14.1(c), above, or any other provision herein, Declarant may use any structures owned or leased by Declarant, as model home complexes or real estate sales or management offices, subject to the time limitations set forth herein, after which time, Declarant shall restore the Improvement to the condition necessary for the issuance of a final certificate of occupancy by the appropriate governmental entity. Any garages which have converted into sales offices by Declarant shall be converted back to garages at the time of sale to a Purchaser of such Unit.

(e) All or any portion of the rights of Declarant in this Declaration may be assigned by Declarant to any successor in interest, by an express and written Recorded assignment which specifies the rights of Declarant so assigned.

(f) The prior written approval (which shall not be unreasonably withheld) of Declarant, as developer of the Properties, shall be required before any amendment to the Declaration affecting Declarant's rights or interests (including, without limitation, this Article 14) can be effective.

(g) The rights and reservations of Declarant referred to herein, if not earlier terminated pursuant to the Declaration, shall terminate on the date set forth in Section 14.1(a) above.

Section 14.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article 14 operate in part to benefit the Declarant, no amendment to this Article 14, and no amendment in derogation of any other provisions of this Declaration benefitting the Declarant, may be made without the written approval

of the Declarant, and any purported amendment of Article 14, or any portion thereof, or the effect respectively thereof, without such express prior written approval, shall be void, provided that the foregoing shall not apply to amendments made by Declarant.

ARTICLE 15 ANNEXATION

Section 15.1 Annexation of Property. Declarant may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portion of the Annexable Area then owned by Declarant, by Recording an annexation amendment ("Annexation Amendment") with respect to the real property to be annexed ("Annexed Property").

Upon the recording of an Annexation Amendment covering any portion of the Annexable Area and containing the provisions set forth herein, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Property in the same manner as if the Annexed Property were originally covered in this Declaration and originally constituted a portion of the Original Property; and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the Annexed Property shall be the same as with respect to the Original Property and the rights, obligations, privileges, duties and liabilities of the Owners and occupants of Units within the Annexed Property shall be the same as those of the Owners and occupants of Units originally affected by this Declaration. By acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B" hereto), in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter (and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his successors and assigns) to unilaterally execute and Record an Annexation Amendment, annexing said real property to the Community, in the manner provided for in this Article 15.

Section 15.2 Annexation Amendment. Each Annexation Amendment shall conform to the requirements of NRS § 116.211, and shall include:

- (a) the written and acknowledged consent of Declarant;
- (b) a reference to this Declaration, which reference shall state the date of Recordation hereof and the County, book and instrument number, and any other relevant Recording data;
- (c) a statement that the provisions of this Declaration shall apply to the Annexed Property as set forth therein;
- (d) a sufficient description of the Annexed Property;
- (e) assignment of an Identifying Number to each new Unit created;
- (f) a reallocation of the allocated interests among all Units; and
- (g) a description of any Common Elements created by the annexation of the Annexed Property

Section 15.3 FHA/VA Approval. In the event that, and for so long as, the FHA or VA is insuring or guaranteeing loans (or has agreed to insure or guarantee loans) on any portion of the Properties with respect to the initial sale by Declarant to a Purchaser of any Unit, then a condition precedent to any annexation of any property other than the Annexable Area shall be written confirmation by the FHA or the VA that the annexation is in accordance with the development plan submitted to and approved by the FHA or the VA; provided,

however, that such written confirmation shall not be a condition precedent if at such time the FHA or the VA has ceased to regularly require or issue such written confirmations.

Section 15.4 Disclaimers Regarding Annexation. Portions of the Annexable Area may or may not be annexed, and if annexed, may be annexed at any time by Declarant, and no assurances are made with respect to the boundaries or sequence of annexation of such portions. Annexation of a portion of the Annexable Area shall not necessitate annexation of any other portion of the remainder of the Annexable Area. Declarant has no obligation to annex the Annexable Area, or any portion thereof.

Section 15.5 Expansion of Annexable Area. In addition to the provisions for annexation specified in Section 15.2 above, the Annexable Area may, from time to time, be expanded to include additional real property, not as yet identified. Such property may be annexed to the Annexable Area upon the Recordation of a written instrument describing such real property, executed by Declarant and any other owner of such property.

Section 15.6 Contraction of Annexable Area. So long as real property has not been annexed to the Properties subject to this Declaration, the Annexable Area may be contracted to delete such real property effective upon the Recordation of a written instrument describing such real property, executed by Declarant and all other owners, if any, of such real property, and declaring that such real property shall thereafter be deleted from the Annexable Area. Such real property may be deleted from the Annexable Area without a vote of the Association or the approval or consent of any other Person, except as provided herein.

ARTICLE 16

ADDITIONAL DISCLOSURES, DISCLAIMERS, AND RELEASES

Section 16.1 Additional Disclosures and Disclaimers of Certain Matters. Without limiting any other provision in this Declaration, by acceptance of a deed to a Unit, each Owner (for purposes of this Section 16.1, the term "Owner" shall include the Owner, and the Owner's family, guests and tenants), and by residing within the Properties, each Resident (for purposes of this Article 16, the term "Resident" shall include each Resident, and the Resident's family and guests) shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

(a) that there are or may be major electrical power system components (high voltage transmission or distribution lines, transformers, etc.) presently and from time to time located within, adjacent to, or nearby the Properties (including, but not limited to, the Common Elements and/or the Unit), which generate certain electric and magnetic fields ("EMF") around them, and that Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to EMF;

(b) that the Unit and the other portions of the Properties are or from time to time may be located within or nearby: (1) airplane flight patterns or clear zones, and subject to significant levels of airplane noise, and (2) major roadways, and subject to significant levels of noise, dust, and other nuisance resulting from proximity to major roadways and/or vehicles. Also, each Unit is located in proximity to streets and other Dwellings in the Community, and subject to substantial levels of sound and noise. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to such airplane flight patterns or clear zones and/or roadways or vehicles or noise;

(c) that there are presently and may in the future be a water reservoir site and/or other additional water retention facilities located nearby or adjacent to, or within the Community, and the Community is located adjacent to or nearby major water and drainage channels, major washes, and a major water detention basin (all of the foregoing, collectively, "Facilities"), the ownership, use, regulation, operation, maintenance, improvement and repair of which are not within Declarant's control, and over which Declarant has no jurisdiction or authority, and, in connection therewith: (1) the Facilities may be an attractive nuisance; (2) maintenance and use of the Facilities may involve various operations and applications, including (but not necessarily limited to) noisy electric, gasoline or other power driven vehicles and/or equipment used by

Facilities maintenance and repair personnel during various times of the day, including, without limitation, early morning and/or late evening hours, and (3) the possibility of damage to Improvements and property on the Properties, particularly in the event of overflow of water or other substances from or related to the Facilities, as the result of nonfunction, malfunction, or overtaxing of the Facilities or any other reason, and (4) any or all of the foregoing may cause inconvenience and disturbance to Purchaser and other persons in or near the Unit and/or Common Elements, and possible injury to person and/or damage to property;

(d) that, additionally, there is a channel located on or over an easement through the Properties with related improvements (all of the foregoing, collectively, "Channel"), intended to help route flood waters through the Properties; it is presently contemplated that the Channel will constitute a Common Element, to be owned, maintained, repaired and/or replaced by the Association as a Common Expense; the disclosures and disclaimers set forth in the foregoing subsections (c)(1) through (4), inclusive, modified only to apply to the Channel, are incorporated herein by this reference.

(e) that the Properties are or may be located within designated flood plain areas, and the mortgage-holder(s), if any, of Purchaser (and/or subsequent Owners) will or may require flood insurance coverage for the dwelling and any other structures located on the Unit, until such time, if any, as the Properties may be removed from the designated flood plain area; and Declarant specifically disclaims any and all representations and warranties, express or implied, with regard to or pertaining to flood plains, floods, water damage, and/or flood insurance.

(f) that certain governmental officials in Clark County, Nevada, have indicated that Clark County may construct a water detention basin ("Detention Basin") generally to the northwest of the Properties; if and when the Detention Basin is constructed by Clark County and is fully operational, it is possible that the Association and/or Owners may petition to have the Channel vacated and the Properties, or portion(s) thereof, removed from designated flood plain area; Declarant makes no representation whatsoever whether the Detention Basin ever may be constructed or operational, and, if the Detention Basin is constructed and operational, what its effect may be, and whether the Channel may be vacated or the Properties removed from designated flood plain area.

(g) that the Unit and other portions of the Properties are or may be nearby major regional underground natural gas transmission pipelines. Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to gas transmission pipelines;

(h) that the Las Vegas Valley contains a number of earthquake faults, and the Unit and other portions of the Properties may be located on or nearby an identified or yet to be identified seismic fault line. Declarant specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to earthquake or seismic activities;

(i) that construction or installation of Improvements by Declarant, other Owners, or third parties, and/or installation or growth of trees or other plants, may impair or eliminate the view, if any, of or from a Unit. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to the impairment or elimination of any existing or future view;

(j) that residential subdivision and new home construction is an industry inherently subject to variations and imperfections. Purchaser acknowledges and agrees that items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including, but not limited to: reasonable wear, tear or deterioration, shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading, touch-up painting; minor flaws or corrective work; and like items) and are not constructional defects. Purchaser acknowledges that, (1) the finished construction of the Unit and the Common Elements, while within the standards of the industry in the Las Vegas Valley, Clark County, Nevada, and while in substantial compliance with the plans and specifications, will be subject to expected minor flaws; and (2) issuance of a Certificate of Occupancy by the relevant governmental authority with jurisdiction shall be deemed conclusive evidence that the relevant Improvement has been built within such industry standards;

(k) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(l) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(m) that installation and maintenance of a gated community and/or any security device shall not create any presumption or duty whatsoever of Declarant or Association (or their respective officers, directors, managers, employees, agents, and/or contractors) with regard to security or protection of person or property within or adjacent to the Properties;

(n) that gated entrances may restrict or delay entry into the Properties by law enforcement, fire protection, and/or emergency medical care personnel and vehicles; and each Owner, by acceptance of a deed to a Unit, whether or not so stated in the deed, shall be deemed to have voluntarily assumed the risk of such restricted or delayed entry,

(o) that the Unit and other portions of the Properties are located adjacent or nearby to certain undeveloped areas which may contain various species of wild creatures (including, but not limited to, coyotes and foxes), which may from time to time stray onto the Properties, and which may otherwise pose a nuisance or hazard;

(p) that the Unit and other portions of the Properties from time to time may, but need not necessarily, experience problems with scorpions, bees, ants, spiders, termites, pigeons, or other insect or pest problems (collectively, "pests"), and that Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to any pest, and each Owner must make its own independent determination regarding the existence or non-existence of any pest(s) which may be associated with the Unit or other portions of the Properties,

(q) that there is a high degree of alkalinity in soils and/or water in the Las Vegas Valley, that such alkalinity tends to produce, by natural chemical reaction, discoloration, leaching and erosion or deterioration of concrete walls and other Improvements ("alkaline effect"); that the Unit and other portions of the Properties may be subject to such alkaline effect, which may cause inconvenience, nuisance, and/or damage to property; and that the Governing Documents require Owners other than Declarant to not change the established grading and/or drainage, and to not permit any sprinkler or irrigation water to strike upon any wall or similar Improvement,

(r) that Purchaser acknowledges having received from Declarant information regarding the zoning designations and the designations in the master plan regarding land use, adopted pursuant to NRS Chapter 278, for the parcels of land adjoining the Properties to the north, south, east, and west, together with a copy of the most recent gaming enterprise district map made available for public inspection by the jurisdiction in which the Unit is located, and related disclosures. Declarant makes no further representation, and no warranty (express or implied), with regard to any matters pertaining to adjoining land or uses thereof or to gaming uses. Purchaser is hereby advised that the master plan and zoning ordinances are subject to change from time to time. If Purchaser desires additional or more current information concerning these zoning and gaming designations, Purchaser should contact the City of Las Vegas or Clark County Planning Department. Purchaser acknowledges and agrees that its decision to purchase is based solely upon Purchaser's own investigation and not upon any information provided by any sales agent;

(s) that Declarant presently plans to develop only those Lots which have already been released for construction and sale, and Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Unit. The Purchaser or Owner of a Unit may have seen proposed or contemplated residential and other developments which may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or may have been

advised of the same in discussions with sales personnel; however, notwithstanding such plot plans, sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct such future or planned developments or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. A Purchaser or Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions;

(t) that residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, construction-related traffic and traffic restrictions, and other construction-related "nuisances". Each Owner acknowledges and agrees that it is purchasing a Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accepts substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of land being developed) have been completed and sold out;

(u) that Declarant shall have the right, from time to time, in its sole discretion, to establish and/or adjust sales prices or price levels for new homes and/or Lots;

(v) that model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver the Unit in conformity with any model home, and any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded flooring, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to Purchaser unless an authorized officer of Declarant has specifically agreed in a written Addendum to the Purchase Agreement to make specific items a part of the Purchase Agreement;

(w) that the Unit and other portions of the Properties are or may be located adjacent to or nearby a school, and school bus drop off/pickup areas, and subject to levels of noise, dust, and other nuisance resulting from or related to proximity to such school and/or school bus stops;

(x) that some, but not all, Units, are large enough to accommodate parking of a recreational vehicle ("RV") on the side yard area of the Unit, subject to all restrictions set forth in the Declaration. If a Purchaser desires to purchase a Unit suitable for accommodating parking of an RV on the Unit, it is solely the Purchaser's responsibility and obligation to specifically confirm and verify with Declarant in a written addendum to the Purchase Agreement, whether the Unit being purchased may legitimately accommodate parking of an RV, subject to all use and other restrictions set forth in the Declaration;

(y) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities;

(z) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities, provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties;

(aa) that Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by NRS Chapter 115, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all special declarant's rights referenced in NRS § 116.110385);

(ab) that Declarant has reserved certain easements, and related rights and powers, as set forth in this Declaration; and

(ac) that each Purchaser understands, acknowledges, and agrees that Declarant has reserved certain rights in the Declaration, which may limit certain rights of Purchaser and Owners other than Declarant

Section 16.2 Disclaimers and Releases. As an additional material inducement to Declarant to sell the Unit to Purchaser, and without limiting any other provision in the Purchase Agreement, Purchaser (for itself and all persons claiming under or through Purchaser) acknowledges and agrees: (a) that Declarant specifically disclaims any and all representations and warranties, express and implied, with regard to any of the foregoing disclosed or described matters (other than to the extent expressly set forth in the foregoing disclosures); and (b) fully and unconditionally releases Declarant and the Association, and their respective officers, managers, agents, employees, suppliers and contractors, from any and all loss, damage or liability (including, but not limited to, any claim for nuisance or health hazards) related to or arising in connection with any disturbance, inconvenience, injury, or damage resulting from or pertaining to all and/or any one or more of the conditions, activities, and/or occurrences described in the foregoing portions of this Declaration.

ARTICLE 17

ADDITIONAL PROVISIONS PERTAINING TO NEIGHBORHOODS

Section 17.1 Designation of Neighborhoods and Neighborhood Common Areas. Declarant additionally reserves the right, in its sole discretion to designate Neighborhoods (and to unilaterally redesignate Neighborhood names, designations, and/or boundaries) and Neighborhood Common Areas, as set forth below until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration. Each Unit shall be located within a Neighborhood

(a) "Neighborhood" shall mean a group of particular Units designated by Declarant as a specific neighborhood for purposes of sharing Neighborhood Common Area (and/or receiving other benefits or services which are not provided to other Units within the Community but outside of such Neighborhood), subject to sharing by Units within the Neighborhood of Neighborhood Expenses through supplemental periodic Neighborhood Assessments, if any, as established by the Board from time to time. Any and all Neighborhoods shall be subject to the Governing Documents, provided that a Neighborhood may (in Declarant's sole discretion), but need not necessarily also be subject to a Supplemental Declaration or within the jurisdiction of a Sub-Association. In such case, in the event of any irreconcilable conflict, the Governing Documents shall prevail, and the Board shall have the power and right, but not the obligation, to veto any action taken or contemplated to be taken by any such Sub-Association or Owner (other than Declarant, whose rights and actions shall not be subject to any such Board veto) or group of Owners which the Board determines, in its reasonable business judgment, to be inconsistent with Community-wide standards or incompatible with the best interests of the Association as a whole

(b) "Neighborhood Assessments" shall mean those periodic assessments, which shall be supplemental to all Community Assessments, levied by the Board or Board of directors of a Sub-Association, if permitted by Declarant in its sole discretion, uniformly upon the Units within a particular Neighborhood to pay for the Neighborhood Expenses within such Neighborhood

(c) "Neighborhood Common Area" shall mean a portion of the Common Elements which shall constitute Limited Common Elements allocated for the use and benefit of one or more Neighborhood(s) (but less than the entire Community) as designated by Declarant in its sole discretion. Neighborhood Common Area is available for the use and enjoyment of only the Owners (subject to the Sub-Association, if any) within such Neighborhood. Neighborhood Common Area may vary by Neighborhood. Without limiting the preceding sentence, certain Neighborhoods may be gated, and other Neighborhoods may not be gated, in Declarant's sole discretion. The level of maintenance of Neighborhood Common Area shall be determined from time to time by the Board, provided that the Owners of Units within a Neighborhood may request the Board to enhance the level of maintenance in such Neighborhood (at the sole cost of such Neighborhood and the

Owners thereof), pursuant to Rules and Regulations governing same which may be established and/or revised by the Board from time to time in its reasonable business judgment.

(d) "Neighborhood Expenses" shall mean the expenditures made by, or financial liabilities of, the Association (or Sub-Association, if applicable), together with any allocations to reserves, for maintenance, management, operation, repair, replacement and insurance of Neighborhood Common Area, or for the particular benefit of Owners of Units within a particular Neighborhood, as may be authorized pursuant to this Declaration or in any applicable Supplemental Declaration.

(e) Initially, Declarant contemplates that there will be four Neighborhoods: Autumn Hills, Monterey, Somerset, and Ridgemont; however, Declarant reserves the right from time to time to designate fewer, different, and/or additional Neighborhoods.

Section 17.2 Neighborhood Common Areas. Certain portions of the Common Elements from time to time may be designated by Declarant, in its sole discretion, as Neighborhood Common Area, which shall constitute Limited Common Elements allocated and reserved for the exclusive use or primary benefit of Owners and Residents within a particular Neighborhood. By way of illustration and not limitation, Neighborhood Common Area may, but need not necessarily, include Neighborhood entry features, entry gates, Private Streets, landscaping, and other Limited Common Elements within a particular Neighborhood. Certain Neighborhoods may be gated, and other Neighborhoods may be non-gated, in Declarant's sole discretion. All costs associated with maintenance, management, operation, repair, replacement, and insurance of Neighborhood Common Area shall be a Neighborhood Expense, allocated uniformly and levied as Neighborhood Assessments among the Owners in the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.3 Designation of Neighborhood Common Areas. Any Neighborhood Common Area initially shall be designated as such from time to time in: (a) a separate instrument Recorded by Declarant in its sole discretion, or (b) in the deed conveying such Neighborhood Common Area to the Association (or, if applicable, to a Sub-Association for the Neighborhood); or (c) on the relevant Recorded subdivision plat; provided, however, that any such designation shall not preclude Declarant from later assigning use of the same Neighborhood Common Area to additional Units and/or Neighborhood(s), so long as Declarant has a right to subject additional property to this Declaration pursuant to Article 15, above. Thereafter, allocation of Neighborhood Common Area may be reassigned upon written approval of the Board and the affirmative vote of a majority of the votes within the Neighborhood(s) affected by the proposed reallocation. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article 15 above, any such allocation or reallocation shall also require Declarant's prior written consent, in its sole discretion.

Section 17.4 Use of Neighborhood Common Area. Subject to all of the other provisions of this Declaration (including, without limitation, the easements, use restrictions, maintenance and repair obligations, and architectural and landscaping control provisions), Neighborhood Common Area (which, by way of illustration and not limitation, may but need not necessarily include separate Neighborhood entry gates and Private Streets within the Neighborhood) is exclusively allocated to and reserved for the exclusive use of Owners and Residents of Units within the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.5 Maintenance, Repair, and Replacement of Neighborhood Common Area. Costs of management, operation, maintenance, repair, replacement and insurance of Neighborhood Common Area shall be a Neighborhood Expense assessed as Neighborhood Assessments to the Owners of Units in the Neighborhood(s) to which the Neighborhood Common Areas are allocated.

Section 17.6 Allocation and Budgeting of Neighborhood Expenses. As part of the annual Budget process set forth in, and, subject to the provisions of Section 6.4 above, the Board shall cause to be prepared and delivered, to each Owner of a Unit in a Neighborhood, a supplemental budget covering the estimated Neighborhood Expenses for a Neighborhood (which shall also include a reasonably prudent allocation for

reserves for capital repairs and replacement of Neighborhood Common Area). The Association is hereby authorized to levy Neighborhood Assessments uniformly against all Units in the Neighborhood subject to assessment, to fund Neighborhood Expenses. Such Neighborhood budget and Neighborhood Assessments promulgated by the Association shall become effective unless disapproved by Owners of seventy-five percent (75%) of the affected Units in the Neighborhood; however, there shall be no obligation to call a special meeting of the Owners of Units in such Neighborhood. If the proposed budget for a Neighborhood is disapproved, or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board may revise the budget for any Neighborhood, and the amount of any Neighborhood Assessment from time to time during the year, subject to notice and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above. Notwithstanding the foregoing, if a Supplemental Declaration has been duly Recorded, and a Sub-Association has been duly created, with respect to such Neighborhood, then, subject to express delegation set forth in said Supplemental Declaration or separate Recorded delegation by Declarant, the Sub-Association shall be obligated to prepare, notice, and administer a Neighborhood budget in like manner as set forth in Section 6.4 above.

ARTICLE 18

SUPPLEMENTAL DECLARATIONS; SUB-ASSOCIATIONS

Section 18.1 Supplemental Declarations Supplemental Declaration(s) may be Recorded from time to time by Declarant, in its sole discretion. A Supplemental Declaration shall be supplemental to this Declaration, and may but need not necessarily create a Sub-Association and/or impose supplemental obligations, covenants, conditions, or restrictions, or reservations of easements, with respect to a particular Neighborhood or other land described in such instrument. This Declaration and any Supplemental Declaration shall be construed to be consistent with each other to the greatest extent reasonably possible; however, in the event of any irreconcilable conflict, the provisions of this Declaration shall prevail. Any purported Supplemental Declaration Recorded by a Person other than Declarant, without the express prior written consent of Declarant, shall be null and void.

Section 18.2 Sub-Associations No Sub-Association may be validly organized except pursuant to the authority and jurisdiction of a Supplemental Declaration as set forth in Section 18.1, above, and approval of Declarant in its sole discretion. Subject to the foregoing, a duly created Sub-Association shall be a supplemental Neighborhood homeowners association organized pursuant to the authority and jurisdiction of a Supplemental Declaration with concurrent and supplemental jurisdiction (subject to this Declaration and the other Community Governing Documents) with the Association with respect to a particular Neighborhood. A Sub-Association shall have the power to establish standards and conduct activities for the property under its responsibility, subject to the Community Governing Documents and the Neighborhood Governing Documents. Notwithstanding the foregoing, the Association shall have the power and authority to veto any action taken or contemplated to be taken by any Sub-Association which the Board reasonably determines to be in violation of the Community Governing Documents, or adverse or detrimental to the best interests of the Association, or its Members. The Association also shall have the power to reasonably require specific action to be taken by any Sub-Association in connection with the Sub-Association's obligations and responsibilities (for example, without limitation, requiring specific maintenance or repairs, or requiring that a proposed Neighborhood budget include certain items and that expenditures be made therefor). A Sub-Association shall take appropriate action required by the Association by written notice, within the reasonable time frame set forth in such notice. If the Sub-Association fails to so comply, the Association shall have the power and authority to effectuate such action on behalf of the Sub-Association and to levy Special Assessments to cover the reasonable costs thereof.

**ARTICLE 19
GENERAL PROVISIONS**

Section 19.1 Enforcement. Subject to Section 5.3 above, the Governing Documents may be enforced by the Association as follows:

(a) Breach of any of the provisions contained in the Declaration or Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal or equitable proceedings instituted, in compliance with applicable Nevada law, by any Owner, including Declarant so long as Declarant owns a Unit, by the Association, or by the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. Each Owner shall have a right of action against the Association for any material, unreasonable, and continuing failure by the Association to comply with the material and substantial provisions of this Declaration, or of the Articles or Bylaws.

(b) The Association further shall have the right to enforce the obligations of any Owner under any material provision of this Declaration, by assessing a reasonable fine as a Special Assessment against such Owner or Resident, and/or suspending the right of such Owner to vote at meetings of the Association and/or the right of the Owner or Resident to use Common Elements (other than ingress and egress, by the most reasonably direct route, to the Unit), subject to the following:

(1) the person alleged to have violated the material provision of the Declaration must have had written notice (either actual or constructive, by inclusion in any Recorded document) of the provision for at least thirty (30) days before the alleged violation; and

(2) such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation, provided that if any such violation continues for a period of ten (10) days or more after actual notice of such violation has been given to such Owner or Resident, each such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties;

(3) notwithstanding the foregoing, each Owner shall have an unrestricted right of ingress and egress to his Unit by the most reasonably direct route over and across the relevant streets;

(4) no fine imposed under this Section may exceed the maximum amount(s) permitted from time to time by applicable provision of NRS Chapter 116 for each failure to comply. No fine may be imposed until the Owner or Resident has been afforded the right to be heard, in person, by submission of a written statement, or through a representative, at a regularly noticed hearing (unless the violation is of a type that substantially and imminently threatens the health, safety and/or welfare of the Owners and Community, in which case, the Board may take expedited action, as the Board may deem reasonable and appropriate under the circumstances, subject to any limitations set forth in this Declaration or applicable law);

(5) subject to this Section 19.1(b), if any such Special Assessment imposed by the Association on an Owner or Resident by the Association is not paid or reasonably disputed in writing delivered to the Board by such Owner or Resident (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then such Special Assessment shall be enforceable pursuant to Articles 6 and 7 above; and

(6) subject to Section 5.3 above, and to applicable Nevada law (which may first require mediation or arbitration), the Association may also take judicial action against any Owner or Resident to enforce compliance with provisions of the Governing Documents, or other obligations, or to obtain damages for noncompliance, all to the fullest extent permitted by law.

(c) **Responsibility for Violations.** Should any Resident violate any material provision of the Rules and Regulations or Declaration; or should any Resident's act, omission or neglect cause damage to the Common Elements, then such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Unit in which the Resident resides. Likewise, should any guest of an Owner or Resident commit any such violation or cause such damage to Common Elements, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident. Reasonable efforts first shall be made to resolve any alleged material violation, or any dispute, by friendly discussion or informal mediation by the ARC or Board (and/or mutually agreeable or statutorily authorized third party mediator), in a "good neighbor" manner. Fines or suspension of voting privileges shall be utilized only after reasonable efforts to resolve the issue by friendly discussion or informal mediation have failed.

(d) The result of every act or omission whereby any of the provisions contained in this Declaration or the Bylaws are materially violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

(e) The remedies herein provided for breach of the provisions contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(f) The failure of the Association to enforce any of the provisions contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.

(g) If any Owner, his Family, guest, licensee, lessee or invitee violates any such provisions, the Board may impose a reasonable Special Assessment upon such Owner for each violation and, if any such Special Assessment is not paid or reasonably disputed in writing to the Board (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then the Board may suspend the voting privileges of such Owner, and such Special Assessment shall be collectible in the manner provided hereunder, but the Board shall give such Owner appropriate Notice and Hearing before invoking any such Special Assessment or suspension.

Section 19.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 19.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, until duly terminated in accordance with NRS § 116.2118.

Section 19.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Elements. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 19.5 Amendment. Except as otherwise provided by this Declaration, and except in cases of amendments that may be executed by a Declarant, this Declaration, including the Plat, may only be amended by both: (a) the vote and agreement of Owners constituting at least sixty-seven percent (67%) of the voting power of the Association, and (b) the written assent or vote of at least a majority of the total voting power of the Board. Notwithstanding the foregoing, termination of this Declaration and any of the following amendments, to be effective, must be approved in writing by the Eligible Holders of at least two-thirds (2/3)

of the first Mortgages on all of the Units in the Properties at the time of such amendment or termination, based upon one (1) vote for each first Mortgage owned:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers, and guarantors of first Mortgages as provided in Articles 7, 11, 12, 13, 14 and 19 hereof.

(b) Any amendment which would necessitate a Mortgagee, after it has acquired a Unit through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Unit not being separately assessed for tax purposes.

(d) Any amendment relating to the insurance provisions as set out in Article 12 hereof, or to the application of insurance proceeds as set out in Article 12 hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would or could result in termination or abandonment of the Properties or subdivision of a Unit, in any manner inconsistent with the provisions of this Declaration.

(f) Any amendment which would subject any Owner to a right of first refusal or other such restriction if such Unit is proposed to be sold, transferred or otherwise conveyed.

(g) Any amendment materially and substantially affecting: (i) voting rights; (ii) rights to use the Common Elements; (iii) reserves and responsibility for maintenance, repair and replacement of the Common Elements; (iv) leasing of Units; (v) establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage; (vi) boundaries of any Unit; (vii) Declarant's right and power to annex or de-annex property to or from the Properties; and (viii) assessments, assessment liens, or the subordination of such liens.

Notwithstanding the foregoing, if a first Mortgagee who receives a written request from the Board to approve a proposed termination, amendment or amendments to the Declaration does not deliver a negative response to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed termination, amendment or amendments. Notwithstanding anything contained in this Declaration to the contrary, nothing contained herein shall operate to allow any Mortgagee to: (a) deny or delegate control of the general administrative affairs of the Association by the Members or the Board; (b) prevent the Association or the Board from commencing, intervening in or settling any litigation or proceeding, or (c) prevent any trustee or the Association from receiving and distributing any proceeds of insurance, except pursuant to NRS §§ 116.31133 & 116.31135.

A copy of each amendment (other than any amendment which may be accomplished unilaterally by Declarant) shall be certified by at least two (2) Officers, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) Officers, that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Eligible Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Eligible Beneficiaries has been obtained. Until the first Close of Escrow for the sale of a Unit, Declarant shall have the right to terminate or modify this Declaration by Recordation of a supplement hereto setting forth such termination or modification.

Notwithstanding all of the foregoing, for so long as Declarant owns a Lot or Unit, Declarant shall have the power from time to time to unilaterally amend this Declaration to correct any scrivener's errors, to clarify

any ambiguous provision, to modify or supplement the Exhibits hereto, to make and process through appropriate governmental authority, minor revisions to the Plat deemed appropriate by Declarant in its discretion, and otherwise to ensure that the Declaration conforms with requirements of applicable law. Additionally, by acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B") hereto, in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter, and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his successors and assigns, to unilaterally execute and Record an Annexation Amendment, adding said real property to the Community, in the manner provided for in NRS § 116.2110 and in Article 15 above, and to make and process through appropriate governmental authority, any and all minor revisions to the Plat deemed appropriate by Declarant in its reasonable discretion, and each and every Owner, by acceptance of a deed to his Unit, covenants to sign such further documents and to take such further actions as to reasonably implement and consummate the foregoing

Section 19.6 Notice of Change to Governing Documents If any change is made to the Governing Documents, the Secretary (or other designated Officer) shall, within 30 days after the change is made, 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 Owner, a copy of the changes made.

Section 19.7 No Public Right or Dedication Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public, or for any public use.

Section 19.8 Constructive Notice and Acceptance Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

Section 19.9 Notices Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 19.10 Priorities and Inconsistencies The Governing Documents shall be construed to be consistent with one another to the extent reasonably possible. If there exist any irreconcilable conflicts or inconsistencies among the Governing Documents, the terms and provisions of this Declaration shall prevail (unless and to the extent only that the Declaration fails to comply with any applicable provision of NRS Chapter 116 or other applicable law). In the event of any inconsistency between the Articles and Bylaws, the Articles shall prevail. In the event of any inconsistency between the Rules and Regulations and any other Governing Document, the other Governing Document shall prevail. In the event of any inconsistency between any Community Governing Document and any other Governing Document which is specific to a particular Neighborhood, the former shall prevail. Any inconsistency between any Neighborhood-specific Governing Document shall be resolved in like manner as set forth above.

Section 19.11 Limited Liability Except to the extent, if any, expressly prohibited by applicable Nevada law, none of Declarant, Association, and/or ARC, and none of their respective directors, officers, any committee representatives, employees, or agents, shall be liable to any Owner or any other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was reasonable or in good faith. The Association shall indemnify every present and former Officer and Director and every present and former committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

Section 19.12 Indemnity Each Owner shall, to the maximum extent not prohibited by law, indemnify and hold free and harmless each and every one of Declarant, the Association, and their respective partners, members, divisions, subsidiaries and affiliated companies (if any), and their and their respective employees, officers, directors, members, shareholders, agents, committee members, attorneys, professional consultants and representatives, and all of their respective successors and assigns (collectively, "Indemnitees") from and against any and all claims, damages, losses, liabilities, demands, and expenses, including, but not limited to, reasonable attorneys' fees, court costs and expenses of litigation (collectively, hereinafter referred to as "Liabilities"), arising out of or resulting from, or claimed to arise out of or result from, in whole or in part, any fault, act, or omission of the Owner, any contractor or subcontractor employed by the Owner, anyone directly or indirectly employed by any of the foregoing entities, or anyone for whose acts any of the foregoing entities may be liable, in connection with: (a) any work by or of the Owner within the Properties and/or the performance of the Owner's obligations with respect to any and all Improvements designed, installed, constructed, added, altered or remodeled by the Owner pursuant and subject to the Governing Documents, including, without limitation, any such loss, damage, injury or claim arising from or caused by or alleged to have arisen from or have been caused by (i) any use of the Lot, or any part thereof, (ii) any defect in the design, construction of, or material in, any structure or other Improvement upon the Lot, (iii) any defect in soils or in the preparation of soils or in the design and accomplishment of grading, including a spill of any contaminants or hazardous materials in or on the soil, (iv) any accident or casualty on the Lot or in the Properties, (v) any representations by Owner or any of its agents or employees, (vi) a violation or alleged violation by the Owner, its employees or agents, of any applicable law, (vii) any slope failure or subsurface geologic or groundwater condition, (viii) any work of design, construction, engineering or other work with respect to the Lot or Properties provided or performed by or for the Owner at any time whatsoever, or (ix) any other cause whatsoever in connection with Owner's use of the Lot or the Properties, or Owner's performance under this Declaration, or any other Governing Document; or (b) the negligence or wilful misconduct of Owner or its agents, employees, licensees, invitees or contractors in the development, construction, grading or other work performed off the Properties by Owner pursuant to the Governing Documents, and/or the Master Association Documents, or any defect in any such work. Notwithstanding anything to the contrary contained in any of the documents referenced in the preceding sentence, Owner agrees and acknowledges that Indemnitees shall not be liable to Owner for any Liabilities caused by (i) any act or omission of Indemnitees with respect to the review of the Owner's Improvements and/or the drawings or specifications related to the Owner's Improvements, or (ii) any inspection or failure to inspect the construction activities of Owner by any of the Indemnitees, or (iii) any direction or suggestion given by any of the Indemnitees with respect to construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Owner's Improvements, or the failure to give any such direction or suggestion, or for any Liabilities which are covered by insurance or would be covered by insurance required to be maintained by the Owner, and Owner expressly waives any such Liabilities and releases Indemnitees therefrom. The covenants in this Section 19.12 and the obligations of each Owner, and shall be binding on the Owner until such date as any claim or action for which indemnification or exculpation may be claimed under this Section 19.12 is fully and finally barred (or, if applicable, fully and finally resolved, and any payment required thereby has been made in full).

Section 19.13 Business of Declarant. Except to the extent expressly provided herein or as required by any applicable provision of NRS Chapter 116, no provision of this Declaration shall be applicable to limit or prohibit any act of Declarant, or its agents or representatives in connection with or incidental to Declarant's improvement and/or development of the Properties, so long as any Unit therein owned by Declarant remains unsold.

Section 19.14 Compliance With NRS Chapter 116 It is the intent of Declarant that this Declaration and the Community shall be in all respects consistent with, and not in violation of, applicable provisions of NRS Chapter 116. In the event any provision of this Declaration is found to irreconcilably conflict with or violate any such applicable provision of NRS Chapter 116, such offending Declaration provision shall be automatically deemed modified or severed herefrom to the minimum extent necessary to remove the irreconcilable conflict with or violation of the applicable provision of NRS Chapter 116. Notwithstanding the foregoing or any other provision set forth herein, if any provision of Senate Bill 451 (1999) should, in the future, be removed or made

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less burdensome (from the perspective of Declarant), as a matter of law, then the future change in such provision shall automatically be deemed to have been made and reflected in this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first written above.

DECLARANT:

PERMA-BILT,
a Nevada corporation

By: 
Daniel Schwartz, President

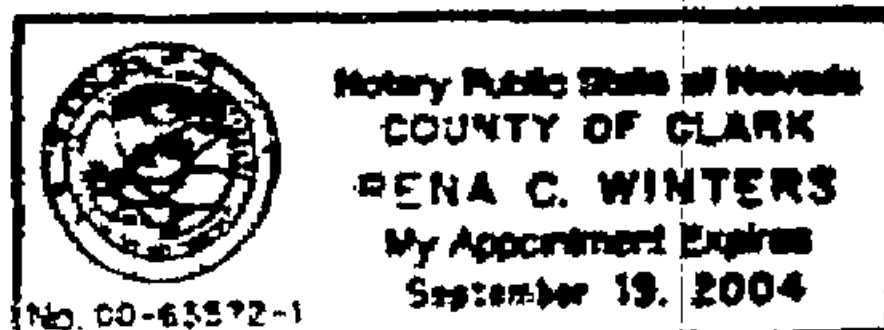
STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on this 8th day of August, 2001, by DANIEL SCHWARTZ, as President of PERMA-BILT, a Nevada corporation.


NOTARY PUBLIC
(SEAL)

My Commission Expires:

9-19-2004



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EXHIBIT "A"

ORIGINAL PROPERTY

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF CLARK, STATE OF NEVADA, DESCRIBED AS FOLLOWS

Lots One Hundred Seven through One Hundred Nine (107 - 109), inclusive, of Block Three (3), of Russell/Fort Apache - Unit 2, as shown by map thereof on file in Book 101 of Plats, Page 3, in the Office of the County Recorder of Clark County, Nevada;

TOGETHER WITH a non-exclusive easement of ingress and egress over and across the entry area and private streets therein, and a non-exclusive easement of use and enjoyment of the other Common Elements thereof (subject to and as set forth in the foregoing Declaration, as the same from time to time may be amended and/or supplemented by instrument recorded in the Office of the County Recorder of Clark County, Nevada).

EXHIBIT "B"

RUSSELL / FORT APACHE - UNIT 1

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF FORT APACHE ROAD AND OQUENDO ROAD; THENCE SOUTH 00°51'26" WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER (SE 1/4), COINCIDENT WITH THE CENTERLINE OF FORT APACHE ROAD, 56.54 FEET; THENCE NORTH 89°08'34" WEST, DEPARTING SAID EAST LINE AND SAID CENTERLINE, 50.00 FEET RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY, 39.78 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°09'52"; THENCE NORTH 89°41'34" WEST, 577.37 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE SOUTH 89°41'34" WEST, 70.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE SOUTH 89°41'34" WEST, 940.92 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET; THENCE SOUTHWESTERLY, 346.87 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST; THENCE SOUTHWESTERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'08"; THENCE SOUTH 49°39'24" WEST, 35.00 FEET; THENCE NORTH 40°20'36" WEST, 1.91 FEET; THENCE SOUTH 49°39'24" WEST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET; THENCE WESTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 39°02'13" EAST; THENCE SOUTHWESTERLY, 438.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°53'09"; THENCE NORTH 89°09'05" WEST, 183.24 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHWESTERLY, 34.13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 97°45'54"; THENCE SOUTH 83°05'01" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1000.00 FEET; THENCE NORTHWESTERLY, 10.67 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°36'41"; THENCE SOUTH 83°41'42" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY, 28.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°50'46"; THENCE NORTH 00°50'55" EAST, 35.00 FEET; THENCE NORTH 89°09'05" WEST, 8.02 FEET; THENCE NORTH 00°50'55" EAST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHEASTERLY, 31.83 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°11'22" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 89°39'33" WEST.

**RUSSELL / FORT APACHE - UNIT 1
CONTINUED**

THENCE NORTHERLY, 229.94 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°40'04" TO THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY HAVING A RADIUS OF 960.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 77°40'23" EAST, THENCE NORTHERLY, 192.32 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°28'42", THENCE NORTH 00°50'55" EAST, 86.61 FEET; THENCE NORTH 89°47'31" EAST, 310.36 FEET, THENCE SOUTH 87°22'43" EAST, 182.33 FEET; THENCE NORTH 89°47'31" EAST, 97.89 FEET, THENCE SOUTH 49°50'38" EAST, 68.20 FEET; THENCE SOUTH 40°09'22" WEST, 25.94 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'58"; THENCE SOUTH 40°20'36" EAST, 13.22 FEET, THENCE SOUTH 49°39'24" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET; THENCE WESTERLY, 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02"; THENCE SOUTH 40°09'22" WEST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHERLY, 29.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 46°50'15" EAST; THENCE SOUTHEASTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09", THENCE SOUTH 40°20'36" EAST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 31°00'31" EAST, THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53", THENCE SOUTH 40°20'36" EAST, 76.62 FEET; THENCE NORTH 49°39'24" EAST, 5.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET; THENCE EASTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°53'50" WEST; THENCE NORTHEASTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24", THENCE NORTH 89°41'34" EAST, 0.59 FEET; THENCE SOUTH 00°49'12" WEST, 30.01 FEET TO THE CENTERLINE OF SAID OQUENDO ROAD; THENCE NORTH 89°41'34" EAST, ALONG SAID CENTERLINE, 677.73 FEET; THENCE NORTH 00°48'22" EAST, DEPARTING SAID CENTERLINE, 30.01 FEET; THENCE NORTH 89°41'34" EAST, 262.61 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE NORTH 89°41'34" EAST, 70.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 15.00 FEET, THENCE SOUTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE NORTH 89°41'34" EAST, 315.18 FEET; THENCE SOUTH 00°47'52" WEST, 30.01 FEET; THENCE NORTH 89°41'34" EAST, 338.90 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 1
CONTINUED**

CONTAINING 10.78 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH $89^{\circ}41'34''$ WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

RUSSELL / FORT APACHE - UNIT 2

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE NORTHWESTERLY CORNER COMMON ELEMENT LOT 1B OF THAT SUBDIVISION KNOWN AS "RUSSELL / FORT APACHE - UNIT 1" ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN BOOK 99, OF PLATS AT PAGE 54, SAME BEING ON THE EASTERLY RIGHT-OF-WAY OF GRAND CANYON PARKWAY; THENCE NORTH 00°50'55" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY, 419.98 FEET; THENCE NORTH 89°47'31" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY, 1314.81 FEET; THENCE SOUTH 00°48'37" WEST, 340.03 FEET; THENCE SOUTH 89°44'33" WEST, 338.77 FEET; THENCE SOUTH 00°49'12" WEST, 310.32 FEET TO THE NORTHERLY RIGHT-OF-WAY OF OQUENDO ROAD; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 89°41'34" WEST, 0.59 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 630.00 FEET; THENCE SOUTHWESTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 35°53'50" EAST; THENCE WESTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE NORTHEASTERLY RIGHT-OF-WAY OF SWEET JASMINE DRIVE; THENCE FOLLOWING ALONG SAID NORTHEASTERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 49°39'24" WEST, 5.00 FEET; THENCE NORTH 40°20'36" WEST, 76.62 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET; THENCE NORTHWESTERLY 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 31°00'31" WEST; THENCE NORTHWESTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53", THENCE NORTH 40°20'36" WEST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET; THENCE NORTHWESTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 46°50'15" WEST; THENCE NORTHWESTERLY, 29.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF WISPY WINDS STREET; THENCE NORTH 40°09'22" EAST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET; THENCE 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02"; THENCE NORTH 49°39'24" EAST, 39.00 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF STRAIT FIELD PLACE; THENCE NORTH 40°20'36" WEST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, 13.22 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'58" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID WISPY WINDS STREET; THENCE NORTH 40°09'22" EAST, ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY, 25.94 FEET; THENCE NORTH 49°50'38" WEST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY, 68.20 FEET, TO THE NORTHERLY BOUNDARY OF SAID "RUSSELL / FORT APACHE - UNIT 1"; THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89°47'31" WEST, 97.89 FEET; THENCE NORTH 87°22'43" WEST, 182.33 FEET; THENCE SOUTH 89°47'31" WEST, 230.35 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 2
CONTINUED**

CONTAINING 15.10 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY, RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

RUSSELL / FORT APACHE - UNIT 3

BEING A PORTION OF THE SOUTH HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST SIXTEENTH SECTION CORNER OF SAID SECTION 31, BEING ON THE CENTERLINE OF OQUENDO ROAD; THENCE NORTH 89°41'34" EAST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SAID NORTHEAST QUARTER (NE 1/4) COINCIDENT WITH THE CENTERLINE OF SAID OQUENDO ROAD 452.09 FEET, THENCE SOUTH 00°18'26" EAST, 30.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OQUENDO ROAD SAME BEING THE POINT OF BEGINNING.

THENCE CONTINUING SOUTH 00°18'26" EAST, 170.00 FEET, THENCE SOUTH 89°41'34" WEST, 18.32 FEET, THENCE SOUTH 00°18'26" EAST, 389.58 FEET, THENCE SOUTH 89°41'34" WEST, 721.80 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 50.00 FEET, THENCE WESTERLY, 23.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°26'15" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 26°07'49" EAST THENCE WESTERLY, 66.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°58'15" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 11°50'25" EAST, THENCE SOUTHWESTERLY, 14.07 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°52'30", THENCE NORTH 14°42'55" WEST, 39.00 FEET, THENCE NORTH 00°18'26" WEST, 174.21 FEET, THENCE SOUTH 60°12'51" WEST, 228.01 FEET, THENCE SOUTH 89°32'56" WEST, 152.72 FEET, THENCE SOUTH 12°49'01" EAST, 21.38 FEET, THENCE SOUTH 77°10'59" WEST, 112.15 FEET, THENCE SOUTH 70°55'12" WEST, 39.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 319.50 FEET, THENCE NORTHWESTERLY, 17.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°12'53" THENCE SOUTH 81°20'09" WEST, 123.52 FEET, THENCE NORTH 08°39'51" WEST, 212.30 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 08°19'28" EAST, THENCE NORTHEASTERLY, 337.70 FEET ALONG THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD AND SAID CURVE THROUGH A CENTRAL ANGLE OF 30°42'45" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 39°02'13" WEST, THENCE EASTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37", THENCE NORTH 49°39'24" EAST, 35.00 FEET TO THE CENTERLINE OF SWEET JASMINE DRIVE, THENCE SOUTH 40°20'36" EAST, ALONG SAID CENTERLINE, 1.91 FEET, THENCE NORTH 49°39'24" EAST, 35.00 FEET, RADIALLY TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 15.00 FEET, THENCE NORTHERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'08" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST, THENCE NORTHEASTERLY, 346.87 FEET CONTINUING ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02", THENCE NORTH 89°41'34" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, 790.92 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 3
CONTINUED**

CONTAINING 15.17 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY, RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

RUSSELL / FORT APACHE - UNIT 4

BEING A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF PATRICK LANE AND GRAND CANYON DRIVE, THENCE SOUTH 89°33'42" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 31 COINCIDENT WITH THE CENTERLINE OF SAID PATRICK LANE, 63.56 FEET, THENCE NORTH 00°26'18" WEST, DEPARTING SAID SOUTH LINE AND SAID CENTERLINE, 40.00 FEET TO THE NORTHERLY RIGHT OF WAY OF SAID PATRICK LANE, SAME BEING THE POINT OF BEGINNING, THENCE SOUTH 89°33'42" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY, 954.06 FEET, THENCE NORTH 00°53'34" EAST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, 611.93 FEET, THENCE NORTH 89°33'42" EAST, 76.74 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 189.00 FEET, THENCE SOUTH 00°26'18" EAST, 105.77 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE SOUTH 00°26'18" EAST, 39.00 FEET, THENCE SOUTH 89°33'42" WEST, 7.97 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 27.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 77°33'47" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 78°00'05" EAST, THENCE SOUTHWESTERLY, 66.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°56'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 66°03'51" WEST, THENCE SOUTHWESTERLY, 44.96 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°11'01", THENCE NORTH 89°33'42" EAST, 479.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 80°58'43" WEST, THENCE SOUTHWESTERLY, 148.35 FEET ALONG SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°10'22", THENCE SOUTH 00°50'55" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY, 119.02 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET, THENCE SOUTHWESTERLY, 38.71 FEET ALONG SAID CURVE, DEPARTING WESTERLY RIGHT-OF-WAY OF SAID GRAND CANYON DRIVE THROUGH A CENTRAL ANGLE OF 88°42'47" TO THE NORTHERLY RIGHT-OF-WAY OF SAID PATRICK LANE, BEING THE POINT OF BEGINNING

CONTAINING 10.27 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

RUSSELL / FORT APACHE -- UNIT 5

BEING A SUBDIVISION OF GOVERNMENT LOTS 15 AND 18 AND A PORTION GOVERNMENT LOTS 14 AND LOT 19, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 31, SAME BEING THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 OF SAID SECTION 31, THENCE NORTH $89^{\circ}31'58''$ EAST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW 1/4), COINCIDENT WITH THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 17, AND THE CENTERLINE OF PATRICK LANE, A DISTANCE OF 227.80 FEET TO THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE POINT OF BEGINNING:

THENCE NORTH $00^{\circ}51'50''$ EAST, DEPARTING SAID CENTERLINE AND ALONG THE EAST BOUNDARY OF SAID GOVERNMENT LOT 17, COINCIDENT WITH THE WEST BOUNDARY OF SAID GOVERNMENT LOT 18, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 15, THENCE CONTINUING NORTH $00^{\circ}51'50''$ EAST, ALONG THE WEST BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 15, THENCE NORTH $89^{\circ}42'59''$ EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 340.09 FEET TO THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 15, SAME BEING THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 14, THENCE CONTINUING NORTH $89^{\circ}42'59''$ EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 224.92 FEET, THENCE SOUTH $00^{\circ}28'02''$ WEST, DEPARTING THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 121.20 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH $02^{\circ}25'26''$ EAST, THENCE NORTHEASTERLY, 43.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $08^{\circ}55'55''$, THENCE SOUTH $11^{\circ}21'21''$ EAST, 155.63 FEET, THENCE SOUTH $68^{\circ}00'54''$ WEST, 58.02 FEET, THENCE SOUTH $33^{\circ}19'55''$ EAST, 167.53 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, THENCE SOUTHWESTERLY, 48.61 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $03^{\circ}34'08''$ TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $36^{\circ}54'01''$ WEST, THENCE SOUTHERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $92^{\circ}58'38''$, THENCE SOUTH $50^{\circ}07'21''$ WEST, 39.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, THENCE WESTERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $92^{\circ}58'38''$ TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $42^{\circ}51'18''$ WEST, THENCE SOUTHWESTERLY, 400.97 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $29^{\circ}26'05''$ TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $72^{\circ}17'23''$ WEST, THENCE SOUTHEASTERLY, 35.17 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $100^{\circ}45'59''$, THENCE SOUTH $06^{\circ}56'38''$ WEST, 39.00 FEET, RADIALLY TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET.

**RUSSELL / FORT APACHE -- UNIT 5
CONTINUED**

THENCE WESTERLY 11 62 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°22'23" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 04°34'15" EAST, THENCE SOUTHWESTERLY, 28 93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°53'13" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 78°18'58" WEST, THENCE SOUTHERLY, 165.52 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°09'04", THENCE SOUTH 00°28'02" EAST, 58 11 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHEASTERLY, 35.26 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 101°01'27", THENCE SOUTH 11°29'29" EAST, 39 00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 319.50 FEET, THENCE SOUTHWESTERLY, 0 80 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°08'34", THENCE SOUTH 00°28'02" EAST, 75 74 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET, THENCE SOUTHEASTERLY, 31 42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 59°31'58" WEST, THENCE SOUTHEASTERLY, 31 42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00", THENCE SOUTH 00°28'02" EAST, 60.00 FEET TO THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, SAME BEING THE CENTERLINE OF SAID PATRICK LANE, THENCE SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, AND ALONG SAID CENTERLINE, 93 75 FEET TO THE SOUTHEAST CORNER OF GOVERNMENT LOT 18, THENCE CONTINUING SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 18 AND ALONG SAID CENTERLINE, A DISTANCE OF 338.36 FEET TO THE POINT OF BEGINNING

CONTAINING 15.25 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°41'34" WEST -- BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 1:

RUSSELL / FORT APACHE -- UNIT 6

BEING A SUBDIVISION OF PORTIONS OF GOVERNMENT LOTS 14, 19 AND 20, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE WEST SIXTEENTH CENTER SECTION CORNER OF SAID SECTION 31, SAME BEING THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 20 AND THE CENTERLINE INTERSECTION OF CONQUISTDOR STREET AND PATRICK LANE, THENCE SOUTH $89^{\circ}31'58''$ WEST, ALONG THE CENTERLINE OF SAID PATRICK LANE, 582.97 FEET, THENCE NORTH $00^{\circ}28'02''$ WEST, DEPARTING THE CENTERLINE OF SAID PATRICK LANE, 60.00 FEET, RADially TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET, THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $60^{\circ}00'00''$ TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $59^{\circ}31'58''$ EAST, THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $60^{\circ}00'00''$, THENCE NORTH $00^{\circ}28'02''$ WEST, 75.74 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF CLIFTON FORGE STREET, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $11^{\circ}20'55''$ WEST, THENCE EASTERLY, 0.80 FEET ALONG SAID CURVE AND THE SOUTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET THROUGH A CENTRAL ANGLE OF $00^{\circ}08'34''$, THENCE NORTH $11^{\circ}29'29''$ WEST, DEPARTING SAID SOUTHERLY RIGHT-OF-WAY, 39.00 FEET, RADially TO THE NORTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 35.26 FEET ALONG SAID CURVE, DEPARTING SAID NORTHERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF $101^{\circ}01'27''$ TO THE EASTERLY RIGHT-OF-WAY OF OQUENDO ROAD, THENCE NORTH $00^{\circ}28'02''$ WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, 58.11 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780.50 FEET, THENCE NORTHERLY, 165.52 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF $12^{\circ}09'04''$ TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $78^{\circ}18'58''$ WEST, THENCE NORTHEASTERLY, 28.93 FEET ALONG SAID CURVE AND DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF $82^{\circ}53'13''$ TO THE SOUTHERLY RIGHT-OF-WAY OF FLOKTON STREET BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $04^{\circ}34'15''$ EAST, THENCE EASTERLY, 11.62 FEET ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF $02^{\circ}22'23''$, THENCE NORTH $06^{\circ}56'38''$ EAST, DEPARTING THE SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, 39.00 FEET, RADially TO THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE NORTHWESTERLY, 35.17 FEET ALONG SAID CURVE, DEPARTING THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF $100^{\circ}45'59''$ TO THE EASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH $72^{\circ}17'23''$ WEST;

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**RUSSELL / FORT APACHE - UNIT 6
CONTINUED**

THENCE NORTHEASTERLY, 400.97 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 29°26'05" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 42°51'18" WEST; THENCE NORTHEASTERLY, 32.46 FEET ALONG SAID CURVE, DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 92°58'38" TO THE SOUTHWESTERLY RIGHT-OF-WAY OF WONDERFUL DAY AVENUE; THENCE SOUTH 39°52'39" EAST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, 55.45 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 219.50 FEET; THENCE SOUTHEASTERLY, 33.87 FEET ALONG SAID CURVE AND SAID SOUTHWESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°50'29"; THENCE SOUTH 39°21'25" WEST, DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY, 217.22 FEET, THENCE SOUTH 82°58'49" EAST, 69.68 FEET, THENCE NORTH 89°31'58" EAST, 408.27 FEET TO THE EASTERLY BOUNDARY LINE OF SAID GOVERNMENT LOT 20, SAME BEING THE CENTERLINE OF SAID CONQUISTADOR STREET, THENCE SOUTH 00°54'26" WEST ALONG SAID EASTERLY BOUNDARY LINE AND CENTERLINE OF SAID CONQUISTADOR STREET, 613.34 FEET TO THE POINT OF BEGINNING

CONTAINING 9.76 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°31'58" WEST - BEING THE SOUTH LINE OF THE SOUTHWEST (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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EXHIBIT "B"

ANNEXABLE AREA

**[ALL, OR ANY PORTIONS OF WHICH, FROM TIME TO TIME MAY, BUT NEED NOT
NECESSARILY, BE ANNEXED BY DECLARANT TO THE PROPERTIES]**

CERTAIN REAL PROPERTY PRESENTLY OWNED OR TO BE ACQUIRED FROM TIME TO TIME
BY DECLARANT AND GENERALLY BOUNDED BY RUSSELL ROAD (TO THE NORTH), FORT APACHE
(TO THE EAST), PATRICK LANE (TO THE SOUTH), AND HUALAPAI (TO THE WEST), CLARK COUNTY,
NEVADA, SAID PROPERTY TO BE FURTHER DESCRIBED FROM TIME TO TIME BY INSTRUMENT(S)
RECORDED BY DECLARANT IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY,
NEVADA, INCLUDING, BUT NOT LIMITED TO:

- 1 All of the real property in **RUSSELL/FORT APACHE - UNIT 1**, as shown by map final map thereof,
on file in **Book 99** of Plats, **Page 54**, in the Office of the County Recorder of Clark County, Nevada;
- 2 All of the real property in **RUSSELL/FORT APACHE - UNIT 2**, as shown by map final map thereof,
on file in **Book 101** of Plats, **Page 3**, in the Office of the County Recorder of Clark County, Nevada;
EXCEPTING THEREFROM the Original Property described on the foregoing Exhibit "A"

**[ADDITIONAL SUBDIVISION MAP DESCRIPTIONS TO BE SUPPLIED FOLLOWING RECORDATION
FROM TIME TO TIME OF RELEVANT FINAL MAPS].**

**[NOTE: DECLARANT HAS SPECIFICALLY RESERVED THE RIGHT FROM TIME TO TIME
TO UNILATERALLY ADD TO AND/OR MODIFY OF RECORD ALL OR ANY PARTS OF
THE FOREGOING DESCRIPTIONS]**

When Recorded, Return To:

WILBUR M. ROADHOUSE, ESQ.
Goold Patterson DeVore Ales & Roadhouse
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

(wmr 1388 28 1 CCRS 01 wpx)

-80-

CLARK COUNTY, NEVADA
JUDITH A. VANDEVER, RECORDER
RECORDED AT REQUEST OF:
GOOLD PATTERSON ET AL
08-09-2001 13:23 JVB 84
OFFICIAL RECORDS
BOOK: 10010809 INST: 01455
FEE: 90.00 RPTT. .00

AA0334

IN THE SUPREME COURT OF THE STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY,

Appellant,

vs.

CHERSUS HOLDINGS, LLC, A
DOMESTIC LIMITED LIABILITY
COMPANY; AND SOUTHERN
TERRACE HOMEOWNERS
ASSOCIATION, A DOMESTIC
NON-PROFIT CORPORATION,

Respondents.

Supreme Court Case No. 82680

District Case No.: A696357

APPELLANT'S APPENDIX - VOLUME III

WRIGHT, FINLAY & ZAK, LLP
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
(702) 475-7964; Fax: (702) 946-1345
cmiller@wrightlegal.net
*Attorney for Appellant/Plaintiff, Ocwen
Loan Servicing, LLC*

DOCUMENT	VOL	PAGE
Affidavit of Service	I	AA0175
Affidavit of Service	I	AA0176
Affidavit of Service	I	AA0177
Affidavit of Service	I	AA0178
Amended Affidavit of Service	I	AA0200
Amended Certificate of Service	I	AA0013
Answer and Counter-Claim	I	AA0005- AA0012
Answer to Counterclaim	I	AA0014- AA0020
Answer to Counterclaim	I	AA0168- AA0174
Answer to First Amended Complaint and Counter-Claim Against Plaintiff	I	AA0156- AA0167
Answer to Second Amended Complaint and Counterclaim Against Plaintiff	III	AA0338- AA0349
Chersus Holdings, LLC Reply to Ocwen's Opposition to Chersus Holdings, LLC Motion for Summary Judgment	XIII	AA2642- AA2666
Chersus Holdings, LLC's Reply to Ocwen Loan Servicing, LLC's Opposition to Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVIII	AA3422- AA3431
Complaint	I	AA0001- AA0004
Declaration of Jagdish Mehta in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3329- AA3330
Declaration of Jagdish Mehta in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to	XVII	AA3331- AA3333

DOCUMENT	VOL	PAGE
Chersus Holdings LLC and (3) Orders for Specific Performance.		
Declaration of Vernon Nelson in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3334-AA3338
Defendant Chersus Holdings Errata to Motion for Summary Judgment (Part 1)	VI	AA0888-AA1108
Defendant Chersus Holdings Errata to Motion for Summary Judgment (Part 2)	VII	AA1109-AA1264
Defendant Chersus Holdings, Motion for Summary Judgment	V	AA0859-AA0887
Defendant/Counterclaimant, Chersus Holdings, LLC's Opposition to Plaintiff, Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 1)	XII	AA2338-AA2465
Defendant/Counterclaimant, Chersus Holdings, LLC's Opposition to Plaintiff, Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 2)	XIII	AA2466-AA2604
Docket	XVIII	AA3566-AA3574
Exhibits to Errata to Motion for Summary Judgment (Part 1)	VII	AA1265-AA1314
Exhibits to Errata to Motion for Summary Judgment (Part 2)	VIII	AA1315-AA1517
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Exhibits to Errata to Motion for Summary Judgment (Part 4)	X	AA1757-AA1990
Exhibits to Errata to Motion for Summary Judgment (Part 5)	XI	AA1991-AA2228
Exhibits to Errata to Motion for Summary Judgment (Part 6)	XII	AA2229-AA2302
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Memorandum of Costs and Disbursements	XVII	AA3339-AA3351
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Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance. (Part 2)	XVI	AA3153-AA3328
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Notice of Appeal	XVIII	AA3498-AA3499
Notice of Entry of Order	XIV	AA2781-AA2825
Notice of Entry of Order	XVIII	AA3447-AA3451
Notice of Entry of Order Denying Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P. 59 and 60	XVIII	AA3454-AA3458
Notice of Entry of Order Granting Judgment in Favor of Counterclaimant Chersus Holdings, LLC.	XVIII	AA3486-AA3497
Ocwen Loan Servicing, LLC's Motion for Reconsideration of the Court's October 30, 2019 Order Pursuant to NRCP 59 and 60	XVIII	AA3432-AA3439
Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 1)	III	AA0363-AA0500
Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 2)	IV	AA0501-AA0715

DOCUMENT	VOL	PAGE
Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XIV	AA2826-AA2837
Ocwen Loan Servicing, LLC's Motion to Retax and Settle Costs	XVII	AA3352-AA3359
Ocwen Loan Servicing, LLC's Notice of Supplemental Authority in Support of Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XV	AA3026-AA3036
Ocwen Loan Servicing, LLC's Opposition to Chersus Holdings, LLC's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3360-AA3418
Ocwen Loan Servicing, LLC's Opposition to Defendant Chersus Holdings' Motion for Summary Judgment	XII	AA2303-AA2316
Ocwen Loan Servicing, LLC's Opposition to Southern Terrace Homeowners Association's Motion for Summary Judgment	XIII	AA2605-AA2641
Ocwen Loan Servicing, LLC's Reply in Support of Motion for Summary Judgment	XIII	AA2667-AA2676
Ocwen Loan Servicing, LLC's Reply in Support of Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XV	AA2949-AA3025
Ocwen Loan Servicing, LLC's Request for Judicial Notice in Support of Motion for Summary Judgment	V	AA0716-AA0858
Opposition to Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60 (Part 1)	XIV	AA2838-AA2915
Opposition to Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60 (Part 2)	XV	AA2916-AA2948

DOCUMENT	VOL	PAGE
Order Denying Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P. 59 and 60	XVIII	AA3452-AA3453
Order Denying Plaintiff's Motion for Reconsideration	XVII	AA3419-AA3421
Order Granting Judgment in Favor of Counterclaimant Chersus Holdings, LLC.	XVIII	AA3478-AA3485
Order Granting Ocwen Loan Servicing, LLC's Motion for Reconsideration of the Court's October 30, 2019 Order Pursuant to NRCP 59 and 60	XVIII	AA3444-AA3446
Response to Ocwen Loan Servicing, LLC's Notice of Supplemental Authority	XV	AA3037-AA3039
Second Amended Complaint	II	AA0201-AA0334
Second Declaration of Jagish Mehta	XVIII	AA3440-AA3443
Southern Terrace Homeowners Association's Answer to First Amended Complaint	I	AA0190-AA0199
Southern Terrace Homeowners Association's Answer to Second Amended Complaint	III	AA0350-AA0359
Southern Terrace Homeowners Association's Motion for Summary Judgment	XII	AA2317-AA2337
Stipulation and Order to Dismiss Defendant Red Rock Financial Services, LLC Without Prejudice	I	AA0186-AA0189
Stipulation and Order to Dismiss Defendant, Red Rock Financial Services, LLC	III	AA0360-AA0362
Stipulation and Order to Dismiss Defendant, United Legal Services Inc. Without Prejudice	III	AA0335-AA0337
Transcript of Proceedings	XIV	AA2677-AA2739
Transcript of Proceedings	XVIII	AA3461-AA3477
Transcript of Proceedings	XVIII	AA3500-AA3565
United Legal Services Inc.'s Answer to Amended Complaint	I	AA0179-AA0185

VOLUME III

DATE	DOCUMENT	VOL	PAGE
02/02/18	Stipulation and Order to Dismiss Defendant, United Legal Services Inc. Without Prejudice	III	AA0335-AA0337
03/09/18	Answer to Second Amended Complaint and Counterclaim Against Plaintiff	III	AA0338-AA0349
04/05/18	Southern Terrace Homeowners Association's Answer to Second Amended Complaint	III	AA0350-AA0359
10/17/18	Stipulation and Order to Dismiss Defendant, Red Rock Financial Services, LLC	III	AA0360-AA0362
10/19/18	Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 1)	III	AA0363-AA0500

DATED this 21st day of January, 2022.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller

Christina V. Miller, Esq.

Nevada Bar No. 12448

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

Attorneys for Appellant/Plaintiff, Ocwen Loan Servicing, LLC

CERTIFICATE OF SERVICE

I certify that I electronically filed on the 21st day of January, 2022, the foregoing **APPELLANT'S APPENDIX - VOLUME III** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

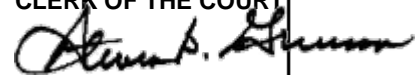
Service via electronic notification will be sent to the following:

Michelle Adams	michellea@nelsonlawfirmnv.com
Legal Assistant	legalassistant@nelsonlawfirmnv.com
Master Calendering	mail@nelsonlawfirmnv.com
Vernon A. Nelson	vnelson@nelsonlawfirmnv.com
Ashlie Surur	ashlie@sururlaw.com

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions

An Employee of WRIGHT, FINLAY & ZAK, LLP



SAO

WRIGHT, FINLAY & ZAK, LLP

Dana Jonathon Nitz, Esq.

Nevada Bar No. 0050

Paterno C. Jurani, Esq.

Nevada Bar No. 8136

7785 W. Sahara Ave., Suite 200

Las Vegas, Nevada 89117

(702) 475-7964 Fax: (702) 946-1345

pjurani@wrightlegal.net

Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

OCWEN LOAN SERVICING, LLC, a foreign
Limited Liability Company,

Plaintiff,

vs.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company; FIRST 100, LLC, a
Domestic Limited Liability Company;
SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION, a Domestic Non-Profit
Corporation; RED ROCK FINANCIAL
SERVICES, LLC, a Foreign Limited Liability
Company; UNITED LEGAL SERVICES, INC.,
a Domestic Corporation; DOES I through X;
and ROE CORPORATIONS XI through XX,
inclusive,

Defendants.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimant,

vs.

OCWEN LOAN SERVICING, LLC, a Foreign
Limited Liability Company,

Case No.: A-14-696357-C

Dept. No.: IV

**STIPULATION AND ORDER TO
DISMISS DEFENDANT, UNITED
LEGAL SERVICES INC. WITHOUT
PREJUDICE**

1 Counter-Defendants.

2
3 Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC and Defendant, United Legal
4 Services Inc., by and through their respective attorneys of record, hereby stipulate and agree as
5 follows:

6 IT IS HEREBY STIPULATED AND AGREED that Defendant, United Legal Services
7 Inc. is hereby dismissed, without prejudice, each party to bear their own fees and costs in this
8 matter.

9 IT IS FURTHER STIPULATED AND AGREED that the hearing currently scheduled for
10 February 21, 2018 shall be vacated, and the pending Motion for Summary Judgment on Ocwen
11 Loan Servicing's Third and Ninth Causes of Action [Wrongful Foreclosure and Tortious
12 Interference with Contract] shall be denied as moot.

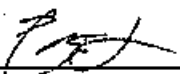
13 IT IS SO STIPULATED AND AGREED.


14 Dated this 24 day of January, 2018.

Dated this 16 day of January, 2018.

15 WRIGHT, FINLAY & ZAK, LLP

ATKINSON LAW ASSOCIATES LTD.

16
17 
18 Paterno C. Jurani, Esq.
19 Nevada Bar No. 8136
20 7785 W. Sahara Avenue, Suite 200
21 Las Vegas, Nevada 89117
22 Attorney for Plaintiff/Counter-Defendant,
23 Ocwen Loan Servicing, LLC
24
25
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Robert E. Atkinson, Esq.
Nevada Bar No. 9958
8965 S. Eastern Ave., Suite 260
Las Vegas, Nevada 89123
Attorney for Defendant, United Legal Services,
Inc.

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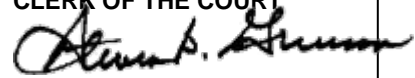
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1 **AACC**
2 VERNON A. NELSON, JR., ESQ.
3 Nevada Bar No.: 6434
4 THE LAW OFFICE OF VERNON NELSON
5 9480 S. Eastern Ave., Ste. 252
6 Las Vegas, NV 89123
7 Tel.: 702-476-2500
8 Fax.: 702-476-2788
9 E-mail: vnelson@nelsonlawfirmly.com
10 Attorneys for Chersus Holdings, LLC

7 DISTRICT COURT

8 COUNTY OF CLARK, STATE OF NEVADA

9 OCWEN LOAN SERVICING, LLC, a foreign
10 Limited Liability Company,

11 Plaintiff,

12 v.

13 CHERSUS HOLDINGS, LLC, a Domestic
14 Limited Liability Company; First 100, LLC, a
15 Domestic Limited Liability Company;
16 SOUTHERN TERRACE HOMEOWNERS
17 ASSOCIATION, a Domestic Non-Profit
18 Corporation; RED ROCK FINANCIAL
19 SERVICES, LLC, A Foreign Limited Liability
20 Company; UNITED LEGAL SERVICES,
21 INC., a Domestic Corporation; DOES I
22 through X; and ROE CORPORATIONS XI
23 through XX, inclusive

24 Defendant,

25 CHERSUS HOLDINGS, LLC, a Domestic
26 Limited Liability Company,

27 Counterclaimant

Case No.: A-14-696357-C
Dept No.: IV

**ANSWER TO SECOND AMENDED
COMPLAINT AND COUNTERCLAIM
AGAINST PLAINTIFF**

23 Defendant, CHERSUS HOLDINGS, LLC ("Defendant"), by and through its attorneys of
24 record, the Law Firm of Vernon Nelson, and hereby files this Answer to Plaintiff OCWEN LOAN
25 SERVICING, LLC ("Plaintiff") Second Amended Complaint by admitting, denying, and alleging as
26 follows:

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INTRODUCTION

1. Answering Paragraph 1 of Plaintiff’s Second Amended Complaint, the allegations contained therein are legal conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraph.
2. Answering Paragraph 2 of Plaintiff’s Second Amended Complaint, Defendant admits the allegations contained therein.

JURISDICTION AND VENUE

3. Answering Paragraph 3 of Plaintiff’s Second Amended Complaint, Defendant admits the allegations contained therein.

PARTIES

4. Answering Paragraphs 4, 6, 7, 8 and 9 of Plaintiff’s Second Amended Complaint, Defendant is without sufficient information or knowledge as to form a belief as to the truth of the allegations contained in said Paragraphs, and, therefore, denies the same.
5. Answering Paragraph 5 of Plaintiff’s Second Amended Complaint, Defendant admits the allegations contained therein.
6. Answering Paragraph 10 of Plaintiff’s Second Amended Complaint, said Paragraph pertains to fictitious parties and Defendant is without sufficient information or knowledge as to form a belief as to the truth of the allegations contained in said Paragraph, and, therefore, denies the same.

GENERAL ALLEGATIONS

7. Answering Paragraphs 11, 13, 19, 20, 22, 25, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 42, 43, 54, 55, and 56 of Plaintiff’s Second Amended Complaint, Defendant denies the allegations contained in said Paragraphs.
8. Answering Paragraphs 12, 26, 41, 48, 50, 51, and 53 of Plaintiff’s Second Amended Complaint, Defendant is without sufficient information or knowledge as to form a belief as to the truth of the allegations contained in said Paragraphs and, therefore, denies the same.
9. Answering Paragraphs 14, 15, 16, 17, 18, and 21 of Plaintiff’s Second Amended Complaint, Defendant contends the allegations are improper and no response is required, as the documents

1 speak for themselves. To the extent a response is required, Defendant denies the allegations
2 contained in said Paragraphs.

3 10. Answering Paragraphs 23, 24, 33, 34, 40, 44, 45, 46, 47, 49, and 52 of Plaintiff's Second
4 Amended Complaint, the allegations contained therein are legal conclusions of law to which no
5 response is required. To the extent a response is required, Defendant denies the allegations
6 contained in said Paragraphs.

7 **FIRST CAUSE OF ACTION**

8 **(Quite Title/Declaratory Relief versus Buyer, First 100, and all fictitious Defendants)**

9 11. Answering Paragraph 57 of Plaintiff's Second Amended Complaint, Defendant repeats and re-
10 alleges its Answers to Paragraphs 1 through 56 as though fully set forth herein.

11 12. Answering Paragraphs 58 and 59 of Plaintiff's Second Amended Complaint, the allegations
12 contained therein are legal conclusions of law to which no response is required. To the extent a
13 response is required, Defendant denies the allegations contained in said Paragraphs.

14 13. Answering Paragraphs 60 and 61 of Plaintiff's Second Amended Complaint, Defendant admits the
15 allegations contained therein.

16 14. Answering Paragraphs 62, 63, 64, 65, and 66 of Plaintiff's Second Amended Complaint,
17 Defendant denies the allegations contained in said Paragraphs.

18 **SECOND CAUSE OF ACTION**

19 **(Preliminary and Permanent Injunctions versus Buyer, HOA, Red Rock, United, and**
20 **fictitious Defendants)**

21 15. Answering Paragraph 67 of Plaintiff's Second Amended Complaint, Defendant repeats and re-
22 alleges its answers to Paragraphs 1 through 66 as though fully set forth herein.

23 16. Answering Paragraph 68 of Plaintiff's Second Amended Complaint, Defendant admits the
24 allegations contained therein.

25 17. Answering Paragraphs 69, 70, 71, 72, 73, 74, and 75 of Plaintiff's Second Amended Complaint,
26 Defendant denies the allegations contained in said Paragraphs.

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THIRD CAUSE OF ACTION

(Wrongful Foreclosure versus the HOA, Red Rock, United, and fictitious Defendants)

18. Answering Paragraphs 76 through 84 of Plaintiff’s Second Amended Complaint, said Paragraphs do not pertain to Defendant, therefore, no response is required, To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

FOURTH CAUSE OF ACTION

(Negligence versus HOA, Red Rock, United, and the fictitious Defendants)

19. Answering Paragraphs 85 through 91 of Plaintiff’s Second Amended Complaint, said Paragraphs do not pertain to Defendant and, therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

FIFTH CAUSE OF ACTION

(Negligence Per Se versus HOA, Red Rock, United, and the fictitious Defendants)

20. Answering Paragraphs 92 through 101 of Plaintiff’s Second Amended Complaint, said Paragraphs do not pertain to Defendant and therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

SIXTH CAUSE OF ACTION

(Breach of Contract versus the HOA, Red Rock, and United)

21. Answering Paragraphs 102 through 106 of Plaintiff’s Second Amended Complaint, said Paragraphs do not pertain to Defendant and therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

SEVENTH CAUSE OF ACTION

(Misrepresentation versus the HOA)

22. Answering Paragraphs 107 through 116 of Plaintiff’s Second Amended Complaint, said Paragraphs do not pertain to Defendant and therefore, no response is required. To the extent a response is required, Defendant denies the allegations contained in said Paragraphs.

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EIGHTH CAUSE OF ACTION

(Unjust Enrichment versus Buyer, the HOA, Red Rock, United, and fictitious Defendants)

23. Answering Paragraph 117 of Plaintiff’s Second Amended Complaint, Defendant repeats and re-alleges its Answers to Paragraphs 1 through 116 as though fully set forth herein.
24. Answering Paragraphs 118, 119, 120, 121, 122, 123, 124, and 125 of Plaintiff’s Second Amended Complaint, Defendant denies the allegations contained in said Paragraphs.

NINTH CAUSE OF ACTION

(Tortious Interference with Contract versus Buyer, the HOA, Red Rock, United, and the fictitious Defendants)

25. Answering Paragraph 126 of Plaintiff’s Second Amended Complaint, Defendant repeats and re-alleges its Answers to Paragraphs 1 through 125 as though fully set forth herein.
26. Answering Paragraph 127 of Plaintiff’s Second Amended Complaint, Defendant is without sufficient information or knowledge as to form a belief as to the truth of the allegations contained in said Paragraph and therefore, denies the same.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. Plaintiff’s Second Amended Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

2. Plaintiff’s claims are barred by the doctrine of unclean hands.

Third Affirmative Defense

3. Plaintiff’s claims are barred by the doctrine of laches.

Fourth Affirmative Defense

4. Plaintiff lacks standing to bring the claims contained its Second Amended Complaint.

Fifth Affirmative Defense

5. Without admitting that Plaintiff is entitled to any damages whatsoever, any award to Plaintiff should be reduced or precluded by reason of Plaintiff’s bad faith.

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Sixth Affirmative Defense

6. Plaintiff’s Second Amended Complaint, and each cause of action or claim for relief asserted therein, is barred by the equitable doctrines of waiver, estoppel, duress and/or abandonment.

Seventh Affirmative Defense

7. Plaintiff’s claims have been waived as a result of Plaintiff’s acts and conduct.

Eighth Affirmative Defense

8. Plaintiff’s claims are barred by reason of its own misrepresentations, fraud, and deceitful actions with Defendant.

Ninth Affirmative Defense

9. Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek leave of court to amend this answer to specifically assert any such defense. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defense.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment against Plaintiff as follows:

- 1. That Plaintiff take nothing by way of its Second Amended Complaint;
- 2. That Plaintiff’s Second Amended Complaint can be dismissed with prejudice;
- 3. For costs incurred in the defense of this action;
- 4. For reasonable attorney’s fees incurred in defending this action; and
- 5. For such other relief as the court deems just and proper.

COUNTER-CLAIM

COMES NOW Counter-claimant, CHERSUS HOLDINGS, LLC (“Counter-claimant”), by and through its attorneys of record, the LAW FIRM OF VERNON NELSON, and hereby files its Counter-claim against Counter-defendant OCWEN LOAN SERVICING, LLC (“Counter-defendant”), upon information and belief, as follows:

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GENERAL ALLEGATIONS

1. Counter-claimant Chersus Holdings, LLC is a Nevada limited liability company doing business in Clark County, Nevada.
2. Upon information and belief, Counter-Defendant Ocwen Loan Servicing, LLC is a foreign limited liability company doing business in Clark County, Nevada.
3. On May 28, 2013, a Foreclosure Deed upon Sale was executed conveying the real property located at 5946 Lingerin Breeze St., Las Vegas, Nevada 89148 (APN 163-31-611-022) (the "Property") to First 100, LLC pursuant to a sale held under NRS 116 foreclosing on Southern Terrace Homeowners Association's Lien for Delinquent Assessments.
4. On or about October 23, 2013, First 100, LLC sold the Property to Counter-claimant. Counter-claimant recorded its deed on January 13, 2014 as instrument number 201401130001734.
5. On November 13, 2014, First 100, LLC put Counter-defendant and its agent on actual notice that the homeowners association's lien for delinquent assessment had been foreclosed on and accordingly, the first deed of trust had been extinguished.
6. Despite being on constructive and actual notice of the May 28, 2013, foreclosure sale, on information and belief, Counter-defendant proceeded to purport to foreclose on its now-extinguished first deed of trust.
7. Upon information and belief, Counter-defendant purported to sell and purchase the Property at a foreclosure sale on or about December 20, 2013 and recorded its deed on or about January 7, 2014.

FIRST CAUSE OF ACTION

(Wrongful Foreclosure)

8. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.
9. Counter-defendant was on constructive and actual notice that its first deed of trust was extinguished at the HOA foreclosure sale held on or about May 28, 2013.
10. Counter-defendant nonetheless knowingly held a foreclosure sale on December 20, 2013.

1 11. Because the first deed of trust was extinguished at the HOA foreclosure sale, Counter-
2 defendant had no rights in the Property allowing for foreclosure or any other sale.

3 12. Counter-claimant and Counter-Defendant have no contractual privity and as such, Counter-
4 claimant was never in default of any agreement that would have given Counter-defendant the
5 right to foreclose on the Property.

6 13. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered damages
7 in excess of \$10,000 to be proven at trial.

8 14. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been forced to
9 retain the services of an attorney to prosecute this action; therefore, under Nevada law,
10 Counter-claimant is entitled to recover their attorney's fees and costs incurred herein.

11 **SECOND CAUSE OF ACTION**

12 **(Quiet Title)**

13 15. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.

14 16. Counter-claimant is the rightful owner of the Property via chain of title starting with First 100's
15 purchase of the Property at the HOA foreclosure sale and reflected in the deed recorded May 29,
16 2013.

17 17. Counter-defendant was on actual and constructive notice of First 100's superior claim to the
18 Property.

19 18. Upon information and belief, Counter-defendant claims an interest in the Property.

20 19. Counter-defendant's claim to the Property is adverse to Counter-claimant's claim.

21 20. Counter-claimant is entitled to a determination from this Court for quieting Counter-defendant's
22 claim to title of the Property.

23 21. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been forced to retain
24 the services of an attorney to prosecute this action; therefore, under the Nevada law, Counter-
25 claimant is entitled to recover their attorney's fees and costs incurred herein.

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1 **THIRD CAUSE OF ACTION**

2 **(Declaratory Relief)**

3 22. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.

4 23. A dispute has arisen between Counter-claimant and Counter-defendant that is ripe for
5 adjudication, specifically, concerning the ownership of the Property and interpretation of NRS of
6 116.3116 et. seq.

7 24. Pursuant to NRS 30.030 and 30.040, Counter-claimant is entitled to declaratory relief concerning
8 the proper interpretation and enforcement of the Nevada statute.

9 25. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been forced to retain
10 the services of an attorney to prosecute this action; therefore, under Nevada law, Counter-claimant
11 is entitled to recover their attorney's fees and costs incurred herein.

12 **FOURTH CAUSE OF ACTION**

13 **(Conversion)**

14 26. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.

15 27. Counter-defendant wrongfully committed distinct acts of dominion over Counter-claimant's
16 property by purporting to sell/purchase the Property despite Plaintiff's ownership rights over such
17 Property.

18 28. The act was in denial of, or inconsistent with, Counter-claimant's title or right therein.

19 29. The act was in derogation, exclusion, or defiance of the Counter-claimant's title or right therein.

20 30. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered damages in
21 an amount to be proven at trial.

22 31. As a result of Counter-Defendant's wrongful conduct, Counter-claimant has been forced to retain
23 the services of an attorney to prosecute this action; therefore, under Nevada law, Counter-claimant
24 is entitled to recover their attorney's fees and costs incurred herein.

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FIFTH CAUSE OF ACTION

(Unjust Enrichment)

32. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.

33. Counter-defendant has been unjustly enriched by retaining and asserting dominion over the Property.

34. The principles of justice, equity, and good conscience require that such Property be returned to Plaintiff.

35. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered damages in an amount in excess of \$10,000.00, to be proven at trial.

36. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been forced to retain the services of an attorney to prosecute this action; therefore, under Nevada law, Counter-claimant is entitled to recover its attorney's fees and costs incurred herein.

SIXTH CAUSE OF ACTION

(Slander of Title)

37. Counter-claimant incorporates the foregoing allegations as if the same were fully set forth herein.

38. Counter-defendant made false and malicious communications disparaging Counter-claimant's title in the Property, specifically, knowingly holding itself out to have an interest in the Property when it had actual and constructive notice that its interest, if any, had been extinguished or void by virtue of the foreclosure sale.

39. Counter-claimant sustained special damages as a result of the Counter-defendant's communication and actions in purporting to sell Property despite its knowledge it held no right to sell the Property.

40. As a result of Counter-defendant's wrongful conduct, Counter-claimant has suffered damages in an amount in excess of \$10,000.00, to be proven at trial.

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1 41. As a result of Counter-defendant's wrongful conduct, Counter-claimant has been forced to retain
2 the services of an attorney to prosecute this action; therefore, under Nevada law, Counter-claimant
3 to recover its attorney's fees and costs incurred herein.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Counter-claimant prays to this Court for the relief as follows:

- 6 1. For general, special, and consequential damages;
7 2. For costs and attorney's fees associated with bringing this action;
8 3. For declaratory relief as requested herein;
9 4. For injunctive relief, including but not limited to, an injunction prohibiting Counter-defendant
10 from taking any action inconsistent with Counter-claimant's right to own and possess the
11 Property;
12 5. For pre and post-judgment interest; and
13 6. For such other and additional relief as the Court may deem just, equitable, and proper.

14
15 DATED this 9th day of March, 2018

16 THE LAW OFFICE OF VERNON NELSON

17 By: /s/ Vernon Nelson
18 VERNON NELSON, ESQ.
19 Nevada Bar No.: 6434
20 9480 S. Eastern Avenue, Suite 252
21 Las Vegas, NV 89123
22 Tel: 702-476-2500
23 Fax: 702-476-2788
24 E-Mail: vnelson@nelsonlawfirmly.com
25 Attorneys for Chersus Holdings, LLC
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PROOF OF SERVICE
v.
Case No.: A-14-696357-C

Pursuant to NRCP 5(b), I Danielle Alvarado certify that I am an employee of THE LAW OFFICE OF VERNON NELSON, and that on the 9th day of March, 2018, I did cause a true copy of **ANSWER TO SECOND AMENDED COMPLAINT AND COUNTERCLAIM AGAINST PLAINTIFF** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9.

"Robert E. Atkinson, Esq." . robert@nv-lawfirm.com

Alexandria Raleigh . ARaleigh@lawhjc.com

Ashlie Surur . ASurur@lawhjc.com

Brody Wight . bwight@kochscow.com

David R. Koch . dkoch@kochscow.com

Kristin Schuler-Hintz . dcnv@mccarthyholthus.com

NVEfile . nvefile@wrightlegal.net

Paralegal . bknotices@nv-lawfirm.com

Paterno Jurani . pjurani@wrightlegal.net

Staff . aeshenbaugh@kochscow.com

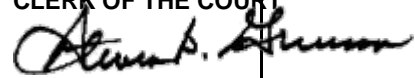
Steven B. Scow . sscow@kochscow.com

Thomas N. Beckom . tbeckom@mccarthyholthus.com

Master Calendering mail@nelsonlawfirmnv.com

Faith Harris fharris@wrightlegal.net

/s/ Danielle Alvarado
An Employee of
THE LAW OFFICE OF VERNON NELSON



ANS
ASHLIE L. SURUR, ESQ.
Nevada Bar No. 11290
asurur@lawhjc.com

Hall, Jaffe & Clayton, LLP
7425 Peak Drive
Las Vegas, Nevada 89128
(702) 316-4111
Fax (702)316-4114

*Attorneys for Southern Terrace
Homeowners Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

OCWEN LOAN SERVICING, LLC, a
foreign Limited Liability Company,

Plaintiff,

vs.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company; FIRST 100,
LLC, a Domestic Limited Liability
Company; SOUTHERN TERRACE
HOMEOWNERS ASSOCIATION, a
Domestic Non-Profit Corporation; RED
ROCK FINANCIAL SERVICES, LLC, a
Foreign Limited Liability Company;
UNITED LEGAL SERVICES, INC., a
Domestic Corporation; DOES I through X:
and ROE CORPORATIONS XI through XX,
inclusive;

Defendants.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimants,

vs.

OCWEN LOAN SERVICING, LLC, a
foreign Limited Liability Company,

Counter-Defendant.

Case No.: A-14-696357-C
Dept. No.: 4

**SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION'S ANSWER TO SECOND
AMENDED COMPLAINT**

1 **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION'S TO SECOND**
2 **AMENDED COMPLAINT**

3 Southern Terrace Homeowners Association ("Southern Terrace"), by and through its
4 attorney, Ashlie L. Surur, Esq. of Hall, Jaffe & Clayton, LLP, replies to and answers
5 Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC's ("Ocwen") second amended
6 complaint ("Complaint"), filed January 23, 2018 as follows:

7 **INTRODUCTION**

8 1. Paragraphs 1 and 3 of the Complaint contain legal conclusions and questions of
9 law and, therefore, no response is required. However, Southern Terrace denies all allegations
10 to the extent a response is required.

11 2. Answering Paragraph 2 of the Complaint, Southern Terrace admits all
12 allegations.

13 **JURISDICTION AND VENUE**

14 3. Paragraph 3 of the Complaint contain legal conclusions and questions of law
15 and, therefore, no response is required. However, Southern Terrace denies all allegations to
16 the extent a response is required.

17 **PARTIES**

18 4. Answering Paragraphs 4, 5, 6, 8, 9 and 10 of the Complaint, Southern Terrace is
19 without sufficient knowledge or information to form a belief as to the truth or falsity of the
20 allegations and, accordingly, the allegations are denied.

21 5. Answering Paragraph 7 of the Complaint, Southern Terrace admits all
22 allegations.

23 **GENERAL ALLEGATIONS**

24 6. Answering Paragraphs 11, 12, 13, 14, 21, 41, 53, 54 and 55 of the Complaint,
25 Southern Terrace is without sufficient knowledge or information to form a belief as to the truth
26 or falsity of the allegations and, accordingly, the allegations are denied.

27 7. Answering Paragraphs 15, 16, 17 and 18 of the Complaint, Southern Terrace
28 admits all allegations.

1 8. Paragraphs 19, 20, 22, 23, 24, 26, 33, 34, 36 and 40 of the Complaint contain
2 legal conclusions and questions of law and, therefore, no response is required. However,
3 Southern Terrace denies all allegations to the extent a response is required.

4 9. Answering Paragraphs 25, 27, 28, 29, 30, 31, 32, 35, 37, 38, 39, 42, 43, 44, 45,
5 46, 47, 48, 49, 52 and 56 of the Complaint, Southern Terrace denies all allegations.

6 10. Answering Paragraphs 50 and 51 of the Complaint, Southern Terrace denies all
7 allegations to the extent that they refer to Southern Terrace. As to all other Defendants,
8 Southern Terrace is without sufficient knowledge or information to form a belief as to the truth
9 or falsity of the allegations, and accordingly, those allegations are denied.

10 **FIRST CAUSE OF ACTION**

11 **(Quiet Title/Declaratory Relief versus Buyer, First 100, and all fictitious Defendants)**

12 11. Answering Paragraph 57 of the Complaint, Southern Terrace repeats and
13 realleges its answers and responses to Paragraphs 1 through 56 and incorporates them by
14 reference.

15 12. Paragraphs 58, 59, 60, 61, 62, 63, 64, 65 and 66 of the Complaint does not state
16 a claim for relief or make any allegation against Southern Terrace. If any allegation contained
17 in the Paragraph is construed against Southern Terrace, then Southern Terrace denies the
18 allegations. To the extent the Paragraph contains allegations relating to parties other than
19 Southern Terrace, Southern Terrace is without knowledge or information to form a belief as to
20 the truth of those allegations and therefore denies each and every allegation.

21 **SECOND CAUSE OF ACTION**

22 **(Preliminary and Permanent Injunctions versus Buyer, HOA, Red Rock, United, and**
23 **fictitious Defendants)**

24 13. Answering Paragraph 67 of the Complaint, Southern Terrace repeats and
25 realleges its answers and responses to Paragraphs 1 through 66 and incorporates them by
26 reference.

27 14. Answering Paragraph 68 of the Complaint, Southern Terrace is without
28

1 sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
2 and, accordingly, the allegations are denied.

3 15. Paragraphs 69, 72 and 73 of the Complaint contain legal conclusions and
4 questions of law and, therefore, no response is required. However, Southern Terrace denies all
5 allegations to the extent a response is required.

6 16. Answering Paragraphs 70, 71 and 75 of the Complaint, Southern Terrace denies
7 all allegations.

8 17. Answering Paragraph 74 of the Complaint, Southern Terrace denies all
9 allegations to the extent that they refer to Southern Terrace. As to all other Defendants,
10 Southern Terrace is without sufficient knowledge or information to form a belief as to the truth
11 or falsity of the allegations, and accordingly, those allegations are denied.

12 **THIRD CAUSE OF ACTION**

13 **(Wrongful Foreclosure versus the HOA, Red Rock, United, and fictitious Defendants)**

14 18. Answering Paragraph 76 of the Complaint, Southern Terrace repeats and
15 realleges its answers and responses to Paragraphs 1 through 75 and incorporates them by
16 reference.

17 19. Answering Paragraphs 77, 78, 79, 80, 81, 82, 83 and 84 of the Complaint,
18 Southern Terrace denies all allegations.

19 **FOURTH CAUSE OF ACTION**

20 **(Negligence versus the HOA, Red Rock, United and the fictitious Defendants)**

21 20. Answering Paragraph 85 of the Complaint, Southern Terrace repeats and
22 realleges its answers and responses to Paragraphs 1 through 84 and incorporates them by
23 reference.

24 21. Answering Paragraphs 86, 87, 88, 89, 90, and 91 of the Complaint, Southern
25 Terrace denies all allegations.

26 ///

27 ///

1 **FIFTH CAUSE OF ACTION**

2 **(Negligence Per Se versus HOA, Red Rock, United, and the fictitious Defendants)**

3 22. Answering Paragraph 92 of the Complaint, Southern Terrace repeats and
4 realleges its answers and responses to Paragraphs 1 through 91 and incorporates them by
5 reference.

6 23. Paragraphs 93 of the Complaint contain legal conclusions and questions of law
7 and, therefore, no response is required. However, Southern Terrace denies all allegations to
8 the extent a response is required.

9 24. Answering Paragraphs 94, 95, 96, 97, 98, 99, 100 and 100 of the Complaint,
10 Southern Terrace denies all allegations.

11 **SIXTH CAUSE OF ACTION**

12 **(Breach of Contract versus the HOA, Red Rock, and United)**

13 25. Answering Paragraph 102 of the Complaint, Southern Terrace repeats and
14 realleges its answers and responses to Paragraphs 1 through 101 and incorporates them by
15 reference.

16 26. Answering Paragraphs 103, 104, 105 and 106 of the Complaint, Southern
17 Terrace denies all allegations.

18 **SEVENTH CAUSE OF ACTION**

19 **(Misrepresentation versus the HOA)**

20 27. Answering Paragraph 107 of the Complaint, Southern Terrace repeats and
21 realleges its answers and responses to Paragraphs 1 through 106 and incorporates them by
22 reference.

23 28. Answering Paragraphs 107, 108, 109, 110, 111, 112, 113, 114, 115 and 116 of
24 the Complaint, Southern Terrace denies all allegations.

25 ///

26 ///

27 ///

1 **EIGHTH CAUSE OF ACTION**

2 **(Unjust Enrichment versus Buyer, the HOA, Red Rock, United, and fictitious**
3 **defendants)**

4 29. Answering Paragraph 117 of the Complaint, Southern Terrace repeats and
5 realleges its answers and responses to Paragraphs 1 through 116 and incorporates them by
6 reference.

7 30. Answering Paragraphs 118, 119, 120, 121, 122, 124 and 125 of the Complaint,
8 Southern Terrace denies all allegations.

9 **NINTH CAUSE OF ACTION**

10 **(Tortious Interference with Contract versus Buyer, the HOA, Red Rock, United, and**
11 **fictitious defendants)**

12 31. Answering Paragraph 126 of the Complaint, Southern Terrace repeats and
13 realleges its answers and responses to Paragraphs 1 through 125 and incorporates them by
14 reference.

15 32. Answering Paragraph 127 of the Complaint, Southern Terrace is without
16 sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
17 and, accordingly, the allegations are denied.

18 33. Answering Paragraph 128 of the Complaint, Southern Terrace denies all
19 allegations to the extent that they refer to Southern Terrace. As to all other Defendants,
20 Southern Terrace is without sufficient knowledge or information to form a belief as to the truth
21 or falsity of the allegations, and accordingly, those allegations are denied.

22 34. Answering Paragraphs 129, 130, 131, 132 and 133 of the Complaint, Southern
23 Terrace denies all allegations.

24 **AFFIRMATIVE DEFENSES**

25 Southern Terrace asserts the following affirmative defenses:

- 26 1. Southern Terrace asserts that this court lacks jurisdiction over Southern Terrace.
27 2. Southern Terrace asserts that this court lacks jurisdiction over the subject matter
28

1 of this action.

2 3. Southern Terrace asserts that there was insufficient process.

3 4. Southern Terrace asserts that there was insufficient service of process.

4 5. Southern Terrace asserts that Ocwen fails to state an essential element of one or
5 more of its claims or causes of action against Southern Terrace.

6 6. Southern Terrace asserts that the applicable statutes of limitations bar Ocwen's
7 claims and causes of actions.

8 7. Southern Terrace asserts that the doctrine of laches bars Ocwen's claims and
9 causes of action because Bank waited an unreasonably long time to file this lawsuit, which
10 delay prejudiced Southern Terrace's ability to defend this lawsuit.

11 8. Southern Terrace asserts that Ocwen has waived its right to sue through
12 representations or actions.

13 9. Southern Terrace asserts that it substantially complied with all statutory
14 requirements.

15 10. Southern Terrace asserts that Ocwen did not suffer any damages.

16 11. Southern Terrace asserts that Ocwen's damages, if any, were proximately caused
17 or contributed to by Ocwen's own conduct or by the conduct of its agents or predecessors.

18 12. Southern Terrace asserts that Ocwen failed to mitigate its damages.

19 13. Southern Terrace asserts that the consequences of Ocwen's claims and causes of
20 action were avoidable.

21 14. Southern Terrace asserts that Ocwen's damages were caused in whole or in part
22 by the actions of a third party over which HOA had no control.

23 15. Southern Terrace asserts that Ocwen is barred from recovering any special
24 damages for failure to specifically allege the items of special damages claims under Rule 9.

25 16. Southern Terrace asserts that Ocwen is seeking to recover more than it is entitled
26 to recover in this case and award of the judgment sought by Ocwen would unjustly enrich
27 Ocwen.

1 17. Southern Terrace asserts that Ocwen intentionally or negligently destroyed
2 critical evidence to Southern Terrace's prejudice.

3 18. Southern Terrace asserts that Ocwen is barred from bringing some or all of its
4 claims and causes of action because it failed to exhaust the administrative remedies of NRS
5 Chapter 30.

6 19. Southern Terrace asserts that Ocwen lacks standing to bring some or all of its
7 claims and causes to action.

8 20. Southern Terrace asserts that the acts giving rise to this lawsuit are not the result
9 of government action.

10 21. Southern Terrace asserts that another person or entity owes it indemnity for
11 Ocwen's damages.

12 22. Southern Terrace asserts that Ocwen's failure to join an indispensable party bars
13 its claims and causes of actions.

14 23. Southern Terrace asserts that the doctrine of unclean hands bars Ocwen's
15 recovery.

16 24. Southern Terrace asserts that the rejection of Ocwen's purported tender was
17 justified.

18 25. Southern Terrace asserts that Ocwen failed to plead fraud with specificity.

19 26. Southern Terrace reserves its right to assert additional affirmative defenses in the
20 event discovery indicates that additional affirmative defenses would be appropriate.

21 **PRAYER FOR RELIEF**

22 Southern Terrace prays for relief as follows:

- 23 1. That Ocwen take nothing by virtue of the Complaint;
24 2. That a judgment of dismissal be entered in favor of Southern Terrace;
25 3. That Southern Terrace be dismissed with costs incurred and reasonable
26 attorney's fees; and

27 ///

1 4. For such other and further relief as the Court deems just and proper.

2 Dated: April 5, 2018.

3 HALL, JAFFE & CLAYTON, LLP

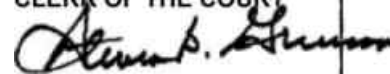
4
5 By: /s/Ashlie L. Surur
6 Ashlie L. Surur, Esq.
7 Nevada Bar No. 11290
8 7425 Peak Drive
9 Las Vegas, Nevada 89128
10 *Attorneys for Southern Terrace*
11 *Homeowners Association*
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CERTIFICATE OF SERVICE

I certify that on April 5, 2018, I served a true and correct copy of the foregoing
**SOUTHERN TERRACE HOMEOWNERS ASSOCIATION'S ANSWER TO SECOND
AMENDED COMPLAINT** on the following parties by electronic transmission through the
Court's electronic filing system:

Atkinson Law Associates Ltd.		
	Contact	Email
	Paralegal	bknotices@nv-lawfirm.com
	Robert E. Atkinson, Esq.	robert@nv-lawfirm.com
Koch & Scow LLC		
	Contact	Email
	Brody Wight	bwight@kochscow.com
	David R. Koch	dkoch@kochscow.com
	Staff	aeshenbaugh@kochscow.com
	Steven B. Scow	sscow@kochscow.com
McCarthy & Holthus, LLP.		
	Contact	Email
	Kristin Schuler-Hintz	dcnv@mccarthyholthus.com
McCarty & Holthus, LLP.		
	Contact	Email
	Thomas N. Beckom	tbeckom@mccarthyholthus.com
Weil & Drage, APC		
	Contact	Email
	Joanna Medina	jmedina@weildrage.com
	NV E-File	nvefile@weildrage.com
WEIL & DRAGE, APC		
	Contact	Email
	Lisa Robison	lrobison@weildrage.com
Wright, Finlay & Zak, LLP		
	Contact	Email
	Faith Harris	fharris@wrightlegal.net
	NVEfile	nvefile@wrightlegal.net
	Paterno Jurani	pjurani@wrightlegal.net

/s/Alexandria Raleigh
An Employee of HALL JAFFE & CLAYTON, LLP



1 **SAO**

2 **WRIGHT, FINLAY & ZAK, LLP**

3 **Regina A. Habermas, Esq.**

4 **Nevada Bar No. 8481**

5 **Paterno C. Jurani, Esq.**

6 **Nevada Bar No. 8136**

7 **7785 W. Sahara Ave., Suite 200**

8 **Las Vegas, Nevada 89117**

9 **(702) 475-7964 Fax: (702) 946-1345**

10 **pjurani@wrightlegal.net**

11 **Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC**

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **OCWEN LOAN SERVICING, LLC, a foreign**
15 **Limited Liability Company,**

16 **Plaintiff,**

17 **vs.**

18 **CHERSUS HOLDINGS, LLC, a Domestic**
19 **Limited Liability Company; FIRST 100, LLC, a**
20 **Domestic Limited Liability Company;**
21 **SOUTHERN TERRACE HOMEOWNERS**
22 **ASSOCIATION, a Domestic Non-Profit**
23 **Corporation; RED ROCK FINANCIAL**
24 **SERVICES, LLC, a Foreign Limited Liability**
25 **Company; UNITED LEGAL SERVICES, INC.,**
26 **a Domestic Corporation; DOES I through X;**
27 **and ROE CORPORATIONS XI through XX,**
28 **inclusive,**

Defendants.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimant,

vs.

OCWEN LOAN SERVICING, LLC, a Foreign
Limited Liability Company.

Case No.: A-14-696357-C

Dept. No.: IV

STIPULATION AND ORDER TO
DISMISS DEFENDANT, RED ROCK
FINANCIAL SERVICES, LLC

Counter-Defendants.

Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC (hereinafter "Ocwen"), and Defendant, Red Rock Financial Services, LLC (hereinafter "Red Rock") (collectively, the "Parties"), by and through their attorneys of record, hereby stipulate and agree as follows:

IT IS HEREBY STIPULATED AND AGREED that Defendant, Red Rock Financial Services, LLC is hereby dismissed, without prejudice, each party to bear their own fees and costs in this matter.

IT IS FURTHER STIPULATED AND AGREED that the hearing currently scheduled for October 16, 2018 shall be vacated, and Red Rock's pending Motion to Dismiss Ocwen Loan Servicing, LLC's Second Amended Complaint ("Motion to Dismiss") filed on June 6, 2018 shall be denied as moot.

IT IS SO STIPULATED AND AGREED.

DATED this 15th day of October, 2018.

DATED this 15th day of October, 2018.

WRIGHT, FINLAY & ZAK, LLP

KOCH & SCOW, LLC

Regina A. Habermas, Esq.
Nevada Bar No. 8481
Paterno C. Jurani, Esq.
Nevada Bar No. 8136
7785 W. Sahara Ave., Suite 200
Las Vegas, Nevada 89117
*Attorneys for Plaintiff/Counter-Defendant,
Ocwen Loan Servicing, LLC*

David R. Koch, Esq.
Nevada Bar No. 8830
Steven B. Scow, Esq.
Nevada Bar No. 9906
Brody R. Wight, Esq.
Nevada Bar No. 13615
11500 S. Eastern Ave., Suite 210
Henderson, Nevada 89052
*Attorneys for Cross-Defendant, Red Rock
Financial Services, LLC*


1 **STIPULATION AND ORDER TO DISMISS DEFENDANT, RED ROCK FINANCIAL**
2 **SERVICES, LLC**

3 Case No.: A-14-696357-C

4 **ORDER**


5 Based upon the foregoing Stipulation by and between the parties, and good cause
6 appearing, **IT IS SO ORDERED.**

7 DATED this 10-15-2018

8 
DISTRICT COURT JUDGE (KT)

9 Respectfully Submitted by:

10 WRIGHT, FINLAY & ZAK, LLP

11 
12 _____
Regina A. Habermas, Esq.

13 Nevada Bar No. 8481

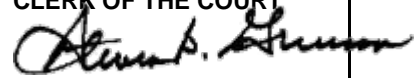
14 Paterno C. Jurani, Esq.

15 Nevada Bar No. 8136

7785 W. Sahara Ave., Suite 200

Las Vegas, Nevada 89117

16 *Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC*



MSJ

WRIGHT, FINLAY & ZAK, LLP

Regina A. Habermas, Esq.

Nevada Bar No. 8481

Paterno C. Jurani, Esq.

Nevada Bar No. 8136

7785 W. Sahara Ave., Suite 200

Las Vegas, Nevada 89117

(702) 475-7964 Fax: (702) 946-1345

pjurani@wrightlegal.net

Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

OCWEN LOAN SERVICING, LLC, a foreign
Limited Liability Company,

Plaintiff,

vs.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company; FIRST 100, LLC, a
Domestic Limited Liability Company;
SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION, a Domestic Non-Profit
Corporation; RED ROCK FINANCIAL
SERVICES, LLC, a Foreign Limited Liability
Company; UNITED LEGAL SERVICES, INC.,
a Domestic Corporation; DOES I through X;
and ROE CORPORATIONS XI through XX,
inclusive,

Defendants.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimant,

vs.

OCWEN LOAN SERVICING, LLC, a Foreign
Limited Liability Company,

Case No.: A-14-696357-C

Dept. No.: IV

**OCWEN LOAN SERVICING, LLC'S
MOTION FOR SUMMARY JUDGMENT**

Counter-Defendants.

COMES NOW Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC (hereinafter "Ocwen"), by and through its attorneys of record, Regina A. Habermas, Esq. and Paterno C. Jurani, Esq., of the law firm of Wright, Finlay & Zak, LLP, and hereby submits its Motion for Summary Judgment. The Motion is based on the attached Memorandum of Points and Authorities, the Request for Judicial Notice filed concurrently herewith, all papers and pleadings on file herein, all judicially noticed facts, and on any oral or documentary evidence that may be submitted at a hearing on this matter.

DATED this 19th day of October, 2018.

WRIGHT, FINLAY & ZAK, LLP

/s/ Paterno C. Jurani, Esq.

Regina A. Habermas, Esq.

Nevada Bar No. 8481

Paterno C. Jurani, Esq.

Nevada Bar No. 8136

7785 W. Sahara Ave., Suite 200

Las Vegas, Nevada 89117

*Attorneys for Plaintiff/Counter-Defendant, Ocwen
Loan Servicing, LLC*

NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring **OCWEN LOAN SERVICING, LLC'S MOTION FOR SUMMARY JUDGMENT** on the 13 day of Dec., 2018, at the hour of 9:00A .m., or as soon thereafter as counsel may be heard.

DATED this 19th day of October, 2018.

WRIGHT, FINLAY & ZAK, LLP

/s/ Paterno C. Jurani, Esq.

Paterno C. Jurani, Esq., NV Bar No. 8136

7785 W. Sahara Ave., Suite 200

Las Vegas, Nevada 89117

*Attorneys for Plaintiff/Counter-Defendant, Ocwen
Loan Servicing, LLC*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This case involves the claimed rights and interests in real property located at 5946
4 Lingerin Breeze Street, Las Vegas, Nevada 89148 (the “Property”). Ocwen is the current
5 titleholder pursuant to a foreclosure under the first Deed of Trust and seeks a judicial
6 determination that the first Deed of Trust was not extinguished by the HOA foreclosure sale
7 held on May 25, 2013 (the “HOA Sale” or “foreclosure sale”) and, thus, First 100, LLC (“First
8 100”) and, subsequently, Chersus Holdings, LLC (“Chersus”), took subject to that Deed of
9 Trust, or, in the alternative, the HOA Sale should be set aside.

10 Here, summary judgment should be granted because, first and foremost, the HOA
11 superpriority lien was extinguished when First 100 paid off that lien to the HOA, seeking to
12 conduct an “HOA foreclosure” through its own Trustee, United Legal Services, and acquire the
13 Property for itself. First 100 later sold the Property to Chersus. Even if this Court believes that
14 the superpriority lien was not extinguished by First 100’s complicated purchase and sale of the
15 HOA’s lien as well as the Property, the circumstances of the purchase and sale demonstrate at
16 least “slight evidence” of fraud, oppression or unfairness that, when combined with the grossly
17 inadequate sale price to First 100, justify setting the HOA Sale aside. Finally, First 100 and
18 Chersus were on inquiry notice of all of these issues, and therefore cannot qualify for
19 protection as bona fide purchasers. Accordingly, Ocwen respectfully requests summary
20 judgment in its favor.

21 **II. STATEMENT OF UNDISPUTED FACTS**

22 ***Harrison Loan Documents.***

23 1) On or about March 13, 2008, Joseph F. Harrison and Bonnie L. Harrison (hereinafter
24 the “Harrisons”) purchased the Property.¹

25 2) The Deed of Trust executed by the Harrisons (hereinafter the “Deed of Trust”)

26 _____
27 ¹ A true and correct copy of the Grant, Bargain and Sale Deed, recorded on March 14, 2008, as
28 Book and Instrument Number 20080314-0001996 with the Clark County Recorder’s Office, is
attached to Ocwen’s Request for Judicial Notice (“RJN”), filed concurrently herewith, as
Exhibit 1. All other recordings stated hereafter are recorded in the same manner.

1 identified Direct Equity Mortgage, LLC as the Lender and Mortgage Electronic
2 Registration Systems, Inc. ("MERS") as beneficiary acting solely as a nominee for
3 Lender and Lender's successors and assigns, Nevada Title Company as Trustee, and
4 secured a loan in the amount of \$234,739.00 (hereinafter the "Harrison Loan").²

- 5 3) On July 23, 2012, an Assignment of Deed of Trust was recorded, reflecting that MERS
6 assigned the Deed of Trust to GMAC Mortgage, LLC.³

7 ***HOA Lien Documents.***

- 8 4) The Property is subject to the Master Declaration of Covenants, Conditions and
9 Restrictions and Reservation of Easements for Southern Terrace (the "CC&Rs"), which
10 were recorded on August 9, 2001.⁴

- 11 5) On December 8, 2011, a Lien for Delinquent Assessments was recorded against the
12 Property by Red Rock Financial Services ("Red Rock") on behalf of Southern Terrace
13 Homeowners Association (the "HOA").⁵

- 14 6) As of September 1, 2011, the monthly assessments due the HOA were \$73.00.⁶ On
15 January 1, 2013, the monthly assessments were reduced to \$72.00 per month.⁷

- 16 7) On February 2, 2012, a Notice of Default and Election to Sell Pursuant to the Lien for
17 Delinquent Assessments was recorded against the Property by Red Rock on behalf of
18

19 ² A true and correct copy of the Deed of Trust, recorded on March 31, 2009, as Book and
20 Instrument Number 20090331-0004948, is attached to the RJN as **Exhibit 2**.

21 ³ A true and correct copy of the Assignment of Deed of Trust, recorded on July 23, 2012, as
22 Book and Instrument Number 201207230000030, is attached to the RJN as **Exhibit 3**.

23 ⁴ A true and correct copy of the CC&Rs recorded on August 9, 2001, as Book and Instrument
24 Number 20010809-01455, is attached to the RJN as **Exhibit 4**.

25 ⁵ A true and correct copy of the Lien for Delinquent Assessments recorded on December 8, 2011,
26 as Book and Instrument Number 201112080002960, is attached to the RJN as **Exhibit 5**.

27 ⁶ See Excerpts of Documents Produced by Red Rock in Response to Subpoena, a true and correct
28 copy of which are attached hereto as **Exhibit 6**, at Red Rock Accounting Ledger, WFZ0040-45.
See also Excerpts of Transcript of Deposition of HOA, at 33:4 – 34:38, true and correct copy of
which is attached hereto as **Exhibit 7**. The 30(b)(6) representative for the HOA testified that
before and during 2011, assessments were listed as "Master" and "Monthly" in contemplation of
a sub-association. However, the assessments were consolidated in 2013 as no sub-association
was created. Id.

⁷ Id.

1 the HOA.⁸

2 8) On May 2, 2013, a Notice of Foreclosure Sale was recorded against the Property by a
3 new Trustee, United Legal Services, Inc. (“ULS”).⁹

4 9) According to the Foreclosure Deed Upon Sale recorded May 29, 2013, a non-judicial
5 foreclosure sale allegedly occurred on May 25, 2013, and First 100 acquired its interest
6 in the Property without warranty, express or implied.¹⁰ The Property was sold to First
7 100 for the purchase price of \$3,500.¹¹

8 ***Purchase and Sale Agreement between First 100 and the HOA***

9 10) On April 23, 2013, the HOA entered into a “Purchase and Sale Agreement” (“PSA”)
10 with First 100 and ULS wherein First 100 purchased the right to receive future monies
11 related to the Property, referred to as “Proceeds on Past Income” or “PPI,” from the
12 HOA for \$1,208.28.¹²

13 11) The PSA included the following terms:

- 14 a. The HOA sold its interest in the delinquent assessments to First 100 and agreed to
15 cease all collection efforts on them. (PSA, paras. 2.01 and 4.02(h))¹³
16 b. Whatever rights the HOA had to pursue collection of the delinquency on the
17 Property passed to First 100 and whatever collection efforts were undertaken were
18 solely at First 100’s expense. (PSA, paras. 3.02(a); 3.04 (c); (g)-(h))¹⁴
19 c. The HOA relinquished to First 100 its right to use any other collection company for
20

21
22 ⁸ A true and correct copy of the Notice of Default and Election to Sell recorded on February 2,
23 2012 as Book and Instrument Number 201202020000465, is attached to the RJN as **Exhibit 8**.

24 ⁹ A true and correct copy of the Notice of Foreclosure Sale recorded on May 2, 2013 as Book
25 and Instrument Number 201305020000105, is attached to the RJN as **Exhibit 9**.

26 ¹⁰ A true and correct copy of the Foreclosure Deed Upon Sale recorded on May 29, 2013 as
27 Book and Instrument Number 201305290002514, is attached to the RJN as **Exhibit 10**.

28 ¹¹ See Excerpts of Documents Produced by United Legal Services, a true and correct copy of
which is attached hereto as **Exhibit 11**, at Receipt of Sale, ULS 65. See also Excerpts of
Transcript of Deposition of United Legal Services, 63:4-10, attached hereto as **Exhibit 12**.

¹² See Purchase and Sale Agreement, included in **Exhibit 6** attached hereto, at WFZ0060-72.

¹³ Id. at WFZ061 and WFZ0065, respectively.

¹⁴ Id. at WFZ062 and WFZ0064-65, respectively.

the delinquent assessments sold under the PSA. (PSA, para. 3.02(a))¹⁵

d. ULS and the HOA were required to turn over any collections related to the delinquency to First 100, instead of the HOA, after any offsets or costs were paid.

(PSA, paras. 3.04(i) and 4.02(a))¹⁶

e. Collections included payments made pre-foreclosure by the homeowner, lender, or interested third party, via a foreclosure sale conducted pursuant to NRS 116.3116 et seq., or through post-lender foreclosure lien satisfaction. (PSA, Recitals, p. 1)¹⁷

f. The opening bid at any subsequent foreclosure sale was set at \$99, and ULS was prohibited from bidding any higher. (PSA, Section 3.02(l))¹⁸

g. After the PSA was executed, the HOA had no responsibility to pay ULS's fees and costs. Rather, First 100 was required to pay ULS all of the costs related to the collection and the foreclosure sale under a set schedule of fees. (PSA, paras. 3.03(c), (e); 3.04(a))¹⁹

h. First 100 was required to pay all of the collection costs charged by the previous collection company, Red Rock, before the PSA was executed. (PSA, para. 3.03(c))²⁰

i. After the sale, the auction costs would be deducted and the net would be remitted to First 100. (PSA, para. 3.04(i))²¹

12) First 100 purchased the HOA's lien by paying the HOA \$1,208.28 on or about June 27, 2013.²²

Subsequent Transfers of the Property.

13) On August 24, 2012, a Substitution of Trustee was recorded, reflecting that Cooper

¹⁵ Id. at WFZ062.

¹⁶ Id. at WFZ065.

¹⁷ Id. at WFZ060.

¹⁸ Id. at WFZ063.

¹⁹ Id. at WFZ064.

²⁰ Id.

²¹ Id. at WFZ065.

²² See Excerpts of Documents Produced by the HOA, a true and correct copy of which is attached hereto as **Exhibit 13**, at HOA-15.

Castle Law Firm (“Cooper Castle”) was substituted as Trustee under the Deed of Trust.²³

14) On March 6, 2013, a Notice of Breach and Default and of Election to Cause Sale of Real Property Under Deed of Trust was recorded by Cooper Castle.²⁴

15) On November 18, 2013, a Notice of Trustee’s Sale was recorded by Cooper Castle.²⁵

16) On December 20, 2013, Cooper Castle foreclosed on the Property pursuant to the Deed of Trust and on January 7, 2014, a Trustee’s Deed Upon Sale conveying the Property to Ocwen was recorded.²⁶

17) On January 13, 2014, First 100 transferred its interest in the Property, if any, to Chersus pursuant to a Deed of Sale.²⁷ The purchase price of the property is not listed in the Deed of Sale and it appears Chersus paid nothing to obtain its interest in the Property, if any. According to Chersus’s deposition testimony, Chersus and First 100 had earlier agreed to a real estate deal involving four or five properties, but that deal fell through.²⁸ As a result, First 100 *gave* Chersus whatever interest First 100 had in this Property to partially make up for the prior loss.²⁹ It appears that Chersus only paid a \$2,500 fee to First 100 to represent it in obtaining quiet title.³⁰

²³ A true and correct copy of the Substitution of Trustee, recorded on August 24, 2012, as Book and Instrument Number 201208240003610, is attached to the RJN as **Exhibit 14**.

²⁴ A true and correct copy of the Notice of Breach and Default and of Election to Cause Sale of Real Property Under Deed of Trust, recorded on March 6, 2013, as Book and Instrument Number 201303060002239, is attached to the RJN as **Exhibit 15**.

²⁵ A true and correct copy of the Notice of Trustee’s Sale, recorded on November 18, 2013, as Book and Instrument Number 201311180000445, is attached to the RJN as **Exhibit 16**.

²⁶ A true and correct copy of the Trustee’s Deed Upon Sale recorded on January 7, 2014, as Book and Instrument Number 201401070000775, is attached to the RJN as **Exhibit 17**.

²⁷ A true and correct copy of the Deed of Sale recorded on January 13, 2014, as Book and Instrument Number 201401130001734, is attached to the RJN as **Exhibit 18**.

²⁸ See Excerpts of Transcript of Deposition of Chersus, 27:9 – 31:25, attached hereto as **Exhibit 19**.

²⁹ Id.

³⁰ Id.

1 **III. LEGAL ARGUMENTS**

2 **A. MOTION FOR SUMMARY JUDGMENT LEGAL STANDARD**

3 Under Rule of Civil Procedure 56(c), “[s]ummary judgment is appropriate if, when
4 viewed in the light most favorable to the nonmoving party, the record reveals there are no
5 genuine issues of material fact and the moving party is entitled to judgment as a matter of law.”
6 DTJ Design, Inc. v. First Republic Bank, 130 Nev. Adv. Op. 5, 318 P.3d 709, 710 (2014)
7 (citing Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 713, 57 P.3d 82, 87 (2002)). The
8 plain language of Rule 56(c) “mandates the entry of summary judgment, after adequate time
9 for discovery and upon motion, against a party who fails to make a showing sufficient to
10 establish the existence of an element essential to that party’s case, and on which that party will
11 bear the burden of proof at trial.” Celotex Corp. v. Catrett, 477 U.S. 317, 323, 106 S.Ct. 2548,
12 2552 (1986) (adopted by Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031
13 (2005)). In such a situation, there can be “no genuine issue as to any material fact” because a
14 complete failure of proof concerning an essential element of the nonmoving party’s case
15 necessarily renders all other facts immaterial. Id. The party opposing summary judgment must
16 “do more than simply show that there is some metaphysical doubt as to material facts.”
17 Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 485 U.S. 574, 586 (1986).

18 **B. OCWEN IS ENTITLED TO SUMMARY JUDGMENT BECAUSE THE**
19 **SUPERPRIORITY LIEN WAS DISCHARGED BY PAYMENT FROM FIRST 100**
20 **TO THE HOA OF THE SUPERPRIORITY LIEN AMOUNT.**

21 Ocwen’s Deed of Trust remained the superior encumbrance on the Property because the
22 payment by First 100 discharged the superpriority lien prior to the HOA Sale. Because the
23 superpriority portion of the HOA’s lien was discharged, First 100 and subsequently, Chersus,
24 each took any interest in the Property subject to the Deed of Trust.

25 Nevada’s HOA lien statute in NRS 116.3116 is a creature of the UCIOA and thus
26 commentary to the UCIOA aids in the interpretation of the statute. SFR Investments Pool 1,
27 LLC v. U.S. Bank, N.A., 334 P.3d 408, 410 (Nev. 2014) (“SFR”). Much like the UCIOA, NRS
28 116.3116(2)(b) elevates the priority of HOA liens over most other liens except, among others,

1 first deeds of trust. Id. at 411. There is a partial exception to the priority of a first deed of trust
2 commonly known as the superpriority portion of the lien. Id. at 410-11. NRS 116.3116(2)
3 defines the superpriority lien as:

4 The [HOA] lien also prior to all security interest described in paragraph (b) to
5 the extent of any [maintenance and nuisance-abatement] charges incurred by
6 the association on a unit pursuant to NRS 116.310312 and **to the extent of**
7 **the assessments for common expenses [i.e., HOA dues] based on the**
8 **periodic budget adopted by the association pursuant to NRS 116.3115**
9 **which would have become due in the absence of acceleration during the 9**
10 **months immediately preceding the institution of an action** to enforce the
11 lien unless federal regulations adopted by the Federal Home Loan Mortgage
12 Corporation or the Federal National Mortgage Association require a shorter
13 period of priority for the lien

14 Id. (emphasis added). See also Horizons at Seven Hills Homeowners Association v. Ikon
15 Holdings, LLC, 132 Nev. Adv. Op. 35 (April 28, 2016) (“Ikon”) (“the superpriority lien
16 granted by NRS 116.3116(2) does not include an amount for collection fees and foreclosure
17 costs incurred; rather it is limited to an amount equal to the common expense assessments due
18 during the nine months before foreclosure.”).

19 Thus, the superpriority portion of the lien **may consist of up to nine months of**
20 **assessments plus maintenance and nuisance abatement charges.**³¹ Once the superpriority
21 amount has been paid to the association, the association’s foreclosure on the remaining amount
22 transfers title to the property subject to the first mortgage or deed of trust.³²

23
24 **1. First 100 contracted with the HOA to pay more than nine months worth of**
25 **assessments, thereby extinguishing the superpriority portion of the HOA’s lien.**

26 The Nevada Supreme Court recently held in Saticoy Bay LLC Series 2141 Golden Hill

27
28 ³¹ See SFR, 334 P.3d at 410-11; see also NRED 13-01 Op. Dep’t. of Bus. & Indus., Real Estate
Div. 2 (2012) (superpriority lien is limited to: (1) 9 months of assessments; and (2) [nuisance
abatement] charges allowed by NRS 116.310312).

³² See Report of the Joint Editorial Board for Uniform Real Property Acts, “The Six-Month
‘Limited Priority Lien’ For Association Fees Under the Uniform Common Interest Ownership
Act,” pgs. 10-14, 3 (June 1, 2013)), available at
[http://www.uniformlaws.org/shared/docs/jeburpa/2013jun1_JEBURPA_UCIOA%20Lien%20Pri
ority%20Report.pdf](http://www.uniformlaws.org/shared/docs/jeburpa/2013jun1_JEBURPA_UCIOA%20Lien%20Priority%20Report.pdf) (last visited March 9, 2015).

1 v. JP Morgan Chase Bank, National Association, No. 71246 (December 22, 2017) (unpub.)³³
2 (“Golden Hill”) that “[t]he record contains undisputed evidence that the former homeowner
3 made payments sufficient to satisfy the superpriority component of the HOA’s lien...” The
4 court continued, “Thus, the district court correctly determined that at the time of the
5 foreclosure sale, there was no superpriority component of the HOA’s lien that could have
6 extinguished respondent’s deed of trust.” Id. The court also made clear: “[a]lthough appellant
7 correctly points out that there were new unpaid monthly assessments at the time of the sale,
8 these new unpaid monthly assessments could not have comprised a new superpriority lien
9 absent a new notice of delinquent assessments.” Id. at 1-2, citing Property Plus Invs., LLC v.
10 Mortgage Elec. Registration Sys., Inc., 133 Nev. Adv. Op. 62, 401 P.3d 728, 731-32 (2017).
11 Further, there is no requirement that a release of superpriority lien must be recorded to be
12 effective. “We also disagree with appellant’s argument that respondent needed to record a
13 document showing the former homeowner satisfied the superpriority component of the HOA’s
14 lien before the sale.” Id. at 2.

15 Most recently, on July 20, 2018, the Nevada Supreme Court held that a tender of nine
16 months, whether rejected or accepted, satisfies the superpriority portion of the HOA’s lien.
17 2713 Rue Toulouse Trust v. Bank of America, N.A., Case No. 68206, 2018 WL 3545359 (Nev.
18 July 20, 2018) (unpub);³⁴ BAC Home Loans Servicing, LP et al. v. Aspinwall Court Trust,
19 Case No. 69885, 2018 WL 3544962 (Nev. July 20, 2018) (unpub).³⁵ Consequently, a
20 subsequent homeowners’ association foreclosure sale for the *entire* lien amount results in a
21 void sale, as only part of the lien remained in default. Id. citing Grant S. Nelson, Dale A.
22 Whitman, Ann M. Burkhardt & R. Wilson Freyermuth, REAL ESTATE FINANCE LAW § 7:21 (6th
23 Ed. 2014) (“The most common defect that renders a sale void is that the [lienholder] had no
24

25 _____
26 ³³ On February 26, 2018, the Nevada Supreme Court issued an Order denying rehearing
27 regarding its December 22, 2017 decision in Golden Hill, holding “nothing in the Act [Uniform
28 Common Interest Ownership Act] appears to prohibit a homeowner from doing so [satisfying the
superpriority component of an HOA’s lien].”

³⁴ A true and correct copy of this unpublished opinion is attached hereto as **Exhibit 20**.

³⁵ A true and correct copy of this unpublished opinion is attached hereto as **Exhibit 21**.

right to foreclose.”); Henke v. First S. Props., Inc., 586 S.W.2d 617, 620 (Tex. App. 1979) (payment of past-due installments cured loan’s default such that subsequent foreclosure on the property was void); Baxter Dunaway, THE LAW OF DISTRESSED REAL ESTATE § 17:20 (2017) (“A foreclosure sale can be set aside by a court of equity by showing a lack of default.”).

Here, the evidence shows that a single Lien for Delinquent Assessments was recorded against the Property on December 8, 2011.³⁶ Delinquent assessments started to accrue on the Harrisons’ account on September 1, 2011.³⁷ Prior to the September 1, 2011 assessment, the Harrisons’ account had a balance of -\$2.44.³⁸ In other words, there was a credit of \$2.44 on the account. Id. As of September 1, 2011, the monthly assessments due the HOA were \$73.00.³⁹ On January 1, 2013, the monthly assessments were reduced to \$72.00 per month.⁴⁰ Consequently, as of March 1, 2013, the delinquent assessments on the account totaled \$1,381.56.⁴¹ This amount is consistent with the Assessments Due amount listed in Exhibit 1 to the PSA, because paragraph 4.01(a) of the PSA provides that the amount of delinquent assessments would not include the current assessment (April 1, 2013).⁴² Furthermore, nine months of monthly assessments at the higher \$73.00 per month rate totals \$657.00, which is the highest amount that could be considered to have superpriority in this case.

The amount of a superpriority lien under NRS Chapter 116 is limited to nine months of delinquent HOA assessments against the property. NRS 116.3116(3)(b). The payment of those nine months of assessments, then, satisfies and discharges the superpriority lien against the

³⁶ See Lien for Delinquent Assessments, attached to the RJN as **Exhibit 5**.

³⁷ See Red Rock Accounting Ledger, Bates stamped WFZ0037-45, attached hereto in **Exhibit 6**.

³⁸ Id.

³⁹ See Red Rock Accounting Ledger, at WFZ0040-45, attached hereto in **Exhibit 6**; see also Deposition of HOA, 33:4 – 34:38, attached hereto as **Exhibit 7**. The 30(b)(6) representative for the HOA testified that before and during 2011, assessments were listed as “Master” and “Monthly” in contemplation of a sub-association. However, the assessments were consolidated in 2013 as no sub-association was created.

⁴⁰ Id.

⁴¹ See Red Rock Accounting Ledger, Bates stamped WFZ0037-45, attached hereto in **Exhibit 6**.

⁴² See Purchase and Sale Agreement, at WFZ0065 and WFZ0072, attached hereto in **Exhibit 6**.

1 property.⁴³ Here, the undisputed facts indicate that the HOA and First 100 agreed in April of
2 2013, one month prior to the date of the HOA Sale, for First 100 to pay, and for the HOA to
3 accept, an amount exceeding nine months worth of assessments. First 100 paid the HOA
4 \$1,208.28, an amount far exceeding the superpriority amount of \$657.00.⁴⁴ Accordingly, the
5 superpriority lien was discharged by this agreement and the Deed of Trust was not
6 extinguished by the alleged “foreclosure” conducted by ULS. The unusual nature of this
7 transaction was designed by First 100, ULS, and the HOA for First 100 to unfairly manipulate
8 the NRS Chapter 116 superpriority lien sale procedure in order to obtain the subject property at
9 an unreasonably low price, then sell it at a significantly higher price for a substantial profit. As
10 discussed infra, this scheme was devised solely to deprive the prior beneficiary of the Deed of
11 Trust of its recorded interest in the property for the benefit of First 100 and, subsequently,
12 Chersus. Accordingly, whether the HOA Sale is set aside by operation of law or equity, it
13 must be held invalid by this Court or, alternatively, subject to the Deed of Trust.

14 **C. OCWEN’S MOTION SHOULD BE GRANTED BECAUSE THE FORECLOSURE**
15 **SALE WAS (1) FOR A GROSSLY INADEQUATE PRICE, AND (2) THERE IS**
16 **SIGNIFICANT EVIDENCE OF FRAUD, OPPRESSION OR UNFAIRNESS IN**
17 **THE WAY THAT THE HOA AND FIRST 100 CONDUCTED THE**
18 **FORECLOSURE.**

19 The SFR decision did not address the commercial reasonableness arguments asserted
20 by a holder of a first deed of trust, because that concept was not appropriate at that pleadings
21 stage – namely, a complaint followed by a motion to dismiss. Here, at the summary judgment
22 stage, Ocwen can properly assert that the sale was not conducted in good faith and should be
23 set aside under the Nevada Supreme Court’s decision in Nationstar Mortg., LLC v. Saticoy

24 ⁴³ Nine months’ of assessments is the full extent of the superpriority lien—all costs, fees, and
25 interest belong to the subpriority lien. The Nevada Supreme Court settled this issue in the Ikon
26 Holdings decision, explaining that, prior to the statutory amendments effective October 1, 2015,
27 “[a] super-priority lien pursuant to NRS 116.3116(2) does not include an additional amount for
28 the collection fees and foreclosure costs that an HOA incurs proceeding a sale; rather, it is
limited to an amount equal to nine months of common expense assessments.” Horizon at Seven
Hills Homeowners Ass’n v. Ikon Holdings, LLC, 373 P.3d 66, 72 (Nev. 2016). Accordingly, if a
third party tenders nine months of common assessments, as was the case here, the superpriority
lien is discharged, and only the subpriority lien remains for foreclosure.

⁴⁴ Id.

1 Bay LLC Series 2227 Shadow Canyon, 405 P.3d 641, 133 Nev. Adv. Rep. 91 (2017) (“Shadow
2 Canyon”). Even if the HOA Sale had been conducted on a superpriority lien, which is not the
3 case, the HOA Sale must be set aside because the facts demonstrate both an unreasonable
4 purchase price by First 100 and at least “slight evidence of fraud, unfairness, or oppression.”
5 See id. at 643.

6 The decision of the Nevada Supreme Court in Shadow Wood Homeowners
7 Association, Inc. v. New York Community Bancorp, Inc., 132 Nev., Adv. Op. 5 (Jan. 28, 2016)
8 (“Shadow Wood”), examined the issue when a sale can be set aside by a court. The Shadow
9 Wood decision recognized the Restatement (Third) of Prop.: Mortgages § 8.3 ant. b (1997),
10 position that while “[g]ross inadequacy cannot be precisely defined in terms of a specific
11 percentage of fair market value [, g]enerally ... a court is warranted in invalidating a sale
12 where the price is less than 20 percent of fair market value and, absent other foreclosure
13 defects, is usually not warranted in invalidating a sale that yields in excess of that amount.” **In**
14 **other words, this Court can invalidate the HOA Sale if the purchase price is more than 20**
15 **percent of fair market value if there are “other foreclosure defects.”**

16 The Shadow Wood decision is consistent with Nevada’s version of the Uniform
17 Common Interest Ownership Act (“UCIOA”) which imposes an express obligation of good
18 faith on an HOA. NRS 116.31164 provides, “Every contract or duty governed by this chapter
19 imposes an obligation of good faith in its performance or enforcement.” This requirement is
20 verbatim from Section 1-113 of the UCIOA, which was adopted by the Nevada Legislature in
21 1991. See Assembly Bill 221 (1991), Section 44. The Comment to Section 1-113 of the
22 UCIOA states as follows:

23 This section sets forth a basic principle running throughout this Act: in
24 transactions involving common interest communities, good faith is required in the
25 performance and enforcement of all agreements and duties. Good faith, as used
26 (sic) in this Act, means observance of two standards: “honesty in fact”, and
27 observance of reasonable standards of fair dealing. While the term is not defined,
28 the term is derived from and used in the same manner as in Section 1-201 of the
Uniform Simplification of Land Transfers Act, and Sections 2-103(i)(b) and 7-
404 of the Uniform Commercial Code.

1 Nevada has also adopted the Uniform Commercial Code (“UCC”). See generally NRS
2 Chapter 104. Section 2-103(1)(b) of the UCC states, “Good faith ... means honesty in fact *and*
3 the observance of reasonable commercial standards of fair dealing in the trade.” (Emphasis
4 added.) Moreover, NRS 104.1201 defines good faith as “honesty in fact *and* the observance of
5 reasonable commercial standards of fair dealing.” (Emphasis added.)

6 **1. The HOA Sale price was less than 2.4% of the fair market value of the**
7 **Property.**

8 In the instant case, the undisputed facts demonstrate that First 100 entered into a pre-
9 foreclosure contract with ULS and the HOA setting the opening bid at \$99, a patently
10 unreasonable price for any habitable dwelling in Las Vegas, and in any event far less than 20%
11 of the fair market value of \$148,000, pursuant to the report of Ocwen’s expert witness, R. Scott
12 Dugan.⁴⁵ Chersus has not produced an expert report disputing Mr. Dugan’s analysis and
13 calculation of the fair market value of the Property. At the HOA Sale, the Property was sold to
14 First 100 for only \$3,500.⁴⁶ The sale price of \$3,500 represents a mere 2.36% of the
15 undisputed fair market value of the Property. Therefore, Ocwen need only present “slight
16 evidence of fraud, unfairness, or oppression” for this Court to find that the HOA Sale should be
17 set aside as a matter of law. Shadow Canyon, 405 P.3d at 643.

18 Here, there exist “other foreclosure defects” that resulted in a patently unfair, fraudulent
19 and oppressive HOA Sale:

- 20 • The HOA Sale was not conducted during normal business hours. The HOA
21 Sale took place *on Saturday*, May 25, 2013, at 9:00 a.m. at ULS’s office – 8965
22 S. Eastern Ave., Suite 350, Las Vegas, NV 89123.⁴⁷
- 23 • The HOA, ULS and First 100 colluded to ensure that First 100 would obtain
24 this Property at the HOA Sale. Their PSA set the minimum bid at \$99, and
25 prohibited the HOA from making a credit bid at the HOA Sale or otherwise

26 ⁴⁵ See Ocwen’s Initial Disclosure of Expert Witness, attached hereto as **Exhibit 22**.

27 ⁴⁶ See Receipt of Sale, attached hereto as **Exhibit 11**; *see also* Deposition of United Legal
28 Services, 63:4-10, attached hereto as **Exhibit 12**.

⁴⁷ See Notice of Foreclosure Sale attached to the RJN as **Exhibit 9**.

1 interfering with First 100's efforts to collect on the account or acquire the
2 Property.⁴⁸

- 3 • The HOA relinquished all authority to control the HOA Sale and irrevocably
4 made ULS its collection agent and foreclosure trustee for First 100.⁴⁹
- 5 • Further, even though the HOA Sale allegedly took place in the HOA's name,
6 all actions were conducted for the benefit of First 100 pursuant to its agreement
7 with the HOA.⁵⁰

8 Finally, there is fraud, oppression and unfairness associated with the foreclosure sale
9 because the HOA put the public on constructive notice in its CC&Rs—including First 100, and
10 other prospective bidders — that the HOA's foreclosure would not disturb the first Deed of
11 Trust. The CC&Rs applicable to this Property contain two relevant provisions (the "Mortgagee
12 Protection Clauses"), which represented to the world the HOA's foreclosure would not
13 extinguish the Deed of Trust:

14 7.8. Mortgagee Protection. Notwithstanding all other provisions hereof, **no lien**
15 **created under this Article 7, nor the enforcement of any provision** of this
16 Declaration shall defeat or render invalid the rights of the Beneficiary under any
17 Recorded First Deed of Trust encumbering a Unit, made in good faith and for
18 value; provided that after such Beneficiary or some other Person obtains title to
19 such Unit by judicial foreclosure, other foreclosure, or exercise of power of sale,
20 such Unit shall remain subject to this Declaration and the payment of all
21 Installments of assessments accruing subsequent to the date such Beneficiary or
22 other Person obtains title. **The lien of the assessments, including interest and**
23 **costs, shall be subordinate to the lien of any First Mortgage upon the Unit.**
24 The release or discharge of any lien for unpaid assessments by reason of the
25 foreclosure or exercise of power of sale by the First Mortgagee shall not relieve
26 the prior Owner of his or her personal obligation for the payment of such unpaid
27 assessments.⁵¹

28 7.9. Priority of Assessment Lien. Recording of the Declaration constitutes
Record notice and perfection of a lien for assessments. A lien for assessments,
including interest, costs, and attorneys' fees, as provided for herein, shall be
prior to all other liens and encumbrances on a Unit, except for: (a) liens and
encumbrances Recorded before the Declaration was Recorded, (b) a first
Mortgage Recorded before the delinquency of the assessment sought to be

⁴⁸ See Purchase and Sale Agreement, at WFZ063, attached hereto in **Exhibit 6**.

⁴⁹ Id. at WFZ062 and WFZ0064-65.

⁵⁰ Id. generally.

⁵¹ See **Exhibit 4** to the RJN, at WFZ0265 (emphasis added).

1 enforced, and (c) liens for real estate taxes and other governmental charges, and
2 is **otherwise** subject to NRS § 116.3116.⁵²

3 The Court in *Shadow Canyon* provided a non-exhaustive list of examples of what
4 qualifies as “fraud, unfairness or oppression,” noting in footnote 11 an example of such
5 unfairness being “an HOA’s representation that the foreclosure sale will not extinguish the first
6 deed of trust, *see ZYZZX2 v. Dizon*, No. 2:13-cv-1307, 2016 WL 1181666, at *5 (D. Nev. Mar.
7 25, 2016)...” *Shadow Canyon*, 405 P.3d at 648, fn 11. Here, the Mortgage Protection Clauses
8 are similar to the example illustrated by the *Shadow Canyon* court in citing to the *ZYZZX2* case.
9 Specifically, in *ZYZZX2*, the District Court stated:

10 In this case, the homeowner's association represented to both the general public as
11 well as Wells Fargo that the association's foreclosure would not extinguish the
12 first deed of trust. (Doc. #52, Exhs. 2, 4). The association sent a letter to Wells
13 Fargo and other interested parties stating that its foreclosure would not affect the
14 senior lender/mortgage holder's lien. (Doc. #52, Exh. 2). Wells Fargo,
15 consequently, had no notice from the association that its interest was at risk and
16 that it should pay off the HOA loan.

17 Furthermore, the association's Declaration of Covenants, Conditions, Restrictions,
18 Reservations and Easements for Monaco (the “Monaco Declaration”) were
19 publically available and expressly incorporated into the foreclosure deed. (Doc.
20 #52, Exh. 4). The Monaco Declaration contains a mortgage protection clause,
21 which provides, in relevant part, that the association's lien is subordinate to any
22 first security interest recorded prior to the association's notice of default. (*Id.*).

23 Plaintiff claims that because the law in question establishing the senior rights of a
24 super-priority lien has “been on the books since 1991,” it is now entitled to the
25 property free and clear of Wells Fargo's interest, contrary to the manner in which
26 the property was advertised prior to the sale.

27 However, it is precisely because NRS 116.3116 has been “on the books since
28 1991” that the association's statements concerning the title it would convey render
 the sale “unfair.” Plaintiff cannot have it both ways; if the HOA has always had a
 superpriority lien pursuant to NRS 116.3116, then it affirmatively misrepresented
 the title to Wells Fargo and the public.

 The association's notice to Wells Fargo and the information it conveyed to
 potential buyers was legally inaccurate and resulted in an unreasonably low sale
 price. Wells Fargo had no opportunity to cure Dizon's delinquency. Higher
 bidders were dissuaded from offering a commercially reasonable price based on
 the assertions that they would take title subject to the mortgage loan. This defect

⁵² *Id.* (emphasis added).

1 in sale, coupled with a disproportionately low price, demonstrates that the
2 foreclosure was unfair and commercially unreasonable. Plaintiff therefore fails to
3 establish its claim to quiet title under the two part test laid out in *Shadow*
4 *Wood and Long*.

5 *ZYZZX2 v. Dizon*, No. 2:13-cv-1307, 2016 WL 1181666, at *12-*14 (D. Nev. Mar. 25, 2016).

6 As in *ZYZZX2*, the foreclosure notices conveyed to potential buyers that they would take title
7 subject to the mortgage lien, which when coupled with a disproportionately low price,
8 demonstrates that the foreclosure was unfair and commercially unreasonable.

9 It is clear that based on *Shadow Canyon* and *ZYZZX2*, the unreasonably low sales price
10 coupled with the existence of the Mortgage Protection Clauses fulfills the “price + fraud,
11 oppression or unfairness standard”, rendering the HOA Sale invalid or, at a minimum, that it
12 was valid but did not extinguish the Deed of Trust. The HOA Sale should therefore be set
13 aside. If set aside, Chersus has no valid claim to title, let alone title superior to Ocwen’s
14 interest. Therefore, summary judgment should be entered in favor of Ocwen and against
15 Chersus.

16 **D. OCWEN’S MOTION FOR SUMMARY JUDGMENT SHOULD BE GRANTED**
17 **BECAUSE THE HOA SALE DID NOT COMPLY WITH NRS CHAPTER 116.**

18 Chersus will likely contend that every foreclosure sale under NRS Chapter 116 is
19 presumed to be a valid sale on a superpriority lien. However, NRS Chapter 116 sales are sold
20 without warranty of title pursuant to NRS 116.31164(3)(a). Also, first mortgages or deeds of
21 trust are afforded general priority over association liens pursuant to NRS 116.3116(2)(b). In
22 fact, NRS Chapter 116 contains no express provision requiring an association to record a
23 partial release or full satisfaction of the assessment lien once a super-priority portion is paid.
24 However, none of the recorded foreclosure notices in this case indicate that a superpriority lien
25 was being foreclosed, that a first deed of trust could be extinguished by the foreclosure sale, or
26 what amount was necessary to cure that portion of the HOA’s lien. First mortgages or deeds of
27 trust hold general priority over an HOA’s assessment liens, except up to nine months of
28 common assessments and any nuisance abatement costs. See NRS 116.3116(2). None of the
foreclosure notices can be presumed compliant with Nevada law, that there was a proper
foreclosure on a superpriority lien, where they fail to identify the super-priority amount. If

1 Chersus cannot prove a superpriority lien was sold at the non-judicial sale, it cannot establish
2 that it purchased a superior interest or prove that the Deed of Trust was extinguished by the
3 HOA Sale. Therefore, summary judgment should be granted in Ocwen's favor and against
4 Chersus as to all claims.

5 **E. NEITHER FIRST 100 NOR CHERSUS IS A BONA FIDE PURCHASER.**

6 Neither First 100 nor Chersus is a bona fide purchaser if it purchased property with
7 notice of another party's interest in the property. See Hewitt v. Glaser Land & Livestock Co.,
8 97 Nev. 207, 208, 626 P.2d 268, 268-269 (1981). "The authorities are unanimous in holding
9 that [the purchaser] has notice of whatever the search would disclose." Berge v. Fredericks, 95
10 Nev. 183, 189, 591 P.2d 246, 249 (1979). As a matter of law, First 100, and subsequently,
11 Chersus, purchased the Property with knowledge of the existence of the senior Deed of Trust
12 and the fact that the HOA Sale was not conducted pursuant to NRS 116.3116(2)(c).

13 Nevada's recording statute deems First 100 and Chersus to have knowledge of a prior
14 recorded interest:

15 Recording statutes provide "constructive notice" of the existence of an
16 outstanding interest in land, thereby putting a prospective purchaser on notice that
17 he may not be getting all he expected. "Constructive notice is that which is
imparted to a person upon strictly legal inference of matters which he necessarily
ought to know, or which, by the exercise of ordinary diligence, he might know."

18 Allison Steel Mfg. Co. v. Mennonite, Inc., 86 Nev. 494, 497, 471 P.2d 666, 668 (1970)
19 (quoting 8 THOMPSON ON REAL PROPERTY § 4293, at 245 16). Under the Nevada recording
20 act, "[a] subsequent purchaser with notice, actual or constructive, of an interest in the land
21 superior to that which he is purchasing is not a purchaser in good faith, and not entitled to the
22 protection of the recording act." 86 Nev. at 499, 471 P.2d at 669. Nevada's recording statute,
23 NRS 111.320, provides:

24 Every such conveyance or instrument of writing, acknowledged or proved and
25 certified, and recorded in the manner prescribed in this chapter or in NRS 105.010
26 to 105.080, inclusive, must from the time of filing the same with the Secretary of
27 State or recorder for record, impart notice to all persons of the contents thereof;
and subsequent purchasers and mortgagees shall be deemed to purchase and take
with notice.

28 First 100 acquired its interest in the Property, if any, after the prior beneficiary's

1 interest in the Deed of Trust was recorded in the Clark County Recorder's Office. First 100,
2 therefore, purchased the Property with record notice of the senior Deed of Trust as well as the
3 recorded CC&Rs. In addition, First 100 was well aware of the collusion among First 100, ULS
4 and the HOA that led to First 100 acquiring title to the Property. Therefore, First 100 was not a
5 bona fide purchaser.

6 Chersus cannot claim bona fide purchaser status for a more basic reason – Chersus did
7 not purchase the Property from First 100. Rather, as detailed above, First 100 gave its interest
8 in the Property, if any, to Chersus due to an unsuccessful earlier transaction between those
9 parties. Moreover, Chersus is charged with notice not only of the recorded Deed of Trust and
10 CC&Rs, but also the Deed of Trust foreclosure documents that were recorded after the HOA
11 Sale and before First 100 purported to transfer the Property to Chersus. During that timeframe,
12 Cooper Castle recorded the Notice of Trustee's Sale and Trustee's Deed Upon Sale against the
13 Property.⁵³ Chersus thus took any interest in the Property with record notice of Ocwen's
14 position that the Deed of Trust had not been extinguished by the HOA Sale.

15 Finally, because tender discharges the HOA's lien's superpriority portion as a matter of
16 law, any attempt by Chersus to claim to bona fide purchaser status must fail. The bona fide
17 purchaser rule is concerned with whether a purchaser takes title unaffected by "latent equity"
18 "of which he has no notice, constructive or actual." Shadow Wood Homeowners Ass'n, Inc. v.
19 New York Community Bancorp, Inc., 366 P.3d 1105, 1116 (Nev. 2016) (quoting Moore v. De
20 Bernardi, 47 Nev. 33, 54, 220 P. 544, 547 (1923)). It has no nexus to this case. The Deed of
21 Trust survived because First 100 paid the HOA more than nine months of assessments prior to
22 the HOA Sale. As the Joint Editorial Board for Uniform Real Property Acts explained, where
23 tender is made, title transfers by operation of law subject to the deed of trust.⁵⁴

24 Also, the Nevada Supreme Court has now held that a homeowners association
25 foreclosure sale based on the full lien amount, where the superpriority portion of the lien was
26 satisfied prior to the sale, renders a foreclosure sale **void**. 2713 Rue Toulouse Trust, Case No.

27
28 ⁵³ See **Exhibit 16** and **Exhibit 17** to the RJN.

⁵⁴ See fn. 32, supra.

68206, 2018 WL 3545359;⁵⁵ Aspinwall Court Trust, Case No. 69885, 2018 WL 3544962.⁵⁶
Then, considering a purchaser's claim, like that of First 100 or Chersus, that it is protected as a
bona fide purchaser, the Nevada Supreme Court concluded that the purchaser's "putative status
as a bona fide purchaser cannot validate an otherwise void sale." Id.

Here, the HOA through ULS proceeded to foreclose on the entirety of its lien despite
the pre-foreclosure satisfaction of the superpriority portion of the HOA's lien through the
payments by First 100. The result was a void foreclosure sale. Chersus's interest is, therefore,
not validated by its putative status as a bona fide purchaser.

Based on the above, Chersus cannot claim the benefit of being a bona fide purchaser or
use that status as a basis to claim superior title. Since Chersus cannot prove superior title, it
cannot prevail against Ocwen, and summary judgment should therefore be entered in favor of
Ocwen and against Chersus.

IV. CONCLUSION

Here, the undisputed evidence shows that the HOA's superpriority lien was
extinguished prior to the HOA Sale because First 100 paid off the lien to the HOA. Further,
First 100's complicated purchase and subsequent transfer of the Property demonstrate at least
"slight evidence" of unfairness, oppression or fraud that, when combined with the
unreasonably low sale price to First 100, justify setting the sale of the property aside.
Furthermore, neither First 100 nor Chersus qualifies for protection as a bona fide purchaser
because each was on actual or inquiry notice of all of these issues. Based on the above,
Ocwen's Motion for Summary Judgment should be granted and the Court should make a
judicial determination that the first deed of trust was not extinguished by the HOA Sale but

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⁵⁵ See **Exhibit 20** attached hereto.

⁵⁶ See **Exhibit 21** attached hereto.

1 remained superior to the HOA lien and any interest First 100 transferred to Chersus after the
2 HOA Sale, or in the alternative that the HOA Sale is void and the Deed of Trust remained in
3 first position in the chain of title for the Property.

4 DATED this 19th day of October, 2018.

5 WRIGHT, FINLAY & ZAK, LLP

6 /s/ Paterno C. Jurani, Esq.

7 Regina A. Habermas, Esq.

8 Nevada Bar No. 8481

9 Paterno C. Jurani, Esq.

10 Nevada Bar No. 8136

11 7785 W. Sahara Ave., Suite 200

12 Las Vegas, Nevada 89117

13 *Attorneys for Plaintiff/Counter-Defendant, Ocwen*
14 *Loan Servicing, LLC*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 19th day of October, 2018, I did cause a true copy of **OCWEN LOAN SERVICING, LLC'S MOTION FOR SUMMARY JUDGMENT** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 and/or by depositing a true copy of same in the United States Mail, at Las Vegas, Nevada, addressed as follows:

Melissa Ingleby mingleby@nelsonlawfirm.lv.com
Vernon A. Nelson vnelson@nelsonlawfirm.lv.com
Robert E. Atkinson, Esq. Robert@nv-lawfirm.com
Alexandria Raleigh ARaleigh@lawhjc.com
Brody Wight bwight@kochscow.com
Kristin Schuler-Hintz dcnv@mccarthyholthus.com
Paralegal bknotices@nv-lawfirm.com
Staff aeshenbaugh@kochscow.com
Steven B. Scow sscow@kochscow.com
Thomas N. Beckom tbeckom@mccarthyholthus.com
Master Calendering mail@nelsonlawfirm.lv.com

/s/ Lisa Cox
An Employee of WRIGHT, FINLAY & ZAK, LLP

Exhibit 6

Exhibit 6

Exhibit 6

1
2
3 CERTIFICATE OF CUSTODIAN OF RECORDS

4 STATE OF NEVADA)
5
6 ss:
7 COUNTY OF CLARK)

8 I, JULIA THOMPSON, declare as follows:

9 1. I am employed by Red Rock Financial Services ("RRFS") as supervisor, and in
10 such capacity I am the custodian of the records.

11 2. In connection with the lawsuit known as Ocwen Loan Servicing v. Chersus
12 Holdings, LLC, et al., District Court, Clark County Nevada Case No. A-14-696357-C, RRFS is
13 providing its document file for the property located at 5946 Lingering Breeze Street, Las Vegas,
14 NV 89148.

15 3. I and/or persons acting under my supervision have examined the information
16 and/or records requested, and have made a true representation of the information and/or an
17 exact copy of the records.

18 4. I hereby certify that the information and/or reproduction of documents attached
19 hereto are true and complete.

20 I declare under penalty of perjury that the foregoing is true and correct.

21 DATED this 11 day of January, 2017.

22
23
24
25
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JULIA THOMPSON



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
12/31/2008	Monthly Assessment	\$11.00	\$11.00		Monthly Assessment
12/31/2008	Master Assessments	\$54.56	\$65.56		Master Assessments
1/1/2009	Master Assessments	\$62.00	\$127.56		Master Assessments
1/1/2009	Monthly Assessment	\$11.00	\$138.56		Monthly Assessment
1/26/2009	Association Mgmt Payment	(\$68.00)	\$70.56	005243	Receipt Processing
2/1/2009	Master Assessments	\$62.00	\$132.56		Master Assessments
2/1/2009	Monthly Assessment	\$11.00	\$143.56		Monthly Assessment
2/4/2009	Association Mgmt Payment	(\$73.00)	\$70.56	05258	Lockbox Payment
3/1/2009	Master Assessments	\$62.00	\$132.56		Master Assessments
3/1/2009	Monthly Assessment	\$11.00	\$143.56		Monthly Assessment
3/5/2009	Association Mgmt Payment	(\$73.00)	\$70.56	05262	Lockbox Payment
3/27/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05270	Lockbox Payment
4/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
4/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
4/8/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05278	Lockbox Payment
5/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
5/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
5/29/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05290	Lockbox Payment
6/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
6/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
6/30/2009	Late Fees	\$10.00	\$80.56		Late Fees
7/1/2009	Master Assessments	\$62.00	\$142.56		Master Assessments
7/1/2009	Monthly Assessment	\$11.00	\$153.56		Monthly Assessment
7/10/2009	Association Mgmt Payment	(\$73.00)	\$80.56	05302	Lockbox Payment
7/23/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05308	Lockbox Payment
8/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
8/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
8/13/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05315	Lockbox Payment



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Posting	Description	Amount	Balance	Pmt Ref	Memo
9/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
9/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
9/22/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05325	Lockbox Payment
10/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
10/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
10/22/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05337	Lockbox Payment
11/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
11/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
11/17/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05342	Lockbox Payment
12/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
12/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
12/10/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05351	Lockbox Payment
1/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
1/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
1/11/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00535	Lockbox Payment
2/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
2/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
2/12/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00537	Lockbox Payment
3/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
3/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
3/9/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00538	Lockbox Payment
4/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
4/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
4/16/2010	Association Mgmt Payment	(\$73.00)	\$7.56	05397	Lockbox Payment
5/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
5/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
5/17/2010	Association Mgmt Payment	(\$73.00)	\$7.56	05406	Lockbox Payment
6/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments



Red Rock Financial Services
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Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
6/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
6/16/2010	Association Mgmt Payment	(\$81.00)	(\$0.44)	05420	Lockbox Payment
7/1/2010	Master Assessments	\$62.00	\$61.56		Master Assessments
7/1/2010	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
7/7/2010	Association Mgmt Payment	(\$73.00)	(\$0.44)	05427	Lockbox Payment
7/29/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05440	Lockbox Payment
8/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
8/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
8/13/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05444	Lockbox Payment
9/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
9/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
9/16/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05455	Lockbox Payment
10/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
10/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
10/19/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05460	Lockbox Payment
11/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
11/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
11/10/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05466	Lockbox Payment
12/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
12/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
1/1/2011	Master Assessments	\$62.00	\$61.56		Master Assessments
1/1/2011	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
1/7/2011	Association Mgmt Payment	(\$73.00)	(\$0.44)	05480	Lockbox Payment
1/28/2011	Association Mgmt Payment	(\$73.00)	(\$73.44)	05492	Lockbox Payment
2/1/2011	Master Assessments	\$62.00	(\$11.44)		Master Assessments
2/1/2011	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
2/7/2011	Association Mgmt Payment	(\$73.00)	(\$73.44)	05496	Lockbox Payment
2/22/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05501	Lockbox Payment



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Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
3/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
3/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
3/2/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05507	Lockbox Payment
4/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
4/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
4/12/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05518	Lockbox Payment
5/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
5/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
5/11/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05526	Lockbox Payment
6/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
6/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
7/1/2011	Master Assessments	\$62.00	(\$11.44)		Master Assessments
7/1/2011	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
8/1/2011	Master Assessments	\$62.00	\$61.56		Master Assessments
8/1/2011	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
8/4/2011	Association Mgmt Payment	(\$75.00)	(\$2.44)	05545	Lockbox Payment
9/1/2011	Master Assessments	\$62.00	\$59.56		Master Assessments
9/1/2011	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
9/30/2011	Late Fees	\$10.00	\$80.56		Late Fees
10/1/2011	Master Assessments	\$62.00	\$142.56		Master Assessments
10/1/2011	Monthly Assessment	\$11.00	\$153.56		Monthly Assessment
11/1/2011	Master Assessments	\$62.00	\$215.56		Master Assessments
11/1/2011	Monthly Assessment	\$11.00	\$226.56		Monthly Assessment
11/17/2011	Intent to Lien Letter	\$125.00	\$351.56		
11/17/2011	Mailing Costs	\$8.96	\$360.52		
11/17/2011	Mailing Costs	\$8.96	\$369.48		
11/29/2011	Association Interest	\$0.64	\$370.12		
11/30/2011	Late Fees	\$10.00	\$380.12		Late Fees



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Posting	Description	Amount	Balance	Pmt Ref	Memo
12/1/2011	Mailing Costs	\$8.96	\$389.08		
12/1/2011	Lien for Delinquent Assessment	\$275.00	\$664.08		
12/1/2011	Mailing Costs	\$8.96	\$673.04		
12/1/2011	Lien Release	\$33.00	\$706.04		
12/1/2011	Lien Recording Costs	\$31.00	\$737.04		
12/1/2011	Master Assessments	\$62.00	\$799.04		Master Assessments
12/1/2011	Monthly Assessment	\$11.00	\$810.04		Monthly Assessment
12/30/2011	Late Fees	\$10.00	\$820.04		Late Fees
12/30/2011	Association Interest	\$0.95	\$820.99		
1/1/2012	Master Assessments	\$62.00	\$882.99		Master Assessments
1/1/2012	Monthly Assessment	\$11.00	\$893.99		Monthly Assessment
1/13/2012	Intent to Lien Letter	\$125.00	\$1,018.99		
1/13/2012	Mailing Costs	\$8.96	\$1,027.95		
1/13/2012	Mailing Costs	\$8.96	\$1,036.91		
1/13/2012	Intent to NOD	\$90.00	\$1,126.91		
1/27/2012	Notice of Default	\$375.00	\$1,501.91		
1/27/2012	NOD Release	\$30.00	\$1,531.91		
1/27/2012	Trustee Sale Guarantee	\$205.00	\$1,736.91		
1/27/2012	NOD Recording Costs	\$22.00	\$1,758.91		
1/27/2012	NOD Release Recording Costs	\$22.00	\$1,780.91		
1/27/2012	NOD Mailing Costs	\$89.70	\$1,870.61		
1/27/2012	NOD Mailing Charges Adjustment	(\$53.82)	\$1,816.79		
1/29/2012	Association Interest	\$1.27	\$1,818.06		
1/30/2012	Late Fees	\$10.00	\$1,828.06		Late Fees
2/1/2012	Master Assessments	\$62.00	\$1,890.06		Master Assessments
2/1/2012	Monthly Assessment	\$11.00	\$1,901.06		Monthly Assessment
3/1/2012	Master Assessments	\$62.00	\$1,963.06		Master Assessments
3/1/2012	Monthly Assessment	\$11.00	\$1,974.06		Monthly Assessment



Red Rock Financial Services
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Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
3/1/2012	Association Interest	\$1.59	\$1,975.65		
3/2/2012	Late Fee	\$10.00	\$1,985.65		
3/30/2012	Late Fees	\$10.00	\$1,995.65		Late Fees
4/1/2012	Master Assessments	\$62.00	\$2,057.65		Master Assessments
4/1/2012	Monthly Assessment	\$11.00	\$2,068.65		Monthly Assessment
4/1/2012	Association Interest	\$1.91	\$2,070.56		
4/4/2012	Fine	\$50.00	\$2,120.56		Fine
4/9/2012	Intent to NOS	\$90.00	\$2,210.56		
4/18/2012	Fine	\$50.00	\$2,260.56		Fine
4/25/2012	Fine	\$50.00	\$2,310.56		Fine
4/30/2012	Late Fees	\$10.00	\$2,320.56		Late Fees
4/30/2012	Association Interest	\$2.23	\$2,322.79		
5/1/2012	Master Assessments	\$62.00	\$2,384.79		Master Assessments
5/1/2012	Monthly Assessment	\$11.00	\$2,395.79		Monthly Assessment
5/2/2012	Fine	\$50.00	\$2,445.79		Fine
5/9/2012	Fine	\$50.00	\$2,495.79		Fine
5/16/2012	Fine	\$50.00	\$2,545.79		Fine
5/23/2012	Fine	\$50.00	\$2,595.79		Fine
5/30/2012	Fine	\$50.00	\$2,645.79		Fine
5/30/2012	Association Interest	\$2.55	\$2,648.34		
5/31/2012	Late Fees	\$10.00	\$2,658.34		Late Fees
6/1/2012	Master Assessments	\$62.00	\$2,720.34		Master Assessments
6/1/2012	Monthly Assessment	\$11.00	\$2,731.34		Monthly Assessment
6/6/2012	Fine	\$50.00	\$2,781.34		Fine
6/13/2012	Fine	\$50.00	\$2,831.34		Fine
6/20/2012	Fine	\$50.00	\$2,881.34		Fine
6/27/2012	Fine	\$50.00	\$2,931.34		Fine
6/30/2012	Late Fees	\$10.00	\$2,941.34		Late Fees



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
6/30/2012	Association Interest	\$2.87	\$2,944.21		
7/1/2012	Master Assessments	\$62.00	\$3,006.21		Master Assessments
7/1/2012	Monthly Assessment	\$11.00	\$3,017.21		Monthly Assessment
7/4/2012	Fine	\$50.00	\$3,067.21		Fine
7/11/2012	Fine	\$50.00	\$3,117.21		Fine
7/18/2012	Fine	\$50.00	\$3,167.21		Fine
7/25/2012	Fine	\$50.00	\$3,217.21		Block Walls - Sprinkler Damage
7/30/2012	Association Interest	\$3.19	\$3,220.40		
7/31/2012	Late Fees	\$10.00	\$3,230.40		Late Fees
8/1/2012	Master Assessments	\$62.00	\$3,292.40		Master Assessments
8/1/2012	Monthly Assessment	\$11.00	\$3,303.40		Monthly Assessment
8/1/2012	Fine	\$50.00	\$3,353.40		Block Walls - Sprinkler Damage
8/8/2012	Fine	\$50.00	\$3,403.40		Block Walls - Sprinkler Damage
8/14/2012	Intent to Conduct Foreclosure	\$25.00	\$3,428.40		
8/15/2012	Fine	\$50.00	\$3,478.40		Block Walls - Sprinkler Damage
8/22/2012	Fine	\$50.00	\$3,528.40		Block Walls - Sprinkler Damage
8/29/2012	Fine	\$50.00	\$3,578.40		Block Walls - Sprinkler Damage
8/29/2012	Association Interest	\$3.53	\$3,581.93		
8/31/2012	Late Fees	\$10.00	\$3,591.93		Late Fees
9/1/2012	Master Assessments	\$62.00	\$3,653.93		Master Assessments
9/1/2012	Monthly Assessment	\$11.00	\$3,664.93		Monthly Assessment
9/5/2012	Fine	\$50.00	\$3,714.93		Block Walls - Sprinkler Damage
9/12/2012	Fine	\$50.00	\$3,764.93		Block Walls - Sprinkler Damage
9/19/2012	Fine	\$50.00	\$3,814.93		Block Walls - Sprinkler Damage
9/26/2012	Fine	\$50.00	\$3,864.93		Block Walls - Sprinkler Damage
9/29/2012	Association Interest	\$3.85	\$3,868.78		
9/30/2012	Late Fees	\$10.00	\$3,878.78		Late Fees
10/1/2012	Master Assessments	\$62.00	\$3,940.78		Master Assessments



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
10/1/2012	Monthly Assessment	\$11.00	\$3,951.78		Monthly Assessment
10/3/2012	Fine	\$50.00	\$4,001.78		Block Walls - Sprinkler Damage
10/10/2012	Fine	\$50.00	\$4,051.78		Block Walls - Sprinkler Damage
10/17/2012	Fine	\$50.00	\$4,101.78		Block Walls - Sprinkler Damage
10/24/2012	Fine	\$50.00	\$4,151.78		Block Walls - Sprinkler Damage
10/30/2012	Fine	\$50.00	\$4,201.78		Landscaping - Palm Fronds - Trim
10/30/2012	Association Interest	\$4.17	\$4,205.95		
10/31/2012	Fine	\$50.00	\$4,255.95		Block Walls - Sprinkler Damage
10/31/2012	Late Fees	\$10.00	\$4,265.95		Late Fees
11/1/2012	Master Assessments	\$62.00	\$4,327.95		Master Assessments
11/1/2012	Monthly Assessment	\$11.00	\$4,338.95		Monthly Assessment
11/7/2012	Fine	\$50.00	\$4,388.95		Block Walls - Sprinkler Damage
11/13/2012	Fine	\$50.00	\$4,438.95		Landscaping - Palm Fronds - Trim
11/14/2012	Fine	\$50.00	\$4,488.95		Block Walls - Sprinkler Damage
11/20/2012	Fine	\$50.00	\$4,538.95		Landscaping - Palm Fronds - Trim
11/21/2012	Fine	\$50.00	\$4,588.95		Block Walls - Sprinkler Damage
11/27/2012	Fine	\$50.00	\$4,638.95		Landscaping - Palm Fronds - Trim
11/28/2012	Fine	\$50.00	\$4,688.95		Block Walls - Sprinkler Damage
11/29/2012	Association Interest	\$4.49	\$4,693.44		
11/30/2012	Late Fees	\$10.00	\$4,703.44		Late Fees
12/1/2012	Master Assessments	\$62.00	\$4,765.44		Master Assessments
12/1/2012	Monthly Assessment	\$11.00	\$4,776.44		Monthly Assessment
12/4/2012	Fine	\$50.00	\$4,826.44		Landscaping - Palm Fronds - Trim
12/5/2012	Fine	\$50.00	\$4,876.44		Block Walls - Sprinkler Damage
12/11/2012	Fine	\$50.00	\$4,926.44		Landscaping - Palm Fronds - Trim
12/12/2012	Fine	\$50.00	\$4,976.44		Block Walls - Sprinkler Damage
12/18/2012	Fine	\$50.00	\$5,026.44		Landscaping - Palm Fronds - Trim
12/19/2012	Fine	\$50.00	\$5,076.44		Block Walls - Sprinkler Damage



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
12/25/2012	Fine	\$50.00	\$5,126.44		Landscaping - Palm Fronds - Trim
12/26/2012	Fine	\$50.00	\$5,176.44		Block Walls - Sprinkler Damage
12/30/2012	Association Interest	\$4.81	\$5,181.25		
12/31/2012	Late Fees	\$10.00	\$5,191.25		Late Fees
1/1/2013	Master Assessments	\$62.00	\$5,253.25		Master Assessments
1/1/2013	Monthly Assessment	\$11.00	\$5,264.25		Monthly Assessment
1/1/2013	Fine	\$50.00	\$5,314.25		Landscaping - Palm Fronds - Trim
1/1/2013	Monthly Assessment	(\$11.00)	\$5,303.25		Adj 01/13 Monthly Assessment
1/1/2013	Master Assessments	(\$62.00)	\$5,241.25		Adj 01/13 Master Assessments
1/1/2013	Master Assessments	\$72.00	\$5,313.25		Master Assessments
1/2/2013	Fine	\$50.00	\$5,363.25		Block Walls - Sprinkler Damage
1/8/2013	Fine	\$50.00	\$5,413.25		Landscaping - Palm Fronds - Trim
1/29/2013	Association Interest	\$5.13	\$5,418.38		
2/1/2013	Master Assessments	\$72.00	\$5,490.38		Master Assessments
3/1/2013	Master Assessments	\$72.00	\$5,562.38		Master Assessments
3/1/2013	Association Interest	\$5.45	\$5,567.83		
3/2/2013	Late Fees	\$10.00	\$5,577.83		Late Fees
3/31/2013	Late Fees	\$10.00	\$5,587.83		Late Fees
4/1/2013	Master Assessments	\$72.00	\$5,659.83		Master Assessments
4/1/2013	Association Interest	\$5.77	\$5,665.60		
4/8/2013	Payoff Demand	\$150.00	\$5,815.60		Cooper Castle

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement"), executed on April 23, 2013 ("Effective Date") is made by and between buyer **FIRST 100, LLC**, a Nevada limited liability company ("Buyer"), seller **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**, a Nevada non-profit corporation ("Seller"), and authorized agent **UNITED LEGAL SERVICES INC.**, a Nevada corporation and law firm ("Agent"). Buyer, Seller, and Agent may be referred to hereafter individually as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, Seller possesses delinquent homeowner's association assessments related to and arising from the monthly, quarterly, semi-annual or annual HOA fees for parcels of real property as described in **Exhibit 1** attached hereto, including interest and late charges thereon (the "Current Delinquent Assessments"); and

WHEREAS, Seller reasonably anticipates that in the future other parcels of real property in its association will also become delinquent on monthly HOA assessments, including interest and late charges thereon (the "Future Delinquent Assessments") (collectively with the Current Delinquent Assessments hereinafter referred to as the "Delinquent Assessments"); and

WHEREAS, the Current Delinquent Assessments have previously been recognized as income by Seller,¹ and the parties agree and understand that the Assets sold herein (as defined below) constitute proceeds and receivables relating to past income, and in no way constitute future income or assessments; and

WHEREAS, Seller anticipates that payments on and proceeds relating to the Delinquent Assessments will be received by, or otherwise are payable to, the Seller (as assessment claimant and lienholder) in the future (i) whether paid in cash, check, money order, credit card, debit card, escrow, or otherwise, and (ii) whether paid pre-foreclosure, via a foreclosure sale conducted pursuant to NRS §116.3116 *et. seq.*, through post-lender-foreclosure lien satisfaction, or otherwise, and (iii) whether paid by the homeowner, unit owner, interested party, third party, or otherwise (the "Proceeds on Past Income" or "PPF"); and

WHEREAS, Seller desires to reduce its costs of carrying and collection of the Delinquent Assessments; and

WHEREAS, for the duration of the term of the Agreement, Seller desires to sell to Buyer select PPI arising from the Delinquent Assessments for an amount to be proposed by Buyer (and subject to acceptance by Seller) on the terms and conditions contained in this Agreement, and Buyer desires to purchase the same; and

WHEREAS, in facilitation of this Agreement, and in recognition that Buyer is bearing the costs and risks associated with an unknown future PPI stream, Seller agrees to cease using its existing collections agency on the Select Delinquent Assessments (as defined below), and further agrees to not send to any of the Select Delinquent Assessments to any other collections agency; and

WHEREAS, to protect Buyer from third-party lawsuits against the Seller that may arise in the future, Seller hereby grants a security interest in the PPI sold pursuant to this Agreement and authorizes that Buyer and/or its designees may file a UCC-1 Financing Statement, as may be amended or renewed from time to time, identifying the PPI (as accounts receivable) as collateral; and

¹ Similarly, any Future Delinquent Assessments at that time in the future would have (by then) previously been recognized as income by the Seller prior to their PPI being subject to sale under this Agreement.

WHEREAS, some of the Select Current Delinquent Assessments are in various stages of lien/default/foreclosure; and

WHEREAS, Seller agrees to henceforth use Agent as its designated agent and hereby irrevocably appoints and authorizes Agent to act on Seller's behalf, as its agent, attorney, collections agency, and person conducting the sale (to the maximum extent possible as those terms are used in NRS §116.3116 *et. seq.*) only for those select Delinquent Assessments for which the PPI are sold pursuant to this Agreement, as proposed by Seller and as mutually agreed upon by Buyer (the "Select Delinquent Assessments"), and to prepare the various notices and conduct foreclosure sales on behalf of Seller for any parcels of any Select Delinquent Assessments that currently are, or may at any time be, in default or subject to foreclosure, and: (i) Agent agrees to assume the rights, duties and obligations of that role; and (ii) Buyer agrees to assume all costs and pay for the services provided by the Agent to Seller under this Agreement;

NOW, THEREFORE, in consideration of the mutual representations, warranties, and covenants of the Parties as provided below, the Parties, intending to be legally bound, do hereby agree as follows:

ARTICLE I. INCORPORATION

Section 1.01 Incorporation of Recitals. The recitals of this Agreement above are true, and accurately reflect the intent of the Parties, and they are hereby incorporated into and made a part of this Agreement.

Section 1.02 Incorporation of Exhibits. The Exhibits attached to this Agreement, namely:

- EXHIBIT 1: Select Current Delinquent Assessments and Initial Payment Price
- EXHIBIT 2: Authorization to Release Information
- EXHIBIT 3: Template for Sale of PPI from Select Future Delinquent Assessments

are hereby incorporated into and made a part of this Agreement.

ARTICLE II. SALE AND PURCHASE

Section 2.01 Assets Sold. Subject to the terms and conditions herein set forth, for the consideration of the Payment Price (as defined below) and the other consideration contained herein, and on the basis of the representations, warranties and agreements herein contained, Seller hereby sells and transfers to Buyer the following property (hereinafter the "Assets"):

- All of Seller's interest in any and all PPI arising from or relating to the Select Delinquent Assessments.

Section 2.02 Payment Price. The price paid by Buyer for the PPI arising from the Select Current Delinquent Assessments shall be the total price as proposed by the Buyer and as agreed to by the Seller (the "Initial Payment Price"). Similarly, the prices subsequently paid by Buyer for the occasional sale to Buyer of PPI arising from the Select Future Delinquent Assessments will be the price as then proposed by the Buyer and as agreed to by the Seller (the "Subsequent Payment Price").

ARTICLE III. DUTIES AND OBLIGATIONS OF BUYER, SELLER, AND AGENT

Section 3.01 Seller's Duties and Obligations (Pre-Sale). Prior to sale to Buyer of any PPI, Seller agrees (if it

has not already done so) to, and hereby does:

- (a) Authorize Agent to compose and mail a Notice of Delinquent Assessment ("Notice of Delinquent Assessment") to each parcel ("Parcel") associated with each Select Delinquent Assessment;
- (b) Authorize Agent to execute in its behalf, for each Parcel, a Notice of Lien, Notice of Default and Election to Sell, and Notice of Foreclosure Sale, each naming the Seller as lienholder;
- (c) Authorize Agent to interact with the Seller's current collections agency to obtain the current amount of collections costs accrued for each Select Delinquent Assessment;
- (d) Authorizes Agent and Buyer to interact with the Seller's community manager and collections agency (and hereby instructs the community manager and collections agency to engage in such interaction) to subsequently identify the Select Future Delinquent Assessments, including Parcel identification and then-current outstanding collections costs; and
- (e) Shall provide Buyer a copy of the applicable CC&Rs for the community, along with any amendments thereto.

Section 3.02 Seller's Duties and Obligations (Post-Sale to Buyer). After sale of any PPI to Buyer, Seller hereby:

- (a) Authorizes and instructs the Seller's community manager and current collection agency that, for each Select Delinquent Assessment: (i) that the account is to be transferred to Agent, and (ii) the collections agency is no longer is responsible for collections efforts on those Select Delinquent Assessments. Seller agrees to cease using any third party collections agent for any PPI sold to Buyer;
- (b) Instructs its community manager and collections agency to promptly remit to Buyer all PPI (whether received directly, by the community manager, or remitted to the prior collections agency, or otherwise) that may be paid to or received by Seller (wherein such proceeds are used to satisfy past due assessments first, followed by current assessments, followed by past due late fees and interest, unless otherwise directed by the remitter of such payment), with such remittance to Buyer to occur within one week;
- (c) Instructs its community manager and collections agency to promptly (within two business days) notify the Agent of any Parcel for which the homeowner has paid a Select Delinquent Assessment claim in full;
- (d) Instructs its community manager and prior collections agency to permit Agent at any time to confirm with community manager and prior collections agency that the relevant Select Delinquent Assessment has not been paid in full;
- (e) Agrees that Agent may collect payments and funds received in satisfaction of PPI and remit such payments collected directly to Buyer, and hereby pre-authorizes Agent to endorse checks payable to Seller in order to facilitate this remittance;
- (f) Agrees that Buyer, at Buyer's sole option, may place back any Delinquent Assessment with Seller for any Parcel in which a bankruptcy has been filed prior to any foreclosure sale that identifies the Parcel as property of the bankruptcy estate, and if such place back occurs then Seller shall credit Buyer's account for the original purchase price paid by

Buyer to Seller (inclusive of any collections costs advanced by Buyer on behalf of Seller) for the PPI on that Parcel's delinquent assessment, with such credit to be applied towards the next Subsequent Payment Price and in no instance shall Seller be required to remit cash back to Buyer;

- (g) Agrees that Agent, as authorized agent for Seller, may interact directly with the community manager and former collections agency to obtain information on the Select Delinquent Assessments, the amounts due, and whether any payments were remitted prior to sale by the homeowner, and hereby authorizes and instructs the community manager and former collections agency to interact with Agent on these matters, and as further shown in **Exhibit 2**;
- (h) Irrevocably authorizes and instructs Agent to expeditiously move forward on behalf of the Seller with the foreclosure sale on each Parcel, pursuant to NRS §116;
- (i) Agrees that Agent may use sub-agents for auctions;
- (j) Agrees to forward and refer to Agent all homeowner calls/emails that Seller may receive regarding the Notice of Default or Notice of Foreclosure Sale, and hereby instructs its community manager to do the same;
- (k) Grants an irrevocable proxy to Buyer and Agent to act on the behalf of Seller with respect to any short-sale (or any other) offers made to pay off, or enter into a payment plan, on any Select Delinquent Assessment;
- (l) Places with the Agent a pre-set opening credit bid for Seller of ninety-nine dollars (\$99.00) for each Parcel ("Opening Bid"), and authorizes the Agent to open the auction for any Parcel with the Opening Bid, and not to bid any higher;
- (m) Authorizes the Agent to prepare foreclosure deeds for all sales, reflecting the value as the higher of: (i) the total amount of the lien, or (ii) the sales price at auction;
- (n) That any deficiency between the total lien amount due at sale and the final winning bid amount at auction shall survive as an unsecured debt of the homeowner, and: (i) that all right, title, and interest in any such deficiency shall, upon sale at auction, be transferred to Buyer or its assigns; and (ii) that Buyer can, at its own cost, initiate collections actions on that unsecured debt, with any net proceeds thereof from such post-foreclosure collections actions to be property of Buyer; and (iii) Agent is hereby authorized to prepare and execute bills of sale to Buyer or its assigns for title to any such deficiency remaining after the application of proceeds of the sale pursuant to NRS §116.31164(3)(c); and
- (o) To provide reasonable audit rights to Buyer to ensure that remittances made to Seller which are due to Buyer (as referred to in subsection (b) above) are being paid promptly and accurately.
- (p) Hereby provides Board authorization that Buyer may rent the property to tenants, and, if the CC&Rs for the community prohibit renting to non-owner-occupants, this authorization shall act as a waiver to Buyer of that restriction.

Section 3.03 Buyer's Duties and Obligations. Buyer agrees:

- (a) To promptly pay the Initial Purchase Price to the Seller within 30 days of execution of this document by all Parties;

- (b) To promptly pay the Subsequent Purchase Price(s) upon each sale of the PPI for the Future Delinquent Assessments;
- (c) To cover all of Seller's obligations to its collections agency for collections work performed relating to the Assets sold hereunder, up to the statutory maximum, provided, however, that the collections agency agrees to extend to Buyer any indemnification its provided to Seller regarding: (i) the accuracy of the amounts owed for each Parcel, and (ii) the legal compliance of any recorded documents prepared by it;
- (d) To maintain all units purchased by Buyer at foreclosure sale in compliance with the CC&R obligations to the Seller, inclusive of timely remittance of all future assessments following the foreclosure sale, as well as to bring into compliance and maintain ongoing each units compliance for so long as the Buyer owns any property it may purchase at foreclosure sale;
- (e) To pay for all of the costs of Agent for services provided by Agent to Seller hereunder, and Agent agrees not to seek any payment whatsoever from Seller for fees or expenses of all services provided by Agent relating to this Agreement; and
- (f) To promptly pay for all of the costs of Agent in support of the Agent's obligation to promptly and diligently move forward with foreclosure sales.

Section 3.04 Agent's Duties and Obligations. Agent agrees:

- (a) To be paid solely by Buyer (under separate payment arrangement with Buyer) for all for fees or expenses incurred for all services provided by Agent to Seller relating to this Agreement, and not to seek any payment whatsoever from Seller;
- (b) To prepare and record any appropriate documents required by statute on any particular Parcel not heretofore recorded, including Notice of Lien, Notice of Default and Election to Sell, and Notice of Foreclosure Sale, and to mail/notice/serve all documents as may be required by statute, with such recordation costs to be borne by Buyer, and Seller hereby authorizes the Agent to do the same;
- (c) To handle inbound queries and process payments from homeowners relating to the PPI, including entering into payment plans with homeowners or authorizing sale postponements, in Agent's discretion, and Seller hereby authorizes the Agent to do the same;
- (d) To not perform any outbound-calling collections efforts on the PPI, other than (i) the implied and inherent collections efforts in the recordations, notices, and mailings of the documents identified in subsection (b) above, or (ii) returning inbound calls from homeowners;
- (e) To report to the Seller and Buyer of any Parcel for which the homeowner or other person in interest has, prior to foreclosure, entered into a payment plan or made full payment on a Select Delinquent Assessment;
- (f) In Agent's sole discretion, to appear on behalf of Seller in any bankruptcy proceeding of any homeowner to seek relief from the automatic stay or any other appropriate relief, at Buyer's cost, and Seller hereby authorizes the Agent to do the same;
- (g) To appropriately and responsibly act (as agent and attorney) on behalf of Seller (as principal and client) in carrying out its duties hereunder, including conducting foreclosure sales, the execution thereof which may be carried out by sub-agents as designated by Agent, which Seller hereby authorizes;

- (h) To promptly and diligently move forward with foreclosure sales;
- (i) To apply foreclosure sale proceeds in accordance with NRS §116.31164(3)(c); however, because Seller's portion of said proceeds are PPI, Agent shall remit the Seller's portion directly to Buyer.

ARTICLE IV. REPRESENTATIONS and WARRANTIES

Section 4.01 Prior to the sale of any PPI to Buyer. Seller warrants and represents that:

- (a) The dollar amount of delinquent assessment for each Select Delinquent Assessment (as communicated to Agent by Seller's community manager or collections agency) is accurate as of the date of sale to Buyer, except for sums which may be owed to the Association as current assessments; and
- (b) The PPI sold to Buyer originate only from Select Delinquent Assessments arising from overdue monthly HOA assessments (together with late charges and interest), and not compliance account fines or penalties arising from a homeowner's violation of the governing documents.

Section 4.02 After the sale of any Receivable to Buyer. Seller warrants and represents that:

- (a) Seller will promptly remit to Buyer all payments that may be paid directly to or received by Seller on the Select Delinquent Assessments;
- (b) Seller will not take any action to reduce or discourage incoming payments on the Select Delinquent Assessments, or to inhibit the process of receiving PPI;
- (c) Seller will not agree to (and hereby instructs Agent to similarly not agree to) any homeowner payment plan proposal regarding any Select Delinquent Assessment that:
 - (i) pays less than the full lien amount due as of the proposed date of sale, or
 - (ii) requires more than 12 months to complete;
- (d) Seller will not take any action or inaction that would reduce the Select Delinquent Assessment obligations on any Parcel, other than through: (i) an actual payment received; or (ii) the foreclosure sale contemplated herein;
- (e) Seller will not permit any event to occur or otherwise fail to take any action which could have an adverse effect on the ability to accept PPI owed;
- (f) Seller will not pledge, hypothecate, encumber, collateralize, or otherwise suffer claims against any of the PPI relating to the Select Delinquent Assessments;
- (g) It will not discuss the confidential terms of this Agreement with any homeowner, tenant, or occupant of any Select Delinquent Assessment, and will refer any inquiring person or entity to Agent (not Buyer).
- (h) Seller will cease outside collections efforts on the Select Delinquent Assessments (but may continue to use outside third-party collections agents for compliance account fines and penalties); and
- (i) That for all foreclosure sales, Seller shall not send any person or agent to credit bid for or on behalf of the Seller on any Parcel in any amount in excess of the Opening Bid.

Section 4.03 Ownership. Seller represents and warrants that it is the sole legal owner of the Assets.

Section 4.04 No Third-Party Encumbrances or Rights to Acquire. Seller represents and warrants that there are no judgments, court order, contracts, liens, notes, hypothecations, options, or any other agreements or instruments whatsoever that either: (i) encumbers, collateralizes, pledges, liens, or otherwise grants the Assets as security; or (ii) allows any person or entity (including Seller) to acquire the Assets.

Section 4.05 Authorization. Seller, Buyer, and Agent represent that each is authorized to engage in the transaction described herein. The signatories to this Agreement personally represent that they are authorized signatories of the Parties. Seller has approved this Agreement by Board vote.

ARTICLE V. TERM, TERMINATION, AND DEFAULT

Section 5.01 Term. The Term of this Agreement ("Initial Term") shall be three (3) years from the Effective Date. At the end of the Initial Term, this Agreement shall automatically renew on a year-to-year basis (with each successive year a "Successive Term") unless either Buyer or Seller provides a written notice of non-renewal no earlier than 90 but no later than 45 days prior to the expiration of the Initial Term or any Successive Term (a "Non-Renewal Notice Period").

Section 5.02 Termination. This Agreement shall terminate upon one of the following conditions:

- (a) Delivery of a written notice of non-renewal by either Buyer or Seller during a Non-Renewal Notice Period; or
- (b) Upon a failure by either Buyer or Seller to timely cure an Event of Default, as described below, unless expressly waived by the Parties; or
- (c) By mutual agreement.

Section 5.03 Effect of Termination. In recognition of the subsequent and occasional sale of the PPI portfolio sold to Buyer, and of the potentially substantial sums paid up front to Seller by Buyer for each portfolio of PPI, termination of this Agreement shall be orderly. Upon termination:

- (a) Seller shall remain responsible for all remittances received by Seller relating to any and all PPI that were (i) sold to Buyer and also (ii) paid in full by Buyer prior to the termination date ("Sold and Paid for PPI");
- (b) Agent shall remain responsible for foreclosing on all Select Delinquent Assessments relating to the Sold and Paid for PPI prior to the termination date, at Buyer's expense;
- (c) Seller shall have no further obligation to make subsequent PPI sales to Buyer.

Any PPI whose purchase price were not paid in full by Buyer prior to the termination date ("Sold But Not Paid For PPI") shall upon termination of this Agreement be automatically reversed back to Seller at no cost, with all rights to and interest in the Sold But Not Paid For PPI immediately vesting back in Seller.

Section 5.04 Default. The following events shall constitute a material breach of this contract and be considered an event of default hereunder ("Event of Default"):

- (a) Failure of Buyer to pay the Initial Purchase Price to Seller within ten (10) business days of complete execution of this Agreement and identification of the Select Current Delinquent Assessments.
- (b) Failure of Buyer to pay any Subsequent Payment Price to Seller within ten (10) business days of the subsequent placement of PPI on the Select Future Delinquent Assessments.
- (c) Failure of any Party to perform their duties and obligations under Article III of this Agreement, without cure after five (5) days' written notice of default by another Party.
- (d) Material breach of any other term of this Agreement, without cure after fifteen (15) days' written notice of default by another Party.

ARTICLE VI. INDEMNIFICATION

Section 6.01 Indemnification by Buyer. With respect to any Assets sold to Buyer, Buyer will indemnify, defend (including provide counsel for), and hold harmless Seller and Agent in the event of any lawsuit, class action, regulatory proceeding, or administrative proceeding relating to: (i) pre-foreclosure challenges by homeowner; (ii) any post-foreclosure "wrongful foreclosure" suits; or (iii) the business model of Buyer, with three exceptions: Neither Buyer nor Agent shall be responsible for, nor indemnify Seller in any way whatsoever in, any lawsuits, class actions, regulatory proceedings, or administrative proceedings:

- (a) In the event that any of the documents, recordings, or mailings for which Seller or its community manager or any of its collections agents or other agents (other than Agent) prepared are alleged to be materially flawed or defective in any way (including lien amounts);
- (b) For any so-called "improper collections" actions heretofore filed against Seller prior to the execution of this Agreement, or filed or brought against Seller, Buyer, or the Agent after the execution of this Agreement, that relate in any way to collections activities of Seller's previous collections agent(s); or
- (c) Arising from any violation of any warranties of Seller made Article IV.

Buyer's indemnification of Seller and Agent is subordinated to any indemnification provided to Seller by its prior or current collections agencies or community manager(s). It is the intent of the parties that if any lawsuit or proceeding either (i) names the Seller's community manager or collections agency, or (ii) alleges flaws in the documents produced, recorded, and/or served by Seller's community manager or collections agency (including flawed calculations of lien amounts owed), then Seller's community manager or collections agency should be indemnifying Seller in such action.

ARTICLE VII. GENERAL PROVISIONS

Section 7.01 Confidentiality. Seller, Buyer and Agent agree to keep the terms of this Agreement confidential, with the exception of communications that may occur between the parties and Seller's community manager, collections agency, and their attorneys. In no event should the Agreement terms contained herein be communicated to any third party, including homeowners, tenants, or occupants of community properties relating to the Select Delinquent Assessments, provided,

however, that Seller is permitted to discuss and vote on this Agreement and any amendments thereto in public board meetings, as may be required.

Section 7.02 Notices. All notices must be in writing. A notice must be delivered to a Party at the following addresses:

If to Buyer: **FIRST 100, LLC**
11920 Southern Highlands Pkwy, Suite 200
Las Vegas, NV 89141
Phone: (702) 823-3600

If to Seller: **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**
Attn: c/o RMI Management
630 Trade Center Dr
Las Vegas, NV 89119
Phone: 702-737-8580

If to Agent: **UNITED LEGAL SERVICES INC.**
8965 South Eastern Ave Suite 350
Las Vegas, NV 89123
Phone: (702) 617-3263
Fax: (702) 614-0647

or to a new address that a Party subsequently designates in writing. To be effective, a notice must be delivered in person, by U.S. mail, or by overnight courier.

Section 7.03 Assignment and Succession. Buyer is permitted to freely assign or pledge its ownership interest in the Assets. This Agreement is binding on and enforceable by each Party's successors and assignees.

Section 7.04 Governing Law. This agreement will be governed by and construed in accordance with the laws of the state of Nevada. Venue shall be in Clark County, Nevada.

Section 7.05 Limitation of Liability. Subject to the indemnification provisions of Article VI, neither party will be liable to the other for losses or damages (including special or consequential damages such as lost profits or loss of use) arising from any cause of action related to this Agreement, whether in contract, tort, or otherwise.

Section 7.06 Severability. If any court determines that any provision of this agreement is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this agreement invalid or unenforceable.

Section 7.07 Integration. The Parties actively negotiated the terms of this Agreement. This Agreement sets forth the entire agreement of the Parties. It replaces and supersedes any and all oral agreements or statements made between the Parties, as well as any prior writings. As of the date of execution of this Agreement, there are no side agreements or other agreements or contracts, oral or otherwise, between the parties relating to the subject matters discussed herein.

Section 7.08 Limited Scope of Attorney-Client Representation. By this contract, an attorney-client relationship is established between Agent and Seller; however, Agent is not the general counsel

for Seller and is the attorney-at-law of Seller only for the limited scope of services described herein and contemplated to be performed by Agent under this Agreement. Communications between Agent and Seller shall be privileged attorney-client communications.

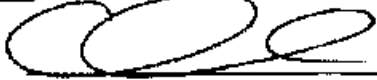
- Section 7.09 Waiver of Conflict of Interest. Seller and Buyer hereby waive any conflict of interest, actual or potential, that arises from either: (i) the Agent's position and payment arrangement described in this Agreement (*e.g.*, Agent is an agent-attorney to Seller's principal-client, but Agent's costs and fees are paid for by Buyer); or (ii) that Agent and Buyer's outside counsel have shared staff, which Seller hereby acknowledges.
- Section 7.10 Dispute Resolution. In the event of a failure to reasonably resolve any issues among any of the Parties (or their owners, assigns, or successors), the disputes of those parties will be referred to binding arbitration for resolution thereof, and each party waives any right to litigation in favor of such resolution through binding arbitration.
- (a) Arbitration shall be conducted under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). Judgment on the arbitrator's award may be entered in any court having jurisdiction thereof. The arbitration shall be held in the City of Las Vegas and State of Nevada, and shall be conducted before a single arbitrator agreeable to the parties or, if no agreement can be reached, then as selected by the AAA. The arbitrator shall make findings of fact and law in writing in support of his decision, and shall award reimbursement of attorney's fees and other costs of arbitration to the prevailing party as the arbitrator deems appropriate. The provisions hereof shall not preclude any party from seeking preliminary injunctive relief to protect or enforce its rights hereunder, or prohibit any court from making preliminary findings of fact in connection with granting or denying such preliminary injunctive relief after and in accordance with the decision of the arbitrator. No decision of the arbitrator shall be subject to judicial review or appeal; the parties waive any and all rights of judicial appeal or review of any decision of the arbitrator.
 - (b) Should any party initiate a civil proceeding against any other, notwithstanding the binding arbitration provision above, such party initiating civil litigation shall recognize that it has caused material damage and harm to the other by way of their breach of this agreement, and hereby agrees to an award, to each named defendant party, liquidated damages in the amount of any costs of defense incurred by the aggrieved party plus ten thousand dollars (\$10,000.00).
- Section 7.11 Modification. This Agreement may be amended only by a writing signed by all Parties.
- Section 7.12 Counterparts. This Agreement may be executed in a number of counterparts, each of which shall be deemed an original and all of which together shall constitute the same document.
- Section 7.13 Delivery by Facsimile. Delivery by facsimile of an executed counterpart by any Party to any Party shall have the same force and effect as a delivery in person of that document.

* * * * *

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

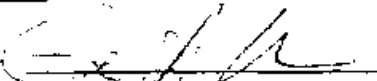
BUYER: FIRST 100, LLC

By: 
Authorized Signatory

4-29-13
Date

Printed Name: CHRIS WOOD

SELLER: SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

By: 
Board Member

4/23/2013
Date

Printed Name: Erin A CAMDEN

AGENT: UNITED LEGAL SERVICES INC.

By: 
Robert Atkinson, President

4/25/13
Date

EXHIBIT 1:
Select Current Delinquent Assessments and Initial Payment Price

EXHIBIT I to PURCHASE and SALE AGREEMENT

No.	Property Address	Assessments Due	Purchase Price
1	5783 Field Breeze St	\$1,826.00	\$1,208.28
2	5812 Pastel Colors St	\$707.23	\$707.23
3	5922 Moon Garden St	\$946.00	\$946.00
4	5946 Lingerin Breeze St	\$1,381.56	\$1,208.28
5	10007 Liberty View Rd	\$1,001.00	\$1,001.00
6	6036 Fair Valley St	\$776.00	\$776.00
7	6071 Mild Wind St	\$606.00	\$606.00
8	6141 Yucca Fields Ct	\$3,835.00	\$1,208.28
9	6175 Novelty St	\$966.00	\$966.00
10	9544 Knotweed Ave	\$866.00	\$866.00
11	9734 Mild Weather Ct	\$2,036.00	\$1,208.28
12	9766 Gentle Spirit Dr	\$1,233.98	\$1,208.28
13	9772 Gentle Spirit Dr	\$590.00	\$590.00
14	9775 Colored Wind Ave	\$2,564.00	\$1,208.28
15	9783 Colored Wind Ave	\$2,126.00	\$1,208.28
16	9828 Maidenfair Ct	\$1,645.00	\$1,208.28
17	6123 Yucca Fields Ct	\$2,736.00	\$1,208.28
18	6117 Yucca Fields Ct	\$3,364.86	\$1,208.28
19	9484 Moon Vista Ave	\$1,895.00	\$1,208.28
20	5984 Lingerin Breeze St	\$647.00	\$647.00
21	6055 Amazing Grace Ct	\$208.00	\$208.00
22	9933 Wonderful Day Dr	\$2,387.00	\$1,208.28
23	9728 Gentle Spirit Dr	\$1,885.00	\$1,208.28
24	9524 Spring Blush Ave	\$146.00	\$146.00
Total		\$36,374.63	\$23,166.87

INITIAL PAYMENT PRICE (PAID TO HOA)

\$23,166.87

*plus collections costs (paid directly to collections company), per the Offer Letter*ACCEPTED BY SELLER:

By:

Board Member

Date

4/23/2013

CONFIDENTIAL

Page 13 of 17

WFZ0072

AA0408

EXHIBIT 2:
Authorization to Release Information

AUTHORIZATION TO RELEASE INFORMATION

HOA: SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

Collections Agency: Red Rock Financial Services

Community Manager: RMI Management

Pursuant to the Purchase and Sale Agreement between the parties (the "Agreement"):

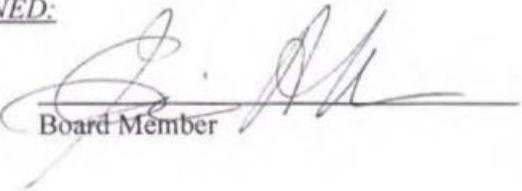
United Legal Service, Inc. ("Agent") and First 100, LLC ("Buyer") hereby authorized to interact with the above-referenced Collections Agency and Community Manager to: (i) obtain the current amount of collections costs accrued, and (ii) to determine whether any payments are remitted by the homeowner prior to auction.

The above-referenced HOA hereby gives permission to the above-referenced Collections Agency and Community Manager to Buyer and Agent on all properties shown on Exhibits 1 or 3 to the Agreement.

Upon receipt of the payment of the collections costs accrued, the Collections Agency is hereby authorized and instructed to transfer the collections account to Agent.

SIGNED:

By:


Board Member

4/23/2013
Date

EXHIBIT 3:
Template for Sale of PPI from Select Future Delinquent Assessments

EXHIBIT 3 to PURCHASE and SALE AGREEMENT

HOA: SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

Pursuant to the Purchase and Sale of Select Current and Future Delinquent Assessment Receivables Agreement between the parties, the following property is added as a Select Delinquent Assessment:

APN:

Street Address:

The proceeds of the Receivables for the above Select Delinquent Assessment are hereby sold to First 100, LLC.

Sale Price:

SIGNED:

By: _____
Board Member

Date

Exhibit 7

Exhibit 7

Exhibit 7

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DISTRICT COURT
CLARK COUNTY, NEVADA
OCWEN LOAN SERVICING, LLC, a)
foreign Limited Liability)
Company,)
Plaintiff,)
vs.) CASE NO. A-14-696357-C
DEPT NO. IV
CHERSUS HOLDINGS, LLC, a)
domestic limited liability)
company; FIRST 100, LLC, a)
domestic Liability company;)
SOUTHERN TERRACE HOMEOWNERS)
ASSOCIATION, a Domestic)
Non-Profit Corporation; RED ROCK)
FINANCIAL SERVICES, LLC, a)
foreign limited liability)
company; UNITED LEGAL SERVICES,)
INC., a domestic corporation;)
DOES I through X; and ROE)
CORPORATIONS XI through XX,)
inclusive,)
Defendants.)

DEPOSITION OF ROY CORDERO
30(b)(6) REPRESENTATIVE OF SOUTHERN TERRACE
HOMEOWNERS ASSOCIATION
Taken on Thursday, August 2, 2018
At 10:00 a.m.
At Wright Finlay & Zak, LLP
7785 W. Sahara Avenue
Suite 200
Las Vegas, Nevada
REPORTED BY: SHIFRA MOSCOVITZ, CCR NO. 938
Pages 1- 55

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CHERSUS HOLDINGS, LLC, a)
Domestic Limited Liability)
Company,)
)
Counterclaimant,)
)
vs.)
)
OCWEN LOAN SERVICING, LLC, a)
Foreign Limited Liability)
Company,)
)
Counter-Defendants.)
-----)

1 APPEARANCES:

2 For Ocwen Loan Servicing, LLC:

3 PATERNO JURANI, ESQ.
4 WRIGHT FINLAY & ZAK, LLP
5 7785 W. Sahara Avenue
Suite 200
Las Vegas, Nevada 89117
(702)435-7569

6

7

8 For Southern Terrace Homeowners Association:

9 ASHLIE L. SURUR, ESQ.
HALL JAFFE & CLAYTON, LLP
10 7425 Peak Drive
Las Vegas, Nevada 89128
11 (702)316-4111

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Also Present: LENETTA FORSHEE

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EXAMINATION

WITNESS:	PAGE
Roy Cordero	
Examination by	
Mr. Jurani	5
Ms. Surur	50

EXHIBITS

EXHIBIT		PAGE
Exhibit A	Notice of Deposition	11
Exhibit B	Initial Disclosures	14
Exhibit C	Purchase and Sale Agreement	18
Exhibit D	Delinquent Assessment Lien	42
Exhibit E	Notice of Default	44
Exhibit F	Notice of Foreclosure Sale	46

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LAS VEGAS, NEVADA; AUGUST 2, 2018

10:00 A.M.

-oOo-

(NRCp Rule 30(b)(4) waived by the parties prior to the
commencement of the deposition.)

(FRCP Rule 30(b)(5) waived by the parties prior to the
commencement of the deposition.)

Thereupon--

ROY CORDERO,
was called as a witness, and having been first duly sworn,
was examined and testified as follows:

EXAMINATION

BY MR. JURANI:

Q. Good morning, could you please state and
spell your name for the record?

A. Roy Cordero, R-O-Y C-O-R-D-E-R-O.

Q. And for the record, can you please give
your appearance?

MS. FORSHEE: Yes, my name is Lenetta
Forshee, and I am the community manager. Do
you need the spelling?

MR. JURANI: Your last name?

MS. FORSHEE: F-O-R-S-H-E-E.

MS. SURUR: Ashley Surur, I am counsel for
Southern Terrace.

1 Q. My name is Paterno Jurani, and I represent
2 Ocwen Loan Servicing in this matter. You understand
3 you are here with regard to a lawsuit titled Ocwen
4 versus Chersus Holdings, et cetera?

5 A. Yes, I saw the notice.

6 Q. Okay. And you understand you are here
7 with regard to an HOA sale that was conducted on
8 behalf of Southern Terrace Homeowners Association,
9 is that right?

10 A. Yes.

11 Q. What is your position with Southern
12 Terrace?

13 A. Currently, I am the president.

14 Q. Have you ever had your deposition taken
15 before?

16 A. Yes.

17 Q. How many times?

18 A. About four.

19 Q. When is the last time?

20 A. I would have to say the beginning of this
21 year.

22 Q. Okay. I will just kind of go over real
23 quickly some of our normal admonitions. She is
24 taking down everything we say so please allow me to
25 finish my question and I will allow you to finish

1 your answers so we are not talking over each other,
2 okay?

3 A. Okay.

4 Q. Please give verbal responses like yes or
5 no, don't shake your head or say uh-huh or uh-uh?

6 A. Yes.

7 Q. Okay. If you don't understand one of my
8 questions, please ask me to clarify I am not here to
9 trick you up I am just need to make sure you
10 understand my question before you answer, okay?

11 A. Yes.

12 Q. I am entitled to your best estimate, but
13 please don't guess, okay?

14 A. Yes.

15 Q. Following this deposition, you will be
16 given a chance to review a transcript. I will
17 caution you, if you make any substantive changes
18 those changes could be used to reflect on your
19 credibility, okay?

20 A. Yes.

21 Q. Is there any reason you would not be able
22 to give your best testimony today?

23 A. No.

24 Q. Example, medication, anything like that?

25 A. I am a diabetic, I am on an insulin pump,

1 that wouldn't have any effect.

2 Q. Okay. You understand we are here with
3 regard to property 5946 Lingering Breeze Street, Las
4 Vegas, Nevada 89148?

5 A. Yes.

6 Q. So if I refer to the property that's the
7 property I am referring to, if I refer to the HOA
8 sale, I am referring to the sale that took place May
9 25th, 2013 okay?

10 A. Yes.

11 Q. Are you familiar with Red Rock Financial
12 Services?

13 A. Yes.

14 Q. Okay. So if I say Red Rock or HOA
15 trustee, that's who I am referring to?

16 A. Yes.

17 Q. Are you familiar with United Legal
18 Services, Inc.?

19 A. Yes.

20 Q. If I say ULS, that's who I am referring
21 to?

22 A. Okay.

23 Q. Are you familiar with Chersus Holdings,
24 Inc., I am sorry, Chersus Holdings, LLC?

25 A. No.

1 Q. Well, if I say Chersus, that's who I am
2 referring to. And I will represent to you that's
3 the current, well they later purchased the property
4 from First 100. Are you familiar with First 100,
5 LLC?

6 A. Yes.

7 Q. So if I say First 100, again, that's who I
8 am referring to. How did you prepare for your
9 deposition today?

10 A. Just went over the general document.

11 Q. The HOA documents?

12 A. Yes, I guess the response to you, response
13 to the subpoena.

14 Q. Okay. Does the HOA use a management
15 company?

16 A. Yes.

17 Q. Who do they use?

18 A. First Services.

19 Q. Did you use First Services, back in 2013?

20 A. I don't know if that was the same name,
21 but they kind of merged to First Services.

22 Q. Okay. Essentially the same entity?

23 A. Yes, same entity, but changed the name, it
24 kind of.

25 Q. Maybe some restructuring there?

1 A. Yes.

2 Q. Are the records maintained by the HOA
3 separately or by First Services?

4 A. By First Services.

5 Q. Did you see the HOA have any kind of
6 separate file at all?

7 A. No.

8 Q. What is your highest level of education?

9 A. College.

10 Q. What kind of degree, did you obtain a
11 degree?

12 A. Yes, a BA.

13 Q. And in what?

14 A. Business administration and also public
15 policy.

16 Q. Okay. Do you hold any professional
17 licenses?

18 A. No.

19 Q. Do you have any formal training in real
20 estate?

21 A. No.

22 Q. How about in law?

23 A. No.

24 Q. Other than your attorney in preparation
25 for this deposition, did you speak to anybody?

1 A. No.

2 Q. I am going to mark exhibit A. This should
3 be the amended notice of taking deposition. Have
4 you seen the document before?

5 (Exhibit A was marked for
6 identification.)

7 A. Yes.

8 Q. Okay. When is the last time you reviewed
9 it?

10 A. Yesterday.

11 Q. Okay. And do you see on page, starting on
12 Page 2, there is a list of topics, stemming all the
13 way through looks like Page 5, do you see that?

14 A. I am sorry, come again?

15 Q. There is a list of topics starting on Page
16 2, going all way through 5. Did you review those
17 topics?

18 A. Yes.

19 Q. As you reviewed those topics did you
20 identify anyone that you felt might be a better
21 person to respond to those topics?

22 MS. SURUR: Objection, form.

23 A. No.

24 Q. Have you testified at trial at all?

25 A. No.

1 Q. Can you kind of go over with me the
2 process the HOA goes through as far as identifying
3 delinquent accounts?

4 A. Yes, standards process is that if you are
5 late two months payment, then the management company
6 will notify you to come to a hearing before the
7 executive board, to explain how you are late or how
8 you want to rectify the payment. If you don't show
9 up, then it goes to the collection agency.

10 Q. Okay. To clarify was that the same
11 procedure back in 2012, 2013, time frame?

12 A. I can't respond to that for this
13 particular case, this was not party to that, but I
14 was only on the board, I came on the board
15 October 13, 2013, October.

16 Q. Okay. So October, 2013 is when you first
17 started on the board?

18 A. Yes, that was the practice when I went on
19 the board, but I can't speak prior to that.

20 Q. How long have you been president?

21 A. I have been president going on my fifth
22 year.

23 Q. Were you president since the time that you
24 have been on the board?

25 A. No, I was a treasurer.

1 Q. Treasurer initially?

2 A. Yes, before president.

3 Q. How long were you treasurer?

4 A. One year.

5 Q. So you were treasurer one year and then
6 president since then, is that right?

7 A. Yes.

8 Q. When you say that, well, did you say it
9 was actually First Services that would notify the
10 borrower or the homeowner that they were delinquent,
11 is that right?

12 A. No, you asked me the process what the
13 normal process is?

14 Q. Right?

15 A. To become delinquent you have to be two
16 payments behind, and then after that the management
17 company, First Services in this case would notify
18 the property owner that it would have to come to a
19 hearing before the board because you are delinquent.
20 And then from there if they would make any appeal or
21 payment request or something to the board then the
22 board will either grant or deny it. Or if they
23 didn't show up it would automatically go to the
24 collection company.

25 Q. Okay. Is part of the process for either

1 the HOA or the management company to send letters
2 advising the homeowner that they are delinquent?

3 A. Yes.

4 Q. Okay. How many letters do they send?

5 A. They send an initial letter.

6 Q. Is that after two months delinquent?

7 A. Yes.

8 Q. Any other letter after that?

9 A. Again, once it goes to the, it will
10 probably end up going to collections if no agreement
11 has come up.

12 Q. So just to make sure I am clear, so if an
13 account is delinquent two months the management
14 company sends a letter to the homeowner, if the
15 homeowner were not to appear at any kind of HOA
16 meeting it would be sent to a collection agency, is
17 that right?

18 A. Yes, and that's normally a three month
19 process, total.

20 Q. Does the HOA have any separate collection
21 policy -- actually, let me, let's mark this as
22 Exhibit B.

23 (Exhibit B was marked for
24 identification.)

25 So this is a copy of the initial

1 disclosures from the HOA produced, but not all the
2 exhibits because they were pretty lengthy, if you
3 look, when you turn to the actual exhibits, if you
4 look at the bottom right number, they have what we
5 call a Bates number. If you can turn to HOA 148 for
6 me, please?

7 MS. SURUR: Do you mind if we make a
8 record of which exhibits you actually attached?

9 MR. JURANI: Sure, I mean I will be going
10 over it.

11 Q. All the attachments?

12 MR. JURANI: I think so, yes.

13 MS. SURUR: We can do it at the end if we
14 need to. I just want to make sure if somebody
15 reads this transcript they understand what
16 pages were attached.

17 A. What page should I go to?

18 Q. HOA 148?

19 A. Okay.

20 Q. Have you seen the document before?

21 A. On this one I have to say no.

22 Q. Okay. If can you look at the beginning of
23 this disclosure, the second page, it has a list of
24 the documents.

25 A. Okay.

1 Q. And you will see under number 11 it says
2 collection policy, then HOA 148 to 154, which would
3 be the document I asked to you look at, is it your
4 understanding this is the collection policy for the
5 HOA?

6 A. Yes.

7 Q. Does that refresh your memory as to what
8 this is?

9 MS. SURUR: Objection, form. And asked
10 and answered.

11 A. You are asking me if this is.

12 Q. Does this refresh your recollection, you
13 said you are not familiar with, I believe?

14 A. I have not seen this specifically, because
15 I don't know if this is, can I ask a question?

16 MS. SURUR: You can say whatever you want.

17 A. I don't know if this is the current or, it
18 could be the current, but we had some modifications,
19 and I can't speak if this is the current policy or
20 not.

21 Q. Can you look to HOA 154, which should be
22 the last page? Actually, that's my question. Is
23 this the current one?

24 A. My signature is not on there so that's
25 what I am saying.

1 MS. SURUR: Roy, what date was this
2 signed?

3 A. 2013, September.

4 MS. SURUR: Had there been any changes or
5 modifications since September of 2013, if you
6 know.

7 A. Not to my knowledge, I can only respond to
8 that.

9 Q. Do you know if there is a subsequent
10 collection policy that you have signed?

11 A. No.

12 Q. Did you become president fair to say after
13 the date of this policy, which is dated
14 September 19th, 2013?

15 A. I was, I became the board member after
16 this, in October, so this was signed prior to me
17 being on the board.

18 Q. Okay. Would you know whether or not this
19 policy was in effect in the 2012, 2013 time frame,
20 the time when this account was being handled?

21 A. Based on the date I would say that's an
22 effective date.

23 Q. I am sorry, you are saying it's effective
24 the date it was signed?

25 A. I would assume, based on the date it would

1 be effective date based on all the board member
2 signatures.

3 Q. Okay. Are you aware if this sale actually
4 took place on May 25th, 2013. So prior to the date
5 this one was signed, right, are you aware if a
6 collection HOA collection policy was in effect
7 during the handling of this particular account?

8 A. Yes, it was my understanding that it went
9 to collection, the association there was a policy.

10 Q. Okay.

11 A. And the collection agency was Red Rock,
12 and then also with the assignment and agreement it
13 was Legal Services.

14 Q. Are you referring to the purchase and sale
15 agreement with United Legal Services and the HOA?

16 A. Correct.

17 Q. Is it your understanding that is an actual
18 collection policy?

19 MS. SURUR: Objection, form. Misstates
20 testimony.

21 Q. Do you understand the question?

22 A. No, I don't understand the question.

23 (Exhibit C was marked for
24 identification.)

25 Q. Okay. Let's go ahead and enter this as

1 Exhibit C. Have you seen that document before?

2 A. Yes.

3 Q. What is it?

4 A. It's a purchase and sale agreement.

5 Q. We will go into a lit bit more later, but
6 does this purchase and sale agreement provide any
7 instruction as far as how the sale should be
8 conducted?

9 A. Specifically, when it was in the contract
10 it states the agreements between all parties.

11 Q. Okay.

12 A. I can only refer to what is in the
13 contract.

14 Q. Okay. Well we will return it. So going
15 back as far as the HOA's procedures. You are
16 referring to the fact that you referred the case to
17 the collection agent, is that right?

18 A. Correct.

19 Q. And who is that?

20 A. Red Rock Services.

21 Q. And that's after, if nobody comes to the
22 hearing after approximately three months, is that
23 right?

24 A. Well, it's a three month process you have
25 to be delinquent again two payments and then you

1 notify the company before the executive board to
2 state your case and you show up and then you make
3 some points, you make some modifications or you make
4 some payments, and if the board accepts it you are
5 on a payment plan, if they don't accept, it goes to
6 the committee or if you don't know show up it
7 automatically goes to the collection agency.

8 Q. Is there a separate agreement with Red
9 Rock and the HOA?

10 A. The collection agreement, yes.

11 Q. Who was it that chose Red Rock, was it
12 First Services or was it the HOA?

13 A. The HOA.

14 Q. And what is actually provided to Red Rock
15 when the account is referred to them?

16 A. First Services provided them whatever
17 information they need and they take care of it from
18 there.

19 Q. Okay. But it's First Services that
20 provides it?

21 A. Yes, the management company provides
22 information.

23 Q. Are you aware of what information they
24 provide?

25 A. No.

1 Q. What is the scope of Red Rock's authority
2 as far as handling the account?

3 MS. SURUR: Objection, form, calls for
4 legal conclusion.

5 Q. You can answer, unless she instructs you
6 not to, you can still answer?

7 A. They are responsible for handling all the
8 collection process.

9 Q. Do they handle all the mailings?

10 A. Yes.

11 Q. All the publications?

12 A. Yes.

13 Q. Recording of documents?

14 A. Yes.

15 Q. Does Red Rock draft all the documents?

16 A. Red Rock takes care of everything, the
17 board does not handle anything on that, once it's
18 with Red Rock.

19 Q. Does the HOA require that Red Rock obtain
20 any kind of title policy?

21 A. I don't know, I mean the agreement is that
22 Red Rock is responsible for taking care of
23 everything, you have to keep in mind the board is
24 only a part-time board, it's not full-time, we are
25 not legal either so we depend on the collection

1 agency to handle all the information.

2 Q. Does the board have any requirement that
3 Red Rock obtain, for example, a trustees sale
4 guarantee?

5 A. Again, whatever they have to do by law is
6 what the board expects the collection agency to do.

7 Q. Okay. Does the board require Red Rock to
8 review the CC&R's?

9 A. Again, I don't know specifically what the
10 agreement is, whatever is in the agreement, if
11 that's in the agreement, that's what they would have
12 to do, but the question on the CC&R's.

13 Q. Okay. Are you familiar with, throughout
14 the course of handling this account, are you aware
15 of any time where Red Rock was not in compliance
16 with CC&R's?

17 A. Not to my knowledge, not to the
18 association's knowledge.

19 Q. How about ULS, during the course of
20 handling this account are you aware of any time when
21 they were not in compliance with the CC&R's?

22 A. Not to the association's knowledge.

23 Q. Okay. Over the course of handling this
24 account, are you aware of any time when Red Rock was
25 not in compliance with any kind of delinquent

1 collection policy the HOA may have had?

2 A. Again, not to the association's knowledge.

3 Q. What about with regard to ULS?

4 A. Again, not to the association's knowledge.

5 Q. And you said you are familiar with First
6 100, is that right?

7 A. The agreement, First 100 agreement.

8 Q. Are you familiar with First 100 as a
9 company?

10 MS. SURUR: Objection, form.

11 A. No, I don't know, I never met them.

12 Q. Was this agreement signed prior to your
13 membership on the board?

14 A. Yes.

15 Q. Other than this agreement, are you aware
16 of any other dealings the HOA had with First 100?

17 A. Association had no knowledge of any other
18 agreements. The answer is no, the association had
19 no agreements.

20 Q. Other than this one?

21 A. Yes.

22 Q. Let's look at this again, Exhibit C, are
23 you familiar with this document?

24 A. Yes.

25 Q. What is your understanding of what it is?

1 A. That the association entered into an
2 agreement with First 100 to share the proceeds of
3 past income and that they would, there is a list of
4 properties and the list of properties that they
5 would go ahead and pay us a certain amount of money
6 for the proceeds, the past income and then from
7 there they would be responsible for continuing
8 payment for the assessments and be responsible for
9 the property.

10 Q. So just to make sure I am understanding
11 you correctly, as far as what is being sold, it's
12 the proceeds of past income?

13 MS. SURUR: I am going to object to form,
14 the document speaks for itself.

15 A. Yes.

16 Q. How much was this particular property sold
17 for?

18 MS. SURUR: Objection, form. Misstates
19 testimony.

20 A. I don't know, I would have to look on the
21 list.

22 Q. Okay. Can you look on page, and again we
23 have Bates numbers on these?

24 A. Yes.

25 Q. WFZ 0072?

1 A. Okay.

2 Q. Do you see this property?

3 A. Property number 20.

4 Q. I believe it's 5946 Lingering Breeze?

5 MS. SURUR: Number four.

6 A. Yes.

7 Q. So it says in the right column purchase

8 price, \$1,208.28, is that right?

9 A. Yes.

10 Q. Is your understanding that is what First

11 100 paid pursuant to this contract?

12 A. Yes.

13 Q. Do you know how that was calculated?

14 A. I do not.

15 Q. Do you know who would know how it was

16 calculated?

17 A. The collection agency.

18 Q. Meaning Red Rock?

19 A. Red Rock, correct.

20 Q. Are you who negotiated this contract With

21 First 100?

22 MS. SURUR: Objection, form, from the HOA?

23 MR. JURANI: Yes.

24 A. The board.

25 Q. Okay. And is Red Rock a party to this?

1 A. No, they are not a party to this.

2 Q. So can you explain what you mean when you
3 say that Red Rock would have determined how much the
4 price would be?

5 A. Because this is what delinquent they would
6 have been handling in the beginning prior to this
7 agreement.

8 Q. Okay.

9 A. So prior to this agreement is probably,
10 this is how I got to this stage because Red Rock was
11 the collection agency and they were handling this
12 case and I think this delinquent was over two years
13 old or something. So then when they entered this
14 agreement, that's when things changed.

15 Q. Okay. So would it be fair to say that the
16 HOA agreed to this amount based on information from
17 Red Rock, is that what you mean?

18 MS. SURUR: Objection, form.

19 A. They would have agreed to what was due, so
20 then I guess the agreement, some other arrangements
21 were made.

22 Q. Okay. Again, on line four, Page 72, under
23 that second to the right column where it says
24 assessments due \$1,381.56, do you see that?

25 A. Yes.

1 Q. Do you know how, well, do you know if that
2 was the amount actually owed for assessments due at
3 this time, it looks like this was dated April 23,
4 2013, do you see that date on the bottom?

5 A. Yes.

6 Q. And then as I mentioned assessment due is
7 \$1,381.56, do you know if that's the actual amount
8 due at that time?

9 A. I don't know.

10 Q. And then do you know how then if the
11 amount due was 1,381.56, how the purchase price was
12 arrived at of \$1,128.38?

13 MS. SURUR: Objection, form.

14 A. I don't know.

15 Q. But it's your belief that Red Rock would
16 probably know?

17 A. I believe whoever entered this agreement
18 knows.

19 Q. If you can could turn to WFZ 0070?

20 A. I'm sorry, what is the number again?

21 Q. Two pages before, 70, it should be the
22 signature?

23 A. Yes.

24 Q. And you mentioned whoever entered the
25 agreement, who entered the agreement on behalf of

1 the HOA?

2 MS. SURUR: Objection, form, vague.

3 A. Signature on the contract is Aron Camden.

4 Q. Are you familiar with Aron Camden?

5 A. Yes.

6 Q. Who is she?

7 A. She is the president at the association.

8 Q. At this time frame, is that right?

9 A. Yes.

10 Q. Do you know how long Aron was, Ms. Camden
11 was president?

12 A. Oh, it was my understanding something like
13 this is approximate, seven years.

14 Q. Do you know when she stopped being
15 president of the board?

16 A. When I became the president, that would
17 have been 2014.

18 Q. Okay. Was she, did she remain a board
19 member after that time?

20 A. Yes.

21 Q. And you see above her signature, it looks
22 like it's for First 100, it looks like Chris Weed,
23 does that look like that to you?

24 A. Yes.

25 Q. Are you familiar with that person?

1 A. No.

2 Q. How about on the bottom, it says Robert
3 Atkinson, president for United Legal Services, are
4 you familiar with Mr. Atkinson?

5 A. No.

6 Q. Had you ever met Mr. Atkinson?

7 A. No.

8 Q. As part of this agreement, did the HOA
9 relinquish its right to foreclose on the property?

10 MS. SURUR: Objection, form. Foundation,
11 the contracts speak for itself, calls for legal
12 conclusion.

13 A. Again, I have to refer to the contract.

14 Q. Okay. So you don't have any independent
15 knowledge?

16 A. No.

17 Q. Do you know if the contract gives First
18 100 the exclusive right to foreclose on the
19 property?

20 A. Again?

21 MS. SURUR: Objection, form.

22 A. I guess what ever is written in the
23 documents is what we have to refer to.

24 Q. What is your understanding of ULS's rule
25 in this agreement?

1 A. Again, I have to go back to the agreement,
2 whatever is written in the agreement is the
3 association's understanding.

4 Q. Is it your understanding that First 100
5 was the agent of the HOA?

6 MS. SURUR: Objection, form, vague.

7 A. Again, I have to refer back to what is
8 written in the agreement.

9 Q. Okay. Do you have an understanding of
10 whether or not ULS was an agent of the HOA?

11 MS. SURUR: Objection, form, vague.

12 A. Again, I would have to refer to what is
13 written in the agreement.

14 Q. Okay. You have no independent knowledge,
15 is that right?

16 A. No.

17 MS. SURUR: I am just going to object. He
18 is not here to give his personal testimony
19 about his personal knowledge he is here as
20 representative of the HOA.

21 Q. Well, you understand when I say personal
22 knowledge I am referring to your personal knowledge
23 as the president of the HOA?

24 A. Yes.

25 MS. SURUR: I am going to object, again

1 outside the scope. This is a deposition of the
2 30(b)(6).

3 A. He was not deposed as Roy Cordero.

4 Q. Looking again at the purchase and sale
5 agreement, 0060, about midway down, it is kind of
6 the bigger paragraph, at the end of the paragraph it
7 says proceeds on past income or PPI?

8 A. Right.

9 Q. Do you have an understanding of what PPI
10 is?

11 A. Proceeds of past income.

12 Q. And what does that mean to you?

13 A. The assessments were due that were owing
14 to the association.

15 Q. If I can have you turn back again to the
16 disclosures, which I believe were Exhibit B.

17 A. All right.

18 Q. So as I said, we did not include all
19 exhibits, but the first exhibit we did include, it's
20 listed as number four on here, but it starts as HOA
21 11?

22 A. HOA 11.

23 Q. Okay. And this is listed as the
24 December 2008 to 2009 property account ledger, and
25 it says HOA 11 through 16. Okay. Are you familiar

1 with this document?

2 A. Yes.

3 Q. What is it?

4 A. It's a ledger of payments and fines.

5 Q. For this property, is that right?

6 A. Yes.

7 Q. Who would have generated this letter?

8 A. This would be generated by First Service
9 s.

10 Q. Okay. So the management company on behalf
11 of the HOA, is that fair?

12 A. Correct.

13 Q. Does Red Rock have any input into this?

14 A. They provide whatever information that
15 they need to prepare the ledger or information that
16 they have to go back and forth on if any
17 communication happens between Red Rock and the
18 management company.

19 Q. Okay. So for example if Red Rock received
20 a payment it would be reflected on this ledger?

21 A. Again, how they put this information I
22 can't give you detail, I don't know.

23 Q. How much are the assessments, can you tell
24 me.

25 A. On this particular.

1 MS. SURUR: Objection, form, vague as to
2 time.

3 A. I can only base what is on the ledger.

4 Q. In the 2012 calendar year what were the
5 monthly assessments?

6 A. It looks like it was a total of \$63, I
7 mean \$73, I am sorry.

8 Q. In 2012?

9 A. I am looking at 2012. On page 13 on 2012,
10 HOA-13.

11 Q. And just so I am understanding, for
12 example, at January 1st, 2012, so there it says MA,
13 monthly assessment, \$11 and MAST, master assessment,
14 \$26, are you adding those two?

15 A. Yes, it's really one fee, it's the
16 accounting process, there is really no, all the
17 money just goes to Southern Terrace.

18 Q. Okay. Do you have an understanding of why
19 it's printed like that?

20 A. At the time I guess the management company
21 set it up, they may have thought it was going to be
22 separate subassociations, but it only turned out
23 just to be one.

24 Q. Okay. So during the 2012 to current, it
25 was only just Southern Terrace HOA, is that right?

1 A. Correct.

2 Q. There never was any kind of sub?

3 A. No.

4 Q. And then for 2013, can you tell me how
5 much the assessments were?

6 A. Same, no change \$11 and \$62.

7 Q. Can you look at for example, March 1st,
8 2013?

9 A. Okay.

10 Q. It looks like it just says MAST, master
11 assessments and then \$72, is that right?

12 A. Yes.

13 Q. Did it actually go down one dollar to 72?

14 A. It must have.

15 Q. There is no longer any separate MAST, is
16 that right?

17 A. Yes, it looks like that's the time when
18 they can consolidate both of them.

19 Q. Are you able to tell me how many months
20 delinquent when it was referred to Red Rock?

21 A. No, I cannot.

22 Q. Are you able to tell me how many months it
23 was delinquent when it was sold to First 100?

24 A. No, I cannot.

25 Q. If you can look on we are still on HOA 15,

1 if you look at the date, June 27, 2013?

2 A. Yes.

3 Q. The first line, it says LF void 5-13 L5
4 Post COE minus ten dollars, do you know what that
5 means?

6 A. They voided the fine, I mean the late
7 payment.

8 Q. Okay. Voided the late payment charge, is
9 that right?

10 A. Yes.

11 Q. And then next one, it says MAST TRSFR,
12 does that mean transfer, do you know?

13 A. It looks like there is a credit.

14 Q. Well, let me finish then, TRSFR, 6-13
15 MAST, and then minus 72, that's what you are
16 referring to as credit?

17 A. Yes, it looks like the credit was given.

18 Q. Do you know what that was for?

19 A. I do not know.

20 Q. The next line, again, it's still June 27,
21 2013, it says First 100 PIF 5/25/13, check number
22 1547, and then minus \$1,208.28, do you see that?

23 A. Yes.

24 Q. What is your understanding of what that
25 means?

1 A. Looks like the credit.

2 Q. What is that credit for?

3 A. Looks like a credit to the assessment.

4 Q. Was that for the sale to First 100?

5 A. I would speculate, I can't respond
6 definitely, but I don't know.

7 Q. Okay. Do you know what PIF means?

8 A. No, I don't.

9 Q. Do you know if that would mean paid in
10 full?

11 A. It could, I don't know.

12 Q. Going down to just a couple of lines,
13 September 17, 2013, there are multiple lines, see
14 there are four going down that first line, it says
15 FINE, then it says LF, and then it says MA, and then
16 MAST, and then under the next column for all of them
17 it says bad debt -- First 100 - AT, do you know what
18 those are?

19 A. Yes, that means the debt was written off.

20 Q. Written off for what reason?

21 A. Well, we normally, if the association when
22 things have been resolved and there is a debt
23 withstanding were titled to write it off it is not
24 receivable anymore and makes other bad debts look
25 better.

1 Q. Does that mean it was written off as
2 uncollectible?

3 MS. SURUR: Objection, form, foundation,
4 and outside the scope of the deposition notice.

5 A. I don't know.

6 Q. If I can have you look at the, so the next
7 listing?

8 A. Give me a page number?

9 Q. Sure. The next thing that was produced is
10 HOA 17, and it was number five on the list, and its
11 called the First 100 LLC account ledger, are you
12 familiar with that document?

13 A. Yes.

14 Q. And what is it?

15 A. Again, it's a ledger for assessments and
16 also for fines and also transfers.

17 Q. Okay. But this one is under resident name
18 First 100, is that right?

19 A. Correct, which means they are the property
20 owner.

21 Q. Property owner for this ledger, is that
22 right?

23 A. Yes.

24 Q. If can you go to the next one is HOA 18?

25 A. Okay.

1 Q. And this is six on the initial disclosure
2 by the HOA, it's called Ocwen account ledger and it
3 goes from HOA 18 to 23. What is your understanding
4 of what this document is?

5 A. This document is assessments, fines, yes,
6 assessments and fines.

7 Q. Okay. Is it fair to say that when Ocwen
8 was the owner of the property?

9 MS. SURUR: Objection, form.

10 A. Again, this is stating who the property
11 owner is on this ledger.

12 Q. Which states Ocwen, is that right?

13 A. Yes.

14 Q. Now, the next document, and this is next
15 in line, number seven in the initial disclosures,
16 account information it says HOA 4 through 32?

17 A. Okay.

18 Q. Do you recognize those documents?

19 A. No, I do not.

20 Q. So referring to the first page, HOA 24, at
21 the top, it says account change request form. You
22 don't recognize the document, is that right?

23 A. No, association, again, doesn't handle the
24 day-to-day operation, paperwork.

25 Q. Okay. At the bottom it says it looks like

1 it's RMI Management, LLC, do you see that?

2 A. Yes.

3 Q. Are you familiar with RMI?

4 A. Yes.

5 Q. And who are they?

6 A. They use to be our other collection
7 company, no, that's not the management company,
8 apologize. This is the, RMI is the same as First
9 Services.

10 Q. Okay. Is that who are you referring to
11 that First Services changed names?

12 A. Yes.

13 Q. Do you have an understanding of what this
14 document is, HOA 24?

15 A. Only what it says on the form.

16 Q. The next page, HOA 25, are you familiar
17 with that document?

18 A. I am familiar with the document, based on,
19 again, what is on the report, delinquent payment
20 report.

21 Q. Okay. Do you know where this document
22 would have come from?

23 A. It would have come from, again, the
24 management company.

25 Q. And then the next document produced,

1 number eight, from the HOA's called account write
2 off and they are HOA 33 through 43?

3 A. Okay.

4 Q. Are you familiar with those documents?

5 A. No, again, based on the information, in
6 terms of the form, not the form, but I guess I am
7 familiar with the write off situation.

8 Q. Okay. And the next one that I actually
9 provided was we discussed, it's the collection
10 policy, number 11, 148 through 154, those should be
11 all the documents?

12 A. Okay.

13 Q. In the 2012, 2013 time frame, what was the
14 HOA's understanding of what a super priority was?

15 MS. SURUR: Objection, form, calls for a
16 legal conclusion, calls for speculation.

17 A. I would again refer to whatever the law
18 states.

19 Q. Okay. Do you have an understanding of
20 what the HOA thought a super priority lien entailed
21 in 2012, 2013?

22 MS. SURUR: Objection form, vague, calls
23 for legal conclusion, calls for speculation,
24 asked and answered.

25 A. The answer is no.

1 Q. Back in the 2012, 2013 time frame, what
2 was the HOA's understanding of when a super priority
3 was triggered?

4 MS. SURUR: Objection, form, foundation,
5 calls for legal conclusion.

6 A. Based on whatever was in the law, the
7 association, the answer would be no.

8 Q. Do you know in the 2012, 2013 time frame
9 whether the HOA believed the super priority was not
10 triggered until the beneficiary of the deed of trust
11 was foreclosed?

12 MS. SURUR: Objection, form, foundation,
13 calls for legal conclusion.

14 A. Again, all our advice is whenever it was
15 triggered was legal advice, so again, the
16 association didn't act on its own, it's based on
17 legal advice.

18 Q. I am sorry, could you repeat that?

19 A. The association, when they act, it always
20 gets it from either professional collection agencies
21 or whatever, the board never made an independent
22 judgment.

23 Q. You let the collection agency handle it,
24 is that what you are saying?

25 A. Yes.

1 (Exhibit D was marked for
2 identification.)

3 Q. Do you recognize that document?

4 A. Again, I can only read the document based
5 on what the document says.

6 Q. Okay. A copy of the lien, is that right?

7 A. Yes.

8 Q. Okay. Are you aware who prepared that?

9 A. No.

10 Q. Do you know if Red Rock prepared it?

11 A. According to the document, it says Red
12 Rock prepared it.

13 Q. Okay. Did the HOA provide any information
14 to anyone as far as the preparation of that
15 document?

16 A. No.

17 Q. Does the HOA review it prior to it being
18 recorded and mailed?

19 A. No.

20 Q. Does the HOA provide any input to Red Rock
21 as to who it should be mailed to?

22 A. No.

23 Q. Did they provide any input as to whether
24 it should be mailed certified mail or first class
25 mail or anything like that?

1 A. No.

2 Q. Are you aware, as you sit here today
3 whether that document complies with the CC&R's?

4 A. No.

5 Q. Are you aware whether that document
6 complies with any HOA collection policy that may
7 have been in effect at the time?

8 A. No.

9 Q. How much is that lien amount for, do you
10 see that?

11 A. According to this, it's for \$737.04.

12 Q. Okay. Are you able to tell me, looking at
13 that document how many assessments were past due?

14 A. Off the top, without doing the math, no.

15 Q. Okay. Are you able to tell me by looking
16 at that document the amount of the super priority?

17 MS. SURUR: Objection, form. Vague as to
18 the definition of super priority.

19 A. The answer is no.

20 Q. Are you aware if that lien includes any
21 violations?

22 A. No.

23 Q. No, you are not aware?

24 A. No, I am not aware.

25 (Exhibit E was marked for

1 identification.)

2 Q. Do you recognize that document?

3 A. Only as it is presented to me today.

4 Q. It appears to be the notice of default, is
5 that right?

6 A. Yes.

7 Q. Are you aware who prepared it?

8 A. Again, it says Red Rock.

9 Q. Did the HOA provide any input into
10 preparation of this document?

11 A. No.

12 Q. Does the HOA review it prior to it being
13 recorded and mailed?

14 A. No.

15 Q. Does the HOA have any input as to who it
16 should be mailed to?

17 A. No.

18 Q. Does the HOA have any input as to whether
19 it should be mailed certified mail, first class mail
20 or anything like that?

21 A. No.

22 Q. Are you aware if that document complies
23 with the CC&R's?

24 MS. SURUR: Objection, form.

25 A. No.

1 Q. Are you aware if it complies with any
2 delinquent collection policy that may have been in
3 effect at the time?

4 A. No.

5 Q. And how much is that lien amount for?

6 A. Looking for it.

7 Q. Kind of near the signature, do you see
8 that?

9 A. Oh, \$1,870.61.

10 Q. Are you able to tell me by looking at
11 that, how many months are past due?

12 A. No.

13 Q. Are you able to tell me by looking at that
14 document the amount of the super priority?

15 MS. SURUR: Objection, form, vague, no,
16 fails to define the meaning of super priority
17 and calls for a legal conclusion.

18 A. No.

19 Q. Are you able to tell me whether that
20 amount includes any violations?

21 A. No.

22 (Exhibit F was marked for
23 identification.)

24 Q. Do you recognize that document?

25 A. Only as its been presented to me.

1 Q. It appears to be the notice of foreclosure
2 sale?

3 A. Yes.

4 Q. Are you aware of who prepared that
5 document?

6 A. No, again, I will see what the signature
7 is, looks like it was prepared by United Legal
8 Services.

9 Q. Okay. Did the HOA provide any input to
10 ULS as far as the preparation of this document?

11 MS. SURUR: Objection as to form, vague as
12 to input.

13 A. No.

14 Q. Does the HOA review this document before
15 it's recorded and mailed?

16 A. No.

17 Q. Did the HOA provide any input to ULS as to
18 who it should be mailed to?

19 MS. SURUR: Objection, form, vague as to
20 input.

21 A. No.

22 Q. Did the HOA provide any input to ULS as to
23 whether or not it should be e-mailed certified or
24 first class?

25 MS. SURUR: Objection, form, vague as to

1 input.

2 A. No.

3 Q. Are you aware if this document complies
4 with the CC&R's?

5 A. No.

6 Q. Are you aware if it complied with any
7 delinquent collection policy that may have been in
8 effect at the time?

9 A. No.

10 Q. And how much is the lien amount for?

11 A. \$4,197.60.

12 Q. Okay. By looking at this document are you
13 able to tell me how many months it's past due?

14 A. No.

15 Q. Are you able to tell me by looking at this
16 document the amount of super priority lien?

17 MS. SURUR: Objection, form, vague, calls
18 for legal conclusion.

19 A. No.

20 Q. Are you able to tell me whether or not
21 that amount, \$4,197.60 includes any violations?

22 A. No.

23 Q. To your knowledge, who conducted the
24 actual sale of the property?

25 A. For the association, the sale of the

1 property would have been through the purchase
2 agreement.

3 Q. Was it ULS, to your knowledge?

4 A. Again, if it followed within the purchase,
5 I mean the purchase treatment would have been that
6 agent.

7 Q. Did the HOA provide any instructions to
8 the seller of the property as far as how it should
9 be conducted, how the sale should be conducted?

10 A. Only thing that we can refer to is
11 whatever is contract, within the contract agreement,
12 how it's spelled out there.

13 Q. Okay. Do you know if the HOA provided any
14 instructions to what should be cried at the sale?

15 A. No.

16 Q. Does the HOA provide any instructions to
17 the seller as to whether or not the super priority
18 should be announced?

19 MS. SURUR: Objection, form, vague, calls
20 for a legal conclusion, calls for speculation.

21 A. Again, whatever is in the agreement refers
22 to whatever the laws are, they need to abide by.

23 Q. Do you know if the HOA provides any
24 instructions to the seller about saying whether or
25 not the sale is being conducted pursuant to the

1 super priority?

2 MS. SURUR: Objection, form, vague. Calls
3 for legal conclusion, calls for speculation.

4 A. Again, refer back, whatever is in the
5 agreement is what the association had agreed to.

6 Q. Does anybody from the HOA attend the sale?

7 A. No.

8 Q. Are you aware where the sale is held?

9 A. No.

10 Q. Are you aware what time it's held?

11 A. No.

12 Q. Or are you aware what day it's held?

13 A. No.

14 Q. Are you aware if any announcements were
15 actually made at the sale?

16 A. No.

17 Q. And is any announcements made either prior
18 to bidding or during the course of bidding, are you
19 aware if any announcements were made?

20 A. No.

21 Q. And I believe you said you are only
22 familiar with First 100 because of this agreement,
23 is that right?

24 A. Correct.

25 Q. You are not familiar with any other

1 dealings the HOA may have had with First 100?

2 A. No.

3 Q. Again, you are not familiar with Chersus
4 Holdings, LLC, is that right?

5 A. No.

6 Q. Were you aware pursuant to the purchase
7 and sale agreement with ULS and First 100, were you
8 aware that First 100 may end up purchasing the
9 property?

10 A. Again, whatever is in the agreement is
11 what the association agreed to.

12 Q. I believe that's all I have.

13 MS. SURUR: I have some questions.

14 EXAMINATION

15 BY MS. SURUR:

16 Q. Roy, let's take a look at Exhibit D, the
17 lien for delinquent assessments. Under or by law is
18 the HOA allowed to include fines for violations
19 within the delinquent assessment lien?

20 A. My understanding, no.

21 Q. Okay. Do you have any, does the HOA have
22 any knowledge, well, let me back up. Does the HOA's
23 delinquent assessment lien for this property include
24 any fines for violations?

25 A. No.

1 Q. Okay. I am going to refer to Exhibits D,
2 E, and F. I am going to refer to them for the
3 purpose of this line of questioning as the
4 foreclosure notices?

5 A. Okay.

6 Q. Does the HOA have any evidence that the
7 foreclosure notices did not comply with the HOA's
8 CC&R's?

9 A. No.

10 Q. Does the HOA have any evidence that the
11 foreclosure notices did not comply with the HOA's
12 collection policy in effect when the notices were
13 recorded?

14 A. No.

15 Q. In general, Roy, who was allowed to serve
16 on the HOA's board of directors?

17 A. I mean a property owner.

18 Q. And do those, well, have you been on the
19 board for how long, since 2014?

20 A. October, 2013.

21 Q. Since you have been on the board with the
22 HOA, have any of the board members been to law
23 school?

24 A. No.

25 Q. If the board has a legal question do they

1 refer it to the HOA's general counsel?

2 A. Either the general counsel or the
3 management company.

4 Q. With respect to this property, did the
5 board ever have reason to ask its general counsel
6 about the definition of super priority?

7 A. No.

8 Q. Okay. With respect to this property, did
9 the board ever ask the community management company
10 about the definition of super priority?

11 A. No.

12 Q. That was not an issue that was raised with
13 the board, is that right?

14 A. No.

15 Q. We are going to take a look at Exhibit B
16 and I am going to have you look at HOA one, I am
17 sorry not one, 11, through 16.

18 A. Okay.

19 Q. Which you previously identified as the
20 account ledger while the property was owned by
21 Joseph Harrison. Taking a look at that account
22 ledger, Roy, can you tell us when the last time the
23 account was current?

24 A. It looks like when it was transferred
25 over.

1 Q. Transferred over to First 100?

2 A. Yes.

3 Q. So let's talk about before the HOA
4 foreclosure sale, on May 25th, 2013. So before May
5 25th, 2013, when was the last time that this account
6 for this property was current on assessments?

7 A. Well, this particular ledger commingles
8 everything, so I would have to look at the separate
9 ledger.

10 Q. Okay. I can ask it a little different
11 way. Taking a look at the account, the commingled
12 account, before May 25th, 2012, when was the last
13 time a payment was made on this account towards
14 assessments?

15 A. It looks like it was, I mean...

16 Q. But we are looking before May 25th, 2013,
17 when was the last time this account reflects a
18 payment towards assessments, and here, let me help
19 you out a little bit?

20 A. It doesn't really show it, it looks like
21 it's not currents.

22 Q. Don't worry about current. Listen to this
23 question, I will repeat it again. Just for the
24 record, I am directing the witness to HOA 13. Here
25 is the question, before May 25, 2013, when was the

1 last time that a payment was made on this account
2 towards assessments?

3 A. I would have to go way back to the
4 beginning, I don't know, it looks like it's back,
5 May 11, 2011.

6 Q. Was there a payment made on August 4,
7 2011?

8 A. August 4, yes, looks like another one made
9 on May, August 4th, after that, yes.

10 Q. So after August 4th, 2011 the next time a
11 payment is made to the account is?

12 A. June.

13 Q. June 27th, 2013, correct?

14 A. Yes.

15 Q. Red Rock had sent a payment to the HOA for
16 this property, while this property was in
17 collections with Red Rock, would that payment
18 receipt be reflected on this ledger?

19 A. It should.

20 Q. Okay. That's all I have.

21 (The deposition concluded at
22 11:20 a.m.)

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CERTIFICATE OF REPORTER

I, Shifra Moscovitz, Certified Court Reporter,
State of Nevada, do hereby certify:

That I reported the deposition of ROY CORDERO,
commencing on Thursday, August 2, 2018, at 10:00 a.m.

That prior to being deposed, the witness was duly
sworn by me to testify to the truth. That I thereafter
transcribed my said shorthand notes into typewriting and
that the typewritten transcript is a complete, true and
accurate transcription of my said shorthand notes. That
prior to the conclusion of the proceedings, the reading and
signing was not requested by the witness or a party.

I further certify that I am not a relative or
employee of counsel of any of the parties, nor a relative or
employee of the parties involved in said action, nor a
person financially interested in the action.

In witness whereof, I hereunto subscribe my name
at Las Vegas, Nevada, this 21st day of August, 2018.

SHIFRA MOSCOVITZ, CCR No. 938

[& - agreed]

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[certain - disclosures]

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Nevada Rules of Civil Procedure
Part V. Depositions and Discovery

Rule 30

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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Exhibit 11

Exhibit 11

Exhibit 11

RECEIPT OF SALE

United Legal Services Inc.


(702) 617-3263

PROPERTY INFORMATION:	
APN	PROPERTY STREET ADDRESS
163-31-611-022	5946 LINGERING BREEZE ST LV NV

SALE INFORMATION:	
SALE DATE	WINNING BID AMOUNT (\$):
5/25/13	\$3,500.00

BUYER INFORMATION:	
BUYER (OR REPRESENTATIVE'S) NAME	CONTACT INFORMATION
FIRST 100	JAY BLOOM
VESTING - RECORD TITLE AS SHOWN	FIRST 100, LLC

PAYMENT INFORMATION:			
AMOUNT	DRAWN ON (or WIRE FROM)	DATE RECEIVED by AGENT	INITIALS
\$3500-	WIRE	5/30/13	RA

CERTIFICATION OF AGENT:	
I hereby certify that the information above is accurate.	
Signature:	 ROBERT ATKINSON, ESQ.

**ALL SALES OF PROPERTY ARE ON ANY "AS IS" BASIS, WITH NO WARRANTIES,
EXPRESS OR IMPLIED.**

AA0482

ULS 65

Exhibit 12

Exhibit 12

Exhibit 12

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DISTRICT COURT
CLARK COUNTY, NEVADA

OCWEN LOAN SERVICING, LLC, a)
foreign limited liability)
company,)
)
Plaintiff,)
)
vs.) CASE NO. A-14-696357-C
) DEPT NO. IV
CHERSUS HOLDINGS, LLC, a)
domestic limited liability)
company; SOUTHERN TERRACE)
HOMEOWNERS ASSOCIATION, a)
Domestic non-profit corporation;)
RED ROCK FINANCIAL SERVICES, LLC,)
a foreign limited liability)
company; UNITED LEGAL SERVICES,)
INC., a Domestic Corporation;)
DOES I through X; and ROE)
CORPORATIONS XI through XX,)
inclusive,)
)
Defendants.)
_____)

DEPOSITION OF ROBERT ATKINSON
30(b)(6) REPRESENTATIVE OF UNITED LEGAL SERVICES,
INC.

Taken on Thursday, December 21, 2017

At 1:00 p.m.

At Wright Finlay & Zak, LLP

7785 W. Sahara Avenue

Suite 200

Las Vegas, Nevada

REPORTED BY: SHIFRA MOSCOVITZ, CCR NO. 938

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CHERSUS HOLDINGS, LLC, a)
Domestic Limited Liability)
Company,)
)
Counterclaimant,)
)
vs.)
)
OCWEN LOAN SERVICING, LLC, a)
Foreign limited liability)
company,)
)
Counter-Defendant.)
-----)

1 APPEARANCES:

2 For Ocwen Loan Servicing, LLC:

3 PATERNO JURANI, ESQ.
4 WRIGHT FINLAY & ZAK, LLP
5 7785 W. Sahara Avenue
Suite 200
Las Vegas, Nevada 89117
(702)634-5000

6

7

8 For Southern Terrace Homeowners Association:

9 ASHLIE L. SURUR, ESQ.
HALL JAFFE & CLAYTON, LLP
10 7425 Peak Drive
Las Vegas, Nevada 89128
11 (702)316-4111

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EXAMINATION

WITNESS:	PAGE
Robert Atkinson	
Examination by	
Mr. Jurani	5,85
Ms. Surur	83

EXHIBITS

EXHIBIT		PAGE
Exhibit 1	Notice of Deposition	5
Exhibit 2	ULS's Disclosures	5

1 LAS VEGAS, NEVADA; DECEMBER 21, 2017

2 1:00 P.M.

3 -oOo-

4 (NRCP Rule 30(b)(4) waived by the parties prior to the
5 commencement of the deposition.)

6 (FRCP Rule 30(b)(5) waived by the parties prior to the
7 commencement of the deposition.)

8 (Exhibits 1-2 were marked for
9 identification.)

10 (In an off-the-record discussion held prior to the
11 commencement of the deposition proceedings, counsel
12 agreed to waive the court reporter requirements
13 under Rule 30(b)(4) of the Nevada Rules of Civil
14 Procedure.)

15 Thereupon--

16 ROBERT ATKINSON,
17 was called as a witness, and having been first duly sworn,
18 was examined and testified as follows:

19 EXAMINATION

20 BY MR. JURANI:

21 Q. Good afternoon, could you please state and
22 spell your name for the record?

23 A. Yes, it's Robert Atkinson, R-O-B-E-R-T
24 A-T-K-I-N-S-O-N.

25 Q. Okay. And you understand you are here

Page 5

1 with regard to a lawsuit entitled Ocwen versus
2 Chersus Holdings, LLC?

3 A. Yes, sir.

4 Q. And you are here on behalf of United Legal
5 Services, is that right?

6 A. Yes, that's correct, I am a 30(b)(6)
7 witness for United Legal Services.

8 Q. Okay. And over the course of this
9 deposition, we will probably refer to it as ULS, is
10 that okay?

11 A. That's fine. And all of my answers are in
12 the capacity of the person most knowledgeable for
13 ULS, and in no other capacity.

14 Q. Okay. Very good. And I know you have had
15 your deposition taken many times, is that right?

16 A. Correct.

17 Q. How many times?

18 A. Approximately 50, all in these HOA cases.

19 Q. Okay. So we will save us all sometime and
20 dismiss the normal admonitions?

21 A. That's fine.

22 Q. Is there any reason you wouldn't be able
23 to give your best testimony today?

24 A. No.

25 Q. No medication or anything like that?

1 A. Correct.

2 Q. And you understand that we are here with
3 regard to a property, when I refer to a property,
4 it's going to be 5946 Lingering Breeze Street, Las
5 Vegas, Nevada 89148?

6 A. Yes.

7 Q. And if I refer to the HOA sale, just for
8 the sake of clarity, I am referring to the sale on
9 May 25, 2013, okay?

10 A. Okay.

11 Q. As far as the HOA, we are referring to
12 Southern Terrace Homeowners Association?

13 A. Yes.

14 Q. And are you familiar with Red Rock
15 Financial Services, if I say Red Rock?

16 A. Yes.

17 Q. Are you familiar with First 100, LLC?

18 A. Yes.

19 Q. And I will refer to them as First 100?

20 A. Yes.

21 Q. And Chersus Holdings LLC, if I say
22 Chersus, that's who I am referring to, is that okay?

23 A. Yes.

24 Q. Are you familiar with Chersus?

25 A. ULS has no knowledge of Chersus, except by

1 and through this lawsuit because ULS is a named
2 defendant with Chersus. So I am familiar with the
3 allegations between Ocwen and Chersus because of the
4 pleading in this case.

5 Q. So Chersus and ULS had never had any kind
6 of dealings together?

7 A. To my recollection that is correct. It is
8 my understanding that First 100 subsequently sold
9 the deed to the property to Chersus Holdings, is
10 that correct?

11 Q. Yes.

12 A. So historically as an accommodation to
13 First 100, because ULS had an e-file account with
14 Simplifile there were some instances in which
15 subsequent deeds for sale that were performed by
16 First 100 outside of ULS's knowledge. Sometimes
17 First 100 asked to use ULS's Simplifile account to
18 do e-recording. And that was performed solely as an
19 accommodation, but in any capacity, so I do know not
20 for example and do not recall whether Chersus
21 Holding's deed has a ULS stamp in the upper right
22 corner. Some of those subsequent sales by First 100
23 did have a ULS stamp in the upper corner.

24 Q. And you just say that by way of
25 explanation of why ULS may be on a deed?

1 A. On a Chersus Deed, correct.

2 Q. Are you familiar with any of the primaries
3 of Chersus?

4 A. No.

5 Q. And you are familiar with First 100, is
6 that right?

7 A. Yes, again, all of my answers are in the
8 capacity as PMK of ULS.

9 Q. Understood. What is your dealings with
10 First 100?

11 A. It's by and through two types of
12 contracts. One is a series of master contracts that
13 I call PSA's, I believe they were titled purchase
14 and sale agreements. There was one of these master
15 contracts per HOA and they are tri-party agreements.
16 There were three parties to them, ULS was a party,
17 and the HOA was a party and First 100 was a party.
18 So in this instance, Southern Terrace Homeowners
19 Association, which is the HOA in this case would
20 have been party to one umbrella PSA contract between
21 those three parties. In addition, ULS also
22 separately contracted with First 100, by and through
23 something called a payment arrangement agreement.
24 That is a contract of which there was only one, it
25 was dated December 5th, 2012. And that provided

1 additional detail as to how First 100 would perform
2 remittances of the amounts due to ULS for ULS's work
3 performed for the HOA, pursuant to the PSA, does
4 that all make sense?

5 Q. Yes, I believe so.

6 A. So that was the only two relationships
7 that ULS had with First 100?

8 Q. Okay. Exactly what I was about to ask
9 you. And ULS no longer exists?

10 A. That's correct, it seized operations in
11 October of 2013.

12 Q. What is your position within ULS?

13 A. I was the sole owner and sole member and I
14 am the custodian of record, currently.

15 Q. How many employees did ULS have?

16 A. At its peak, five or six.

17 Q. During the time while ULS was in existence
18 was your position the same during that time frame?

19 A. That's correct, during all time I was the
20 sole owner and sole officer and the sole person in
21 charge.

22 Q. Were you the sole -- and you are an
23 attorney, is that right?

24 A. Yes.

25 Q. Were you the sole attorney within ULS?

1 A. Mr. Robert Opdyke was also a Nevada
2 licensed attorney. He was primarily employed by
3 Atkinson Law Associates, which is my other law firm.
4 ULS was a dedicated special purpose law firm for a
5 limited purpose of acting as the agent for these HOA
6 sales for the jobs that are expressed by and through
7 these PSA's. ULS did use the services of
8 Mr. Opdyke, and he was partially paid through a
9 standard payroll through ULS, but he was not a
10 full-time employee. In other words, he did so many
11 hours of work for ULS depending on the week.

12 Q. Okay. And that's O-P-D-Y-K-E, is that
13 correct?

14 A. That's correct.

15 Q. If I can have you look at Exhibit 1,
16 please just that's your deposition notice?

17 A. Yes.

18 Q. Have you seen that before?

19 A. I have, that is the notice of taking
20 deposition that was served upon ULS a couple of
21 weeks ago.

22 Q. And did you actually have a chance to
23 peruse?

24 A. Yes, I read through each one of the items,
25 and I am the person most knowledgeable on all those

1 items.

2 Q. Is it fair to say there is no nobody
3 within ULS that is a better person to ask these
4 questions to?

5 A. That's correct.

6 Q. Did you do anything to prepare for your
7 deposition today?

8 A. No.

9 Q. You didn't have a look through your file
10 or anything?

11 A. I scanned through some of the documents in
12 your Exhibit 2 before we started here, but that's
13 the only refreshing that I did, I was rather busy
14 today.

15 Q. And just for the sake of clarity, Exhibit
16 2 is ULS's initial document disclosures. ULS
17 recently responded to some of our requests for
18 production documents. Would those be essentially
19 the same documents?

20 A. I believe it's exactly the same, the
21 initial production was the entire file of ULS.

22 Q. Okay. Fair enough. Is there any reason
23 to believe that ULS may have some documents that
24 were not produced in either of these disclosures by
25 you, for example, maybe electronically or something?

1 A. No, everything would have been on that
2 disk. If there was an mp3 voice recording of that
3 May 25th, auction it would be on the CD ROM, and
4 thus not printed as part of your Exhibit 2. But
5 that will be the only electronic file out there, and
6 if one exists it would be on that CD ROM.

7 Q. And I will represent to you that you did
8 produce an mp3?

9 A. Thank you, but that's the only thing I can
10 think of that would not be in Exhibit 2.

11 Q. So you would get an e-mail relating to
12 this property, for example?

13 A. That's correct, and I can see on the back
14 of Exhibit 2 that you, in fact, went out and printed
15 out all those e-mails that we are producing.

16 Q. Yes. Who was ULS's client in this
17 particular case, was it First 100?

18 A. No, it was the HOA, solely the HOA.

19 Q. And it was pursuant to an agreement, is
20 that right, I think you mentioned the PSA?

21 A. That's correct. The PSA is found in
22 Exhibit 2, it is not Bates stamped, but it is
23 approximately halfway through.

24 Q. Let me help you out a little bit. You
25 have, and these were my understanding in the order

1 that you basically gave it to us, you have there
2 Bates stamped up to ULS 69?

3 A. Right, and that's, and everything else was
4 in folders, and it was not Bates stamped for the
5 items that were in the folders.

6 Q. That's right. So about two pages after
7 that, after ULS 69 is the PSA?

8 A. Yes, there is a certificate of custodian
9 of records, and then it begins non Bates stamp
10 documents, which documents an invoice.

11 Q. Right.

12 A. And that invoice was pursuant to the
13 payment arrangement agreement and the PSA. In other
14 words, pursuant to the PSA, First 100 is obligated
15 to make remittance to ULS of all collection fees and
16 costs incurred by ULS in its effort on behalf of the
17 PSA.

18 Q. Okay. And just to be clear, this PSA,
19 it's produced a little bit out of order because I
20 believe you produced some signed pages first, so it
21 says 9 of 17?

22 A. That makes sense.

23 Q. If you go through a couple of more pages,
24 you get the entire agreement, 1 of 17?

25 A. That is correct. So a few pages after the

1 Bates stamp end it begins with a formal document,
2 purchase and sale agreement beginning Page 1 of 17,
3 and that carries through all the way to Page 17 of
4 17. And then there are some other documents before
5 and after the PSA that simply are signature page
6 counter signed pages from the PSA.

7 Q. Understood. So all of them together
8 comprise the executed PSA, is that fair?

9 A. That's correct. There also might have
10 been, I can't remember if it's Southern Highlands or
11 there is a second batch of properties placed under
12 Southern Highlands.

13 Q. Well, this is Southern Terrace.

14 A. Sorry, I meant Southern Terrace HOA. So
15 for several of the HOA's there was more than one
16 batch produced through the PSA.

17 Q. I see.

18 A. So I would have to go back and take a look
19 at these documents and in a little more detail to
20 figure out whether there was two batches of
21 properties placed through Southern Terrace by and
22 through the one PSA. But for the purpose of this
23 deposition and the subject property and this case,
24 it relates to 5946 Lingering Breeze Street, which is
25 in the original first batch. And you can tell that

1 because it's in on Page 13 of 17 as a line item
2 number, do you see that?

3 Q. Yes, I do. And by second batch, you are
4 referring to there may be another page on here
5 similar to this page with additional properties, you
6 are saying?

7 A. Yes, for example, it's my recollection it
8 was the only batch that was through Southern
9 Terrace. What I am saying is without going and
10 looking through this in detail I can't remember
11 whether there was a second batch. If it's not
12 produced here there was no second batch, because the
13 entire complete contract was produced to you on a CD
14 ROM.

15 Q. And it's fair to say if there was a second
16 batch it would just refer to other properties, other
17 than the property we are here for today?

18 A. That's correct, and all would have been
19 treated exactly the same.

20 Q. This PSA, where did the template for this
21 PSA come from?

22 A. ULS was in possession of the template
23 itself and so the standard method that in terms of
24 how this thing got produced is that I would receive
25 an e-mail from a mid level employee over at First

1 100, her name was Michelle Sergeant. And generally
2 the e-mail would say something along the lines of,
3 can you please produce a PSA for the following HOA,
4 and here are the properties and numbers associated
5 with it. And then I would confirm the legal name of
6 that HOA, and records of the Nevada Secretary of
7 State. I would paste that legal name of the HOA in
8 the preamble, and also the signature block of the
9 PSA, which is maintained in a word document. I
10 would then reformat and paste in a proposed batch of
11 properties that were in that e-mail from Michelle
12 Sergeant. I would paste that into Exhibit 1 of the
13 PSA, convert the entire thing into a pdf and e-mail
14 it back to her, and say here you go. About half the
15 ones I sent out like that came back signed. So it
16 was my understanding that First 100 made these
17 requests because they had an HOA who was very
18 interested in perhaps entering into this contract
19 and they needed that contract to give to their
20 outside counsel for review and approval because
21 otherwise they wouldn't have seen the contract. You
22 know what I mean, so they had to be provided the
23 contract for their review and when it came back
24 signed by the HOA, I would counter sign, First 100
25 would counter sign it.

IN THE SUPREME COURT OF THE STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY,

Appellant,

vs.

CHERSUS HOLDINGS, LLC, A
DOMESTIC LIMITED LIABILITY
COMPANY; AND SOUTHERN
TERRACE HOMEOWNERS
ASSOCIATION, A DOMESTIC
NON-PROFIT CORPORATION,

Respondents.

Supreme Court Case No. 82680

District Case No.: A696357

APPELLANT'S APPENDIX - VOLUME IV

WRIGHT, FINLAY & ZAK, LLP
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
(702) 475-7964; Fax: (702) 946-1345
cmiller@wrightlegal.net
*Attorney for Appellant/Plaintiff, Ocwen
Loan Servicing, LLC*

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Affidavit of Service	I	AA0176
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Answer and Counter-Claim	I	AA0005- AA0012
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Answer to Counterclaim	I	AA0168- AA0174
Answer to First Amended Complaint and Counter-Claim Against Plaintiff	I	AA0156- AA0167
Answer to Second Amended Complaint and Counterclaim Against Plaintiff	III	AA0338- AA0349
Chersus Holdings, LLC Reply to Ocwen's Opposition to Chersus Holdings, LLC Motion for Summary Judgment	XIII	AA2642- AA2666
Chersus Holdings, LLC's Reply to Ocwen Loan Servicing, LLC's Opposition to Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVIII	AA3422- AA3431
Complaint	I	AA0001- AA0004
Declaration of Jagdish Mehta in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3329- AA3330
Declaration of Jagdish Mehta in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to	XVII	AA3331- AA3333

DOCUMENT	VOL	PAGE
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Notice of Entry of Order Denying Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P. 59 and 60	XVIII	AA3454-AA3458
Notice of Entry of Order Granting Judgment in Favor of Counterclaimant Chersus Holdings, LLC.	XVIII	AA3486-AA3497
Ocwen Loan Servicing, LLC's Motion for Reconsideration of the Court's October 30, 2019 Order Pursuant to NRCP 59 and 60	XVIII	AA3432-AA3439
Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 1)	III	AA0363-AA0500
Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 2)	IV	AA0501-AA0715

DOCUMENT	VOL	PAGE
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Ocwen Loan Servicing, LLC's Notice of Supplemental Authority in Support of Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XV	AA3026-AA3036
Ocwen Loan Servicing, LLC's Opposition to Chersus Holdings, LLC's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3360-AA3418
Ocwen Loan Servicing, LLC's Opposition to Defendant Chersus Holdings' Motion for Summary Judgment	XII	AA2303-AA2316
Ocwen Loan Servicing, LLC's Opposition to Southern Terrace Homeowners Association's Motion for Summary Judgment	XIII	AA2605-AA2641
Ocwen Loan Servicing, LLC's Reply in Support of Motion for Summary Judgment	XIII	AA2667-AA2676
Ocwen Loan Servicing, LLC's Reply in Support of Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XV	AA2949-AA3025
Ocwen Loan Servicing, LLC's Request for Judicial Notice in Support of Motion for Summary Judgment	V	AA0716-AA0858
Opposition to Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60 (Part 1)	XIV	AA2838-AA2915
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VOLUME IV

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10/19/18	Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 2)	IV	AA0501- AA0715

DATED this 21st day of January, 2022.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller

Christina V. Miller, Esq.

Nevada Bar No. 12448

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

*Attorneys for Appellant/Plaintiff, Ocwen Loan
Servicing, LLC*

CERTIFICATE OF SERVICE

I certify that I electronically filed on the 21st day of January, 2022, the foregoing **APPELLANT'S APPENDIX - VOLUME IV** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

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Michelle Adams	michellea@nelsonlawfirmnv.com
Legal Assistant	legalassistant@nelsonlawfirmnv.com
Master Calendering	mail@nelsonlawfirmnv.com
Vernon A. Nelson	vnelson@nelsonlawfirmnv.com
Ashlie Surur	ashlie@sururlaw.com

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions

An Employee of WRIGHT, FINLAY & ZAK, LLP

1 Q. Who was responsible for drafting this PSA?

2 A. The PSA was drafted primarily by First
3 100, along with outside counsel, who at the time was
4 Atkinson Law Associates. I can't get into the
5 details of that, but however with my United Legal
6 Services cap on, ULS certainly did provide input
7 into the structure of the portion dealing with ULS,
8 and what ULS was going to sign off to do. Because I
9 formed ULS specifically for the purpose of being the
10 third leg on this PSA, and I wanted to make sure
11 that everything was something that frankly I could
12 make money on and wasn't signing up for too much.

13 Q. You protected the interest of ULS?

14 A. Yes, definitely, for all us cause that
15 related to ULS's obligation and the payment
16 arrangement agreement.

17 Q. How many HOA's actually signed a similar
18 PSA like this one?

19 A. There was between 20 and 30 of them, to my
20 recollection.

21 Q. And you said that's basically about half
22 of them?

23 A. Yes, that's correct. So I sent out, to my
24 recollection, some are between like 50 and 80 of
25 them.

1 Q. Okay.

2 A. You know, somewhere around there, maybe
3 60, something like that.

4 Q. Was ULS involved in the process at all of
5 actually soliciting, I guess, I am assuming a fact
6 here, that this PSA was solicited to the HOA, were
7 you involved in that process at all?

8 A. None whatsoever, at all. It was my
9 assumption and understanding that First 100 had a
10 marketing department that went out and pitched these
11 things to HOA's, but I have no firsthand knowledge
12 of any of that process.

13 Q. Okay. When you say you have no first hand
14 knowledge, you are talking about as a representative
15 of ULS?

16 A. That's correct, and just in case you are
17 wondering, if you were to ask me in any other
18 capacity the answer would be the same, delicately
19 phrased.

20 Q. Understood.

21 A. There is a giant wall there between First
22 100, I didn't care what they did. All ULS knows is
23 what came in over the saying, we have a lien, please
24 produce a PSA.

25 Q. And they would, in fact, ask ULS to

1 produce that, they wouldn't ask Atkinson Law to
2 produce that?

3 A. That's correct. And the reason is because
4 I, as ULS, president and owner, insisted that ULS
5 controlled the template. I did not want either
6 First 100 or the HOA to be making changes that ULS
7 was not going to be aware of because I knew what was
8 going to be happen, is that we sent back a pdf,
9 signed with unknown changes. And therefore I would
10 have to spend at least two hours doing a line item
11 by line item comparison to see what changed, if
12 anything, and that would have busted my margins, so
13 it had to be a take it or leave it proposition.

14 Q. Okay. And when you say take it or leave
15 it, you are talking what ULS offered to First 100 is
16 I am controlling the template, is that what you
17 mean?

18 A. Yes, I absolutely was not going to do
19 anything related to ULS, related to any of these
20 PSA's if First 100 controlled the template because
21 it was simply a business concern. Interestingly
22 enough, if an HOA had come back and proposed some
23 changes that were straightforward and easy to do, I
24 would be happy to make red lines and send them out
25 because that was something that was icy as opposed

1 to me trying to recreate after the fact what
2 happened on a signed document. You know what I
3 mean, but interestingly that never happened. There
4 was an opportunity for the HOA to do so, but.

5 Q. When you say never happened for Southern
6 Terrace, it certainly didn't happen, is that right?

7 A. That's correct, the pdf PSA went out and
8 they just came back signed, for the ones that did
9 come back.

10 Q. Okay. What is the nature of the PSA, what
11 is the purchaser?

12 A. The specific item being purchased is
13 identified in section 021 of the PSA, that's found
14 on Page 217, specifically. It's got all sellers
15 interest in any and all PPI arising from or leading
16 to the direct delinquent assessment. Those terms
17 are defined earlier in the document.

18 Q. Okay. Can you tell me your understanding
19 of what PPI is?

20 A. Certainly. So HOA accounting is a little
21 cookie, when a monthly assessment is charged or
22 sometimes a quarterly assessment is charged to a
23 property, it's booked right then as revenue.

24 Q. I see.

25 A. And if it's not paid then it's not

1 converted to bad debt and it's also not labeled as a
2 receivable, it's treated very strangely. And as a
3 result because the way HOA accounting happens, the
4 PPI, as defined in the PSA is an acronym that stands
5 for proceeds on past income. So you have these
6 unpaid monthly assessments have already been
7 recognized in the prior months and years as income
8 for the HOA. And so whether a homeowner sells the
9 property, and there have been at that point
10 delinquent assessments would have been paid off or
11 whether the property was foreclosed upon by a first
12 deed of trust lender, at which time the HOA would be
13 entitled to nine months of delinquent assessments or
14 whether the homeowner voluntarily paid off the
15 delinquent assessments or whether the HOA took it to
16 sale by foreclosing on a property under NRS116. All
17 of those can be simply monetization of that.
18 Somehow money happens, okay, so it's not a true
19 factor agreement in the sense of selling somebody's
20 receivables, because it's not treated from an
21 accounting standpoint as a receivable. If it is
22 insisted that you think that way or unwind or get a
23 better handle of what is going on with a PSA, that's
24 great, but I would never go on the stand and say
25 that is what was going on here and being sold is

1 receivable. I have heard that around, I do
2 understand it's a handy analogy as to what PSA is,
3 but that's not what is happening. I also heard
4 people incorrectly state that the lien was being
5 sold, and that absolutely is not the case at all.
6 The lien is always and was always the HOA, so it
7 existed. So what was being purchased was simply the
8 rights to receive all future monetization events and
9 monies that arose from placing intense collections
10 pressure on the property, does that make sense?
11 Like once ULS got the file from Red Rock or whoever
12 the upstream closing company is, and then ULS
13 generates to prepare and file the notice of
14 foreclosure sale, that put the property in to play.
15 Generally there is a monetization event of that
16 property within five weeks. In other words,
17 probably 200 properties were run through ULS across
18 these 20 or 30 PSA's. And of the approximately 200
19 properties, about 130 of them went to sale, and the
20 other 70 paid off or there was a bankruptcy, in
21 which case it was placed back.

22 Q. Okay. All the properties that were placed
23 with ULS were in the notice of sale stage, is that
24 right?

25 A. All but one, I can recall one in which the

1 file came in from Red Rock. And to our surprise
2 only the notice of lien of delinquent assessments
3 had been filed, and so we filed a notice of default
4 and then waited out the three months. Other than
5 that one event that I can recall, every other file
6 was, you know, once ULS began working on it that
7 first step was the notice of foreclosure step.

8 Q. Is it fair to say that the intent was to
9 get the properties that were in the, you know, after
10 the notice of default stage to notice of sale stage?

11 A. That's correct, in the three legs of
12 foreclosure identified in NRS116, namely the notice
13 of delinquent assessment lien, and the second one
14 being the notice of default, those two were in all
15 but that one instance that I just described were
16 handled by the upstream collection agents. And ULS
17 only did the third leg, which is noticing up and of
18 course holding the sale, if it weren't paid off
19 prior to the sale.

20 Q. Was ULS involved in that decision making
21 process of which properties to purchase?

22 A. No, that was part of the First 100 process
23 that earlier I told you that I personally have no
24 visibility into. It literally was an excel
25 spreadsheet that came in off of that e-mail that I

1 usually got from Michelle Sergeant.

2 Q. If you were to get properties that were in
3 the notice of lien stage, would that surprise you?

4 A. It was a concern for me that these might
5 happen, so that's why there was a payment
6 arrangement agreement, I wanted to make sure that if
7 anything got funny, ULS had First 100 on the hook to
8 pay for everything that happened. I was greatly
9 concerned that somebody would file a Chapter 11 and
10 now I am having to appear in a Chapter 11 case and
11 so forth. And who is going to pay for that at an
12 hourly rate. And all those were acceptable things
13 to be charged against the property pursuant to
14 NRS116, you know. I was concerned that there would
15 be these out of the normal instances, but
16 fortunately the absolute majority of everything came
17 in at the same stage, which is ready for the notice
18 of foreclosure sale.

19 Q. And I don't want to jump around too much,
20 I know you mentioned the payment arrangement
21 agreement?

22 A. Payment arrangement agreement.

23 Q. Okay. PSA, can I call it that?

24 A. Yes.

25 Q. Was ULS paid pursuant to the PSA or simply

1 pursuant to the PAA?

2 A. If you turn, I can explain a little bit
3 better, if you turn to the end of the last pages of
4 the PSA, stop right there, turn your hand, right
5 there, okay, that page is also a page that's in the
6 printout on the file. Okay, what this page is, is
7 labeled, it's a one-page item and it's labeled
8 collection fees and costs schedule. So these are
9 the fees and costs that are able to be collected for
10 standard collections activities, pursuant to NAC116.
11 And it's a subset of the NAC116 charges and fees and
12 costs of those that relate to the notice of sale and
13 the sale itself. So I would request that your
14 question actually is not framed correctly. What it
15 is, is ULS at all times was acting as an agent
16 authorizing the sale owner NRS116, and is entitled
17 to all fees and costs that it incurred as a result
18 of that and for traditional collections action
19 activities, namely those identified in NAC116, that
20 it could get paid the dollar amount in NAC116.

21 Q. Okay.

22 A. So the obligation for First 100 to remit
23 that dollar amount to ULS is found in the PSA, the
24 details as to what all that is, is in the PAA?

25 Q. This document we are looking at, to be

1 clear, this is collection fees and costs, schedule
2 at the top, it's Clark County, bottom right-hand
3 corner is dated 12/28/2017. Is this a document that
4 was, is this a Clark County document or is this
5 something you created?

6 A. I created this in Excel because I pulled
7 out a subset of the appropriate NAC charges relating
8 to activities that ULS had because I wanted just a
9 nice clean reference sheet. So on the right-hand
10 side it says relating to NRS, do you see that?

11 Q. Yes.

12 A. If you add the amounts in the left-hand
13 column it adds up to \$750, if you go over to the
14 PAA, and specifically Page 6 of 6, PAA, which is
15 after this

16 Q. Right, okay.

17 A. Yes, there is the PAA.

18 Q. It's directly after the PSA, right?

19 A. Yes, and the collections costs. You can
20 see table three to Schedule A, you see the \$750?

21 Q. Yes.

22 A. That's the placement fee. So when a party
23 got placed as part of a batch underneath a new PSA,
24 then ULS was immediately going to be doing
25 activities and incurring third party costs that

1 added up to \$750 to get the notice of foreclosure
2 sale out the door, published, posted, mailed, et
3 cetera. So I didn't want to carry any receivables.
4 And so part of the PAA, is that I mandatorily
5 negotiated that First 100 pay the \$750 up front
6 because same thing, just because the PSA obligated
7 First 100 to remit those funds, I didn't want to
8 carry any receivables with First 100. So I demanded
9 an upfront placement fee identifying and paying for
10 everything that ULS was about to go do. In those
11 instances, when we got a property and looked at the
12 homeowner, and the homeowner was in bankruptcy, we
13 ended up cutting a new invoice to First 100, and not
14 getting paid that. So these were real life, this is
15 the sole source of the revenues of ULS doing these
16 collection activities. So that invoice you see
17 later on or it might have been earlier in Exhibit 2,
18 you know, that's a paid invoice.

19 Q. And it was before, I believe, you are
20 referring to right after the Bates stamp numbers?

21 A. That's correct, there it is, right there,
22 it's the first page after the Bates and then ULS 69.

23 Q. It says Invoice, ULS-012, is that right?

24 A. That's it, so the \$21,000 invoice. And
25 what we did was then we as soon as the PSA came

1 back, and then I counter signed it, then I mapped
2 in, I personally mapped in those properties into an
3 invoice and cut an invoice to First 100, and said
4 hey, you have to pay this like right away, which
5 they did.

6 Q. At the beginning of the process?

7 A. Absolutely, I was about to get cranking
8 and spending thousands of dollars on publication or
9 whatever I had to do.

10 Q. Just to clarify, it's First 100 that
11 actually pays the invoices?

12 A. Correct, pursuant to its obligation to do
13 so under the PSA.

14 Q. It's never directly the HOA?

15 A. That's correct, it was always remitted and
16 paid by First 100, yes.

17 Q. Just turning back to the collection fees
18 and costs schedule really quick?

19 A. Sure.

20 Q. Just to clarify, is it fair to say this is
21 a schedule that was drafted by you, but with
22 information pursuant to NAC116?

23 A. That's exactly right, the numbers are a
24 little different for Washoe County. We did a few
25 sales in Reno. It turns out publication and posting

1 costs are higher up in Reno. The placement fee for
2 Reno ended up being \$832, after I did the first
3 batch.

4 Q. As far as those amounts, are these also
5 enumerated in NAC or is that something that you
6 figured out with your charges?

7 A. The fees and costs under NAC, the fees are
8 specific to specific acts. In other words, if you
9 are performing work, here is your number, if you are
10 incurring third party's expenses, it was at that
11 expense, you understand. And so for example, the
12 publication cost received 90, that was the cost to
13 publish in Clark County. We can recover what it
14 was, and I think it was 100 something dollars in
15 Reno, and that's why this says Clark County because
16 I had a different tab for Washoe County.

17 Q. The line it says fee, \$275?

18 A. Yes.

19 Q. Is that the fee per NAC116?

20 A. Yes, and the NAC statutory basis, off to
21 the right you can go look it up yourself, they tie
22 exactly to it. At least those are the fees at the
23 time, I don't know what they are now.

24 Q. Just to make sure I understand where it
25 says cost, for example, the third one down, trustee

1 sale guarantee cost, that's how much it would be to
2 obtain a TSG, right?

3 A. Here, basically so for example, on these
4 costs, they were a billed out at actual or per
5 piece, whatever was in NAC, I followed exactly that.
6 Do you understand, the TSG, that's sort of
7 interesting. On this one, what it is, rather than
8 relying on a third party to do a title search, and
9 then purchasing a trustee sale guarantee, using that
10 title search as the basis for the issue inside the
11 guarantee, it turns out that you had to be the size
12 of Red Rock to go and get TSG's. And I had seen
13 some title searches that I was not comfortable with,
14 in terms of what they identified as the address.
15 And so we ended up doing our own internal title
16 analysis to identify addresses, and who the
17 appropriate lien holders of record were. And for
18 that effort we charged the \$250 because that was the
19 equivalent effort which was getting a title report
20 with the address.

21 Q. Okay. Would NAC, in this particular case,
22 NAC116.4703, does it say \$250 within there?

23 A. It did at the time. That was a flat fee,
24 so the one below it, publication, it was at cost,
25 and the one above, it was maxed at \$250.

1 Q. And what kind of process did you go
2 through to obtain your title search?

3 A. We went to the land records for each
4 parcel. We identified all of the relevant
5 documents, we then ordered those documents from
6 Clark County Recorder, those took a day or two to
7 get in, and then they would review those by hand and
8 all documents that are relative to this case and
9 relative to the file and the ones that we pulled are
10 found in the Bates stamp portion of Exhibit 2. And
11 specifically it's up towards the front. It's
12 Section 2, it's labeled and it says documents from
13 land records.

14 Q. Now, when you say land records, is that as
15 simple of going to the county recorder's office or
16 somewhere else?

17 A. Yes, we can turn to Bates stamp ULS 19,
18 and I can explain by referring to documents. The
19 land records are a combination of the Clark County
20 Recorder, the Clark County Assessor, and the
21 documents that are recorded with the Clark County
22 Recorder. So on Page ULS 20 is a printout for the
23 parcel of the CCR website for the subject parcel as
24 of the date we pulled it. And you can see the Bates
25 stamp down there of 4/25/13, and is right when the

1 file was placed with us, within a day or two and we
2 also went to the Clark County Assessor to understand
3 what the mailing addresses were for the owner of
4 record. It's obviously the subject parcel, but
5 sometimes these owners were revoked owners and had a
6 different mailing address for their tax assessment.
7 You see that for this particular one the mailing
8 address for the owner and the location address were
9 identical, you can see that on ULS 23, you see that?

10 Q. Yes.

11 A. And the rest of the documents in this
12 particular section are things from the land records.

13 Q. Okay. Understood.

14 A. Relevant things from the records.

15 Q. Sure. Let's turn back to the PSA for a
16 moment here?

17 A. Okay.

18 Q. With regard to this property, how much was
19 the purchase price?

20 A. Are you talking at the auction or are you
21 talking under the PSA?

22 Q. Under the PSA?

23 A. I would have to refer.

24 MS. SURUR: I am going to object to the
25 form of the question, go ahead.

1 A. Thank you. I would agree with that
2 objection because the purchase price identified in
3 the PSA is the purchase price for the assets
4 acquired in the PSA. Namely the PPI of the select
5 delinquent assessments, do you understand?

6 Q. Yes, I am sorry.

7 A. The property wasn't being sold, nor was
8 the lien, it was the monetization event right that
9 was being purchased.

10 Q. Fair enough. And how much was that?

11 A. Well, I would have to refer you to, the
12 document speaks for itself. I can find it in
13 Exhibit 1.

14 Q. I believe it's Page 13 of 17 of the PSA?

15 A. Thank you. And I am simply reading to you
16 from the column labeled purchase price on that page
17 13 of 17 for the subject property. It says
18 \$1,278.28. Now, that's not the entire
19 consideration, of course.

20 Q. What do you mean by that?

21 A. Well, if you take a look at that below
22 right there, lower on that same page, it says plus
23 collections costs, do you see?

24 Q. Yes.

25 A. So there were thousands more dollars that

1 were obligated to be paid by First 100 to both Red
2 Rock in this instance and also ULS, do you
3 understand?

4 Q. Yes. Do you know how this number, this
5 \$1,208.28 came about?

6 A. I have no knowledge, I have hearsay
7 knowledge that First 100 had a complex
8 multi-variable model and would calculate that. You
9 would have to ask them, though, for actual
10 information.

11 Q. And I believe you already mentioned that
12 this is, that number is the number that's paid by
13 First 100 to the HOA?

14 A. That's my understanding, that's how it's
15 stated in the contract. I have no personal
16 knowledge, except for that is what is sitting in the
17 contract, you understand?

18 Q. Yes.

19 A. The auction of the property itself and the
20 purchase price for the foreclosure deed at the
21 property, I do have personal knowledge of because I
22 was the auctioneer at that May 25th auction.

23 Q. Okay. Are you aware if the HOA had a
24 management company in this particular case?

25 A. I believe it was RMI, who is now known as

1 First Service Residential, that is my recollection.

2 Q. What did your duties to the HOA entail, is
3 it just pursuant to the PSA?

4 A. It is only those items in the PSA. There
5 was no other separate agreement or understanding.

6 Q. And in this particular case with regard to
7 this particular property, those duties were with
8 regard to the sale of the property, pursuant to the
9 HOA lien, is that right?

10 A. That's correct, I mean there is expressed
11 marching orders in the PSA for ULS to take the
12 property to sale, you bet.

13 Q. To take it to sale almost immediately, is
14 that right, you weren't going through some drawn out
15 collections process or anything like, is that
16 correct?

17 A. That's correct, nor is there any ability
18 to recover under NAC116 for doing so.

19 Q. Recover on who's behalf, are you saying
20 for ULS to recover?

21 A. On the HOA's behalf. I run a very clean
22 shop, everything is in the contract.

23 Q. Let's go back to the PAA for a second
24 here?

25 A. Yes.

1 Q. I believe you said there is only PAA
2 between ULS and First 100, is that right?

3 A. Yes, that's right. There was a, after the
4 first Reno job that we did, up in Washoe County, for
5 some HOA that was up in Washoe County, I realized
6 that ULS was taking a bath on those extra costs, and
7 I was incurring almost two thirds of that in extra
8 costs. So there was an oral telephonic agreement
9 between Jay Bloom and I that the placement fee for
10 Washoe County ones was going to be \$832, to my
11 recollection.

12 Q. Rather than \$750?

13 A. Rather than \$750. And I documented to
14 them what it was. That was the only tweak to it
15 that I can recall. And that was the only one change
16 to PAA, and there was only one PAA.

17 Q. And Jay Bloom is the principal of First
18 100, is that right?

19 A. That's correct.

20 Q. You see on this first page of the PAA,
21 there is reference to a Kupperlin Law Group?

22 A. Yes, okay, so the very first batch of HOA
23 properties that were run through a PSA had as a
24 third party, the NRS agent for that third leg of
25 that stage, it was not ULS, it was another law firm

1 of mine. It was a bankruptcy law firm called
2 Kupperlin Law Group. So in other words, Jay had
3 this business idea, and I said yes, I will totally
4 try it out, you know, and the tri-party agreement
5 for that first HOA, which was not Southern
6 Highlands, by the way.

7 Q. Southern Terrace?

8 A. No, it was Christopher Communities of
9 Southern Highlands.

10 Q. What I mean is, we are here for Southern
11 Terrace?

12 A. Yes, I keep confusing the Southerns in my
13 head. The first PSA was with Christopher
14 Communities. The tri-party agreement in that
15 instance was between Christopher Communities and
16 First 100, and Kupperlin Law Group. I had a PAA, I
17 am speaking outside of my capacity of ULS because I
18 am trying to answer your question. I had put a PAA
19 as well in place for Kupperlin for the exact same
20 reason. That batch went really well and I said, oh,
21 I think I can do this. Once I ran it through and I
22 saw that I can have optimized business processes and
23 I saw that I can make a profit, even at the low NAC
24 dollar amount, and I said yes, I will sign up to be
25 the third leg, but I don't want to run this all

1 through Kupperlin.

2 Q. Sure.

3 A. So that's when I was forming ULS as a
4 dedicated firm to go do it. So you probably will
5 see a couple of odd ball references in this PAA,
6 which was signed very early on in the process, that
7 reference to Kupperlin is a spurious left over. In
8 addition, you will see references to trustee, that
9 was before I had gotten smart and realized these are
10 not trustee sales, these are just simply NRS116
11 sales, does that make sense?

12 Q. I believe so. Is it fair to say ULS was
13 not in existence then when you did your first PSA or
14 was it?

15 A. My recollection is when the first template
16 for Christopher Communities went out the door,
17 Kupperlin was the tri-party third leg, and ULS had
18 not been formed yet. And then it took a long time
19 for Christopher Communities to get back and get that
20 process kicked off. And that was kicked off in like
21 September, 2012 or something. I had formed ULS in
22 June of 2012, but my recollection it was after
23 Christopher had already went out the door. By the
24 way ULS was empty, and did not do any operations
25 until early December of 2012. This PAA was signed

1 right at the time that things started kicking off
2 NRS.

3 Q. Got it. And this Page 4 of this PAA,
4 signed by Bart Rendel?

5 A. Yes.

6 Q. Who is that?

7 A. He was the COO of First 100 at that time.

8 Q. Okay.

9 A. It's just some guy.

10 Q. What were your dealings, generally, who
11 did you deal at First 100, was that Michelle
12 Sergeant, is that what you said?

13 A. Depends on who you are talking about. If
14 it was signed in the PSA it was definitely Jay
15 Bloom, if it was after the first batch, you know, I
16 sort of went through the process. I tried to make
17 everything as cookie cutter as possible, the
18 overwhelming majority of interaction was with
19 Michelle Sergeant.

20 Q. How about for Rendel?

21 A. No, this was too low level. So there was
22 a guy named Chris that ULS occasionally interacted
23 with, who was some guy brought in later on, if my
24 recollection is correct, he was VP marketing, and
25 ULS, by through me, would pay that guy and say, hey,

1 we have coming up, are you going to be sending any
2 business over.

3 Q. Did Bart Rendel have any other
4 affiliation, any part of ULS?

5 A. No, not at all. Like I said, there was a
6 giant wall between ULS and First 100. Everything
7 else, the only common thing that you might find is I
8 personally owned 100 percent at all times ULS,
9 Atkinson Law Associates and Kupperlin Law, that's
10 the only commonality.

11 Q. So it's fair to say Jay Bloom had no
12 interest in ULS?

13 A. That is correct.

14 Q. Bart Rendel was never a client of ULS?

15 A. No.

16 Q. How about Jay Bloom?

17 A. As a matter of record absolutely he was.
18 That's how I first met Jay, was buying through some
19 bankruptcy situation. My recollection, it was like
20 in 2011, I don't know how he found us. We ended up
21 representing one of his companies on a creditor
22 side, and we just hit it off, he is a brilliant
23 fellow.

24 Q. Just to clarify, the question was, was Jay
25 Bloom ever a client of ULS?

1 A. I am sorry, I thought you meant just in
2 general.

3 Q. Right.

4 A. Because as a matter of record, Jay Bloom
5 was personally a client of Atkinson Law Office, in
6 some litigation that is matter of public record.

7 Q. Okay.

8 A. But ULS, absolutely, no, that's correct.
9 The only clients of ULS were HOA's, that's it.

10 Q. Because ULS seized to exist after you
11 stopped doing these types of activities, is that
12 correct?

13 A. That's correct. I mean that's not the
14 reason. The reason it was only designed to have
15 HOA's as clients. Turning off wasn't the reason it
16 didn't have non HOA clients, it was a narrow
17 dedicated special purpose entity.

18 Q. Understood. When the account is, and you
19 produced, is it your understanding Red Rock was the
20 HOA trustee prior to ULS in this particular
21 property?

22 MS. SURUR: I am going to object to the
23 form.

24 A. I agree, it's very common in these HOA
25 litigation suits for the collections agents to be

1 referred to as trustees. I don't understand that,
2 the only reason it's referenced in the PAA is
3 because I personally went to some HOA auctions that
4 were being held by one of the major HOA auctioneers
5 at the time. One of these law firms right down the
6 road here, and I looked up their deed, and their
7 deeds were all trustee deeds. And it wasn't until
8 very quickly that I realized that the word trust and
9 trustee, they are just not used in NRS116, it's not
10 a trustee relationship. However, in the spirit of
11 your question, because these HOA lawsuits, like the
12 subject suit for which we are here on the deposition
13 also referred to as the collections agent's trustee.
14 Also simply put in your question meaning, was Red
15 Rock the upstream collections agency, is that okay?

16 Q. I appreciate the clarification.

17 A. The answer is yes, it's my understanding
18 that Red Rock was the upstream collection agent or
19 prior collection agent.

20 Q. When the property is transferred to ULS?

21 A. It's not the property, it's the...

22 Q. The collection account?

23 A. Yes, the account.

24 Q. That's what I meant. When the collection
25 account for this particular property is transferred

1 to ULS, what is the process?

2 A. It's fairly straightforward. What would
3 happen is the signed PSA, which had been signed by
4 the board would have been sent over by Michelle.
5 And it would come in with two of the three
6 signatures, generally, and say hey, Michelle would
7 send an e-mail to both ULS and Red Rock, usually
8 someone named Julie. Again, this didn't happen in
9 all cases, but this is usually what happened, and
10 then she would say okay, we got one here, let's get
11 going on it. And because Red Rock was under
12 expressed instructions by the HOA pursuant to
13 Exhibit 2 of the PSA to obey the HOA and turn the
14 account over to ULS, then this Julie person would
15 basically take a day or two and then e-mail the
16 reply e-mail to myself and to Michelle, saying here
17 you go. The contents of that e-mail, generally, was
18 a copy of the Notice of Delinquent Assessment Lien
19 that had been produced and recorded by Red Rock, a
20 copy of the recorded Notice of Default that had been
21 produced and recorded by Red Rock and also what is
22 known as the Account Detail, which is a history of
23 payments, and also the amounts due there on the
24 property. It's basically a running total, and also
25 they usually included an invoice, but ULS was less

1 interested in invoices because the responsibility to
2 pay that invoice was First 100's. The things that
3 ULS actually got from Red Rock for the subject
4 property are found in Exhibit 2, starting at Bates
5 1.

6 Q. Okay.

7 A. So I am a very organized person, so I
8 separated these out for you so that to assist in
9 these conversations.

10 Q. And ULS 1 is actually your cover sheet?

11 A. That's correct, and it's basically a cover
12 sheet on top of a pdf file on a CD ROM I sent over
13 to you. And this is everything we got from Red
14 Rock.

15 Q. Which is ULS 2 through 18, is that
16 correct?

17 A. That's correct. So in there you can see
18 exactly those documents I was talking about. I
19 don't see an invoice in here, but if it's not in
20 here, this would be one of those ones that Red Rock
21 sent separate cover to Michelle.

22 Q. How about ULS 13?

23 A. Let me see. Yes, it's right there, yes.

24 Q. What was the procedure that you received
25 those documents from Red Rock?

1 A. We would scan it and review it to
2 understand whether there was any compliance fines or
3 other things that didn't belong in the calculation.
4 Generally, there were not, just delinquent
5 assessments, and late charges, and anything else
6 lienable and foreclosable upon. We check to make
7 sure that the Notice of Delinquent Assessment Lien
8 and the notice of default were recorded correctly,
9 and then we generally went to that running total
10 due. That's found in the account detail because
11 that generally would be the starting point for the
12 calculation of a number that goes in the notice of
13 foreclosure sale. So as you know, the notice of
14 foreclosure sale must contain a number, which is the
15 amount due as of the date of the proposed sale. So
16 we use Red Rock's running total, and add it onto
17 ULS's costs and add it on a month of assessments and
18 late fees, does that make sense?

19 Q. Yes.

20 A. And that would be the number that we go
21 and do the notice of foreclosure sale.

22 Q. Would Red Rock's running total, would that
23 be on ULS 18?

24 A. I think on this one, they shot over
25 amounts as of April 29th, and that's ULS 12, and

1 they shot it one day later, do you see, and that is
2 as of, so ULS 14 through 18 as of April 30th. For
3 some reason they sent us, but it's the same number
4 because nothing additional had been incurred so it's
5 the exact same number. So to answer your question
6 yes, the running total is on ULS18 and the number
7 would be \$5,815.60.

8 Q. And you would add another month of
9 assessments, and what else did you add to that?

10 A. Late fees and ULS's own collection costs.

11 Q. Over the course of your representation of
12 the HOA and these collection accounts, did you have
13 any reason to contact Red Rock again, other than
14 initially getting the documents?

15 A. No, once that collection file was handed
16 off, that's it. When I say the collections file, I
17 mean the limited documents that I told you. Before
18 I was a lawyer I was management consultant for many
19 years, working for AT Car. As part as of that I did
20 contract negotiations for collection companies for
21 telecommunication carriers, such as Sprint. I
22 listened in to thousands of collection calls. I
23 listened in with CSR's, negotiated probably about 35
24 contracts, and negotiations of outsourcing and all
25 that. There is different stages of collections, and

1 I can tell you via experience, the things that get
2 handed off between collection companies that are in
3 each stage of the chain. Generally,
4 telecommunication companies would have three to four
5 separate collection agents that specialized in each
6 stage of delinquency, and the things that get handed
7 off between them simply is a running total of the
8 amount due. And so what we got from Red Rock was,
9 in fact, exactly was, exactly what I was expecting.
10 It would give me the details of the amount due, so
11 if somebody calls up and says, I demand to see how
12 much is due under the Fair Debt Collections
13 Practices Act I can send them over the invoice,
14 which hardly happened. It happened once.

15 Q. Is it fair to say you didn't have to go to
16 Red Rock to get any kind of authority to go to sale?

17 A. Red Rock had no authority to give that,
18 the authority was through the HOA, and the authority
19 granted ULS to take the property to sale was in the
20 PSA.

21 Q. So you wouldn't have to go back to the HOA
22 for that authority?

23 A. That's correct.

24 Q. Did you generally have to go to the HOA
25 for anything in particular?

1 A. No, I mean that PSA is a comprehensive
2 document so we had everything we needed. For
3 example, it was in the contract, starting bid was
4 \$99, I didn't have to ask him what would you like to
5 start bidding at. So generally there is not much
6 communication with the community manager for the
7 HOA. Every now and then there would be a little
8 bit, but you know, with the actual HOA board itself,
9 it was only by and through signatures on the PSA.
10 As you know, board members are simple laypersons
11 that happen to own property in the community. They
12 rely on their community manager to take care of
13 everything over the course of these representations.

14 Q. Did you review the CC&R's at all?

15 A. No.

16 Q. And why is that?

17 A. Not relevant to what ULS was doing. We
18 assumed that the entire contract and the authority
19 to perform an NRS116 foreclosure sale is granted by
20 the statutes by and through the NAC, which is the
21 Nevada Administrative Code, and was consistent with
22 the CC&R's, because we assumed that every HOA to
23 sign one of these things had a review by their
24 outside HOA counsel. And so the authority to
25 foreclose on a property for delinquent assessments

1 is inherent on NRS116. The legal affect of that
2 foreclosure is of no consequence to the HOA, nor its
3 agent, ULS. So there is some language, but you can
4 still hold the sale, it's a valid sale, and it did
5 occur, and it's of no consequence to ULS.

6 Q. Similar question, did you make any attempt
7 to determine if the HOA has any kind of assessment
8 collection policy prior to your representation of
9 them, perhaps a policy that might be separate than
10 the CC&R's?

11 A. We never asked that question. I operated
12 under the assumption that if there were any it would
13 be provided to us. However, I am the president of
14 my own HOA, and I can tell you right now that all
15 collection policies are, in fact, embedded in the
16 collections contract. The contract specifies.

17 Q. With the collection agent, you are saying?

18 A. In other words, the collections agent is
19 the one that produces those policies and says, here
20 you go. And it turns out all these policies and the
21 things that the collections agent is allowed to do
22 is in that specific contract for that collections
23 company. Because, for example, in the collections
24 company that's used by my own personal, to my own
25 personal knowledge, by our own HOA of my house,

1 those collection policies are part of a collections
2 agent contract, because the collection agent wants
3 to know what it can't and can do, and it can point
4 to a contract. So the PSA operated around the same
5 assumption, simply marching orders to go foreclose.

6 Q. So you would find it highly unlikely that
7 the HOA would have its own assessment collection
8 policy?

9 A. In my experience it turns out if Southern
10 Terrace had one, I was a unaware of it, nor did I
11 operate on the assumption that we were required to
12 be compliant with it because we would have been
13 notified is my assumption, we would be notified.

14 Q. Fair enough. Can you go over with me your
15 procedure for preparing the notice of sale and
16 sending that out?

17 A. Certainly. So there was some things that
18 were required in order to produce a notice of
19 foreclosure sale. We needed to understand what the
20 instrument numbers were for the notice of delinquent
21 assessment lien and the notice of default.

22 Q. Sure.

23 A. We would need to calculate the amount due
24 as of the proposed sale date.

25 Q. And that's what you kind of went over with

1 me already?

2 A. That's correct. I already went over that
3 process, deducting any things that you couldn't
4 foreclose on and that sort of thing.

5 Q. Okay.

6 A. We would confirm that the parcel number is
7 accurate for the property, we would pull the land
8 records, of course. We would order those and that
9 would be a process in parallel with the notice of
10 foreclosure sale. The notice of foreclosure sale
11 itself was a word document template that was
12 generally produced by Opdyke. That template itself
13 was produced by Mr. Opdyke and me, and then he just
14 accessed it. And then the way it worked was
15 essentially a mail merge with an excel file with all
16 the relevant fields, the fields being sale date,
17 amount due and so forth.

18 Q. I don't mean to interrupt you, we might as
19 well address actual documents to ULS 56?

20 A. 55 is the unrecorded version, and 66 is
21 the recorded version.

22 Q. This is what you are referring to?

23 A. Yes, and basically so, you know, within a
24 day or two or three after getting a batch come in on
25 a PSA, Opdyke would have prepared and printed the

1 notice of foreclosure sale for each one of the
2 properties in a batch and Mia would review them and
3 sign them.

4 Q. And when you say Mia?

5 A. You see her signature there at the bottom
6 of Bates 56.

7 Q. F-R-E-J-U-E, that's correct?

8 A. Yes, and then it would go out for
9 statutorily required noticing. For example, to
10 publication, it would go for public posting, it
11 would go for posting on the property and it would be
12 sent out for mailing in accordance to the statutes
13 that were in effect at the time.

14 Q. How is it that you identified who to mail
15 it to?

16 A. Per my earlier reference, we would
17 actually identify those addresses by inspection of
18 the land records. The addresses for the homeowner,
19 for example, would be found, it would be both the
20 property address itself, as well as any address
21 found on the Clark County Assessor, as being a
22 mailing address for the homeowner for any lien
23 holder or any sort of party that was out there in
24 the land records that required noticing it. There
25 was no way for ULS to know about anybody else who

1 may subsequently a year later claim a right to be
2 noticed. It's ULS's position, if they were not on
3 the land records at that time, then they had no
4 reasonable expectation of getting noticed because
5 there is no way for. I am particularly referring to
6 Fanny Mae types of situations, where you see
7 sometimes in these lawsuit.

8 Q. Is it fair to say that you don't contact
9 Red Rock at all to determine if they have any
10 addresses?

11 A. We did not trust anyone but ourselves.

12 Q. Okay. And again, you didn't contact the
13 HOA, is that right?

14 A. And the HOA would have no reason. That
15 would be a very strange thing to ask them about who
16 to send these out to.

17 Q. You don't think they might have an address
18 for a member of the association?

19 A. The HOA board members?

20 Q. No.

21 A. No, besides, I also object to this entire
22 line of being a hypothetical because unless you can
23 point to someone who didn't get noticed, then I just
24 simply check. We noticed everyone. So do you have
25 any example of someone that should have got noticed

1 that didn't?

2 Q. No, my question was whether or not you
3 asked the HOA. And similarly, did you ask the HOA's
4 management company at all?

5 A. No, nor was it on any statutory
6 requirement to do so.

7 Q. If can you turn to ULS 58 for me, please?

8 A. Yes.

9 Q. What is this document?

10 A. This is a bulk form certificate of mail.
11 Specifically ULS 58 is a postal service form 3877.
12 So the first batch of properties that were run
13 through by the very first HOA was Christopher
14 Communities, as I would call them, from my earlier
15 conversation. A certificate of mailing was produced
16 for each person or entity to whom a piece of mail
17 was produced. A certificate of mailing, as you
18 know, is proof that a piece of mail deposited in the
19 U.S. Postal Service, and basically given to a clerk.
20 Okay, so it's proof positive that something got
21 mailed. There is no requirement to have even gotten
22 one of these things. You just have to say it was
23 mailed. I have seen other HOA foreclosure agencies
24 that simply had a certificate of mailing saying,
25 here is an affidavit of somebody saying, I put it in

1 the mail. I like stronger proof than that, so I
2 wanted a certificate of mailing, so it proved that
3 something got into the mail straight. At that first
4 batch, the story that was relayed to me by Mia was
5 the postal service agent laughed at her and
6 basically said Honey, you need to know about the
7 bulk form, because I am not going to stand and stamp
8 these all day long. So she gave her a big batch of
9 bulk forms, and she told her how to fill it out.
10 And the way you fill it out is you put in the
11 address of everybody on a batch of envelopes that
12 you are giving to them, and you put slashes on any
13 unused lines, and then the postal service agent then
14 goes and confirms and matches each address to each
15 address that's on the bulk form, and then when
16 everything passes, that's when it gets stamped as
17 shown, and then we got the original back. Does that
18 make sense, so it's proof that these were all mailed
19 out to these entities.

20 Q. Now, when you say stamped, are you
21 referring to the circular stamp?

22 A. On top of a paper stamp, that's right, so
23 there is a paper stamp showing postage of \$2.20 for
24 these five items, and in addition there is one of
25 those red post offices stamps that's on top of all

1 that.

2 Q. Okay. And would the individual envelopes
3 be stamped with actual postage on this item post
4 office?

5 A. It's my recollection that the stamps
6 themselves had the first class stamp, and the \$2.20
7 reflected the additional cost of the certificate of
8 mail.

9 Q. I see.

10 A. In other words the \$2.20 was not the total
11 cost.

12 Q. That was the not the cost of postage for
13 the certificate of mailing?

14 A. Correct.

15 Q. Would it be fair so say that, well, do you
16 know if the post office confirms that each envelope
17 had been properly?

18 A. Yes, they matched the address on the
19 envelope with the address on the certificate of
20 mailing, they wouldn't mail it otherwise.

21 Q. Well, what I mean is, did they actually
22 confirm that there is proper postage on each
23 envelope?

24 A. Yes.

25 Q. ULS 59?

1 A. Okay. So in the statutes that were in
2 affect at the time, which ran through June 30th of
3 2013, there was a requirement to mail items on a
4 first class basis to every one, but mail to the
5 homeowner also had to be sent to the homeowner on a
6 certified mail basis, and that's what you are seeing
7 on ULS 59, which is a certified mail receipt. Okay,
8 and on 60 you can see the return receipt actually
9 signed, it's hard to read the signature, but it's
10 BH, so I am assuming that's the homeowners'
11 signature.

12 Q. Is this ULS 59 different than ULS 58 or
13 was that?

14 A. I want to make sure you understand what 59
15 and 58 were. You go to the post office with a
16 stack, in this instance, of five first class
17 envelopes addressed to everybody on 58. And in
18 addition you also go and in that pile is a separate
19 envelope stamped certified mail for six and some
20 dollars, do you understand, mailing it to the
21 homeowner via certified mail. So for the subject
22 property Mia would have gone to the post office with
23 a filled out form PS 3877 and six envelopes. Five
24 of which were stamped first class, and one of which
25 was stamped, and also had a certified mail and also

1 had a return receipt, all properly on the envelope.

2 Q. I think I got you. So certificate of
3 mailing is different than certified mail?

4 A. A certificate of mailing is completely
5 totally different than certified mail, that's
6 correct.

7 Q. Certified mail has to do with return
8 receipt, is that right?

9 A. It's actually two separate charges. The
10 return receipt is that green envelope you get back
11 saying they received it.

12 Q. Which is ULS 60.

13 A. You can actually do certified mail without
14 a return receipt, it's very unusual. The post
15 office will allow you to do it, it costs like three
16 bucks. But the certified mail is like a fancy next
17 stage up after delivery confirmation. So there is
18 first class mail and then the first thing that
19 proves you mailed it is a certificate of mailing,
20 and then the next step up is delivery confirmation,
21 and the next step up is certified mail, and the next
22 step up is return receipt requested, and the next
23 step up is registered mail, something like that.

24 Q. Understood. Let me go back to clarify.
25 With regard to ULS 58, the certificate of mailing,

1 what was mailed in that particular certificate of
2 mailing?

3 A. You can see, if you look on the bottom off
4 to the right-hand side, you can see a stamp, you see
5 that, and that printing it says, NV-SO3-04, that's
6 our code for the subject property, NV stands for
7 Nevada. SO3 is Southern Terrace, and it was the
8 third HOA we did that had to begin with the two
9 letters SO, and 04 was the subject property, as you
10 recall back on Exhibit 1 of the PSA is a line item
11 four.

12 Q. I do.

13 A. So that's how we coded everything, and
14 that we knew what went where. And I personally
15 reviewed every envelope before Mia sealed it, and
16 that's why when she came back she might have gone
17 there with two certificate of mailings, but this was
18 only associated with that batch of documents.

19 Q. What was the actual document mailed?

20 A. For all persons and entities who were not
21 the homeowner, it was the notice of foreclosure
22 sale. For the homeowner, it was the notice of
23 foreclosure sale and I have to go back and review,
24 but it also might have been the notice of tenants, I
25 can't remember.

1 Q. If you look at ULS 57, that's a copy of
2 notice to tenants, could that be it?

3 A. Yes, I know that was posted on the
4 property, but I believe it also had to be mailed, we
5 did everything according to the sale.

6 Q. Okay. Again ULS 60 is related to the
7 mailing of the notice of sale, is that right?

8 A. Absolutely, and in fact, you can see it
9 right there, it's the subject property and the
10 homeowner at the time.

11 Q. ULS 61, can you tell me what that is,
12 please?

13 A. Yes, so part of the noticing process was
14 mailing, as we just went through, part of the
15 noticing process was posting on the subject
16 property. So in order to post on the subject
17 property, I generally sent out Mia. And in this
18 instance, that's what happened. We would hit the
19 road, and come back after posting the notice of
20 foreclosure sale, and the notice to tenants of
21 property. So ULS 61 is an affidavit from Mia saying
22 that the posting had occurred on the subject
23 property. In addition, I am sorry, excuse me,
24 strike that. I am talking about the notice of
25 service on the next page. Everything I said just

1 applied to ULS 62.

2 Q. Okay. Well, let's continue there.

3 A. ULS 62 is sending Mia out and going to the
4 subject property and posting the notice of
5 foreclosure sale, and the notice of tenants at the
6 property at the actual subject property. And you
7 can see it right there, it's the fourth one down on
8 ULS 62, do you see that?

9 Q. Sure.

10 A. That's affidavit of service. Going back
11 to ULS 61, and pardon me, what it is is the notice
12 of foreclosure sale had to be posted in three
13 separate public places, and we had identified public
14 boards, and she personally went there and posted it.

15 Q. Okay. And these are not addresses at the
16 location, it looks like Regional Justice Center?

17 A. The addresses on 61 are the location of
18 the public board. So as you recall, you go on the
19 RJC, and there is a giant public board there, right
20 there, and that's where she put it, that's where the
21 first dash is on the lower half of ULS 61.

22 Q. Turn to ULS 64?

23 A. Yes, ULS 64 is the affidavit of
24 publication of the notice of foreclosure sale in a
25 newspaper of general circulation. You can see the

1 affidavit itself is off to the right, and the thing
2 that got published is off to the left.

3 Q. Okay.

4 A. ULS 65 is the receipt of sale indicating
5 that the subject property was sold on May 25th, 2013
6 auction, for the mean bid of \$3,500, and it was sold
7 to First 100. And the person who was the
8 representative of that buyer was Jay. Generally,
9 Jay was always the person who was First 100's person
10 at an auction.

11 Q. Okay. If you can go over with me, please,
12 your procedure for the actual sale of the property?

13 A. Certainly. So I call them like any other
14 ones that I have seen, I mentioned earlier, I went
15 and observed HOA auctions. I don't recall the name
16 of the law firm at the time, Alessi and Koenig. I
17 went and attended Alessi and Koenig auctions. And
18 what I would do is I would just generally follow the
19 exact same process every time, which is I would say
20 good morning, today is whatever date it was,
21 announce the time, this is the time of certain HOA
22 sale. We have got a number of properties that have
23 been noticed for sale. And then I would call any
24 cancellations or postponements, and then I would go
25 over any property to be sold. So on a particular

1 property I would say, now, we are moving on to the
2 next property for sale. And I would announce the
3 APN and the address of the property, and then state
4 that the opening credit bid from the HOA is \$99.
5 And do I have any over bidders, and there would be
6 people bidding on top of that. And once it sort of
7 stalled out, I would do the going once, going twice,
8 and then say sold to that particular person. And
9 later on they would tell me who do I make the deed
10 out to. And then move on to the next one, and I
11 would keep a running total as I went as to who the
12 winners were, mark down in my own hand writing each
13 time after each property, and then I would move on
14 to the next one. At the end of all properties were
15 auctioned off I concluded and wrapped it up, it's
16 very straight forward.

17 Q. Okay. As far as the \$99 starting price,
18 is that something you did with all the properties?

19 A. Every PSA -- the answer is yes, and the
20 reason is every PSA required ULS to open up each
21 auction at the credit bid of \$99. There was no
22 statutory requirement under NRS116 to set a minimum
23 bid, so it would be a breach by ULS to do anything
24 different.

25 Q. Do you know how that \$99 price?

1 A. I have no personal knowledge, but I have a
2 hypothesis, based on hearsay. Basically, it is my
3 understanding that First 100 had a critical insight
4 into the problem that was plaguing HOA's in Nevada
5 at the time. Specifically, there was a gigantic
6 overhang of non performing properties from the HOA
7 standpoint. These are properties that the bank had
8 not foreclosed on, the servicer of the bank did not
9 care at all. He let these properties go and go, for
10 whatever reason. They just were not being
11 foreclosed upon, and there is these homeowners that
12 were riding it out. These homeowners had already
13 committed themselves to being foreclosed on, and
14 that behavior can be inferred by the nonpayment of
15 the first mortgage. In addition, with that the HOA
16 assessments was also not to be paid. So there is
17 these HOA's that were under extreme financial
18 stress, because a large fraction of the community
19 was not performing so their business basic needs
20 were not being met. HOA's did have an ability to
21 get a property back by holding an NRS116 foreclosure
22 sale. However, for small condos and rinky dinky
23 houses, many HOA's were pretty scared to take things
24 to auction because the economics were not quite
25 there. And let me explain. When I went to Alessi

1 and Koenig auctions to observe, I noticed that there
2 were quite a few for which the credit bid was set
3 for the amount of the lien, and there were no over
4 bidders, and I thought that was fascinating
5 because...

6 Q. Just to clarify, when you say over bid,
7 you mean bidding above that amount?

8 A. Correct. So Alessi and Koenig would say,
9 hey, we have a house here, it's a crappy two bedroom
10 house, and it's, you know, it's, you could tell from
11 the address it wasn't very fancy, or a condo or
12 something like that. And you know they would start
13 off the opening bid would be \$18,000, and there
14 would be no one that would want it, no one. And so
15 I personally observed this going on and the HOA
16 would end up being the auction bidder via the credit
17 bid. Now, if you are an HOA, and ended up being the
18 winner at a credit bid, that's not a pleasant
19 situation to be in because now the HOA is the owner
20 of the property and the HOA is responsible for
21 paying assessments for cleaning up the thing, it
22 would be responsible for cleaning the property or
23 being subjective to self compliance fines, it would
24 be responsible for kicking out squatters. And many
25 HOA's didn't want that responsibility. The

1 hesitancy of the HOA's to foreclose, and like they
2 had a statutory right to do so, because they waited
3 too long, and these foreclosure liens were gigantic
4 relative to the property size. And also the fact
5 that any auction winner at an NRS116 sale was not
6 getting a grant bargain sale deed, they were getting
7 a bare foreclosure sale with a bag of litigation
8 with requirement to get clean title. I believe that
9 First 100's brilliant insight into that market was
10 there is no requirement to have an opening bid the
11 entire lien amount. And particularly, it was my
12 experience that most of the HOA's that sign up with
13 First 100 were lousy condos. Some of these condos
14 were only worth 50 grand or something like that, and
15 it would have eight or nine or ten grand worth of
16 liens on them. And so it was also personally my
17 experience as auctioneer that the absolute
18 overwhelming number of properties auctioned off to
19 the great delight of the HOA clients. Because they
20 finally got rid of these properties off to somebody
21 that would be a productive homeowner. The
22 overwhelming majority of them were auctioned off for
23 less than the total amount owed as identified in the
24 notice of foreclosure sale. So for example, the
25 subject property we can see on 65 was sold for

1 \$3,500, but the actual amount of the lien was higher
2 than that. So in other words, this is a short way
3 of saying, there were no excess proceeds on the
4 sale.

5 Q. Okay. Well, where were these sales taken
6 place at?

7 A. At ULS's office, which is co-located with
8 Atkinson Law Associates. At the time the location
9 was 8965 South Eastern Avenue, Suite 350, and it
10 currently operates out of Suite 260.

11 Q. What particular time or date were they
12 done, were they all the same?

13 A. Well, generally, I would set the sale date
14 as being a Saturday morning, simply because ALA
15 office, which was the ULS co-located office didn't
16 have a conference room with closed doors. All it
17 had was a conference room table with a ball pen
18 right in the middle, and I absolutely did not want a
19 bunch of randoms wandering around my law office as I
20 was auctioning things off. I wanted control and
21 structure, because that's the kind of guy I am. So
22 there is no statutory requirement to have NRS116
23 foreclosure sales on Monday through Friday, during
24 business hours. So I don't know if it ever changed,
25 but it was perfectly fine to have Saturday morning

1 hours.

2 Q. Do you know what time this particular sale
3 was at?

4 A. I would have to look at the foreclosure
5 deed, it would be held at the time that was, I mean
6 the notice of foreclosure sale, it would have been
7 at the date and time on that, and specifically if I
8 refresh my memory using ULS 65, it was May 25th,
9 2013 at 9:00 a.m. Let me just quickly look at my
10 phone and see. Are you looking at your calendar to
11 confirm May 25th is a Saturday?

12 Q. Yes, this was a Saturday, okay. Do you
13 have any recollection as to how many bidders were at
14 this actual sale?

15 A. I don't recall. You can infer from the
16 \$3,500 price that there was active bidding on the
17 property. In general, there was a core number of
18 dedicated NRS116 type buyers that usually always
19 showed up. People like Eddie Haddad, I saw Chris
20 from SFR there a lot, this guy named Jason would
21 show up. And several others just like regulars.
22 And then on properties I did notice that when we ran
23 houses through, generally, more people would show
24 up.

25 Q. Relative to condos?

1 A. Relative to condos, because the economics
2 of a condo is difficult.

3 Q. Sure.

4 A. Because most of your expenses are being
5 paid out in subsequent litigation claims in case of
6 a loss, you have some strange dynamics there.

7 Q. Okay. Did you keep any kind of sign-in
8 sheet or list of bidders at these auctions?

9 A. No, you could tell the number of bidders
10 by the different voices on any MP3 for any auction.
11 I ended up taking about 80 percent of them, which
12 would be, I didn't take some because I literally
13 forgot because I was trying to pre-qualify
14 something.

15 Q. What would that entail?

16 A. I would require them to either show me a
17 cashier's check, or more commonly just log into a
18 bank account right in front of me, and show me
19 account balances. And that was the maximum number
20 you can bid. A lot of people did that, they would
21 walk in and show 400 grand in account, and I would
22 say, you are okay.

23 Q. Is that something they would have to do
24 before each auction?

25 A. No, only once before I first knew them,

1 and after that they were their own face and they
2 were good. I never had anybody go bad on an
3 auction. In other words, everybody always paid.

4 Q. Is it more towards your comfort level
5 because you have seen this before?

6 A. Yes, that's correct. We didn't have any
7 policies per se, except if you were a new face. I
8 wanted to make sure you were not, I wanted to make
9 sure you are serious.

10 Q. And you are fairly comfortable with First
11 100?

12 A. Absolutely.

13 Q. And I believe you said Mr. Bloom, Jay
14 Bloom that actually bid for First 100?

15 A. He generally was the person there who was
16 First 100's representative. Because his name was on
17 the receipt of sale I can deduce that for this
18 particular May 25th auction, that he was there.

19 Q. As part of the sale, do you cry any other
20 information about super priority liens, super
21 priority, in general?

22 A. For the subject property, no, as a matter
23 of policy, no, with one exception. There were
24 instances of approximately 130 properties that were
25 sold through ULS on behalf of their HOA clients.and

1 more precisely were auctioned by ULS on behalf of
2 their HOA clients. There were nine or ten of them
3 for which a deed of trust beneficiary or their law
4 firm or their servicer proffered what they contended
5 to be the super priority amount. Generally, that
6 person who was contacting ULS in order to attempt to
7 do that was Miles Bauer. Generally, we get a form
8 letter typically signed by Rock Jung. And they
9 would demand a payoff, and ULS took no position as
10 to the legal affect of a foreclosure sale on the
11 super priority and sub-priority portion of the lien,
12 because there is only one lien and it was the value
13 of the sale, and it was up to the winner and the
14 first mortgage company to duke it out as to what the
15 legal affect is of that first deed of trust. So
16 they would demand what the payoff amount would be,
17 and they would insist that there is only nine
18 months. Generally, that's how it went, and we would
19 communicate back, saying that if they wish to pay
20 off nine months worth of assessments, it was this,
21 and if they wanted to pay off nine months of
22 assessments versus collection costs, it was a
23 different number. As you recall, this is before the
24 Ikon decision came out, that's spelled I-K-O-N. And
25 at the time it was a gray area as to what the super

1 priority portion of the lien was comprised of. It
2 turns out months later it was only nine months of
3 assessments in the period prior to the sale. In
4 retrospect, I believe that Miles Bauer or whoever
5 was controlling them was taking enormous risks by
6 assuming it was nine months worth of assessments in
7 order to satisfy the super priority portion of the
8 lien. It turns out they gambled correctly, but
9 that's almost a side comment. So in an instance
10 where Miles Bauer proffered any money in a timely
11 fashion, in other words, got there before the sale,
12 we always took it and we would record a notice of
13 partial payment against lien in the land records.
14 So that now any person who then showed up later on
15 at the auction had actual notice in the land records
16 that this was a thing that occurred. In addition, I
17 would announce that event at the auction because
18 that's something that ULS had personal knowledge of.
19 However, in all instances, in both the recordation
20 that recorded notice of partial payment against lien
21 and also in any oral announcement at the auction, it
22 was made expressly clear that neither the HOA or
23 ULS took any position as to what the legal affect of
24 that payment is or however the pay or intended to be
25 against the super priority portion. And that

1 covered all bases, because if Miles Bauer had
2 guessed wrong, the super priority. If
3 hypothetically the super priority was also supposed
4 to include collections costs, then the payment would
5 have been for naught. Any way, so that's a long
6 answer to your original question, which is, did ULS
7 ever make any announcement with respect to super
8 priority, and the answer is yes, in those small
9 handful of instances in which a payment by somebody
10 intended to be against the super priority portion of
11 the lien had been timely received by ULS prior to
12 the auction.

13 Q. And I appreciate that. What about with
14 this HOA?

15 A. That didn't happen in this case.

16 Q. Now, I know you said ULS took no position
17 with regard to super priority. Did ULS have some
18 kind of understanding of what a super priority was?

19 A. Well, it knows what the strict definition
20 is in the statute. I mean I can point to the
21 statute and read, and it turns out that everybody
22 has a different opinion, especially at the time as
23 to what that meant.

24 Q. I am sorry, let me clarify. Did ULS have
25 a position as to what the super priority entailed in

1 terms of amount?

2 A. Oh, thank you for clarifying the question.
3 No, it took no position whatsoever. I mean that's
4 why we presented two different auctions. It was our
5 understanding that there were a total of two
6 different world views on the subject. Is either the
7 nine months or nine months plus collections costs,
8 which is why we cited both numbers to Miles Bauer
9 and let them decide.

10 Q. Was there a case where you actually
11 refused to provide a payoff?

12 A. Strike that. If the inquiry came in after
13 the sale we would say, sorry, the sale occurred two
14 weeks ago, you are late.

15 Q. Sure.

16 A. That happened in a very small number of
17 instances.

18 Q. Let's turn back to the documents that you
19 produced, if can you look at, we talked about the
20 invoices already, right, which was after ULS 69?

21 A. Yes.

22 Q. And immediately after that, you have what
23 is called again, this is not Bates stamped, but the
24 title on top, it says Proceeds Reconciliation
25 Report, can you tell me about that document, please?

1 A. So building on what we have discussed
2 before, ULS was entitled to get fees for activities
3 related to the sale, okay. And specifically, it's
4 NAC116.1470 subsection 2, subsection HINT, and in
5 other words, the total dollar amount for a
6 successful sale that ULS was entitled to get was
7 \$1,200. \$750 of which would have been up front
8 relating to the preparation and the noticing of the
9 notice of sale, and then \$450 of which relating to
10 the sale itself, conducting the sale, preparing the
11 foreclosure deed and so forth. So because First 100
12 owed those fees to ULS pursuant to the contract, and
13 because ULS in turn owed a remittance of all
14 monetization events to First 100 pursuant to the
15 contract, what I did was I periodically prepared an
16 excel spreadsheet that identified all money in as
17 debits and all money applied against that as credits
18 to calculate the net amount to be transmitted to
19 First 100. These periodic reports that I did, I
20 called proceeds Reconciliation Report, and I did one
21 of these every week or two, generally.

22 Q. Okay.

23 A. So you can see there in terms of debits,
24 there was \$25,200, that had been received by ULS
25 from First 100 relating to a May 11th auction.

1 There was \$6,500 relating to two properties
2 purchased by First 100 at the May 21st auction. So
3 I am assuming that had to do with the subject
4 property. In addition, there were two lien payoffs.
5 So there is homeowners that paid off the entire
6 lien. So all that was \$42,741 coming in. So that
7 exact same amount on the check sum basis had to be
8 accounted for and allocated against money coming in.
9 So some of them are excess proceeds, you see that.
10 That is still sitting in an account years later
11 waiting for the proper person to raise their hand
12 and come and collect it. I am tracking all those
13 cases and about every three months I log in to see
14 what is going on, and none of them have resolved.
15 ULS has been named as a defendant in a small handful
16 of them, and has interpled funds in these cases.
17 The majority of funds have been interpled, I will
18 just let you know that. You see the fees, ULS was
19 entitled to collect fees according to those NAC
20 statutes, you see that right there?

21 Q. Yes, I do.

22 A. In addition, it was also entitled to
23 receive fees for properties that had been paid off.
24 So you couldn't get an additional \$450 because the
25 sale hadn't occurred, but there were things under

1 NAC, and you can see off to the right, specifically
2 subsection, it's hard to read here, L and Q,
3 something like that, to provide a payoff "to
4 somebody". Somebody calls in and says, how much is
5 it to pay off the lien. Well, we get to charge like
6 \$150 for that. There are two of those that
7 happened. And also we recorded the release of lien
8 in the land records and that's \$22 to record that,
9 that's \$17 recordation cost, plus a five dollar
10 surcharge. I mean everything is to the penny
11 accurate. And then the balance was remitted to
12 First 100, and so that's how that works.

13 Q. The balance in this case was \$34,381.50?

14 A. That's exactly right.

15 Q. I appreciate that.

16 MS. SURUR: I am sorry, I want to clarify
17 real quick. You said in this case the proceeds
18 you remitted to First 100 were \$34,381.50?

19 A. That's correct.

20 MS. SURUR: My question was, those
21 proceeds come from foreclosure sales in
22 addition to the foreclosure sale at issue in
23 this case, correct?

24 A. Yes, because there is multiple PSA's that
25 are active at the time. This has to do with

1 properties that are far beyond Southern Terrace HOA,
2 thank you. It's included in this particular Exhibit
3 2 because it demonstrates and contains the proceeds,
4 as well as the ULS fees and costs for the subject
5 property.

6 Q. The next step to try to keep track, the
7 next step in the stack is the PSA, which we
8 discussed already, and then you have the collection
9 fees and costs which we discussed?

10 A. There is an auction winner sheet, did you
11 see that in here?

12 Q. I am looking for it?

13 A. It's right after the PAA.

14 Q. Yes, I will get to it. And then the PAA,
15 and as you said?

16 A. So the pages right after the PAA, it's my
17 hand writing that's my call sheet for the May 25th
18 auction. So as you can see there was one property
19 that was canceled. I would have indicated that.
20 There was two that were postponed, I would have
21 called that. And I would have started with the six
22 that actually went for sale. You can see right on
23 there that First 100, in fact, purchased these
24 properties, sum of that was \$6,500. There were
25 other auction winners, you can see Chris Hardin was

1 there, from SFR, you see that. So Hardin, a guy
2 name Lonnie Britt. And Eddie is Eddie Haddad. So
3 there was at least four people that were there
4 because four different people representing four
5 different companies purchased properties at that
6 auction.

7 Q. Okay. I will represent to you this
8 document was produced in your initial disclosure,
9 and it was entitled auction results, which I assume
10 is a fair representation of what it is?

11 A. Absolutely. And that's my hand writing.

12 Q. Okay.

13 A. You see that right there, nine months
14 paid, no collection costs, you see that?

15 Q. Yes.

16 A. This is not for the subject property, but
17 it's 5764 Field Breeze.

18 Q. It does say sold next to it, is that
19 right?

20 A. Yes, exactly. So it's sold interestingly
21 enough, this was the lowest price on there. By the
22 way, it makes sense they would go off for a little
23 bit less because you are taking even more of a
24 gamble as to what the outcome would be with respect
25 to a quiet title action. Does that make sense?

1 Q. I understand, yes. Generally speaking,
2 would all these properties all be from the same HOA,
3 is that your procedure?

4 A. Depends on the day. So it depends on the
5 volume. I mean some days, some auction days would
6 have three different HOA's on there. Some days it
7 would be one batch from that one HOA. And there is
8 a minimum of statutory required period to have an
9 auction. So if only one HOA came in, in a week
10 there would only be one HOA on the auction held five
11 weeks later.

12 Q. Was there ever, excuse me, was there ever
13 any instance where you open up with your \$99 credit
14 bid, and no one actually bid on the property?

15 A. That never happened, all properties sold
16 that were auctioned.

17 Q. Okay. Is it fair to say at minimum First
18 100 would bid on it?

19 MS. SURUR: Objection, form, go ahead.

20 A. I agree with the objection. There were a
21 few instances where the property sold for \$100, for
22 150, \$500. I would have to go back and look at my
23 records as to who the winner was, but my
24 recollection is that every one that won a \$100
25 price, which was weird, but it did occasionally

1 occur, was First Hundred. That doesn't mean there
2 were not any other bidders there, it just means this
3 property was flawed for some reason. I will give
4 you an example of a flaw that might dissuade a
5 person from buying it. If there was a notice of
6 foreclosure sale by the bank in the land records,
7 and it was very recently filed, that would be
8 something that would dissuade bidders because you
9 have to file an emergency injunctive action, it's
10 extremely expensive. The ones that were more
11 attractive to bidders, in my experience, had super
12 quiet land records from some unknown mortgage
13 company that had not been active in the land records
14 since origination.

15 Q. Was there any kind of procedure you had,
16 if you did not, I mean, I guess, if no one had
17 actually over bid?

18 MS. SURUR: Objection, form.

19 A. There was no policy in place because I was
20 not expecting that as an outcome.

21 Q. Okay, fair enough. You didn't have any
22 instructions from the HOA as to what to do in that
23 kind of situation, is that fair to say?

24 A. You are asking a hypothetical, I am here
25 as a fact witness. I am simply saying, we had no

1 policy because I can explain why that was a
2 reasonable belief.

3 Q. What I was asking is, you didn't receive
4 any specific instructions from the HOA as to what to
5 do in that situation, did you?

6 A. No.

7 Q. Okay.

8 A. My understanding is \$99 was so low that
9 somebody would take a flyer at a hundred dollars.

10 Q. I will pass the witness.

11 MS. SURUR: I have a few questions.

12 EXAMINATION

13 BY MS. SURUR:

14 Q. And if you need to, I don't think you do,
15 if you need to take a look at the Proceeds
16 Reconciliation Report, that's what I am looking at.
17 I want to clear up for the record here, were there
18 any excess proceeds from this HOA foreclosure sale?

19 A. No.

20 Q. Prior to this HOA foreclosure sale, had
21 you had any contact with Lonnie Britt?

22 A. My recollection is Lonnie only appeared at
23 one auction, and this was it, but I would have to
24 refresh my memory. He might have bought two, but at
25 this point, sitting here right now, I think he only

1 bought one, and it would have been this one.

2 Q. And as you sit here today, do you have any
3 recollection now of the contact information for
4 Lonnie Britt; phone number, address, things of that
5 nature?

6 A. Not to my recollection. The only hint I
7 can give you is that when I search my memory, that
8 my recollection was this, it would have to be
9 confirmed by actually looking at the document that
10 he requested that we put in the deed a company
11 called Properties Plus. And that is a corporation
12 in Nevada that you could look at the historical
13 contact information in there. Does that have
14 anything to do with this case or?

15 Q. Does Properties Plus?

16 A. Yes, or are you asking with respect to
17 another case?

18 Q. No, this case, there were multiple
19 individuals, they may be witnesses, so I am trying
20 to get contact information, so we can contact them?

21 A. Eddie Haddad, Chris Hardin, you know how
22 to get a hold of him. And Properties Plus is, and
23 you could look it up in the land records too, but
24 that's the only clue I can give you.

25 Q. Okay. That's fine. That was helpful.

1 That's all I have.

2 MS. SURUR: Just a real quick follow up.

3 EXAMINATION

4 BY MR. JURANI:

5 Q. What would be the procedure for someone,
6 as you said, for example, Miles Bauer, if they
7 wanted to obtain a payoff from you, how would they
8 obtain that?

9 A. They would send a super aggressive letter
10 demanding what the nine months were, and we would
11 send back a very nice letter saying, well, depends
12 what you are asking for. If you are saying nine
13 months worth of assessments only, here is the
14 number, and then if it's nine months worth of
15 collection costs, here is the number, and then we
16 would get back another super aggressive letter with
17 a check of nine months of assessments, basically
18 stating all kinds of legally aggressive arguments.
19 But we didn't care, that was a monetization event,
20 and if the payer intended it to be against a super
21 priority, that was cool with us.

22 Q. And would you personally have been the one
23 to respond to those?

24 A. It was a combination of me or Opdyke. It
25 wouldn't have been a staffer. An attorney would

1 have handled that.

2 Q. Understood. That's all I have.

3 (The deposition concluded at
4 3:15 p.m.)

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CERTIFICATE OF REPORTER

I, Shifra Moscovitz, Certified Court Reporter,
State of Nevada, do hereby certify:

That I reported the deposition of ROBERT ATKINSON,
commencing on Thursday, December 21, 2017, at 1:00 p.m.

That prior to being deposed, the witness was duly
sworn by me to testify to the truth. That I thereafter
transcribed my said shorthand notes into typewriting and
that the typewritten transcript is a complete, true and
accurate transcription of my said shorthand notes. That
prior to the conclusion of the proceedings, the reading and
signing was requested by the witness or a party.

I further certify that I am not a relative or
employee of counsel of any of the parties, nor a relative or
employee of the parties involved in said action, nor a
person financially interested in the action.

In witness whereof, I hereunto subscribe my name
at Las Vegas, Nevada, this 6th day of January, 2018.

<%signature%>

SHIFRA MOSCOVITZ, CCR No. 938

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[unpaid - zak]

unpaid 22:6 unrecorded 52:20 unused 56:13 unusual 59:14 unwind 22:22 upfront 28:9 upper 8:21,23 upstream 23:12 24:16 43:15,18 use 8:17 11:7 46:16 usually 25:1 44:7 44:9,25 69:18	58:14 66:14,25 68:18 78:16 83:17 wanted 18:10 25:6 27:8 56:2 68:20 71:8,8 72:21 85:7 wants 51:2 washoe 29:24 30:16 37:4,5,10 way 8:24 15:3 22:3,22 38:6 39:24 52:14 53:25 54:5 56:10 68:2 74:5 80:22 website 32:23 week 11:11 76:21 81:9 weeks 11:21 23:16 75:14 81:11 weird 81:25 went 13:14 19:10 21:7 23:19 32:3 33:2 38:20 39:16 39:23 40:16 43:3 46:9 51:25 52:2 60:14 61:14 62:14 63:14,17 64:11 65:25 72:18 79:22 whatsoever 19:8 75:3 whereof 87:18 winner 66:18 67:5 72:13 79:10 81:23 winners 64:12 79:25 wish 72:19 witness 4:2 5:17 6:7 82:25 83:10 87:7,13,18 witnesses 84:19 won 81:24	wondering 19:17 word 17:9 43:8 52:11 words 11:10 14:14 23:16 30:8 38:2 50:18 57:10 68:2 71:3 73:11 76:5 work 10:2 11:11 30:9 worked 52:14 working 24:6 47:19 works 78:12 world 75:6 worth 67:14,15 72:20 73:6 85:13 85:14 wrapped 64:15 wright 1:21 3:3 writing 64:12 79:17 80:11 wrong 74:2
v		x
valid 50:4 value 72:12 variable 35:8 vegas 1:24 3:5,10 5:1 7:5 87:19 version 52:20,21 versus 6:1 72:22 views 75:6 visibility 24:24 voice 13:2 voices 70:10 volume 81:5 voluntarily 22:14 vp 40:24 vs 1:7 2:5		x 1:12 xi 1:13 xx 1:13
w		y
w 1:22 3:4 waited 24:4 67:2 waiting 77:11 waive 5:12 waived 5:4,6 walk 70:21 wall 19:21 41:6 wandering 68:19 want 20:5 25:19 28:3,7 38:25		y 11:12 year 54:1 years 22:7 47:19 77:10
		z
		zak 1:21 3:3

Exhibit 13

Exhibit 13

Exhibit 13

Resident Transaction Report
SOTE Southern Terrace Homeowners
Association

Date: 01/01/2007 - 01/05/2018

Building: 0003 SOTE - Somerset
 8290 Arville St

Las Vegas, NV 89139

Res ID	Resident Name Unit Address	Type	Date	Code	Charge Code Desc Bill Address	Check No	Amount	Balance
3012 01	Joseph Harrison 5946 Lingerin Breeze St Las Vegas, NV 89148 Current Credit History Code:		EC		5946 Lingerin Breeze St Las Vegas, NV 89148 Effective Date: 05/29/2013			
							Beg Bal	00.00
		Charge	12/31/2008	MA	Beginning Balance		11.00	11.00
		Charge	12/31/2008	MAST	Beginning Balance		54.56	65.56
		Charge	01/01/2009	MA	Monthly Assessment		11.00	76.56
		Charge	01/01/2009	MAST	Master Assessments		62.00	138.56
		Pay	01/26/2009		Receipt Processing	005243	-68.00	70.56
		Charge	02/01/2009	MA	Monthly Assessment		11.00	81.56
		Charge	02/01/2009	MAST	Master Assessments		62.00	143.56
		Pay	02/04/2009		Lockbox Payment	05258	-73.00	70.56
		Charge	03/01/2009	MA	Monthly Assessment		11.00	81.56
		Charge	03/01/2009	MAST	Master Assessments		62.00	143.56
		Pay	03/05/2009		Lockbox Payment	05262	-73.00	70.56
		Pay	03/27/2009		Lockbox Payment	05270	-73.00	-02.44
		Charge	04/01/2009	MA	Monthly Assessment		11.00	08.56
		Charge	04/01/2009	MAST	Master Assessments		62.00	70.56
		Pay	04/08/2009		Lockbox Payment	05278	-73.00	-02.44
		Charge	05/01/2009	MA	Monthly Assessment		11.00	08.56
		Charge	05/01/2009	MAST	Master Assessments		62.00	70.56
		Pay	05/29/2009		Lockbox Payment	05290	-73.00	-02.44
		Charge	06/01/2009	MA	Monthly Assessment		11.00	08.56
		Charge	06/01/2009	MAST	Master Assessments		62.00	70.56
		Charge	06/30/2009	LF	Late Fees		10.00	80.56
		Charge	07/01/2009	MA	Monthly Assessment		11.00	91.56
		Charge	07/01/2009	MAST	Master Assessments		62.00	153.56
		Pay	07/10/2009		Lockbox Payment	05302	-73.00	80.56
		Pay	07/23/2009		Lockbox Payment	05308	-73.00	07.56
		Charge	08/01/2009	MA	Monthly Assessment		11.00	18.56
		Charge	08/01/2009	MAST	Master Assessments		62.00	80.56
		Pay	08/13/2009		Lockbox Payment	05315	-73.00	07.56
		Charge	09/01/2009	MA	Monthly Assessment		11.00	18.56
		Charge	09/01/2009	MAST	Master Assessments		62.00	80.56
		Pay	09/22/2009		Lockbox Payment	05325	-73.00	07.56
		Charge	10/01/2009	MA	Monthly Assessment		11.00	18.56
		Charge	10/01/2009	MAST	Master Assessments		62.00	80.56
		Pay	10/22/2009		Lockbox Payment	05337	-73.00	07.56
		Charge	11/01/2009	MA	Monthly Assessment		11.00	18.56
		Charge	11/01/2009	MAST	Master Assessments		62.00	80.56
		Pay	11/17/2009		Lockbox Payment	05342	-73.00	07.56
		Charge	12/01/2009	MA	Monthly Assessment		11.00	18.56
		Charge	12/01/2009	MAST	Master Assessments		62.00	80.56
		Pay	12/10/2009		Lockbox Payment	05351	-73.00	07.56
		Charge	01/01/2010	MA	Monthly Assessment		11.00	18.56
		Charge	01/01/2010	MAST	Master Assessments		62.00	80.56
		Pay	01/11/2010		Lockbox Payment	00535	-73.00	07.56
		Charge	02/01/2010	MA	Monthly Assessment		11.00	18.56

AA0592

Resident Transaction Report
SOTE Southern Terrace Homeowners
Association

Date: 01/01/2007 - 01/05/2018

Building: 0003 SOTE - Somerset
 8290 Arville St

Las Vegas, NV 89139

Res ID	Resident Name Unit Address	Type	Date	Code	Charge Code Desc Bill Address	Check No	Amount	Balance
3012 01	Joseph Harrison 5946 Lingerin Breeze St Las Vegas, NV 89148				5946 Lingerin Breeze St Las Vegas, NV 89148			
	Current Credit History Code:		EC		Effective Date: 05/29/2013			
		Charge	02/01/2010	MAST	Master Assessments		62.00	80.56
		Pay	02/12/2010		Lockbox Payment	00537	-73.00	07.56
		Charge	03/01/2010	MA	Monthly Assessment		11.00	18.56
		Charge	03/01/2010	MAST	Master Assessments		62.00	80.56
		Pay	03/09/2010		Lockbox Payment	00538	-73.00	07.56
		Charge	04/01/2010	MA	Monthly Assessment		11.00	18.56
		Charge	04/01/2010	MAST	Master Assessments		62.00	80.56
		Pay	04/16/2010		Lockbox Payment	05397	-73.00	07.56
		Charge	05/01/2010	MA	Monthly Assessment		11.00	18.56
		Charge	05/01/2010	MAST	Master Assessments		62.00	80.56
		Pay	05/17/2010		Lockbox Payment	05406	-73.00	07.56
		Charge	06/01/2010	MA	Monthly Assessment		11.00	18.56
		Charge	06/01/2010	MAST	Master Assessments		62.00	80.56
		Pay	06/16/2010		Lockbox Payment	05420	-81.00	-00.44
		Charge	07/01/2010	MA	Monthly Assessment		11.00	10.56
		Charge	07/01/2010	MAST	Master Assessments		62.00	72.56
		Pay	07/07/2010		Lockbox Payment	05427	-73.00	-00.44
		Pay	07/29/2010		Lockbox Payment	05440	-73.00	-73.44
		Charge	08/01/2010	MA	Monthly Assessment		11.00	-62.44
		Charge	08/01/2010	MAST	Master Assessments		62.00	-00.44
		Pay	08/13/2010		Lockbox Payment	05444	-73.00	-73.44
		Charge	09/01/2010	MA	Monthly Assessment		11.00	-62.44
		Charge	09/01/2010	MAST	Master Assessments		62.00	-00.44
		Pay	09/16/2010		Lockbox Payment	05455	-73.00	-73.44
		Charge	10/01/2010	MA	Monthly Assessment		11.00	-62.44
		Charge	10/01/2010	MAST	Master Assessments		62.00	-00.44
		Pay	10/19/2010		Lockbox Payment	05460	-73.00	-73.44
		Charge	11/01/2010	MA	Monthly Assessment		11.00	-62.44
		Charge	11/01/2010	MAST	Master Assessments		62.00	-00.44
		Pay	11/10/2010		Lockbox Payment	05466	-73.00	-73.44
		Charge	12/01/2010	MA	Monthly Assessment		11.00	-62.44
		Charge	12/01/2010	MAST	Master Assessments		62.00	-00.44
		Charge	01/01/2011	MA	Monthly Assessment		11.00	10.56
		Charge	01/01/2011	MAST	Master Assessments		62.00	72.56
		Pay	01/07/2011		Lockbox Payment	05480	-73.00	-00.44
		Pay	01/28/2011		Lockbox Payment	05492	-73.00	-73.44
		Charge	02/01/2011	MA	Monthly Assessment		11.00	-62.44
		Charge	02/01/2011	MAST	Master Assessments		62.00	-00.44
		Pay	02/07/2011		Lockbox Payment	05496	-73.00	-73.44
		Pay	02/22/2011		Lockbox Payment	05501	-73.00	-146.44
		Charge	03/01/2011	MA	Monthly Assessment		11.00	-135.44
		Charge	03/01/2011	MAST	Master Assessments		62.00	-73.44
		Pay	03/02/2011		Lockbox Payment	05507	-73.00	-146.44
		Charge	04/01/2011	MA	Monthly Assessment		11.00	-135.44
		Charge	04/01/2011	MAST	Master Assessments		62.00	-73.44

AA0593

Resident Transaction Report
SOTE Southern Terrace Homeowners
Association

Date: 01/01/2007 - 01/05/2018

Building: 0003 SOTE - Somerset
8290 Arville St

Las Vegas, NV 89139

Res ID	Resident Name Unit Address	Type	Date	Code	Charge Code Desc Bill Address	Check No	Amount	Balance
3012 01	Joseph Harrison 5946 Lingerin Breeze St Las Vegas, NV 89148				5946 Lingerin Breeze St Las Vegas, NV 89148			
	Current Credit History Code:		EC		Effective Date: 05/29/2013			
	Pay	04/12/2011			Lockbox Payment	05518	-73.00	-146.44
	Charge	05/01/2011	MA		Monthly Assessment		11.00	-135.44
	Charge	05/01/2011	MAST		Master Assessments		62.00	-73.44
	Pay	05/11/2011			Lockbox Payment	05526	-73.00	-146.44
	Charge	06/01/2011	MA		Monthly Assessment		11.00	-135.44
	Charge	06/01/2011	MAST		Master Assessments		62.00	-73.44
	Charge	07/01/2011	MA		Monthly Assessment		11.00	-62.44
	Charge	07/01/2011	MAST		Master Assessments		62.00	-00.44
	Charge	08/01/2011	MA		Monthly Assessment		11.00	10.56
	Charge	08/01/2011	MAST		Master Assessments		62.00	72.56
	Pay	08/04/2011			Lockbox Payment	05545	-75.00	-02.44
	Charge	09/01/2011	MA		Monthly Assessment		11.00	08.56
	Charge	09/01/2011	MAST		Master Assessments		62.00	70.56
	Charge	09/30/2011	LF		Late Fees		10.00	80.56
	Charge	10/01/2011	MA		Monthly Assessment		11.00	91.56
	Charge	10/01/2011	MAST		Master Assessments		62.00	153.56
	Charge	11/01/2011	MA		Monthly Assessment		11.00	164.56
	Charge	11/01/2011	MAST		Master Assessments		62.00	226.56
	Charge	11/30/2011	LF		Late Fees		10.00	236.56
	Charge	12/01/2011	MA		Monthly Assessment		11.00	247.56
	Charge	12/01/2011	MAST		Master Assessments		62.00	309.56
	Charge	12/30/2011	LF		Late Fees		10.00	319.56
	Charge	01/01/2012	MA		Monthly Assessment		11.00	330.56
	Charge	01/01/2012	MAST		Master Assessments		62.00	392.56
	Charge	01/30/2012	LF		Late Fees		10.00	402.56
	Charge	02/01/2012	MA		Monthly Assessment		11.00	413.56
	Charge	02/01/2012	MAST		Master Assessments		62.00	475.56
	Charge	03/01/2012	MA		Monthly Assessment		11.00	486.56
	Charge	03/01/2012	MAST		Master Assessments		62.00	548.56
	Charge	03/02/2012	LF		Late Fees		10.00	558.56
	Charge	03/30/2012	LF		Late Fees		10.00	568.56
	Charge	04/01/2012	MA		Monthly Assessment		11.00	579.56
	Charge	04/01/2012	MAST		Master Assessments		62.00	641.56
	Charge	04/04/2012	FINE		Block Walls - Sprinkler		50.00	691.56
	Charge	04/18/2012	FINE		Block Walls - Sprinkler		50.00	741.56
	Charge	04/25/2012	FINE		Block Walls - Sprinkler		50.00	791.56
	Charge	04/30/2012	LF		Late Fees		10.00	801.56
	Charge	05/01/2012	MA		Monthly Assessment		11.00	812.56
	Charge	05/01/2012	MAST		Master Assessments		62.00	874.56
	Charge	05/02/2012	FINE		Block Walls - Sprinkler		50.00	924.56
	Charge	05/09/2012	FINE		Block Walls - Sprinkler		50.00	974.56
	Charge	05/16/2012	FINE		Block Walls - Sprinkler		50.00	1,024.56
	Charge	05/23/2012	FINE		Block Walls - Sprinkler		50.00	1,074.56
	Charge	05/30/2012	FINE		Block Walls - Sprinkler		50.00	1,124.56
	Charge	05/31/2012	LF		Late Fees		10.00	1,134.56

AA0594

Resident Transaction Report
SOTE Southern Terrace Homeowners
Association

Date: 01/01/2007 - 01/05/2018

Building: 0003 SOTE - Somerset
 8290 Arville St

Las Vegas, NV 89139

Res ID	Resident Name Unit Address	Type	Date	Code	Charge Code Desc Bill Address	Check No	Amount	Balance
3012 01	Joseph Harrison 5946 Lingerin Breeze St Las Vegas, NV 89148				5946 Lingerin Breeze St Las Vegas, NV 89148			
	Current Credit History Code:		EC		Effective Date: 05/29/2013			
	Charge	06/01/2012	MA	Monthly Assessment			11.00	1,145.56
	Charge	06/01/2012	MAST	Master Assessments			62.00	1,207.56
	Charge	06/06/2012	FINE	Block Walls - Sprinkler			50.00	1,257.56
	Charge	06/13/2012	FINE	Block Walls - Sprinkler			50.00	1,307.56
	Charge	06/20/2012	FINE	Block Walls - Sprinkler			50.00	1,357.56
	Charge	06/27/2012	FINE	Block Walls - Sprinkler			50.00	1,407.56
	Charge	06/30/2012	LF	Late Fees			10.00	1,417.56
	Charge	07/01/2012	MA	Monthly Assessment			11.00	1,428.56
	Charge	07/01/2012	MAST	Master Assessments			62.00	1,490.56
	Charge	07/04/2012	FINE	Block Walls - Sprinkler			50.00	1,540.56
	Charge	07/11/2012	FINE	Block Walls - Sprinkler			50.00	1,590.56
	Charge	07/18/2012	FINE	Block Walls - Sprinkler			50.00	1,640.56
	Charge	07/25/2012	FINE	Block Walls - Sprinkler			50.00	1,690.56
	Charge	07/31/2012	LF	Late Fees			10.00	1,700.56
	Charge	08/01/2012	FINE	Block Walls - Sprinkler			50.00	1,750.56
	Charge	08/01/2012	MA	Monthly Assessment			11.00	1,761.56
	Charge	08/01/2012	MAST	Master Assessments			62.00	1,823.56
	Charge	08/08/2012	FINE	Block Walls - Sprinkler			50.00	1,873.56
	Charge	08/15/2012	FINE	Block Walls - Sprinkler			50.00	1,923.56
	Charge	08/22/2012	FINE	Block Walls - Sprinkler			50.00	1,973.56
	Charge	08/29/2012	FINE	Block Walls - Sprinkler			50.00	2,023.56
	Charge	08/31/2012	LF	Late Fees			10.00	2,033.56
	Charge	09/01/2012	MA	Monthly Assessment			11.00	2,044.56
	Charge	09/01/2012	MAST	Master Assessments			62.00	2,106.56
	Charge	09/05/2012	FINE	Block Walls - Sprinkler			50.00	2,156.56
	Charge	09/12/2012	FINE	Block Walls - Sprinkler			50.00	2,206.56
	Charge	09/19/2012	FINE	Block Walls - Sprinkler			50.00	2,256.56
	Charge	09/26/2012	FINE	Block Walls - Sprinkler			50.00	2,306.56
	Charge	09/30/2012	LF	Late Fees			10.00	2,316.56
	Charge	10/01/2012	MA	Monthly Assessment			11.00	2,327.56
	Charge	10/01/2012	MAST	Master Assessments			62.00	2,389.56
	Charge	10/03/2012	FINE	Block Walls - Sprinkler			50.00	2,439.56
	Charge	10/10/2012	FINE	Block Walls - Sprinkler			50.00	2,489.56
	Charge	10/17/2012	FINE	Block Walls - Sprinkler			50.00	2,539.56
	Charge	10/24/2012	FINE	Block Walls - Sprinkler			50.00	2,589.56
	Charge	10/30/2012	FINE	Landscaping - Palm Fron			50.00	2,639.56
	Charge	10/31/2012	FINE	Block Walls - Sprinkler			50.00	2,689.56
	Charge	10/31/2012	LF	Late Fees			10.00	2,699.56
	Charge	11/01/2012	MA	Monthly Assessment			11.00	2,710.56
	Charge	11/01/2012	MAST	Master Assessments			62.00	2,772.56
	Charge	11/07/2012	FINE	Block Walls - Sprinkler			50.00	2,822.56
	Charge	11/13/2012	FINE	Landscaping - Palm Fron			50.00	2,872.56
	Charge	11/14/2012	FINE	Block Walls - Sprinkler			50.00	2,922.56
	Charge	11/20/2012	FINE	Landscaping - Palm Fron			50.00	2,972.56
	Charge	11/21/2012	FINE	Block Walls - Sprinkler			50.00	3,022.56

AA0595

Resident Transaction Report
SOTE Southern Terrace Homeowners
Association

Date: 01/01/2007 - 01/05/2018

Building: 0003 SOTE - Somerset
8290 Arville St

Las Vegas, NV 89139

Res ID	Resident Name Unit Address	Type	Date	Code	Charge Code Desc Bill Address	Check No	Amount	Balance
3012 01	Joseph Harrison 5946 Lingerin Breeze St Las Vegas, NV 89148 Current Credit History Code:		EC		5946 Lingerin Breeze St Las Vegas, NV 89148 Effective Date: 05/29/2013			
		Charge	11/27/2012	FINE	Landscaping - Palm Fron		50.00	3,072.56
		Charge	11/28/2012	FINE	Block Walls - Sprinkler		50.00	3,122.56
		Charge	11/30/2012	LF	Late Fees		10.00	3,132.56
		Charge	12/01/2012	MA	Monthly Assessment		11.00	3,143.56
		Charge	12/01/2012	MAST	Master Assessments		62.00	3,205.56
		Charge	12/04/2012	FINE	Landscaping - Palm Fron		50.00	3,255.56
		Charge	12/05/2012	FINE	Block Walls - Sprinkler		50.00	3,305.56
		Charge	12/11/2012	FINE	Landscaping - Palm Fron		50.00	3,355.56
		Charge	12/12/2012	FINE	Block Walls - Sprinkler		50.00	3,405.56
		Charge	12/18/2012	FINE	Landscaping - Palm Fron		50.00	3,455.56
		Charge	12/19/2012	FINE	Block Walls - Sprinkler		50.00	3,505.56
		Charge	12/25/2012	FINE	Landscaping - Palm Fron		50.00	3,555.56
		Charge	12/26/2012	FINE	Block Walls - Sprinkler		50.00	3,605.56
		Charge	12/31/2012	LF	Late Fees		10.00	3,615.56
		Charge	01/01/2013	FINE	Landscaping - Palm Fron		50.00	3,665.56
		Charge	01/01/2013	MA	Monthly Assessment		11.00	3,676.56
		Charge	01/01/2013	MAST	Master Assessments		62.00	3,738.56
		Charge	01/01/2013	MAST	Master Assessments		72.00	3,810.56
		Credit	01/01/2013	MA	Adj 01/13 Monthly Asses		-11.00	3,799.56
		Credit	01/01/2013	MAST	Adj 01/13 Master Assess		-62.00	3,737.56
		Charge	01/02/2013	FINE	Block Walls - Sprinkler		50.00	3,787.56
		Charge	01/08/2013	FINE	Landscaping - Palm Fron		50.00	3,837.56
		Charge	02/01/2013	MAST	Master Assessments		72.00	3,909.56
		Charge	03/01/2013	MAST	Master Assessments		72.00	3,981.56
		Charge	03/02/2013	LF	Late Fees		10.00	3,991.56
		Charge	03/31/2013	LF	Late Fees		10.00	4,001.56
		Charge	04/01/2013	MAST	Master Assessments		72.00	4,073.56
		Charge	04/30/2013	LF	Late Fees		10.00	4,083.56
		Charge	05/01/2013	MAST	Master Assessments		72.00	4,155.56
		Charge	05/31/2013	LF	Late Fees		10.00	4,165.56
		Charge	06/01/2013	MAST	Master Assessments		72.00	4,237.56
		Charge	06/05/2013	FINE	Landscaping - Replace D		50.00	4,287.56
		Charge	06/05/2013	FINE	Landscaping - Replace d		50.00	4,337.56
		Charge	06/19/2013	FINE	Landscaping - Replace d		50.00	4,387.56
		Charge	06/19/2013	FINE	Landscaping - Replace D		50.00	4,437.56
		Credit	06/27/2013	LF	Void 5/13 LF Post COE		-10.00	4,427.56
		Credit	06/27/2013	MAST	Trsfr 6/13 MAST		-72.00	4,355.56
		Pay	06/27/2013		First 100 PIF 5/25/13	1547	-1,208.28	3,147.28
		Credit	07/01/2013	FINE	Void FINE Post COE		-200.00	2,947.28
		Credit	09/17/2013	FINE	Bad debt - First 100 ag		-2,450.00	497.28
		Credit	09/17/2013	LF	Bad debt - First 100 ag		-180.00	317.28
		Credit	09/17/2013	MA	Bad debt - First 100 ag		-44.00	273.28
		Credit	09/17/2013	MAST	Bad debt - First 100 ag		-273.28	00.00
		Pay	08/08/2017		Receipt Processing	87911	-72.00	-72.00
		Rev	01/04/2018		Trsfr to 03 Res	87911	72.00	00.00

AA0596

Resident Transaction Report
SOTE Southern Terrace Homeowners
Association
Date: 01/01/2007 - 01/05/2018

Building: 0003 SOTE - Somerset
8290 Arville St

Las Vegas, NV 89139

Res ID	Resident Name Unit Address	Type	Date	Code	Charge Code Desc Bill Address	Check No	Amount	Balance
3012 01	Joseph Harrison 5946 Lingerin Breeze St Las Vegas, NV 89148 Current Credit History Code:				5946 Lingerin Breeze St Las Vegas, NV 89148 Effective Date: 05/29/2013			
			EC				Res Balance	00.00

Exhibit 19

Exhibit 19

Exhibit 19

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DISTRICT COURT
CLARK COUNTY, NEVADA
OCWEN LOAN SERVICING, LLC, a)
Foreign Limited Liability)
Company,)
Plaintiff,)
vs.) CASE NO. A-14-696357-C
DEPT NO. IV
CHERSUS HOLDINGS, LLC, a)
Domestic Limited Liability)
Company; FIRST 100, LLC, a)
Domestic Limited Liability)
Company; SOUTHERN TERRACE)
HOMEOWNERS ASSOCIATION, a)
Domestic non-profit corporation;)
RED ROCK FINANCIAL SERVICES, LLC,)
a Foreign Limited Liability)
Company; UNITED LEGAL SERVICES,)
INC., a Domestic Corporation;)
DOES I through X; and ROE)
CORPORATIONS XI through XX,)
inclusive,)
Defendants.)

DEPOSITION OF JAGDISH MEHTA
30(b)(6) REPRESENTATIVE OF CHERSUS HOLDINGS, LLC
Taken on Tuesday, April 10, 2018
At 2:00 p.m.
At Wright Finlay & Zak, LLP
7785 W. Sahara Avenue
Suite 200
Las Vegas, Nevada
REPORTED BY: SHIFRA MOSCOVITZ, CCR NO. 938
Pages 1- 62

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CHERSUS HOLDINGS, LLC, a)
Domestic Limited Liability)
Company,)
)
Counter-Claimant,)
)
vs.)
)
OCWEN LOAN SERVICING, LLC, a)
Foreign Limited Liability)
Company,)
)
Counter-Defendant.)
-----)

1 APPEARANCES:

2 For Ocwen Loan Servicing, LLC:

3 PATERNO JURANI, ESQ.
4 WRIGHT FINLAY & ZAK, LLP
5 7785 W. Sahara Avenue
Suite 200
6 Las Vegas, Nevada 89117
7 (702)475-7964

8 For Chersus Holdings, LLC:

9 MELISSA INGLEBY, ESQ.
10 THE LAW OFFICE OF VERNON NELSON
9480 S. Eastern Avenue
Suite 252
11 Las Vegas, Nevada 89123
(702)476-2500

12
13
14 For Southern Terrace Homeowners Association:

15 ASHLEY SURUR, ESQ.(present telephonically)
16 HALL JAFFE & CLAYTON
7425 Peak Road
Las Vegas, Nevada 89128
17 (702)316-4111
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EXAMINATION

WITNESS:	PAGE
JAGDISH METAH	
Examination by	
Mr. Jurani	5

EXHIBITS

EXHIBIT	PAGE
Exhibit A	Chersus Holdings' Disclosures 5

1 LAS VEGAS, NEVADA; APRIL 10, 2018

2 2:00 P.M.

3 -oOo-

4 (NRCF Rule 30(b)(4) waived by the parties prior to the
5 commencement of the deposition.)

6 (FRCP Rule 30(b)(5) waived by the parties prior to the
7 commencement of the deposition.)

8 (Exhibit A was marked for identification.)

9 (In an off-the-record discussion held prior to the
10 commencement of the deposition proceedings, counsel
11 agreed to waive the court reporter requirements
12 under Rule 30(b)(4) of the Nevada Rules of Civil
13 Procedure.)

14 Thereupon--

15 JAGDISH MEHTA,
16 was called as a witness, and having been first duly sworn,
17 was examined and testified as follows:

18 EXAMINATION

19 BY MR. JURANI:

20 Q. Good afternoon, could you please state and
21 spell your name for the record?

22 A. Jagdish Mehta, J-A-G-D-I-S-H M-E-H-T-A.

23 Q. Okay. And my name is Paterno Jurani, and
24 I represent Ocwen Loan Servicing. You understand
25 that you are here today with regard to a lawsuit

Page 5

1 titled Ocwen against Chersus Holdings, and other
2 parties, is that right?

3 A. Yes.

4 Q. And we are here related to an HOA
5 foreclosure sale by Southern Terrace Homeowners
6 Association, is that right?

7 A. Yes.

8 Q. Have you ever had your deposition taken
9 before?

10 A. No.

11 Q. Okay. Very first time?

12 A. Yes.

13 Q. Okay. I am going to go over with you some
14 admonitions basically kind of ground rules for the
15 deposition, okay?

16 A. Okay.

17 Q. First of all, even though we are in an
18 informal setting here in a law office the oath you
19 just took is the same oath, it has the same force
20 and effect as if you were in a courtroom and that
21 includes the same penalties for perjury, do you
22 understand that?

23 A. Yes.

24 Q. I am going to try to ask my questions so
25 that you understand them, if you don't understand,

1 please just ask me to clarify. I am not trying to
2 trip you up or anything, I just want you know to
3 make sure you understand my questions and give me
4 your truthful response?

5 A. Sure.

6 Q. And this court reporter here is taking
7 down everything that we are saying, so please try to
8 let me finish my questions and then I will let you
9 finish your responses so that we are not talking
10 over each other?

11 A. Okay.

12 Q. And you are doing a good job. You can say
13 okay, yes, no, but please don't say uh-huh, so it
14 makes it clear for the record?

15 A. Okay.

16 Q. If you need a break at any time please
17 just let me know, if you need to use the restroom or
18 something. Following this deposition you will have
19 a chance to review your transcript. You can make
20 changes to that transcript, but I will caution you
21 that if you make substantive changes that it can
22 have an effect as to your credibility, okay?

23 A. Okay.

24 Q. Is there any reason why you wouldn't be
25 able to give your best testimony today for example,

1 medications, anything like that?

2 A. No.

3 Q. And just to get a few definitions clear
4 here, we are talking about a property at 5946
5 Lingerin Breeze Street, Las Vegas, Nevada 89148?

6 A. Yes.

7 Q. So if I refer to property, that's the
8 property we are talking about?

9 A. Yes.

10 Q. If I refer to an HOA sale, I am referring
11 to the sale that took place on May 25th, 2013, okay?

12 A. Yes.

13 Q. And if I refer to the HOA or Southern
14 Terrace, then I am referring to Southern Terrace
15 Homeowners Association, okay?

16 A. Yes.

17 Q. If I refer to Red Rock, I am referring to
18 Red Rock Financial Services, okay?

19 A. Okay.

20 Q. If I say United Legal Services, if I say,
21 you know, HOA trustee or I say United or ULS it's
22 United Legal Services?

23 A. Okay.

24 Q. Are you familiar with United Legal
25 Services?

1 A. No.

2 Q. Have you heard of them before today?

3 A. No.

4 Q. Okay. How about Red Rock, have you ever
5 heard of Red Rock before today?

6 A. Yes.

7 Q. Okay. Referring specifically to this, Red
8 Rock Financial Services?

9 A. I have heard of them, but not in the same
10 business as this one.

11 Q. Okay. And I just want to be clear because
12 Red Rock is, you know, living in Vegas it's a very
13 common term. So specifically, are you sure if you
14 are aware of this particular entity, Red Rock
15 Financial Services?

16 A. I am not sure, no.

17 Q. Because I know there is Red Rock and other
18 things like that?

19 A. Right.

20 Q. So you are not sure?

21 A. Right.

22 Q. If I refer to Joseph or Bonnie Harrison,
23 those are the borrowers for the particular property?

24 A. Okay.

25 Q. First 100, LLC, if I say First 100, I am

1 referring to the buyer of the original property at
2 the HOA sale?

3 A. Yes.

4 Q. And how did you prepare for your
5 deposition today?

6 A. I don't understand.

7 Q. Did you review any documents in
8 preparation for your deposition?

9 A. Yes, I looked at a few documents that my
10 lawyer had prepared and answered before.

11 Q. Okay. Are you referring to the responses
12 to written discovery?

13 A. Yes.

14 Q. Okay.

15 A. I looked over them.

16 Q. Okay. And we have a packet in front of
17 you which we are calling Exhibit A?

18 A. Okay.

19 Q. We are calling the entire thing Exhibit A,
20 but you can see there is a cover sheet there,
21 individually it's Exhibit 1 through 10. So just for
22 the purposes, just to try to make it a little easier
23 for the purpose of this deposition, if I say Exhibit
24 6, what I am referring to really is A6, okay?

25 A. Okay.

1 Q. If you can look at 8 through 10. 8, 9 and
2 10, this should be the responses Chersus' responses
3 to our request of production, request for admission
4 and interrogatories. Can you look at those and if
5 you can let me know if that's what you looked at?

6 MS. SURUR: Are those Bates numbered so I
7 can reference them because you guys didn't
8 e-mail them over to me. Or can you describe
9 what the exhibit is?

10 MR. JURANI: In particular what we are
11 looking at is their responses to written
12 discovery.

13 MS. SURUR: Is that all of Exhibit A?

14 MR. JURANI: No, there are the notices in
15 there, and then that's pretty much it. When I
16 get to the other ones I will let you know,
17 those are pretty much all HOA notices.

18 MS. SURUR: So I am sorry, Exhibit A6 is
19 what?

20 MR. JURANI: Well, 6 in particular is just
21 a copy of the trustees deed upon sale. What I
22 was having him look at is 8 through 10, which
23 is Chersus' responses to written discovery.

24 MS. SURUR: Okay. Which written discovery
25 like A8 is?

1 MR. JURANI: Our responses to request for
2 production, 9 is request for admissions and 10
3 is interrogatories.

4 MS. SURUR: Okay, perfect, thank you. I
5 appreciate that.

6 Q. Sure. So sir, have you ever looked at
7 those, are those what you reviewed for today's
8 deposition?

9 A. Yes.

10 Q. Those three documents then?

11 A. Yes.

12 Q. Did you review anything else in
13 preparation for your deposition today?

14 A. No.

15 Q. Other than your attorney, did you speak to
16 anybody in preparation for your deposition?

17 A. No.

18 Q. Okay. Is there anything else that you did
19 in preparation for your deposition that I didn't go
20 over?

21 A. As far as preparing, meaning coming here?

22 Q. Yes.

23 A. That's it.

24 Q. No other documents that you looked at?

25 A. No.

1 Q. What level of, what is your highest level
2 of education?

3 A. I have Ph.D. in management science.

4 Q. That was a B.S. in management science?

5 A. Ph.D.

6 Q. I am sorry. Where is that from?

7 A. Michigan State University.

8 Q. Do you hold any professional licenses?

9 A. No.

10 Q. Okay. What is your current occupation?

11 A. I am a part-time professor at UNLV.

12 Q. And professor in what?

13 A. Finances in the college of business.

14 Q. How often do you do that?

15 A. As needed, maybe once a year, twice a
16 year.

17 Q. Meaning one class a year or one?

18 A. Anywhere from one class to three classes.
19 No, anywhere from one class to four classes a year.

20 Q. Okay. And when you say class, would you
21 handle the class for the entirety of the semester?

22 A. Yes.

23 Q. Is it always finances?

24 A. Yes.

25 Q. Is it different levels of finances?

1 A. Yes.

2 Q. Okay. And how long have you been doing
3 that?

4 A. Twenty-eight years.

5 Q. Okay. All part-time?

6 A. No, part of it part-time, part of it was
7 full-time.

8 Q. When did you go part-time?

9 A. 1991.

10 Q. Okay. So for a while then?

11 A. Yes.

12 Q. Prior to that, I assume you were full-time
13 with UNLV?

14 A. Yes.

15 Q. And for how long were you, when did you
16 start?

17 A. At UNLV or teaching other places?

18 Q. Well, at UNLV.

19 A. 1990.

20 Q. So you were there shortly and then you
21 went to part-time?

22 A. Yes.

23 Q. How long have you been a professor in
24 finances in general?

25 A. I would say 1990, 28 years, before that I

1 was professor in management science.

2 Q. I see. Now, since you have been part-time
3 since '91, what else have you been doing, anything?

4 A. Investing for myself.

5 Q. Okay. Part of that is real estate
6 obviously?

7 A. Correct.

8 Q. Do you have any formal training in real
9 estate?

10 A. In real estate?

11 Q. Yes.

12 A. No.

13 Q. Do you have any formal training in law?

14 A. No.

15 Q. Okay. If I can have you look at Exhibit
16 1, and actually it's the deposition notice. Have
17 you seen that document before?

18 A. No.

19 Q. How was that you were identified as the
20 witness for today's deposition?

21 A. I didn't understand that question.

22 Q. Well, if you can look at this notice, it's
23 for the what we call 30(b)(6) witness for Chersus
24 Holdings, LLC. So what I am asking is, how is it
25 that you were the person that was identified as the

1 individual testifying on behalf of Chersus?

2 A. I am owner of Chersus, one of the owners
3 and managers of Chersus Holdings.

4 Q. Okay. But you have not seen this
5 deposition notice before?

6 A. No.

7 Q. Okay. If you can look on Page 2, there is
8 a list of topics there, and it's kind of a long
9 list. If you can please peruse that list and take
10 whatever time you need and let me know if you think
11 there is anybody that would be better suited for
12 responding to any of those topics. Let me put it
13 this way, let me know if you are not the most
14 appropriate person to be responding on those topics,
15 okay?

16 A. Okay. So I have looked over, that's a
17 lot, 46 items, could you ask me a question again,
18 please?

19 Q. Looking over that list, is there anybody
20 from Chersus that would be a more appropriate
21 witness?

22 A. From Chersus, no.

23 Q. Okay. How many, you said you are one of
24 the owners of Chersus, is that correct?

25 A. Yes.

1 Q. How many owners are there?

2 A. Four.

3 Q. What does Chersus stand for?

4 A. It's a Latin word for Paradise.

5 Q. I see and you are the manager, is that
6 what you said?

7 A. Yes.

8 Q. Are there any other members in terms of
9 management?

10 A. No.

11 Q. Any other officers?

12 A. My wife is an officer.

13 Q. And what is your wife's name?

14 A. Devyani, J. Mehta.

15 Q. And what kind of officer is she?

16 A. I am thinking that she is manager also.

17 Q. Also a manager?

18 A. Right.

19 Q. Okay. Anybody else?

20 A. No.

21 Q. So you are the only two officers. And you
22 are both managers, is that correct?

23 A. Correct.

24 Q. What are the names of the other owners of
25 the property, of the company?

1 A. Jay Mehta.

2 Q. Okay.

3 A. Next one is Neil Mehta.

4 Q. And are they related to you?

5 A. Yes.

6 Q. Who is Jay?

7 A. He is my son.

8 Q. How about Neil?

9 A. Same, both are my son.

10 Q. Do they hold any positions within the

11 company besides owners?

12 A. No.

13 Q. Do they have any, do they do any work in

14 the day-to-day operations?

15 A. No.

16 Q. Are they more or less kind of silent

17 partners?

18 A. Yes.

19 Q. And what about your wife, you said she is

20 a manager, does she handle also day-to-day

21 operations?

22 A. No.

23 Q. What do her duties entail?

24 A. Nothing.

25 Q. A manager in name only?

1 A. Right.

2 Q. Are you all equal partners in terms of
3 ownership?

4 A. No.

5 Q. How is that divided up then?

6 A. Five percent for me, five percent for my
7 wife, 45 percent for each of the two sons, so five,
8 five, 45, 45.

9 Q. I see. Are you a resident of Nevada?

10 A. Yes.

11 Q. Is your wife also, I assume?

12 A. Yes.

13 Q. And what about your sons?

14 A. No, they are not.

15 Q. But where are they at?

16 A. Jay is resident of Pennsylvania and Neil
17 is resident of California.

18 Q. Okay. Have you discussed this lawsuit
19 that you are here today with any of these three?

20 A. No.

21 Q. Okay. Does Chersus have any employees?

22 A. No.

23 Q. So it's basically, you know, correct me if
24 I am wrong, it's basically you four, but you pretty
25 much do everything, is that correct?

1 A. Yes.

2 Q. Okay. Is there anybody else that helps
3 you out or is it really just solely you doing all
4 the work?

5 A. In management?

6 Q. Anything, whether it's management, whether
7 you have an assistant, you know any kind of?

8 A. No, I have a property manager for renting
9 the houses.

10 Q. Okay. Who is the property manager?

11 A. His name is Brian Lindsay.

12 Q. Do you know if that's Brian with an I or a
13 Y?

14 A. I.

15 Q. But it's fair to say that he is not an
16 actual employee of Chersus, is that right?

17 A. No.

18 Q. Are you familiar with First 100?

19 A. Yes.

20 Q. What is your relationship to First 100?

21 A. As far as, can you explain that question
22 again?

23 Q. Well, how are you familiar with them?

24 A. They are the people that I bought houses
25 from them, so they are the supplier of houses to me.

1 Q. Okay. How many houses have you bought
2 from them?

3 A. Total, four.

4 Q. And we will cover later, but you produced,
5 your attorney produced a purchase agreement. Were
6 all four of those houses included in that purchase
7 agreement or were they separate?

8 A. I don't know which purchase agreement you
9 are referring to.

10 Q. Okay. Well we will get to that later
11 then. How is it that you came to learn about First
12 100?

13 A. That's a long time ago, so I really don't
14 remember, somebody, I am thinking somebody has
15 introduced me to them.

16 Q. Okay.

17 A. One of my ex-student, but I don't
18 remember.

19 Q. So somebody in particular from First 100?

20 A. No, oh somebody you mean, who introduced
21 them?

22 Q. Well, I mean, who from First 100 did they
23 introduce you to?

24 A. Jay, I forgot his name, Jay.

25 Q. And this Jay, did you know him other than

1 from First 100?

2 A. No.

3 Q. When was the last time you did business
4 with First 100?

5 A. Business we did was probably 2016.

6 Q. That was the last time?

7 A. Yes.

8 Q. What was your purpose for forming Chersus?

9 A. Purpose of forming Chersus was to create a
10 small corporation to invest into various ideas and,
11 you know, various kinds of assets.

12 Q. Okay. And you say various. You mentioned
13 that you bought four properties from First 100. Are
14 all those properties, when you say you bought, did
15 Chersus buy all four of those properties?

16 A. Chersus?

17 Q. Yes?

18 A. I don't understand your question.

19 Q. Well, you mentioned you bought four
20 properties from First 100. When you say you bought,
21 you are referring to Chersus?

22 A. Yes.

23 Q. What other investments does Chersus, what
24 are investments are they involved in?

25 A. Stocks, bonds, municipal bonds mutual

1 funds, other houses, land, hedge funds.

2 Q. So really many things then?

3 A. Yes.

4 Q. How many houses related to HOA
5 foreclosures sales has Chersus bought?

6 A. Four.

7 Q. Okay. Only the four from First 100 then?

8 A. Yes.

9 Q. Have they bought other properties that
10 were not related to HOA foreclosure sales?

11 A. Yes.

12 Q. Were they just general real estate
13 investments then?

14 A. Yes.

15 Q. So it's fairly diversified what Chersus
16 doing, is that right?

17 A. Yes.

18 Q. They are not created solely to buy HOA
19 foreclosure sale properties, is that fair to say?

20 A. Correct.

21 Q. And again, I guess this is also kind of as
22 far as how Chersus generates revenue, would it be
23 then for the multiple investment properties,
24 investment mechanism, is that right?

25 A. Yes.

1 Q. Okay. And we touched on this at the
2 outset, but you mentioned that you may be familiar
3 with Red Rock, is that right, but you are just not
4 sure?

5 A. I am not sure.

6 Q. Have you done business with Red Rock
7 Financial Services, to your knowledge?

8 A. I think I could have.

9 Q. Let me narrow it down a little bit. Did
10 you do any business related to HOA foreclosure sales
11 with Red Rock?

12 A. No.

13 Q. And United Legal Services, did you say you
14 were familiar with them or no?

15 A. Which one?

16 Q. United Legal Services?

17 A. No.

18 Q. So you never did business with United
19 Legal Services?

20 A. No.

21 Q. And Southern Terrace HOA, are you familiar
22 with them?

23 A. No.

24 Q. And if I told you that they were the HOA
25 on this particular property, would that trigger

1 anything in your memory?

2 A. No.

3 Q. Do you have any interaction with the HOA,
4 Southern Terrace?

5 A. No.

6 Q. Okay.

7 A. Wait, maybe I am paying HOA fees to
8 Southern Terrace, but I don't remember that part
9 because I pay a lot of HOA fees for a lot of houses.

10 Q. Sure. Would it be your property manager
11 that would actually pay that or would you be paying
12 that?

13 A. No, I would be paying that.

14 Q. You just don't know the names of each HOA?

15 A. Correct, because I have lot of houses that
16 I buy.

17 Q. And when you say you, you are referring to
18 Chersus, is that right?

19 A. Yes.

20 Q. When did Chersus decide to buy properties,
21 let me back up a little bit. When was Chersus
22 formed?

23 A. 2003 or later. I am not sure, but a long
24 time ago.

25 Q. Sure. That's fine. And you understand

1 that we are just looking for your best estimate?

2 A. Correct.

3 Q. And you understand the difference between
4 an estimate and a guess?

5 A. Yes.

6 Q. And you know, I don't want you to guess,
7 but I am looking for your best estimate when I ask
8 these questions. How does Chersus decide which
9 properties to buy?

10 A. Now, when you say property, are you
11 talking about houses because Chersus buys land and
12 many of the real estate kind or tries to buy the
13 real estate kind assets.

14 Q. At the moment I am talking about real
15 property in general, how do you decide which
16 property to buy?

17 A. If it seems that it's a good value
18 compared to what it can be sold in the market at
19 present, I will buy it as a manager at Chersus.

20 Q. But now are you searching listings, how
21 are you finding those properties?

22 A. People come to me when they find something
23 good that will be in my interest, that's the only
24 way I search is contacts and relationship with
25 people who are in this business.

1 Q. Okay. So are you talking about?

2 A. Word of mouth.

3 Q. Are you talking about real estate agents?

4 A. Yes.

5 Q. Okay. And they might say hey, we have a
6 good business opportunity for you or good investment
7 opportunity?

8 A. Yes.

9 Q. Specifically with regard to this property,
10 how is it that you, I know you mentioned you learned
11 about First 100 from you think maybe a former
12 student, is that what you said?

13 A. Yes.

14 Q. But how did you specifically learn about
15 this particular property?

16 A. This particular property was something
17 very special, I will explain to you this situation.
18 I had paid X number of dollars that I don't remember
19 to First 100 to buy some other property, properties,
20 and they could not, they took the money, they could
21 not deliver those properties that I intended to buy.
22 So they offered to say, we will give you one
23 property that we have instead of the properties that
24 you have set up to buy. And that's how they offered
25 this one in return for some part of the loses that I

1 had suffered in the other transaction.

2 Q. Okay. So the initial, this initial
3 investment was how many properties were you
4 purchasing?

5 A. The part that I am referring to was
6 another four or five houses.

7 Q. Okay. What time frame are we talking
8 about here, did this occur?

9 A. You mean in months?

10 Q. Well, what year did this happen?

11 A. I will estimate.

12 Q. Sure.

13 A. I will say, 2014 or '15.

14 Q. Okay. So you initially made a deal with
15 First 100 to buy four or five properties, is that
16 right?

17 A. Right.

18 Q. And they were unable to deliver any of
19 them?

20 A. Yes.

21 Q. And then in return they provided you with
22 this property, is that right?

23 A. Partially return of this one property.

24 Q. Okay. Did they provide any other
25 properties?

1 A. No.

2 Q. Okay. If I can have you look at this is
3 Exhibit 8, this is Chersus' responses to request for
4 production of documents.

5 A. Number eight?

6 Q. Yes.

7 A. Okay.

8 Q. If you turn near the back, this is the
9 purchase and sale agreement that we spoke about.
10 And it's Bates stamped. If you look in the bottom
11 right CHER 1. You see that?

12 A. Which page number?

13 Q. It will be at the end of the actual
14 responses and then the actual exhibit, it will be
15 CHER 1?

16 A. Okay, I see it.

17 Q. Okay. Does this document look familiar to
18 you?

19 A. Yes.

20 Q. And what is it?

21 A. It's a purchase and sale agreement.

22 Q. But now is this the purchase and sale
23 agreement related to the four or five properties you
24 were talking about?

25 A. This property was given to me in return

1 for some of the losses of the other four or five
2 houses that I was referring to.

3 Q. Okay. But this particular purchase and
4 sale agreement is related to this property only, is
5 that correct?

6 A. Correct.

7 Q. And if you look on this, if you look at
8 you see that first page on Chersus 1 where it says
9 1.2, purchase price, and then it says property sale
10 price \$0, do you see that?

11 A. Yes.

12 Q. And can you explain to me that?

13 A. As I said prior, they were giving me this
14 property without me paying any property sale price
15 because I had suffered a much larger loss in the
16 previous transaction.

17 Q. Okay. So to make up for the loss?

18 A. Partial loss, to partially make up for the
19 loss this is the property they gave to me.

20 Q. Did you pay them anything for this
21 particular property, other than those prior losses,
22 a dollar, anything?

23 A. This quiet title placement fee,
24 recordation cost.

25 Q. And you are referring to under 1.2, it

1 says quiet title placement fee, 2500?

2 A. Correct.

3 Q. And what is that?

4 A. That's from what I understand, it's a fee,
5 for them to pay to me, to represent me in getting
6 the title quiet title.

7 Q. Okay. And did that happen?

8 A. Yes.

9 Q. Who was the attorney that was hired for
10 the \$2,500?

11 A. I do not know.

12 Q. Okay.

13 A. I don't remember. I suspect, in the first
14 part of this process I was not participating much.
15 Subsequently the law firm of Weil and Drage became
16 my attorney.

17 Q. Okay. But you don't remember if that
18 \$2,500 was used to retain them, is that right?

19 A. Correct.

20 Q. Do you know if that \$2,500 was related to
21 this particular lawsuit?

22 A. Yes, lawsuit, no, sorry.

23 Q. Okay. What do you mean then?

24 A. It was the \$2,500 was paid for me to get
25 the quiet title.

1 Q. Well, now, in this particular lawsuit that
2 you are here for today it was actually my client
3 that initiated the lawsuit?

4 A. Correct.

5 Q. Ocwen Loan Servicing, as the plaintiff in
6 this lawsuit?

7 A. Correct.

8 Q. Did Weil and Drage, did they actually
9 initiate a lawsuit or no?

10 A. Yes, on my behalf.

11 Q. There was a separate lawsuit related to
12 this property, is that right?

13 A. That's what I would think so.

14 Q. Do you know if there is a resolution to
15 that lawsuit?

16 A. No.

17 Q. No, you don't know?

18 A. I don't know, sorry, I know that there is
19 no resolution to that lawsuit.

20 Q. And you are referring to a lawsuit that's
21 separate than this one we are here for today, is
22 that right?

23 A. Yes.

24 Q. And is that lawsuit still ongoing?

25 A. I am not sure.

1 Q. Does Weil and Drage still represent
2 Chersus in that lawsuit?

3 A. Not at present, they did, but I changed
4 the law firm.

5 Q. Okay. Just to clarify something, so we
6 are looking at Exhibit A. And these are responses
7 as I said, Chersus' responses to our request for
8 production. And if you can see, you know, on the
9 first page, initially these were responded to by
10 Weil and Drage, and then, as you know, your current
11 attorney substituted in for them.

12 MR. JURANI: I am trying to clarify, is he
13 making a mistake or is there a separate lawsuit
14 we should know about that?

15 MS. INGLEBY: I think you are confused
16 because of the counter claim, is that what you
17 mean by they initiated a suit for you because
18 there is a counterclaim.

19 A. Yes.

20 MS. INGLEBY: So that's what it is,
21 because there is a counterclaim.

22 MR. JURANI: Because if there is a whole
23 separate lawsuit we have some issues to clear
24 up.

25 Q. Back to this purchase and sale agreement,

1 just so I am clear, so did you pay 2500 as part of
2 the purchase price, was that considered part of the
3 purchase price?

4 A. Yes.

5 Q. And would you classify that as a retainer
6 for a law firm, is that right?

7 A. Correct.

8 Q. If you can turn to the next page, CHER 2?

9 A. Okay.

10 Q. Section 1.5. It's a section entitled
11 quiet title, what is your understanding of what that
12 section means?

13 A. Could you explain the question?

14 Q. Well, I am asking your understanding of
15 what this particular section means to you?

16 A. That means that 2500 is a retainer to
17 start the lawsuit to clear the quiet title.

18 Q. Is it fair to say that you knew you would
19 have to engage in a lawsuit to get title to this
20 property, clear title?

21 A. Yes.

22 Q. What is the significant of this provision
23 to you?

24 A. To me, it just means that it will take
25 time and effort on attorneys part to get the quiet

1 title.

2 Q. In order to get clear title to the
3 property, is that right?

4 A. Correct.

5 Q. What kind of interest in the property did
6 you think you were getting?

7 A. In this case I was getting hundred percent
8 interest.

9 Q. Did you think that was an interest that
10 was going to be subject to the first deed of trust
11 or did you think it would be free and clear in the
12 first deed of trust?

13 A. At that time I thought it was free and
14 clear.

15 Q. So you thought you were buying an interest
16 in the property that was free and clear of the deed
17 of trust, but you understood, though, that you were
18 would have to engage in a quiet title lawsuit, is
19 that right?

20 A. Correct.

21 Q. But doesn't that kind of contradict each
22 other, if you had to engage in a lawsuit then how
23 could you be also obtaining free and clear title,
24 does that make sense?

25 A. Yes, now it does, at that time it did not.

1 Q. Is it fair to say, though, that you
2 understood that you would be engaged in a lawsuit in
3 order to get clear title, is that correct?

4 A. Yes.

5 Q. And the next section 1.6 is entitled
6 property swap/substitution, what is your
7 understanding of that section?

8 A. It's very clear that there could be a swap
9 if the quite title is actually unsuccessful, then
10 First 100 will substitute some other properties if
11 they have any other property available.

12 Q. So for example, if you lose this lawsuit
13 they will provide you another property, is that what
14 they are saying?

15 A. Yes.

16 Q. Is that what happened with regard to the
17 previous properties that you said, the four or five
18 you initially purchased, is that what happened?

19 A. No, those they could never deliver.

20 Q. So you were never delivered properties in
21 the first place?

22 A. Correct.

23 Q. They were never subject to lawsuit?

24 A. No.

25 Q. Do any of the other properties, are any of

1 the properties that you currently hold under Chersus
2 subject to a lawsuit?

3 A. Yes.

4 Q. And how many?

5 A. Each of the properties, each of the
6 properties, including this one are under lawsuit.

7 Q. But you are referring to the four First
8 100 properties?

9 A. Correct.

10 Q. So just to be clear, those four properties
11 from First 100 are not the properties that you were
12 talking about, the four or five that were
13 transferred for this property then?

14 A. Correct.

15 Q. Okay. Because you still own those other,
16 still hold those other three, is that right?

17 A. Correct.

18 Q. So completely separate transactions, is
19 that right?

20 A. Yes.

21 Q. And if you look under this, well, if I
22 could have you look at 2.1 for me, please, under
23 property condition, what is your understanding of
24 this section?

25 A. Okay, it just means that First 100 is

1 selling the property as is. Anything wrong, the
2 property, a buyer has to take care of it.

3 Q. Buyer being you?

4 A. Correct.

5 Q. Okay. And it says that it's in the first
6 line under I, small i, property was acquired at a
7 homeowners association foreclosure auction, is that
8 right?

9 A. Correct.

10 Q. If you look there, the middle, it says
11 buyer hereby acknowledges and confirms that buyer
12 had adequate opportunity to conduct due diligence
13 regarding the property, including but not limited to
14 title searches and property inspections, do you see
15 that?

16 A. Yes.

17 Q. With regard to this property, did you
18 conduct any due diligence before buying it before
19 obtaining it?

20 A. No.

21 Q. Did you obtain any kind of title searches?

22 A. No.

23 Q. Did you review any documents prior to
24 obtaining this property?

25 A. No.

1 Q. Did you look on any kind of web pages like
2 Assessor's website or Recorder's website or anything
3 like that?

4 A. No.

5 Q. Did you contact any title companies or
6 escrow companies?

7 A. No.

8 Q. Did you determine if there were any kind
9 of liens on the property?

10 A. No.

11 Q. Did you obtain any kind of appraisals or
12 do you know what a BPO is?

13 A. No.

14 Q. Did you attempt to obtain any kind of
15 evaluation on the property?

16 A. Yes.

17 Q. And how did you do that?

18 A. Going to Zillow.

19 Q. Zillow.com?

20 A. Yes.

21 Q. Did you actually go to the property and
22 inspect it itself?

23 A. No.

24 Q. What did you do, did you just look on
25 Zillow?

1 A. Yes.

2 Q. For any of the properties that you
3 purchased, do you conduct inspections?

4 A. No.

5 Q. Now, typically when you buy a property
6 that was the subject of an HOA foreclosure sale, and
7 you said you have three other properties from First
8 100, so do you typically go to a title company or
9 escrow company and try to get a title search?

10 A. No.

11 Q. Do you typically do any kind of research
12 on any properties before buying them?

13 A. No.

14 Q. It's fair to say for the other three
15 properties from First 100, you didn't do any other
16 research, is that right?

17 A. Yes.

18 Q. The four to five properties that were, I
19 guess, if you can say First 100 kind of fell through
20 on?

21 A. Yes.

22 Q. Were those HOA foreclosure properties, as
23 well?

24 A. Yes.

25 Q. Did you do any research into those

1 properties before attempting to purchase them?

2 A. I went to see them inside of the property
3 and that's it.

4 Q. Okay. So you actually visited those
5 properties?

6 A. Those properties, I did visit.

7 Q. Why is it that you didn't visit this
8 particular one?

9 A. I had already lost money on the other four
10 or five that I paid them, so anything they gave me
11 without charging me big money was something that I
12 didn't want to question.

13 Q. Okay.

14 A. At that time my options were limited.

15 Q. The whole concept of them providing you
16 with this property in exchange for the four or five
17 that fell through, was that their idea or something
18 that came from you?

19 A. It was their idea.

20 Q. So kind of out of the goodness of their
21 heart they came to you and said, hey, these four or
22 five didn't work so here is this?

23 A. Yes.

24 Q. And you had already paid for the four to
25 five previous properties?

1 A. Yes.

2 Q. Did part of you say that is only partial
3 reimbursement and did you attempt to get anymore
4 besides this one property?

5 A. Yes.

6 Q. And were you able to get anything else?

7 A. Just a note.

8 Q. What do you mean by note?

9 A. Promise to pay X number of dollars.

10 Q. Okay. Was that note secured by anything?

11 A. No.

12 Q. It was not secured by this property?

13 A. No, unsecured.

14 Q. And that was kind of in part to make up
15 for the four or five properties that fell through,
16 is that right?

17 A. Correct.

18 Q. Let me get back to the purchase and sale
19 agreement real quick. Again, still on Page CHER 2,
20 under section 2.2 it says no warrantee or
21 indemnification. What is your understanding of what
22 that section means?

23 A. It means that First 100 is not getting
24 anything.

25 Q. Okay. Because again, it's your

1 understanding that you would have to go through a
2 lawsuit in order to get clear title, is that right?

3 A. Correct.

4 Q. If you look at the bottom of the page, see
5 those initials, are either of those your initials?

6 A. Yes.

7 Q. Is that the one that looks like J.M., is
8 that right?

9 A. Yes.

10 Q. And Page 1, CHER 1, are those your
11 initials also?

12 A. Yes.

13 Q. Okay. If you can turn to the Page, CHER
14 3, is that your signature in the middle of the page?

15 A. Yes.

16 Q. And then you have that section underneath
17 that it says, I have read and expressedly agreed to
18 the property conditions of section 2.1, do you see
19 that?

20 A. Yes.

21 Q. And are those your initials?

22 A. Yes.

23 Q. And under that it says, I have read and
24 expressedly agreed to the no warrantee and
25 indemnification term of section 2.2, is that your

1 initials next to that?

2 A. Yes.

3 Q. The next page, Page 4 CHER 4, and it looks
4 like the signature portion for First 100, does that
5 seem right?

6 A. Yes.

7 Q. What is that name who signed that, do you
8 know?

9 A. Carlos Carmertas.

10 Q. Could you spell that last name for me,
11 please, if you know it?

12 A. Not easy to read. C-A-R-M-E-R-T-A-S.

13 Q. Are you familiar with this person?

14 A. Yes.

15 Q. Okay. Could you say that name again for
16 me, it's probably easier for you to pronounce?

17 A. Carlos Carmertas.

18 Q. What is your understanding of what, and I
19 am going to call him by his first name, what is your
20 understanding of what his position was with First
21 100?

22 A. As far as I know, he was one of the
23 directors.

24 Q. Okay. Carlos was director of First 100?

25 A. Yes.

1 Q. Was he the one that you would usually deal
2 with from First 100?

3 A. No.

4 Q. Would it be Jay that you mentioned
5 earlier?

6 A. Jay Bloom, yes.

7 Q. Jay Bloom, okay. And how is it that
8 you -- so from what I understand, this particular
9 property you learned about because the first four to
10 five properties fell through, right?

11 A. Right.

12 Q. How did you learn about the first four or
13 five properties, did they approach you?

14 A. Yes.

15 Q. Okay. And they approached you and said,
16 hey, we have this opportunity?

17 A. Yes.

18 Q. Okay. And was it solely your decision to
19 go forward with that opportunity then?

20 A. Yes.

21 Q. Okay. Because you said no one else, well,
22 your wife appears to be a manager by name only?

23 A. Correct.

24 Q. But the decisions were yours solely, is
25 that correct?

1 A. Yes.

2 Q. And finally, let's go to Page 5 of this
3 purchase and sale agreement, CHER 5?

4 A. Okay.

5 Q. It says at the top Exhibit 1, disclosures
6 relating to HOA foreclosures, what is your
7 understanding of what this page is?

8 A. It means that what I would like to do in
9 order to be successful, and if it doesn't the
10 property will go back to the first deed holder.

11 Q. Okay. So is it fair so say it's not
12 unlike the other previous provisions that we looked
13 at where it's basically it's asking you to confirm
14 that title is not clear, are you aware of that?

15 A. Yes.

16 Q. And that the quiet title lawsuit related
17 to the property could fail, is that right?

18 A. Yes.

19 Q. And it mentions in there, and the second
20 to the last paragraph, it says because F 100
21 acquired the property through an HOA foreclosure
22 sale. F Hundred did not read that back. Title
23 insurance is likely unavailable on any property
24 until the quiet title action succeeds. Do you see
25 that?

1 A. Yes.

2 Q. Were you able to obtain title insurance on
3 this property?

4 A. No.

5 Q. I think you mentioned this. The previous
6 four to five properties that you initially purchased
7 before they were exchanged for this property, did
8 you do any other research on those properties, other
9 than visiting them in person?

10 A. No.

11 Q. Okay. Did you look them up on Zillow?

12 A. Yes.

13 Q. Okay. But you didn't to, you didn't get a
14 TSG or title policy or title report?

15 A. No.

16 Q. Other than the properties that we talked
17 about today did you purchase anything else from
18 First 100?

19 A. Any other property?

20 Q. Yes.

21 A. No.

22 Q. Other than what we talked about today?

23 A. No.

24 Q. Do you have other purchase agreements with
25 First 100 related to other properties?

1 A. No.

2 Q. Okay. You don't. How were they
3 purchased?

4 A. No, wait, which property are you talking
5 about?

6 Q. Well, what I am saying, you have other
7 purchase agreements with First 100, is that correct,
8 with regard to other properties?

9 A. Yes.

10 Q. Okay. When you obtained this property,
11 did you inquire whether or not the super priority
12 lien had been paid?

13 A. I didn't understand your question.

14 Q. Before you acquired this property that we
15 are here for today, did you inquire of anybody
16 whether or not the super priority lien had been
17 paid?

18 A. No.

19 Q. Okay. Did you inquire of anyone whether
20 or not an attempt had been made to pay the super
21 priority lien?

22 A. No.

23 Q. Okay. As you sit here today, do you have
24 an understanding of what the super priority lien is?

25 A. I don't think I can describe it. No, I am

1 not really eligible.

2 Q. Back in 2013, at the time that you
3 obtained this property, do you have an understanding
4 of what the super priority lien was?

5 A. To a small extent.

6 Q. And what was your understanding?

7 A. My understanding was that the quiet title
8 action will survive and in the State of Nevada
9 property obtained by HOA foreclosure would be proper
10 for somebody like me to own the property. In other
11 words, I felt that I will be keeping this property
12 after the quiet title action and the court will rule
13 in favor of me.

14 Q. Okay. And how is it that you had that
15 thought?

16 A. From what Jay Bloom and others said to me.

17 Q. Okay. Did they explain to you what a
18 super priority lien was?

19 A. At that time, yes.

20 Q. Okay. Are you able to tell me how they
21 explained it to you?

22 A. No, it's a long time ago.

23 Q. Yes, is that because you just don't
24 remember?

25 A. Right, I don't remember.

1 Q. Have you personally ever attended an HOA
2 foreclosure sale?

3 A. No.

4 Q. And it's fair to say you didn't attend the
5 sale with regard to this particular property,
6 correct?

7 A. Yes, I did not.

8 Q. Have you ever attended a sale put on by
9 Red Rock?

10 A. No.

11 Q. And you never attended a sale put on by
12 United Legal Services, correct?

13 A. Correct.

14 Q. Have you ever had any interaction with the
15 HOA board in this case, Southern Terrace?

16 A. No.

17 Q. Okay. Are you familiar with any of the
18 members of the board?

19 A. Not at all.

20 Q. Are you familiar with anything related to
21 the actual conduct of the sale, the HOA sale here?

22 A. No.

23 Q. You haven't looked at any documents or
24 anything like that?

25 A. No.

1 Q. When First 100 provided this property to
2 you to purchase, what did they provide to you, what
3 kind of information did they provide to you about
4 the property?

5 A. They provided me with the address of the
6 property and that's it, what I learned was from
7 Zillow.com.

8 Q. So they didn't give you any kind of sheet
9 that said the property address on there or anything
10 like that?

11 A. No.

12 Q. At the time that you obtained the property
13 was it occupied?

14 A. No.

15 Q. So you didn't have to go through eviction
16 proceedings or anything like that?

17 A. No.

18 Q. What kind of condition was the property
19 in?

20 A. I do not remember. I could guess that it
21 was not very good.

22 Q. Okay. Did you have to perform any repairs
23 on the property?

24 A. Yes, substantial repair.

25 Q. And you know, I will represent to you that

1 we have not received any documents at this point
2 related to any kind of work that was done on the
3 property. Are you able to estimate as you sit here
4 today what kind of work was done on the property?

5 A. No, I can't estimate. I can give you a
6 rough idea about how much money I spent to fix the
7 property, but other than that I cannot tell you what
8 was wrong.

9 Q. Well, if you can go ahead and do that. If
10 you can give me a rough estimate, but I also ask
11 that if you can please provide any documents you
12 have to your attorney so they can produce them to
13 us, but if you have any estimate for me?

14 A. I don't have any documents, I am
15 estimating that I spent 35 to \$40,000 to fix the
16 property.

17 Q. How is it that you don't have any
18 documents related to that 35 or 40 that you spent?

19 A. Because I have been careless.

20 Q. Okay. So you think that you lost those
21 documents, is that right?

22 A. No, I never asked for any documents.

23 Q. Oh, well, let's do it this way then. That
24 35 or 40, what kind of repairs did that entail?

25 A. I can estimate, they must have been some

1 walls missing, carpets, fixtures, bathroom fixtures,
2 showers, painting and landscaping.

3 Q. Okay. Let's take the walls missing, what
4 do you mean by that. Were entire walls missing, did
5 they have to put of framing?

6 A. Dry walls.

7 Q. Did you hire somebody then to replace
8 drywall?

9 A. I hired a general contractor, if I
10 remember, I don't remember well, but I hired one
11 person who work everything done.

12 Q. So all the things that you just went over
13 with me, one person fixed it all?

14 A. No, he didn't fix it, he hired people to
15 fix it.

16 Q. So one general contractor fixed
17 everything, is that right?

18 A. Yes.

19 Q. But you don't have any records relating to
20 that?

21 A. No.

22 Q. You just did you have records and you lost
23 them or he never gave you anything?

24 A. I am thinking, I don't think I even have
25 any records. I was happy to get a house for

1 discounted price, and so I wanted to get it done
2 pretty fast and whatever it took I just paid him.

3 Q. And how is it that you paid him?

4 A. By check and cash.

5 Q. And do you have the canceled checks, not
6 canceled?

7 A. No, I don't have all the canceled checks.

8 Q. Okay. Well, as I said, I will ask you to
9 provide your attorney anything that you may have
10 that is evidence of amounts that you spent on the
11 property. As far as the carpets, did you replace
12 all the carpets in the property?

13 A. Yes.

14 Q. You said the shower, did you put a whole
15 new shower in or what do you mean by that?

16 A. I do not remember.

17 Q. You just know that some work was done on
18 the shower?

19 A. Yes.

20 Q. And when you say painting, was it just the
21 walls?

22 A. The whole house.

23 Q. Exterior too?

24 A. Yes.

25 Q. And then landscaping, was it just cleaning

1 up the landscaping?

2 A. No, putting plants and shrubbery and so
3 on.

4 Q. So you would install new shrubs and
5 plants, correct?

6 A. Correct.

7 Q. Do you recall anything else that you spent
8 on the property, other than those repairs?

9 A. Insurance payment, property taxes, and a
10 normal maintenance, day-to-day things that break
11 down.

12 Q. Is that something that you keep record of?

13 A. No, the insurance payment is I have many
14 houses. So I buy bulk insurance, commercial
15 insurance that covers all the houses. And so I
16 could come up with that total insurance payment, but
17 not each house.

18 Q. It doesn't, the policy doesn't divide it
19 up per house or anything like that?

20 A. I think it does.

21 Q. Okay. But would you have to look through
22 your documents to determine?

23 A. Correct, that's a long time ago.

24 Q. And you said that you are paying the HOA
25 dues, is that correct?

1 A. Correct.

2 Q. Is the property currently occupied?

3 A. I have no idea.

4 Q. Okay. And let me ask again, if you can
5 look at Exhibit 8 again, and this is right after the
6 purchase and sale agreement we were just looking at.
7 At the top it says residential lease agreement?

8 A. Yes.

9 Q. CHER 6?

10 A. Yes.

11 Q. Have you seen this document before?

12 A. Yes.

13 Q. And what is it?

14 A. It's an agreement between Chersus Holdings
15 and a tenant.

16 Q. Okay. And it looks like it's between a
17 Tonya Sanchez and Eric Sanchez and Chersus, is that
18 right?

19 A. That's right.

20 Q. And it appears that is for 36 month term,
21 is that right?

22 A. Yes.

23 Q. Concluding November 21, 2016?

24 A. Yes.

25 Q. Do you know if these tenants stayed for

1 the duration of that period?

2 A. No, I don't.

3 Q. Okay. And you don't know if the property
4 is currently occupied, is that right?

5 A. Correct.

6 Q. So you don't know if there is another
7 lease agreement or you don't know if these
8 particular tenants continued on after the end of
9 these terms?

10 A. At sometime in early 2016 they stopped
11 paying the rent and they said that the property is
12 not ours, according to their lawyers, so they will
13 not pay any rents. And that was the end of it, I
14 have not heard anything after that.

15 Q. Okay. So just to make sure I heard you
16 correctly. They told you that according to their
17 lawyers the property is not yours, so they stopped
18 paying you rent, is that right?

19 A. Yes.

20 Q. So beginning of 2016?

21 A. Correct.

22 Q. And did they tell you that personally or
23 did they tell you?

24 A. My manager, property manager.

25 Q. And he relayed that information to you?

1 A. Correct.

2 Q. And that was Brian, you said?

3 A. Correct.

4 Q. But you don't know what is going on with
5 the property since then?

6 A. Correct.

7 Q. Do you know if you asked your management
8 company to try to evict them?

9 A. No.

10 Q. You just really don't know?

11 A. Right.

12 Q. Is that something that you are concerned
13 about, the current condition of this property?

14 A. Yes, very much so.

15 Q. But you don't currently know if it's being
16 rented out, is that right?

17 A. Correct.

18 Q. So when the management company, would
19 these tenants then, they would pay the management
20 company and the management company would pay you
21 periodically, is that how it worked?

22 A. Yes.

23 Q. And eventually Brian told you they are not
24 paying anymore so he has not given you anything, is
25 that right?

1 A. Correct.

2 Q. And is it fair to say that you have not
3 received anything from your management company
4 related to this property since early 2016?

5 A. Correct.

6 Q. Okay. Is it possible that you received
7 something that we are not aware that maybe you have
8 so many properties that perhaps you were receiving
9 something that you just missed it, that it's for
10 this property?

11 A. No I am very clear, it didn't come.

12 Q. Okay. So you are very clear that at least
13 since early 2016 you have not been receiving
14 anything from the property?

15 A. Yes.

16 Q. Do you maintain any kind of property
17 accounting ledger as far as the expenses you have
18 paid related to this property?

19 A. You mean, what expenses are you talking
20 about, after '16 or before 2016?

21 Q. Well, anything at all. I think you said
22 you had 35 or 40,000 for initial repairs, but my
23 understanding of what you are saying today is you
24 have no record of that?

25 A. Correct.

1 Q. But you also mentioned, I believe, that
2 you have some ongoing maintenance that you do on the
3 property?

4 A. Each of the property. Not this one
5 particularly, but all of them.

6 Q. What I am asking, do you have any record
7 of any of that or a ledger or receipts?

8 A. On this particular property?

9 Q. Yes.

10 A. No.

11 Q. Okay. Other than these tenants that we
12 talked about, did you obtain any other income
13 related to this property?

14 A. No.

15 Q. And I think you said the last time you had
16 any kind of business relationship with First 100 was
17 about 2016, is that right?

18 A. Correct.

19 MS. INGLEBY: If I could clarify something
20 for the record, this property was foreclosed on
21 and so that's why he is explaining to you that
22 he doesn't know the current condition of the
23 property or if there is a tenant in there. So
24 I just wanted to make it clear that he wasn't,
25 you know, being vague or anything like that.

1 A. It was foreclosed by Ocwen.

2 Q. I understand. Thank you. So from your
3 knowledge, since the time that Ocwen foreclosed on
4 it you have not had information on the property?

5 A. Correct.

6 Q. I don't have any other questions.

7 MS. SURUR: I would like an electronic
8 copy with pdf exhibits, please.

9 MS. INGLEBY: I will take an e-tran,
10 thanks.

11 (The deposition concluded at
12 3:30 p.m.)

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CERTIFICATE OF REPORTER

I, Shifra Moscovitz, Certified Court Reporter,
State of Nevada, do hereby certify:

That I reported the deposition of JAGDISH MEHTA,
commencing on Tuesday, April 10, 2018, at 1:30 p.m.

That prior to being deposed, the witness was duly
sworn by me to testify to the truth. That I thereafter
transcribed my said shorthand notes into typewriting and
that the typewritten transcript is a complete, true and
accurate transcription of my said shorthand notes. That
prior to the conclusion of the proceedings, the reading and
signing was requested by the witness or a party.

I further certify that I am not a relative or
employee of counsel of any of the parties, nor a relative or
employee of the parties involved in said action, nor a
person financially interested in the action.

In witness whereof, I hereunto subscribe my name
at Las Vegas, Nevada, this 23rd day of April, 2018.

<%signature%>
SHIFRA MOSCOVITZ, CCR No. 938

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[okay - properties]

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Exhibit 20

Exhibit 20

Exhibit 20

IN THE SUPREME COURT OF THE STATE OF NEVADA

2713 RUE TOULOUSE TRUST, A
NEVADA TRUST,
Appellant,
vs.
BANK OF AMERICA, N.A., A
NATIONAL ASSOCIATION,
Respondent.

No. 68206

FILED

JUL 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting summary judgment, certified as final under NRCP 54(b), in an action to quiet title. Eighth Judicial District Court, Clark County; Valerie Adair, Judge. Reviewing the summary judgment de novo, *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), we affirm.

Having considered the parties' arguments and the record, we conclude that the district court properly granted summary judgment for Bank of America on the ground that it tendered \$540 to the HOA's agent, which, although rejected, undisputedly represented 9 months of assessments and therefore satisfied the superpriority portion of the HOA's lien. *See Horizons at Seven Hills Homeowners Ass'n v. Ikon Holdings, LLC*, 132 Nev., Adv. Op. 35, 373 P.3d 66, 72 (2016) ("[A] superpriority lien pursuant to NRS 116.3116(2) [(2009)] . . . is limited to an amount equal to nine months of common expense assessments."); 59 C.J.S. *Mortgages* § 582 (2016) (stating the general rule that when a tender is rejected without justification, the tender operates to discharge the lien).¹ Consequently, the

¹Appellant has not argued that the HOA's agent was justified in rejecting the tender.

HOA's foreclosure sale for the entire lien resulted in a void sale, as only part of the lien remained in default. *See* Grant S. Nelson, Dale A. Whitman, Ann M. Burkhardt & R. Wilson Freyermuth, *Real Estate Finance Law* § 7:21 (6th ed. 2014) ("The most common defect that renders a sale void is that the [lienholder] had no right to foreclose."); *see also Henke v. First S. Props., Inc.*, 586 S.W.2d 617, 620 (Tex. App. 1979) (payment of past-due installments cured loan's default such that subsequent foreclosure on the property was void); Baxter Dunaway, *The Law of Distressed Real Estate* § 17:20 (2017) ("A foreclosure sale can be set aside by a court of equity by showing a lack of a default.").


We are not persuaded by appellant's argument that there is a question of fact regarding whether Bank of America's \$540 payment was sufficient to cover 9 months of assessments. In particular, under appellant's interpretation of the account ledger, the homeowner would have missed 7 months of payments between April 2009 and November 2009 yet then began making payments from December 2009 through November 2010 without satisfying the previously unpaid 7 months of assessments. We find this interpretation implausible.² We likewise disagree with appellant's contention that it should have been afforded the opportunity to conduct discovery into whether the tender was actually made, as appellant's counsel acknowledged to the district court that there was no basis to doubt the veracity of Jory Garabedian's declaration and the relied-upon documentation. We also decline to consider appellant's argument that Bank

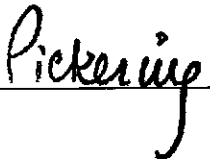
²An alternative interpretation appears to be that the homeowner made 13 monthly assessment payments between April 2009 and November 2010 yet intermittently missed 7 months of payments during that same time frame. We find this interpretation equally implausible.

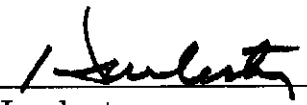
of America imposed improper conditions on its tender because contrary to appellant's representation, that argument was not coherently made in district court. *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).

Finally, although appellant claims it is protected as a bona fide purchaser, we conclude that appellant's putative status as a bona fide purchaser cannot validate an otherwise void sale. See Grant S. Nelson, Dale A. Whitman, Ann M. Burkhardt & R. Wilson Freyermuth, Real Estate Finance Law § 7:21 (6th ed. 2014) ("Some defects are so substantial that they render the sale *void*. In this situation, neither legal nor equitable title transfers to the sale purchaser The most common defect that renders a sale void is that the [lienholder] had no right to foreclose, such as when . . . the [debt] is not in default."). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Valerie Adair, District Judge
Persi J. Mishel, Settlement Judge
Ayon Law, PLLC
Akerman LLP/Las Vegas
Eighth District Court Clerk

Exhibit 21

Exhibit 21

Exhibit 21

IN THE SUPREME COURT OF THE STATE OF NEVADA

BAC HOME LOANS SERVICING, LP,
F/K/A COUNTRYWIDE HOME LOANS
SERVICING, LP; AND RECONTRUST
COMPANY, N.A., A DIVISION OF
BANK OF AMERICA,
Appellants,
vs.
ASPINWALL COURT TRUST,
Respondent.

No. 69885

FILED

JUL 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order granting summary judgment, certified as final under NRCP 54(b), in an action to quiet title. Eighth Judicial District Court, Clark County; James Crockett, Judge. Reviewing the summary judgment de novo, *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), we reverse the judgment and remand.

Having considered the parties' arguments and the record, we conclude that the district court erroneously granted summary judgment for respondent Aspinwall Court Trust, as appellant BAC Home Loans' agent tendered \$468 to the HOA's agent, which, although rejected, undisputedly represented 9 months of assessments and therefore satisfied the superpriority portion of the HOA's lien.¹ See *Horizons at Seven Hills*

¹BAC also challenges the relevant provisions in NRS Chapter 116, arguing that federal mortgage insurance programs preempt the statutory scheme and that the statutory scheme violates its due process rights. This court's decisions in *Renfroe v. Lakeview Loan Servicing, LLC*, 133 Nev., Adv. Op. 50, 398 P.3d 904 (2017) (rejecting preemption argument), and *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, 133 Nev., Adv. Op. 5, 388 P.3d 970 (2017) (rejecting due process challenge), foreclose those challenges.


Homeowners Ass'n v. Ikon Holdings, LLC, 132 Nev., Adv. Op. 35, 373 P.3d 66, 72 (2016) (“[A] superpriority lien pursuant to NRS 116.3116(2) [(2011)] . . . is limited to an amount equal to nine months of common expense assessments.”); 59 C.J.S. *Mortgages* § 582 (2016) (stating the general rule that when a tender is rejected without justification, the tender operates to discharge the lien). Although Aspinwall contends that the HOA’s agent was justified in rejecting the tender because the agent believed BAC was required to pay the entire lien amount, we are not persuaded that this was a justifiable basis in light of the explanations contained in the letters sent by BAC’s agent setting forth BAC’s legal position.² Cf. 1982 Uniform Common Interest Ownership Act, § 3-116 cmt. 1 (observing that a secured lender will most likely pay the superpriority lien rather than having the HOA foreclose on the unit); 1994 & 2008 Uniform Common Interest Ownership Acts, § 3-116 cmt. 2 (same).


Consequently, the HOA’s foreclosure sale for the entire lien resulted in a void sale, as only part of the lien remained in default. See Grant S. Nelson, Dale A. Whitman, Ann M. Burkhart & R. Wilson Freyermuth, *Real Estate Finance Law* § 7:21 (6th ed. 2014) (“The most common defect that renders a sale void is that the [lienholder] had no right to foreclose.”); see also *Henke v. First S. Props., Inc.*, 586 S.W.2d 617, 620 (Tex. App. 1979) (payment of past-due installments cured loan’s default such that subsequent foreclosure on the property was void); Baxter Dunaway, *The Law of Distressed Real Estate* § 17:20 (2017) (“A foreclosure

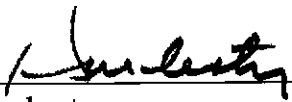
²We decline to consider Aspinwall’s arguments, raised for the first time on appeal, that BAC’s tender imposed improper conditions and that BAC was required to keep the tender good. *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).

sale can be set aside by a court of equity by showing a lack of default.”). And although Aspinwall claims it is protected as a bona fide purchaser, we conclude that Aspinwall’s putative status as a bona fide purchaser cannot validate an otherwise void sale.³ See Grant S. Nelson, Dale A. Whitman, Ann M. Burkhardt & R. Wilson Freyermuth, Real Estate Finance Law § 7:21 (6th ed. 2014) (“Some defects are so substantial that they render the sale void. In this situation, neither legal nor equitable title transfers to the sale purchaser The most common defect that renders a sale void is that the [lienholder] had no right to foreclose, such as when . . . the [debt] is not in default.”). Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, J.
Gibbons


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. James Crockett, District Judge
Akerman LLP/Las Vegas
Law Offices of Michael F. Bohn, Ltd.
Eighth District Court Clerk

³For this reason, Aspinwall’s arguments regarding the need for BAC to record evidence of its tender are moot, even if those arguments had been properly preserved for appeal. *Old Aztec*, 97 Nev. at 52, 623 P.2d at 983.

Exhibit 22

Exhibit 22

Exhibit 22

1 **IED**

2 **WRIGHT, FINLAY & ZAK, LLP**

3 Dana Jonathon Nitz, Esq.

4 Nevada Bar No. 0050

5 Paterno C. Jurani, Esq.

6 Nevada Bar No. 8136

7 7785 W. Sahara Ave., Suite 200

8 Las Vegas, Nevada 89117

9 (702) 475-7964; Fax: (702) 946-1345

10 pjurani@wrightlegal.net

11 *Attorneys for Plaintiff/Counter-defendant, Ocwen Loan Servicing, LLC*

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **OCWEN LOAN SERVICING, LLC, a Foreign**
15 **Limited Liability Company,**

16 **Plaintiff,**

17 **vs.**

18 **CHERSUS HOLDINGS, LLC, a Domestic**
19 **Limited Liability Company; DOES I through X;**
20 **and ROE CORPORATIONS XI through XX,**
21 **inclusive,**

22 **Defendants.**

23 **CHERSUS HOLDINGS, LLC, a Domestic**
24 **Limited Liability Company,**

25 **Counterclaimant,**

26 **vs.**

27 **OCWEN LOAN SERVICING, LLC, a Foreign**
28 **Limited Liability Company,**

Counter-Defendants.

Case No.: A-14-696357-C

Dept. No.: IV

**OCWEN LOAN SERVICING, LLC'S
INITIAL DISCLOSURE OF EXPERT
WITNESS**

Comes now, Plaintiff/Counter-defendant, Ocwen Loan Servicing, LLC, by and through
its attorneys of record, Dana Jonathon Nitz, Esq. and Paterno C. Jurani, Esq., of the law firm of


1 WRIGHT, FINLAY & ZAK, LLP, and hereby designate the following expert witness pursuant
2 to NRCP 16.1 (a)(2)(A)(C)(i):

3 R. Scott Dugan, SRA
4 R. Scott Dugan Appraisal Company, Inc.
5 8930 West Tropicana Avenue, Suite 1
6 Las Vegas, NV 89147
7 702-876-2000
8 appraisals@rsdugan.com

9 R. Scott Dugan will provide opinions consistent with the report regarding his appraisal of
10 the real property located at 5946 Lingering Breeze Street, Las Vegas, NV 89148, attached hereto
11 as **Exhibit A** (WFZ 0001-0025). The data or other information considered by him in forming the
12 opinions and any exhibits to be used as a summary of or support for his opinions are contained
13 therein. Mr. Dugan's curriculum vitae is attached hereto as **Exhibit B** (WFZ 0026-0029). Mr.
14 Dugan's Record of Testimony is attached hereto as **Exhibit C** (WFZ 0030). Mr. Dugan's fee
15 schedule is attached hereto as **Exhibit D** (WFZ 0031). Mr. Dugan has charged \$750.00 for his
16 work on this matter, the invoice is attached hereto as **Exhibit E** (WFZ 0032). Mr. Dugan has
17 authored no publications within the preceding 10 years.

18 DATED this 28 day of March, 2016.

19 WRIGHT, FINLAY & ZAK, LLP

20 
21 Dana Jonathon Nitz, Esq.
22 Nevada Bar No. 0050
23 Paterno C. Jurani, Esq.
24 Nevada Bar No. 8136
25 7785 W. Sahara Ave., Suite 200
26 Las Vegas, Nevada 89117
27 Attorneys for Plaintiff/Counter-defendant, Ocwen
28 Loan Servicing, LLC

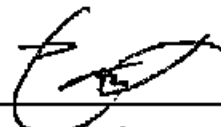
AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **OCWEN LOAN SERVICING, LLC'S INITIAL DISCLOSURE OF EXPERT WITNESS** filed in above captioned case **does not** contain the social security number of any person.

DATED this 28 day of March, 2016.

WRIGHT, FINLAY & ZAK, LLP


Dana Jonathon Nitz, Esq.

Nevada Bar No. 0050

Paterno C. Jurani, Esq.

Nevada Bar No. 8136

7785 W. Sahara Ave., Suite 200

Las Vegas, Nevada 89117

*Attorneys for Plaintiff/Counter-defendant, Ocwen
Loan Servicing, LLC*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 28 day of March, 2016, I did cause a true copy of **OCWEN LOAN SERVICING, LLC'S INITIAL DISCLOSURE OF EXPERT WITNESS** to be e-served through the Eighth Judicial District EFP system pursuant to NEFR 9.

McCarty & Holthus, LLP.

Contact

Thomas N. Beckom

Thomas N. Beckom

Email

dcnv@mccarthyholthus.com

tbeckom@mccarthyholthus.com

Weil & Drage, APC

Contact

Joanna Medina

NV E-File

Email

jmedina@weildrage.com

nvefile@weildrage.com

WEIL & DRAGE, APC

Contact

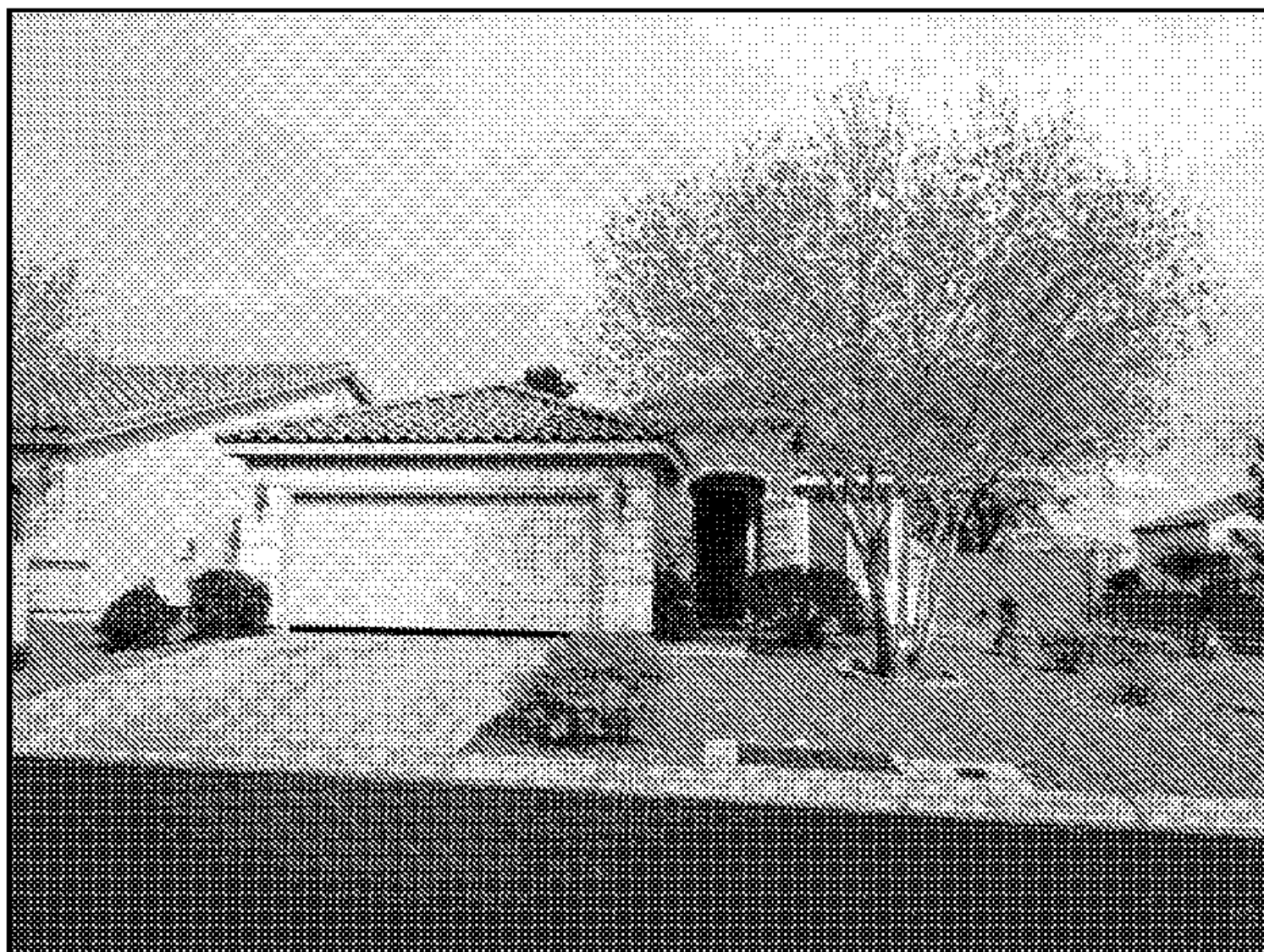
Lisa Robison

Email

lrobison@weildrage.com


An Employee of WRIGHT, FINLAY & ZAK, LLP

APPRAISAL OF REAL PROPERTY



LOCATED AT

5946 Lingerin Breeze Street
Las Vegas, NV 89148
Russell Fort Apache - Unit 3 Plat Book 101 Page 45 Lot 131 Block 5

FOR

Wright Finlay & Zak
7785 W Sahara Avenue, Ste 200
Las Vegas, NV 89117

AS OF

May 25, 2013

BY

R. Scott Dugan, SRA
R. Scott Dugan Appraisal Company, Inc.
8930 West Tropicana Avenue, Suite 1
Las Vegas, NV 89147
702-876-2000
appraisals@rsdugan.com

R Scott Dugan Appraisal Company, Inc.
8930 West Tropicana Avenue, Suite 1
Las Vegas, NV 89147
702-876-2000

March 14, 2016

Wright Finlay & Zak
7785 W Sahara Avenue, Ste 200
Las Vegas, NV 89117

Re: Property: 5946 Lingerin Breeze St
Las Vegas, NV 89148
Borrower: N/A
File No.: 5946 Lingerin Breeze St

Opinion of Value: \$ 148,000
Effective Date: May 25, 2013

As requested, we have prepared an analysis and valuation of the referenced property. The purpose of this assignment was to develop a value opinion based upon the assignment conditions and guidelines stated within the attached report. Our analysis of the subject property was based upon the property (as defined within the report) and the economic, physical, governmental and social forces affecting the subject property as of the effective date of this assignment.

The analysis and the report were developed and prepared within the stated Scope of Work and our Clarification of Scope of Work along with our comprehension of applicable Uniform Standards of Professional Appraisal Practice and specific assignment conditions provided by the client and intended user.

The findings and conclusions are intended for the exclusive use of the stated client and for the specific intended use identified within the report. The reader (or anyone electing to rely upon this report), should review this report in its entirety to gain a full awareness of the subject property, its market environment and to account for identified issues in their business decisions regarding the subject property.

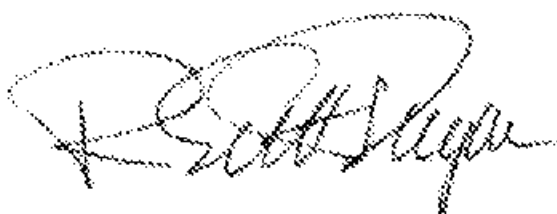
The opinion assumes the date and time of value to be prior to the HOA lien transfer on the same date. The opinion also assumes the property to be in average condition and professionally marketed under normal terms.

Use and reliance on this report by the client or any third party indicates the client or third party has read the report, comprehends the basis and guidelines employed in the analysis and conclusions stated within and has accepted same as being suitable for their decisions regarding the subject property.

The value opinion reported is as of the stated effective date and is contingent upon the Certification and Limiting Conditions attached. The Assumptions and Limiting Conditions along with the Clarification of Scope of Work provide specifics as to the development of the appraisal along with exceptions that may have been necessary to complete a credible report.

Thank you for the opportunity to service your appraisal needs.

Sincerely,



R. Scott Dugan, SRA
License or Certification #: A.0000166-CG
State: NV Expires: 05/31/2017
appraisals@rsdugan.com

WFZ0002

AA0685

Client	Wright Finlay & Zak	File No.	5946 Lingerin	Breeze St
Property Address	5946 Lingerin	Breeze St		
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			

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RESIDENTIAL APPRAISAL REPORT

File No.: 5946 Lingerin Breeze St

SUBJECT	Property Address: 5946 Lingerin Breeze St		City: Las Vegas		State: NV		Zip Code: 89148			
	County: Clark		Legal Description: Russell Fort Apache - Unit 3 Plat Book 101 Page 45 Lot 131 Block 5							
	Assessor's Parcel #: 163-31-611-022									
	Tax Year: 2013		R.E. Taxes: S N/A		Special Assessments: S 0		Borrower (if applicable): N/A			
	Current Owner of Record: Joseph Harrison		Occupant: <input type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant		<input type="checkbox"/> Manufactured Housing					
	Project Type: <input type="checkbox"/> PUD <input type="checkbox"/> Condominium <input type="checkbox"/> Cooperative <input type="checkbox"/> Other (describe)		HOA: \$ 70		<input type="checkbox"/> per year <input type="checkbox"/> per month					
ASSIGNMENT	Market Area Name: Russell Fort Apache - Southwest Las Vegas		Map Reference: 62-B5		Census Tract: 0058.53					
	The purpose of this appraisal is to develop an opinion of: <input type="checkbox"/> Market Value (as defined), or <input type="checkbox"/> other type of value (describe)									
	This report reflects the following value (if not Current, see comments): <input type="checkbox"/> Current (the Inspection Date is the Effective Date) <input type="checkbox"/> Retrospective <input type="checkbox"/> Prospective									
	Approaches developed for this appraisal: <input type="checkbox"/> Sales Comparison Approach <input type="checkbox"/> Cost Approach <input type="checkbox"/> Income Approach (See Reconciliation Comments and Scope of Work)									
	Property Rights Appraised: <input type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Leased Fee <input type="checkbox"/> Other (describe)									
	Intended Use: Provide a Retrospective Market Value opinion for litigation involving the HOA foreclosure of the subject property. For definitions, refer to the attached Explanatory Comments - Retrospective Value and Definition of Value section in the Residential Certifications Addendum.									
MARKET AREA DESCRIPTION	Intended User(s) (by name or type): Wright Finlay & Zak and/or legal professionals associated with this case.									
	Client: Wright Finlay & Zak		Address: 7785 W Sahara Avenue, Ste 200, Las Vegas, NV 89117							
	Appraiser: R. Scott Dugan, SRA		Address: 8930 West Tropicana Avenue, Suite 1, Las Vegas, NV 89147							
	Location: <input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Rural		Predominant Occupancy		One-Unit Housing		Present Land Use		Change in Land Use	
	Built up: <input type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%		<input type="checkbox"/> Owner		PRICE AGE		One-Unit 75 %		<input type="checkbox"/> Not Likely	
	Growth rate: <input type="checkbox"/> Rapid <input type="checkbox"/> Stable <input type="checkbox"/> Slow		<input type="checkbox"/> Tenant		S(000) (yrs)		2-4 Unit 0 %		<input type="checkbox"/> Likely * <input type="checkbox"/> In Process *	
	Property values: <input type="checkbox"/> Increasing <input type="checkbox"/> Stable <input type="checkbox"/> Declining		<input type="checkbox"/> Vacant (0-5%)		120 Low 5		Multi-Unit 10 %		* To: _____	
	Demand/supply: <input type="checkbox"/> Shortage <input type="checkbox"/> In Balance <input type="checkbox"/> Over Supply		<input type="checkbox"/> Vacant (>5%)		400 High 12		Comm'l 5 %			
	Marketing time: <input type="checkbox"/> Under 3 Mos. <input type="checkbox"/> 3-6 Mos. <input type="checkbox"/> Over 6 Mos.		<input type="checkbox"/> Vacant (>5%)		175 Pred 8		Vacant 10 %			
	Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): Tropicana Avenue - N, 215 Beltway - E, Warm Springs Road - S, and Hualapai Way - W. The subject project of Russell Ft Apache is located in an area generally referred to as Spring Valley, an unincorporated township, located in Clark County. There are a variety of residential tract housing with supporting services in the immediate area. The subject is within 1 to 3 +/- miles of major shopping/office/medical/school facilities, which includes the Southern Hills Hospital & Medical Center, Tropicana Beltway Center, and Bishop Gorman High School. 8 to 11 +/- miles to the E and NE is the CBD and Resort Corridor (key employment centers) with good freeway and major street access. Market conditions show increasing prices in this segment.									
SITE DESCRIPTION	Dimensions: 60 x 110		Site Area: 6,514 SF (Final map)							
	Zoning Classification: R-2		Description: Medium Density Residential (8 units per acre)							
	Zoning Compliance: <input type="checkbox"/> Legal <input type="checkbox"/> Legal nonconforming (grandfathered) <input type="checkbox"/> Illegal <input type="checkbox"/> No zoning									
	Are CC&Rs applicable? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		Have the documents been reviewed? <input type="checkbox"/> Yes <input type="checkbox"/> No		Ground Rent (if applicable) \$ N/A/					
	Highest & Best Use as improved: <input type="checkbox"/> Present use, or <input type="checkbox"/> Other use (explain) The highest and best use is limited to single-family residential via zoning, master plan and CC&R's.									
	Actual Use as of Effective Date: Single Family Residential Use as appraised in this report: Single Family Residential									
	Summary of Highest & Best Use: The subject is zoned residential and limited to residential uses by zoning and CC&R's, with no other uses permitted. There is sufficient demand and therefore the current use is the Highest & Best Use.									
	Utilities Public Other Provider/Description		Off-site Improvements Type		Public Private		Topography		Built Up Pad	
	Electricity <input type="checkbox"/> NV Energy		Street Asphalt		<input type="checkbox"/>		Size		Typical for Area	
	Gas <input type="checkbox"/> SW Gas		Curb/Gutter Concrete		<input type="checkbox"/>		Shape		Rectangular/Corner	
Water <input type="checkbox"/> LLVWD		Sidewalk None		<input type="checkbox"/>		Drainage		Appears Adequate		
Sanitary Sewer <input type="checkbox"/> Clark County		Street Lights Electric		<input type="checkbox"/>		View		Residential		
Storm Sewer <input type="checkbox"/> Clark County		Alley None		<input type="checkbox"/>						
Other site elements: <input type="checkbox"/> Inside Lot <input type="checkbox"/> Corner Lot <input type="checkbox"/> Cul de Sac <input type="checkbox"/> Underground Utilities <input type="checkbox"/> Other (describe)										
FEMA Spec'l Flood Hazard Area <input type="checkbox"/> Yes <input type="checkbox"/> No FEMA Flood Zone X500 FEMA Map # 32003C2535F FEMA Map Date 11/16/2011										
Site Comments: The subject is typical for residences in the area with no adverse site conditions observed at the time of inspection. The site appears to have normal utility easements and setbacks.										
DESCRIPTION OF THE IMPROVEMENTS	General Description		Exterior Description		Foundation		Basement		Heating	
	# of Units One Acc.Unit		Foundation Concrete		Slab Concrete		Area Sq. Ft. None		Type FWA	
	# of Stories One		Exterior Walls Stucco		Crawl Space None		% Finished		Fuel Gas	
	Type <input type="checkbox"/> Det. <input type="checkbox"/> Att.		Roof Surface Tile		Basement None		Ceiling			
	Design (Style) Ranch/1-Story		Gutters & Dwnspts. None		Sump Pump <input type="checkbox"/> None		Walls		Cooling Yes	
	<input type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Und.Cons.		Window Type Insulated		Dampness <input type="checkbox"/> None		Floor		Central Yes	
	Actual Age (Yrs.) 11		Storm/Screens None		Settlement None		Outside Entry		Other None	
	Effective Age (Yrs.) 11				Infestation None					
	Interior Description		Appliances		Attic <input type="checkbox"/> None		Amenities		Car Storage <input type="checkbox"/> None	
	Floors Exterior Only		Refrigerator		Stairs		Fireplace(s) # 1		Garage # of cars (4 Tot.)	
	Walls Exterior Only		Range/Oven		Drop Stair		Patio Yes		Attach. 2	
	Trim/Finish Exterior Only		Disposal		Scuttle		Deck None		Detach.	
	Bath Floor Exterior Only		Dishwasher		Doorway		Porch Yes		Blt.-In	
	Bath Wainscot Exterior Only		Fan/Hood		Floor		Fence Yes		Carport	
	Doors Exterior Only		Microwave		Heated		Pool None		Driveway 2	
		Washer/Dryer		Finished		Spa None		Surface Concrete		
Finished area above grade contains: 6 Rooms 3 Bedrooms 2 Bath(s) 1,377 Square Feet of Gross Living Area Above Grade										
Additional features: The property is assumed to have standard features and amenities for this submarket. Based on review of ML#1346573, the subject did not have a stove at time listing prior to the effective date of value of this assignment.										
Describe the condition of the property (including physical, functional and external obsolescence): As of the physical date of inspection, the subject exterior was in average condition. In that this is a retrospective assignment per client request, the appraiser invokes the following Extraordinary Assumptions as of the effective date of inspection indicated within this report: 1) the condition of the interior was at minimum average 2) no obsolescence affected the interior improvements (missing kitchen appliances or bath fixtures, no AC, etc.). If one or more of these are found to be false, it could alter the value opinion and or other conclusions in this report. Refer to the addendum - definition of Extraordinary Assumption. For further information regarding the improvements, please refer to the photographs included in this report.										

RESIDENTIAL APPRAISAL REPORT

File No.: 5946 Lingerin Breeze St

TRANSFER HISTORY

My research ☐ did ☐ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s): GLVAR MLS & Clark County Public Records

1st Prior Subject Sale/Transfer

Date:

Price:

Source(s):

Analysis of sale/transfer history and/or any current agreement of sale/listing: The subject was listed as a court approved short sale on May 11, 2013 for \$90,000, went into contract a few days later, failed to close, and was ultimately withdrawn in September of 2013.

2nd Prior Subject Sale/Transfer

Date:

Price:

Source(s):

SALES COMPARISON APPROACH

SALES COMPARISON APPROACH TO VALUE (if developed)

The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	5946 Lingerin Breeze St Las Vegas, NV 89148	9625 Gatesville Avenue Las Vegas, NV 89148		6198 Forever Dawn Street Las Vegas, NV 89148		9552 Delivery Avenue Las Vegas, NV 89148	
Proximity to Subject		0.86 miles S		0.34 miles SW		0.17 miles SE	
Sale Price	\$	\$ 156,000		\$ 145,000		\$ 168,000	
Sale Price/GLA	\$ /sq.ft.	\$ 106.70 /sq.ft.		\$ 109.93 /sq.ft.		\$ 100.48 /sq.ft.	
Data Source(s)	MLS-Pub Records	MLS-Public Records / DOM 9		MLS-Public Records / DOM 8		MLS-Public Records / DOM 7	
Verification Source(s)	Public Records	201305090:3488		201304260:0930		201304010:3158	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) \$ Adjust.	DESCRIPTION	+(-) \$ Adjust.	DESCRIPTION	+(-) \$ Adjust.
Sales or Financing Concessions		Traditional FHA \$0		Traditional CASH \$0		Traditional CASH \$0	
Date of Sale/Time		05/09/2013		04/26/2013		04/01/2013	
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Location	SW/Rsl Ft Apache	SW/Woodside		SW/Sedona-Gated		SW/Rsl Ft Apache	
Site	6,514 SF/Corner	4,639 SF/Corner		2,611 SF/Corner Offset Gate		4,708 SF/Corner	
View	Residential	Residential		Residential		Residential	
Design (Style)	Ranch/1-Story	Ranch/2-Story		Ranch/2-Story		Ranch/2-Story	
Quality of Construction	Stucco	Stucco		Stucco		Stucco	
Age	11	11		9		10	
Condition	Average	Good	-7,300	Very Gd/Pt Renov	-13,900	Very Good	-16,800
Above Grade Room Count	Total Bdrms Baths 6 3 2	Total Bdrms Baths 5 3 2.5		Total Bdrms Baths 5 2 2.5	+15,000	Total Bdrms Baths 6 3 2.5	
Gross Living Area	1,377 sq.ft.	1,462 sq.ft.	-2,600	1,319 sq.ft.		1,672 sq.ft.	-8,900
Basement & Finished Rooms Below Grade	None None	None None		None None		None None	
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	Central	Central		Central		Central	
Energy Efficient Items	Standard	Standard		Standard		Standard	
Garage/Carport	2 Car Garage	2 Car Garage		2 Car Garage		2 Car Garage	
Porch/Patio/Deck	L/S,C/Patio,Patio	L/S,Patio		L/S,C/Patio		L/S,C/Patio	
Contract Date	None	03/20/2013	+3,100	04/02/2013	+2,100	02/07/2013	+5,400
Rent/GRM	N/A	N/A		1,055/137.44		1,125/149.33	
Net Adjustment (Total)		+ -	\$ -6,800	+ -	\$ 3,200	+ -	\$ -20,300
Adjusted Sale Price of Comparables			\$ 149,200		\$ 148,200		\$ 147,700

Summary of Sales Comparison Approach

The comparables in this report range in gross living area (GLA) from 1,319 to 1,672 square feet.

Due to a severe lack of current sales of one-story homes similar to the subject and available for use in this assignment, four of five sales used are two-stories. All homes are located, however, in an area with a large number of rentals. With all comparables sharing similar utility for bedroom / bath count, etc., differing design between the homes is not evidenced as significant. Therefore, the sales as selected are considered appropriate for use and comparison to the subject.

The comparables required adjustments (rounded) for variations in the following: condition at \$5 or \$10 per square foot of gross living area (GLA) for better recognized condition, with one home described as having pride of ownership and being seldom lived in and the renovated home also having new or newer floorings, corian countertops, stainless steel appliances, etc.; bedroom at \$15,000; and GLA at \$30 per square foot. Comparables were adjusted for time at 1% percent per month of sale price from the date of contract, to reflect changes in market conditions over this period of time. This generally is considered consistent with price changes in this market segment. Cross comparison of the data did not support adjustments for other variations, i.e., one-story vs. two-story, patio, smaller lots (unless well undersized which are offset by gated entry), etc. While the variations were noted, in most cases a consistent value difference indication between the sales could not be isolated.


In consideration of the above market transactions and current market conditions, greatest consideration is placed on the Sales Comparison Approach to Value. The value opinion is correlated at \$148,000. The package price per square foot of \$107 (rounded) includes land plus improvements. The comparable closed transactions indicate a package price from \$100 to \$110. The subject's package price is supported by the unadjusted sale price divided by gross living area of the comparables utilized which in the appraiser's determination would reasonably compete with the subject property. The adjusted range of comparable pricing brackets and supports the value conclusion. The subject's central tendency is \$148,000 (rounded) and is considered reasonable in support of the final conclusion of value. Refer to Explanatory Comments - Sales Comparison Approach.

Indicated Value by Sales Comparison Approach \$

148,000

RESIDENTIAL APPRAISAL REPORT

File No.: 5946 Lingerin Breeze St

COST APPROACH	COST APPROACH TO VALUE (if developed) <input type="checkbox"/> The Cost Approach was not developed for this appraisal.			
	Provide adequate information for replication of the following cost figures and calculations.			
	Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value):		Not developed.	
	ESTIMATED REPRODUCTION OR REPLACEMENT COST NEW		OPINION OF SITE VALUE = \$	
	Source of cost data:		DWELLING Sq.Ft. @ \$ = \$	
	Quality rating from cost service: Effective date of cost data:		Sq.Ft. @ \$ = \$	
INCOME APPROACH	Comments on Cost Approach (gross living area calculations, depreciation, etc.):		Sq.Ft. @ \$ = \$	
	The Cost Approach is not applicable due to building design and inability to construct a single unit. The subject improvements and site were constructed with some degree of "economy of scale" (multiple units - single developer) as a small tract subdivision. The cost approach is based upon the theory of a buyer being able to "build a substitute property" as opposed to buying the subject property. In this case, a buyer would not have this option for several reasons: 1) economy of scale and 2) the inability to purchase a small finished building site in the same general location as the subject. These and other conditions render the cost approach unreliable.		Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
			Sq.Ft. @ \$ = \$	
Estimated Remaining Economic Life (if required): 69 Years		INDICATED VALUE BY COST APPROACH = \$		
PUD	INCOME APPROACH TO VALUE (if developed) <input type="checkbox"/> The Income Approach was not developed for this appraisal.			
	Estimated Monthly Market Rent \$ 1,050 X Gross Rent Multiplier 139 = \$ 145,950 Indicated Value by Income Approach			
	Summary of Income Approach (including support for market rent and GRM): Similar units in the area are renting from \$900 to \$1200 with the midrange of \$1050 selected as reasonable for the subject. GRMs ranged from 127 to 160, with the average of 139 producing a value indication of about \$146,000, which generally is consistent with the sales comparison approach.			
RECONCILIATION	PROJECT INFORMATION FOR PUDs (if applicable) <input type="checkbox"/> The Subject is part of a Planned Unit Development.			
	Legal Name of Project: Russell Fort Apache			
	Describe common elements and recreational facilities: Private streets, perimeter fencing, clubhouse, exercise room, pool, spa, and enforcement of CC&R's.			
ATTACHMENTS	Indicated Value by: Sales Comparison Approach \$ 148,000 Cost Approach (if developed) \$ N/A Income Approach (if developed) \$ 145,950			
	Final Reconciliation The cost approach was not developed for the reasons stated. The value opinion is based upon sales comparison approach with general support from the income approach. The opinion considers a 30 to 90 day concurrent marketing and exposure period. The potential range of value was from about \$147,000 to \$149,000 with a central tendency of \$148,000.			
SIGNATURES	This appraisal is made <input type="checkbox"/> "as is", <input type="checkbox"/> subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, <input type="checkbox"/> subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair: This is a retrospective value opinion based upon a drive-by inspection and subject to the stated extraordinary assumption(s) elsewhere within this report along with the specific assignment conditions.			
	<input type="checkbox"/> This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.			
	Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 148,000 , as of: May 25, 2013 , which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.			
	A true and complete copy of this report contains 24 pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.			
	Attached Exhibits:			
	<input type="checkbox"/> Letter of Transmittal <input type="checkbox"/> Explanatory Comments <input type="checkbox"/> Photos <input type="checkbox"/> GP-Res CertsAddenda			
	<input type="checkbox"/> Extraordinary Assumptions <input type="checkbox"/> Market Conditions/Graph(s) <input type="checkbox"/> Assessor Page(s)			
	<input type="checkbox"/> Additional Sales <input type="checkbox"/> Map, Plat, Sketch Addenda <input type="checkbox"/> Clarification of SOW			
Client Contact: Wright Finlay & Zak E-Mail: fharris@wrightlegal.net		Client Name: Wright Finlay & Zak Address: 7785 W Sahara Avenue, Ste 200, Las Vegas, NV 89117		
APPRAISER		SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)		
				
Appraiser Name: R. Scott Dugan, SRA		Supervisory or Co-Appraiser Name:		
Company: R Scott Dugan Appraisal Company, Inc.		Company:		
Phone: 702-876-2000 Fax: 702-253-1888		Phone: Fax:		
E-Mail: appraisals@rsdugan.com		E-Mail:		
Date of Report (Signature): March 14, 2016		Date of Report (Signature):		
License or Certification #: A.0000166-CG State: NV		License or Certification #: State:		
Designation: SRA		Designation:		
Expiration Date of License or Certification: 05/31/2017		Expiration Date of License or Certification:		
Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None		Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None		
Date of Inspection: March 07, 2016		Date of Inspection:		

ADDITIONAL COMPARABLE SALES

File No.: 5946 Lingerin Breeze St

SALES COMPARISON APPROACH

FEATURE		SUBJECT		COMPARABLE SALE # 4				COMPARABLE SALE # 5				COMPARABLE SALE # 6			
Address		5946 Lingerin Breeze St Las Vegas, NV 89148		9616 Deer Park Avenue Las Vegas, NV 89148				9732 Wailings Avenue Las Vegas, NV 89148							
Proximity to Subject				0.78 miles S				0.26 miles SW							
Sale Price		\$		\$ 142,500				\$ 155,000				\$			
Sale Price/GLA		\$ /sq.ft.		\$ 104.63 /sq.ft.				\$ 101.51 /sq.ft.				\$ /sq.ft.			
Data Source(s)		MLS-Pub Records		MLS-Public Records / DOM 36				MLS-Public Records / DOM 5							
Verification Source(s)		Public Records		201303290:3178				201302070:1794							
VALUE ADJUSTMENTS		DESCRIPTION		DESCRIPTION		+ (-) \$ Adjust.		DESCRIPTION		+ (-) \$ Adjust.		DESCRIPTION		+ (-) S Adjust.	
Sales or Financing Concessions				Traditional CONV \$0				Traditional CASH \$0							
Date of Sale/Time				03/29/2013				02/07/2013							
Rights Appraised		Fee Simple		Fee Simple				Fee Simple							
Location		SW/Rsl Ft Apache		SW/Woodside				SW/Sedona-Gated							
Site		6,514 SF/Corner		4,874 SF/Corner				3,024 SF/Interior		Offset Gate					
View		Residential		Residential				Residential							
Design (Style)		Ranch/1-Story		Ranch/1-Story				Ranch/2-Story							
Quality of Construction		Stucco		Stucco				Stucco							
Age		11		9				8							
Condition		Average		Average				Good		-7,600					
Above Grade		Total	Bdrms	Baths	Total	Bdrms	Baths	Total	Bdrms	Baths		Total	Bdrms	Baths	
Room Count		6	3	2	6	3	2	6	3	2.5					
Gross Living Area		1,377 sq.ft.		1,362 sq.ft.				1,527 sq.ft.		-4,500		sq.ft.			
Basement & Finished Rooms Below Grade		None		None				None							
Functional Utility		Average		Average				Average							
Heating/Cooling		Central		Central				Central							
Energy Efficient Items		Standard		Standard				Standard							
Garage/Carport		2 Car Garage		2 Car Garage				2 Car Garage							
Porch/Patio/Deck		L/S,C/Patio,Patio		L/S				L/S,Patio							
Contract Date		None		02/26/2013		+4,200		01/18/2013		+6,200					
Rent/GRM		N/A		1,050/135.71				1,100/140.90							
Net Adjustment (Total)				+ -		\$ 4,200		+ -		\$ -5,900		+ -		\$	
Adjusted Sale Price of Comparables						\$ 146,700				\$ 149,100				\$	
Summary of Sales Comparison Approach In review of available data, the appraiser was able to determine that there were no concessions, special financing or other considerations.															
Comparable four reported a transfer on 07/20/2011 for \$112,000.															
Comparable five reported a transfer on 09/29/2011 for \$127,000.															

Explanatory Comments

File No. 5946 Lingerin Breeze St

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			

EXTRAORDINARY ASSUMPTION:

USPAP provides the following definition for “extraordinary assumption”:

Defined as an assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions.

Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. (USPAP, 2016-2017 Edition)

This report was completed without an interior inspection of the subject. External sources including, but not limited to, information from a drive-by street inspection, appraiser's files, county records, and or multiple listing service data were relied upon for information used to describe the improvements and or condition of the subject.

As indicated on page 1 of this report, if the assumptions invoked are found to be false, it could alter the value opinion and or other conclusions in this report. As such, the appraiser reserves the right to amend the value opinion and or conclusions based on new or revised information.

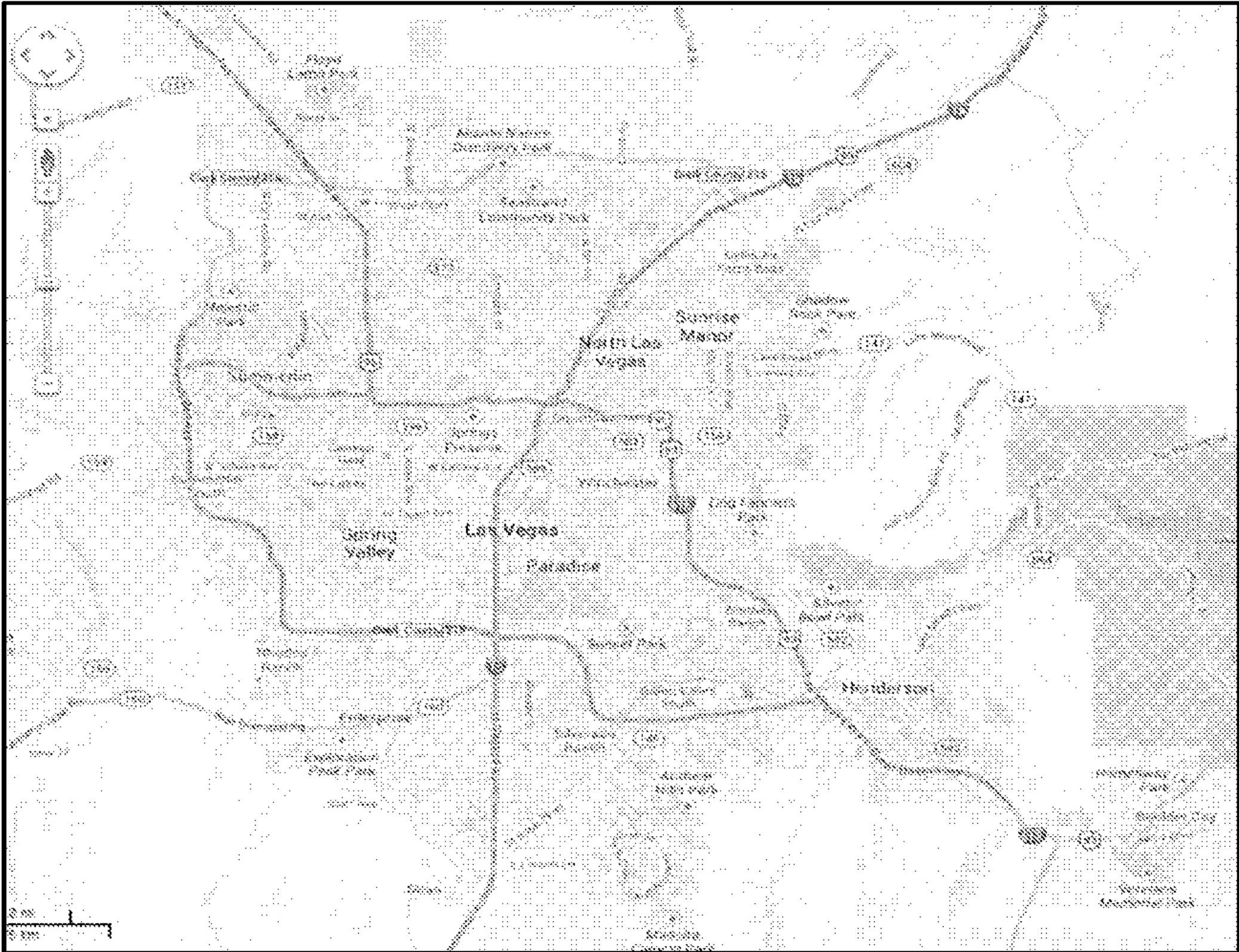
Retrospective Value: is generally defined as “A value opinion effective as of a specified historical date. The term does not define a type of value. Instead, it identifies a value opinion as being effective at some specific prior date. Value as of a historical date is frequently sought in connection with property tax appeals, damage models, lease renegotiation, deficiency judgments, estate tax, and condemnation. Inclusion of the type of value with this term is appropriate, e.g., “retrospective market value opinion.” Source: Appraisal Institute, The Dictionary of Real Estate Appraisal, 6th ed. (Chicago: Appraisal Institute, 2015).

The final value within this appraisal assignment represents a "Retrospective" Market Value opinion as of the date of the HOA sale, May 25, 2013, the effective date of this report. The physical exterior inspection of the subject property was performed on March 7, 2016.

Comments on Sales Comparison Approach: If supported, individual line item adjustments were made to the comparable, to reflect the market recognized contribution of key attributes or factors present or absent, when contrasted to the subject property. The contribution of big ticket items (location, age/condition, quality, site, view, GLA, swim features, etc.) were adjusted on a line item basis. Minor value features (fireplaces, solar screens, storage sheds, etc.), that may appeal to some buyers, typically are not significant enough in their contribution to isolate as a single line item adjustment. In such cases, the presence of such items in the comparables were contrasted to the similar or offsetting items in the subject and factored into the reconciliation and final value opinion. Minor value features and or others, i.e., external factors lacking adjustment support, may not have been noted in the grid.

Market Area Overview

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			



General Area Description: The economy revolves around the Las Vegas Strip and Downtown Casino center along with key employment centers such as Nellis AFB, McCarran International Airport, numerous satellite retail, office and industrial districts that employ and service a base of 2-million people. The valley covers over 600+ square miles and includes parts of unincorporated Clark County, the cities of Las Vegas, North Las Vegas and Henderson. The unincorporated county areas within the valley have "Las Vegas" addresses and access to public services, making them transparent local to residents.

The valley is compact and can be crossed from any location in less than 1 hour. Buyer preferences are less dependent on location and more a function of personal choice, neighborhood attributes and housing types. The valley is divided into seven market areas (NW, NC, NE, SW, SC, SE and Henderson), each of which is further defined by political jurisdictions along with any number of master-planned communities a buyer would consider as a neighborhood, with emphasis on lifestyle, amenities and name recognition.

Key Factors influencing Housing Market Trends in the area: People buy or sell based on affordability, investment potential or relocation. From 2004-2007, the market was influenced by speculation. From 2007 through 2012, the market declined severely, influenced by REOs, short sales and investor activity. The market over-corrected from the peak to the bottom, creating an imbalance between "market value" and "economic value." Investors recognized the "economic imbalance" (the spread between the monthly payment vs. the monthly market rent for the same property) and used "all cash sales" to dominate the market for several years.

While investors remain active in the market, recently we are seeing "end users" (owner occupants) take a greater participation in the market. End users also include second homebuyers and long-term investors that purchase homes for rental and cash flow. Unlike investors that buy and flip homes over short periods, end users are more sensitive to shifts in financing.

As interest rates move up from their historically low levels, pricing (and therefore values) will adjust as the market attempts to sort itself out and find balance. Until normal market level balances are reached (relationship between rents and mortgage payments or economic value reaches sale price), it is likely the market will experience some fluctuation between similar units at the neighborhood level.

Key Housing Indicators

Client	Wright Finlay & Zak					
Property Address	5946 Lingerin Breeze St					
City	Las Vegas	County	Clark	State	NV	Zip Code 89148
Borrower/Client	N/A					

The key indicators below show the relationships between employment, housing prices, affordability and movement in the market. Effecti housing demand is a combination of supply, price and monthly payment.

LAS VEGAS VALLEY MARKET OVERVIEW - June 2013						
	2008	2009	2010	2011	2012	2013-YTD
Job Growth - Annual	12,300	-38,051	-10,384	-8,179	27,009	17,200
SFR Median Sale Price	\$222,500	\$140,000	\$135,347	\$124,750	\$132,393	\$164,000
Interest Rate %	6.03	5.01	4.75	3.88	3.94	4.37
PI with 80% LTV - No MI	\$1,071	\$602	\$565	\$470	\$502	\$652
PI with 95% LTV-with MI	\$1,398	\$794	\$744	\$628	\$671	\$871
3 BR Metro Avg. Apt Rent	\$1,105	\$1,014	\$977	\$964	\$934	\$946
Metro SFR Median Rent	\$1,250	\$1,195	\$1,113	\$1,115	\$1,095	\$1,098
GLVAR MLS SFR Annual Activity - 2013 is YTD through June						
Listings Total Year - YTD	61,038	57,016	56,643	55,174	40,271	20,041
Listings W/O Offer Yr End - YTD		8,405	12,417	8,831	3,688	3,828
Sales	24,924	38,127	34,434	38,153	36,609	16,975
List to Sale Ratio	41%	67%	61%	69%	91%	85%
Med List Price (Annual & YTD)	\$189,500	\$149,900	\$135,000	\$128,500	\$145,000	\$169,000
Med Sale Price (Annual)	\$222,500	\$140,000	\$135,347	\$124,750	\$132,393	\$164,000
Average DOM	68	61	64	72	69	56
Case Shiller Jan 2000 = 100	131.4	104.38	99.2	90.48	102.19	Mar 114.61

Recent Trends: There are many reports covering the Las Vegas MSA (Metropolitan Statistical Area) that simply compare period to period and not "apples to apples." Dynamics affecting this type of data are:

2010: The market was dominated by sales of REOs, "all cash" to investors and liquidated at price points significantly below economic value (affordability), often 35%+/- or more below value. Physical condition ranged from average to poor.

2011: There was a shift from a market dominated by REOs to one dominated by short sales. Many short sales were in better condition and unlike 2010; lenders took an active participation in negotiations, increasing prices closer to economic value.

2012: Short sales remained dominant and investors (due to a lack of REO inventory) shifted to short sales. Legislation made it difficult for lenders to foreclose and REO inventory was limited.

2013: Observers indicate lenders are holding REO inventory (from 40,000 to 60,000 units), in effect, creating a temporary shortage. The effect of the shortage has been to increase demand and current prices. Upward shifts in mortgage rates may have a negative effect on demand from end users and could cause some cancelations in the new and resale housing market

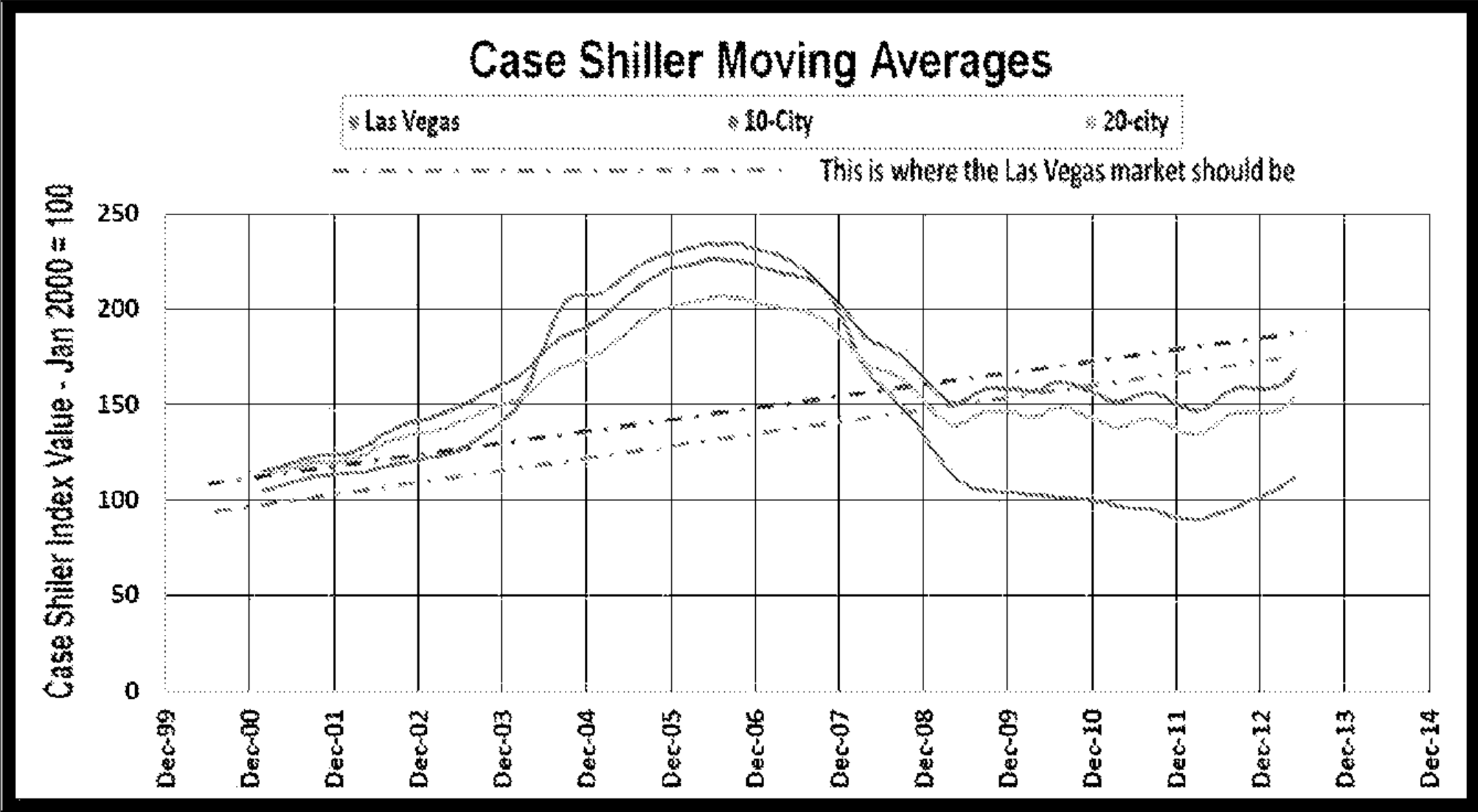
Observations and Conclusions: Statistical analysis and year over year or period-to-period comparison are not reliable as the data reflects multiple sales of the same property (but in different condition), in the same year and or subsequent year and often, a disproportionate mix of highly dissimilar sales (condition). This will give the appearance of "appreciation", when in essence you are comparing "apples to oranges." In years past, or normal years, the sales volume reflects sales of a single property to end users as opposed to sale resale of the same property.

Economic correction of prices requires a significant increase in employment. You cannot have a sustained recovery without improvement in employment. Investors are now buying and renting more units. Rentals are up 20% over 2011 and 34% over 2010. Employment is improving, but lagging behind other areas. The market has corrected to some degree, however, stabilized prices are not a reflection of a "price point market correction," but rather depend on an "economic correction in the market" or the ability of end users (long-term occupants) to buy.

Case Shiller - Market Conditions

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			

The Case Shiller Index - compares Las Vegas to the 10 City and 20 City Averages. Historically, Las Vegas was below the 10 and 20 City, however, during 2004-2007, Las Vegas exceeded these averages and the market correction began. By 2009, the Las Vegas market over-corrected as shown below and is now attempting to correct back to market norms.



As shown above, Las Vegas still is well below the 10 City and 20 City averages. Effectively, the housing market in Las Vegas remains well below where it should be if the housing market did not spin out of control in the mid 2000's. What we are seeing (current market conditions), is the market's attempt to correct. The dashed line projects where the Las Vegas market should be with the gap shown, indicating significant underpriced housing compared to other markets. Investors have dominated Las Vegas and other housing markets over the past several years because they realized what the rest of the market did not, housing in Las Vegas "economically under-valued". The combination of supply, purchasing power (interest rates) and utility (in many cases the condition of the property), made buying a home far more affordable than renting a home or an apartment. An investor could by an "unoccupiable REO" for \$100,000, invest an additional \$25,000 in to it for repairs and sell it for \$150,000, all within 90 days and make a \$25,000 profit.

While \$25,000 does not sound like much of a return for the risk, bear in mind that this is \$25,000 over 90 days. Annualized, the \$25,000 becomes \$100,000 or an 80% annual return, which is a far better return than bank rates or anything else. This is why the majority of sales in many markets (including Las Vegas) have been "all cash". With historic low interest rates, even smaller profit margins, and holding onto and renting homes vs. fixing and flipping homes, makes economic sense to many investors. While single-family rentals are not averaging much more than Class A apartments, they are more attractive to renters (yards, features, size, garages, privacy, etc.), and the resale market value for housing is rising.

Measuring and Reporting Market Conditions

Our job is to identify the risk and place it into context of the market. When reviewing the Las Vegas, NV market data, several things are clear. 1) Demand exceeds supply with demand bolstered by investors; 2) Purchasing power is greater than normal due to historically low interest rates; 3) single family housing provides greater utility than apartments; and 4) future supply is being held off the market.

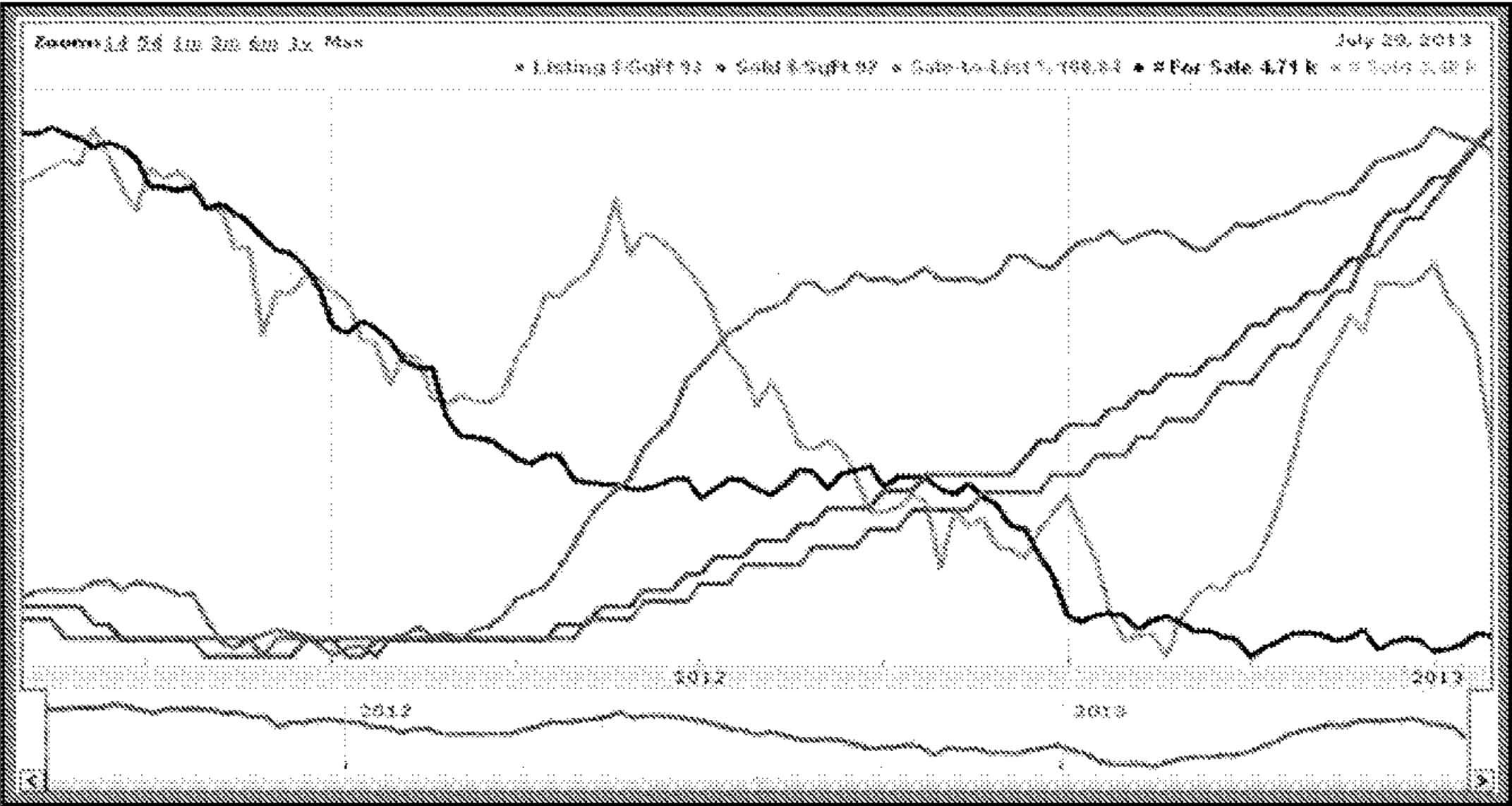
Effectively, it is the perfect storm. This combination of factors acting in the market is creating a housing shortage and driving prices upwards, closing the gap between where we should have been and where we have been over the past few years. This is evident via multiple offers over list prices on many homes and shown in the Case-Shiller Index.

The market is not in balance and therefore, this is combination of influences (rates, investors, supply, demand) creates conditions that affect the market value criteria upon which this value opinion is based. The client, intended user or anyone relying upon the value opinion should consider these factors and take appropriate steps to understand and mitigate the risk associated with unknown future market conditions, the speculative activities and influence of investors in the marketplace along with "shadow inventory" (REOs held by lenders). The key factors that influence market value are supply and demand, interest rates and jobs. There is a difference between market value (the most probable price) and investment value (driven by return on equity). Investors are dominant in this market area and have significant effect on the current market trends and "market prices". Value influences could easily shift and market prices (and eventually values) will shift as well.

Redfin - Las Vegas Market Overview - Market Conditions

Client	Wright Finlay & Zak				
Property Address	5946 Lingerin Breeze St				
City	Las Vegas	County	Clark	State	NV Zip Code 89148
Borrower/Client	N/A				

The chart below from Redfin contrasts listing and sale activity in the Las Vegas Valley over the past 12 months.



Market Conditions

Market conditions is an adjustment for market changes over time, supply and demand conditions and other factors (short or long-term) affecting the market, including financing, affordability, etc. The increase or decrease in property values is the cause, and time is the measurement of the adjustment. During a market correction, there can be short-term spikes in market prices requiring a "market conditions" adjustment.

The Las Vegas housing market correction from 2006-2011, the excessive supply of homes (REO's and short sales) combined with unprecedented low interest rates, combined to create a buyer's market, essentially, conditions whereby buying a house is more affordable than renting one. The interest rates are so low, that an extra 10% increase in price is marginal in terms of additional monthly payment.

For example, if the median price of a home is \$200,000, the monthly payment at 3.5% over 30 years at a loan to value of 80% is only \$718 (PI). This could be a very attractive payment when you consider that an apartment in that same area may be renting for \$1,000. If there is a severe shortage of homes for sale in a neighborhood and the seller increases the asking price from \$200,000 to \$220,000, the payment on that same property only increases from \$718 to \$790 or about 10%. This is still well below the rent for the smaller apartment and generally, well within the buyer's affordability range.

While the under-supply can be real, or artificially created (lenders holding onto REO inventory), this is occurring in the market. In many valley market areas, we are seeing multiple offers on listings and homes selling for 10% or more over list price. This was an isolated event, but now is a market trend.

Shown below are declining supply and increasing prices. We cannot project the sustainability of a market shift, only evidence an imbalance to support a market conditions adjustment at this point in time.

Nevada Housing Market Outlook - CBER UNLV

The most recent data suggest that we are in the early stages of a housing market recovery in Nevada. The real estate market has a substantial overhang of residential and commercial property. In the residential market, little of that supply is on the market. The result has been gains in residential real estate prices. With the overhang only likely to be dribbled on the market at a slow rate, residential housing prices can be expected to continue rising. Affordable housing remains a positive, as increased population will foster growth in Nevada's economy.

Assessor's Page - Page 1

OWNER(S)/MAIL TO
OWEN LOAN SERVICING LLC
110 VIRGINIA DR
PORT WASHINGTON PA, 19064 PA

SITUS
846 LINGERING BREEZE ST
SPRING VALLEY
PARCEL STATUS
846 LINGERING BREEZE ST
1372.15 Sq. Feet
PROPERTY USE
110 Single Family Residence

163-31-611-022

Formed: 2/25/2016

Page: 1 of 2

2016/17

SUMMARY OF TAXABLE VALUES

WORKING

2012-13	2013-14	2014-15	2015-16	2016-17
RECONCILE	RECONCILE	BLCM	BLCM	BLCM
\$25,000	\$25,000	\$37,000	\$42,000	\$46,000
\$25,000	\$25,000	\$37,000	\$42,000	\$46,000
\$105,415	\$100,806	\$136,253	\$157,358	\$183,735
\$2,262	\$2,294	\$1,039	\$1,071	\$1,089
\$107,577	\$102,800	\$137,292	\$138,367	\$140,822
\$5,923	\$5,923	\$5,923	\$5,923	\$5,923
\$130,415	\$125,806	\$143,215	\$143,286	\$146,736

LAND ACRES

0.15

LAND SQUARE FEET

8,534

LEGAL DESCRIPTION

RUSSELL FORT APACHE UNIT 3
PLAT BOOK 101 PAGE 45
LOT 131 BLOCK 3

LAND VALUE TYPE

LAND
SUBDIVISION DISCOUNT
NET LAND
IMPROVEMENTS
SUPPLEMENTAL
COMMON ELEMENT
TOTAL IMPROVEMENT
SECURED PERSONAL PROP
PARCEL TOTAL
EXEMPTION TOTAL

SALES HISTORY

GRANTOR

GRANTEE

TYPE	SALE DATE	SALE PRICE	DEED BOOK	PAGE
LR	1/13/2014	\$ 174,000.00	20140113	00001734
T	1/7/2014	\$ 172,000.00	20140107	00003776
R	5/29/2013	\$ 135,900.00	20130529	00002114

OWEN LOAN SERVICING LLC
FIRST 100 LLC
HARRISON JOSEPH F & BONNIE L
FIRST 100 LLC

LAND APPRAISAL

ADJ UNIT PRICE

ADJ UNIT PRICE

OVERD VALUE

NOTES

#	CODE	LAND CATEGORY	ZONING	UNIT TYPE	FF	DEPTH	UNITS	UNIT PRICE	TOTAL ADJ	ADJ UNIT PRICE	ADJ VALUE	OVERD VALUE	NOTES
1	AD01	Residential	C.R.2	LT			1.00	\$45,000	\$45,000	\$45,000	\$45,000		

LAND - GOLF COURSE/AG/OPEN SPACE

MARKET AG/GOLF COURSE

#	CODE	LAND CATEGORY	TYPE	UNITS	UNIT PRICE	ADJ	ADJ UNIT PRICE	ADJ VALUE

CLASSIFIED AG/GOLF COURSE

#	CODE	LAND CATEGORY	TYPE	UNITS	UNIT PRICE	ADJ	ADJ UNIT PRICE	ADJ VALUE

IMPROVEMENTS

BUILDING COUNTY

SECTION COUNT

1

TYPE	BLSG	BUILDING TYPE	CLIG	RNK	AVS	EVS	STY	HOT UNITS	BSMT	MEZZ	SPRK	COMP	SGFT	150FT	KGHL2	TYPE	DESCRIPTION	COUNT	STATUS
RES	1-1	One Story	25		2000	2002		100%	1,377	1,014	101	48	129,736						

ACCOUNT FLAGS

CAT

TYPE

VAL

CAT	TYPE	VAL
COM	Capacity	1
PAR	Marked Area	JRBA

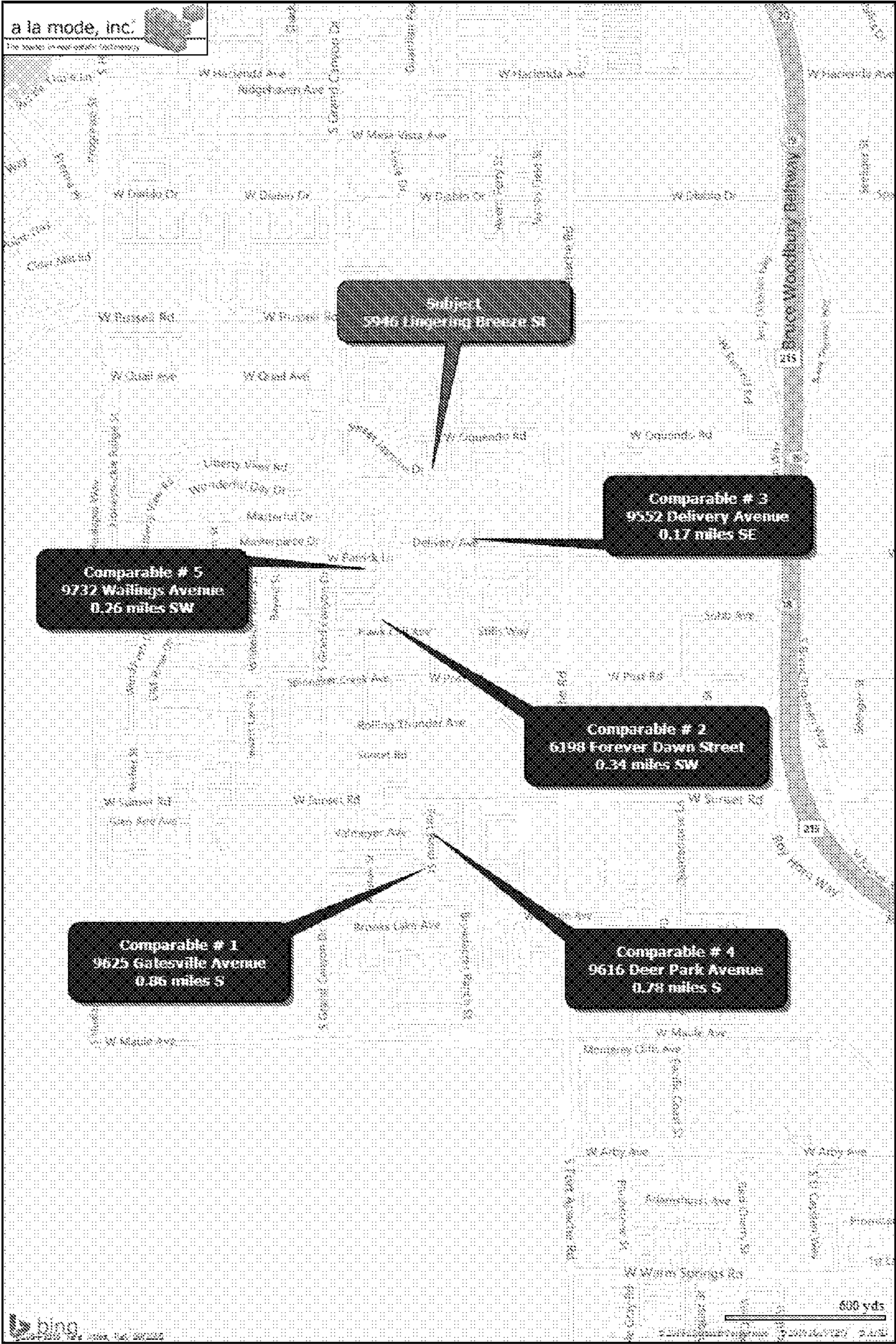
Form SCNLGL — "WinTOTAL" appraisal software by a la mode, inc. — 1-800-ALAMODE

WFZ0013

AA0696

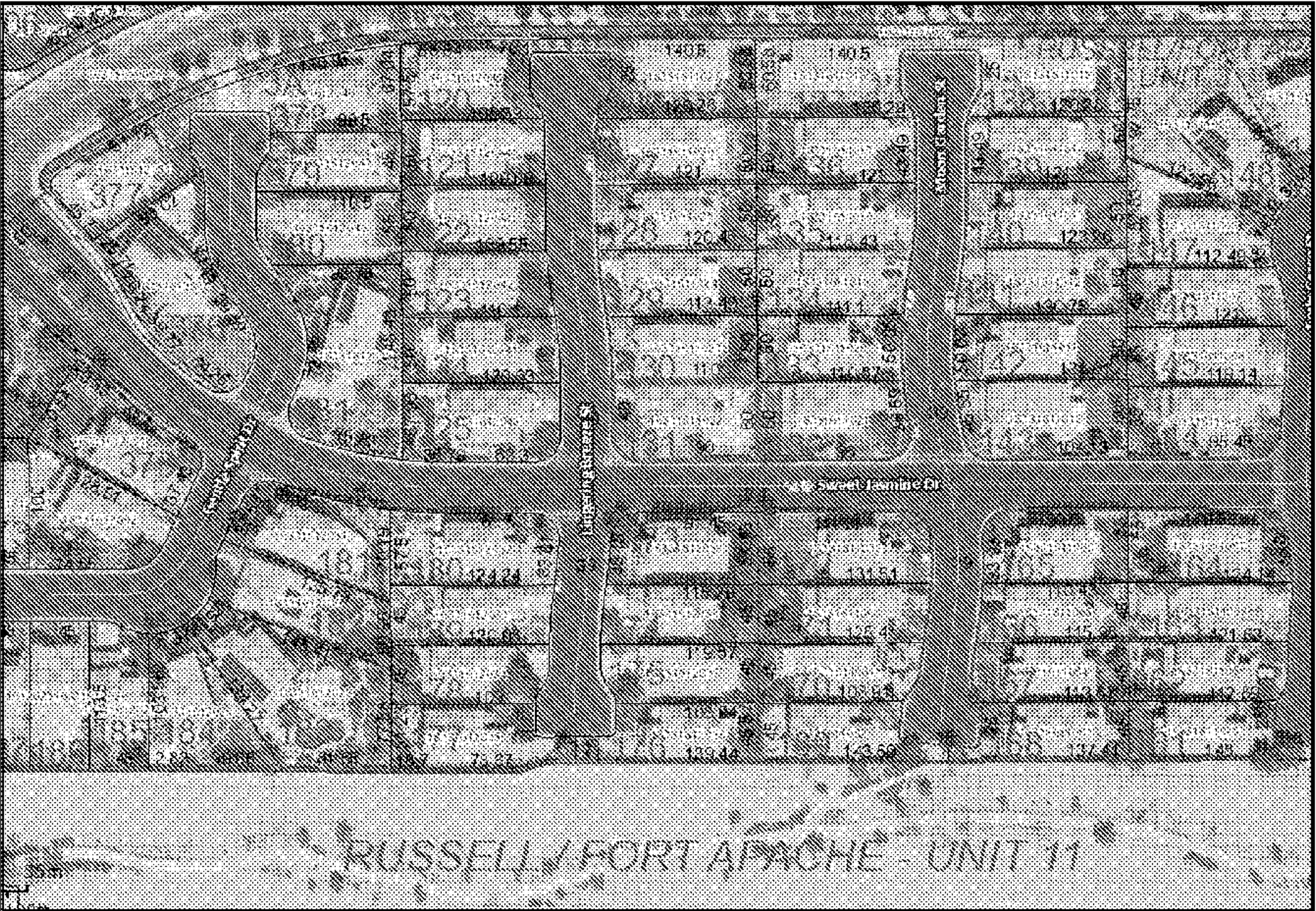
Location Map

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			



Plat Map

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			



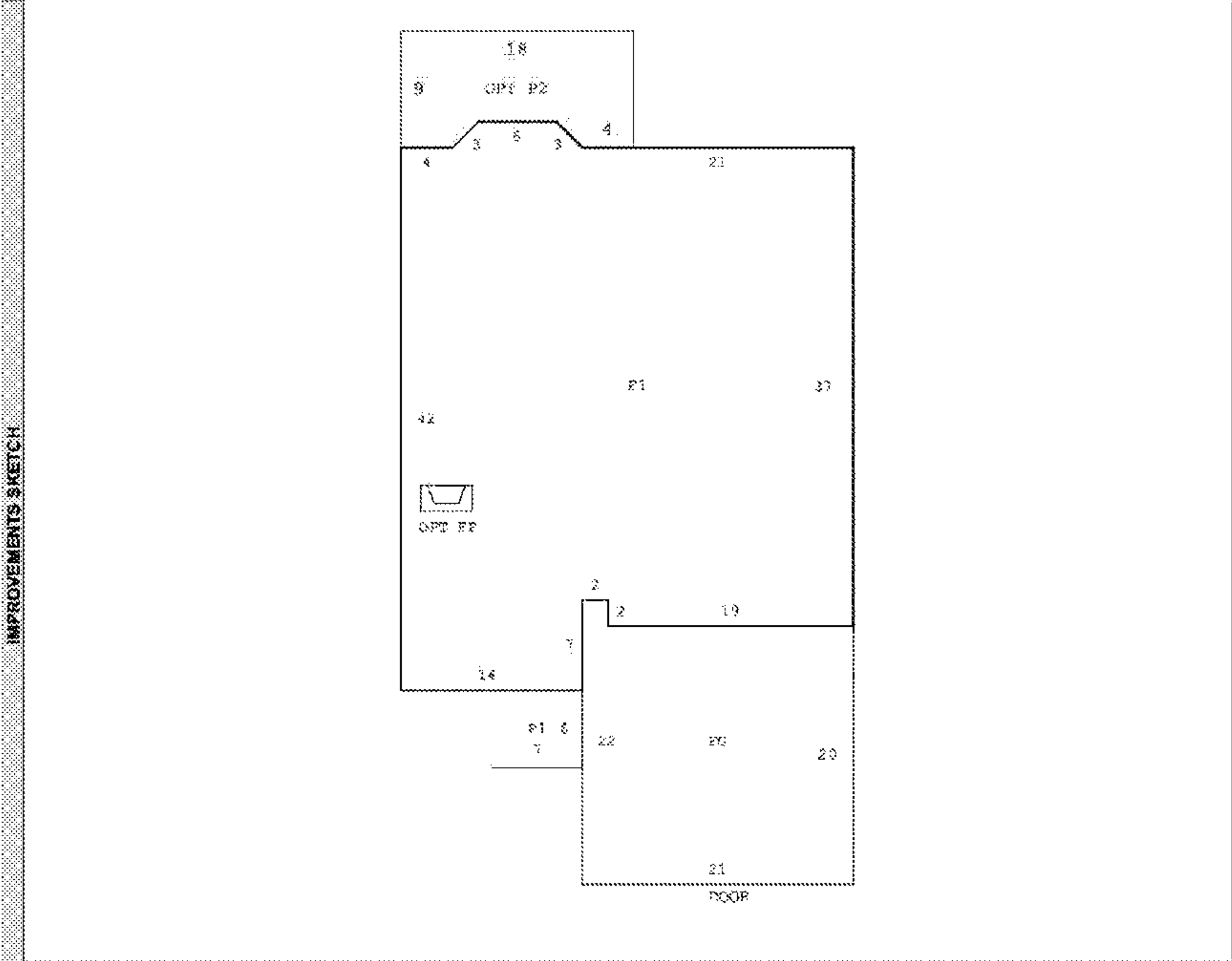
Building Sketch

SKETCH/AREA TABLE ADDENDUM

S:\M\163\31\Somerset\plan4601.AX3

APN 163-31-

SUBJECT	Address		
	Date 09/2001	N/A	LC#
	Subj/Project SOUTHERN TERRACE - SOMERSET		
	Model PLAN 4601 - HEATHER		
	Drawn by # 128		



Comments: This is for Tax Assessment Purposes Only

Scale: 1" = 12'

AREA CALCULATIONS	AREA CALCULATIONS SUMMARY						COMMENTS	
	Code	Description	Factor	Net Size	Perimeter	Net Totals		
	GLA1	F1	1.00	1377.00	159.7	1377.00		
	FG	FG	1.00	424.00	86.0	424.00		
	P1	P1	1.00	42.00	26.0	42.00		
	P2	OPT P2	1.00	146.00	55.7	146.00		
Net LIVABLE Area (rounded w/ factors)						1377		

FIXTURES	
2/0 BATH	
9 FIXTURES	

Clark County, Somerset

APEN SOFTWARE, 300 858-9488

April 1999 v. 1.00

Subject Photo Page

Client	Wright Finlay & Zak				
Property Address	5946 Lingerin Breeze St				
City	Las Vegas	County	Clark	State	NV Zip Code 89148
Borrower/Client	N/A				



Subject Front

5946 Lingerin Breeze St	
Sales Price	
Gross Living Area	1,377
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2
Location	SW/Rsl Ft Apache
View	Residential
Site	6,514 SF/Corner
Quality	Stucco
Age	11



Subject Street

Comparable Photo Page

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			



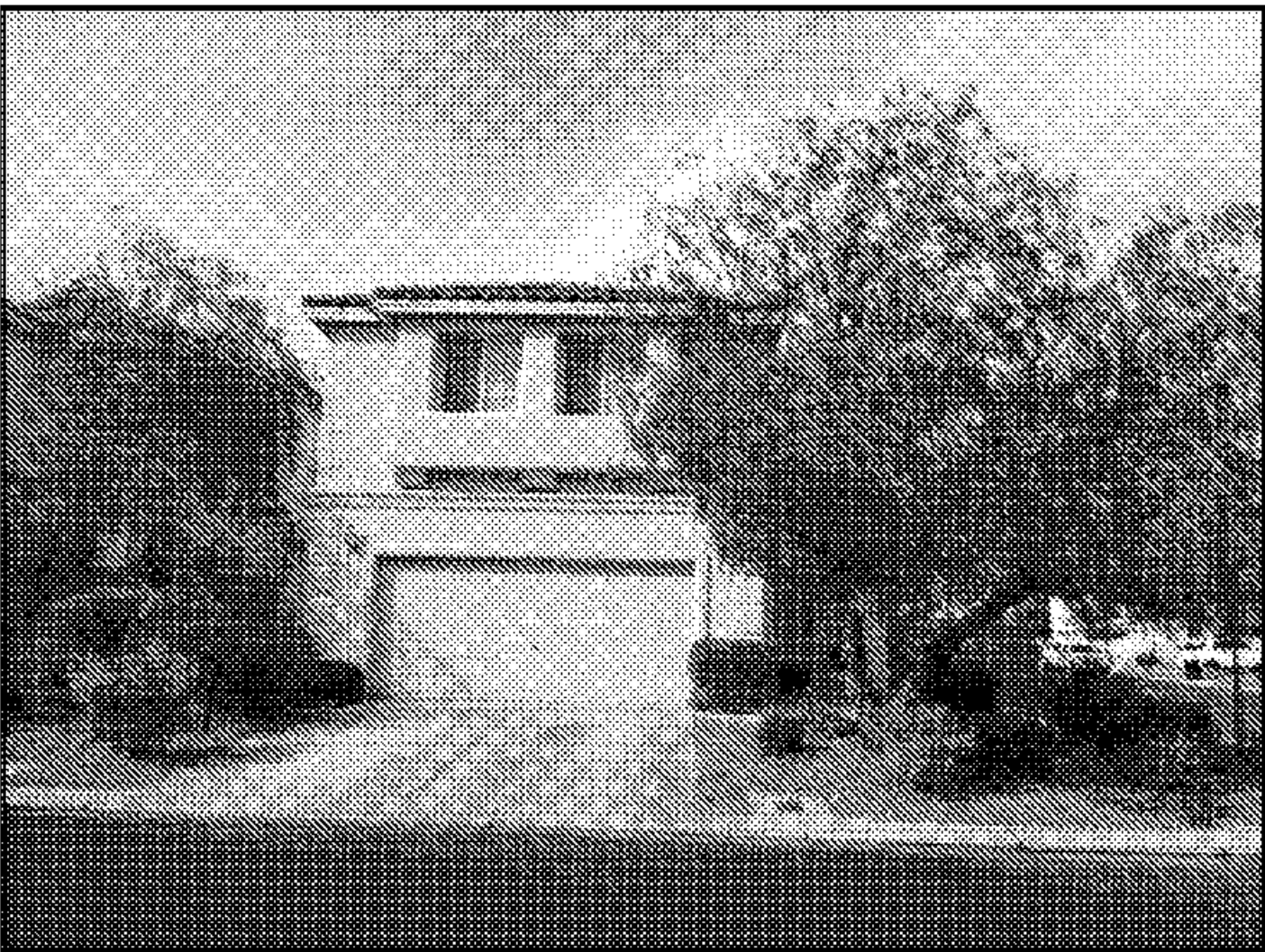
Comparable 1

9625 Gatesville Avenue	
Prox. to Subject	0.86 miles S
Sales Price	156,000
Gross Living Area	1,462
Total Rooms	5
Total Bedrooms	3
Total Bathrooms	2.5
Location	SW/Woodside
View	Residential
Site	4,639 SF/Corner
Quality	Stucco
Age	11



Comparable 2

6198 Forever Dawn Street	
Prox. to Subject	0.34 miles SW
Sales Price	145,000
Gross Living Area	1,319
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2.5
Location	SW/Sedona-Gated
View	Residential
Site	2,611 SF/Corner
Quality	Stucco
Age	9

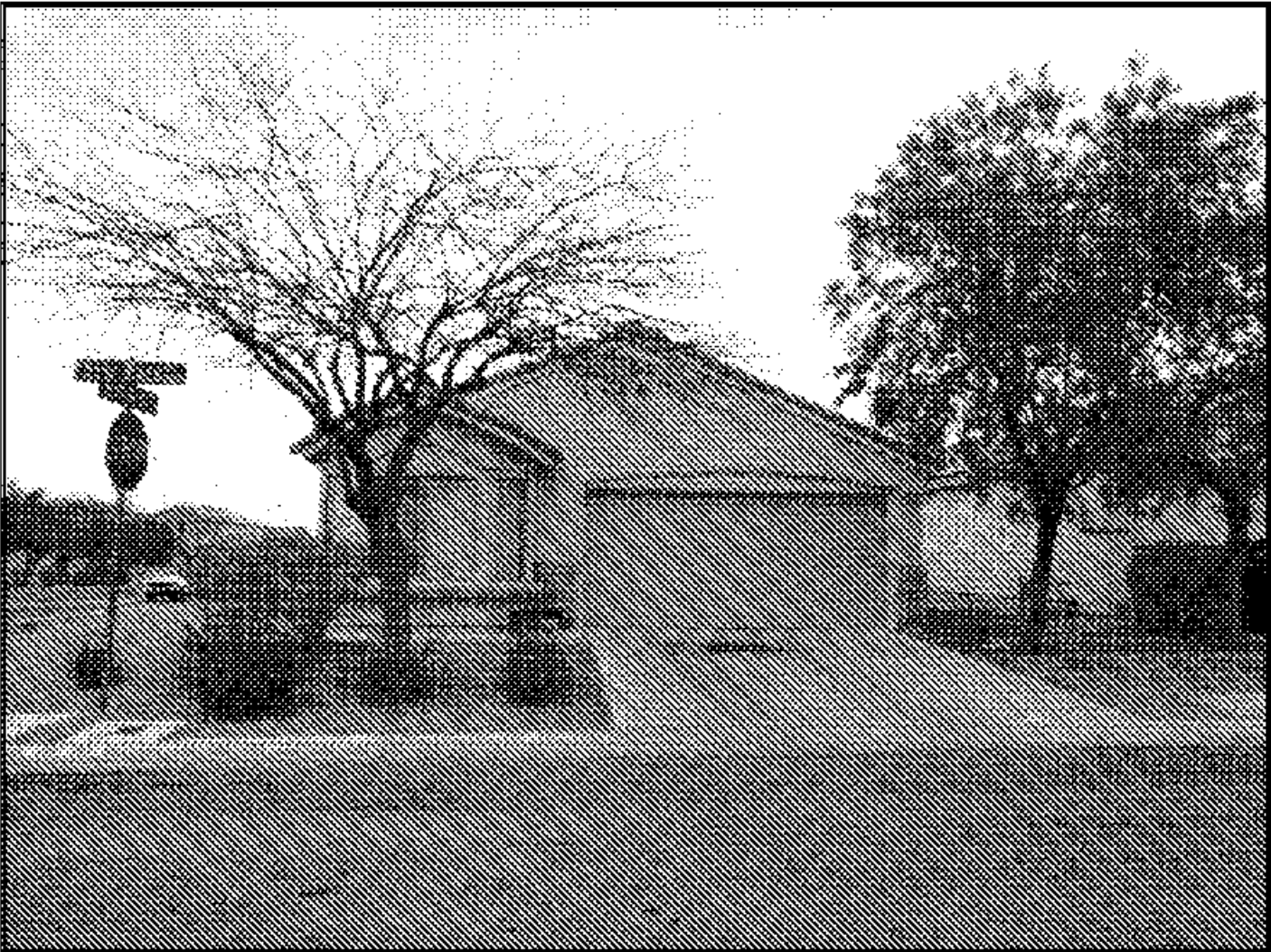


Comparable 3

9552 Delivery Avenue	
Prox. to Subject	0.17 miles SE
Sales Price	168,000
Gross Living Area	1,672
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2.5
Location	SW/Rsl Ft Apache
View	Residential
Site	4,708 SF/Corner
Quality	Stucco
Age	10

Comparable Photo Page

Client	Wright Finlay & Zak				
Property Address	5946 Lingerin Breeze St				
City	Las Vegas	County	Clark	State	NV Zip Code 89148
Borrower/Client	N/A				



Comparable 4

9616 Deer Park Avenue	
Prox. to Subject	0.78 miles S
Sales Price	142,500
Gross Living Area	1,362
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2
Location	SW/Woodside
View	Residential
Site	4,874 SF/Corner
Quality	Stucco
Age	9



Comparable 5

9732 Wailings Avenue	
Prox. to Subject	0.26 miles SW
Sales Price	155,000
Gross Living Area	1,527
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2.5
Location	SW/Sedona-Gated
View	Residential
Site	3,024 SF/Interior
Quality	Stucco
Age	8

Comparable 6

Prox. to Subject	
Sales Price	
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	
View	
Site	
Quality	
Age	

Clarification of Scope of Work

File No. 5946 Lingerin Breeze St

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			

CLARIFICATION OF SCOPE OF WORK

(Rev. 09/08/2014)

This following, explanatory comments are not a modification of the assumptions, limiting conditions or certifications in the appraisal report, but a "clarification" of the appraiser's actions with respect to generally accepted appraisal practice and the requirements of this assignment. The intent is to clarify and document what the appraiser did and or did not do in order to develop the value opinion.

Limitations of the Assignment: The appraisal process is technical and therefore requires the intended user or anyone relying on the conclusions, to have a general understanding of the appraisal process to comprehend the limits of the applicability of the value opinion to the appraisal problem. Real estate is an "imperfect market" and one that can be affected by many factors. Therefore, supplemental reporting requirements and the realities of the market, including the reliability of the data sources, inability to verify key information and the reliance on information sources as being factual and accurate, can affect the conclusions within the report. Those relying on the report and its conclusions must understand and factor these limitations into their decisions regarding the subject property.

The "single point of value" (SPV) is based on the definition of value (stated within the report) which has criteria that may or may not be consistent in the marketplace. Value definitions often assume "knowledgeable buyers and sellers" or "no special motivations," when these and other criteria cannot be verified. For most assignments, guidelines require the selection and reporting of a SPV, taken from a range of value indicators that may vary high or low from the SPV due to factors that cannot be quantified or qualified within the constraints of the data, market conditions and time limits imposed in the development of the report and associated scope of work.

The SPV conclusion is a "benchmark" in time, provided at the request of the client and or intended user of this report and for the purpose stated. Anyone relying upon the conclusions should read the report in its entirety, to comprehend and accept the assignment conditions as suitable and reliable for their purpose. The definition of market value and its criteria is not universal in its application, nor consistent from one intended use to another.

This report was prepared to the intended user's requirements and only for their stated purpose. The analysis and conclusions are unique to that purpose and should not be relied upon for another purpose or use, even though they may seem similar. Decisions related to this property should only be made after properly considering all factors including information not within the report, but known or available to the reader and comprehending the process and guidelines that shape the appraisal process.

SCOPE OF WORK (SOW): Is "the type and extent of research and analysis in an assignment." This is specific to each appraisal given the appraisal problem and assignment conditions. The SOW is generally similar for most assignments, however, the property type or assignment conditions may require deviations from normal procedures. With some assignments, it is not possible to complete an interior inspection of the subject property. Likewise, with a retrospective date of value, the subject property and comparables may appear different than they were as of the effective value date.

For these and other reasons, this "clarification of scope of work" (COSOW) is intended as a guide to general tasks and analysis performed by the appraiser. These statements are a guide for comparison purposes (as part of the valuation process) and do not represent a detailed analysis of the physical or operational condition of these items. This report is not a home inspection. Any statement is advisory based only upon casual observation. The reader or intended user should not rely on this report to disclose hidden conditions and defects.

Complete Visual Inspection Includes: A visual inspection of only the readily accessible areas of the property and only those components that were clearly visible from the ground or floor level. List amenities, view readily observable interior and exterior areas, note quality of materials/workmanship and observe the general condition of improvements. Determine the building areas of the improvements; assess layout and utility of the property. Note the conformity to the market area. Perform a limited check and or observation of mechanical and electrical systems. Photograph interior/exterior, view site, observe and photograph each comparable from the street.

Complete Visual Inspection Does/Did NOT Include: Observation of spaces or areas not readily accessible to the typical visitor; building code compliance beyond obvious and apparent issues; testing or inspection of the well or septic system; mold and radon assessments; moving furniture or personal property; roof condition report beyond observation from the ground level.

No Interior Inspection: Some assignment conditions preclude inspection of the interior and or improvements on the site. Drive-by, review assignments, proposed construction and other assignment factors may affect the ability to view the improvements from the interior and at times, the exterior. In these cases, the appraiser has disclosed the "non-inspection" and used various sources of information to determine the property characteristics and condition as of the effective date of value. When applicable, these assignment conditions are stated in the report.

Inspect The Neighborhood: Observations were limited to driving through a representative number of streets in the area, reviewing maps and other data and observing comparables from the street to determine factors that may influence the value of the subject property. "Neighborhood" boundaries are not exact and are defined by the influence of physical, social, economic

Clarification of Scope of Work

File No. 5946 Lingerin Breeze St

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
City	Las Vegas	County	Clark	State NV Zip Code 89148
Borrower/Client	N/A			

and governmental characteristics (the same criteria used to define census tracts). Over time, small areas merge and once distinct boundaries become less defined. **Comparable data was selected based upon the area proximate to the subject that a buyer would consider directly competitive.**

Repairs or Deterioration: **Deficiency** and **livability** are subjective terms. The value considers repair items that (in his/her opinion), affect **safety, adequacy, and marketability** of the property. Physical deterioration has not been itemized, but considered in the approaches to value.

Construction Defects: Construction defect issues (even when widely publicized) are not consistently reported in the MLS data. State law requires disclosure by the seller to a buyer of known defects and or prior issues. The definition of value assumes "informed buyer" and disclosure to the buyer is mandated by law. The analysis and conclusions presume the prices reported in the market data reflect the buyer's knowledge of prior or current defect related issues (if any).

Satisfactory Completion: The work will be completed as specified and consistent with the quality and workmanship associated with the quality classification identified and physical characteristics outlined within the report.

Cost Approach: Is applicable when the improvements are new or relatively new and when sufficient building sites are available to provide a buyer with a "construction alternative" to purchasing the subject. In areas where similar sites are not available and or in cases where the economy of scale from multi-unit construction is not available to a potential buyer, reliability of the cost approach is limited. Applicability of the cost approach in this assignment is specifically addressed in that section of the appraisal report.

If the cost approach was used it represents the "replacement cost estimate." If used, its inclusion was based on one of the following: request by the client; age requirement under FHA/HUD guidelines; or deemed appropriate for use by the appraiser for "valuation purposes." Regardless of the condition or reason for its use, it should not be relied upon for insurance purposes. The definition of "market value" used within this report is not consistent with the definition of "insurable value."

Income Approach: Is applicable when investors regularly acquire properties that are similarly desirable to the subject for the express purpose of the income they provide. While rentals may exist in any area, their presence alone is not proof of a viable rental and investor marketplace. Use or exclusion of the income approach is specifically addressed in that section of the appraisal report.

Gross Living Area (GLA): The Greater Las Vegas Association of Realtors ® MLS auto-populates the GLA from Clark County Assessor (CCAO) records. Assessors in Nevada are granted (by statute), leeway in determination of the GLA via several commonly employed methods to measure properties and typically rounds measurements to the nearest foot. Therefore, it is common to have variances between the "as measured" GLA by the appraiser and the "as reported" GLA from the CCAO. The GLVAR MLS handles more than 90% of the transactions in this area. Buyers and sellers rely on the MLS and therefore, the GLAs therein are the de-facto standard used by the market as a decision making factor. The appraiser deems the CCAO reported GLA as being reasonable and reliable for comparison purposes, regardless of any other standard used by builders, architects, agents, etc. The appraiser has considered these facts in the analysis and reconciled in the value opinion, only differences in GLA that would be "market recognized" and contribute to greater utility or function in the subject or comparable and greater value by the buying and selling public.

Extent of Data Research-Comparable Data: The appraiser used reasonably available information from city/county records, assessor's records, multiple listing service (MLS) data and visual observation to identify the relevant characteristics of the subject property. Comparables used were considered relevant to the analysis of subject property and applicable to the appraisal problem. The data was adjusted to the subject to reflect the market's reaction (if any and in terms of value contribution) to differences. Photographs taken by the appraiser are originals and un-altered, unless physical access was unavailable. In some cases, MLS photographs may be used to illustrate property conditions, views, etc.

Public and Private Data: The appraiser has access to public records and data available on the internet, the Multiple Listing Service, various cost estimating services, flood data, maps and other property related information, along with private information and knowledge of the market that is pertinent and relevant for this assignment.

Adverse Factors: Based upon the standards of the party observing the property, a range of factors internal or external to the property may be "adverse" by their viewpoint. The appraiser noted factors that may affect the marketability and livability to potential buyers, based upon knowledge of the market and as evidenced by sales of properties with similar or comparable conditions. These items are noted in the report and the valuation approaches that were applied to the analysis. Some buyers in the market may consider factors such as drug labs, registered sex offenders, criminal activity, interim rehabilitation facilities, halfway houses or similar uses as "adverse". No attempt was made to investigate or discover such activities, unless such factors were readily apparent and obviously affecting the subject property as evidenced by market data. If the intended user or a reader has concerns in these areas, it is recommended that they secure this information from a reliable source.

Clarification of Scope of Work

File No. 5946 Lingerin Breeze St

Client	Wright Finlay & Zak			
Property Address	5946 Lingerin Breeze St			
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Borrower/Client	N/A			

Easements: Major power transmission and distribution lines, railroad and other services related easements, including utility easements, limited common areas and conditions that grant others the right to access the subject property and or travel adjacent to the private areas of the subject property. The term adverse applies to individual perspective. It may or may not be negative, dependent upon the individual. One perspective may hold easements to be unappealing visually or disruptive. From another, such easements and corridors provide open space and ensure greater privacy (due to the size of the easement) from neighboring properties. Unless the easement affects the utility or use of the site or improvements, any impact was only considered from the perspective of marketability. In cases where the site abuts a major power transmission easement, the towers are generally centered within the right of-way and engineered to collapse within the easement. The effect or impact is inconsistent (as measured in the market) and therefore unless compelling evidence was found in comparable data, no adjustment was made, only the presence stated.

Valuation Methodology: The data presented in the report is considered to be the most relevant to the valuation of the subject property (and its market segment) based on its current occupancy and market environment. In areas influenced by foreclosure, short-sale and REO activity, and motivated (or impacted) by factors that cannot be qualified or quantified, the transactional characteristics of those sales may not fully meet the definition of market value criteria and therefore may be misleading. Verifications and drive-by inspections frequently reveal inconsistencies between the MLS and public records. Through this process, the appraiser can present the rationale supporting the final value opinion within the reconciliation and the reader can comprehend the logic and its application to the valuation process.

The Value Opinion: The value opinion may not be valid in another time-period. It is important for anyone relying on the report to comprehend the dynamic nature of real estate and the validity of the single value point or value range reported. The reported value is a benchmark or reference in time (as of a specific date) and subject to change (sometimes rapidly), based upon many factors including market conditions, interest rates, supply and demand. Therefore, anyone relying on the reported conclusions should first comprehend and accept the assignment conditions, assumptions, limiting conditions and other factors stated within the report as being suitable and reliable for their purpose and intended use.

Specific Reporting Guidelines: Market participants have unique appraisal reporting guidelines. The COSOW is supplemental to the forms stated scope of work, providing an overview of the appraiser's actions with respect to general appraisal practice and the stated requirements of the assignment. The intent is to clarify what the appraiser did and or did not do in order to develop the value opinion. Guidelines require the borrower receive a copy of the appraisal report, however, the borrower is not an intended user. The appraisal process and specific reporting requirements are highly technical and in most cases, beyond the comprehension of most readers. Anyone choosing to rely upon the appraisal should read the report in its entirety and if needed, consult with professionals that can assist them with understanding the basis of this report and the required reporting requirements, prior to making any decisions based upon the conclusions and or observations stated within.

Use of Electronic Appraisal Delivery Services: If the client directed that the appraiser transmit the content of this report via Appraisal Port or a similar delivery portal service, pursuant to user agreements, these services disclaim any warranty that the service provided will be error free and that these services may be subject to transmission errors. Accordingly, the client should make its own determination as to the accuracy and reliability of any such service they employ. The appraiser makes no representations and specifically disclaims any warranty regarding the accuracy or portrayal of content transmitted via Appraisal Port or any similar service or their reliability. The appraiser uses such technology at the specific direction and sole risk of the client. At its request, the client may obtain a true copy of the original report directly from the appraiser via email (PDF), mail or other means.

Assumptions, Limiting Conditions & Scope of Work

File No.: 5946 Lingerin Breeze St

Property Address: 5946 Lingerin Breeze St	City: Las Vegas	State: NV	Zip Code: 89148
Client: Wright Finlay & Zak	Address: 7785 W Sahara Avenue, Ste 200, Las Vegas, NV 89117		
Appraiser: R. Scott Dugan, SRA	Address: 8930 West Tropicana Avenue, Suite 1, Las Vegas, NV 89147		

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

— The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

— The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.

— If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

— The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

— If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.

— The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

— The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

— The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.

— If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.

— An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.

— The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.

— An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

Additional Comments (Scope of Work, Extraordinary Assumptions, Hypothetical Conditions, etc.):

Important – Please Read – The client should review this report in its entirety to gain a full awareness of the subject property, its market environment and to account for identified issues in their business decisions. This appraisal report includes comments, observations, exhibits, maps, explanatory comments, and addenda that are necessary for the reader to comprehend the relevant characteristics of the subject property. The Expanded Comments and Clarification of Scope of Work provides specifics as to the development of the appraisal along with exceptions that may have been necessary to complete a credible report.

INTENDED USE/USER:

The intended user of this appraisal report is the lender/client. No additional intended users are identified by the appraiser. This report contains sufficient information to enable the client to understand the report. Any other party receiving a copy of this report for any reason is not an intended user; nor does it result in an appraiser-client relationship. Use of this report by any other party(ies) is not intended by the appraiser.


SCOPE OF WORK:

In the normal course of business, the appraiser attempted to obtain an adequate amount of information regarding the subject and comparable properties. Some of the required standardized responses, especially those in which the appraiser has not had the opportunity to verify personally or measure, could mistakenly imply greater precision and reliability in the data than is factually correct or typical in the normal course of business. Consequently, this information should be considered an estimate unless otherwise noted by the appraiser.

Examples include condition and quality ratings, as well as comparable sales and listing data. Not every element of the subject of the subject property was viewable, and comparable property data was generally obtained from third-party sources (real estate agents, buyers, sellers, public records, and the Greater Las Vegas Board of Realtors Multiple Listing Service).

Certifications

File No.: 5946 Lingerin Breeze St

Property Address: 5946 Lingerin Breeze St		City: Las Vegas		State: NV		Zip Code: 89148	
Client: Wright Finlay & Zak		Address: 7785 W Sahara Avenue, Ste 200, Las Vegas, NV 89117					
Appraiser: R. Scott Dugan, SRA		Address: 8930 West Tropicana Avenue, Suite 1, Las Vegas, NV 89147					
APPRAISER'S CERTIFICATION							
<p>I certify that, to the best of my knowledge and belief:</p> <p>— The statements of fact contained in this report are true and correct.</p> <p>— The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.</p> <p>— I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.</p> <p>— I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.</p> <p>— My engagement in this assignment was not contingent upon developing or reporting predetermined results.</p> <p>— My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.</p> <p>— My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.</p> <p>— I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.</p> <p>— Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.</p> <p>— Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.</p>							
Additional Certifications:							
<p><u>Supplemental Certification:</u> In compliance with the Ethics Rule of USPAP, I hereby certify that I have not performed any services with regard to the subject property within the 3-year period immediately preceding the engagement of this assignment.</p> <p>Supplemental Certification: The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives. The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. As of the date of this report, I, R. Scott Dugan, SRA, Certified General Appraiser, have completed the continuing education program of the Appraisal Institute.</p>							
Definition of Market Value: (X) Market Value () Other Value							
Source of Definition: FDIC Interagency Appraisal and Evaluation Guidelines (December 2, 2010) Appendix D							
<p>As defined in the Agencies' appraisal regulations, the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:</p> <ol style="list-style-type: none">1. Buyer and seller are typically motivated;2. Both parties are well informed or well advised, and acting in what they consider their best interest;3. A reasonable time is allowed for exposure in the open market;4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. <p>*The definition of market value above is the most widely cited by federally regulated lending institutions, HUD and VA. Absent a specific definition from the client, this definition was used in the assignment.</p>							
Client Contact: Wright Finlay & Zak		Client Name: Wright Finlay & Zak					
E-Mail: fharris@wrightlegal.net		Address: 7785 W Sahara Avenue, Ste 200, Las Vegas, NV 89117					
APPRAISER				SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)			
<div><div>SIGNATURES</div><div></div><div>Appraiser Name: R. Scott Dugan, SRA</div><div>Company: R Scott Dugan Appraisal Company, Inc.</div><div>Phone: 702-876-2000 Fax: 702-253-1888</div><div>E-Mail: appraisals@rsdugan.com</div><div>Date Report Signed: March 14, 2016</div><div>License or Certification #: A.0000166-CG State: NV</div><div>Designation: SRA</div><div>Expiration Date of License or Certification: 05/31/2017</div><div>Inspection of Subject: Interior & Exterior Exterior Only None</div><div>Date of Inspection: March 07, 2016</div></div>				<div>Supervisory or Co-Appraiser Name:</div> <div>Company:</div> <div>Phone: Fax:</div> <div>E-Mail:</div> <div>Date Report Signed:</div> <div>License or Certification #: State:</div> <div>Designation:</div> <div>Expiration Date of License or Certification:</div> <div>Inspection of Subject: Interior & Exterior Exterior Only None</div> <div>Date of Inspection:</div>			

Appraiser Resume (Qualifications) - Page 1

R. Scott Dugan, SRA

**GENERAL APPRAISAL EXPERIENCE:**

- Independent Real Estate Appraiser - September 1976 to Present
- Senior Real Estate Appraiser First Western Savings Association, Las Vegas, NV - 10/74 to 09/76
- Independent Real Estate Appraiser - 1969 to 1974

SPECIALIZED VALUATION EXPERIENCE:

Qualified Expert Witness: Real Estate and Appraisal Matters- District, Bankruptcy and Federal Courts

Forensic Review Expert: Appraisal reviews for litigation. Clients include major banks, attorneys and the FDIC.

TYPES OF PROPERTIES:

Residential, Condominium, Planned Unit Developments, Small Residential Income, Existing, Proposed and Vacant Land, Commercial and Income units.

LICENSING:

Licensed in the State of Nevada, Certified General Appraiser-License #A.0000166-CG

PROFESSIONAL DESIGNATION:

SRA Member - Appraisal Institute - 1989 to Present

EDUCATION:

Bachelor of Science in Business Administration - Finance, University of Nevada
High School Diploma - General Studies, Ed W. Clark High School, Las Vegas, NV

REALTOR ASSOCIATIONS:

Appraiser Member - National Association of Realtors - 1992 to Present

Appraiser Member - Greater Las Vegas Association of Realtors - 1992 to Present

MEMBERSHIPS:

Employee Relocation Council, Appraiser Member - 1990 to 2013

Member of the Clark County Board of Equalization - 1994 to Present (Current Vice Chair)

Relocation Appraisers & Consultants Member - 1995 to Present

REFERENCES:

Cheryl Moss, SVP - Chief Appraiser
Bank of Nevada
2700 W. Sahara Avenue
Las Vegas, NV 89102
702-252-6366

Terry Jones, VP
First Security Bank
10501 W. Gowan Road, Ste. 170
Las Vegas, NV 89129
702-853-0950

Dan Schwartz, VP
City National Bank
555 S. Flower St, 10th Floor
Los Angeles, CA 90071
213-673-9283

Timothy R. Morse - MAI, SRPA
Timothy R. Morse & Associates
801 S. Rancho Drive, Ste. B-1
Las Vegas, NV 89106
702-386-0068 X21

Glenn Anderson, MAI, SRPA
Glenn Anderson
1601 S. Rainbow Boulevard, Ste. 230
Las Vegas, NV 89146
702-307-0888

Sandy Boatwright, Branch Manager
I Mortgage
2855 St. Rose Parkway, Ste. 110
Henderson, NV 89052
702-575-6413

Jim Goodrich, MAI, SRA, CCIM
Goodrich Realty Consulting, LLC
2570 Eldorado Pkwy, Ste. 110
McKinney, TX 75070
972-529-2828

Rick Platte, Owner
Premier Mortgage Lending Group
8689 W. Sahara Ave, Ste. 100
Las Vegas, NV 89117
702-485-6600

Appraiser Resume (Qualifications) - Page 2

OFFICES HELD:

- Nevada Commission of Appraisers - Real Estate Division Educational Committee - 1994-1996
- Member of the Regional Ethics and Counseling Panel Appraisal Institute - 1994-1996
- State Chair Nevada, State Government Relations Subcommittee Appraisal Institute - 1994-1995
- Chapter Admissions Chair, Las Vegas Chapter Appraisal Institute - 1994
- Chapter Representative, Las Vegas Chapter Appraisal Institute - 1993-1995
- Vice Chair Nevada, State Government Relations Subcommittee Appraisal Institute - 1993
- Member of Region VII Nominating Committee Appraisal Institute - 1992-1995
- President, Las Vegas chapter Appraisal Institute - 1992
- First Vice President, Las Vegas Chapter Appraisal Institute - 1990 - 1991

CONTINUING EDUCATION: GENERAL, LITIGATION, APPRAISAL INSTITUTE, ERC, and SREA:

- A.I. Las Vegas Market Symposium 2014 – November 2014
- Unraveling the Mystery of Fannie Mae Appraisal Guidelines – June 2014
- Litigation Assignments for Residential Appraisers: Expert Work on Atypical Cases – June 2014
- Liability Issues for Appraisers Performing Litigation and Other Non-Lending Work – May 2014
- 2014 National USPAP Update Course – January 2014
- Las Vegas Market Symposium 2013 – November 2013
- Do's and Don't's of Litigation Support – October 2013
- Appraising the Appraisal: Appraisal Review-Residential – April 2013
- A. I. Uniform Appraisal Dataset Aftereffects: Efficiency vs. Obligation – February 2013
- Complex Litigation Appraisal Case Studies – January 2013
- Seller Concessions in Market Value Appraisals – November 2012
- National USPAP Update Course – May 2012
- Valuation of Basements – March 2012
- Accurately Analyzing and Reporting Market Rebounds and Declines – December 2011
- Las Vegas Market Symposium 2011 – October 2011
- The Uniform Appraisal Dataset from FNMA and FMAC – July 2011
- Tools, Techniques & Opportunities for Residential Appraising – November 2010
- Business Practice and Ethics – September 2010
- Appraisal Curriculum Overview Residential – September 2010
- Nevada Commission of Appraisers Hearing – June 2010
- Inspecting the Residential Green or High Performance House – January 2010
- ENERGY STAR and the Appraisal Process – January 2010
- 2009 National USPAP Update Course – January 2010
- A.I. Committee CE Credit – Chapter Level – December 2009
- Residential Design: The Making of a Good House November 2009
- The New Residential Market Conditions Form Seminar – March 2009
- REO Appraisal - Appraisal of Residential Property Foreclosure – October 2008
- National USPAP Update Course - Las Vegas, NV - March 2008
- Dealing with Client Pressure, Appraiser Identity Theft and Appraisal Report Tampering – March 2008
- Inside & Outside the Boxes, Developing & Communicating the URAR – October 2007
- Housing Market Analysis – September 2007
- Making Sense of the Changing Landscape of Value - Las Vegas, NV - July 2007
- The Real Estate Economy: What's in Store for 2008? - Las Vegas, NV - July 2007
- Real Estate Investing & Development - A Valuation Perspective - July 2007
- Litigation Skills for the Appraiser: An Overview - October 2006
- National USPAP Update Course - June 2006
- The Professional's Guide to the Uniform Residential Appraisal Report Seminar - July 2005
- Re-appraising, Re-addressing, and Re-assigning What to do and why Seminar - June 2005
- Market Analysis and the Site to Do Business Seminar - June 2005
- Secrets of a Successful Litigation Seminar - June 2005
- Mortgage Fraud & the Appraiser's Role Seminar - June 2005
- Uniform Standards of Professional Appraisal Practice Update Course - February 2005
- Course 705 Litigation Appraising - October 2004
- Avoiding Liability as a Residential Appraiser - October 2004
- AVM, VFR and Power Tools for Appraisers - September 2004
- Course 400 - National USPAP Update - November 2003
- Residential Sales Comparison Approach - October 2003
- Appraisal Review (Residential) - February 2003
- Nevada Real Estate Appraisal Statutes - October 2002
- National USPAP Update Course - June 2002
- Standard of Professional Practice Part A and Part B - Course 410 and 420 - September 2001
- Appraisal Procedures - Course 120 - November 2000
- Standards of Professional Practice Part A - Course 410 - October 1999
- Standards of Professional Practice Part B - Course 420 - October 1999
- Attacking & Defending an Appraisal in Litigation - September 1999
- FHA and the Appraisal Process - July 1999

Appraiser Resume (Qualifications) - Page 3

- Reporting Sales Comparison Grid Adjustments for Residential Properties - March 1999
- Valuation of Detrimental Conditions in Real Estate - September 1998
- Standards of Professional Practice Part C - Course 430 - May 1998
- Incorporating Energy Efficiency into Residential Appraisals - December 1998
- Residential Design and Functional Utility Seminar - September 1997
- Alternative Residential Reporting Forms Seminar - July 1996
- Evaluation Guidelines Workshop - July/August 1994
- Understanding Limited Appraisals and Appraisal Reporting Options - July/August 1994
- Appraisal Review - Residential properties - July/August 1994
- Fair Lending and the Appraiser - July 1994
- Evaluation Guidelines Workshop July 1993
- Environmental Checklists, ASTM Property Screen Standard & the Valuation Process - July 1993
- Current Standards of Professional Appraisal Practice Issues - July 1993
- Americans With Disabilities Act (ADA) - July 1993
- The New Uniform Residential Appraisal Report - September 1993
- Intern Appraiser and the Law - February 1993
- Appraisal Reporting of Complex Residential Properties - December 1992
- Accrued Depreciation Seminar - September 1992
- Appraising from Blueprints - September 1992
- Appraising the Tough Ones - July 1992
- Employee or Independent Contractor - The Impact of an IRS Audit on an Appraiser - July 1992
- Landfills and Their Effect Upon Value - August 1991
- Subdivision Analysis - August 1991
- Real Estate Law for Real Estate Appraisers - August 1991
- Technical Inspection of Real Estate - August 1991
- Relocation Appraisal Seminar - August 1991
- Practical Approach: The New Small Residential Income Property Guidelines - July 1990
- Extraction of Market Data on Residential Properties - August 1990
- Residential Appraisal Report from the User's Perspective - August 1990
- Legislative Update Panel - August 1990
- Relocation Appraising in the 90's PHH Home Equity - September 1990
- Nevada Real Estate Appraisal Statute - October 1990
- Professional Practice and Real Estate Appraisal Law - October 1990
- Exam Preparation Seminar for Appraiser - General Certification - October 1990

ERC NATIONAL RELOCATION CONFERENCE:

- ERC - RAC Trac Conference - May 2007
- National Relocation Appraisal Forum - May 1996

PHH REAL ESTATE NETWORK:

- Regional Seminar "Hearts, Smarts & Courage" - September 1996
- "Force of Excellence" - November 1995
- Western Appraiser Regional Seminar "Leaders in Change" - September 19

CLIENTS: Banks and Mortgage Companies:

- | | |
|--|---|
| • AAA Mortgage | • D.L. Evans Bank |
| • Allegiance Relocation Services | • Deutsche Bank |
| • AMC Links | • ENG Lending |
| • Appraisal Logistics | • Evergreen Home Loans |
| • Appraisals2U | • Sirva Relocation |
| • Axia Home Loans | • Federal National Mortgage Association |
| • Bank of Las Vegas | • First Republic Bank |
| • Bank of Nevada | • First Security Bank of Nevada |
| • Bank of New York | • Guarantee Bank |
| • Boulder Dam Credit Union | • Guaranteed Rate |
| • Broad Street Nationwide Valuations | • Home Base Mortgage |
| • Capital One Bank | • HomeBridge Financial Services, Inc. |
| • Castle & Cook Mortgage | • Imortgage |
| • Chase Bank | • Irwin Union Bank and Trust Company |
| • Citibank | • J.P. Morgan |
| • Citicorp Mortgage, Inc. | • Kinecta Federal Credit Union |
| • City National Bank | • Leader One Financial |
| • Clark County Public Guardians Office | • Lender X |
| • Coester Appraisal Management Co. | • Meadows Bank |

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- Mellon Bank
- Mutual of Omaha Bank
- Nationstar Mortgage
- Nevada Guardian Services
- Northern Trust Bank
- Paramount Residential Mortgage Group
- Premier Mortgage Lending Group
- Prudential Relocation
- Real Valuation Services
- Red Rock Mortgage
- Reichert Workforce Mobility
- Rels Valuation - Wells Fargo Bank
- REO Management Services
- RMS & Associates
- Royal Business Bank
- RPM Mortgage
- Settlement One
- SIRVA Relocation
- Solidifi
- Solution Star
- South Pacific Financial
- Stars Valuations Services
- The Home Lending Group
- Trimavin Appraisal Management Co.
- United States Appraisals
- US Bank
- Valuation Partners
- Veteran's Administration
- Washington Federal Savings
- Wells Fargo Bank

Attorneys / Others:

- Abrams, Jennifer
- Akerman, LLP
- Alverson, Taylor, Mortenson-Judd Balmer
- Americana Nevada Company
- Anderson, McPharlin & Conners
- Barney, Anthony
- Barranco & Kircher
- Black & Lobello
- Bourassa Law Group
- Boyce & Gianni
- Bradley Arant Boult Cummings
- Bremer Whyte Brown & O'Meara
- Brooks Hubley
- Cooper Castle
- Delanoy, Schuetz & McGaha
- Dickerson Law Group
- Drizin, Lee A
- Ecker Law Group
- Fennemore Craig
- Fine, Fran (Broker)
- Gerrard Cox Larsen
- Goodrich, Jim (Valuation Consulting)
- Gordon Silver
- Hansen, Randon
- Holland & Hart LLP
- Hoskin, Hughes and Pifer
- Jensen, Rob (Broker)
- Jolley Urga Wirth Woodbury & Standish
- Kainen Law Group
- Kelleher & Kelleher
- Kerr, Preston Sterling
- Kolesar & Leatham
- Koeller, Nebeker, Carlson & Halvek
- Leavitt, Andrew
- Lee & Russell
- Lee, Hernandez, Kelsey, & Brooks
- Love, Tom (Broker)
- Mazur Brooks
- Menninger, Carol
- Millier & Wright Rawlings, Olsen, Cannon, Gormley & Desruisseaux
- Mullin Hoard Brown
- Shapiro, Florence (Broker)
- Shea & Carlyon
- Wilson Elser Moskowitz Edleman & Diker
- Wolfe & Wyman
- Wright Finlay & Zak
- Woodbury & Standish

(Rev. February 19, 2015)

ATTORNEY WORKLOAD REPORT

	Subject Address	Name	Purpose	Attorney or Client	Court Date	Case No.
1	Lots 1, 3, 4 & 5 Ghost Dance	Town & Country vs Goddard	Court Testimony	Holland & Hart LLP	12/20/2010	
2	2966/2970 San Lorenzo	Bank of Nevada	Deposition/Crt Testimony	Lionel Sawyer & Collins	1/6/2011	120-201-0059
3	5025 Kell Lane	OneCap Mortgage	District Court Appearance	Reade & Associates	1/25/2011	
4	2966/2970 San Lorenzo	Bank of Nevada	Federal Court Testimony	Lionel Sawyer & Collins	1/28/2011	120-201-0059
5	940 N Sloan Lane #105	Bank of Nevada	Court Testimony/Settled	Mazur & Associates	3/3/2011	
6	Platinum	Platinum Condo Dev	Litigation/Deposition	Foley & Lardner LLP	7/4/2011	209CV00671PMPGWF
7	4945 Ghost Dance Circle	Goddard	Federal Court Testimony	Town & Country Bank	9/8/2011	2:09CV00686RLHLRL
8	2132 Country Cove	Bank of Nevada vs King	District Court Testimony	Gerrard & Cox	10/6/2011	A627640
9	14480 Roundabout Circle	Shavitz vs Jacobs Construction	District Court Deposition	Schofield Miller Law Firm	12/5/2011	A-09-592088-D
10	39 Quail Hollow Drive	Linscomb vs Smith	Depo/Court Testimony	Silvermann Decarie & Kattelman	1/8/2012	D-11-444324-D
11	645 San Drive	M&L vs. Long	Court Testimony	Cooper Castle Law Firm	1/13/2012	A-11-65-203-C
12	7811 Dana Point Court	BoINV vs Troncosco	Court Testimony	Mazur & Brooks	9/24/2012	A647414
13	2139 Wilbanks Circle	BoINV vs Deevers	Court Testimony	Mazur & Brooks	10/4/2012	A-12-655231-C
14	22 Sawgrass Court	Provident vs Levy	Deposition	Cooper Castle Law Firm	10/5/2012	A-09-601666-C
15	23 Mallard Creek Trail	Goldstein/Irfield	Deposition	The Bourassa Law Group	11/30/2012	A617125
16	8031 Springbuck Court	BoINV vs Townsend	Deficiency Hearing	Michael Marcellette	4/2/2013	A-12-671738-C
17	49 Hawk Ridge Drive	BoINV vs Barry	Deficiency Hearing	Michael Marcellette	5/7/2013	A-12655555-C
18	1500 Windhaven	FDIC	Deposition	Kolesar & Leatham	7/23/2013	8408-2
19	32 Via Vasari	Deutsche Bank	Litigation	Blut Law Group	Current	A-11-651083-C
20	8623 Fire Mountain	Bank of Nevada	Deficiency Hearing	Mazur & Brooks	7/31/2013	A-11-642953-C
21	1157 Via Casa Palmero	FDIC vs Rekis	Deposition	Kolesar & Leatham	8/29/2013	2:12-cv-02061-GMN
22	51 Agate Ave #303	Giuliano vs Giuliano	Court Testimony	Zashin & Rich	10/9/2013	DR12343002
23	FDIC Reviews	FDIC vs Core Logic	Court Testimony	Mullin Heard Brown	12/10/2013	8:11-cv-00704-DOC-AN
24	53 Hawk Ridge Drive	D&J Family Trst vs Palm Canyon	Deposition	Bourassa Law Group	12/17/2013	A646373
25	FDIC Reviews	FDIC vs LSI Appraisal LLC	Deposition	K&L Gates LLP	1/8/2014	SACV11-706 DOC(Anx)
26	8 Rue Mediterra Drive	RBM Constuction vs Rosenaur	Deposition	Bremer, Whyte, Brown & Omeara	1/15/2014	09-A595366
27	2821 Dandelion Street	Puckett vs Bank of Nevada	Court Testimony	Michael Marcellette	2/13/2014	A-13-677331-C
28	3180 Darby Gardens Court	Everflow	Court Testimony	Lionel Sawyer & Collins	3/4/2014	A-11-652597-B
29	4381 W Flamingo Rd #39301	Royal Business Bank vs Lin	Court Testimony	Compton Law	3/26/2014	A-14-694431
30	7229 Mira Vista Street	Anthony Savino	Court Testimony	McDonald Law Offices	6/12/2014	A-13-674390-C
31	1147 Evening Canyon Ave	Ana Thompson	Court Testimony	Brooks Hickey LLP	9/26/2014	A-13-17461
32	4381 W Flamingo Rd #18321	Palms Place vs Lue Garlick	Deficiency Hearing	Brownstein Hyatt Farber Schreck	11/4/2014	A-14-697506-B
33	6683 Mermaid Cr.	McGee vs. Citi Mortgage	Deposition	Wolfe & Wyman	11/24/2014	2:12-CV-02025JCM/PAL

**R Scott Dugan, SRA
R Scott Dugan Appraisal Company, Inc.
Fee Schedule
(As of November 15, 2014)**

Assignments are for bid on a case-by-case basis. Standard fees for additional work (if needed) are listed below:

Expert Witness Work and Testimony:

- Deposition, Court Testimony, Trial Preparation - \$400/Hour
- Supplemental Work and Research - \$400/Hour
- Consulting Meetings, Case Discussions, etc. - \$200/Hour

There is a three-hour minimum for deposition and court testimony. If either is canceled within 24 hours of a scheduled appearance, the client will be billed for 50% of the minimum, in addition to any time for preparation.

The above fees are exclusive of the costs associated with both the development of the valuation report or consulting study, and that of supporting materials that may be required for trial.



C16
File No. 5946LingeringBreeze

***** INVOICE *****

File Number: 5946LingeringBreeze

03/14/2016

ATTN: Faith

Wright Finlay & Zak
7785 W Sahara Avenue, Ste 200
Las Vegas, NV 89117

Borrower : Harrison
Reference/Case # : C16

FOR THE PROPERTY LOCATED AT:

5946 Lingering Breeze Street
Las Vegas, NV 89148

GPAP Exterior (L)

\$ 750.00
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Invoice Total
Deposit
Deposit

\$ 750.00
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Amount Due

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Fed. I.D. #: 88-0222300

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WILL HELP US TO PROPERLY CREDIT YOUR ACCOUNT

WFZ0032

IN THE SUPREME COURT OF THE STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY,

Appellant,

vs.

CHERSUS HOLDINGS, LLC, A
DOMESTIC LIMITED LIABILITY
COMPANY; AND SOUTHERN
TERRACE HOMEOWNERS
ASSOCIATION, A DOMESTIC
NON-PROFIT CORPORATION,

Respondents.

Supreme Court Case No. 82680

District Case No.: A696357

APPELLANT'S APPENDIX - VOLUME V

WRIGHT, FINLAY & ZAK, LLP
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
(702) 475-7964; Fax: (702) 946-1345
cmiller@wrightlegal.net
*Attorney for Appellant/Plaintiff, Ocwen
Loan Servicing, LLC*

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Affidavit of Service	I	AA0176
Affidavit of Service	I	AA0177
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Answer to Second Amended Complaint and Counterclaim Against Plaintiff	III	AA0338- AA0349
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DATED this 21st day of January, 2022.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller

Christina V. Miller, Esq.

Nevada Bar No. 12448

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

*Attorneys for Appellant/Plaintiff, Ocwen Loan
Servicing, LLC*

CERTIFICATE OF SERVICE

I certify that I electronically filed on the 21st day of January, 2022, the foregoing **APPELLANT'S APPENDIX - VOLUME V** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

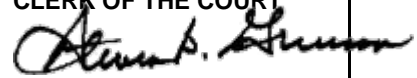
Service via electronic notification will be sent to the following:

Michelle Adams	michellea@nelsonlawfirmnv.com
Legal Assistant	legalassistant@nelsonlawfirmnv.com
Master Calendering	mail@nelsonlawfirmnv.com
Vernon A. Nelson	vnelson@nelsonlawfirmnv.com
Ashlie Surur	ashlie@sururlaw.com

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions

An Employee of WRIGHT, FINLAY & ZAK, LLP



1 **RFJN**

2 **WRIGHT, FINLAY & ZAK, LLP**

3 Regina A. Habermas, Esq.

4 Nevada Bar No. 8481

5 Paterno C. Jurani, Esq.

6 Nevada Bar No. 8136

7 7785 W. Sahara Ave., Suite 200

8 Las Vegas, Nevada 89117

9 (702) 475-7964 Fax: (702) 946-1345

10 pjurani@wrightlegal.net

11 *Attorneys for Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC*

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **OCWEN LOAN SERVICING, LLC, a foreign**
15 **Limited Liability Company,**

16 **Plaintiff,**

17 **vs.**

18 **CHERSUS HOLDINGS, LLC, a Domestic**
19 **Limited Liability Company; FIRST 100, LLC, a**
20 **Domestic Limited Liability Company;**
21 **SOUTHERN TERRACE HOMEOWNERS**
22 **ASSOCIATION, a Domestic Non-Profit**
23 **Corporation; RED ROCK FINANCIAL**
24 **SERVICES, LLC, a Foreign Limited Liability**
25 **Company; UNITED LEGAL SERVICES, INC.,**
26 **a Domestic Corporation; DOES I through X;**
27 **and ROE CORPORATIONS XI through XX,**
28 **inclusive,**

Defendants.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimant,

vs.

OCWEN LOAN SERVICING, LLC, a Foreign
Limited Liability Company,

Case No.: A-14-696357-C

Dept. No.: IV

OCWEN LOAN SERVICING, LLC'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT

Counter-Defendants.

TO THE CLERK OF THE EIGHTH JUDICIAL DISTRICT COURT OF CLARK COUNTY, NEVADA:

PLEASE TAKE NOTICE Plaintiff/Counter-Defendant, Ocwen Loan Servicing, LLC (hereinafter "Ocwen"), by and through its attorneys of record, Regina A. Habermas, Esq. and Paterno C. Jurani, Esq., of the law firm of Wright, Finlay & Zak, LLP, respectfully requests that, pursuant to NRS 47.130, this Court should take judicial notice of the following documents:

1. A true and correct copy of the Grant, Bargain and Sale Deed, recorded on March 14, 2008, as Book and Instrument Number 20080314-0001996, is attached hereto as **Exhibit 1**.
2. A true and correct copy of the Deed of Trust, recorded on March 31, 2009, as Book and Instrument Number 20090331-0004948, is attached hereto as **Exhibit 2**.
3. A true and correct copy of the Assignment of Deed of Trust, recorded on July 23, 2012, as Book and Instrument Number 2012072300000030, is attached hereto as **Exhibit 3**.
4. A true and correct copy of the CC&Rs recorded on August 9, 2001, as Book and Instrument Number 20010809-01455, is attached hereto as **Exhibit 4**.
5. A true and correct copy of the Lien for Delinquent Assessments recorded on December 8, 2011, as Book and Instrument Number 201112080002960, is attached hereto as **Exhibit 5**.
6. A true and correct copy of the Notice of Default and Election to Sell recorded on February 2, 2012 as Book and Instrument Number 201202020000465 is attached hereto as **Exhibit 8**.
7. A true and correct copy of the Notice of Foreclosure Sale recorded on May 2, 2013 as Book and Instrument Number 201305020000105, is attached hereto as **Exhibit 9**.
8. A true and correct copy of the Foreclosure Deed Upon Sale recorded on May 29, 2013 as Book and Instrument Number 201305290002514, is attached hereto as **Exhibit 10**.

- 1 9. A true and correct copy of the Substitution of Trustee, recorded on August 24, 2012, as
2 Book and Instrument Number 201208240003610, is attached hereto as **Exhibit 14**.
- 3 10. A true and correct copy of the Notice of Breach and Default and of Election to Cause
4 Sale of Real Property Under Deed of Trust, recorded on March 6, 2013, as Book and
5 Instrument Number 201303060002239, is attached hereto as **Exhibit 15**.
- 6 11. A true and correct copy of the Notice of Trustee's Sale, recorded on November 18,
7 2013, as Book and Instrument Number 201311180000445, is attached hereto as
8 **Exhibit 16**.
- 9 12. A true and correct copy of the Trustee's Deed Upon Sale recorded in the Clark County
10 Recorder's Office as Book and Instrument Number 201401070000775, is attached
11 hereto as **Exhibit 17**.
- 12 13. A true and correct copy of the Deed of Sale recorded on January 13, 2014 as Book and
13 Instrument Number 201401130001734, is attached hereto as **Exhibit 18**.

14 The purpose of this Request for Judicial Notice is to put before the Court evidence as to
15 the existence of undisputed material facts.

16 DATED this 19th day of October, 2018.

17 WRIGHT, FINLAY & ZAK, LLP

18 /s/ Paterno C. Jurani, Esq.

19 Regina A. Habermas, Esq.

20 Nevada Bar No. 8481

21 Paterno C. Jurani, Esq.

22 Nevada Bar No. 8136

7785 W. Sahara Ave., Suite 200

Las Vegas, Nevada 89117

23 *Attorneys for Plaintiff/Counter-Defendant, Ocwen*
24 *Loan Servicing, LLC*

25

26

27

28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WRIGHT, FINLAY & ZAK, LLP, and that on this 19th day of October, 2018, I did cause a true copy of **OCWEN LOAN SERVICING, LLC'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** to be e-filed and e-served through the Eighth Judicial District EFP system pursuant to NEFR 9 and/or by depositing a true copy of same in the United States Mail, at Las Vegas, Nevada, addressed as follows:

Melissa Ingleby mingleby@nelsonlawfirmnv.com
Vernon A. Nelson vnelson@nelsonlawfirmnv.com
Robert E. Atkinson, Esq. Robert@nv-lawfirm.com
Alexandria Raleigh ARaleigh@lawhjc.com
Brody Wight bwight@kochscow.com
Kristin Schuler-Hintz dcnv@mccarthyholthus.com
Paralegal bknotices@nv-lawfirm.com
Staff aeshenbaugh@kochscow.com
Steven B. Scow sscow@kochscow.com
Thomas N. Beckom tbeckom@mccarthyholthus.com
Master Calendering mail@nelsonlawfirmnv.com

/s/ Lisa Cox

An Employee of WRIGHT, FINLAY & ZAK, LLP

Exhibit 1

Exhibit 1

Exhibit 1


 20080314-0001996

APN: 163-31-611-022
 ESCROW NO: 02501471-250-JZ1
 WHEN RECORDED MAIL TO and
 MAIL TAX STATEMENT TO:

Joseph F. Harrison
 Bonnie L. Harrison
 5946 Lingering Breeze St.
 Las Vegas, NV 89148

Fee: \$15.00 RPTT: \$1,198.50
 N/C Fee: \$0.00

03/14/2008 13:58:54
 T20080044471

Requestor:
 LAWYERS TITLE OF NEVADA

Debbie Conway KXC
 Clark County Recorder Pgs: 3

GRANT, BARGAIN, SALE DEED

R.P.T.T. \$1,198.50

THIS INDENTURE WITNESSETH: That

Fannie Mae aka Federal National Mtg Assn

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, do(es) hereby
 Grant, Bargain, Sell and Convey to

Joseph F. Harrison and Bonnie L. Harrison, husband and wife, as joint tenants

all that real property situated in the County of Clark, State of Nevada, described as follows:

For legal description of the real property, see Exhibit A attached hereto and made a part hereof.

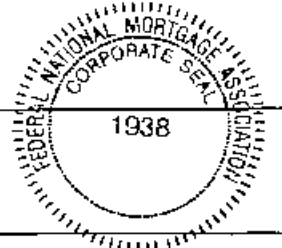
SUBJECT TO: 1. Taxes for the fiscal year 2007 - 2008
 2. Rights of Way, reservations, restrictions, easements, and conditions of record.

Together with all and singular the tenements, hereditaments and appurtenances thereunto
 belonging or in anywise appertaining.

Witness my hand this 13th day of March, 2008.


 Fannie Mae aka Federal National Mtg Assn

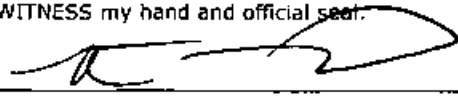
Brandon Carter
 Assistant Secretary



STATE OF TEXAS
 COUNTY OF DALLAS } ss:

On March 13, 2008, personally appeared before me, a Notary Public in and for said
 County and State, * Brandon Carter *
 who acknowledged to me that he executed the same.

WITNESS my hand and official seal.


 NOTARY PUBLIC in and for said County and State.

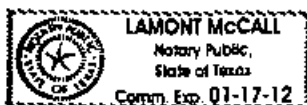


Exhibit "A"

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file In Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

STATE OF NEVADA DECLARATION OF VALUE

1. Assessor Parcel Number(s)

a) 163-31-611-022
 b) _____
 c) _____
 d) _____

2. Type of Property:

a) ☐ Vacant Land b) ☒ Single Fam Res
 c) ☐ Condo/Twnhse d) ☐ 2-4 Plex
 e) ☐ Apt. Bldg f) ☐ Comm'l/Ind'l
 g) ☐ Agricultural h) ☐ Mobile Home
 Other _____

FOR RECORDER'S OPTIONAL USE ONLY
 Book: _____ Page: _____
 Date of Recording: _____
 Notes: _____

3. Total Value/Sales Price of Property:

\$234,900.00

Deed in Lieu of Foreclosure Only (value of property) (\$ _____)

Transfer Tax Value per NRS 375.010, Section 2: **\$234,900.00**

Real Property Transfer Tax Due: **\$1,198.50**

4. If Exemption Claimed

a. Transfer Tax Exemption, per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity Grantee _____

Signature _____ Capacity Grantee _____

SELLER (GRANTOR) INFORMATION (REQUIRED)

BUYER (GRANTEE) INFORMATION (REQUIRED)

Print Name: Fannie Mae aka Federal National Mtg Assn

Print Name: Joseph F. Harrison

Address: 13455 Noel Road #600

Address: 5946 Lingering Breeze St.

City/State/Zip: Dallas, TX 75240-5003

City/State/Zip: Las Vegas, NV 89148

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

LAWYERS TITLE OF NEVADA, INC.
 5502 S. Fort Apache Road
 Las Vegas, NV 89148

Escrow #: 2501471-250-J21
 Escrow Officer: Joanne Zeigler

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

1996

Exhibit 2

Exhibit 2

Exhibit 2

Recording Requested By: 163-31-611-022
DIRECT EQUITY MORTGAGE, LLC

Return To:
DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

Prepared By:

DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

TITLE NO.: 09030356SPR
ESCROW NO.: 09030356SPR
LOAN NO.: 4680
Assessor's Parcel Number: 163-31-611-022



20090331-0004948

Fee: \$22.00 RPTT: \$0.00

N/C Fee: \$25.00

03/31/2009 15:09:00

T20090110401

Requestor:

NEVADA TITLE LAS VEGAS

Debbie Conway

MSH

Clark County Recorder Pgs: 9

09-03-0356-542 [Space Above This Line For Recording Data]

State of Nevada

DEED OF TRUST

FHA Case No.

332-4848778-703 - 203(b)

MIN 10052180000037987

THIS DEED OF TRUST ("Security Instrument") is made on MARCH 26, 2009.
The Grantor is
JOSEPH F HARRISON AND BONNIE L HARRISON, HUSBAND AND WIFE, AS JOINT TENANTS

("Borrower"). The trustee is
NEVADA TITLE COMPANY

("Trustee"). The beneficiary is Mortgage Electronic Registration Systems, Inc. ("MERS"), (solely as nominee for Lender, as hereinafter defined, and Lender's successors and assigns). MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

DIRECT EQUITY MORTGAGE, LLC, A NEVADA CORPORATION

("Lender") is organized and existing under the laws of NEVADA, and
has an address of

3285 NORTH FORT APACHE ROAD; LAS VEGAS, NEVADA 89129

Borrower owes Lender the principal sum of
TWO HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED THIRTY NINE AND 00/100-----

Dollars (U.S. \$ 234,739.00).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument

Initials

FHA Nevada Deed of Trust with MERS - 4/96

4N(NV) 109071.01

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VMP Mortgage Solutions (B00)521-7281

Amended 2/98

DOCPREP SERVICES, INC. FORM - MDOGTNVS-3229

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("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on
APRIL 01, 2039. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to the Trustee, in trust, with power of sale, the following described property located in

CLARK

County, Nevada:

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

which has the address of **5946 LINGERING BREEZE STREET** [Street]
LAS VEGAS [City], Nevada **89148** [Zip Code]
 ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS, (as nominee for Lender and Lender's successors and assigns), has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS.

1. Payment of Principal, Interest and Late Charge. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. Monthly Payment of Taxes, Insurance and Other Charges. Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either: (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to Lender are called "Escrow Funds."

LOAN NO.: 4680

4M(NV) 103077.01

DOCUPREP SERVICES, INC. FORM - MDOENVG-3228

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Initials  _____

Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 *et seq.* and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

3. Application of Payments. All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note; and

Fifth, to late charges due under the Note.

4. Fire, Flood and Other Hazard Insurance. Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or

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abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) **Default.** Lender may, except as limited by regulations issued by the Secretary, in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) **Sale Without Credit Approval.** Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

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(i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and

(ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property but his or her credit has not been approved in accordance with the requirements of the Secretary.

(c) **No Waiver.** If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

(d) **Regulations of HUD Secretary.** In many circumstances regulations issued by the Secretary will limit Lender's rights, in the case of payment defaults, to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

(e) **Mortgage Not Insured.** Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9(b). Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

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13. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. **Governing Law; Severability.** This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

15. **Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument.

16. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. **Assignment of Rents.** Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

LOAN NO.: 4680

4N(INV) 103071.01

DOCPREP SERVICES, INC. FORM - MDOTINV-3229

Initials 

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ORIGINAL

18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by applicable law to Borrower and to the persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the time required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 *et seq.*) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

20. Substitute Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

21. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$ TO BE DETERMINED AT TIME OF REQUEST.

22. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)].

☐ Condominium Rider ☐ Adjustable Rate Rider ☐ Growing Equity Rider
☐ Planned Unit Development Rider ☐ Graduated Payment Rider ☐ Other [Specify]

LOAN NO.: 4680

4N(INV) (03071.01

DOCREP SERVICES, INC. FORM - MDO7NVG-3229

Initials 

Page 7 of 8

ORIGINAL

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

Joseph F. Harrison (Seal)
 JOSEPH F HARRISON -Borrower

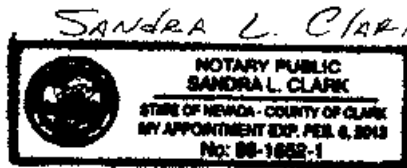
Bonnie L Harrison (Seal)
 BONNIE L HARRISON -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

STATE OF NEVADA COUNTY OF *Clark*
 This instrument was acknowledged before me on *March 26, 2009* by
 JOSEPH F HARRISON AND BONNIE L HARRISON



Sandra L. Clark

Feb 6, 2013
NO 88-1652-1

Mail Tax Statements To:
 JOSEPH F HARRISON AND BONNIE L HARRISON

5946 LINGERING BREEZE STREET
 LAS VEGAS, NEVADA 89148

LOAN NO.: 4680

4N(INV) (0307).01

DOCPREP SERVICES, INC. FORM - MDOINVQ-3229

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ORIGINAL

Eserow No.: 09-03-0356-SPR

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF
RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN
BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER
OF CLARK COUNTY, NEVADA.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND
ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE
PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED
HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

Exhibit 3

Exhibit 3

Exhibit 3

APN: 163-31-611-022

When Recorded Return To:
 Indecomm Global Services
 2925 Country Drive
 St. Paul, MN 55117

77834587

Inst #: 201207230000030

Fees: \$17.00

N/C Fee: \$0.00

07/23/2012 08:00:17 AM

Receipt #: 1242650

Requestor:

INDECOMM GLOBAL SERVICES

Recorded By: ECM Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

Assignment of Deed of Trust

Dated: July 19, 2012

MIN: 100521800000037987

MERS Phone: 888-679-6377

For value received Mortgage Electronic Registration Systems, Inc., as nominee for Direct Equity Mortgage, LLC, A Nevada Corporation, its successors and assigns, P.O. Box 2026, Flint, MI 48501-2026, the undersigned hereby grants, assigns and transfers to GMAC Mortgage, LLC all beneficial interest under a certain Deed of Trust dated March 26, 2009 executed by JOSEPH F HARRISON AND BONNIE L HARRISON and recorded in Book XX on Page(s) XX as Document Number 20090331-0004948 on March 31, 2009 of real estate records for the County of Clark, Nevada.

MORTGAGE AMOUNT: \$234,739.00

Mortgage Electronic Registration Systems, Inc., as
 nominee for Direct Equity Mortgage, LLC, A Nevada
 Corporation, its successors and assigns

By:


 Sandra Jean Kinnunen,
 Assistant Vice President

STATE OF Minnesota)

COUNTY Ramsey)

) SS



U02813800

On July 19, 2012 before me, Lisa M Spurbeck, Notary Public in and for said State personally appeared Sandra Jean Kinnunen, Assistant Vice President of Mortgage Electronic Registration Systems, Inc., personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity, and that by his/her signature on the instrument the entity upon behalf of which the person acted, executed the instrument. WITNESS my hand and official seal.

Prepared By:
 Peter Chang
 2925 Country Drive
 St. Paul, MN 55117


 Lisa M Spurbeck, Notary Public
 My Commission expires: January 31, 2013

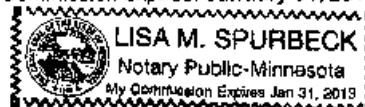


Exhibit 4

Exhibit 4

Exhibit 4

20310809
01455

APN: pin of: 163-31-501-010, 163-31-501-013,
163-31-501-014, 163-31-501-021

84

WHEN RECORDED, RETURN TO

WILBUR M. ROADHOUSE, ESQ.

Goold Patterson DeVore Ales & Roadhouse
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

(Space Above Line for Recorder's Use Only)

MASTER DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE

(a Nevada Residential Common-Interest Planned Community)
CLARK COUNTY, NEVADA

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**MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE**

THIS MASTER DECLARATION ("Declaration"), made as of the 8th day of August, 2001, by PERMA-BILT, a Nevada corporation ("Declarant"),

WITNESSETH:

WHEREAS:

A. Declarant owns certain real property located in Clark County, Nevada, on which Declarant intends to subdivide, develop, construct, market and sell a single family detached residential common-interest planned community, to be known generally as "SOUTHERN TERRACE"; and

B. A portion of said property, as more particularly described in Exhibit "A" attached hereto, shall constitute the property initially covered by this Declaration ("Original Property"); and

C. Declarant intends that, upon Recordation of this Declaration, the Original Property shall be a Nevada Common-Interest Community, as defined in NRS § 116.110323, and a Nevada Planned Community, as defined in NRS § 116.110368 ("Community"); and

D. The name of the Community shall be SOUTHERN TERRACE, and the name of the Nevada nonprofit corporation organized in connection therewith shall be SOUTHERN TERRACE HOMEOWNERS ASSOCIATION ("Association"); and

E. Declarant further reserves the right from time to time to add all or any portion of certain other real property, more particularly described in Exhibit "B" hereto ("Annexable Area"); and

F. The total maximum number of Units that may (but need not) be created in the Community is one thousand two hundred (1,200) aggregate Units ("Units That May Be Created"); and

G. Declarant intends to develop and convey all of the Original Property, and any Annexable Area which may be annexed from time to time thereto ("Annexed Property"), pursuant to a general plan and subject to certain protective covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges; and

H. Declarant has deemed it desirable, for the efficient preservation of the value and amenities of the Properties, to organize the Association, to which shall be delegated and assigned the powers of owning, maintaining and administering the Common Elements (as defined herein), administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created. Declarant will cause or has caused, the Association to be formed for the purpose of exercising such functions; and

I. This Declaration is intended to set forth a dynamic and flexible plan of governance of the Community, for the overall development, administration, maintenance and preservation of a master residential community in which the Owners enjoy a quality life style as "good neighbors".

NOW, THEREFORE, Declarant hereby declares that all of the Original Property, and, from the date(s) of respective annexation, all Annexed Property (collectively, "Properties") shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties (as defined in Article 1 hereof), in furtherance of a general plan for the protection, maintenance, subdivision, improvement, sale and lease of the Properties or any portion thereof. The protective covenants, conditions, restrictions, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Properties and shall be binding upon all Persons having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon, and may be enforced by, Declarant, the Association, each Owner, and their respective heirs, executors and administrators, and successive owners and assigns. All Units within this Community shall be used, improved, and limited exclusively to single Family residential use.

ARTICLE 1

DEFINITIONS

Section 1.1 **"Annexable Area"** shall mean the real property described in Exhibit "B" hereto, all or any portion of which real property may from time to time be made subject to this Declaration pursuant to the provisions of Article 15 hereof. At no time shall any portion of the Annexable Area be deemed to be a part of the Community or a part of the Properties until such portion of the Annexable Area has been duly annexed hereto pursuant to Article 15 hereof.

Section 1.2 **"Annexed Property"** shall mean any and all portion(s) of the Annexable Area from time to time added to the Properties covered by this Declaration, by Recordation of Annexation Amendment(s) pursuant to Article 15 hereof.

Section 1.3 **"ARC"** shall mean the Architectural Review Committee created pursuant to Article 8 hereof.

Section 1.4 **"Articles"** shall mean the Articles of Incorporation of the Association as filed in the office of the Secretary of State of Nevada, as such Articles may be amended from time to time.

Section 1.5 **"Assessments"** shall refer collectively to Annual Assessments, Capital Assessments, and any applicable Special Assessments (and, if applicable with regard to a particular Neighborhood, Neighborhood Assessments).

Section 1.6 **"Assessment, Annual"** shall mean the annual or supplemental charge against each Owner and his Unit, representing a portion of the Common Expenses, which are to be paid in equal periodic installments (monthly, quarterly, or annually, as determined from time to time by the Board), commencing as of the Assessment Commencement Date, by each Owner to the Association in the manner and proportions provided herein.

Section 1.7 **"Assessment, Capital"** shall mean a charge against each Owner and his Unit, representing a portion of the costs to the Association for installation, construction or reconstruction of any Improvements on any portion of the Common Elements which the Association may from time to time authorize, pursuant to the provisions of this Declaration. Such charge shall be levied among all Owners and their Units in the same proportion as Annual Assessments.

Section 1.8 **"Assessment, Special"** shall mean a charge against a particular Owner and his Unit, directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty

assessed by the Association, plus interest and other charges on such Special Assessments as provided for herein.

Section 1.9 "Assessment Commencement Date" shall mean that date, pursuant to Section 6.7 hereof, duly established by the Board, on which Annual Assessments shall commence.

Section 1.10 "Association" shall mean SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, a Nevada nonprofit corporation, its successors and assigns.

Section 1.11 "Association Funds" shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article 6 hereof.

Section 1.12 "Beneficiary" shall mean a Mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such mortgagee or beneficiary.

Section 1.13 "Board" or "Board of Directors" shall mean the Board of Directors of the Association. The Board of Directors is an "Executive Board" as defined by NRS § 116.110345.

Section 1.14 "Budget" shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration, prepared and approved pursuant to the provisions of this Declaration, including, but not limited to, Section 6.4 below.

Section 1.15 "Bylaws" shall mean the Bylaws of the Association which have or will be adopted by the Board, as such Bylaws may be amended from time to time.

Section 1.16 "Close of Escrow" shall mean the date on which a deed is Recorded conveying a Unit from Declarant to a Purchaser.

Section 1.17 "Common Elements" shall mean all real property or interests therein (including, but not necessarily limited to, those easements over portions of certain Lots, designated on the Plat as pedestrian access corridor easements, landscape easements, drainage easements, and certain other easements) owned or leased by the Association, and includes entry monumentation, private entry gates for the Properties, Common Recreational Area, Private Streets and public utility easements shown on the Plat, street lights, street signs, curbs and gutters, certain drainage and sewer easements, certain water and power easements, Common Element landscaping, access and ingress/egress easements (including, but not necessarily limited to, those areas respectively designated "Private Drive and P.U.E.", and any areas designated as "Private Drainage Easement," "Water Easement," "Power Easement," "Sewer Easement," "Access Easement," "Ingress/Egress Easement," and/or other similar easements on the Plat) but otherwise, shall exclude Units. Portions of Perimeter Walls, pursuant to Section 9.6 below, are located on and constitute portions of Lots, and are not Common Elements. The Common Elements shall constitute Common Elements as to the Properties, as provided in NRS § 116.110318.

Section 1.18 "Common Expenses" shall mean expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, including the actual and estimated costs of: maintenance, management, operation, repair, replacement and insurance of the Common Elements; painting over or removing graffiti on the exterior side of perimeter walls; unpaid Special Assessments or Capital Assessments; costs of any commonly metered utilities and other commonly metered charges for the Properties; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to Managers, accountants, attorneys and employees; costs of all utilities, gardening, trash pickup and disposal, and other services benefiting the Common Elements; costs of fire, casualty and liability insurance, workers' compensation insurance, and any other insurance covering the Common Elements or Properties or deemed prudent and necessary by the Board; costs of bonding the Board, Officers, any Managers, or any other Person handling the funds of the Association; any statutorily required "ombudsman" fees; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Elements or Properties, or portions thereof; costs of any other

item or items incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of the Owners, prudent reserves, and any other expenses for which the Association is responsible pursuant to this Declaration or pursuant to any applicable provision of NRS Chapter 116.

Section 1.19 "Common Recreational Area" shall mean a common recreational area for the Community, and the building and other improvements on such area which shall be a part of the Common Elements

Section 1.20 "Community" shall mean a Common-Interest Community, as defined in NRS § 116.110323, and a Planned Community, as defined in NRS § 116.110368.

Section 1.21 "County" shall mean the county in which the Properties are located (i.e., Clark County, Nevada).

Section 1.22 "Declarant" shall mean PERMA-BILT, a Nevada corporation, its successors and any Person to which it shall have assigned any rights hereunder by an express written and Recorded assignment (but specifically excluding Purchasers as defined in NRS §116.110375).

Section 1.23 "Declarant Control Period" shall have the meaning set forth in Section 3.7, below.

Section 1.24 "Declaration" shall mean this instrument, as may be amended from time to time.

Section 1.25 "Deed of Trust" shall mean a Recorded mortgage or a deed of trust, as the case may be, pursuant to Section 1.42, below.

Section 1.26 "Director" shall mean a duly appointed or elected and current member of the Board of Directors.

Section 1.27 "Dwelling" shall mean a residential building located on a Unit designed and intended for use and occupancy as a residence by a single Family.

Section 1.28 "Eligible Holder" shall mean each Beneficiary, insurer and/or guarantor of a first Mortgage encumbering any Unit, which has filed with the Board a written request for notification as to relevant specified matters.

Section 1.29 "Exterior Wall(s)" shall mean the exterior only face of Perimeter Walls (visible from public streets or other areas outside of and generally abutting the exterior boundary of the Properties).

Section 1.30 "Family" shall mean (a) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (b) a group of natural persons not all so related, but who maintain a common household in a Dwelling, all as subject to and in compliance with all applicable federal and Nevada laws and local health codes and other applicable County ordinances.

Section 1.31 "FHA" shall mean the Federal Housing Administration.

Section 1.32 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporations.

Section 1.33 "Fiscal Year" shall mean the twelve (12) month fiscal accounting and reporting period of the Association selected from time to time by the Board.

Section 1.34 "FNMA" shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

Section 1.35 "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successors to such association.

Section 1.36 "Governing Documents" shall mean the Declaration, Articles, Bylaws, Plat, and the Rules and Regulations together with, if applicable, any Supplemental Declaration (and, if applicable, any Neighborhood Rules and Regulations or other Neighborhood governing documents, collectively referred to as "Neighborhood Governing Documents", which are specific with regard to a particular Neighborhood). Any inconsistency among the Governing Documents shall be governed pursuant to Section 19.10, below.

Section 1.37 "Identifying Number", pursuant to NRS § 116.110348, shall mean the number which identifies a Unit on the Plat.

Section 1.38 "Improvement" shall mean any structure or appurtenance thereto of every type and kind, whether above or below the land surface, placed in the Properties, including but not limited to Dwellings and other buildings, walkways, sprinkler pipes, swimming pools, spas and other recreational facilities, carports, garages, roads, driveways, parking areas, hardscape, Private Streets, streetlights, curbs, gutters, walls, perimeter walls, party walls, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures or equipment.

Section 1.39 "Lot" shall mean the residential real property of any residential lot to be owned separately by an Owner, as shown on the Plat (subject to Common Element easements over Lots as shown on the Plat, including, but not limited to, any Private Street easements). Notwithstanding the foregoing, in the event that certain Lots, shown as such on the Plat, are expressly designated by Declarant, in its sole and absolute discretion, by separate Recorded instrument to constitute Common Elements, pursuant to Declarant's reserved rights as set forth in Article 14 below, then such specifically designated Lots shall not be Lots for purposes of this Declaration and the other Governing Documents, but shall be conclusively deemed a portion of the Common Elements.

Section 1.40 "Manager" shall mean the Person, if any, whether an employee or independent contractor, appointed by the Association, acting through the Board, and delegated the authority to implement certain duties, powers or functions of the Association as provided in this Declaration.

Section 1.41 "Member," "Membership," "Member" shall mean any Person holding a membership in the Association, as provided in this Declaration. "Membership" shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations, including liability for Assessments, contained in the Governing Documents.

Section 1.42 "Mortgage," "Mortgagee," "Mortgagor," "Mortgage" shall mean any unreleased mortgage or deed of trust or other similar instrument of Record, given voluntarily by an Owner, encumbering his Unit to secure the performance of an obligation or the payment of a debt, which will be released and reconveyed upon the completion of such performance or payment of such debt. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." "Mortgage" shall not include any judgment lien, mechanic's lien, tax lien, or other similarly involuntary lien on or encumbrance of a Unit. The term "Mortgagee" shall mean a Person to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. "Mortgagor" shall mean a Person who mortgages his Unit to another (i.e., the maker of a Mortgage), and shall include the trustor of a Deed of Trust. "Trustor" shall be synonymous with the term "Mortgagor," and "Beneficiary" shall be synonymous with "Mortgagee."

Section 1.43 "Neighborhood" shall have the meaning set forth in Section 17.1, below.

Section 1.44 "Neighborhood Assessments" shall have the meaning set forth in Section 17.1, below.

Section 1.45 "Neighborhood Common Area" shall have the meaning set forth in Section 17.1, below.

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Section 1.46 "Neighborhood Expenses" shall have the meaning set forth in Section 17.1, below.

Section 1.47 "Notice and Hearing" shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at Owner's expense, in the manner further provided in the Bylaws.

Section 1.48 "Officer" shall mean a duly elected or appointed and current officer of the Association.

Section 1.49 "Original Property" shall mean that real property described on Exhibit "A," attached hereto and incorporated by this reference herein, which shall be the initial real property made subject to this Declaration, immediately upon the Recordation of this Declaration.

Section 1.50 "Owner" shall mean the Person or Persons, including Declarant, holding fee simple interest of Record to any Unit. The term "Owner" shall include sellers under executory contracts of sale, but shall exclude Mortgagees.

Section 1.51 "Perimeter Walls" shall mean the walls, initially constructed by Declarant, and located generally around the exterior perimeter of the Properties.

Section 1.52 "Person" shall mean a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

Section 1.53 "Plat" shall mean the final plat maps of SOUTHERN TERRACE, as the same from time to time are Recorded, including the final map of _____, (Recorded on _____, 2001, in Book _____ of Plats, Page _____), and any other final plat maps of the Properties, as all of the same from time to time may be amended or supplemented.

Section 1.54 "Private Streets" shall mean all private streets, rights of way, street scapes, and vehicular ingress and egress easements, in the Properties, shown as such on the Plat.

Section 1.55 "Properties" shall mean all of the Original Property described in Exhibit "A," attached hereto, together with such portions of the Annexable Area, described in Exhibit "B" hereto, as hereafter from time to time may be annexed thereto pursuant to Article 15 of this Declaration.

Section 1.56 "Purchaser" shall have that meaning as provided in NRS § 116.110375.

Section 1.57 "Record," "Recorded," "Filed" or "Recordation" shall mean, with respect to any document, the recordation of such document in the official records of the County Recorder of Clark County, Nevada.

Section 1.58 "Resident" shall mean any Owner, tenant, or other person who is physically residing in a Unit.

Section 1.59 "Rules and Regulations" shall mean the rules and regulations adopted by the Board pursuant to the Declaration and Bylaws, as such Rules and Regulations from time to time may be amended.

Section 1.60 "Sight Visibility Restriction Area" shall mean those areas, portions of which are or may be located on portions of Common Elements and/or Lots, identified on the Plat as "Sight Visibility Restriction Easements," in which the height of landscaping and other sight restricting improvements (other than official traffic control devices) is restricted to a maximum height as set forth on the Plat.

Section 1.61 "Supplemental Declaration" shall mean an instrument Recorded by Declarant or with the express prior written consent of Declarant, in its sole discretion, which shall be supplemental to this

Declaration, as set forth in further detail in Section 18.1, below. Any purported Supplemental Declaration Recorded without the express prior written consent of Declarant shall be null and void.

Section 1.62 "Unit" shall mean that residential portion of this Community to be separately owned by each Owner (as shown and separately identified as such on the Plat), and shall include a Lot and all Improvements thereon (which, with regard to certain Units, shall specifically include the portion of Perimeter Walls located on or within the Unit's boundaries, pursuant to Section 9.6 below). Subject to the foregoing, and subject to Section 9.5, below, the boundaries of each Unit shall be the property lines of the Lot, as shown on the Plat.

Section 1.63 "Units That May Be Created" shall mean the total "not to exceed" maximum number of aggregate Units within the Original Property and the Annexable Area (which Declarant has reserved the right, in its sole discretion, to create) (i.e., 1,200 Units).

Section 1.64 "VA" shall mean the U.S. Department of Veterans Affairs.

Any capitalized term not separately defined in this Declaration shall have the meaning ascribed thereto in applicable provision of NRS Chapter 116.

ARTICLE 2 OWNERS' PROPERTY RIGHTS

Section 2.1 Owners' Easements of Enjoyment. Each Owner shall have a nonexclusive right and easement of ingress and egress and of use and enjoyment in, to and over the Common Elements, which easement shall be appurtenant to and shall pass with title to the Owner's Unit, subject to the following:

(a) the right of the Association to reasonably limit the number of guests and tenants an Owner or his tenant may authorize to use the Common Elements;

(b) the right of the Association to establish uniform Rules and Regulations pertaining to the use of the Common Elements;

(c) the right of the Association, in accordance with the Declaration, Articles and Bylaws, with the vote of at least two-thirds (2/3) of the voting power of the Association and a majority of the voting power of the Board, to borrow money for the purpose of improving or adding to the Common Elements, and in aid thereof, and further subject to the Mortgagee protection provisions of Article 13 of this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners;

(d) subject to the provisions of Article 13 of this Declaration, and subject further to the voting requirements set forth in subsection 2.1(c) above, the right of the Association to dedicate, release, alienate, transfer or grant easements, licenses, permits and rights of way in all or any portion of the Common Elements to any public agency, authority, utility or other Person for such purposes and subject to such conditions as may be agreed to by the Members;

(e) subject to the provisions of Article 14 hereof, the right of Declarant and its sales agents, representatives and prospective Purchasers, to the nonexclusive use of the Common Elements, without cost, for access, ingress, egress, use and enjoyment, in order to show and dispose of the Properties and/or any other development(s) until the last Close of Escrow for the marketing and/or sale of a Unit in the Properties or such other development(s); provided, however, that such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein;

(f) the other easements, and rights and reservations of Declarant as set forth in Article 14 and elsewhere in this Declaration.

(g) the right of the Association (by action of the Board) to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Elements in accordance with the original design, finish or standard of construction of such Improvement, or of the general Improvements within the Properties, as the case may be; and if not materially in accordance with such original design, finish or standard of construction only with the vote or written consent of the Owners holding seventy-five percent (75%) of the voting power of the Association, and the vote or written consent of a majority of the voting power of the Board, and the approval of the Eligible Holders of fifty-one percent (51%) of the first Mortgages on Units in the Properties.

(h) the right of the Association, acting through the Board, to replace destroyed trees or other vegetation and to plant trees, shrubs and other ground cover upon any portion of the Common Elements.

(i) the right of the Association, acting through the Board, to place and maintain upon the Common Elements such signs as the Board reasonably may deem appropriate for the identification, marketing, advertisement, sale, use and/or regulation of the Properties, or any portion thereof, or any other project of Declarant.

(j) the right of the Association, acting through the Board, to reasonably restrict access to and use of portions of the Common Elements.

(k) the right of the Association, acting through the Board, to reasonably suspend voting rights and to impose fines as Special Assessments, and to suspend the right of an Owner or Resident to use Common Elements, for nonpayment of any regular or special Assessment levied by the Association against the Owner's Unit, or if an Owner or Resident is otherwise in breach of obligations imposed under the Governing Documents.

(l) the obligations and covenants of Owners as set forth in Article 9 and elsewhere in this Declaration.

(m) the use restrictions set forth in Article 10 and elsewhere in this Declaration;

(n) the easements reserved in Sections 2.2 through 2.7, inclusive, Section 2.13, Article 14, Article 15, Article 17, and/or any other provision of this Declaration; and

(o) the rights of any other easement holders.

Section 2.2 Easements for Parking. Subject to the parking and vehicular restrictions set forth in Section 10.19 below, the Association, through the Board, is hereby empowered to establish "parking" and/or "no parking" areas within the Common Elements, and to establish Rules and Regulations governing such matters, as well as to reasonably enforce such parking rules and limitations by all means lawful for such enforcement on public streets, including the removal of any violating vehicle, by those so empowered, at the expense of the Owner of the violating vehicle. If any temporary guest or recreational parking is permitted within the Common Elements, such parking shall be permitted only within any spaces and areas clearly marked or designated by the Board for such purpose.

Section 2.3 Easements for Vehicular and Pedestrian Traffic. In addition to the general easements for use of the Common Elements reserved herein, there shall be reserved to Declarant and all future Owners, and each of their respective agents, employees, guests, invitees and successors, nonexclusive, appurtenant easements for vehicular and pedestrian traffic over private main entry gate areas and all Private Streets, and any walkways within the Common Elements, subject to parking, vehicular, and/or use provisions set forth in Section 2.2 above and Section 10.19, below.

Section 2.4 Easement Right of Declarant Incident to Construction and/or Marketing and Sales Activities An easement is reserved by and granted to Declarant, its successors and assigns, and their respective officers, managers, employees, agents, contractors, sales representatives, prospective purchasers of Units, guests and other invitees, for access, ingress, and egress over, in, upon, under, and across the Properties, including Common Elements (including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's use, development, advertising, marketing and/or sales related to the Properties, or any portions thereof); provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to interfere unreasonably with the occupancy, use, enjoyment, or access by any Owner, his Family, guests, or invitees, to or of that Owner's Lot, or the Common Elements. The easement created pursuant to this Section 2.4 is subject to the time limit set forth in Section 14.1(a) below. Without limiting the generality of the foregoing, until such time as the Close of Escrow of the last Unit in the Properties, Declarant reserves the right to control entry gate(s) to the Properties and/or to Neighborhoods, and neither the Association nor any one or more of the Owners shall at any time, without the prior written approval of Declarant in its discretion, cause any entry gate in the Properties to be closed during regular marketing, sales, and/or construction hours (including weekend and/or holiday sales or construction hours) of Declarant, or shall in any other way impede or hinder Declarant's marketing, sales and/or construction activities.

Section 2.5 Easements for Public Service Use. In addition to the foregoing easements over the Common Elements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for: (a) placement of any fire hydrants on portions of certain Lots and/or Common Elements, and other purposes regularly or normally related thereto; and (b) County, state, and federal public services, including but not limited to, the right of postal, law enforcement, and fire protection services and their respective employees and agents, to enter upon any part of the Common Elements or any Lot, for the purpose of carrying out their official duties.

Section 2.6 Easements for Water, Sewage, Utility, and Irrigation Purposes. In addition to the foregoing easements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for purposes of public and private utilities, power, telephone, cable TV, water, and gas lines and appurtenances (including but not limited to, the right of any public or private utility or mutual water and/or sewage district, of ingress or egress over the Properties, including portions of Lots, for purposes of reading and maintaining meters, and using and maintaining any fire hydrants located on the Properties). There is hereby created a blanket easement in favor of Declarant and the Association upon, across, over, and under all Units and the Common Elements, for the installation, replacement, repair, and maintenance of utilities (including, but not limited to, water, sewer, gas, telephone, electricity, "smart" data cabling, if any, and master and cable television systems, if any), provided that said easement shall not extend beyond, across, over, or under any structure located on any Unit. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances in the Properties and to install, repair, and maintain water, sewer and gas pipes, electric, telephone and television wires, circuits, conduits and meters. Notwithstanding anything to the contrary contained in this Section, no sewer, electric, water or gas lines or other utilities or service lines may be installed or relocated within the Properties until the Close of Escrow of the last Unit in the Properties, except as approved by Declarant. This easement shall in no way affect any other Recorded easements in the Properties. There is also hereby reserved to Declarant during such period the non-exclusive right and power to grant such specific easements as may be necessary in the sole discretion of Declarant in connection with the orderly development of any property in the Properties. Any damage to a Unit resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant thereof Properties. Declarant further reserves and covenants for itself and the Association, and their respective agents, employees and contractors, easements over the Common Elements and all Lots, for the control, installation, maintenance, repair and replacement of water and/or sewage lines and systems for watering or irrigation of any landscaping on, and/or sewage disposal from or related to, Common Elements. In the event that any utility exceeds the scope of this

or any other easement reserved in this Declaration, and causes damage to property, the Owner of such property shall pursue any resultant claim against the offending utility, and not against Declarant or the Association.

Section 2.7 Additional Reservation of Easements Declarant hereby expressly reserves for the benefit of each Owner and his Unit, reciprocal, nonexclusive easements over the adjoining Unit(s), for the control, maintenance and repair of the utilities serving such Owner's Unit. Declarant further expressly reserves, for the benefit of all of the real property in the Properties, and for the benefit of all of the Units, the Association and the Owners, reciprocal, nonexclusive easements over all Units and the Common Elements, for the control, installation, maintenance and repair of utility services and drainage facilities serving any portion of the Properties, (which may be located on portions of Lots, pursuant to the Plat), for drainage of water resulting from the normal use thereof or of neighboring Units and/or Common Elements, for the use, maintenance, repair and replacement of Private Streets and/or Perimeter Walls (subject to Section 9.6 below), and for any required customer service work and/or maintenance and repair of any Dwelling or other Improvement, wherever located in the Properties, and for compliance with Sight Visibility Restriction Area maximum permitted height requirements. In the event that any utility or governmental body exceeds the scope of any easement pertaining to the Properties, and thereby causes bodily injury or damage to property, the injured or damaged Owner or Resident shall pursue any and all resultant claims against the offending utility, and not against Declarant or the Association. In the event of any minor encroachment upon the Common Elements or Unit(s), as a result of initial construction or as a result of reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for minor encroachment and for the maintenance of the same shall exist so long as the minor encroachment exists. Declarant, and each Owner of a Unit, on which there is constructed a Dwelling along or adjacent to the property line, shall have an easement appurtenant to such property, over such property line, to and over the adjacent Unit and/or adjacent Common Elements, for the purposes of accommodating any natural movement or settling of such Improvement, any encroachment of such Improvement due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs, patio walls and architectural features comprising parts of the original construction of such Improvement. Declarant further reserves (a) a nonexclusive easement, on or over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of Declarant and its agents and/or contractors, for any required warranty repairs, and (b) a nonexclusive easement on and over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of the Association, and its agents, contractors, and/or any other authorized party, for the maintenance and/or repair of any and all landscaping and/or other improvements located on the Common Elements and/or Units.

Section 2.8 Waiver of Use No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Unit or other property owned by said Owner from the liens and charges hereof, by waiver of the use and enjoyment of the Common Elements or any facilities thereon or by abandonment of his Unit or any other property in the Properties.

Section 2.9 Easement Data 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 the Plat is the same as the Recording data for the Plat.

Section 2.10 Owners' Right of Ingress and Egress Each Owner shall have an unrestricted right of ingress and egress to his Unit reasonably over and across the Common Elements, which right shall be appurtenant to the Unit, and shall pass with any transfer of title to the Unit.

Section 2.11 No Transfer of Interest in Common Elements No Owner shall be entitled to sell, lease, encumber, or otherwise convey (whether voluntarily or involuntarily) his interest in any of the Common Elements, except in conjunction with conveyance of his Unit. No transfer of Common Elements, or any interest therein, shall deprive any Unit of its rights of access. Any attempted or purported transaction in violation of this provision shall be void and of no effect.

Section 2.12 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each Unit. If any taxes or assessments of any Owner may, in the opinion of the Association, become a lien on the Common Elements, or any part thereof, they may be paid by the Association as a Common Expense or paid by the Association and levied against such Owner as a Special Assessment.

Section 2.13 Telecommunications System. In cooperation with one or more telecommunication service provider(s) selected by Declarant ("Provider"), Declarant may, but is not required to, develop an integrated broadband network, linking homes, offices, schools, health care and public facilities to provide the necessary transport platform for network-based services such as integrated voice, messaging, data, CATV, and interactive multimedia applications. Declarant's technology vision ultimately is to provide capability for high speed data connectivity, video teleconferencing, video transport, and interactive multimedia services such as movies on demand, distance learning, remote diagnostic health care, and energy information services to help address the needs of an interactive community, where home, office, retail and commercial needs are met through cooperative and centrally managed network strategies. In addition, Declarant contemplates that a community server platform will create an "intranet" of electronic connections between all homes, offices, schools and other facilities. In connection with the foregoing: (a) Declarant may pre-wire each Dwelling in accordance with specifications furnished to Declarant by a Provider selected by Declarant, (b) each Owner, by acceptance of a deed to a Lot (whether or not so expressed in such deed), shall be deemed to acknowledge and agree that such system, including all components thereof as so installed on the Lot, shall be the sole property of Declarant, or, at the option of Declarant, of Provider; (c) Declarant hereby expressly reserves ownership of the portion of such system located on Lots or otherwise within the Properties; and (d) Declarant further expressly reserves a non-exclusive easement in gross on, over, under or across each lot and the other portions of the Properties for purposes of installation and maintenance of such system and for the benefit of Declarant and/or Provider.

ARTICLE 3 SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

Section 3.1 Organization of Association. The Association is or shall be incorporated under the name of SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, or similar name, as a non-profit corporation under NRS §§81.410 through 81.540, inclusive. Upon dissolution of the Association, the assets of the Association shall be disposed of as set forth in the Governing Documents and in compliance with applicable Nevada law.

Section 3.2 Duties, Powers and Rights. Duties, powers and rights of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers as a non-profit corporation, generally to do any and all things that a corporation organized under the laws of the State of Nevada may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, including any applicable powers set forth in NRS § 116.3102, subject to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents, or in any expressly applicable provision of NRS Chapter 116. The Association shall make available for inspection at its office by any prospective purchaser of a Unit, any Owner, and the Beneficiaries, insurers and guarantors of the first Mortgage on any Unit, during regular business hours and upon reasonable advance notice, current copies of the Governing Documents, and all other books, records, and financial statements of the Association.

Section 3.3 Membership. Each Owner, upon acquiring title to a Lot, shall automatically become a Member and shall remain a Member until such time as his ownership of the Unit ceases, at which time his membership in the Association shall automatically cease. Memberships shall not be assignable, except to the Person to which title to the Unit has been transferred, and each Membership shall be appurtenant to and may not be separated from the fee ownership of such Unit. Ownership of such Unit shall be the sole qualification for Membership, and shall be subject to the Governing Documents.

Section 3.4 Transfer of Membership. The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Unit, and then only to the purchaser or Mortgagee of such Unit. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. An Owner who has sold his Unit to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser said Owner's Membership rights. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Unit until fee title to the Unit sold is transferred. If any Owner should fail or refuse to transfer his Membership to the purchaser of such Unit upon transfer of fee title thereto, the Board shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer (which may, but need not necessarily be, a copy of the Recorded deed of transfer) first has been presented to the reasonable satisfaction of the Board, the purchaser shall not be entitled to vote at meetings of the Association, unless the purchaser shall have a valid proxy from the seller of said Unit, pursuant to Section 4.6, below. The Association may levy a reasonable transfer fee against a new Owner and his Unit (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the records of the Association. The new Owner shall, if requested by the Board or Manager, timely attend an orientation to the Community and the Properties, conducted by an Association Officer or Manager, and will be required to pay any costs necessary to obtain entry gate keys and/or remote controls, if not obtained from the prior Owner at Close of Escrow.

Section 3.5 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws, including any reasonable provisions with respect to corporate matters; but in the event that any such provisions may be, at any time, inconsistent with any provisions of this Declaration, the provisions of this Declaration shall govern. The Bylaws shall provide:

- (a) the number of Directors (subject to Section 3.6 below) and the titles of the Officers;
- (b) for election by the Board of an Association president, treasurer, secretary and any other Officers specified by the Bylaws;
- (c) the qualifications, powers and duties, terms of office and manner of electing and removing Directors and Officers, and filling vacancies;
- (d) which, if any, respective powers the Board or Officers may delegate to other Persons or to a Manager;
- (e) which of the Officers may prepare, execute, certify and record amendments to the Declaration on behalf of the Association;
- (f) procedural rules for conducting meetings of the Association; and
- (g) a method for amending the Bylaws.

Section 3.6 Board of Directors

(a) The affairs of the Association shall be managed by a Board of not less than three (3), nor more than seven (7) Directors, all of whom (other than Directors appointed by Declarant pursuant to Section 3.7 below) must be Members of the Association. In accordance with the provisions of Section 3.7 below, upon the formation of the Association, Declarant shall appoint the Board, which shall initially consist of three (3) Directors. The number of Directors may be increased to five (5) or seven (7) by Declarant (during the Declarant Control Period), or by resolution of the Board, and otherwise may be changed by amendment of the Bylaws, provided that there shall not be less than any minimum number of Directors nor more than any maximum number of Directors from time to time required by applicable Nevada law. The Board may act in

all instances on behalf of the Association, except as otherwise may be provided in the Governing Documents or any applicable provision of NRS Chapter 116 or other applicable law. The Directors, in the performance of their duties, are fiduciaries, and are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule. Notwithstanding the foregoing, the Board may not act on behalf of the Association to amend the Declaration, to terminate the Community, or to elect Directors or determine their qualifications, powers and duties or terms of office, provided that the Board may fill vacancies in the Board for the unexpired portion of any term. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any Director with or without cause, other than a Director appointed by Declarant. If a Director is sued for liability for actions undertaken in his role as a Director, the Association shall indemnify him for his losses or claims, and shall undertake all costs of defense, unless and until it is proven that the Director acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the costs of defense, and may recover, from the Director who so acted, costs already expended. Directors are not personally liable to the victims of crimes occurring within the Properties. Punitive damages may not be recovered against Declarant or the Association, subject to applicable Nevada law. An officer, employee, agent or director of a corporate Owner, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, or a fiduciary of an estate that owns a Unit, may be an Officer or Director. In every event where the person serving or offering to serve as an Officer or Director is a record Owner, he shall file proof of authority in the records of the Association. No Director shall be entitled to delegate his or her vote on the Board, as a Director, to any other Director or any other Person, and any such attempted delegation of a Director's vote shall be void. Each Director shall serve in office until the appointment (or election, as applicable) of his successor.

(b) The term of office of a Director shall not exceed two (2) years. A Director may be elected to succeed himself. Following the Declarant Control Period, elections for Directors (whose terms are expiring) must be held at the Annual Meeting, as set forth in Section 4.3 below.

(c) A quorum is deemed present throughout any Board meeting if Directors entitled to cast fifty percent (50%) of the votes on that Board are present at the beginning of the meeting.

Section 3.7 Declarant's Control of the Board. During the period of Declarant's control ("Declarant Control Period"), as set forth below, Declarant at any time, with or without cause, may remove or replace any Director appointed by Declarant. Directors appointed by Declarant need not be Owners. Declarant shall have the right to appoint and remove the Directors, subject to the following limitations:

(a) Not later than sixty (60) days after conveyance from Declarant to Purchasers of twenty-five percent (25%) of the Units That May Be Created, at least one Director and not less than twenty-five percent (25%) of the total Directors must be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance from Declarant to Purchasers of fifty percent (50%) of the Units That May Be Created, not less than one-third of the total Directors must be elected by Owners other than Declarant.

(c) The Declarant Control Period shall terminate on the earliest of: (i) sixty (60) days after conveyance from Declarant to Purchasers of seventy-five percent (75%) of the Units That May Be Created; (ii) five years after Declarant has ceased to offer any Units for sale in the ordinary course of business; or (iii) five years after any right to annex any portion of the Annexable Area was last exercised pursuant to Article 15 hereof.

Section 3.8 Control of Board by Owners. Subject to and following the Declarant Control Period: (a) the Owners shall elect a Board of at least three (3) Directors, and (b) the Board may fill vacancies in its membership (e.g., due to death or resignation of a Director), subject to the right of the Owners to elect a replacement Director, for the unexpired portion of any term. After the Declarant Control Period, all of the Directors must be Owners, and each Director shall, within thirty (30) days of his appointment or election, certify

in writing that he is an Owner and has read and reasonably understands the Governing Documents and applicable provisions of NRS Chapter 116 to the best of his or her ability. The Board shall elect the Officers, all of whom (after the Declarant Control Period) must be Owners and Directors. The Owners, upon a two-thirds (2/3) affirmative vote of all Owners present and entitled to vote at any Owners' meeting at which a quorum is present, may remove any Director(s) with or without cause; provided, however that any Director(s) appointed by Declarant may only be removed by Declarant.

Section 3.9 Election of Directors. Not less than thirty (30) days before the preparation of a ballot for the election of Directors, which shall normally be conducted at an Annual Meeting, the Association Secretary or other designated Officer shall cause notice to be given to each Owner of his eligibility to serve as a Director. Each Owner who is qualified to serve as a Director may have his name placed on the ballot along with the names of the nominees selected by the Board or a nominating committee established by the Board. The election of any Director must be conducted by secret written ballot. The Association Secretary or other designated Officer shall cause to be sent prepaid by United States mail to the mailing address of each Unit within the Community or to any other mailing address designated in writing by the Unit Owner, owner, a secret ballot and a return envelope. Election of Directors must be conducted by secret written ballot, with the vote publicly counted (which may be done as the meeting progresses.)

Section 3.10 Board Meetings

(a) A Board meeting must be held at least once every 90 days. Except in an emergency, the Secretary or other designated Officer shall, not less than 10 days before the date of a Board meeting, cause notice of the meeting to be given to the Owners. Such notice must be (1) sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Owner; or (2) published in a newsletter or other similar publication circulated to each Owner. In an emergency, the Secretary or other designated Officer shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each Unit. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each Unit within the Community or posted in a prominent place or places within the Common Elements.

(b) As used in this Section 3.10, "emergency" means any occurrence or combination of occurrences that: (1) could not have been reasonably foreseen; (2) affects the health, welfare and safety of the Owners; (3) requires the immediate attention of, and possible action by, the Board; and (4) makes it impracticable to comply with regular notice and/or agenda provisions.

(c) The notice of the Board meeting must state the time and place of the meeting and include a copy of the agenda for the meeting (or the date on which and the locations where copies of the agenda may be conveniently obtained by Owners). The notice must include notification of the right of an Owner to: (1) have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request (and, if required by the Board, upon payment to the Association of the cost of making the distribution); and (2) speak to the Association or Board, unless the Board is meeting in Executive Session.

(d) The agenda of the Board meeting must comply with the provisions of NRS § 116.3108.3. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the Board may take action on an item which is not listed on the agenda as an item on which action may be taken.

(e) At least once every 90 days, the Board shall review at one of its meetings: (1) a current reconciliation of the Operating Fund (as defined in Section 6.2 below); (2) a current reconciliation of the Reserve Fund (as defined in Section 6.3 below); (3) the actual revenues and expenses for the Reserve Fund, compared to the Reserve Budget for the current year; (4) the latest account statements prepared by the financial institutions in which the accounts of the Association are maintained; (5) an income and expense statement, prepared on at least a quarterly basis, for the Operating Fund and Reserve Fund; and (6) the current status of any civil action or claim submitted to arbitration or mediation in which the Association is a party.

(f) The minutes of a Board meeting must be made available to Owners in accordance with NRS § 116.3108.5

Section 3.11 Attendance by Owners at Board Meetings; Executive Sessions. Owners are entitled to attend any meeting of the Board (except for Executive Sessions) and may speak at such meeting, provided that the Board may establish reasonable procedures and reasonable limitations on the time an Owner may speak at such meeting. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. Owners may not attend or speak at an Executive Session, unless the Board specifically so permits. An "Executive Session" is an executive session of the Board (which may be a portion of a Board meeting), designated as such by the Board in advance, for the sole purpose of:

(a) consulting with an attorney for the Association on matters relating to proposed or pending litigation, if the contents of the discussion would otherwise be governed by the privilege set forth in NRS §§ 49.035 to 49.115, inclusive; or

(b) discussing Association personnel matters of a sensitive nature, or

(c) discussing any violation ("Alleged Violation") of the Governing Documents (including, without limitation, the failure to pay an Assessment) alleged to have been committed by an Owner ("Involved Owner") (provided that the Involved Owner shall be entitled to request in writing that such hearing be conducted by the Board in open meeting, and provided further that the Involved Owner may attend such hearing and testify concerning the Alleged Violation, but may be excluded by the Board from any other portion of such hearing, including, without limitation, the Board's deliberation).

No other matter may be discussed in Executive Session. Any matter discussed in Executive Session must be generally described in the minutes of the Board meeting, provided that the Board shall maintain detailed minutes of the discussion of any Alleged Violation, and, upon request, shall provide a copy of said detailed minutes to the Involved Owner or his designated representative.

ARTICLE 4 VOTING RIGHTS

Section 4.1 Owners' Voting Rights. Subject to the following provisions of this Section 4.1, and to Section 4.6 below, each Member shall be entitled to cast one (1) vote for each Unit owned. In the event that more than one Person holds fee title to a Unit ("co-owners"), all such co-owners shall be one Member, and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Unit is entitled. Such co-owners may from time to time all designate in writing one of their number to vote. Fractional votes shall not be allowed. Where no voting co-owner is designated, or if such designation has been revoked, the vote for such Unit shall be exercised as the majority of the co-owners of the Unit mutually agree. No vote shall be cast for any Unit where the co-owners present in person or by proxy owning the majority interests in such Unit cannot agree to said vote or other action. The nonvoting co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Unit and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws, shall be deemed to be binding on all Owners, their successors and assigns. Notwithstanding the foregoing, the voting rights of an Owner shall be automatically suspended during any time period that Annual Assessments or any Special Assessment levied against such Owner are delinquent.

Section 4.2 Transfer of Voting Rights. The right to vote may not be severed or separated from any Unit, and any sale, transfer or conveyance of fee interest in any Unit to a new Owner shall operate to transfer the appurtenant Membership and voting rights without the requirement of any express reference thereto. Each Owner shall, within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Unit, notify the Association in writing of such sale, transfer or conveyance, with the name and address of the

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transferee, the nature of the transfer and the Unit involved, and such other information relative to the transfer and the transferee as the Board may reasonably request, and shall deliver to the Association a copy of the Recorded deed therefor

Section 4.3 Meetings of the Membership Meetings of the Association must be held at least once each year, or as otherwise may be required by applicable law. The annual Association meeting shall be held on a recurring anniversary basis, and shall be referred to as the "Annual Meeting." The business conducted at each such Annual Meeting shall include the election of Directors whose terms are then expiring. If the Members have not held a meeting for one (1) year, a meeting of the Association Membership must be held by not later than the March 1 next following. A special meeting of the Association Membership may be called at any reasonable time and place by written request of: (a) the Association President, (b) a majority of the Directors, or (c) Members representing at least ten percent (10%) of the voting power of the Association, or as otherwise may be required by applicable law. Notice of special meetings shall be given by the Secretary of the Association in the form and manner provided in Section 4.4, below.

Section 4.4 Meeting Notices; Agendas; Minutes Meetings of the Members shall be held in the Properties or at such other convenient location near the Properties and within Clark County as may be designated in the notice of the meeting

(a) Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Association Secretary shall cause notice to be hand delivered or sent postage prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by any Owner. The meeting notice must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of an Owner to: have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request, if the Owner pays the Association the cost of making the distribution; and speak to the Association or Board (unless the Board is meeting in Executive Session)

(b) The meeting agenda must consist of

(i) a clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to any of the Governing Documents, any fees or assessments to be imposed or increased by the Association, any budgetary changes, and/or any proposal to remove an Officer or Director, and

(ii) a list describing the items on which action may be taken, and clearly denoting that action may be taken on those items ("Agenda Items"), and

(iii) a period devoted to comments by Owners and discussion of such comments; provided that, except in emergencies, no action may be taken upon a matter raised during this comment and discussion period unless the matter is an Agenda Item. If the matter is not an Agenda Item, it shall be tabled at the current meeting, and specifically included as an Agenda Item for discussion and consideration at the next following meeting, at which time, action may be taken thereon

(c) In an "emergency" (as said term is defined in Section 3.10(b), above, Members may take action on an item which is not listed on the agenda as an item on which action may be taken.

(d) If the Association adopts a policy imposing a fine on an Owner for the violation of a provision of the Governing Documents, the Board 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 Owner thereof, a specific schedule of fines that may be imposed for those particular violations, at least thirty (30) days prior to any attempted enforcement, and otherwise subject to Section 19.1, below.

(e) Not more than thirty (30) days after any meeting, the Board shall cause the minutes or a summary of the minutes of the meeting to be made available to the Owners. A copy of the minutes or

a summary of the minutes must be provided to any Owner who pays the Association the cost of providing the copy

Section 4.5 Record Date The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any Budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for an adjournment of the same meeting. A record date shall not be more than sixty (60) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur.

Section 4.6 Proxies Every Member entitled to attend, vote at, or exercise consents with respect to, any meeting of the Members, may do so either in person, or by a representative, known as a proxy, duly authorized by an instrument in writing, filed with the Board prior to the meeting to which the proxy is applicable. A Member may give a proxy only to a member of his immediate Family, a Resident tenant, or another Member. No proxy shall be valid after the conclusion of the meeting (including continuation of such meeting) for which the proxy was executed. Such powers of designation and revocation may be exercised by the legal guardian of any Member or by his conservator, or in the case of a minor having no guardian, by the parent legally entitled to permanent custody, or during the administration of any Member's estate where the interest in the Unit is subject to administration in the estate, by such Member's executor or administrator. Any form of proxy or written ballot shall afford an opportunity thereon to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy or written ballot is solicited, and shall provide, subject to reasonably specified conditions, that where the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance with such specification. Unless applicable Nevada law provides otherwise, a proxy is void if: (a) it is not dated or purports to be revocable without notice; (b) it does not designate the votes that must be cast on behalf of the Member who executed the proxy; or (c) the holder of the proxy does not disclose at the beginning of the meeting (for which the proxy is executed) the number of proxies pursuant to which the proxy holder will be casting votes and the voting instructions received for each proxy. If and for so long as prohibited by Nevada law, a vote may not be cast pursuant to a proxy for the election of a Director.

Section 4.7 Quorums The presence at any meeting of Members who hold votes equal to twenty percent (20%) of the total voting power of the Association, in person or by proxy, shall constitute a quorum for consideration of that matter. The Members present at a duly called meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken other than adjournment is approved by at least a majority of the Members required to constitute a quorum, unless a greater vote is required by applicable law or by this Declaration. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which reconvened meeting the quorum requirement shall be the presence, in person or by written proxy, of the Members entitled to vote at least twenty percent (20%) of the total votes of the Association. Notwithstanding the presence of a sufficient number of Owners to constitute a quorum, certain matters, including, without limitation, amendment to this Declaration, require a higher percentage (e.g., 67%) of votes of the total voting Membership as set forth in this Declaration.

Section 4.8 Actions If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two (2) candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by applicable law or by this Declaration.

Section 4.9 Action by Meeting, and Written Approval of Absentee Owners. The proceedings and transactions of any meeting of Members, either regular or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members, need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the meeting.

Section 4.10 Action By Written Consent, Without Meeting. Any action which may be taken at any regular or special meeting of the Members may be taken without a meeting and without prior notice, if authorized by a written consent setting forth the action so taken, signed by Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members were present and voted, and filed with the Association Secretary, provided, however, that Directors may not be elected by written consent except by unanimous written consent of all Members. Any Member giving a written consent, or such Member's proxy holder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members required to authorize the proposed action have been filed with the Association Secretary, but may not do so thereafter. Such revocation shall be effective upon its receipt by the Association Secretary. Unless the consents of all Members have been solicited in writing and have been received, prompt notice shall be given, in the manner as for regular meetings of Members, to those Members who have not consented in writing, of the taking of any Association action approved by Members without a meeting. Such notice shall be given at least ten (10) days before the consummation of the action authorized by such approval with respect to the following:

- (a) approval of any reorganization of the Association;
- (b) a proposal to approve a contract or other transaction between the Association and one or more Directors, or any corporation, firm or association in which one or more Directors has a material financial interest, or
- (c) approval required by law for the indemnification of any person.

Section 4.11 Adjourned Meetings and Notice Thereof. Any Members' meeting, regular or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members present either in person or by proxy thereat, but in the absence of a quorum, no other business may be transacted at any such meeting except as provided in this Section 4.11. When any Members' meeting, either regular or special, is adjourned for seven (7) days or less, the time and place of the reconvened meeting shall be announced at the meeting at which the adjournment is taken. When any Members' meeting, either regular or special, is adjourned for more than seven (7) days, notice of the reconvened meeting shall be given to each Member as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a reconvened meeting, and at the reconvened meeting the Members may transact any business that might have been transacted at the original meeting.

ARTICLE 5 FUNCTIONS OF ASSOCIATION

Section 5.1 Powers and Duties. The Association shall have all of the powers of a Nevada nonprofit corporation, subject only to such limitations, if any, upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association. The Association's obligations to maintain the Common Elements shall commence on the date Annual Assessments commence on Units; until commencement of Annual Assessments, the Common Elements shall be maintained by Declarant, at Declarant's expense. Without in any way limiting the generality of the foregoing provisions, the Association may act through the Board, and shall have:

(a) **Assessments.** The power and duty to levy assessments against the Owners of Units, and to enforce payment of such assessments in accordance with the provisions of Article 6 hereof.

(b) **Repair and Maintenance of Common Elements.** The power and duty to paint, plant, maintain and repair in a neat and attractive condition, in accordance with standards adopted by the ARC, all Common Elements and all Improvements thereon, and to pay for utilities, gardening, landscaping, and other necessary services for the Common Elements. Notwithstanding the foregoing, the Association shall have no responsibility to provide any of the services referred to in this subsection 5.1(b) with respect to any Improvement which is accepted for maintenance by any state, local or municipal governmental agency or public entity. Such responsibility shall be that respectively of the applicable agency or public entity.

(c) **Removal of Graffiti.** The power and duty to remove or paint over any graffiti from or on Exterior Walls, pursuant and subject to Section 9.6, below.

(d) **Taxes.** The power and duty to pay all taxes and assessments levied upon the Common Elements and all taxes and assessments payable by the Association.

(e) **Utility Services.** The power and duty to obtain, for the benefit of the Common Elements, any necessary commonly metered water, gas, and/or electric services, (or other similar services) and/or refuse collection, and the power but not the duty to provide for all refuse collection and cable or master television service, if any, for all or portions of the Properties.

(f) **Easements and Rights-of-Way.** The power but not the duty to grant and convey to any Person, (i) easements, licenses and rights-of-way in, on, over or under the Common Elements, and (ii) with the consent of seventy-five percent (75%) of the voting power of the Association, fee title to parcels or strips of land which comprise a portion of the Common Elements, for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder: (A) roads, streets, walks, driveways, and slope areas; (B) overhead or underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, television, telephone and other similar purposes; (C) sewers, storm and water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and, (D) any similar public or quasi-public improvements or facilities.

(g) **Manager.** The power, subject to Section 5.5, below, but not the duty, to employ or contract with a professional Manager to perform all or any part of the duties and responsibilities of the Association, and the power but not the duty to delegate powers to committees, Officers and employees of the Association. Any such management agreement, or any agreement providing for services by Declarant to the Association, shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon ninety (90) days written notice.

(h) **Rights of Entry and Enforcement.** The power but not the duty, after Notice and Hearing (except in the event of emergency which poses an imminent threat to health or substantial damage to property, in which event, Notice and Hearing shall not be required), to enter upon any area of a Unit, without

being liable to any Owner, except for damage caused by the Association entering or acting in bad faith, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain and repair such area as required by this Declaration. All costs of any such maintenance and repair as described in the preceding sentence (including all amounts due for such work, and the costs and expenses of collection) shall be assessed against such Owner as a Special Assessment, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment pursuant to Article 7, below. The responsible Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection. Unless there exists an emergency, there shall be no entry into a Dwelling without the prior consent of the Owner thereof. Any damage caused by an entry upon any Unit shall be repaired by the entering party. Subject to Section 5.3, below, the Association may also commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory injunctions or otherwise, all of the provisions of the Declaration, and, if such action pertaining to the Declaration is brought by the Association, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be fixed by the court.

(i) Other Services. The power and duty to maintain the integrity of the Common Elements and to provide such other services as may be necessary or proper to carry out the Association's obligations and business under the terms of this Declaration to enhance the enjoyment, or to facilitate the use, by the Members, of the Common Elements.

(j) Employees, Agents and Consultants. The power but not the duty, if deemed appropriate by the Board, to hire and discharge employees and agents and to retain and pay for legal, accounting and other services as may be necessary or desirable in connection with the performance of any duties or exercise of any powers of the Association under this Declaration.

(k) Acquiring Property and Construction on Common Elements. The power but not the duty, by action of the Board, to acquire property or interests in property for the common benefit of Owners, including Improvements and personal property. The power but not the duty, by action of the Board, to construct new Improvements or additions to the Common Elements, or demolish existing Improvements (other than maintenance or repairs to existing Improvements).

(l) Contracts. The power, but not the duty, to enter into contracts with Owners to provide services or to maintain and repair Improvements within the Properties which the Association is not otherwise required to maintain pursuant to this Declaration, and the power, but not the duty, to contract with third parties for such services. Any such contract or service agreement must, however, provide for payment to the Association of the cost of providing such service or maintenance.

(m) Records and Accounting. The power and the duty to keep, or cause to be kept, true and correct books and records of account at the sole cost and expense of the Association in accordance with generally accepted accounting principles. Financial statements for the Association shall be regularly prepared and distributed to all Members as follows:

(i) pro forma operating statements (Budgets), Reserve Budgets and Reserve Studies, shall be distributed pursuant to Section 6.4, below;

(ii) audited or reviewed Financial Statements (consisting of a reasonably detailed statement of revenues and expenses of the Association for each Fiscal Year, and a balance sheet showing the assets (including, but not limited to, Association Reserve Funds) and liabilities of the Association as at the end of each Fiscal Year), and a statement of cash flow for the Fiscal Year, shall be distributed within one hundred twenty (120) days after the close of each Fiscal Year.

(n) Maintenance of Other Areas. The power but not the duty to maintain and repair slopes, parkways, entry structures and Community signs identifying the Properties, other than the Common Elements, to the extent deemed to be reasonable and prudent by the Board.

(o) Use Restrictions. The power and the duty to enforce use restrictions pertaining to the Properties

(p) Insurances. The power and the duty to cause to be obtained and maintained the insurance coverages pursuant to Article 12, below.

(q) Licenses and Permits. The power and the duty to obtain from applicable governmental authority any and all licenses and permits reasonably necessary to carry out Association functions hereunder.

Section 5.2 Rules and Regulations. The Board shall be empowered to adopt, amend, repeal, and/or enforce reasonable and uniformly applied Rules and Regulations, which shall not discriminate among Members, for the use and occupancy of the Properties as follows:

(a) General. A copy of the Rules and Regulations, as from time to time may be adopted, amended or repealed, shall be posted in a conspicuous place in the Common Elements and/or shall be mailed or otherwise delivered to each Member and also kept on file with the Association. Upon such mailing, delivery or posting, the Rules and Regulations shall have the same force and effect as if they were set forth herein and shall be binding on all Persons having any interest in, or making any use of any part of, the Properties, whether or not Members; provided, however, that the Rules and Regulations shall be enforceable only to the extent that they are consistent with the other Governing Documents. If any Person has actual knowledge of any of the Rules and Regulations, such Rules and Regulations shall be enforceable against such Person, whether or not a Member, as though notice of such Rules and Regulations had been given pursuant to this Section 5.2. The Rules and Regulations may not be used to amend any of the other Governing Documents.

(b) Limitations. The Rules and Regulations must be:

- (i) reasonably related to the purpose for which adopted;
- (ii) sufficiently explicit in their prohibition, direction, or limitation, so as to reasonably inform an Owner or Resident, or tenant or guest thereof, of any action or omission required for compliance;
- (iii) adopted without intent to evade any obligation of the Association;
- (iv) consistent with the other Governing Documents (and must not arbitrarily restrict conduct, or require the construction of any capital improvement by an Owner if not so required by the other Governing Documents);
- (v) uniformly enforced under the same or similar circumstances against all Owners, provided that any particular rule not so uniformly enforced may not be enforced against any Owner (except as, and to the extent, if any, such enforcement may be permitted from time to time by applicable law); and
- (vi) duly adopted and distributed to the Owners at least thirty (30) days prior to any attempted enforcement.

Section 5.3 Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "Proceeding"). The Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Elements and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

(a) Any Proceeding commenced by the Association: (i) to enforce the payment of an assessment or an assessment lien or other lien against an Owner as provided for in this Declaration, or (ii) to otherwise enforce compliance with the Governing Documents by, or to obtain other relief from, any Owner who has violated any provision thereof, or (iii) to protect against any matter which imminently and substantially threatens all of the health, safety and welfare of the Owners, or (iv) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Ten Thousand Dollars (\$10,000.00) in the aggregate; shall be referred to herein as an "Operational Proceeding." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

(b) Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Section 5.3 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board

(i) The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Members for such additional amount for mediation before proceeding to either arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(1) The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, by obtaining the written opinion of a licensed Nevada attorney regularly residing in Clark County, Nevada, with a Martindale-Hubbell rating of "av", expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association. The Board shall be authorized to spend up to an aggregate of Five Thousand Dollars (\$5,000.00) to obtain such legal opinion, including all amounts paid to said attorney therefor, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said \$5,000.00 limit, with the express consent of more than fifty percent (50%) of all of the Members of the Association, at a special meeting called for such purpose.

(2) Said attorney opinion letter shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "Quoted Litigation Costs") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said opinion letter shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft

of the attorney's proposed contingent fee agreement. (Such written legal opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "Attorney Letter").

(3) Upon receipt and review of the Attorney Letter, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Members. The written notice to each Member of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, together with a written report ("Special Assessment Report") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Member ("Special Litigation Assessment"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Members, whereupon: (x) if not more than fifty percent (50%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (y) if more than fifty percent (50%) of the total voting power of the Association (i.e., more than fifty percent (50%) of all of the Members of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Members in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees and costs and expenses whatsoever in excess of one hundred twenty percent (120%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Members, not less frequently than quarterly, a written update of the progress and current status of, and the attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of attorneys fees and costs incurred to date in connection therewith.

(4) In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Members of the Association.

(c) In no event shall any Association Reserve Fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Association Reserve Funds, pursuant to Section 6.3, below, are to be used only for the specified replacements, painting and repairs of Common Elements, and for no other purpose whatsoever.

(d) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section 5.3, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section 5.3, shall be unauthorized and ultra vires (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements

of this Section 5.3 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (ii) this Section 5.3 may not be amended or deleted at any time without the express prior written approval of both: (1) Members representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the total power of the Board of Directors; and any purported amendment or deletion of this Section 5.3, or any portion hereof, without both of such express prior written approvals shall be void.

Section 5.4 Additional Express Limitations on Powers of Association. The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

(a) Incur aggregate expenditures for capital improvements to the Common Elements in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year, or sell, during any Fiscal Year, any property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year.

(b) Enter into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one (1) year, except (i) a contract with a public or private utility or cable television company, if the rates charged for the materials or services are regulated by the Nevada Public Service Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) prepaid casualty and/or liability insurance policies of no greater than three (3) years duration.

(c) Pay compensation to any Association Director or Officer for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or Officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 5.5 Manager. The Association shall have the power to employ or contract with a Manager, to perform all or any part of the duties and responsibilities of the Association, subject to the Governing Documents, for the purpose of operating and maintaining the Properties, subject to the following:

(a) Any agreement with a Manager shall be in writing and shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon not more than ninety (90) days written notice. In the event of any explicit conflict between the Governing Documents and any agreement with a Manager, the Governing Documents shall prevail.

(b) The Manager shall possess sufficient experience, in the reasonable judgment of the Board, in managing residential subdivision projects, similar to the Properties, in the County, and shall be duly licensed as required from time to time by the appropriate licensing and governmental authorities (and must have the qualifications, including education and experience, when and as required for the issuance of the relevant certificate by the Nevada Real Estate Division pursuant and subject to the provisions of NRS Chapter 645 and/or NRS § 116.31139.3, or duly exempted pursuant to NRS § 116.31139.4). Any and all employees of the Manager with responsibilities to or in connection with the Association and/or the Community shall have such experience with regard to similar projects. (If no Manager meeting the above-stated qualifications is available, the Board shall retain the most highly qualified management entity available, which is duly licensed by the appropriate licensing authorities.)

(c) No Manager, or any director, officer, shareholder, principal, partner, or employee of the Manager may be a Director or Officer of the Association.

(d) As a condition precedent to the employ of, or agreement with, a Manager, the Manager (or any replacement Manager) first shall be required, at its expense, to review the Governing Documents, Plat, and any and all Association Reserve Studies and inspection reports pertaining to the Properties.

(e) By execution of its agreement with the Association, a Manager shall be conclusively deemed to have covenanted (1) in good faith to be bound by, and to faithfully perform all duties (including, but not limited to, full and faithful accounting for all Association funds within the possession or control of Manager) required of the Manager under the Governing Documents (and, in the event of any irreconcilable conflict between the Governing Documents and the contract with the Manager, the Governing Documents shall prevail); (2) that any penalties, fines or interest levied upon the Association as the result of Manager's error or omission shall be paid (or reimbursed to the Association) by the Manager; (3) to comply fully, at its expense, with all applicable regulations of the Nevada Real Estate Division, and (4) at Manager's sole expense, to promptly turn over, to the Board, possession and control of all funds, documents, books, records and reports pertaining to the Properties and/or Association, and to coordinate and cooperate in good faith with the Board in connection with such turnover, in any event not later than ten (10) days of expiration or termination of the Association's agreement with Manager (provided that, without limiting its other remedies, the Association shall be entitled to withhold all amounts otherwise due to the Manager until such time as the Manager turnover in good faith has been completed)

(f) Upon expiration or termination of an agreement with a Manager, a replacement Manager meeting the above-stated qualifications shall be retained by the Board as soon as possible thereafter and a limited review performed by qualified Person designated by the Board, of the books and records of the Association, to verify assets

(g) The Association shall also maintain and pay for the services of such other personnel, including independent contractors, as the Board shall determine to be necessary or desirable for the proper management, operation, maintenance, and repair of the Association and the Properties, pursuant to the Governing Documents, whether such personnel are furnished or employed directly by the Association or by any person with whom or which it contracts. Such other personnel shall not all be replaced concurrently, but shall be replaced according to a "staggered" schedule, to maximize continuity of services to the Association.

Section 5.6 Inspection of Books and Records

(a) The Board shall, upon the written request of any Owner, make available the books, records and other papers of the Association for review during the regular working hours of the Association, with the exception of: (1) personnel records of employees (if any) of the Association, and (2) records of the Association relating to another Owner.

(b) The Board shall cause to be maintained and made available for review at the business office of the Association or other suitable location: (1) the financial statements of the Association; (2) the Budgets and Reserve Budgets; and (3) Reserve Studies

(c) The Board shall cause to be provided a copy of any of the records required to be maintained pursuant to (a) and (b) above, to an Owner or to the Nevada State Ombudsman, as applicable, within 14 days after receiving a written request therefor. The Board may charge a fee to cover the actual costs of preparing such copy, but not to exceed 25 cents per page (or such maximum amount as permitted by applicable Nevada law)

(d) Notwithstanding the foregoing, each Director shall have the unfettered right at any reasonable time, and from time to time, to inspect all such records

Section 5.7 Continuing Rights of Declarant Declarant shall preserve the right, without obligation, to enforce the Governing Documents (including, without limitation, the Association's duties of maintenance and repair, and Reserve Study and Reserve Fund obligations). After the end of Declarant Control Period, throughout the term of this Declaration, the Board shall deliver to Declarant notices and minutes of all Board meetings and Membership meetings, and Declarant shall have the right, without obligation, to attend such meetings, on a non-voting basis. Declarant shall also receive notice of, and have the right, without obligation, to attend, all inspections of the Properties or any portion(s) thereof. The Board shall also, throughout the term

of this Declaration, deliver to Declarant (without any express or implied obligation or duty on Declarant's part to review or to do anything) all notices and correspondence to Owners, all inspection reports, the Reserve Studies prepared in accordance with Section 6.3 below, and audited annual reports, as required in Section 5.1(m), above. Such notices and information shall be delivered to Declarant at its most recently designated address.

Section 5.8 Compliance with Applicable Laws The Association shall comply with all applicable laws, including, but not limited to, applicable laws prohibiting discrimination against any person in the provision of services or facilities in connection with a Dwelling because of a handicap of such person. The provisions of the Governing Documents shall be upheld and enforceable to the maximum extent permissible under applicable federal or state law or City or County ordinance. Subject to the foregoing, in the event of irreconcilable conflict between applicable law and any provision of the Governing Documents, the applicable law shall prevail, and the affected provision of the Governing Document shall be deemed automatically amended (or deleted) to the minimum extent reasonably necessary to remove such irreconcilable conflict. In no event shall the Association adhere to or enforce any provision of the Governing Documents which irreconcilably contravenes applicable law.

ARTICLE 6

COVENANT FOR ASSESSMENTS

Section 6.1 Personal Obligation of Assessments Each Owner of a Unit, by acceptance of a deed therefor, whether or not so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) Annual Assessments, (b) Special Assessments, and (c) any Capital Assessments, such assessments to be established and collected as provided in this Declaration. All assessments, together with interest thereon, late charges, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such assessment is made. Each such assessment, together with interest thereon, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment became due. This personal obligation cannot be avoided by abandonment of a Unit or by an offer to waive use of the Common Elements. The personal obligation only shall not pass to the successors in title of any Owner unless expressly assumed by such successors.

Section 6.2 Association Funds The Board shall establish at least the following separate accounts ("Association Funds") into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. The Association Funds shall be established as trust accounts at a federally or state insured banking or savings institution and shall include: (1) an operating fund ("Operating Fund") for current expenses of the Association, and (2) a reserve fund ("Reserve Fund") for capital repairs and replacements as set forth in Section 6.3 below, and (3) any other funds which the Board may establish, to the extent necessary under the provisions of this Declaration. To qualify for higher returns on accounts held at banking or savings institutions, the Board may commingle any amounts deposited into any of the Association Funds, (other than the Reserve Fund, which shall be kept segregated), provided that the integrity of each individual Association Fund shall be preserved on the books of the Association by accounting for disbursements from, and deposits to, each Association Fund separately. Each of the Association Funds shall be established as a separate trust savings or trust checking account, at any federally or state insured banking or lending institution, with balances not to exceed institutionally insured levels. All amounts deposited into the Operating Fund and the Reserve Fund must be used solely for the common benefit of the Owners for purposes authorized by this Declaration. The Manager shall not be authorized to make withdrawals from the Reserve Fund. Withdrawals from the Reserve Fund shall require signatures of both the President and Treasurer (or, in the absence of either the President or Treasurer, the Secretary may sign in place of the absent Officer). The President, Treasurer, and Secretary all must be Directors and (after the Declarant Control Period) must also all be Owners.

Section 6.3 Reserve Fund; Reserve Studies

(a) Any other provision herein notwithstanding (i) the Association shall establish a **separate** reserve fund ("Reserve Fund"); (ii) the Reserve Fund shall be kept in a **segregated account**, withdrawals from which shall **only** be made upon specific approval of the Board subject to the following; (iii) the Reserve Fund shall be used **only** for capital repairs, restoration, and replacement of major components ("Major Components") of the Common Elements; (iv) **in no event whatsoever** shall the Reserve Fund be used to pay operating expenses or for regular maintenance recurring on an annual or more frequent basis, or as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding; (v) funds in the Reserve Fund may **not** be withdrawn without the signatures of **both** the President and the Treasurer (provided that the Secretary may sign in lieu of either the President or Treasurer, if either is not reasonably available); (vi) **under no circumstances** shall the Manager (or any one Officer or Director, acting alone) be authorized to make withdrawals from the Reserve Fund; and (vii) **under no circumstances** shall the Manager divert or be authorized to divert funds allocated to the Reserve Fund (including, but not necessarily limited to, use of such funds to pay operating expenses), and any such diversion by the Manager of funds allocated to the Reserve Fund shall constitute a material breach by the Manager of its obligations to the Association.

(b) The Board shall periodically retain the services of a qualified reserve study analyst, with sufficient experience with preparing reserve studies for similar residential projects in the County, to prepare and provide to the Association a reserve study ("Reserve Study").

(c) The Board shall cause to be prepared a **Reserve Study** at such times as the Board deems reasonable and prudent, but in any event **initially within one (1) year** after the Close of Escrow for the first Unit within the Properties, and thereafter at least **once every five (5) years** (or at such other intervals as may be required from time to time by applicable Nevada law). The Board shall review the results of the most current Reserve Study **at least annually** to determine if those reserves are sufficient, and shall make such **adjustments** as the Board deems reasonable and prudent to maintain the required reserves from time to time (i.e., by increasing Assessments). It shall be an obligation of the Manager to timely remind the Board in writing of these Reserve Study requirements from time to time as applicable.

(d) Each Reserve Study must be conducted by a person qualified by training and experience to conduct such a study (including, but not limited to, a Director, an Owner or a Manager who is so qualified) ("Reserve Analyst"). The Reserve Study must include, without limitation: (i) a summary of an inspection of the Major Components which the Association is obligated to repair, replace or restore; (ii) an identification of the Major Components which have a remaining useful life of less than 30 years; (iii) an estimate of the remaining useful life of each Major Component so identified; (iv) an estimate of the cost of repair, replacement or restoration of each Major Component so identified during and at the end of its useful life; and (v) an estimate of the total annual assessment that may be required to cover the cost of repairing, replacement or restoration the Major Components so identified (after subtracting the reserves as of the date of the Reserve Study).

(e) The Reserve Study shall be conducted in accordance with any applicable regulations adopted by the Nevada Real Estate Division. Unless and until otherwise provided by applicable regulation or law, the Association (upon Recordation of this Declaration) and each Owner (by acquiring title to a Unit) shall be deemed to have unequivocally agreed that: (i) utilization, by a Reserve Analyst, of the "pooling" or "cash flow" method for and in connection with preparation of a Reserve Study shall be deemed reasonable and prudent; and/or (ii) utilization, by a Reserve Analyst, of an assumption that there will be future annual increases in amounts from time to time allocated to reserves (provided that there shall be no assumption of such future increases in excess of 10% per year), with corresponding increases in Assessments, shall be deemed reasonable and prudent for and in connection with preparation of a Reserve Study.

Section 6.4 Budget; Reserve Budget

(a) The Board shall adopt a proposed annual Budget (which shall include a Reserve Budget) at least forty-five (45) days prior to the first Annual Assessment period for each Fiscal Year. Within thirty (30) days after adoption of any proposed Budget, the Board shall provide to all Owners a summary of

the Budget, and shall set a date for a meeting of the Owners to consider ratification of the Budget. Said meeting shall be held not less than fourteen (14) days, nor more than thirty (30) days after mailing of the summary. Unless at that meeting the proposed Budget is rejected by at least seventy-five percent (75%) of the voting power of the Association, the Budget shall be deemed ratified, whether or not a quorum was present. If the proposed Budget is duly rejected as aforesaid, the annual Budget for the immediately preceding Fiscal Year shall be reinstated, as if duly approved for the Fiscal Year in question, and shall remain in effect until such time as a subsequent proposed Budget is ratified.

(b) Notwithstanding the foregoing, except as otherwise provided in subsection (c) below, the Board shall, not less than 30 days or more than 60 days before the beginning of each Fiscal Year, prepare and distribute to each Owner a copy of

(1) the Budget (which must include, without limitation, the estimated annual revenue and expenditures of the Association and any contributions to be made to the Reserve Fund); and

(2) The Reserve Budget, which must include, without limitation:

(A) the current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the Common Elements ("Major Component");

(B) as of the end of the Fiscal Year for which the Reserve Budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the Major Components;

(C) a statement as to whether the Board has determined or anticipates that the levy of one or more Capital Assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves for that purpose; and

(D) a general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (B) above, including, without limitation, the qualifications of the person responsible for the preparation of the Reserve Study.

(c) In lieu of distributing copies of the Budget and Reserve Budget, the Board may distribute to each Owner a summary of those budgets, accompanied by a written notice that the budgets are available for review at the business office of the Association or other suitable location and that copies of the budgets will be provided upon request.

Section 6.5 Limitations on Annual Assessment Increases. The Board shall not levy, for any Fiscal Year, an Annual Assessment which exceeds the "Maximum Authorized Annual Assessment" as determined below, unless first approved by the vote of Members representing at least a majority of the voting power of the Association. The "Maximum Authorized Annual Assessment" in any fiscal year following the initial budgeted year shall be a sum which does not exceed the aggregate of (a) the Annual Assessment for the prior Fiscal Year, plus (b) a twenty-five percent (25%) increase thereof. Notwithstanding the foregoing, if, in any Fiscal Year, the Board reasonably determines that the Common Expenses cannot be met by the Annual Assessments levied under the then-current Budget, the Board may, upon the affirmative vote of a majority of the voting power of the Association and a majority of the voting power of the Board, submit a Supplemental Annual Assessment, applicable to that Fiscal Year only, for ratification in like manner as provided in Section 6.4 above.

Section 6.6 Initial Capital Contributions to Association. At the Close of Escrow for the sale of a Unit by Declarant, the Purchaser of such Unit shall be required to pay a capital contribution to the Association, in an amount equal to two (2) full monthly installments of the greater of the initial or then-applicable Annual Assessment, notwithstanding Section 6.7 below. Such capital contribution is in addition to, and is not to be considered an advance payment of, the Annual Assessment for such Unit, and may be applied to initial working capital needs and/or Reserve Fund of the Association.

Section 6.7 Assessment Commencement Date The Board, by majority vote, shall authorize and levy the amount of the Annual Assessment upon each Unit, as provided herein. Annual Assessments shall commence on Units on the respective Assessment Commencement Date. The "Assessment Commencement Date" hereunder shall be: (a) with respect to Units in the Original Property, the first day of the calendar month following the Close of Escrow to a Purchaser of the first Unit in the Original Property; and (b) with respect to each Unit within Annexed Property, that date on which the Annexation Amendment for such Unit is Recorded; provided that Declarant may establish, in its sole discretion, a later Assessment Commencement Date uniformly as to all Units by agreement of Declarant to pay all Common Expenses for the Properties up through and including such later Assessment Commencement Date. The first Annual Assessment for each Unit shall be pro-rated based on the number of months remaining in the Fiscal Year. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board, at such frequency and on such due dates as the Board shall determine from time to time in its sole discretion. The Association shall, upon demand, and for a reasonable charge, furnish a certificate binding on the Association, signed by an Officer or Association agent, setting forth whether the assessments on a Unit have been paid. At the end of any Fiscal Year, the Board may determine that all excess funds remaining in the operating fund, over and above the amounts used for the operation of the Properties, may be retained by the Association for use in reducing the following year's Annual Assessment or for deposit in the reserve account. Upon dissolution of the Association incident to the abandonment or termination of the maintenance of the Properties, any amounts remaining in any of the Association Funds shall be distributed proportionately to or for the benefit of the Members, in accordance with Nevada law.

Section 6.8 Capital Assessments The Board may levy, in any Fiscal Year, a Capital 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 or other such addition upon the Common Elements, including fixtures and personal property related thereto, provided that any proposed Capital Assessment shall require the advance consent of a majority of the voting power of the Association.

Section 6.9 Uniform Rate of Assessment Annual Assessments, and Capital Assessments shall be assessed at an equal and uniform rate against all Owners and their Units. Each Owner's share of such assessments shall be a fraction, the numerator of which shall be the number of Units owned by such Owner, and the denominator of which shall be the aggregate number of Units in the Original Property (and, upon annexation, of Units in portions of the Annexed Property). Neighborhood Assessments, if any, may vary by Neighborhood, pursuant to Article 17, below, but shall be assessed at an equal and uniform rate against all Owners and their Units within a given Neighborhood.

Section 6.10 Exempt Property The following property subject to this Declaration shall be exempt from the assessments herein:

(a) all portions, if any, of the Properties dedicated to and accepted by, the United States, the State of Nevada, Clark County, or any political subdivision of any of the foregoing, or any public agency, entity or authority, for so long as such entity or political subdivision is the owner thereof, or for so long as such dedication remains effective; and

(b) the Common Elements owned by the Association in fee.

Section 6.11 Special Assessments The Association may, subject to the provisions of Section 9.3 and Section 11.1 (b) hereof, levy Special Assessments against specific Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. Special Assessments also shall include, without limitation, late payment penalties, interest charges, fines, administrative fees, attorneys' fees, amounts expended to enforce assessment liens against Owners as provided for herein, and other charges of similar nature. Special Assessments, if not paid timely when due, shall constitute unpaid or delinquent assessments, pursuant to Article 7, below.

ARTICLE 7
EFFECT OF NONPAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION

Section 7.1 Nonpayment of Assessments. Any installment of an Annual Assessment, Special Assessment, or Capital Assessment, shall be delinquent if not paid within thirty (30) days of the due date as established by the Board. Such delinquent installment shall bear interest from the due date until paid, at the rate of two (2) percentage points per annum above the prime rate charged from time to time by Bank of America N.T. & S.A. (or, if such rate is no longer published, then a reasonable replacement rate), but in any event not greater than the maximum rate permitted by applicable Nevada law, as well as a reasonable late charge, as determined by the Board, to compensate the Association for increased bookkeeping, billing, administrative costs, and any other appropriate charges. No such late charge or interest or any delinquent installment may exceed the maximum rate or amount allowable by law. The Association may bring an action at law against the Owner personally obligated to pay any delinquent installment or late charge, or foreclose the lien against the Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or by abandonment of his Unit.

Section 7.2 Notice of Delinquent Installment. If any installment of an assessment is not paid within thirty (30) days after its due date, the Board may mail notice of delinquent assessment to the Owner and to each first Mortgagee of the Unit. The notice shall specify: (a) the amount of assessments and other sums due; (b) a description of the Unit against which the lien is imposed; (c) the name of the record Owner of the Unit; (d) the fact that the installment is delinquent; (e) the action required to cure the default; (f) the date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured, and (g) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of such assessment for the then-current Fiscal Year and sale of the Unit. The notice shall further inform the Owner of his right to cure after acceleration. If the delinquent installment of assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of such assessments levied against such Owner and his Unit to be immediately due and payable without further demand, and may enforce the collection of the full assessments and all charges thereon in any manner authorized by law or this Declaration.

Section 7.3 Notice of Default and Election to Sell. No action shall be brought to enforce any assessment lien herein, unless at least sixty (60) days have expired following the later of: (a) the date a notice of default and election to sell is Recorded; or (b) the date the Recorded notice of default and election to sell is mailed in the United States mail, certified or registered, return receipt requested, to the Owner of the Unit. Such notice of default and election to sell must recite a good and sufficient legal description of such Unit, the Record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment as described in Section 7.1 above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by such lien), the name and address of the Association, and the name and address of the Person authorized by the Board to enforce the lien by sale. The notice of default and election to sell shall be signed and acknowledged by an Association Officer, Manager, or other Person designated by the Board for such purpose, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

Section 7.4 Foreclosure Sale. Subject to the limitation set forth in Section 7.5 below, any such sale provided for above may be conducted by the Board, its attorneys, or other Person authorized by the Board in accordance with the provisions of NRS §116.31164 and Covenants Nos. 6, 7 and 8 of NRS § 107.030 and §107.090, as amended, insofar as they are consistent with the provisions of NRS § 116.31164, as amended, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages and Deeds of Trust, or in any other manner permitted by law. The Association, through its duly authorized agents, shall have the power to bid on the Unit at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Notices of default and election to sell shall be provided as required by NRS § 116.31163. Notice of time and place of sale shall be provided as required by NRS § 116.311635.

Section 7.5 Limitation on Foreclosure Any other provision in the Governing Documents notwithstanding, the Association may not foreclose a lien by sale for the assessment of a fine or for a violation of the Governing Documents, unless the violation is of a type that substantially and imminently threatens the health, safety, and welfare of the Owners and Residents of the Community. The foregoing limitation shall not apply to foreclosure of a lien for Annual Assessments, or Capital Assessments, or any portion respectively thereof, pursuant to this Article 7

Section 7.6 Cure of Default Upon the timely cure of any default for which a notice of default and election to sell was filed by the Association, the Officers thereof shall Record an appropriate release of lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board, to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any two (2) Directors or the Manager, stating the indebtedness secured by the lien upon any Unit created hereunder, shall be conclusive upon the Association and, if acknowledged by the Owner, shall be binding on such Owner as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request, at a reasonable fee, to be determined by the Board.

Section 7.7 Cumulative Remedies The assessment liens and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law or in equity, including a suit to recover a money judgment for unpaid assessments, as provided above.

Section 7.8 Mortgagee Protection Notwithstanding all other provisions hereof, no lien created under this Article 7, nor the enforcement of any provision of this Declaration shall defeat or render invalid the rights of the Beneficiary under any Recorded First Deed of Trust encumbering a Unit, made in good faith and for value, provided that after such Beneficiary or some other Person obtains title to such Unit by judicial foreclosure, other foreclosure, or exercise of power of sale, such Unit shall remain subject to this Declaration and the payment of all installments of assessments accruing subsequent to the date such Beneficiary or other Person obtains title. The lien of the assessments, including interest and costs, shall be subordinate to the lien of any First Mortgage upon the Unit. The release or discharge of any lien for unpaid assessments by reason of the foreclosure or exercise of power of sale by the First Mortgagee shall not relieve the prior Owner of his personal obligation for the payment of such unpaid assessments

Section 7.9 Priority of Assessment Lien Recording of the Declaration constitutes Record notice and perfection of a lien for assessments. A lien for assessments, including interest, costs, and attorneys' fees, as provided for herein, shall be prior to all other liens and encumbrances on a Unit, except for: (a) liens and encumbrances Recorded before the Declaration was Recorded, (b) a first Mortgage Recorded before the delinquency of the assessment sought to be enforced, and (c) liens for real estate taxes and other governmental charges, and is otherwise subject to NRS § 116.3116. The sale or transfer of any Unit shall not affect an assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a First Mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments which thereafter become due. Where the Beneficiary of a First Mortgage of Record or other purchaser of a Unit obtains title pursuant to a judicial or nonjudicial foreclosure or "deed in lieu thereof," the Person who obtains title and his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such Person. Such unpaid share of Common Expenses and assessments shall be deemed to become expenses collectible from all of the Units, including the Unit belonging to such Person and his successors and assigns

ARTICLE 8

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 8.1 **ARC.** The Architectural Review Committee, sometimes referred to in this Declaration as the "ARC," shall consist of three (3) committee members, provided, however, that such number may be increased or decreased from time to time by resolution of the Board. Notwithstanding the foregoing, Declarant shall have the sole right and power to appoint and/or remove all of the members to the ARC until such time as Declarant no longer owns any property in, or has any power to annex, the Annexable Area or any portion thereof, provided that Declarant, in its sole discretion, by written instrument, may at any earlier time turn over to the Board the power to appoint the members to the ARC; thereafter, the Board shall appoint all members of the ARC. A member of the ARC may be removed at any time, without cause, by the Person who appointed such member. Unless changed by resolution of the Board, the address of the ARC for all purposes, including the submission of plans for approval, shall be at the principal office of the Association as designated by the Board.

Section 8.2 **Review of Plans and Specifications.** The ARC shall consider and act upon any and all proposals, plans and specifications, drawings, and other information or other items (collectively in this Article 8, "plans and specifications") submitted, or required to be submitted, for ARC approval under this Declaration and shall perform such other duties as from time to time may be assigned to the ARC by the Board, including the inspection of construction in progress to assure conformance with plans and specifications approved by the ARC.

(a) With the exception of any such activity of Declarant, no construction, alteration, grading, addition, excavation, removal, relocation, repainting, demolition, installation, modification, decoration, redecoration or reconstruction of an Improvement, including Dwelling and landscaping, or removal of any tree, shall be commenced or maintained by any Owner, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to, and approved in writing by, the ARC. No design or construction activity of Declarant shall be subject to ARC approval. The Owner submitting such plans and specifications ("Applicant") shall obtain a written receipt therefor from an authorized agent of the ARC. Until changed by the Board, the address for submission of such plans and specifications shall be the principal office of the Association. The ARC shall approve plans and specifications submitted for its approval only if it deems that: (1) the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole; (2) the appearance of any structure affected thereby will be in harmony with other structures in the vicinity; (3) the construction will not detract from the beauty, wholesomeness and attractiveness of the Common Elements or the enjoyment thereof by the Members; (4) the construction will not unreasonably interfere with existing views from other Units, and (5) the upkeep and maintenance will not become a burden on the Association.

(b) The ARC may condition its review and/or approval of plans and specifications for any Improvement upon such changes therein as the ARC may deem appropriate or necessary, which may, but need not necessarily include any one or more or all of the following conditions: (1) agreement by the Applicant to furnish to the ARC a cash deposit, bond or other security acceptable to the ARC in an amount reasonably sufficient to (i) assure the completion of such Improvement or the availability of funds adequate to remedy any damage, or any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (ii) to protect the Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Common Elements as a result of such work; (2) such changes therein as the ARC deems appropriate; (3) agreement by the Applicant to grant appropriate easements to the Association for the maintenance of the Improvement; (4) agreement of the Applicant to reimburse the Association for the costs of maintenance; (5) agreement of the Applicant to replace such removed trees as may be designated by the ARC; (6) agreement of the applicant to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvements in detail as actually constructed upon completion of the Improvement; (7) payment or reimbursement, by Applicant, of the ARC and/or its members for their actual costs incurred in considering the plans and specifications; (8) payment, by Applicant, of the professional fees of a licensed architect or engineer

to review the plans and specifications on behalf of the ARC, if such review is deemed by the ARC to be necessary or desirable; and/or (9) such other conditions as the ARC may reasonably determine to be prudent and in the best interests of the Association. The ARC may further require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans and specifications, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The ARC may provide that the amount of such fee shall be uniform, or that the fee may be determined in any other reasonable manner, such as based upon the reasonable cost of the construction, alteration or addition contemplated or the cost of architectural or other professional fees incurred by the ARC in reviewing plans and specifications.

(c) The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of any required plans and specifications, the ARC may postpone review of any plans and specifications submitted for approval. Any application submitted pursuant to this Section 8.2 shall be deemed approved, unless written disapproval or a request for additional information or materials by the ARC shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the ARC of all required materials. The ARC will condition any approval required in this Article 8 upon, among other things, compliance with Declarant's (a) design criteria as may be established from time to time, (b) Improvement standards and (c) development standards, as amended from time to time, all of which are incorporated herein by this reference.

(d) Any Owner aggrieved by a decision of the ARC may appeal the decision to the ARC in accordance with procedures to be established by the ARC. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would in the ARC's opinion warrant reconsideration. If the ARC fails to allow an appeal or if the ARC, after appeal, again rules in a manner aggrieving the appellant, the decision of the ARC is final. The foregoing notwithstanding, after such time as the Board appoints all members of the ARC, all appeals from ARC decisions shall be made to the Board, which shall consider and decide such appeals.

(e) Notwithstanding the foregoing or any other provision herein, the ARC's jurisdiction shall normally extend only to the external appearance or "aesthetics" of any Improvement, and shall not extend to structural matters, method of construction, or compliance with a building code or other applicable legal requirement. ARC approval shall be subject to all applicable requirements of applicable government authority, drainage, and other similar matters, and shall not be deemed to encompass or extend to possible impact on neighboring Lots.

Section 8.3 Meetings of the ARC. The ARC shall meet from time to time as necessary to perform its duties hereunder. The ARC may from time to time, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC, except the granting of variances pursuant to Section 8.8 below. In the absence of such designation, the vote of a majority of the ARC, or the written consent of a majority of the ARC taken without a meeting, shall constitute an act of the ARC.

Section 8.4 No Waiver of Future Approvals. The approval by the ARC of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 8.5 Compensation of Members. Subject to the provisions of Section 8.2(b) above, members of the ARC shall not receive compensation from the Association for services rendered as members of the ARC.

Section 8.6 Correction by Owner of Nonconforming Items Subject in all instances to compliance by Owner with all applicable requirements of governmental authorities, with jurisdiction, ARC inspection (which shall be limited to inspection of the visible appearance of the size, color, location and materials of work), and Owner correction of visible nonconformance therein, shall proceed as follows:

(a) The ARC or its duly appointed representative shall have the right to inspect any Improvement ("Right of Inspection") whether or not the ARC's approval has been requested or given, provided that such inspection shall be limited to the visible appearance of the size, color, location, and materials comprising such Improvement (and shall not constitute an inspection of any structural item, method of construction, or compliance with any applicable requirement of governmental authority). Such Right of Inspection shall, however, terminate sixty (60) days after receipt by the ARC of written notice from the Owner of the Unit that the work of Improvement has been completed. If, as a result of such inspection, the ARC finds that such Improvement was done without obtaining approval of the plans and specifications therefor or was not done in substantial compliance with the plans and specifications approved by the ARC, it shall, within sixty (60) days from the inspection, notify the Owner in writing of the Owner's failure to comply with this Article 8 specifying the particulars of noncompliance. If work has been performed without approval of plans and specifications therefor, the ARC may require the Owner of the Unit in which the Improvement is located, to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvement in detail as actually constructed. The ARC shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

(b) If, upon the expiration of sixty (60) days from the date of such notification, the Owner has failed to remedy such noncompliance, the ARC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance (with the visible appearance of the size, color, location, and/or materials thereof) and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a notice of noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the noncompliance, and, in addition, may peacefully remedy the noncompliance. The Owner shall reimburse the Association, upon demand, for all expenses (including reasonable attorneys' fees) incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Special Assessment against the Owner for reimbursement as provided in this Declaration. The right of the Association to remove a noncomplying Improvement or otherwise to remedy the noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or in this Declaration.

(c) If for any reason the ARC fails to notify the Owner of any noncompliance with previously submitted and approved plans and specifications within sixty (60) days after receipt of written notice of completion from the Owner, the Improvement shall be deemed to be in compliance with ARC requirements (but, of course, shall remain subject to compliance by Owner with all requirements of applicable governmental authority).

(d) All construction, alteration or other work shall be performed as promptly and as diligently as possible and shall be completed within one hundred eighty (180) days of the date on which the work commenced.

Section 8.7 Scope of Review The ARC shall review and approve, conditionally approve, or disapprove, all proposals, plans and specifications submitted to it for any proposed Improvement, alteration, or addition, solely on the basis of the considerations set forth in Section 8.2 above, and solely with regard to the visible appearance of the size, color, location, and materials thereof. The ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any proposal, plan or design from the standpoint of structural safety or conformance with building or other codes. Each Owner shall be responsible for obtaining all necessary permits and for complying with all applicable governmental (including, but not necessarily limited to County) requirements.

Section 8.8 Variances When circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations may require, the ARC may authorize limited variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions on size (including height, size, and/or floor area) or placement of structures, or similar restrictions. Such variances must be evidenced in writing, must be signed by a majority of the ARC, and shall become effective upon Recordation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of any such variance by ARC shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws, regulations and requirements affecting the use of his or her Unit, including but not limited to zoning ordinances and Lot set-back lines or requirements imposed by the County, or any municipal or other public authority with jurisdiction. The granting of a variance by the ARC shall not be deemed to be a variance or approval from the standpoint of compliance with such laws or regulations, nor from the standpoint of structural safety, and the ARC, provided it acts in good faith, shall not be liable for any damage to an Owner as a result of its granting or denying of a variance.

Section 8.9 Non-Liability for Approval of Plans The ARC's approval of proposals or plans and specifications shall not constitute a representation, warranty or guarantee, whether express or implied, that such proposals or plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such proposals or plans and specifications, neither the ARC, the members thereof, the Association, the Board, nor Declarant, assumes any liability or responsibility therefor, or for any defect in the structure constructed from such proposals or plans or specifications. Neither the ARC, any member thereof, the Association, the Board, nor Declarant, shall be liable to any Member, Owner, occupant, or other Person or entity for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any proposals, plans and specifications and drawings, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved proposals, plans and specifications and drawings.

Section 8.10 Declarant Exemption The ARC shall have no authority, power or jurisdiction over Units owned by Declarant, and the provisions of this Article 8 shall not apply to Improvements built by Declarant, or, until such time as Declarant conveys title to the Unit to a Purchaser, to Units owned by Declarant. This Article 8 shall not be amended without Declarant's written consent set forth on the amendment.

ARTICLE 9 MAINTENANCE AND REPAIR OBLIGATIONS

Section 9.1 Maintenance Obligations of Owners. It shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration requiring ARC approval, to maintain, repair, replace and restore all Improvements located on his Unit, the Unit itself, and any "Limited Common Element" (as said term is defined by NRS § 116.110355) allocated to his Unit, and the Unit itself, in a neat, sanitary and attractive condition, except for any areas expressly required to be maintained by the Association under this Declaration. If any Owner shall permit any Improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe or unsightly, or otherwise to violate this Declaration, the Board shall have the right to seek any remedies at law or in equity which the Association may have. In addition, the Board shall have the right, but not the duty, after Notice and Hearing as provided in the Bylaws, to enter upon such Unit to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Special Assessment, enforceable as set forth in this Declaration.

The foregoing notwithstanding: (a) the Association shall have an easement for the maintenance, repair and replacement of any easement on a portion of a Lot which constitutes a Common Element and any Improvements constructed by Declarant or the Association thereon, and (b) each Owner (other than

Declarant, by acceptance of a deed to a Unit, whether or not so expressed in such deed, is deemed to covenant and agree not to place or install any Improvement on a Common Element, and not to hinder, obstruct, modify, change, add to or remove, partition, or seek partition of, any Common Element or any Improvement installed by Declarant or the Association thereon.

Section 9.2 Maintenance Obligations of Association. No Improvement, excavation or work which in any way alters the Common Elements shall be made or done by any Person other than the Association or its authorized agents after the completion of the construction or installation of the Improvements thereto by Declarant. Subject to the provisions of Sections 9.3 and 11.1(b) hereof, upon the Assessment Commencement Date, the Association shall provide for the maintenance, repair, and replacement of the Common Elements. The Common Elements shall be maintained in a safe, sanitary and attractive condition, and in good order and repair. The Association shall also provide for any utilities serving the Common Elements. The Association shall also ensure that any landscaping on the Common Elements is regularly and periodically maintained in good order and in a neat and attractive condition. The Association shall not be responsible for the maintenance of any portions of the Common Elements which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate.

Section 9.3 Damage by Owners to Common Elements. The cost of any maintenance, repairs or replacements by the Association within the Common Elements arising out of or caused by the willful or negligent act of an Owner, his tenants, or their respective Families, guests or invitees shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner as provided in Section 11.1(b) hereof.

Section 9.4 Damage and Destruction Affecting Dwellings and Duty to Rebuild. If all or any portion of any Unit or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Unit to rebuild, repair or reconstruct the same in a manner which will restore the Unit substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the ARC. The Owner of any damaged Unit shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause reconstruction to commence within three (3) months after the damage occurs and to be completed within six (6) months after the damage occurs, unless prevented by causes beyond his reasonable control. A transferee of title to the Unit which is damaged shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner at the time of the damage still held title to the Unit. However, in no event shall such transferee of title be required to commence or complete such reconstruction in less than ninety (90) days from the date such transferee acquired title to the Unit.

Section 9.5 Party Walls. Each wall which is built as a part of the original construction by Declarant and placed approximately on the property line between Units shall constitute a party wall. In the event that any party wall is not constructed exactly on the property line, the Owners affected shall accept the party wall as the property boundary. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use such wall in proportion to such use (e.g., if the party wall is the boundary between two Owners, then each such Owner shall bear half of such cost). If a party wall is destroyed or damaged by fire or other casualty, the party wall shall be promptly restored, to its condition and appearance before such damage or destruction, by the Owner(s) whose Units have or had use of the wall. Subject to the foregoing, any Owner whose Unit has or had use of the wall may restore the wall to the way it existed before such destruction or damage, and any other Owner whose Unit makes use of the wall shall contribute to the cost of restoration thereof in proportion to such use, subject to the right of any such Owner to call for a larger contribution from another Owner pursuant to any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section 9.5, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements, or otherwise damaged or destroyed, shall bear the entire cost of furnishing the necessary protection repair or replacement. The right of any Owner to contribution from any other Owner under this Section 9.5 shall be appurtenant to the land and shall pass to such Owner's successors in title. The foregoing, and any other provision in this Declaration notwithstanding, no Owner shall

alter, add to, or remove any party wall constructed by Declarant, or portion of such wall, without the prior written consent of the other Owner(s) who share such party wall, which consent shall not be unreasonably withheld, and the prior written approval of the ARC. In the event of any dispute arising concerning a party wall under the provisions of this Section 9.5, each party shall choose one arbitrator, such arbitrator shall choose one additional arbitrator, and the decision of a majority of such panel of arbitrators shall be binding upon the Owners which are a party to the arbitration.

Section 9.6 Penmeter Walls. Portions of Penmeter Walls, constructed or to be constructed by Declarant, abutting or located on individual Lots, are Improvements all portions of which are located, or conclusively deemed to be located, within the boundaries of individual Units. By acceptance of a deed to his Unit, each Owner on whose Unit a portion of the penmeter wall is located, hereby covenants, at the Owner's sole expense, with regard to the portion of the Penmeter Wall ("Unit Wall") located or deemed located on his Unit to maintain at all times in effect thereon property and casualty insurance, on a current replacement cost; to maintain and keep the Unit Wall at all times in good repair; and, if and when reasonably necessary, to replace the Unit Wall to its condition and appearance as originally constructed by Declarant. No changes or alterations (including, without limitation, temporary alterations, such as removal for construction of a swimming pool or other Improvement) shall be made to any penmeter wall, or any portion thereof, without the prior written approval of the ARC (and any request therefor shall be subject to the provisions of Article 8 above, including, but not necessarily limited to, any conditions imposed by the ARC pursuant to Section 8.2(b) above). The foregoing and any other provision herein notwithstanding, under no circumstances shall any wall, or portion thereof, originally constructed by Declarant, be changed, altered or removed by any Owner (or agent or contractor thereof) if such wall, or portion thereof, is shown on any improvement plan as a flood control wall, or any other wall, or if such change, alteration or removal in the sole judgment (without any obligation to make such judgment) of the ARC would adversely affect surface water, drainage, or other flood control considerations or requirements. If any Owner shall fail to insure, or to maintain, repair or replace his Unit Wall within sixty (60) days when reasonably necessary, in accordance with this Section 9.6, the Association shall be entitled (but not obligated) to insure, or to maintain, repair or replace such Unit Wall, and to assess the full cost thereof against the Owner as a Special Assessment, which may be enforced as provided for in this Declaration. The foregoing notwithstanding, the Association, at its sole expense, shall be responsible for removing or painting over any graffiti from or on Exterior Walls.

Section 9.7 Installed Landscaping

(a) Declarant shall have the option, in its sole and absolute discretion, to install landscaping on the front yards and other portions of Lots ("Declarant Installed Landscaping"). Subject to the foregoing and to Section 9.9 below, and subject further to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have, following the close of escrow on his Lot: (a) sixty (60) days in which to complete front yard landscaping (provided that front yard landscaping shall be completed on any Custom Lot within sixty (60) days after issuance of an occupancy permit for the Dwelling thereon), and (b) six (6) months within which to commence and thereafter diligently prosecute and complete installation of all other landscaping on the Lot (all collectively, "Homeowner Installed Landscaping"). Declarant Installed Landscaping and Homeowner Installed Landscaping shall collectively be referred to herein as "Installed Landscaping."

(b) Subject to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have an aggregate period, following the Close of Escrow on his or her Lot, of (i) not more than six (6) months (with regard to front yard landscaping other than Declarant Installed Landscaping), and one (1) year (with regard to rear yard landscaping), in which to apply for and obtain approval of plans for landscaping and to commence and complete, in accordance with such approved plans, installation of such landscaping on the Lot ("Homeowner Installed Landscaping"). Each Owner shall be responsible, at his sole expense, for (1) maintenance, repair, replacement, and watering of all landscaping on his Unit (whether initially installed by Declarant or an Owner) in a neat and attractive condition; and (2) maintenance, repair, and/or replacement of any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping, subject to subsections (c) through (f), below.

(c) Each Owner covenants to pay promptly when due all water bills for his or her Unit, and (subject to bona-fide force majeure events) to not initiate or continue any act or omission which would have the effect of water being shut off to the Unit. In the event that all or any portion of landscaping and/or related systems is or are damaged because of any Owner's act or omission, then such Owner shall be solely liable for the costs of repairing such damage, and any and all costs reasonably related thereto, and the Association may, in its discretion, perform or cause to be performed such repair, and to assess all related costs against such Owner as a Special Assessment, and the Association, and its employees, agents and contractors, shall have an easement over Lots to perform such function.

(d) In the event that any plants (including, but not necessarily limited to, trees, shrubs, bushes, lawn, flowers, and ground cover) on a Unit require replacement, then the cost of such replacement, and costs reasonably related thereto, shall be the responsibility of the Owner of the Unit.

(e) To help prevent and/or control water damage to foundations and/or walls, each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not cause or permit irrigation water or sprinkler water on his Unit to seep or flow onto, or to strike upon, any foundation, slab, side or other portion of Dwelling, wall (including, but not necessarily limited to, party wall and/or Perimeter Wall), and/or any other Improvement. Without limiting the generality of the foregoing or any other provision in this Declaration, each Owner shall at all times ensure that: (1) there are no unapproved grade changes (including, but not necessarily limited to, mounding) within three (3) feet of any such foundation or wall located on or immediately adjacent to the Owner's Unit; and (2) only non-irrigated desert landscaping is located on the Owner's Unit within three feet of any such foundation, slab, side or other portion of Dwelling, wall (including, but not necessarily limited to, party wall and/or Perimeter Wall).

(f) Absent prior written approval of the ARC, in its sole discretion, no Owner may add to, delete, modify, or change, any landscaping or related system.

Section 9.8 Maintenance of Security Lighting. Each Owner shall maintain in good and operating condition the exterior security landscape lighting (if any) installed on the exterior and/or front yard or rear yard area of the Dwelling. Such maintenance shall include, but not be limited to, the replacement of light bulbs and photoelectric cells, the provision of electrical power to such lights, and timely payment of electrical service, as applicable. Absent prior written approval of the ARC, in its sole discretion, no Owner may delete, modify, or change any photoelectric cell as initially installed by Declarant, or any lighting activated thereby (including, without limitation, disconnecting lighting from such photoelectric cell and/or connecting such lighting to a timer device). If any Owner shall fail to so maintain such exterior lighting, or permit such lighting to fall into disrepair, or delete or modify such lighting without prior approval of the ARC, the Association shall have the right to correct such condition. If any such condition is corrected by the Association, the Association shall be fully reimbursed by the Lot Owner for all costs incurred.

Section 9.9 Modification of Improvements. Maintenance and repair of Common Elements shall be the responsibility of the Association, and the costs of such maintenance and repair shall be Common Expenses; provided that, in the event that any Improvement located on a Common Element is damaged because of any Owner's act or omission, such Owner shall be solely liable for the costs of repairing such damage and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration. Each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not: add to, remove, delete, modify, change, obstruct, or landscape, all or any portion of the Common Elements, or Site Visibility Restriction Area, or Perimeter Wall, and/or any other wall or fence constructed by Declarant on such Owner's Lot, without prior written approval of the ARC, in its sole discretion.

ARTICLE 10

USE RESTRICTIONS

Subject to the rights and exemptions of Declarant as set forth in this Declaration, and subject further to the fundamental "good neighbor" policy underlying the Community and this Declaration, all real property within the Properties shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth in this Declaration. The strict application of the limitations and restrictions set forth in this Article 10 may be modified or waived in whole or in part by the Board in specific circumstances where such strict application would be unduly harsh, provided that any such waiver or modification shall not be valid unless in writing and executed by the Board. Any other provision herein notwithstanding, neither Declarant, the Association, the Board, nor their respective directors, officers, members, agents or employees shall be liable to any Owner or to any other Person as a result of the failure to enforce any use restriction or for the granting or withholding of a waiver or modification of a use restriction as provided herein.

Section 10.1 Single Family Residence. Each Unit shall be improved and used solely as a residence for a single Family and for no other purpose. No part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, primary storage, vending, "reverse engineering" destructive testing, or any other nonresidential purposes, provided that Declarant may exercise the reserved rights described in Article 14 hereof. The provisions of this Section 10.1 shall not preclude a professional or administrative occupation, or an occupation of child care, provided that the number of non-Family children, when added to the number of Family children being cared for at the Unit, shall not exceed a maximum aggregate of five (5) children, and provided further that there is no nuisance under Section 10.5, below, and no external evidence of any such occupation, for so long as such occupation is conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Dwelling as a residential home. This provision shall not preclude any Owner from renting or leasing his entire Unit by means of a written lease or rental agreement subject to this Declaration and any Rules and Regulations; provided that no such lease shall be for a term of less than six (6) months.

Section 10.2 No Further Subdivision. Except as may be expressly authorized by Declarant, no Unit or all or any portion of the Common Elements may be further subdivided (including, without limitation, any division into time-share estates or time-share uses) without the prior written approval of the Board; provided, however, that this provision shall not be construed to limit the right of an Owner: (1) to rent or lease his entire Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Unit is not leased for transient or hotel purposes; (2) to sell his Unit; or (3) to transfer or sell any Unit to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be made expressly subject to the Governing Documents. Any failure by the lessee of such Unit to comply with the terms of the Governing Documents shall constitute a default under the lease or rental agreement. No two or more Units in the Properties may be combined in any manner whether to create a larger Unit or otherwise, and no Owner may permanently remove any block wall or other intervening partition between Units.

Section 10.3 Insurance Rates. Without the prior written approval of the Board, nothing shall be done or kept in the Properties which will increase the rate of insurance on any Unit or other portion of the Properties, nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any Unit or other portion of the Properties or which would be a violation of any law. Any other provision herein notwithstanding, the Board shall have no power whatsoever to waive or modify this restriction.

Section 10.4 Animal Restrictions. No animals, reptiles, poultry, fish, or fowl or insects of any kind ("animals") shall be raised, bred or kept on any Unit, except that a reasonable number of dogs, cats, birds or fish may be kept, provided that they are not kept, bred or maintained for any commercial purpose, nor in unreasonable quantities nor in violation of any applicable City or County ordinance or any other provision of the Declaration, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The

Association, acting through the Board, shall have the right to prohibit maintenance of any animal in any Unit which constitutes, in the opinion of the Board, a nuisance to other Owners or Residents. Subject to the foregoing, animals belonging to Owners, Residents, or their respective Families, licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed yard or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, any Owner and/or Resident shall be liable to each and all other Owners, Residents, and their respective Families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or Resident or respective Family, tenants or guests; and it shall be the absolute duty and responsibility of each such Owner and Resident to clean up after such animals in the Properties or streets abutting the Properties. Without limiting the foregoing: (a) no "dog run" or similar structure pertaining to animals shall be placed or permitted in any Lot, unless approved by the Board in advance and in writing (and, in any event, any such "dog run" or similar Improvement shall not exceed the height of any party wall on the Lot, and shall otherwise not be permitted, or shall be immediately removed, if it constitutes a nuisance in the reasonable judgment of the Board), and (b) all Owners shall comply fully in all respects with all applicable County and City ordinances and rules regulating and/or pertaining to animals and the maintenance thereof on the Owner's Unit and/or any other portion of the Properties.

Section 10.5 Nuisances. No rubbish, clippings, refuse, scrap lumber or metal; no grass, shrub or tree clippings, and no plant waste, compost, bulk materials or other debris of any kind; (all, collectively, hereafter, "rubbish and debris") shall be placed or permitted to accumulate anywhere within the Properties, and no odor shall be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, or offensive. Without limiting the foregoing, all rubbish and debris shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purposes. Such containers shall be exposed to the view of the neighboring Units only when set out for a reasonable period of time (not to exceed twelve (12) hours before or after scheduled trash collection hours). No noxious or offensive activities (including, but not limited to the repair of motor vehicles) shall be carried out on the Properties. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Unit so as to be offensive or detrimental to any other Unit or to occupants thereof, or to the Common Elements. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other similar or unusually loud sound devices (other than devices used exclusively for safety, security, or fire protection purposes), noisy or smokey vehicles, large power equipment or large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), inoperable vehicle, unlicensed off-road motor vehicle, or other item which may unreasonably disturb other Owners or Residents or any equipment or item which may unreasonably interfere with television or radio reception within any Unit, shall be located, used or placed on any portion of the Properties without the prior written approval of the Board. No unusually loud motorcycles, dirt bikes or similar mechanized vehicles may be operated on any portion of the Common Elements without the prior written approval of the Board, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security of a Dwelling and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms. The Board shall have the right to reasonably determine if any noise, odor, activity, or circumstance, constitutes a nuisance. Each Owner and Resident shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Unit, including Dwelling. Each Owner and Resident shall be accountable to the Association and other Owners and Residents for the conduct and behavior of children and other Family members or persons residing in or visiting his Unit; and any damage to the Common Elements, personal property of the Association or property of another Owner or Resident, caused by such children or other Family members, shall be repaired at the sole expense of the Owner of the Unit where such children or other Family members or persons are residing or visiting.

Section 10.6 Exterior Maintenance and Repair, Owner's Obligations. No Improvement anywhere within the Properties shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. If any Owner or Resident shall permit any Improvement, which is the responsibility of such Owner or Resident to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after consulting with the ARC, and after affording such Owner or Resident reasonable notice, shall have the right but not the obligation to correct such condition, and to enter

upon such Owner's Unit, for the purpose of so doing, and such Owner and/or Resident shall promptly reimburse the Association for the cost thereof. Such cost may be assessed as a Special Assessment pursuant to Section 6.11 above, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment for all purposes of Article 7, above. The Owner and/or Resident of the offending Unit shall be personally liable for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner and/or Resident shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

Section 10.7 Drainage By acceptance of a deed to a Unit, each Owner agrees for himself and his assigns that he will not in any way interfere with or alter, or permit any Resident to interfere with or alter, the established drainage pattern over any Unit, so as to affect said Unit, any other Unit, or the Common Elements, unless adequate alternative provision is made for proper drainage and approved in advance and in writing by the ARC, and any request therefor shall be subject to Article 8 above, including, but not necessarily limited to, any condition imposed by the ARC pursuant to Section 8.2(b) above. Without limiting the generality of the foregoing, any request by an Owner for ARC approval of alteration of established drainage pattern shall be subject to payment, by the Owner, of the professional fees of a licensed engineer to review the plans and specifications on behalf of the ARC, pursuant to Section 8.2(b)(8) above, which shall be required in all such cases, and further shall be subject to the Owner obtaining all necessary governmental approvals pursuant to Section 8.7, above. For the purpose hereof, "established drainage pattern" is defined as the drainage which exists at the time that such Unit is conveyed to a Purchaser from Declarant, or later grading changes which are shown on plans and specifications approved by the ARC.

Section 10.8 Water Supply and Sewer Systems. No individual water supply system, or cesspool, septic tank, or other sewage disposal system, or exterior water softener system, shall be permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water or sewer district serving the Properties, County health department, and any applicable utility and governmental authorities having jurisdiction, and has been approved in advance and in writing by the ARC.

Section 10.9 No Hazardous Activities. No activities shall be conducted, nor shall any Improvements be constructed, anywhere in the Properties which are or might be unsafe or hazardous to any Person, Unit, Common Elements. Without limiting the foregoing, (a) no firearm shall be discharged within the Properties, and (b) there shall be no exterior or open fires whatsoever, except within a barbecue and contained within a receptacle commercially designed therefor, while attended and in use for cooking purposes, or except within a fireplace designed to prevent the dispersal of burning embers, so that no fire hazard is created, or except as specifically authorized in writing by the Board (all as subject to applicable ordinances and fire regulations).

Section 10.10 No Unsightly Articles. No unsightly article, facility, equipment, object, or condition (including, but not limited to, clotheslines, and garden and maintenance equipment, or inoperable vehicle) shall be permitted to remain on any Unit so as to be visible from any street, or from any other Unit, Common Elements, or neighboring property. Without limiting the foregoing or any other provision herein, all refuse, garbage and trash shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purpose. Such containers shall be exposed to view of the public, or neighboring Units, only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours).

Section 10.11 No Temporary Structures. Unless required by Declarant during the initial construction of Dwellings and other Improvements, or unless approved in writing by the Board in connection with the construction of authorized Improvements, no outbuilding, tent, shack, shed or other temporary or portable structure or Improvement of any kind shall be placed upon any portion of the Properties. No garage, carport, trailer, camper, motor home, recreational vehicle, or other vehicle, or any Improvement other than a Dwelling, shall be used as a residence in the Properties, either temporarily or permanently.

Section 10.12 No Drilling. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted upon,

in, or below any Unit or the Common Elements, nor shall oil, water or other wells, tanks, tunnels or mineral excavations or shafts be permitted upon or below the surface of any portion of the Properties. No derrick or other structure designed for use in boring for water, oil, geothermal heat, or natural gas, or other mineral or depleting asset shall be erected.

Section 10.13 Alterations There shall be no excavation, construction, alteration or erection of any projection which in any way alters the exterior appearance of any Improvement from any street, or from any other portion of the Properties (other than minor repairs or rebuilding pursuant to Section 10.6 above) without the prior approval of the ARC pursuant to Article 8 hereof. There shall be no violation of the setback, side yard or other requirements of local governmental authorities, notwithstanding any approval of the ARC. This Section 10.13 shall not be deemed to prohibit minor repairs or rebuilding which may be necessary for the purpose of maintaining or restoring a Unit to its original condition.

Section 10.14 Signs Subject to the reserved rights of Declarant contained in Article 14 hereof, no flag, flag pole, balloon, beacon, banner, sign, poster, display, billboard or other advertising device or other display of any kind shall be installed or displayed to public view on any portion of the Properties, or on any public street abutting the Properties, without the prior written approval of the ARC, except: (a) one (1) sign for each Unit, not larger than eighteen (18) inches by thirty (30) inches, advertising the Unit for sale or rent; or (b) traffic and other signs installed by Declarant as part of the original construction of the Properties; or (c) signs regulated to the maximum extent permitted by applicable law. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the regulations of all applicable governmental ordinances.

Section 10.15 Improvements

(a) Unless otherwise designated in the Declaration (or unless an ancillary guest house or "casita" is originally constructed on a Lot by Declarant, in its sole and absolute discretion, without obligation to do so, subject to the proviso that any such "casita" shall be subject to all applicable County ordinances, shall be ancillary and appurtenant to a Unit, and shall not separately comprise another Unit), no Lot shall be improved except with one (1) Dwelling designated to accommodate no more than a single Family and its servants and occasional guests, plus a garage, fencing and such other Improvements as are necessary or customarily incident to a single-Family Dwelling, provided that one additional small permanent building (e.g., a small "pool house" or "hobby house") may (but need not necessarily) be authorized on a Lot by the ARC, subject to the following: (1) full compliance with the requirements of Article 8, above; (2) the ARC, in its sole discretion, must determine that the Lot is large enough and otherwise suitable to accommodate such proposed Improvement; (3) such Improvement in all regards must comply with the Governing Documents, and all applicable governmental ordinances and laws; and (4) such Improvement may not and shall not be used for any commercial purpose whatsoever, pursuant to Section 10.1 above. No part of the construction on any Lot shall exceed the height limitations set forth in the applicable provisions of the Governing Documents, or any applicable governmental regulation(s). No projections of any type shall be placed or permitted to remain above the roof of any building within the Properties, except one or more chimneys or vent stacks. No permanent or attached basketball backboard, jungle gym, play equipment, or other sports apparatus shall be constructed, erected, or maintained on the Properties without the prior written approval of the Board. A portable basketball hoop or other portable sports apparatus shall be permitted on a Lot, provided that such item: (i) is not placed in any street, (ii) is used only daylight hours, (iii) during non-daylight hours, is stored on the Lot so as to be out of sight of any street, and (iv) does not otherwise constitute a nuisance in the reasonable judgment of the Board. Apart from any installation by Declarant as part of its original construction, no patio cover, antennae, wiring, air conditioning fixture, water softeners or other devices shall be installed on the exterior of a Dwelling or allowed to protrude through the walls or roof of the Dwelling (with the exception of items installed by Declarant during the original construction of the Dwelling), unless the prior written approval of the ARC is obtained, subject to Section 10.16, below.

(b) All utility and storage areas and all laundry rooms, including all areas in which clothing or other laundry is hung to dry, must be completely covered and concealed from view from other areas of the Properties and neighboring properties.

(c) No fence or wall shall be erected or altered without prior written approval of the ARC. All alterations or modifications of existing fences or walls of any kind shall require the prior written approval of the ARC, in its discretion (and the ARC may, but need not necessarily, require written consent of the Owners of all adjacent Lots as a prerequisite thereto)

(d) Garages shall be used only for their ordinary and normal purposes. Unless constructed or installed by Declarant as part of its original construction, no Owner or Resident may convert the garage on his or her Unit into living space or otherwise use or modify a garage so as to preclude regular and normal parking of vehicles therein. The foregoing notwithstanding, Declarant may convert a garage located in any Unit owned by Declarant into a sales office or related purposes.

Section 10.16 Antennas and Satellite Dishes. Expressly subject to the Declarant exemption set forth in Section 10.23, below, no exterior radio antenna or aerial, television antenna or aerial, microwave antenna, aerial or satellite dish, "C.B." antenna or other antenna or aerial of any type, which is visible from any street or from anywhere in the Properties, shall be erected or maintained anywhere in the Properties. Notwithstanding the foregoing, "Permitted Devices" (defined as antennas or satellite dishes: (i) which are one meter or less in diameter and designed to receive direct broadcast satellite service; or (ii) which are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multi-point distribution services) shall be permitted, provided that such Permitted Device is:

(a) located in the attic, crawl space, garage, or other interior space of the Dwelling, or within another approved structure on the Unit, so as not to be visible from outside the Dwelling or other structure, or, if such location is not reasonably practicable, then,

(b) located in the rear yard of the Unit (i.e., the area between the plane formed by the front facade of the Dwelling and the rear lot line) and set back from all lot lines at least such distance as may be established in the Rules and Regulations and/or by the Board, or, if such location is not reasonably practicable, then,

(c) attached to or mounted on a deck or patio and extending no higher than the eaves of that portion of the roof of the Dwelling directly in front of such antenna; or, if such location is not reasonably practicable, then,

(d) attached to or mounted on the rear wall of the Dwelling so as to extend no higher than the eaves of the Dwelling at a point directly above the position where attached or mounted to the wall; provided that,

(e) if an Owner reasonably determines that a Permitted Device cannot be located in compliance with the foregoing portions of this Section 10.16 without precluding reception of an acceptable quality signal, then the Owner may install such Permitted Device in the least conspicuous alternative location within the Unit where an acceptable quality signal can be obtained; provided that,

(f) Permitted Devices shall be reasonably screened from view from the street or any other portion of the Properties, and shall be subject to Rules and Regulations adopted by the Board, establishing a preferred hierarchy of alternative locations, so long as the same do not unreasonably increase the cost of installation, or use of the Permitted Device.

Declarant or the Association may, but are in no way obligated to, provide a master antenna or cable television antenna for use of all or some Owners. Declarant may grant easements for installation, maintenance, repair and/or replacement of any such master or cable television service.

Section 10.17 Landscaping. Subject to the provisions of Articles 8 and 9 (including, but not limited to, Section 9.7 above), each Owner shall install and shall thereafter maintain the landscaping on his Unit in a neat and attractive condition. No plants or seeds infected with insects or plant diseases shall be brought

upon, grown or maintained upon any part of the Properties. The Board may adopt Rules and Regulations to regulate landscaping permitted and required in the Properties. If an Owner fails to install and maintain landscaping in conformance with the Governing Documents, or allows his landscaping to deteriorate to a dangerous, unsafe, unsightly, or unattractive condition, the Board shall have the right to either (a) after thirty (30) days' written notice, seek any remedies at law or in equity which it may have; or (b) after reasonable notice (unless there exists a bona-fide unsafe or dangerous condition, in which case, the right shall be immediate, and no notice shall be required), to correct such condition and to enter upon the exterior portion of such Owner's Unit for the purpose of so doing, and such Owner shall promptly reimburse the Association for the cost thereof, as a Special Assessment enforceable in the manner set forth in Article 7, above. Each Owner shall be responsible, at his sole expense, for maintenance, repair, replacement, and watering of any and all landscaping on the Lot, as well as any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping.

Section 10.18 Prohibited Plant Types. Without limiting the generality of any other provision herein, the following plant types are hereby specifically declared to be nuisances, and shall not be permitted anywhere within the Properties: (a) *Olea europaea* ("olive") (other than "fruitless olive," which shall be permitted); (b) *Morus alba* or *nigra* ("mulberry"); or (c) *Cynodon dactylon* ("bermuda grass"); (d) *Amaranthus palmeri* ("careless weed"); (e) *Salsola kali* ("Russian thistle"), and/or (f) *Franseria dumosa* ("desert ragweed"). Declarant may, from time to time and at any time, add or delete any plant species to the foregoing list of prohibited plants. If Declarant adds a plant species to the foregoing list of prohibited plants, each Owner shall refrain from planting or placing such plant species on the Properties, provided, however, that Owners shall not be obligated to unearth landscaping existing at such time to remove such newly prohibited plant species from the Properties.

Section 10.19 Parking and Vehicular Restrictions. No Person shall park, store or keep anywhere within the Properties, any inoperable or similar vehicle, or any large commercial-type vehicle, including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck, bus, aircraft, or any vehicular equipment, mobile or otherwise, except wholly within the Owner's garage as originally constructed by Declarant ("Garage") and only with the Garage door closed. Any boat, trailer, camper, motor home, and similar recreational vehicle (collectively and individually, "RV"), shall be parked only (i) wholly within a Garage, with the Garage door completely closed, or (ii) wholly between the building lines (i.e., wholly behind the front building lines and wholly in front of the rear building lines) of the homes on both immediately adjacent Lots (or, if there is only one immediately adjacent Lot, then the building lines of the home on such adjacent Lot, provided that the Board shall have the power and authority, in its sole discretion, to entirely disapprove and/or prohibit parking of an RV on any Lot with only one other Lot immediately adjacent thereto) if such parking reasonably may be deemed to constitute a nuisance, and appropriately screened from view from all streets as determined by the Board in its reasonable discretion, and no variance from this requirement shall be authorized or permitted. The foregoing shall not be deemed to prohibit a pickup or camper truck or similar vehicle up to and including one (1) ton when used for daily transportation of the Owner or Resident, or the Family respectively thereof, which vehicle shall be permitted, subject to the Garage, nuisance, and parking provisions herein. No Person shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Properties or on any street abutting the Properties. However, repair and/or restoration of one (1) such item only shall be permitted within the Garage so long as the Garage door remains closed, provided, however, that such activity may be prohibited entirely by the Board if the Board determines in its reasonable discretion that such activity constitutes a nuisance. Vehicles owned, operated or within the control of any Owner or of a resident of such Owner's Dwelling shall be parked in the Garage to the extent of the space available therein. All garages shall be kept neat and free of stored materials so as to permit the parking of at least one (1) standard sized American sedan automobile therein at all times. Garage doors shall not remain open for prolonged periods of time, and must be closed when not reasonably required for immediate ingress and egress. The Association, through the Board, is hereby empowered to establish and enforce any additional parking limitations, rules and/or regulations (collectively, "parking regulations") which it may deem necessary, including, but not limited to, the levying of fines for violation of parking regulations, and/or removal of any violating vehicle at the expense of the owner of such vehicle. No parking of any vehicle shall be permitted along any curb or otherwise on any street within the Properties, except only for ordinary and reasonable guest parking, subject to parking regulations established by the Board. Notwithstanding the

foregoing, these restrictions shall not be interpreted in such a manner as to permit any parking or other activity which would be contrary to any County ordinance, or which is determined by the Board, in its reasonable discretion, to constitute a bona-fide nuisance.

Section 10.20 Sight Visibility Restriction Areas. The maximum height of any and all sight restricting improvements (including, but not necessarily limited to, landscaping), on all Sight Visibility Restriction Areas, shall be restricted to a maximum height not to exceed twenty-four (24) inches, or such other height set forth in the Plat ("Maximum Permitted Height"). In the event that any Improvement located on any Sight Visibility Restriction Area on a Unit exceeds the Maximum Permitted Height, the Association shall have the power and easement to enter upon such Unit and to bring such Improvement into compliance, and the Owner shall be solely liable for the costs thereof and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration.

Section 10.21 Prohibited Direct Access. Any other provision herein notwithstanding, there shall be no vehicular access from any Lot directly onto such streets as designated on the Plat, and no vehicular access from said streets directly onto any abutting Lot, all of which direct vehicular access is hereby prohibited.

Section 10.22 No Waiver. The failure of the Board to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restrictions shall remain in full force and effect. The receipt by the Board or Manager of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board or the Manager.

Section 10.23 Declarant Exemption. Units owned by Declarant, shall be exempt from the provisions of this Article 10, until such time as Declarant conveys title to the Unit to a Purchaser, and activities of Declarant reasonably related to Declarant's development, construction, and marketing efforts, shall be exempt from the provisions of this Article 10. This Article 10 may not be amended without Declarant's prior written consent.

ARTICLE 11

DAMAGE TO OR CONDEMNATION OF COMMON ELEMENTS

Section 11.1 Damage or Destruction. Damage to, or destruction or condemnation of, all or any portion of the Common Elements shall be handled in the following manner:

(a) **Repair of Damage.** Any portion of this Community, for which insurance is required by this Declaration or by any applicable provision of NRS Chapter 116, which is damaged or destroyed, must be repaired or replaced promptly by the Association unless: (i) the Community is terminated, in which case the provisions of NRS § 116.2118, 116.21183 and 116.21185 shall apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) eighty percent (80%) of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced, the proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community; (A) the proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units; and (B) the remainder of the proceeds must be distributed to all the Owners or lien holders, as their interests may appear, in proportion to the liabilities of all the Units for Common Expenses. If the Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and Record an amendment to this Declaration reflecting the reallocations.

(b) Damage by Owner To the full extent permitted by law, each Owner shall be liable to the Association for any damage to the Common Elements not fully reimbursed to the Association by insurance proceeds, provided the damage is sustained as a result of the negligence, willful misconduct, or unauthorized or improper installation or maintenance of any Improvement by said Owner or the Persons deriving their right and easement of use and enjoyment of the Common Elements from said Owner, or by his respective Family and guests, both minor and adult. The Association reserves the right, acting through the Board, after Notice and Hearing, to: (1) determine whether any claim shall be made upon the insurance maintained by the Association; and (2) levy against such Owner a Special Assessment equal to any deductible paid and the increase, if any, in the insurance premiums directly attributable to the damage caused by such Owner or the Person for whom such Owner may be responsible as described above. In the case of joint ownership of a Unit, the liability of the co-owners thereof shall be joint and several, except to any extent that the Association has previously contracted in writing with such co-owners to the contrary. After Notice and Hearing, the Association may levy a Special Assessment in the amount of the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, against any Unit owned by such Owner, and such Special Assessment may be enforced as provided herein.

Section 11.2 Condemnation If at any time, all or any portion of the Common Elements, or any interest therein, is taken for any governmental or public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Association. Any such award payable to the Association shall be deposited in the operating fund. No Member shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation. The Association shall have the exclusive right to participate in such proceedings and shall, in its name alone, represent the interests of all Members. Immediately upon having knowledge of any taking by eminent domain of Common Elements, or any portion thereof, or any threat thereof, the Board shall promptly notify all Owners and all Eligible Holders.

Section 11.3 Condemnation Involving a Unit For purposes of NRS § 116.1107(2)(a), if part of a Unit is required by eminent domain, the award shall compensate the Owner for the reduction in value of the Unit's interest in the Common Elements. The basis for such reduction shall be the extent to which the occupants of the Unit are impaired from enjoying the Common Elements. In cases where the Unit may still be used as a Dwelling, it shall be presumed that such reduction is zero (0).

ARTICLE 12 INSURANCE

Section 12.1 Casualty Insurance The Board shall cause to be obtained and maintained a master policy of fire and casualty insurance with extended coverage for loss or damage to all of the Association's insurable improvements on the Common Elements, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance, and shall obtain insurance against such other hazards and casualties as the Board deems reasonable and prudent. The Board, in its reasonable judgment, may also insure any other property whether real or personal, owned by the Association or located within the Properties, against loss or damage by fire and such other hazards as the Board may deem reasonable and prudent, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Elements shall be maintained for the benefit of the Association, the Owners, and the Eligible Holders, as their interests may appear as named insured, subject however to the loss payment requirements as set forth herein. Premiums for all insurance carried by the Association are Common Expenses included in the Annual Assessments levied by the Association.

The Association, acting through the Board, shall be the named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any policies shall be paid to the Board as trustee. The Board shall have full power to receive and receipt for the proceeds and to deal therewith as deemed necessary and appropriate. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim,

and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of insurance maintained by the Association and of all the renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Eligible Holders who have expressly requested the same in writing.

Section 12.2 Liability and Other Insurance. The Association shall have the power and duty to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it shall deem desirable (but in no event less than \$1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence), insuring the Association, Board, Directors, Officers, Declarant, and Manager, and their respective agents and employees, and the Owners and Residents of Units and their respective Families, guests and invitees, against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property maintained or required to be maintained by the Association including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such insurance shall also include coverage, to the extent reasonably available, against liability for non-owned and hired automobiles, liability for property of others, and any other liability or risk customarily covered with respect to projects similar in construction, location, and use. The Association may also obtain, through the Board, Worker's Compensation insurance (which shall be required if the Association has one or more employees) and other liability insurance as it may deem reasonable and prudent, insuring each Owner and the Association, Board, and any Manager, from liability in connection with the Common Elements, the premiums for which are a Common Expense included in the Annual Assessment levied against the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its reasonable business judgment.

Section 12.3 Fidelity Insurance. The Board shall further cause to be obtained and maintained errors and omissions insurance, blanket fidelity insurance coverage (in an amount at least equal to 100% of Association Funds from time to time handled by such Persons) and such other insurance as it deems prudent, insuring the Board, the Directors, and Officers, and any Manager against any liability for any act or omission in carrying out their respective obligations hereunder, or resulting from their membership on the Board or on any committee thereof. If reasonably feasible, the amount of such coverage shall be at least \$1,000,000.00, and said policy or policies of insurance shall also contain an extended reporting period endorsement (a tail) for a six-year period. The Association shall require that the Manager maintain fidelity insurance coverage which names the Association as an obligee, in such amount as the Board deems prudent. From and after the end of the Declarant Control Period, blanket fidelity insurance coverage which names the Association as an obligee shall be obtained by or on behalf of the Association for any Person handling funds of the Association, including but not limited to, Officers, Directors, trustees, employees, and agents of the Association, whether or not such Persons are compensated for their services, in such an amount as the Board deems prudent, provided that in no event may the aggregate amount of such bonds be less than the maximum amount of Association Funds that will be in the custody of the Association or Manager at any time while the policy is in force (but in no event less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Units, plus Reserve Funds), or such other amount as may be required by FNMA, VA or FHA from time to time, if applicable.

Section 12.4 Other Insurance Provisions. The Board shall also obtain such other insurances customarily required with respect to projects similar in construction, location, and use, or as the Board may deem reasonable and prudent from time to time, including, but not necessarily limited to, Worker's Compensation insurance (which shall be required if the Association has any employees). All premiums for insurances obtained and maintained by the Association are a Common Expense included in the Annual Assessment levied upon the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its sound business judgment. In addition, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and fidelity insurance coverage necessary to meet the requirements for similar developments, as set forth or modified from time to time by any governmental body with jurisdiction, except to the extent such coverage is not available or has been waived in writing by the applicable agency.

Section 12.5 Insurance Obligations of Owners Each Owner is required, at Close of Escrow on his Unit, at his sole expense to have obtained, and to have furnished his Mortgagee (or, in the event of a cash transaction involving no Mortgagee, then to the Board) with duplicate copies of, a homeowner's policy of fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements and fixtures originally installed by Declarant on such Owner's Unit in accordance with the original plans and specifications, or installed by the Owner on the Unit, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance. By acceptance of the deed to his Unit, each Owner agrees to maintain in full force and effect at all times, at said Owner's sole expense, such homeowner's insurance policy, and shall provide the Board with duplicate copies of such insurance policy upon the Board's request. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability, damage to person or property occurring inside his Unit or elsewhere upon the Properties. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied. Notwithstanding the foregoing, or any other provision herein, each Owner shall be solely responsible for full payment of any and all deductible amounts under such Owner's policy or policies of insurance.

Section 12.6 Waiver of Subrogation All policies of physical damage insurance maintained by the Association shall provide, if reasonably possible, for waiver of (1) any defense based on coinsurance; (2) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association; (3) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured; (4) any rights of the insurer to repair, rebuild or replace, and, in the event any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; or (5) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Unit. The Association hereby waives and releases all claims against the Board, the Owners, Declarant, and Manager, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss; provided, however, that such waiver shall not be effective as to any loss covered by a policy of insurance which would be voided or impaired thereby.

Section 12.7 Notice of Expiration Requirements If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days' prior written notice to the Board and Declarant and to each Owner and each Eligible Holder who has filed a written request with the carrier for such notice, and every other Person in interest who requests in writing such notice of the insurer. All insurance policies carried by the Association pursuant to this Article 12, to the extent reasonably available, must provide that (a) each Owner is an insured under the policy with respect to liability arising out of his interest in the Common Elements or Membership; (b) the insurer waives the right to subrogation under the policy against any Owner or member of his Family; (c) no act or omission by any Owner or member of his Family will void the policy or be a condition to recovery under the policy; and (d) if, at the time of a loss under the policy there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

ARTICLE 13 **MORTGAGEE PROTECTION CLAUSE**

In order to induce any FHA, VA, FHLMC, GNMA and FNMA and any other governmental agency or other Mortgagees to participate in the financing of the sale of Units within the Properties, the following

provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control)

(a) Each Eligible Holder, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation or the Bylaws, which default is not cured within thirty (30) days after the Association learns of such default. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Unit, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Governing Documents.

(c) Except as provided in NRS § 116.3116(2), each Beneficiary of a first Mortgage encumbering any Unit which obtains title to such Unit or by foreclosure of such Mortgage, shall take title to such Unit free and clear of any claims of unpaid assessments or charges against such Unit which accrued prior to the acquisition of title to such Unit by the Mortgagee

(d) Unless at least sixty-seven percent (67%) of first Eligible Holders (based upon one (1) vote for each first Mortgage owned) or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(i) subject to Nevada nonprofit corporation law to the contrary, by act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Elements and the Improvements thereon which are owned by the Association, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association as provided in this Declaration shall not be deemed a transfer within the meaning of this clause.

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner, or the method of allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwellings and other Improvements on the Units, the maintenance of the Exterior Walls or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(iv) fail to maintain Fire and Extended Coverage on any insurable Common Elements on a current replacement cost basis in an amount as near as possible to one hundred percent (100%) of the insurance value (based on current replacement cost);

(v) except as provided by any provision of NRS Chapter 116 applicable hereto, use hazard insurance proceeds for losses to any Common Elements property for other than the repair, replacement or reconstruction of such property; or

(vi) amend those provisions of this Declaration or the Articles of Incorporation or Bylaws which provide for rights or remedies of first Mortgagees.

(e) Eligible Holders, upon written request, shall have the right to: (1) examine the books and records of the Association during normal business hours, (2) require from the Association the submission of an annual audited financial statement (without expense to the Beneficiary, insurer, or guarantor requesting

such statement) and other financial data, (3) receive written notice of all meetings of the Members, and (4) designate in writing a representative to attend all such meetings.

(f) All Beneficiaries, insurers, and guarantors of first Mortgages, who have filed a written request for such notice with the Board, shall be given thirty (30) days' written notice prior to: (1) any abandonment or termination of the Association; (2) the effective date of any proposed, material amendment to this Declaration or the Articles or Bylaws; and (3) the effective date of any termination of any agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties. Such first Mortgagees shall be given immediate notice: (i) following any damage to the Common Elements whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000.00); and (ii) when the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Properties.

(g) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Elements property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(h) The Reserve Fund described in Article 6 above must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large extraordinary assessments.

(i) The Board shall require that any Manager, and any employee or agent thereof, maintain at all times fidelity bond coverage which names the Association as an obligee; and, at all times from and after the end of the Declarant Control Period, the Board shall secure and cause to be maintained in force at all times fidelity bond coverage which names the Association as an obligee for any Person handling funds of the Association.

(j) When professional management has been previously required by a Beneficiary, insurer, or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of at least sixty-seven percent (67%) of the voting power of the Association and of the Board respectively, and the Beneficiaries of at least fifty-one percent (51%) of the Eligible Holders.

(k) So long as VA is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties, then, pursuant to applicable VA requirement, for so long as Declarant shall control the Association Board, Declarant shall obtain prior written approval of the VA for any material proposed action which may affect the basic organization, subject to Nevada nonprofit corporation law, of the Association (i.e., merger, consolidation, or dissolution of the Association); dedication, conveyance, or mortgage of the Common Elements; or amendment of the provisions of this Declaration, the Articles of Incorporation, Bylaws, or other document which may have been previously approved by the VA; provided that no such approval shall be required in the event that the VA no longer regularly requires or issues such approvals at such time.

In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to reasonably satisfy the express applicable requirements of FHA, VA, FNMA or GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the Membership, as a class of potential Mortgage borrowers and potential sellers of their Units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Unit.

ARTICLE 14
DECLARANT'S RESERVED RIGHTS

Section 14.1 Declarant's Reserved Rights. Any other provision herein notwithstanding, pursuant to NRS § 116.2105(1)(h), Declarant reserves, in its sole discretion, the following developmental rights and other special Declarant's rights, on the terms and conditions and subject to the expiration deadlines, if any, set forth below:

(a) Right to Complete Improvements and Construction Easement. Declarant reserves, for a period terminating on the fifteenth (15th) anniversary of the Recordation of this Declaration, the right, in Declarant's sole discretion, to complete the construction of the Improvements on the Properties and an easement over the Properties for such purpose; provided, however, that if Declarant still owns any property in the Properties on such fifteenth (15th) anniversary date, then such rights and reservations shall continue for one additional successive period of ten (10) years thereafter.

(b) Exercise of Developmental Rights. Pursuant to NRS Chapter 116, Declarant reserves the right to annex all or portions of the Annexable Area to the Community, pursuant to the provisions of Article 15 hereof, for as long as Declarant owns any portion of the Annexable Area. No assurances are made by Declarant with regard to the boundaries of those portions of the Properties which may be annexed or the order in which such portions may be annexed. Declarant also reserves the right to withdraw real property from the Community.

(c) Offices, Model Homes and Promotional Signs. Declarant reserves the right to maintain signs, sales and management offices, and models in any Unit owned or leased by Declarant in the Properties, and signs anywhere on the Common Elements, for so long as Declarant owns or leases any Unit.

(d) Appointment and Removal of Directors. Declarant reserves the right to appoint and remove a majority of the Board during the Declarant Control Period, as set forth in Section 3.7 hereof.

(e) Designation of Neighborhoods and Neighborhood Common Areas. Declarant reserves the right to designate Neighborhoods and Neighborhood Common Areas, as set forth in Article 17, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(f) Supplemental Declarations. Declarant reserves the right to Record (or to cause to be subject to prior written approval of Declarant, in its sole discretion), all Supplemental Declarations from time to time, as set forth in detail in Article 18, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(g) Amendments. Declarant reserves the right to amend this Declaration from time to time, as set forth in detail in Section 19.5, below, and any other provision of this Declaration, during the time periods set forth therein.

(h) Appointment and Removal of ARC. Declarant reserves the right to appoint and remove the ARC, for the time period set forth in Section 8.1, above.

(i) Easements. Declarant has reserved certain easements, and related rights, as set forth in this Declaration.

(j) Control of Entry Gates. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities.

(k) Restriction of Traffic. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties.

(l) Marketing Names. Declarant reserves the right, for so long as Declarant owns or has any interest in any of the Annexable Area, to market and/or advertise different portions of the Properties under different marketing names.

(m) Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, including, but not limited to, Article 17 below, and, to the maximum extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all Development Rights and Special Declarant Rights as set forth or referenced therein).

Section 14.2 Exemption of Declarant. Notwithstanding anything to the contrary in this Declaration, the following shall apply:

(a) Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to complete excavation and grading and the construction of Improvements to and on any portion of the Properties, or to alter the foregoing and Declarant's construction plans and designs, or to construct such additional Improvements as Declarant deems advisable in the course of development of the Properties, for so long as any Unit owned by Declarant remains unsold.

(b) This Declaration shall in no way limit the right of Declarant to grant additional licenses, easements, reservations and rights-of-way to itself, to governmental or public authorities (including without limitation public utility companies), or to others, as from time to time may be reasonably necessary to the proper development and disposal of Units; provided, however, that if FHA or VA approval is sought by Declarant, then the FHA and/or the VA shall have the right to approve any such grants as provided herein.

(c) Prospective purchasers and Declarant shall have the right to use all and any portion of the Common Elements for access to the sales facilities of Declarant and for placement of Declarant's signs.

(d) Without limiting Section 14.1(c), above, or any other provision herein, Declarant may use any structures owned or leased by Declarant, as model home complexes or real estate sales or management offices, subject to the time limitations set forth herein, after which time, Declarant shall restore the Improvement to the condition necessary for the issuance of a final certificate of occupancy by the appropriate governmental entity. Any garages which have converted into sales offices by Declarant shall be converted back to garages at the time of sale to a Purchaser of such Unit.

(e) All or any portion of the rights of Declarant in this Declaration may be assigned by Declarant to any successor in interest, by an express and written Recorded assignment which specifies the rights of Declarant so assigned.

(f) The prior written approval (which shall not be unreasonably withheld) of Declarant, as developer of the Properties, shall be required before any amendment to the Declaration affecting Declarant's rights or interests (including, without limitation, this Article 14) can be effective.

(g) The rights and reservations of Declarant referred to herein, if not earlier terminated pursuant to the Declaration, shall terminate on the date set forth in Section 14.1(a) above.

Section 14.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article 14 operate in part to benefit the Declarant, no amendment to this Article 14, and no amendment in derogation of any other provisions of this Declaration benefitting the Declarant, may be made without the written approval

of the Declarant, and any purported amendment of Article 14, or any portion thereof, or the effect respectively thereof, without such express prior written approval, shall be void, provided that the foregoing shall not apply to amendments made by Declarant.

ARTICLE 15 ANNEXATION

Section 15.1 Annexation of Property. Declarant may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portion of the Annexable Area then owned by Declarant, by Recording an annexation amendment ("Annexation Amendment") with respect to the real property to be annexed ("Annexed Property").

Upon the recording of an Annexation Amendment covering any portion of the Annexable Area and containing the provisions set forth herein, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Property in the same manner as if the Annexed Property were originally covered in this Declaration and originally constituted a portion of the Original Property, and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the Annexed Property shall be the same as with respect to the Original Property and the rights, obligations, privileges, duties and liabilities of the Owners and occupants of Units within the Annexed Property shall be the same as those of the Owners and occupants of Units originally affected by this Declaration. By acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B" hereto), in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter (and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his successors and assigns) to unilaterally execute and Record an Annexation Amendment, annexing said real property to the Community, in the manner provided for in this Article 15.

Section 15.2 Annexation Amendment. Each Annexation Amendment shall conform to the requirements of NRS § 116.211, and shall include:

- (a) the written and acknowledged consent of Declarant;
- (b) a reference to this Declaration, which reference shall state the date of Recordation hereof and the County, book and instrument number, and any other relevant Recording data;
- (c) a statement that the provisions of this Declaration shall apply to the Annexed Property as set forth therein;
- (d) a sufficient description of the Annexed Property;
- (e) assignment of an Identifying Number to each new Unit created;
- (f) a reallocation of the allocated interests among all Units; and
- (g) a description of any Common Elements created by the annexation of the Annexed Property

Section 15.3 FHA/VA Approval. In the event that, and for so long as, the FHA or VA is insuring or guaranteeing loans (or has agreed to insure or guarantee loans) on any portion of the Properties with respect to the initial sale by Declarant to a Purchaser of any Unit, then a condition precedent to any annexation of any property other than the Annexable Area shall be written confirmation by the FHA or the VA that the annexation is in accordance with the development plan submitted to and approved by the FHA or the VA; provided,

however, that such written confirmation shall not be a condition precedent if at such time the FHA or the VA has ceased to regularly require or issue such written confirmations.

Section 15.4 Disclaimers Regarding Annexation. Portions of the Annexable Area may or may not be annexed, and if annexed, may be annexed at any time by Declarant, and no assurances are made with respect to the boundaries or sequence of annexation of such portions. Annexation of a portion of the Annexable Area shall not necessitate annexation of any other portion of the remainder of the Annexable Area. Declarant has no obligation to annex the Annexable Area, or any portion thereof.

Section 15.5 Expansion of Annexable Area. In addition to the provisions for annexation specified in Section 15.2 above, the Annexable Area may, from time to time, be expanded to include additional real property, not as yet identified. Such property may be annexed to the Annexable Area upon the Recordation of a written instrument describing such real property, executed by Declarant and any other owner of such property.

Section 15.6 Contraction of Annexable Area. So long as real property has not been annexed to the Properties subject to this Declaration, the Annexable Area may be contracted to delete such real property effective upon the Recordation of a written instrument describing such real property, executed by Declarant and all other owners, if any, of such real property, and declaring that such real property shall thereafter be deleted from the Annexable Area. Such real property may be deleted from the Annexable Area without a vote of the Association or the approval or consent of any other Person, except as provided herein.

ARTICLE 16

ADDITIONAL DISCLOSURES, DISCLAIMERS, AND RELEASES

Section 16.1 Additional Disclosures and Disclaimers of Certain Matters. Without limiting any other provision in this Declaration, by acceptance of a deed to a Unit, each Owner (for purposes of this Section 16.1, the term "Owner" shall include the Owner, and the Owner's Family, guests and tenants), and by residing within the Properties, each Resident (for purposes of this Article 16, the term "Resident" shall include each Resident, and the Resident's family and guests) shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

(a) that there are or may be major electrical power system components (high voltage transmission or distribution lines, transformers, etc.) presently and from time to time located within, adjacent to, or nearby the Properties (including, but not limited to, the Common Elements and/or the Unit), which generate certain electric and magnetic fields ("EMF") around them, and that Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to EMF;

(b) that the Unit and the other portions of the Properties are or from time to time may be located within or nearby: (1) airplane flight patterns or clear zones, and subject to significant levels of airplane noise, and (2) major roadways, and subject to significant levels of noise, dust, and other nuisance resulting from proximity to major roadways and/or vehicles. Also, each Unit is located in proximity to streets and other Dwellings in the Community, and subject to substantial levels of sound and noise. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to such airplane flight patterns or clear zones and/or roadways or vehicles or noise;

(c) that there are presently and may in the future be a water reservoir site and/or other additional water retention facilities located nearby or adjacent to, or within the Community, and the Community is located adjacent to or nearby major water and drainage channels, major washes, and a major water detention basin (all of the foregoing, collectively, "Facilities"), the ownership, use, regulation, operation, maintenance, improvement and repair of which are not within Declarant's control, and over which Declarant has no jurisdiction or authority, and, in connection therewith: (1) the Facilities may be an attractive nuisance; (2) maintenance and use of the Facilities may involve various operations and applications, including (but not necessarily limited to) noisy electric, gasoline or other power driven vehicles and/or equipment used by

Facilities maintenance and repair personnel during various times of the day, including, without limitation, early morning and/or late evening hours, and (3) the possibility of damage to Improvements and property on the Properties, particularly in the event of overflow of water or other substances from or related to the Facilities, as the result of nonfunction, malfunction, or overtaxing of the Facilities or any other reason, and (4) any or all of the foregoing may cause inconvenience and disturbance to Purchaser and other persons in or near the Unit and/or Common Elements, and possible injury to person and/or damage to property;

(d) that, additionally, there is a channel located on or over an easement through the Properties with related improvements (all of the foregoing, collectively, "Channel"), intended to help route flood waters through the Properties, it is presently contemplated that the Channel will constitute a Common Element, to be owned, maintained, repaired and/or replaced by the Association as a Common Expense; the disclosures and disclaimers set forth in the foregoing subsections (c)(1) through (4), inclusive, modified only to apply to the Channel, are incorporated herein by this reference.

(e) that the Properties are or may be located within designated flood plain areas, and the mortgage-holder(s), if any, of Purchaser (and/or subsequent Owners) will or may require flood insurance coverage for the dwelling and any other structures located on the Unit, until such time, if any, as the Properties may be removed from the designated flood plain area; and Declarant specifically disclaims any and all representations and warranties, express or implied, with regard to or pertaining to flood plains, floods, water damage, and/or flood insurance.

(f) that certain governmental officials in Clark County, Nevada, have indicated that Clark County may construct a water detention basin ("Detention Basin") generally to the northwest of the Properties; if and when the Detention Basin is constructed by Clark County and is fully operational, it is possible that the Association and/or Owners may petition to have the Channel vacated and the Properties, or portion(s) thereof, removed from designated flood plain area. Declarant makes no representation whatsoever whether the Detention Basin ever may be constructed or operational, and, if the Detention Basin is constructed and operational, what its effect may be, and whether the Channel may be vacated or the Properties removed from designated flood plain area.

(g) that the Unit and other portions of the Properties are or may be nearby major regional underground natural gas transmission pipelines. Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to gas transmission pipelines;

(h) that the Las Vegas Valley contains a number of earthquake faults, and the Unit and other portions of the Properties may be located on or nearby an identified or yet to be identified seismic fault line. Declarant specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to earthquake or seismic activities;

(i) that construction or installation of Improvements by Declarant, other Owners, or third parties, and/or installation or growth of trees or other plants, may impair or eliminate the view, if any, of or from a Unit. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to the impairment or elimination of any existing or future view;

(j) that residential subdivision and new home construction is an industry inherently subject to variations and imperfections. Purchaser acknowledges and agrees that items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including, but not limited to: reasonable wear, tear or deterioration, shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading, touch-up painting; minor flaws or corrective work; and like items) and are not constructional defects. Purchaser acknowledges that, (1) the finished construction of the Unit and the Common Elements, while within the standards of the industry in the Las Vegas Valley, Clark County, Nevada, and while in substantial compliance with the plans and specifications, will be subject to expected minor flaws; and (2) issuance of a Certificate of Occupancy by the relevant governmental authority with jurisdiction shall be deemed conclusive evidence that the relevant Improvement has been built within such industry standards;

(k) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(l) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(m) that installation and maintenance of a gated community and/or any security device shall not create any presumption or duty whatsoever of Declarant or Association (or their respective officers, directors, managers, employees, agents, and/or contractors) with regard to security or protection of person or property within or adjacent to the Properties;

(n) that gated entrances may restrict or delay entry into the Properties by law enforcement, fire protection, and/or emergency medical care personnel and vehicles; and each Owner, by acceptance of a deed to a Unit, whether or not so stated in the deed, shall be deemed to have voluntarily assumed the risk of such restricted or delayed entry.

(o) that the Unit and other portions of the Properties are located adjacent or nearby to certain undeveloped areas which may contain various species of wild creatures (including, but not limited to, coyotes and foxes), which may from time to time stray onto the Properties, and which may otherwise pose a nuisance or hazard;

(p) that the Unit and other portions of the Properties from time to time may, but need not necessarily, experience problems with scorpions, bees, ants, spiders, termites, pigeons, or other insect or pest problems (collectively, "pests"), and that Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to any pest, and each Owner must make its own independent determination regarding the existence or non-existence of any pest(s) which may be associated with the Unit or other portions of the Properties.

(q) that there is a high degree of alkalinity in soils and/or water in the Las Vegas Valley; that such alkalinity tends to produce, by natural chemical reaction, discoloration, leaching and erosion or deterioration of concrete walls and other Improvements ("alkaline effect"); that the Unit and other portions of the Properties may be subject to such alkaline effect, which may cause inconvenience, nuisance, and/or damage to property; and that the Governing Documents require Owners other than Declarant to not change the established grading and/or drainage, and to not permit any sprinkler or irrigation water to strike upon any wall or similar Improvement.

(r) that Purchaser acknowledges having received from Declarant information regarding the zoning designations and the designations in the master plan regarding land use, adopted pursuant to NRS Chapter 278, for the parcels of land adjoining the Properties to the north, south, east, and west, together with a copy of the most recent gaming enterprise district map made available for public inspection by the jurisdiction in which the Unit is located, and related disclosures. Declarant makes no further representation, and no warranty (express or implied), with regard to any matters pertaining to adjoining land or uses thereof or to gaming uses. Purchaser is hereby advised that the master plan and zoning ordinances are subject to change from time to time. If Purchaser desires additional or more current information concerning these zoning and gaming designations, Purchaser should contact the City of Las Vegas or Clark County Planning Department. Purchaser acknowledges and agrees that its decision to purchase is based solely upon Purchaser's own investigation and not upon any information provided by any sales agent;

(s) that Declarant presently plans to develop only those Lots which have already been released for construction and sale, and Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Unit. The Purchaser or Owner of a Unit may have seen proposed or contemplated residential and other developments which may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or may have been

advised of the same in discussions with sales personnel; however, notwithstanding such plot plans, sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct such future or planned developments or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. A Purchaser or Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions;

(t) that residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, construction-related traffic and traffic restrictions, and other construction-related "nuisances". Each Owner acknowledges and agrees that it is purchasing a Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accepts substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of land being developed) have been completed and sold out;

(u) that Declarant shall have the right, from time to time, in its sole discretion, to establish and/or adjust sales prices or price levels for new homes and/or Lots;

(v) that model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver the Unit in conformity with any model home, and any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded flooring, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to Purchaser unless an authorized officer of Declarant has specifically agreed in a written Addendum to the Purchase Agreement to make specific items a part of the Purchase Agreement;

(w) that the Unit and other portions of the Properties are or may be located adjacent to or nearby a school, and school bus drop off/pickup areas, and subject to levels of noise, dust, and other nuisance resulting from or related to proximity to such school and/or school bus stops;

(x) that some, but not all, Units, are large enough to accommodate parking of a recreational vehicle ("RV") on the side yard area of the Unit, subject to all restrictions set forth in the Declaration. If a Purchaser desires to purchase a Unit suitable for accommodating parking of an RV on the Unit, it is solely the Purchaser's responsibility and obligation to specifically confirm and verify with Declarant in a written addendum to the Purchase Agreement, whether the Unit being purchased may legitimately accommodate parking of an RV, subject to all use and other restrictions set forth in the Declaration;

(y) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities;

(z) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities, provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties;

(aa) that Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all special declarant's rights referenced in NRS § 116.110385);

(ab) that Declarant has reserved certain easements, and related rights and powers, as set forth in this Declaration; and

(ac) that each Purchaser understands, acknowledges, and agrees that Declarant has reserved certain rights in the Declaration, which may limit certain rights of Purchaser and Owners other than Declarant

Section 16.2 Disclaimers and Releases. As an additional material inducement to Declarant to sell the Unit to Purchaser, and without limiting any other provision in the Purchase Agreement, Purchaser (for itself and all persons claiming under or through Purchaser) acknowledges and agrees: (a) that Declarant specifically disclaims any and all representations and warranties, express and implied, with regard to any of the foregoing disclosed or described matters (other than to the extent expressly set forth in the foregoing disclosures); and (b) fully and unconditionally releases Declarant and the Association, and their respective officers, managers, agents, employees, suppliers and contractors, from any and all loss, damage or liability (including, but not limited to, any claim for nuisance or health hazards) related to or arising in connection with any disturbance, inconvenience, injury, or damage resulting from or pertaining to all and/or any one or more of the conditions, activities, and/or occurrences described in the foregoing portions of this Declaration.

ARTICLE 17

ADDITIONAL PROVISIONS PERTAINING TO NEIGHBORHOODS

Section 17.1 Designation of Neighborhoods and Neighborhood Common Areas. Declarant additionally reserves the right, in its sole discretion to designate Neighborhoods (and to unilaterally redesignate Neighborhood names, designations, and/or boundaries) and Neighborhood Common Areas, as set forth below until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration. Each Unit shall be located within a Neighborhood

(a) "Neighborhood" shall mean a group of particular Units designated by Declarant as a specific neighborhood for purposes of sharing Neighborhood Common Area (and/or receiving other benefits or services which are not provided to other Units within the Community but outside of such Neighborhood), subject to sharing by Units within the Neighborhood of Neighborhood Expenses through supplemental periodic Neighborhood Assessments, if any, as established by the Board from time to time. Any and all Neighborhoods shall be subject to the Governing Documents, provided that a Neighborhood may (in Declarant's sole discretion), but need not necessarily also be subject to a Supplemental Declaration or within the jurisdiction of a Sub-Association. In such case, in the event of any irreconcilable conflict, the Governing Documents shall prevail, and the Board shall have the power and right, but not the obligation, to veto any action taken or contemplated to be taken by any such Sub-Association or Owner (other than Declarant, whose rights and actions shall not be subject to any such Board veto) or group of Owners which the Board determines, in its reasonable business judgment, to be inconsistent with Community-wide standards or incompatible with the best interests of the Association as a whole.

(b) "Neighborhood Assessments" shall mean those periodic assessments, which shall be supplemental to all Community Assessments, levied by the Board or Board of directors of a Sub-Association, if permitted by Declarant in its sole discretion, uniformly upon the Units within a particular Neighborhood to pay for the Neighborhood Expenses within such Neighborhood.

(c) "Neighborhood Common Area" shall mean a portion of the Common Elements which shall constitute Limited Common Elements allocated for the use and benefit of one or more Neighborhood(s) (but less than the entire Community) as designated by Declarant in its sole discretion. Neighborhood Common Area is available for the use and enjoyment of only the Owners (subject to the Sub-Association, if any) within such Neighborhood. Neighborhood Common Area may vary by Neighborhood. Without limiting the preceding sentence, certain Neighborhoods may be gated, and other Neighborhoods may not be gated, in Declarant's sole discretion. The level of maintenance of Neighborhood Common Area shall be determined from time to time by the Board, provided that the Owners of Units within a Neighborhood may request the Board to enhance the level of maintenance in such Neighborhood (at the sole cost of such Neighborhood and the

Owners thereof), pursuant to Rules and Regulations governing same which may be established and/or revised by the Board from time to time in its reasonable business judgment.

(d) "Neighborhood Expenses" shall mean the expenditures made by, or financial liabilities of, the Association (or Sub-Association, if applicable), together with any allocations to reserves, for maintenance, management, operation, repair, replacement and insurance of Neighborhood Common Area, or for the particular benefit of Owners of Units within a particular Neighborhood, as may be authorized pursuant to this Declaration or in any applicable Supplemental Declaration.

(e) Initially, Declarant contemplates that there will be four Neighborhoods: Autumn Hills, Monterey, Somerset, and Ridgmont; however, Declarant reserves the right from time to time to designate fewer, different, and/or additional Neighborhoods.

Section 17.2 Neighborhood Common Areas. Certain portions of the Common Elements from time to time may be designated by Declarant, in its sole discretion, as Neighborhood Common Area, which shall constitute Limited Common Elements allocated and reserved for the exclusive use or primary benefit of Owners and Residents within a particular Neighborhood. By way of illustration and not limitation, Neighborhood Common Area may, but need not necessarily, include Neighborhood entry features, entry gates, Private Streets, landscaping, and other Limited Common Elements within a particular Neighborhood. Certain Neighborhoods may be gated, and other Neighborhoods may be non-gated, in Declarant's sole discretion. All costs associated with maintenance, management, operation, repair, replacement, and insurance of Neighborhood Common Area shall be a Neighborhood Expense, allocated uniformly and levied as Neighborhood Assessments among the Owners in the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.3 Designation of Neighborhood Common Areas. Any Neighborhood Common Area initially shall be designated as such from time to time in: (a) a separate instrument Recorded by Declarant in its sole discretion, or (b) in the deed conveying such Neighborhood Common Area to the Association (or, if applicable, to a Sub-Association for the Neighborhood); or (c) on the relevant Recorded subdivision plat; provided, however, that any such designation shall not preclude Declarant from later assigning use of the same Neighborhood Common Area to additional Units and/or Neighborhood(s), so long as Declarant has a right to subject additional property to this Declaration pursuant to Article 15, above. Thereafter, allocation of Neighborhood Common Area may be reassigned upon written approval of the Board and the affirmative vote of a majority of the votes within the Neighborhood(s) affected by the proposed reallocation. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article 15 above, any such allocation or reallocation shall also require Declarant's prior written consent, in its sole discretion.

Section 17.4 Use of Neighborhood Common Area. Subject to all of the other provisions of this Declaration (including, without limitation, the easements, use restrictions, maintenance and repair obligations, and architectural and landscaping control provisions), Neighborhood Common Area (which, by way of illustration and not limitation, may but need not necessarily include separate Neighborhood entry gates and Private Streets within the Neighborhood) is exclusively allocated to and reserved for the exclusive use of Owners and Residents of Units within the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.5 Maintenance, Repair, and Replacement of Neighborhood Common Area. Costs of management, operation, maintenance, repair, replacement and insurance of Neighborhood Common Area shall be a Neighborhood Expense assessed as Neighborhood Assessments to the Owners of Units in the Neighborhood(s) to which the Neighborhood Common Areas are allocated.

Section 17.6 Allocation and Budgeting of Neighborhood Expenses. As part of the annual Budget process set forth in, and, subject to the provisions of Section 6.4 above, the Board shall cause to be prepared and delivered, to each Owner of a Unit in a Neighborhood, a supplemental budget covering the estimated Neighborhood Expenses for a Neighborhood (which shall also include a reasonably prudent allocation for

reserves for capital repairs and replacement of Neighborhood Common Area). The Association is hereby authorized to levy Neighborhood Assessments uniformly against all Units in the Neighborhood subject to assessment, to fund Neighborhood Expenses. Such Neighborhood budget and Neighborhood Assessments promulgated by the Association shall become effective unless disapproved by Owners of seventy-five percent (75%) of the affected Units in the Neighborhood; however, there shall be no obligation to call a special meeting of the Owners of Units in such Neighborhood. If the proposed budget for a Neighborhood is disapproved, or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board may revise the budget for any Neighborhood, and the amount of any Neighborhood Assessment from time to time during the year, subject to notice and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above. Notwithstanding the foregoing, if a Supplemental Declaration has been duly Recorded, and a Sub-Association has been duly created, with respect to such Neighborhood, then, subject to express delegation set forth in said Supplemental Declaration or separate Recorded delegation by Declarant, the Sub-Association shall be obligated to prepare, notice, and administer a Neighborhood budget in like manner as set forth in Section 6.4 above.

ARTICLE 18

SUPPLEMENTAL DECLARATIONS; SUB-ASSOCIATIONS

Section 18.1 Supplemental Declarations Supplemental Declaration(s) may be Recorded from time to time by Declarant, in its sole discretion. A Supplemental Declaration shall be supplemental to this Declaration, and may but need not necessarily create a Sub-Association and/or impose supplemental obligations, covenants, conditions, or restrictions, or reservations of easements, with respect to a particular Neighborhood or other land described in such instrument. This Declaration and any Supplemental Declaration shall be construed to be consistent with each other to the greatest extent reasonably possible; however, in the event of any irreconcilable conflict, the provisions of this Declaration shall prevail. Any purported Supplemental Declaration Recorded by a Person other than Declarant, without the express prior written consent of Declarant, shall be null and void.

Section 18.2 Sub-Associations No Sub-Association may be validly organized except pursuant to the authority and jurisdiction of a Supplemental Declaration as set forth in Section 18.1, above, and approval of Declarant in its sole discretion. Subject to the foregoing, a duly created Sub-Association shall be a supplemental Neighborhood homeowners association organized pursuant to the authority and jurisdiction of a Supplemental Declaration with concurrent and supplemental jurisdiction (subject to this Declaration and the other Community Governing Documents) with the Association with respect to a particular Neighborhood. A Sub-Association shall have the power to establish standards and conduct activities for the property under its responsibility, subject to the Community Governing Documents and the Neighborhood Governing Documents. Notwithstanding the foregoing, the Association shall have the power and authority to veto any action taken or contemplated to be taken by any Sub-Association which the Board reasonably determines to be in violation of the Community Governing Documents, or adverse or detrimental to the best interests of the Association, or its Members. The Association also shall have the power to reasonably require specific action to be taken by any Sub-Association in connection with the Sub-Association's obligations and responsibilities (for example, without limitation, requiring specific maintenance or repairs, or requiring that a proposed Neighborhood budget include certain items and that expenditures be made therefor). A Sub-Association shall take appropriate action required by the Association by written notice, within the reasonable time frame set forth in such notice. If the Sub-Association fails to so comply, the Association shall have the power and authority to effectuate such action on behalf of the Sub-Association and to levy Special Assessments to cover the reasonable costs thereof.

ARTICLE 19
GENERAL PROVISIONS

Section 19.1 Enforcement. Subject to Section 5.3 above, the Governing Documents may be enforced by the Association as follows:

(a) Breach of any of the provisions contained in the Declaration or Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal or equitable proceedings instituted, in compliance with applicable Nevada law, by any Owner, including Declarant so long as Declarant owns a Unit, by the Association, or by the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. Each Owner shall have a right of action against the Association for any material, unreasonable, and continuing failure by the Association to comply with the material and substantial provisions of this Declaration, or of the Articles or Bylaws.

(b) The Association further shall have the right to enforce the obligations of any Owner under any material provision of this Declaration, by assessing a reasonable fine as a Special Assessment against such Owner or Resident, and/or suspending the right of such Owner to vote at meetings of the Association and/or the right of the Owner or Resident to use Common Elements (other than ingress and egress, by the most reasonably direct route, to the Unit), subject to the following:

(1) the person alleged to have violated the material provision of the Declaration must have had written notice (either actual or constructive, by inclusion in any Recorded document) of the provision for at least thirty (30) days before the alleged violation; and

(2) such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation, provided that if any such violation continues for a period of ten (10) days or more after actual notice of such violation has been given to such Owner or Resident, each such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties;

(3) notwithstanding the foregoing, each Owner shall have an unrestricted right of ingress and egress to his Unit by the most reasonably direct route over and across the relevant streets;

(4) no fine imposed under this Section may exceed the maximum amount(s) permitted from time to time by applicable provision of NRS Chapter 116 for each failure to comply. No fine may be imposed until the Owner or Resident has been afforded the right to be heard, in person, by submission of a written statement, or through a representative, at a regularly noticed hearing (unless the violation is of a type that substantially and imminently threatens the health, safety and/or welfare of the Owners and Community, in which case, the Board may take expedited action, as the Board may deem reasonable and appropriate under the circumstances, subject to any limitations set forth in this Declaration or applicable law);

(5) subject to this Section 19.1(b), if any such Special Assessment imposed by the Association on an Owner or Resident by the Association is not paid or reasonably disputed in writing delivered to the Board by such Owner or Resident (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then such Special Assessment shall be enforceable pursuant to Articles 6 and 7 above; and

(6) subject to Section 5.3 above, and to applicable Nevada law (which may first require mediation or arbitration), the Association may also take judicial action against any Owner or Resident to enforce compliance with provisions of the Governing Documents, or other obligations, or to obtain damages for noncompliance, all to the fullest extent permitted by law.

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(c) **Responsibility for Violations.** Should any Resident violate any material provision of the Rules and Regulations or Declaration, or should any Resident's act, omission or neglect cause damage to the Common Elements, then such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Unit in which the Resident resides. Likewise, should any guest of an Owner or Resident commit any such violation or cause such damage to Common Elements, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident. Reasonable efforts first shall be made to resolve any alleged material violation, or any dispute, by friendly discussion or informal mediation by the ARC or Board (and/or mutually agreeable or statutorily authorized third party mediator), in a "good neighbor" manner. Fines or suspension of voting privileges shall be utilized only after reasonable efforts to resolve the issue by friendly discussion or informal mediation have failed.

(d) The result of every act or omission whereby any of the provisions contained in this Declaration or the Bylaws are materially violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

(e) The remedies herein provided for breach of the provisions contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(f) The failure of the Association to enforce any of the provisions contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.

(g) If any Owner, his Family, guest, licensee, lessee or invitee violates any such provisions, the Board may impose a reasonable Special Assessment upon such Owner for each violation and, if any such Special Assessment is not paid or reasonably disputed in writing to the Board (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then the Board may suspend the voting privileges of such Owner, and such Special Assessment shall be collectible in the manner provided hereunder, but the Board shall give such Owner appropriate Notice and Hearing before invoking any such Special Assessment or suspension.

Section 19.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 19.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, until duly terminated in accordance with NRS § 116.2118.

Section 19.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Elements. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 19.5 Amendment. Except as otherwise provided by this Declaration, and except in cases of amendments that may be executed by a Declarant, this Declaration, including the Plat, may only be amended by both: (a) the vote and agreement of Owners constituting at least sixty-seven percent (67%) of the voting power of the Association, and (b) the written assent or vote of at least a majority of the total voting power of the Board. Notwithstanding the foregoing, termination of this Declaration and any of the following amendments, to be effective, must be approved in writing by the Eligible Holders of at least two-thirds (2/3)

of the first Mortgages on all of the Units in the Properties at the time of such amendment or termination, based upon one (1) vote for each first Mortgage owned:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers, and guarantors of first Mortgages as provided in Articles 7, 11, 12, 13, 14 and 19 hereof.

(b) Any amendment which would necessitate a Mortgagee, after it has acquired a Unit through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Unit not being separately assessed for tax purposes.

(d) Any amendment relating to the insurance provisions as set out in Article 12 hereof, or to the application of insurance proceeds as set out in Article 12 hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would or could result in termination or abandonment of the Properties or subdivision of a Unit, in any manner inconsistent with the provisions of this Declaration.

(f) Any amendment which would subject any Owner to a right of first refusal or other such restriction if such Unit is proposed to be sold, transferred or otherwise conveyed.

(g) Any amendment materially and substantially affecting: (i) voting rights; (ii) rights to use the Common Elements; (iii) reserves and responsibility for maintenance, repair and replacement of the Common Elements; (iv) leasing of Units; (v) establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage; (vi) boundaries of any Unit; (vii) Declarant's right and power to annex or de-annex property to or from the Properties; and (viii) assessments, assessment liens, or the subordination of such liens.

Notwithstanding the foregoing, if a first Mortgagee who receives a written request from the Board to approve a proposed termination, amendment or amendments to the Declaration does not deliver a negative response to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed termination, amendment or amendments. Notwithstanding anything contained in this Declaration to the contrary, nothing contained herein shall operate to allow any Mortgagee to: (a) deny or delegate control of the general administrative affairs of the Association by the Members or the Board; (b) prevent the Association or the Board from commencing, intervening in or settling any litigation or proceeding, or (c) prevent any trustee or the Association from receiving and distributing any proceeds of insurance, except pursuant to NRS §§ 116.31133 & 116.31135.

A copy of each amendment (other than any amendment which may be accomplished unilaterally by Declarant) shall be certified by at least two (2) Officers, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) Officers, that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Eligible Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Eligible Beneficiaries has been obtained. Until the first Close of Escrow for the sale of a Unit, Declarant shall have the right to terminate or modify this Declaration by Recordation of a supplement hereto setting forth such termination or modification.

Notwithstanding all of the foregoing, for so long as Declarant owns a Lot or Unit, Declarant shall have the power from time to time to unilaterally amend this Declaration to correct any scrivener's errors, to clarify

any ambiguous provision, to modify or supplement the Exhibits hereto, to make and process through appropriate governmental authority, minor revisions to the Plat deemed appropriate by Declarant in its discretion, and otherwise to ensure that the Declaration conforms with requirements of applicable law. Additionally, by acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B") hereto, in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter, and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his successors and assigns, to unilaterally execute and Record an Annexation Amendment, adding said real property to the Community, in the manner provided for in NRS § 116.2110 and in Article 15 above, and to make and process through appropriate governmental authority, any and all minor revisions to the Plat deemed appropriate by Declarant in its reasonable discretion, and each and every Owner, by acceptance of a deed to his Unit, covenants to sign such further documents and to take such further actions as to reasonably implement and consummate the foregoing

Section 19.6 Notice of Change to Governing Documents If any change is made to the Governing Documents, the Secretary (or other designated Officer) shall, within 30 days after the change is made, 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 Owner, a copy of the changes made.

Section 19.7 No Public Right or Dedication Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public, or for any public use.

Section 19.8 Constructive Notice and Acceptance Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

Section 19.9 Notices Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 19.10 Priorities and Inconsistencies The Governing Documents shall be construed to be consistent with one another to the extent reasonably possible. If there exist any irreconcilable conflicts or inconsistencies among the Governing Documents, the terms and provisions of this Declaration shall prevail (unless and to the extent only that the Declaration fails to comply with any applicable provision of NRS Chapter 116 or other applicable law). In the event of any inconsistency between the Articles and Bylaws, the Articles shall prevail. In the event of any inconsistency between the Rules and Regulations and any other Governing Document, the other Governing Document shall prevail. In the event of any inconsistency between any Community Governing Document and any other Governing Document which is specific to a particular Neighborhood, the former shall prevail. Any inconsistency between any Neighborhood-specific Governing Document shall be resolved in like manner as set forth above.

Section 19.11 Limited Liability Except to the extent, if any, expressly prohibited by applicable Nevada law, none of Declarant, Association, and/or ARC, and none of their respective directors, officers, any committee representatives, employees, or agents, shall be liable to any Owner or any other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was reasonable or in good faith. The Association shall indemnify every present and former Officer and Director and every present and former committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

Section 19.12 Indemnity. Each Owner shall, to the maximum extent not prohibited by law, indemnify and hold free and harmless each and every one of Declarant, the Association, and their respective partners, members, divisions, subsidiaries and affiliated companies (if any), and their and their respective employees, officers, directors, members, shareholders, agents, committee members, attorneys, professional consultants and representatives, and all of their respective successors and assigns (collectively, "Indemnitees") from and against any and all claims, damages, losses, liabilities, demands, and expenses, including, but not limited to, reasonable attorneys' fees, court costs and expenses of litigation (collectively, hereinafter referred to as "Liabilities"), arising out of or resulting from, or claimed to arise out of or result from, in whole or in part, any fault, act, or omission of the Owner, any contractor or subcontractor employed by the Owner, anyone directly or indirectly employed by any of the foregoing entities, or anyone for whose acts any of the foregoing entities may be liable, in connection with: (a) any work by or of the Owner within the Properties and/or the performance of the Owner's obligations with respect to any and all Improvements designed, installed, constructed, added, altered or remodeled by the Owner pursuant and subject to the Governing Documents, including, without limitation, any such loss, damage, injury or claim arising from or caused by or alleged to have arisen from or have been caused by (i) any use of the Lot, or any part thereof, (ii) any defect in the design, construction of, or material in, any structure or other Improvement upon the Lot, (iii) any defect in soils or in the preparation of soils or in the design and accomplishment of grading, including a spill of any contaminants or hazardous materials in or on the soil, (iv) any accident or casualty on the Lot or in the Properties, (v) any representations by Owner or any of its agents or employees, (vi) a violation or alleged violation by the Owner, its employees or agents, of any applicable law, (vii) any slope failure or subsurface geologic or groundwater condition, (viii) any work of design, construction, engineering or other work with respect to the Lot or Properties provided or performed by or for the Owner at any time whatsoever, or (ix) any other cause whatsoever in connection with Owner's use of the Lot or the Properties, or Owner's performance under this Declaration, or any other Governing Document, or (b) the negligence or wilful misconduct of Owner or its agents, employees, licensees, invitees or contractors in the development, construction, grading or other work performed off the Properties by Owner pursuant to the Governing Documents, and/or the Master Association Documents, or any defect in any such work. Notwithstanding anything to the contrary contained in any of the documents referenced in the preceding sentence, Owner agrees and acknowledges that Indemnitees shall not be liable to Owner for any Liabilities caused by (i) any act or omission of Indemnitees with respect to the review of the Owner's Improvements and/or the drawings or specifications related to the Owner's Improvements, or (ii) any inspection or failure to inspect the construction activities of Owner by any of the Indemnitees, or (iii) any direction or suggestion given by any of the Indemnitees with respect to construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Owner's Improvements, or the failure to give any such direction or suggestion, or for any Liabilities which are covered by insurance or would be covered by insurance required to be maintained by the Owner, and Owner expressly waives any such Liabilities and releases Indemnitees therefrom. The covenants in this Section 19.12 and the obligations of each Owner, and shall be binding on the Owner until such date as any claim or action for which indemnification or exculpation may be claimed under this Section 19.12 is fully and finally barred (or, if applicable, fully and finally resolved, and any payment required thereby has been made in full).

Section 19.13 Business of Declarant. Except to the extent expressly provided herein or as required by any applicable provision of NRS Chapter 116, no provision of this Declaration shall be applicable to limit or prohibit any act of Declarant, or its agents or representatives in connection with or incidental to Declarant's improvement and/or development of the Properties, so long as any Unit therein owned by Declarant remains unsold.

Section 19.14 Compliance With NRS Chapter 116. It is the intent of Declarant that this Declaration and the Community shall be in all respects consistent with, and not in violation of, applicable provisions of NRS Chapter 116. In the event any provision of this Declaration is found to irreconcilably conflict with or violate any such applicable provision of NRS Chapter 116, such offending Declaration provision shall be automatically deemed modified or severed herefrom to the minimum extent necessary to remove the irreconcilable conflict with or violation of the applicable provision of NRS Chapter 116. Notwithstanding the foregoing or any other provision set forth herein, if any provision of Senate Bill 451 (1999) should, in the future, be removed or made

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less burdensome (from the perspective of Declarant), as a matter of law, then the future change in such provision shall automatically be deemed to have been made and reflected in this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first written above.

DECLARANT:

PERMA-BILT,
a Nevada corporation

By: *Daniel Schwartz*
Daniel Schwartz, President

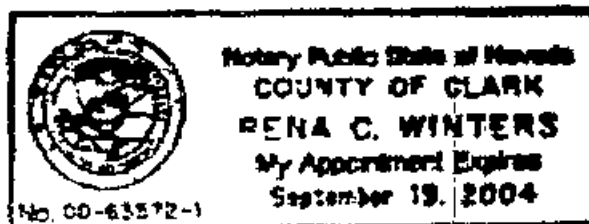
STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on this 8th day of August, 2001, by DANIEL SCHWARTZ, as President of PERMA-BILT, a Nevada corporation.

Rena C. Winters
NOTARY PUBLIC
(SEAL)

My Commission Expires:

9-19-2004



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EXHIBIT "A"

ORIGINAL PROPERTY

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF CLARK, STATE OF NEVADA, DESCRIBED AS FOLLOWS

Lots One Hundred Seven through One Hundred Nine (107 - 109), inclusive, of Block Three (3), of Russell/Fort Apache - Unit 2, as shown by map thereof on file in Book 101 of Plats, Page 3, in the Office of the County Recorder of Clark County, Nevada;

TOGETHER WITH a non-exclusive easement of ingress and egress over and across the entry area and private streets therein, and a non-exclusive easement of use and enjoyment of the other Common Elements thereof (subject to and as set forth in the foregoing Declaration, as the same from time to time may be amended and/or supplemented by instrument recorded in the Office of the County Recorder of Clark County, Nevada).

EXHIBIT "B"

RUSSELL / FORT APACHE - UNIT 1

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF FORT APACHE ROAD AND OQUENDO ROAD; THENCE SOUTH 00°51'26" WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER (SE 1/4), COINCIDENT WITH THE CENTERLINE OF FORT APACHE ROAD, 56.54 FEET; THENCE NORTH 89°08'34" WEST, DEPARTING SAID EAST LINE AND SAID CENTERLINE, 50.00 FEET RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY, 39.78 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°09'52", THENCE NORTH 89°41'34" WEST, 577.37 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE SOUTH 89°41'34" WEST, 70.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE SOUTH 89°41'34" WEST, 940.92 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET; THENCE SOUTHWESTERLY, 346.87 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST; THENCE SOUTHWESTERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'08"; THENCE SOUTH 49°39'24" WEST, 35.00 FEET; THENCE NORTH 40°20'36" WEST, 1.91 FEET; THENCE SOUTH 49°39'24" WEST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET; THENCE WESTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 39°02'13" EAST; THENCE SOUTHWESTERLY, 438.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°53'09"; THENCE NORTH 89°09'05" WEST, 183.24 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHWESTERLY, 34.13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 97°45'54"; THENCE SOUTH 83°05'01" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1000.00 FEET; THENCE NORTHWESTERLY, 10.67 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°36'41"; THENCE SOUTH 83°41'42" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY, 28.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°50'46"; THENCE NORTH 00°50'55" EAST, 35.00 FEET; THENCE NORTH 89°09'05" WEST, 8.02 FEET; THENCE NORTH 00°50'55" EAST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHEASTERLY, 31.83 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°11'22" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 89°39'33" WEST.

**RUSSELL / FORT APACHE - UNIT 1
CONTINUED**

THENCE NORTHERLY, 229.94 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°40'04" TO THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY HAVING A RADIUS OF 960.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 77°40'23" EAST, THENCE NORTHERLY, 192.32 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°28'42", THENCE NORTH 00°50'55" EAST, 86.61 FEET; THENCE NORTH 89°47'31" EAST, 310.36 FEET, THENCE SOUTH 87°22'43" EAST, 182.33 FEET; THENCE NORTH 89°47'31" EAST, 97.89 FEET; THENCE SOUTH 49°50'38" EAST, 68.20 FEET; THENCE SOUTH 40°09'22" WEST, 25.94 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'58"; THENCE SOUTH 40°20'36" EAST, 13.22 FEET, THENCE SOUTH 49°39'24" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET; THENCE WESTERLY, 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02"; THENCE SOUTH 40°09'22" WEST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHERLY, 29.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 46°50'15" EAST; THENCE SOUTHEASTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09", THENCE SOUTH 40°20'36" EAST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET; THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 31°00'31" EAST, THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53", THENCE SOUTH 40°20'36" EAST, 76.62 FEET; THENCE NORTH 49°39'24" EAST, 5.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET; THENCE EASTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°53'50" WEST; THENCE NORTHEASTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24", THENCE NORTH 89°41'34" EAST, 0.59 FEET; THENCE SOUTH 00°49'12" WEST, 30.01 FEET TO THE CENTERLINE OF SAID OQUENDO ROAD; THENCE NORTH 89°41'34" EAST, ALONG SAID CENTERLINE, 677.73 FEET; THENCE NORTH 00°48'22" EAST, DEPARTING SAID CENTERLINE, 30.01 FEET; THENCE NORTH 89°41'34" EAST, 262.61 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE NORTH 89°41'34" EAST, 70.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 15.00 FEET, THENCE SOUTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE NORTH 89°41'34" EAST, 315.18 FEET; THENCE SOUTH 00°47'52" WEST, 30.01 FEET; THENCE NORTH 89°41'34" EAST, 338.90 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 1
CONTINUED**

CONTAINING 10.78 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

RUSSELL / FORT APACHE - UNIT 2

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M. CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE NORTHWESTERLY CORNER COMMON ELEMENT LOT 1B OF THAT SUBDIVISION KNOWN AS "RUSSELL / FORT APACHE - UNIT 1" ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN BOOK 99, OF PLATS AT PAGE 54, SAME BEING ON THE EASTERLY RIGHT-OF-WAY OF GRAND CANYON PARKWAY; THENCE NORTH 00°50'55" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY, 419.98 FEET; THENCE NORTH 89°47'31" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY, 1314.81 FEET, THENCE SOUTH 00°48'37" WEST, 340.03 FEET; THENCE SOUTH 89°44'33" WEST, 338.77 FEET, THENCE SOUTH 00°49'12" WEST, 310.32 FEET TO THE NORTHERLY RIGHT-OF-WAY OF OQUENDO ROAD, THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 89°41'34" WEST, 0.59 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 630.00 FEET; THENCE SOUTHWESTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 35°53'50" EAST; THENCE WESTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE NORTHEASTERLY RIGHT-OF-WAY OF SWEET JASMINE DRIVE; THENCE FOLLOWING ALONG SAID NORTHEASTERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 49°39'24" WEST, 5.00 FEET, THENCE NORTH 40°20'36" WEST, 76.62 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET; THENCE NORTHWESTERLY 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 31°00'31" WEST; THENCE NORTHWESTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53", THENCE NORTH 40°20'36" WEST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET, THENCE NORTHWESTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 46°50'15" WEST, THENCE NORTHWESTERLY, 29.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF WISPY WINDS STREET, THENCE NORTH 40°09'22" EAST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET; THENCE 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02"; THENCE NORTH 49°39'24" EAST, 39.00 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF STRAIT FIELD PLACE; THENCE NORTH 40°20'36" WEST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, 13.22 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'58" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID WISPY WINDS STREET, THENCE NORTH 40°09'22" EAST, ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY, 25.94 FEET, THENCE NORTH 49°50'38" WEST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY, 68.20 FEET, TO THE NORTHERLY BOUNDARY OF SAID "RUSSELL / FORT APACHE - UNIT 1", THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89°47'31" WEST, 97.89 FEET, THENCE NORTH 87°22'43" WEST, 182.33 FEET; THENCE SOUTH 89°47'31" WEST, 230.35 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 2
CONTINUED**

CONTAINING 15.10 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY, RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

RUSSELL / FORT APACHE - UNIT 3

BEING A PORTION OF THE SOUTH HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST SIXTEENTH SECTION CORNER OF SAID SECTION 31, BEING ON THE CENTERLINE OF OQUENDO ROAD; THENCE NORTH 89°41'34" EAST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SAID NORTHEAST QUARTER (NE 1/4) COINCIDENT WITH THE CENTERLINE OF SAID OQUENDO ROAD 452.09 FEET, THENCE SOUTH 00°18'26" EAST, 30.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OQUENDO ROAD SAME BEING THE POINT OF BEGINNING,

THENCE CONTINUING SOUTH 00°18'26" EAST, 170.00 FEET, THENCE SOUTH 89°41'34" WEST, 18.32 FEET, THENCE SOUTH 00°18'26" EAST, 389.58 FEET, THENCE SOUTH 89°41'34" WEST, 721.80 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 50.00 FEET, THENCE WESTERLY, 23.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°26'15" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 26°07'49" EAST THENCE WESTERLY, 66.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°58'15" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 11°50'25" EAST, THENCE SOUTHWESTERLY, 14.07 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°52'30", THENCE NORTH 14°42'55" WEST, 39.00 FEET, THENCE NORTH 00°18'26" WEST, 174.21 FEET, THENCE SOUTH 60°12'51" WEST, 228.01 FEET, THENCE SOUTH 89°32'56" WEST, 152.72 FEET, THENCE SOUTH 12°49'01" EAST, 21.38 FEET, THENCE SOUTH 77°10'59" WEST, 112.15 FEET, THENCE SOUTH 70°55'12" WEST, 39.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 319.50 FEET, THENCE NORTHWESTERLY, 17.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°12'53" THENCE SOUTH 81°20'09" WEST, 123.52 FEET, THENCE NORTH 08°39'51" WEST, 212.30 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 08°19'28" EAST, THENCE NORTHEASTERLY, 337.70 FEET ALONG THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD AND SAID CURVE THROUGH A CENTRAL ANGLE OF 30°42'45" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 39°02'13" WEST, THENCE EASTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37", THENCE NORTH 49°39'24" EAST, 35.00 FEET TO THE CENTERLINE OF SWEET JASMINE DRIVE, THENCE SOUTH 40°20'36" EAST, ALONG SAID CENTERLINE, 1.91 FEET, THENCE NORTH 49°39'24" EAST, 35.00 FEET, RADIALLY TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 15.00 FEET, THENCE NORTHERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'08" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST; THENCE NORTHEASTERLY, 346.87 FEET CONTINUING ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02", THENCE NORTH 89°41'34" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, 790.92 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 3
CONTINUED**

CONTAINING 15.17 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

RUSSELL / FORT APACHE - UNIT 4

BEING A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA. MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF PATRICK LANE AND GRAND CANYON DRIVE, THENCE SOUTH 89°33'42" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 31 COINCIDENT WITH THE CENTERLINE OF SAID PATRICK LANE, 63.56 FEET, THENCE NORTH 00°26'18" WEST, DEPARTING SAID SOUTH LINE AND SAID CENTERLINE, 40.00 FEET TO THE NORTHERLY RIGHT OF WAY OF SAID PATRICK LANE, SAME BEING THE POINT OF BEGINNING, THENCE SOUTH 89°33'42" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY, 954.06 FEET, THENCE NORTH 00°53'34" EAST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, 611.93 FEET, THENCE NORTH 89°33'42" EAST, 76.74 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 189.00 FEET, THENCE SOUTH 00°26'18" EAST, 105.77 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" THENCE SOUTH 00°26'18" EAST, 39.00 FEET, THENCE SOUTH 89°33'42" WEST, 7.97 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 27.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 77°33'47" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 78°00'05" EAST, THENCE SOUTHWESTERLY, 66.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°56'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 66°03'51" WEST, THENCE SOUTHWESTERLY, 44.96 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°11'01", THENCE NORTH 89°33'42" EAST, 479.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 80°58'43" WEST, THENCE SOUTHWESTERLY, 148.35 FEET ALONG SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°10'22", THENCE SOUTH 00°50'55" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY, 119.02 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET, THENCE SOUTHWESTERLY, 38.71 FEET ALONG SAID CURVE, DEPARTING WESTERLY RIGHT-OF-WAY OF SAID GRAND CANYON DRIVE THROUGH A CENTRAL ANGLE OF 88°42'47" TO THE NORTHERLY RIGHT-OF-WAY OF SAID PATRICK LANE, BEING THE POINT OF BEGINNING

CONTAINING 10.27 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

RUSSELL / FORT APACHE - UNIT 5

BEING A SUBDIVISION OF GOVERNMENT LOTS 15 AND 18 AND A PORTION GOVERNMENT LOTS 14 AND LOT 19, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 31, SAME BEING THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 OF SAID SECTION 31, THENCE NORTH 89°31'58" EAST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW 1/4), COINCIDENT WITH THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 17, AND THE CENTERLINE OF PATRICK LANE, A DISTANCE OF 227.80 FEET TO THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE POINT OF BEGINNING:

THENCE NORTH 00°51'50" EAST, DEPARTING SAID CENTERLINE AND ALONG THE EAST BOUNDARY OF SAID GOVERNMENT LOT 17, COINCIDENT WITH THE WEST BOUNDARY OF SAID GOVERNMENT LOT 18, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 15, THENCE CONTINUING NORTH 00°51'50" EAST, ALONG THE WEST BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 15, THENCE NORTH 89°42'59" EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 340.09 FEET TO THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 15, SAME BEING THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 14, THENCE CONTINUING NORTH 89°42'59" EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 224.92 FEET, THENCE SOUTH 00°28'02" WEST, DEPARTING THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 121.20 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 02°25'26" EAST, THENCE NORTHEASTERLY, 43.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°55'55", THENCE SOUTH 11°21'21" EAST, 155.63 FEET, THENCE SOUTH 68°00'54" WEST, 58.02 FEET, THENCE SOUTH 33°19'55" EAST, 167.53 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, THENCE SOUTHWESTERLY, 48.61 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°34'06" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 36°54'01" WEST, THENCE SOUTHERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°58'38", THENCE SOUTH 50°07'21" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, THENCE WESTERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°58'38" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 42°51'18" WEST, THENCE SOUTHWESTERLY, 400.97 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°26'05" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 72°17'23" WEST, THENCE SOUTHEASTERLY, 35.17 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 100°45'59", THENCE SOUTH 06°56'38" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET,

**RUSSELL / FORT APACHE - UNIT 5
CONTINUED**

THENCE WESTERLY 11.62 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°22'23" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 04°34'15" EAST, THENCE SOUTHWESTERLY, 28.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°53'13" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 78°18'58" WEST, THENCE SOUTHERLY, 165.52 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°09'04", THENCE SOUTH 00°28'02" EAST, 58.11 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHEASTERLY, 35.26 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 101°01'27", THENCE SOUTH 11°29'29" EAST, 39.00 FEET, RADIALY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 319.50 FEET, THENCE SOUTHWESTERLY, 0.80 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°08'34", THENCE SOUTH 00°28'02" EAST, 75.74 FEET, RADIALY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 59°31'58" WEST, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00", THENCE SOUTH 00°28'02" EAST, 60.00 FEET TO THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, SAME BEING THE CENTERLINE OF SAID PATRICK LANE, THENCE SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, AND ALONG SAID CENTERLINE, 93.75 FEET TO THE SOUTHEAST CORNER OF GOVERNMENT LOT 18, THENCE CONTINUING SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 18 AND ALONG SAID CENTERLINE, A DISTANCE OF 338.35 FEET TO THE POINT OF BEGINNING

CONTAINING 15.25 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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RUSSELL / FORT APACHE - UNIT 6

BEING A SUBDIVISION OF PORTIONS OF GOVERNMENT LOTS 14, 19 AND 20, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE WEST SIXTEENTH CENTER SECTION CORNER OF SAID SECTION 31, SAME BEING THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 20 AND THE CENTERLINE INTERSECTION OF CONQUISTDOR STREET AND PATRICK LANE, THENCE SOUTH 89°31'58" WEST, ALONG THE CENTERLINE OF SAID PATRICK LANE, 582.97 FEET, THENCE NORTH 00°28'02" WEST, DEPARTING THE CENTERLINE OF SAID PATRICK LANE, 60.00 FEET, RADially TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET, THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 59°31'58" EAST, THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00", THENCE NORTH 00°28'02" WEST, 75.74 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF CLIFTON FORGE STREET, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 11°20'55" WEST, THENCE EASTERLY, 0.80 FEET ALONG SAID CURVE AND THE SOUTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET THROUGH A CENTRAL ANGLE OF 00°08'34", THENCE NORTH 11°29'29" WEST, DEPARTING SAID SOUTHERLY RIGHT-OF-WAY, 39.00 FEET, RADially TO THE NORTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 35.26 FEET ALONG SAID CURVE, DEPARTING SAID NORTHERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 101°01'27" TO THE EASTERLY RIGHT-OF-WAY OF OQUENDO ROAD, THENCE NORTH 00°28'02" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, 58.11 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780.50 FEET, THENCE NORTHERLY, 165.52 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 12°09'04" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 78°18'58" WEST, THENCE NORTHEASTERLY, 28.93 FEET ALONG SAID CURVE AND DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 82°53'13" TO THE SOUTHERLY RIGHT-OF-WAY OF FLOKTON STREET BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 04°34'15" EAST, THENCE EASTERLY, 11.62 FEET ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF 02°22'23", THENCE NORTH 06°56'38" EAST, DEPARTING THE SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, 39.00 FEET, RADially TO THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE NORTHWESTERLY, 35.17 FEET ALONG SAID CURVE, DEPARTING THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF 100°45'59" TO THE EASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 72°17'23" WEST;

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**RUSSELL / FORT APACHE - UNIT 6
CONTINUED**

THENCE NORTHEASTERLY, 400.97 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 29°26'05" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 42°51'18" WEST; THENCE NORTHEASTERLY, 32.46 FEET ALONG SAID CURVE, DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 92°58'38" TO THE SOUTHWESTERLY RIGHT-OF-WAY OF WONDERFUL DAY AVENUE; THENCE SOUTH 39°52'39" EAST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, 55.45 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 219.50 FEET; THENCE SOUTHEASTERLY, 33.87 FEET ALONG SAID CURVE AND SAID SOUTHWESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°50'29"; THENCE SOUTH 39°21'25" WEST, DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY, 217.22 FEET, THENCE SOUTH 82°58'49" EAST, 69.68 FEET, THENCE NORTH 89°31'58" EAST, 408.27 FEET TO THE EASTERLY BOUNDARY LINE OF SAID GOVERNMENT LOT 20, SAME BEING THE CENTERLINE OF SAID CONQUISTADOR STREET, THENCE SOUTH 00°54'26" WEST ALONG SAID EASTERLY BOUNDARY LINE AND CENTERLINE OF SAID CONQUISTADOR STREET, 613.34 FEET TO THE POINT OF BEGINNING

CONTAINING 9.76 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°31'58" WEST - BEING THE SOUTH LINE OF THE SOUTHWEST (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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EXHIBIT "B"

ANNEXABLE AREA

[ALL, OR ANY PORTIONS OF WHICH, FROM TIME TO TIME MAY, BUT NEED NOT NECESSARILY, BE ANNEXED BY DECLARANT TO THE PROPERTIES]

CERTAIN REAL PROPERTY PRESENTLY OWNED OR TO BE ACQUIRED FROM TIME TO TIME BY DECLARANT AND GENERALLY BOUNDED BY RUSSELL ROAD (TO THE NORTH), FORT APACHE (TO THE EAST), PATRICK LANE (TO THE SOUTH), AND HUALAPAI (TO THE WEST), CLARK COUNTY, NEVADA, SAID PROPERTY TO BE FURTHER DESCRIBED FROM TIME TO TIME BY INSTRUMENT(S) RECORDED BY DECLARANT IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, INCLUDING, BUT NOT LIMITED TO:

- 1 All of the real property in **RUSSELL/FORT APACHE - UNIT 1**, as shown by map final map thereof, on file in **Book 99** of Plats, **Page 54**, in the Office of the County Recorder of Clark County, Nevada;
- 2 All of the real property in **RUSSELL/FORT APACHE - UNIT 2**, as shown by map final map thereof, on file in **Book 101** of Plats, **Page 3**, in the Office of the County Recorder of Clark County, Nevada; EXCEPTING THEREFROM the Original Property described on the foregoing Exhibit "A"

[ADDITIONAL SUBDIVISION MAP DESCRIPTIONS TO BE SUPPLIED FOLLOWING RECORDATION FROM TIME TO TIME OF RELEVANT FINAL MAPS].

[NOTE: DECLARANT HAS SPECIFICALLY RESERVED THE RIGHT FROM TIME TO TIME TO UNILATERALLY ADD TO AND/OR MODIFY OF RECORD ALL OR ANY PARTS OF THE FOREGOING DESCRIPTIONS]

When Recorded, Return To:

WILBUR M. ROADHOUSE, ESQ.
Goold Patterson DeVore Ales & Roadhouse
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

(wmr1388 28 1 CCRS 01 wp2)

CLARK COUNTY, NEVADA
JUDITH A. VANDEVER, RECORDER
RECORDED AT REQUEST OF:

GOOLD PATTERSON ET AL

08-09-2001 13:23 JVB 84

OFFICIAL RECORDS

BOOK: 00010809 INST: 01455

FEE: 90.00 RPTT: .00

-80-

WFZ0314
AA0820

Exhibit 5

Exhibit 5

Exhibit 5

Assessor Parcel Number: 163-31-611-022
File Number: R98668

Accommodation

Inst #: 201112080002960

Fees: \$17.00

N/C Fee: \$0.00

12/08/2011 09:26:38 AM

Receipt #: 1002082

Requestor:

NORTH AMERICAN TITLE COMPAN

Recorded By: KGP Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

LIEN FOR DELINQUENT ASSESSMENTS

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

NOTICE IS HEREBY GIVEN: Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Southern Terrace Homeowners Association, herein also called the Association, in accordance with Nevada Revised Statutes 116 and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 08/09/2001, in Book Number 20010809, as Instrument Number 01455 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada, which have been supplied to and agreed upon by said owner.

Said Association imposes a Lien for Delinquent Assessments on the commonly known property:

5946 Lingering Breeze St, Las Vegas, NV 89148

RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, in the County of Clark

Current Owner(s) of Record:

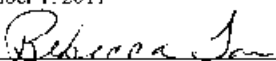
JOSEPH F. HARRISON, BONNIE L. HARRISON

The amount owing as of the date of preparation of this lien is **\$737.04.

This amount includes assessments, late fees, interest, fines/violations and collection fees and costs.

** The said amount may increase or decrease as assessments, late fees, interest, fines/violations, collection fees, costs or partial payments are applied to the account.

Dated: December 1, 2011



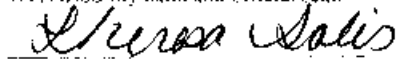
Prepared By Rebecca Tom, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

STATE OF NEVADA)

COUNTY OF CLARK)

On December 1, 2011, before me, personally appeared Rebecca Tom, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



When Recorded Mail To: Red Rock Financial Services
7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



Exhibit 8

Exhibit 8

Exhibit 8

Assessor Parcel Number: 163-31-611-022
 File Number: R98668
 Property Address: 5946 Lingering Breeze St
 Las Vegas, NV 89148
 Title Order Number: 31904

Inst #: 201202020000465
 Fees: \$17.00
 N/C Fee: \$0.00
 02/02/2012 10:26:14 AM
 Receipt #: 1054640
 Requestor:
 AMERICAN LOT BOOK
 Recorded By: LEX Pgs: 1
 DEBBIE CONWAY
 CLARK COUNTY RECORDER

**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE
 LIEN FOR DELINQUENT ASSESSMENTS**

◆ IMPORTANT NOTICE ◆

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN
 THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE
 AMOUNT IS IN DISPUTE!**

NOTICE IS HEREBY GIVEN: Red Rock Financial Services officially assigned as agent by the Southern Terrace Homeowners Association, under the Lien for Delinquent Assessments, recorded on 12/08/2011, in Book Number 20111208, as Instrument Number 0002960, reflecting JOSEPH F. HARRISON, BONNIE L. HARRISON as the owner(s) of record on said lien, land legally described as RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 08/09/2001, in Book Number 20010809, as Instrument Number 01455, has been breached. As of 09/01/2011 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes 116, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of January 27, 2012, the amount owed is \$ 1,870.61. This amount will continue to increase until paid in full.

Joshua Wood
 Prepared By Joshua Wood, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

Dated: January 27, 2012

STATE OF NEVADA)
 COUNTY OF CLARK)

On January 27, 2012, before me, personally appeared Joshua Wood, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Julia Thompson
 When Recorded Red Rock Financial Services
 Mail To: 7251 Antigo Street, Suite 100
 Las Vegas, Nevada 89119
 702-932-6887

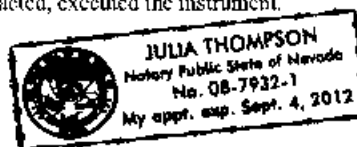


Exhibit 9

Exhibit 9

Exhibit 9

APN: 163-31-611-022

ULS#: NV-SO3-04

When recorded mail to:
United Legal Services Inc.
A Nevada Law Firm
9484 South Eastern Ave. #163
Las Vegas, NV 89123
Phone: (702) 617-3263

Inst #: 201305020000105

Fees: \$17.00

N/C Fee: \$0.00

05/02/2013 08:01:15 AM

Receipt #: 1598818

Requestor:

UNITED LEGAL SERVICES INC.

Recorded By: ECM Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR DELINQUENT ASSESSMENTS

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-9907.


YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on December 8, 2011 as instrument 201112080002960 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Southern Terrace Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on February 2, 2012 as instrument 201202020000465 in the Official Records. The property owner(s) of record is/are: Joseph F and Bonnie L Harrison. The total amount necessary to satisfy the lien as of the proposed sale date is \$4,197.60.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

NOTICE IS HEREBY GIVEN THAT on May 25, 2013 at 9:00 AM at 8965 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 116, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 5946 Lingering Breeze St, Las Vegas, Nevada 89148. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 1, 2013

By:


Mia Fregeau

An employee of United Legal Services Inc.

As authorized agent for, and on behalf of, Southern Terrace Homeowners Association

Exhibit 10

Exhibit 10

Exhibit 10

APN: 163-31-611-022

Return document and mail tax statements to:

First 100, LLC
10620 Southern Highlands Pkwy, Ste. 110-485
Las Vegas NV 89141

Inst #: 201305290002514

Fees: \$18.00 N/C Fee: \$0.00

RPTT: \$691.05 Ex: #

05/29/2013 12:22:37 PM

Receipt #: 1633728

Requestor:

UNITED LEGAL SERVICES INC.

Recorded By: DXI Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

FORECLOSURE DEED UPON SALE

Foreclosing lienholder **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**, under power of sale pursuant to NRS Chapter 116, does hereby sell, without warranty, expressed or implied, to:


FIRST 100, LLC

the real property situated in Clark County, Nevada legally described as:

SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on December 8, 2011 as instrument 201112080002960 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on February 2, 2012 as instrument 201202020000465 in the Official Records of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on May 25, 2013.

By: 
Robert Opdyke, Esq.
United Legal Services Inc.
As authorized agent for, and on behalf of, foreclosing Association

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me
on May 28, 2013, by: Robert Opdyke.


NOTARY PUBLIC

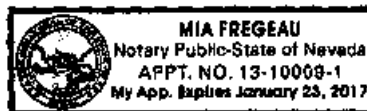


EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022

b. _____

c. _____

d. _____

2. Type of Property:

- a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm./Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
i. ☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property

\$ 135,500.00

b. Deed in Lieu of Foreclosure Only (value of property (_____)

c. Transfer Tax Value:

\$ 135,500.00

d. Real Property Transfer Tax Due

\$ 691.05

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity: Seller's Agent

Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: United Legal Services Inc.*

Address: 9484 S. Eastern Ave. #163

City: Las Vegas

State: NV Zip: 89123

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: First 100, LLC

Address: 10620 Southern Highland 110-485

City: Las Vegas

State: NV Zip: 89141

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: United Legal Services Inc.

Escrow # _____

Address: 9484 S. Eastern Ave. #163

City: Las Vegas

State: NV Zip: 89123

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

**As agent for Southern Terrace Homeowners Association*

Exhibit 14

Exhibit 14

Exhibit 14

**RECORDING COVER PAGE**

Must be typed or printed clearly in black ink only.

Inst #: 201208240003610

Fees: \$18.00

N/C Fee: \$25.00

08/24/2012 12:31:10 PM

Receipt #: 1283614

Requestor:

DOCUMENT PROCESSING SOLUTIONS

Recorded By: SCA Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN# 163-31-611-022

11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrealprop/owner.aspx>

TITLE OF DOCUMENT (DO NOT Abbreviate)

Substitution of Trustee

TS: 12-05-42957

Order #: 6734622

Title of the Document on cover page must be EXACTLY as it appears on the first page of the document to be recorded.

Recording requested by:

Cooper Castle Law Firm

Return to:**Name** Cooper Castle Law Firm**Address** 5275 S Durango Drive**City/State/Zip** Las Vegas, NV 89113

This page provides additional information required by NRS 111.312 Sections 1-2.

An additional recording fee of \$1.00 will apply.

To print this document properly—do not use page scaling.

P:\Recorder\Forms 12_2010

When Recorded Mail To:
The Cooper Castle Law Firm
5275 S. Durango Drive
Las Vegas, Nevada 89113
Attn: Foreclosure Department

T.S. No.: 12-05-42957-NV
APN: 163-31-611-022
TITLE REPORT No.: N#

SUBSTITUTION OF TRUSTEE

WHEREAS, Joseph F Harrison and Bonnie L Harrison, the original Trustor, Nevada Title Company was the original Trustee, and Mortgage Electronic Registration Systems, Inc. (MERS) as nominee for Direct Equity Mortgage, LLC, A Nevada Corporation, its successor and assigns was the original Beneficiary under that certain Deed of Trust dated March 26, 2009 and recorded on March 31, 2009, as Book: 20090331 Instrument: 0004948 of Official Records of Clark County, Nevada; and

WHEREAS, the undersigned is the present Beneficiary under said Deed of Trust, and

WHEREAS, the undersigned desires to substitute a new Trustee effective as of 7/27/12 under said Deed of Trust in place and instead of said original Trustee, or Successor Trustee, thereunder, in the manner in said Deed of Trust provided,

NOW, THEREFORE, the undersigned hereby substitutes Cooper Castle Law Firm, LLP, A Multi-Jurisdictional Law Firm, as Trustee under said Deed of Trust.

The Beneficiary hereby ratifies and confirms all action taken on the Beneficiary's behalf by the instant and/or Successor Trustee prior to the recording of the substitution of trustee.

Date: 7/27/12

GMAC Mortgage, LLC


Katrina Jordan Authorized Officer

Acknowledgement:

State of Pennsylvania
County of Montgomery

On 7/27/12 before me, Ranee J. Shipley, personally appeared Katrina Jordan, who provided to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of Pennsylvania that the foregoing paragraph is true and correct. x that

WITNESS my hand and official seal.

Signature: 

12-05-42957-NV

Ranee J. Shipley

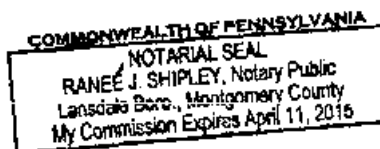


Exhibit 15

Exhibit 15

Exhibit 15

APN No.(s): 163-31-611-022

Recording requested by:

When recorded mail to:
Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, NV 89113

T.S. No.: 12-05-42957-NV

Order No.: 6734622

Property Address: 5946 Lingerin Breeze Street, Las Vegas, NV 89148

It is hereby affirmed that this document submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030).

NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO CAUSE SALE OF REAL PROPERTY UNDER DEED OF TRUST

NOTICE IS HEREBY GIVEN: That THE COOPER CASTLE LAW FIRM, LLP, A MULTIJURISDICTIONAL LAW FIRM is either the original trustee or the duly appointed substituted Trustee under a Deed of Trust dated March 26, 2009, executed by Joseph F Harrison and Bonnie L Harrison, as Trustor, to secure certain obligations in favor of Mortgage Electronic Registration Systems, Inc. (MERS), as beneficiary, recorded on March 31, 2009 as 20090331-0004948 of Official Records in the office of the Recorder of Clark County, Nevada securing, among other obligations including NOTE(S) FOR THE ORIGINAL sum of \$234,739.00, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by the beneficiary; that a breach of, and default in, the obligations for which such Deed of Trust is security has occurred or that payment has not been made of:

The installment of principal and interest which became due on August 1, 2011 and all subsequent installments of principal and interest through the date of this Notice, plus amounts that are due for late charges, delinquent property taxes, insurance premiums, advances made on senior liens, taxes and/or insurance, trustee's fees, and any attorney fees and court costs arising from or associated with the beneficiary's efforts to protect and preserve its security, all of which must be paid as a condition of reinstatement, including all sums that shall accrue through reinstatement or pay-off (and will increase until your account becomes current). Please see the attached Affidavit of Authority to Exercise the Power of Sale for further details about the deficiency in performance or payment. Nothing in this notice shall be construed as a waiver of any fees owing to the Beneficiary under the Deed of Trust pursuant to the terms of the loan documents.

Pursuant to the attached Affidavit, the present Beneficiary under such Deed of Trust has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

Inst #: 201303060002239

Fees: \$228.00

N/C Fee: \$25.00

03/06/2013 12:37:21 PM

Receipt #: 1523031

Requestor:

FIRST AMERICAN NATIONAL DEF

Recorded By: ANI Pgs: 12

DEBBIE CONWAY

CLARK COUNTY RECORDER

NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, the time to reinstate may be extended to 5 days before the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

For information relating to the foreclosure status of the property and/or to determine if a reinstatement is possible and the amount, if any, to cure the default, please contact:

GMAC Mortgage, LLC
C/O The Cooper Castle Law Firm, LLP
A MultiJurisdictional Law Firm
5275 S. Durango Drive
Las Vegas, Nevada 89113
(702) 435-4175 Telephone
(702) 877-7424 Facsimile

To reach a Loss Mitigation Representative who is authorized to negotiate a Loan Modification, please contact: 800-850-4622

Attached hereto and incorporated herein by reference is the Affidavit of Authority to Exercise the Power of Sale pursuant to NRS 107.080.

You may wish to consult a credit-counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with the name and address of the local HUD approved counseling agency by calling their toll-free hotline at (800) 569-4287 or you can go to The Department of Housing and Urban Development (HUD) web site at <http://portal.hud.gov/portal/page/portal/HUD/localoffices>.

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If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale provided the sale is concluded prior to the conclusion of the foreclosure.

Dated: **March 4, 2013**

THE COOPER CASTLE LAW FIRM, LLP, as Trustee
A Multi-Jurisdictional Law Firm

By: *M.D.*
Matthew Dayton
 Attorney at Law
Matthew Dayton

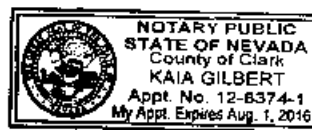
State of NEVADA } ss.
 County of CLARK }

On March 4, 2013, personally appeared before me, *Kaia Gilbert* a notary public,
Matthew Dayton who proved to me on the basis of satisfactory evidence to be the person(s)
 whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
 same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
 the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of *Nevada* that the foregoing paragraph
 is true and correct.

WITNESS my hand and official seal.

Signature *Kaia Gilbert* (Seal)



**THIS OFFICE IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION
 OBTAINED WILL BE USED FOR THAT PURPOSE.**

As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be
 submitted to a credit report agency if you fail to fulfill the terms of your credit obligations.

T.S. No.: 12-05-42957-NV
 Notice of Default

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
ELECTION/WAIVER OF MEDIATION FORM

Print Form

(This Section to be Completed by Trustee)

ASSESSOR PARCEL NUMBER (APN) _____		TS # <u>12-05-42951</u>
Homeowner's Last Name _____	Homeowner's First Name _____	Loan # _____
Co-Owner's Last Name _____	Co-Owner's First Name _____	DoT Doc # _____
Property Address _____	Book # _____	Page # _____
Trustee _____	Inst # _____	County in which Property is located _____
Beneficiary _____		

ATTENTION: YOU MUST ACT WITHIN THIRTY (30) DAYS. IF NO ACTION IS TAKEN, THE FORECLOSURE MAY PROCEED.

You have been served with a Notice of Default and Election to Sell (copy enclosed), which could result in the loss of your home. The State of Nevada Foreclosure Mediation Program provides an opportunity for homeowners, whose owner-occupied, primary residence is subject to foreclosure to meet with a lender and a neutral Mediator to discuss alternatives to foreclosure. The Mediator will be appointed by the State of Nevada Foreclosure Mediation Program Administrator. The Mediator **cannot** provide legal advice to either party; free and low cost legal advice and housing counseling is available through HUD-approved counseling agencies and legal aid organizations. Please see attached Resource Sheet. If you feel the need for legal representation, it is recommended you consult an attorney.

Property Owner's Name: _____	Co-owner's Name: _____
Mailing Address: _____	Mailing Address: _____
Phone No: _____ (Day)	Phone No: _____ (Day)
Phone No: _____ (Evening)	Phone No: _____ (Evening)
Email Address: _____	Email Address: _____

(Please list additional property owners on a separate sheet of paper)

PLEASE SELECT ONE OF THE CHOICES BELOW:

☐ **ELECTION OF MEDIATION** - The undersigned hereby request[s] foreclosure mediation be scheduled to attempt to work out a resolution of the loan. (\$200.00 Money Order or Cashier's Check **must be enclosed**; Personal Checks not accepted).
You must include ALL the following with your election form:

☐ \$200 Money Order/Cashier's Check ☐ Notice of Default

Are you in Bankruptcy? Yes ☐ No ☐ If yes, date filed? _____

☐ Individuals are encouraged to learn about nonprofit community organizations providing free foreclosure counseling and legal assistance (not affiliated with the State of Nevada Foreclosure Mediation Program). Check this box if you **do not wish** to be contacted by a nonprofit community organization.

☐ **WAIVER OF MEDIATION** - The undersigned is/are aware of the right to seek mediation but have determined that I/we do **not** want to proceed with mediation and hereby waive the right to do so.

The undersigned hereby certifies under the penalty of perjury that I/we are the owner[s] of the real property that is the subject of the pending foreclosure and occupy the real property as my/our primary residence.

Signature of Property Owner _____	Date _____	Signature of Property Owner _____	Date _____
-----------------------------------	------------	-----------------------------------	------------

If you have chosen to seek mediation, you must send a money order or cashier's check for \$200 payable to: "State of Nevada Foreclosure Mediation Program." This payment and the forms must be returned to the Program Administrator within 30 days of receiving the Notice of Default and Election to Sell. For your use in this packet are two unstamped, pre-addressed envelopes. Send to: 201 S. Carson Street, Ste 250 Carson City NV 89701.

Please complete two copies of this form as stated above, forward the originals to the Program Administrator with the \$200 payment. Send one copy to the Trustee of the deed of trust and retain your copy for mediation.

**STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
INSTRUCTIONS FOR THE
ELECTION/WAIVER OF MEDIATION FORM**

To the Trustee:

You must fill out the top box on the Approved Form including the Property Address, the Assessor's Parcel Number (APN), the Loan Number and TS Number, Dot Number, Book/Page and Instrument Number. Please provide the homeowner with the Election/Waiver of Mediation and the Required Documents for Foreclosure Mediation documents, as well as two preaddressed envelopes addressed to you (Trustee) and the Foreclosure Mediation Program (FMP) 201 S. Carson St, Ste 250 Carson City, NV 89701.

To the Homeowner:

You are eligible to participate in this program if you:

1. **Have a recorded Notice of Default.**
2. If you do not have an open bankruptcy filed on or after July 1, 2009.
3. If you have been discharged from Bankruptcy or the court has ordered you into the FMP.
4. If this property is your **primary, owner-occupied residential property**, and not a vacation, rental or other property where the homeowner does not live.

ELECTION/WAIVER OF MEDIATION - You must complete the Election/Waiver of Mediation Form and provide a copy of the Notice of Default to the Foreclosure Mediation Program.

- Print your name and mailing address in the spaces provided. Include your telephone numbers and your email addresses. If you have a co-owner, their name, address, phone numbers and email addresses must be included. This information will only be used for the mediation purposes.

In the designated location on the ELECTION/WAIVER OF MEDIATION form, you must select (with a check mark or "X") one of two choices. Select **ONLY** one:

1. "ELECTION OF MEDIATION" if you choose to enter into the Mediation Program; OR
2. "WAIVER OF MEDIATION" if you do not want to participate in the foreclosure Mediation Program.

If you choose to enter (Election of Mediation) into the Foreclosure Mediation Program:

- You must then sign and date each form. **NOTE** that by signing the form you are certifying under penalty of perjury that you own and occupy the subject property as your primary residence.
- Using the preaddressed envelopes, one completed copy of the forms must be mailed to the Trustee of the deed of trust by certified mail, return receipt requested.
- The original of the completed form must be mailed by certified mail in the preaddressed envelope (addressed to the Foreclosure Mediation Program Administrator). If you elect mediation, you must include **\$200.00 (cashiers check or money order ONLY)** along with all required forms payable to:

**State of Nevada Foreclosure Mediation Program
201 S Carson St, Ste 250
Carson City NV 89701**

- The envelope addressed to the ADMINISTRATOR must be mailed no later than 30 days after receiving the forms and the Notice of Default from the Trustee. You will need to pay the postage for the mailings.

If you choose to forego or waive mediation, there is no need to send the \$200.00. Please send the Election/Waiver of Mediation form to the Trustee and the Administration in the pre addressed envelopes. If you do not mail the form to the Trustee and the Program Administrator, you will not be allowed to participate in the mediation program and a foreclosure sale may be noticed according to law. **This is your only opportunity to elect to participate in the foreclosure mediation process.**

STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM Foreclosure Mediation Resources

The following Agencies and Non-Profit Organizations to provide free resources and help. The following programs, resources, and tips will answer many questions and help you become better prepared:

Free Foreclosure Mediation Classes

Homeowners will learn about their options and various programs.

- *How the Foreclosure Process Works.*
- *How to Prepare for Mediation.*
- *Loan Modifications and Short Sales, including tax consequences and deficiencies.*
- *Free Legal Information Manual, including forms, samples and legal information.*

Las Vegas:

- Legal Aid Center of Southern Nevada. Call (702) 386-1070 for monthly class schedule. Visit www.lacsn.org for more information.
- Nevada Legal Services. Call (702) 386-0404, ext. 511 for class schedule. For more information visit www.nevadalegalservices.org.

Reno:

- Reno Senior Center, 1155 E. 9th Street. Call (775) 328-2592 for weekly class schedule. For more information visit www.washocounty.us/seniorsrv/legal.htm.
- Nevada Legal Services, 656 Tahoe Street. Call (775) 284-3491 for monthly class schedule. For more information visit www.nevadalegalservices.org.

Rural Nevada:

- Monthly classes are held throughout the rural counties of Nevada. Call (877) 693-2163 for a schedule of times and locations.

HUD-Approved Housing Counseling Agencies

Free loan modification and foreclosure mediation counseling

- Community Services of Nevada - Las Vegas, (702) 307-1710, www.csnv.org
- Financial Guidance Center - Las Vegas, (702) 364-0344, www.cccsnevada.org
- Financial Guidance Center - Henderson, (702) 364-0344, www.cccsnevada.org
- Financial Guidance Center - Reno, (800) 451-4505, www.cccsnevada.org
- Housing for Nevada - Las Vegas, (702) 270-0300, www.housingfornevada.org
- NACA - Las Vegas, (702) 362-6199, www.naca.com
- Nevada Legal Services - Statewide, (877) 693-2163, www.nevadalegalservices.org.
- NFD-HCA - Las Vegas, (702) 228-1975, www.nfdonline.org
- Nevadaebt - Henderson, (888) 697-7980, www.nevadebt.org
- Springboard - Henderson, (800) 947-3752, www.credit.org
- Women's Development Center - Las Vegas, (702) 796-7770, www.wdcnv.org

Free Legal Representation

- *Foreclosure Legal Information*
- *Low-Income Legal Representation*
- *Advice and Counsel from Volunteer Attorneys.*

Statewide:

- Home Again: Nevada Homeowner Relief Program. Call (855) 457-4638.

Las Vegas:

- Legal Aid Center of Southern Nevada. Call (702) 868-1147, or visit www.lacsn.org.
- Civil Law Self-Help Center, First Floor, Regional Justice Center, 200 Lewis Ave.
- Nevada Legal Services. Call (702) 386-0404, ext. 511, or visit www.nevadalegalservices.org.

Reno:

- Washoe County Senior Law Project. Call (775) 328-2592, or visit www.washocounty.us/seniorsrv/legal.htm.
- Nevada Legal Services. Call (775) 284-3491, or visit www.nevadalegalservices.org.

Carson City:

- Nevada Legal Services. Call (775) 883-0404, or visit www.nevadalegalservices.org.

Elko:

- Nevada Legal Services. Call (775) 753-5880, or visit www.nevadalegalservices.org.

Other Legal Resources

- State Bar of Nevada Lawyer Referral Service. Call (702) 382-0504 or (800) 789-5747, or visit www.nybar.org.

Useful Websites

- foreclosure.nevadajudiciary.us
- foreclosurehelp.nv.gov
- homcagaineveada.gov
- hud.gov
- makinghomeaffordable.gov
- nahac.org
- stopovforeclosures.org

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM

Possible Documents Required for Foreclosure Mediation

If you choose to participate in the State of Nevada Foreclosure Mediation Program (FMP) to seek an alternative to foreclosure, the following documents may be required to qualify you for loan modification, short sale, or other foreclosure alternatives. The Beneficiary of the Deed of Trust will provide you a complete list of documents needed for mediation after your request to participate in mediation has been assigned to a FMP mediator.

The following documents can be found at the State of Nevada Foreclosure Mediation Program website at <http://foreclosure.nevadajudiciary.us/index.php/documents-and-forms/>

- Request for Modification Affidavit (RMA)
- Uniform Borrower Assistance Form (Form 710)
- Borrower Financial Statement
- Tax Form 4506-T or 4506T-EZ
- DODD-FRANK Certification Form
- Third Party Authorization Form (if applicable)

In addition, you may be required to provide:

- Proof of Income (all borrower(s) on loan):
 - A minimum of 4 most recent pay stubs detailing year-to-date earnings, hourly and salary wages.
 - Award letters for any income benefits, pension, retirement, unemployment and two corresponding bank statement deposits.
 - If self-employed, provide a borrower signed Profit and Loss statement (P&L) for the last quarter.
 - Documentation and Letter of Explanation (LOE) for any other income.
- Household Expenses (all borrower(s) on loan).
- Signed Tax Returns including all schedules for the past two (2) years.
- Bank Statements - Checking and Savings - 3 Recent Months (all borrower(s) on loan).
- A current Utility Bill showing the homeowner name and property address (gas, electric, water, sewer).
- A signed Hardship Letter explaining the reason for your hardship and your intention regarding the property.
- Military Orders.
- An HOA bill, letter or coupon with HOA contact information and property address showing current on all HOA assessments.
- Divorce Decree and/or Separation Documentation (all borrower(s) on loan).
- Child Support/Alimony (Copy of relevant orders with proof of 4 months payments).
- Rental/Lease Agreement Information (if applicable to household income).
- Bankruptcy Filing (if currently open/in process).

Do Not Forward Copies of these documents to the Trustee or the State of Nevada Foreclosure Mediation Program at this time.

You will receive instructions from your mediator on when and where to send your documents.



State of Nevada Foreclosure Mediation Program

200 Lewis Avenue, 17th Floor
Las Vegas, NV 89101
(702) 486-9380

201 South Carson Street, Suite 250
Carson City, NV 89701
(775) 687-9816

(888) 421-3004 - Rural Nevada

foreclosure.nevadajudiciary.us

Important Information! Please Read.

You may have a right to mediation.

Foreclosure mediation is available to Nevada homeowners of owner-occupied residential property after a Notice of Default has been filed with a County Recorder (NRS 107.086).

You must act quickly.

An eligible homeowner of an owner-occupied residential property has thirty (30) days to request mediation after receipt of a Notice of Default. To participate, homeowners complete an Election/Waiver Form, sent by the homeowner's lender, and submit a non-refundable mediation fee of \$200 to the State of Nevada Foreclosure Mediation Program.

The State of Nevada provides an opportunity to meet with your lender.

Foreclosure mediation provides eligible homeowners with the option to meet face-to-face with their lender and discuss alternatives to foreclosure. Lender representatives must have the authority to negotiate and modify the terms of a loan. Mediations often result in loan modification, a short sale agreement, or other resolution.

Questions?

Contact us by telephone or visit our website,
foreclosure.nevadajudiciary.us.

Homeowner Education and Legal Aid Programs

The following programs provide free legal assistance and foreclosure education to Nevada homeowners:

- ***Home Again Nevada***
(855) 457-4638
- ***Financial Guidance Center***
(800) 451-4505
- ***Nevada Legal Services***
(877) 693-2163
- ***Legal Aid Center of Southern Nevada***
(702) 868-1147
- ***Civil Law Self-Help Center***
Regional Justice Center - Las Vegas
200 Lewis Avenue, First Floor
Walk-in hours: 8:00 am-4:00 pm (M-F)

***Mediation
provides eligible
homeowners with the
option to meet face-to-
face with their lender to
discuss alternatives to
foreclosure.***

Noticia FMP-02 (1-2013) © Copyright 2013 State of Nevada Foreclosure Mediation Program

NRS 107.080 Compliance Affidavit**AFFIDAVIT OF AUTHORITY TO EXERCISE THE POWER OF SALE****Property Owners:**Joseph F. HarrisonBonnie L. Harrison**Trustee Address:**The Cooper Castle Law Firm, LLP5275 S. Durango Dr.Las Vegas, NV 89113**Property Address:**5946 Lingering Breeze StreetLas Vegas, Nevada 89148**Deed of Trust Document Instrument
Number**20090331-0004948

Lepketia Dukes, being of lawful age and being first duly sworn on oath, under penalty of perjury, states and deposes as follows:

1. I am the **Authorized Officer** of GMAC Mortgage, LLC ("GMACM"), servicer for Gmac Mortgage Llc, the current beneficiary under the Deed of Trust.
2. I make this affidavit based upon my personal knowledge, review of certain documents which are of public record in the State of Nevada and/or my review of GMACM's business records (collectively, "Records").
3. The full name and business address of the trustee or the trustee's representatives or assignee is:

The Cooper Castle Law Firm, LLP, 5275 S. Durango Dr., Las Vegas, NV 89113

Full Name

Street, City, County, State, Zip

4. The full name and business address of the current or constructive holder of the note secured by the Deed of Trust is:

GMAC Mortgage, LLC1100 Virginia DriveFort Washington, PA 19034

5. The full name and business address of the current beneficiary of record of the Deed of Trust is:

GMAC Mortgage, LLC1100 Virginia DriveFort Washington, PA 19034

6. The full name and business address of the servicers of the obligation or debt secured by the Deed of Trust is:

GMAC Mortgage, LLC
1100 Virginia Drive
Fort Washington, PA 19034

7. The full name and last known business address of the current and every prior known beneficiary of the Deed of Trust, is:

GMAC Mortgage, LLC
1100 Virginia Drive
Fort Washington, PA 19034

Mortgage Electronic Registration Systems, Inc.
As nominee for GMAC Mortgage, LLC
PO Box 2026
Flint, MI 48501-2026

Mortgage Electronic Registration Systems, Inc.
As nominee for Federal Home Loan Mortgage Corporation
PO Box 2026
Flint, MI 48501-2026

Federal Home Loan Mortgage Corporation
5000 Plano Pkwy
Carrollton TX 75010

Mortgage Electronic Registration Systems, Inc.
As nominee for Ally Bank, a Utah Corporation (Formerly GMAC Bank)
PO Box 2026
Flint, MI 48501-2026

Ally Bank, a Utah Corporation (Formerly GMAC Bank)
6985 Union Park Center Ste 435
Midvale, UT 84047

Mortgage Electronic Registration Systems, Inc.
As nominee for Direct Equity Mortgage, LLC
PO Box 2026
Flint, MI 48501-2026

Direct Equity Mortgage, LLC
3285 North Fort Apache Road
Las Vegas, Nevada 89129

8. The beneficiary, successor in interest of the beneficiary, or trustee of the Deed of Trust, has actual or constructive possession of the note secured by the Deed of Trust.

9. The trustee has been authorized to exercise the power of sale under Chapter 107 of NRS with respect to the property encumbered by the Deed of Trust, pursuant to the instruction of the beneficiary of record (or the authorized representative of the same) and the current holder of the note secured by the Deed of Trust (or the authorized representative of the same).
10. According to the Records, as of 02/04/13, the following is the information regarding the amount in default, the principal amount secured by the Deed of Trust, a good faith estimate of fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale:
- a. Missed payments and interest in default is: \$ 31,652.78
 - b. Fees and costs already charged in connection with the exercise of power of sale: \$ 220.25
 - c. Unpaid principal amount of the debt secured by the Deed of Trust: \$227,324.19
 - d. A good faith estimate of all fees imposed and to be imposed because of the default, excluding the foreclosure fees and costs set forth below:
To be determined
 - e. A good faith estimate of the total costs and fees to be charged to the debtor in connection with the exercise of the power of sale: \$2,525
 - f. Suspense Balance 0.00

///

///

///

11. The following is information regarding the instrument(s) that conveyed the interest of each beneficiary:

<u>March 26, 2009</u>	<u>n/a</u>	<u>Promissory Note</u>
Date	Document Instrument Number	Name of Document Conveying Interest of Beneficiary
<u>March 26, 2009</u>	<u>20090331-0004948</u>	<u>Deed of Trust</u>
Date	Document Instrument Number	Name of Document Conveying Interest of Beneficiary
<u>July 19, 2012</u>	<u>20120723-0000030</u>	<u>Assignment</u>
Date	Document Instrument Number	Name of Document Conveying Interest of Beneficiary

12. Following is the true and correct signature of the affiant:


 Affiant Name: Lepketia Dukes
 Print name: Lepketia Dukes
 Title: Authorized Officer
 GMAC Mortgage LLC

Sworn to and subscribed before me.

this 13 day of February, 2013

Notary Public, State of Pennsylvania

County of Montgomery

Commissioned Name of Notary Public Patricia Nolan Hoffman

My commission Expires 11-15-15

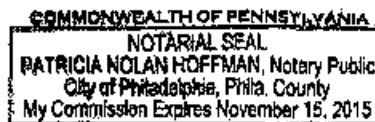


Exhibit 16

Exhibit 16

Exhibit 16

Inst #: 201311180000445

Fees: \$18.00

N/C Fee: \$0.00

11/18/2013 09:51:49 AM

Receipt #: 1845406

Requestor:

COOPER CASTLE LAW FIRM- NEW

Recorded By: MAT Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

WHEN RECORDED MAIL TO:

The Cooper Castle Law Firm

5275 S. Durango Drive.

Las Vegas, Nevada 89113

Attn: Foreclosure Dept.

T.S. No: 12-05-42957-NV

APN: 163-31-611-022

Title Report No.: 6734622

NOTICE OF TRUSTEE'S SALE

YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED March 26, 2009. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

A public auction sale to the highest bidder for a cashier's check drawn on a state or national bank will be held by the duly appointed trustee as shown below. The sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by the Deed of Trust, with interest and late charges thereon, as provided in the note(s), advances, under the terms of the Deed of Trust, interest thereon, fees, charges and expenses of the Trustee for the total amount (at the time of the initial publication of the Notice of Sale) reasonably estimated to be set forth below. The amount may be greater on the day of sale.

TRUSTOR: Joseph F Harrison and Bonnie L Harrison

Duly Appointed Trustee: The Cooper Castle Law Firm fka The Cooper Christensen Law Firm, LLP

Recorded on March 31, 2009, in 20090331-0004948 of Official Records in the office of the Recorder of Clark County, Nevada, Described as follows:

PARCEL I:

LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (I).

Date of Sale: 12/20/2013 at 09:00 AM

Place of Sale: At the Front Entrance of Nevada Legal News, 930 S. Fourth St, Las Vegas, NV 89101

Estimated Sale Amount: \$259,100.58


Street Address or other common designation of real property: 5946 Lingerin Breeze Street,
Las Vegas, NV 89148**PAGE 1 OF 2**

APN #: 163-31-611-022

The undersigned Trustee disclaims any liability for any incorrectness of the street address or other common designation, if any, shown above. If no street address or other common designation is shown, directions to the location of the property may be obtained by sending a written request to the beneficiary within 10 days of the date of first publication of this Notice of Sale.

Date: November 15, 2013

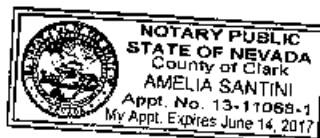
The Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, Nevada 89113
(702) 435-4175
www.ccfirm.com


Justin Gourley, Esq.
Attorney at Law

State of NEVADA } SS.
County of CLARK }

On November 15, 2013, before me, the undersigned, Amelia Santini, personally appeared Justin Gourley personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Amelia Santini (Seal)

PAGE 2 OF 2

Exhibit 17

Exhibit 17

Exhibit 17

A.P.N.: 163-31-611-022
Requested and Prepared by:
Cooper Castle Law Firm, LLP

When Recorded Mail To:
Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, NV 89113

Forward Tax Statements to
the address given below

Inst #: 201401070000775

Fees: \$19.00 N/C Fee: \$0.00

RPTT: \$879.75 Ex: #

01/07/2014 08:18:28 AM

Receipt #: 1893423

Requestor:

THE CASTLE LAW GROUP, LLC.

Recorded By: ECM Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

T.S. NO.: 12-05-42957-NV
TITLE ORDER # 6734622

TRUSTEE'S DEED UPON SALE

A.P.N.: 163-31-611-022 TRANSFER TAX: \$879.75

The Grantee Herein Was the Foreclosing Beneficiary.

The Amount of the Unpaid Debt was \$227,324.19, plus any Accrued Interest, Late Charges, Escrow Shortages, and other Collection Costs pursuant to the Promissory Note/Deed of Trust/Loan Modification Agreement.

The Amount Paid by the Grantee Was \$172,200.00

Said Property is in the City of Las Vegas, County of Clark

Cooper Castle Law Firm, LLP, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

Ocwen Loan Servicing LLC

(herein called Grantee), whose legal address is 110 Virginia Drive, Fort Washington PA 19034 but without covenant or warranty, expressed or implied, all right title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Clark, State of Nevada, described as follows:

SEE EXHIBIT A HERE TO AND INCORPORATED HEREIN BY REFERENCE

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by Joseph F Harrison and Bonnie L Harrison, as Trustees, dated March 26, 2009 of the Official Records in the office of the Recorder of Clark County, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on March 31, 2009, 20090331-0004948 of Official records. The Trustee has complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified mail, postage pre-paid, to each person entitled to notice in compliance with Nevada Revised Statutes Chapter 107.

TRUSTEE'S DEED UPON SALET.S. NO.: **12-05-42957-NV**TITLE ORDER # **6734622**

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on **December 20, 2013**. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid, being **\$172,200.00**, in lawful money of the United States, receipt thereof is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, Cooper Castle Law Firm, LLP as Trustee, has this day, caused its name to be hereunto affixed by its officer thereunto duly authorized by its corporation by-laws.

Date: 1/3/14**THE COOPER CASTLE LAW FIRM, LLP**By: 

Justin Gourley

Attorney at Law

State of Nevada } SS.

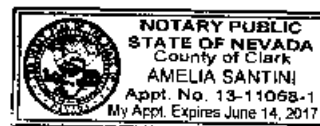
County of Clark }

On 1-3-14 before me, the undersigned, Amelia Santini, Notary Public, personally appeared Justin Gourley personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 

(Seal)



Joseph F Harrison and Bonnie L Harrison / 12-05-42957-NV

EXHIBIT A

THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF NEVADA, COUNTY OF CLARK, CITY OF LAS VEGAS, AND IS DESCRIBED AS FOLLOWS:

PARCEL I:

LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101, OF PLATS,PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
Other _____

FOR RECORDERS OPTIONAL USE ONLY
Book _____ Page: _____
Date of Recording: _____
Notes: _____

3.a. Total Value/Sales Price of Property \$ 172,200.00
b. Deed in Lieu of Foreclosure Only (value of property (_____)
c. Transfer Tax Value: \$ 172,500.00
d. Real Property Transfer Tax Due \$ 879.75

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity: Attorney At Law
Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: Cooper Castle Law Firm
Address: 5275 S. Durango Drive
City: Las Vegas
State: NV Zip: 89113

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Owen Loan Servicing LLC
Address: 110 Virginia Drive
City: Fort Washington
State: PA Zip: 19034

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: Cooper Castle Law Firm Escrow # _____
Address: 5275 S. Durango Drive
City: Las Vegas State: NV Zip: 89113

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit 18

Exhibit 18

Exhibit 18

APN: 163-31-611-022

Return document and mail tax statements to:

Chersus Holdings, LLC
1354 Opal Valley St
Henderson NV 89052

Inst #: 201401130001734

Fees: \$18.00 N/C Fee: \$0.00

RPTT: \$889.95 Ex: #

01/13/2014 03:17:13 PM

Receipt #: 1900145

Requestor:

CHERUS HOLDINGS LLC

Recorded By: SCA Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

DEED OF SALE

THIS INDENTURE WITNESSETH: That first party

FIRST 100, LLC

for valuable consideration, the receipt of which is hereby acknowledged, does hereby convey
without warranty, express or implied, to grantee:

CHERSUS HOLDINGS, LLC

the real property situated in Clark County, State of Nevada, described as follows:

**** SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION ****

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

Together with all and singular the tenements, hereditaments and appurtenances thereunto
belonging or in any way appertaining.

Subject to: (i) Property taxes; (ii) conditions, covenants, restrictions, reservations, rights, rights of
way, and easements now of record, if any; and (iii) liens, deeds of trust, and other encumbrances
now in force, if any.

By:

Authorized Signatory, First 100 LLC

Print Name:

Carlos Cardenas
Carlos Cardenas

STATE OF NEVADA)

COUNTY OF CLARK)

This instrument was acknowledged before me on October 23rd 2013.

by:

Carlos Cardenas
(print name of above signatory)

NOTARY PUBLIC



Exp: 07-30-16

EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

- a. 183-31-811-022
b. _____
c. _____
d. _____

2. Type of Property:

- a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
i. ☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____
Date of Recording: _____
Notes: _____

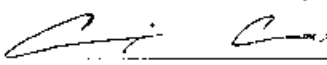
- 3.a. Total Value/Sales Price of Property \$ 174,083.00
b. Deed in Lieu of Foreclosure Only (value of property (_____))
c. Transfer Tax Value: \$ 174,083.00
d. Real Property Transfer Tax Due \$ 889.95

4. If Exemption Claimed:

- a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity: Seller (Grantor) Representative

Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: First 100, LLC
Address: 11920 Southern Highlands Ste 200
City: Las Vegas
State: Nevada Zip: 89141

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

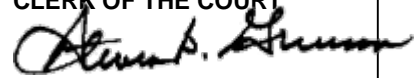
Print Name: Chersus Holdings, LLC
Address: 1354 Opal Valley St
City: Henderson
State: Nevada Zip: 89052

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: First 100, LLC
Address: 11920 Southern Highlands Ste 200
City: Las Vegas

Escrow # _____
State: Nevada Zip: 89141

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED



VERNON A. NELSON, JR., ESQ.
Nevada Bar No.: 6434
THE LAW OFFICE OF VERNON NELSON
9480 S. Eastern Ave., Ste. 252
Las Vegas, NV 89123
Tel.: 702-476-2500
Fax.: 702-476-2788
E-mail: vnelson@nelsonlawfirmnv.com
Attorneys for Defendant Chersus Holding, LLC

DISTRICT COURT

COUNTY OF CLARK, STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, a foreign
Limited Liability Company,

Case No.: A-14-696357-C
Dept No.: IV

Plaintiff,

v.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company; First 100, LLC, a
Domestic Limited Liability Company;
SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION, a Domestic Non-Profit
Corporation; RED ROCK FINANCIAL
SERVICES, LLC, A Foreign Limited Liability
Company; UNITED LEGAL SERVICES,
INC., a Domestic Corporation; DOES I
through X; and ROE CORPORATIONS XI
through XX, inclusive

**DEFENDANT CHERSUS HOLDINGS,
MOTION FOR SUMMARY JUDGMENT**

Defendant,

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimant

I. STATEMENT OF FACTS AND RELEVANT PROCEDURAL HISTORY

A. INTRODUCTION AND ESSENTIAL FACTS:

This matter arises out of the following material facts, which are not in dispute:

1. On or around May 28, 2013, a Foreclosure Deed upon Sale was executed
conveying the property located at 5946 Lingering Breeze St, Las Vegas, NV 89148 (APN 163-31-

1 611-022) (hereinafter the "Property") to First 100, LLC ("First 100") pursuant to a sale (the "HOA
2 Foreclosure" or the "HOA Sale") held under NRS Chapter 116 foreclosing on Southern Terrace
3 Homeowners Associations Lien for Delinquent Assessments. *See HOA Deed at Exhibit "H"*.

4 2. First 100 subsequently recorded its deed on May 29, 2013 as instrument number
5 201305290002514. *Id.*

6 3. On or around October 23, 2013, First 100 sold the Subject Property to Defendant,
7 Chersus Holdings, LLC ("Chersus") who recorded its deed on January 13, 2014 as instrument
8 number 201401130001734. *See "Chersus Deed attached hereto as Exhibit "N"*.

9 4. On or around December 20, 2013, Plaintiff held purported to foreclose on the
10 Property pursuant to its First Deed of Trust. It purportedly purchased the Property via a credit bid
11 at the resulting foreclosure sale (the "Deed of Trust Foreclosure" or the "Trustee Sale").
12

13 5. Plaintiff recorded its deed on January 7, 2014 (the "Ocwen Deed").
14

15 **B. OWEN FILES THE CURRENT ACTION AGAINST CHERSUS.**

16 Ocwen filed its initial Complaint commencing this action on February 19, 2014 (copies of
17 the *Complaint* and all other pleadings referenced herein are part of the *Docket for A-14-696357-C*
18 *located on the Eighth Judicial District Portal* at www.clarkcountycourts.us/portal). Chersus was
19 the sole Defendant in the Complaint. In its Complaint, Ocwen alleged it is the owner of the
20 Property. Ocwen alleged it obtained its ownership interest in the Property via the Deed of Trust
21 Foreclosure. Ocwen alleged that any interest First 100 may have obtained in the Property was
22 subject to the Deed of Trust and that the Deed of Trust Foreclosure extinguished First 100's
23 interest in the Property; and any interest Chersus may have acquired in the Property. Accordingly,
24 Ocwen asserted claims for quiet title, and declaratory relief.
25

26 Chersus filed its Answer and Counterclaim on March 28, 2014. Chersus denied the
27 material allegations in the Complaint. In its Counterclaim, Chersus alleged that on November 13,
28

1 2014, First 100 put Ocwen and its agents on actual notice that the HOA lien for delinquent
2 assessments had been foreclosed upon and the First Deed of Trust had been extinguished. Chersus
3 alleged Ocwen was on constructive and actual notice of the HOA Foreclosure; but despite such
4 notice Plaintiff wrongfully proceeded with the Deed of Trust Foreclosure. Chersus asserted claims
5 for wrongful foreclosure, quiet title, declaratory relief, and conversion.
6

7 Plaintiff filed a Motion for Summary Judgment on April 16, 2014. Defendant filed its
8 Opposition to Plaintiff's Motion and filed a Countermotion for Summary Judgment. During the
9 briefing of the motions, the Nevada Supreme Court decided *SFR Investments Pool 1, LLC v. U.S.*
10 *Bank, N.A.* 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014) (the "SFR Decision").

11 Due to the SFR Decision, Plaintiff moved for leave to amend its complaint. The Court
12 granted Ocwen's motion and Ocwen filed its First Amended Complaint on June 24, 2016. By way
13 of its First Amended Complaint, Plaintiff added several new defendants including First 100,
14 Southern Terrace Homeowners Association ("Southern"), Red Rock Financial Services LLC,
15 ("Red Rock") and United Legal Services, Inc. ("United")
16

17 C. OCWEN'S FIRST AMENDED COMPLAINT

18 In its First Amended complaint, Plaintiff included the following relevant allegations:

19 1. Public records show: (a) on December 8, 2011, a lien for delinquent assessments was
20 recorded against the property by Redrock, on behalf of the HOA; (b) on February 2, 2012 a Notice
21 of Default and Election to Sell Pursuant to Lien for Delinquent Assessments ("NOD") was
22 recorded against the Property by Redrock on behalf of the HOA; (c) on May 2, 2013, a Notice of
23 Foreclosure Sale was recorded against the Property by United, on behalf of the HOA; (d) on May
24 29, 2013, the HOA Deed was recorded by United, conveying the Property to First 100; (e) the
25 HOA Deed showed the Property was sold to First 100 at the HOA Sale pursuant to NRS Chapter
26 116 (the "Public Records Allegations").
27
28

1 2. Plaintiff alleged: (1) any interest First 100 may have obtained in the Property was
2 subject to the Deed of Trust; (2) the Deed of Trust Foreclosure extinguished any interest that First
3 100 or Chersus had in the Property; and (3) the HOA sale was invalid if it extinguished the Deed
4 of Trust (the “Deed of Trust Priority Allegations”).

5 3. Plaintiff alleged: (a) a HOA sale conducted pursuant to chapter NRS 116 must comply
6 with NRS 116.31162 through NRS 116.31168; (b) a lender/holder of a beneficial interest in a
7 senior deed of trust has a right to cure a delinquent HOA lien to protect its interest; (c) Red Rock
8 and United did not comply with all mailing and noticing requirements of NRS 116.31162-NRS
9 116.31168; (d) a recorded notice of default must describe the deficiency in payment; (e) the HOA
10 Sale occurred without adequate notice to Plaintiff; (f) the HOA Sale occurred without notice to
11 Plaintiff as to what portion of the lien, if any, that HOA and HOA trustee claimed constituted a
12 “super-priority” lien; (g) the HOA Sale occurred without notice to Plaintiff whether the HOA was
13 foreclosing on the “super-priority” portion of the lien, if any, or under the “nonsuper-priority”
14 portion of the lien; (h) the HOA Sale occurred without notice to Plaintiff of the right to cure the
15 delinquent assessment and the “super-priority” lien, if any; (i) the HOA sale was an invalid sale
16 and cannot extinguish Plaintiff's secured interest because of the defective notices; (j) the HOA
17 foreclosure notices included improper fees and costs in the amount required to cure, thus
18 invalidating the lien (the “Defective Notice Allegations”).

19 4. Plaintiff alleged: (a) per NRS Chapter 116, a lien under NRS 116.3116 (1) can only
20 include costs and fees that are specifically enumerated in the statute; (b) a HOA may only collect
21 as part of the “super-priority” lien nuisance abatement charges and nine months of common
22 assessments (unless Fannie Mae and Freddie Mac regulations require a shorter period of not less
23 than six months); (c) the attorney's fees and costs of collecting an HOA lien cannot be included in
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1 the lien or “super-priority” lien; (d) upon information and belief the HOA lien is unlawful and
2 void under NRS 116.3102 et seq. (the “Statutory Allegations”).

3 5. Plaintiff made various allegations that the HOA Sale and NRS Chapter 116 were
4 unconstitutional (the “Constitutional Allegations”).

5 6. Plaintiff alleged: (a) the CC&Rs for the HOA provided the HOA’s lien was subordinate
6 to the Plaintiff’s Deed of Trust; (b) the CC&Rs had a mortgagee protection clause; (c) due to the
7 mortgagee protection clause, and the lack of notice, Plaintiff did not know it had to attend the
8 HOA Sale to protect its Deed of Trust (the “CC&R Allegations”).

9 7. Plaintiff alleged the HOA Sale was required to be performed in a commercially
10 reasonable manner and Defendants failed to do so. Thus, the HOA sale was invalid. Plaintiff
11 alleged the HOA Sale was not commercially reasonable because: (a) the fair market value of the
12 Property, at the time of the sale, greatly exceeded the purchase price; and (b) notice of the correct
13 “super-priority” amount was not provided. Plaintiff also referenced the mortgagee protection
14 clause and alleged that potential bidders were aware of the mortgagee protection clause. Based on
15 this alleged knowledge of potential bidders, Plaintiff alleged on the sale was commercially
16 unreasonable because: (i) proper notice that the HOA intended to foreclose on the “super-priority”
17 portion of the dues owing was not given; causing prospective bidders to not appear for the HOA
18 Sale; (ii) proper notice was not given prospective bidders did not appear for the sale; (iii)
19 Defendants knew Plaintiff would rely on the mortgagee protection clause and Plaintiff would not
20 know the HOA was foreclosing on “super-priority” amounts, due to the lack of notice, which
21 resulted in Plaintiff being absent; thereby allowing First 100 to acquire the property for a fraction
22 of market value. (iv) Defendants knew (I) prospective bidders would be less likely to attend the
23 HOA Sale due to the mortgagee protection clause, (II) there would be an absence of prospective
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1 bidders; and (III) the Property would sell for a fraction of market value (the “Commercially
2 Reasonable Allegations”).

3 8. Plaintiff alleged the circumstances of the HOA sale breached the HOA's and HOA's
4 trustee's obligations of good faith under NRS 116.1113 and their duty to act in a commercially
5 reasonable manner (the “HOA’s Duties Allegations”).
6

7 9. Plaintiff alleged: (1) First 100 and Chersus are “professional foreclosure sale
8 purchasers;” (2) First 100 and Chersus had actual, constructive or inquiry notice of Plaintiff's First
9 Deed of Trust; and (3) because of their “notice” of the First Deed of Trust, and their status as
10 “professional foreclosure sale purchasers,” First 100 or Chersus cannot be deemed bona fide
11 purchasers for value (the “BFP Allegations”).
12

13 10. Plaintiff alleged that if its Deed of Trust was not reaffirmed or restored, it was entitled
14 to damages in the amount of the fair market value of the Property, or the unpaid
15 balance of due under Deed of Trust and underlying note, at the time of the HOA Sale, whichever
16 is greater (“Plaintiff’s Damages Allegations”).

17 Based on the allegations above, Plaintiff asserted claims for (1) Quiet Title/Declaratory
18 relief; (2) Preliminary and permanent injunctions; (3) Wrongful foreclosure against Southern, Red
19 Rock, and United; (4) Negligence versus Southern, Red Rock and United; (5) Negligence per se
20 versus Southern, Redrock, and United; (6) Breach of contract versus Southern, Redrock and
21 United; (7) Misrepresentation versus Southern; (8) Unjust enrichment versus Southern; (9)
22 Tortious interference with contract.
23

24 **D. CHERSUS’ COUNTERCLAIM**

25 On July 29, 2016, Chersus filed its Answer to the First Amended Complaint and asserted a
26 Counterclaim against Plaintiff. Chersus denied the material allegations of the First Amended
27 Complaint and it asserted a Counterclaim. In its Counterclaim, Chersus alleged the following:
28

1 1. Chersus alleged: (a) on May 28, 2013, a Foreclosure Deed upon Sale was executed
2 conveying the Property to First 100; (b) The Foreclosure sale was held under NRS Chapter 116
3 and the sale was held in connection with the foreclosure of Southern's Lien for Delinquent
4 Assessments; (c) on October 23, 2013, First 100, LLC sold the Property to Chersus and it recorded
5 the Chersus Deed on January 13, 2014 (the "Chersus Title Allegations").
6

7 2. Chersus alleged: (a) on November 13, 2014, First 100 put Plaintiff and its agents on
8 actual notice that the HOA lien for delinquent assessment had been foreclosed on and that the First
9 Deed of Trust had been extinguished; (b) despite being on constructive and actual notice of the
10 May 28, 2013, foreclosure sale, Ocwen proceeded to purport to foreclose on the extinguished First
11 Deed of Trust; (c) Ocwen purported to sell and purchase the Property at the Trustees Sale on
12 December 2014; and it recorded the Ocwen Deed on January 7, 2014 (the "Ocwen Foreclosure
13 Allegations").
14

15 Based on these allegations, Chersus's asserted claims for (1) Wrongful foreclosure; (2)
16 Quiet title; (3) Declaratory relief; (4) Conversion; (5) Unjust enrichment; and (6) Slander of title.

17 **E. OCWEN'S SECOND AMENDED COMPLAINT AND DISMISSAL OF UNITED**
18 **AND REDROCK**

19 After Red Rock Financial Services moved to Dismiss the First Amended Complaint,
20 Ocwen filed a second Motion for Leave to Amend the Complaint on September 18, 2017. The
21 Court granted Ocwen's motion and on January 23, 2018 Ocwen filed its Second Amended
22 Complaint. The Second Amended Complaint is essentially the same as the First Amended
23 Complaint except that Ocwen no longer asserted certain of its "Constitutional Claims." Chersus
24 filed its Answer to the Second Amended Complaint on March 19, 2018. Chersus denied all the
25 material allegations of the Second Amended Complaint and reasserted its Counterclaims. Southern
26 filed its Answer on April 5, 2018. On April 10, 2018 a Notice of Stipulation and Order was
27 entered dismissing United Legal Services without prejudice.
28

1 On June 6, 2018, Red Rock filed a Motion to Dismiss Ocwen's Second Amended Complaint. On
2 October 15, 2018, Plaintiff entered Default against First 100. On October 17, 2018, Red Rock and
3 Plaintiff entered a Stipulation and Order dismissing Red Rock.

4 **F. ALMOST ALL OF THE UNDISPUTED EVIDENCE IN THIS CASE IS BASED**
5 **ON THE DOCUMENTS RECORDED WITH THE CLARK COUNTY**
6 **RECORDER**

7 The undisputed evidence in this case is based on documents recorded with the Clark
8 County Recorder. Specifically, the documents referenced below, as recorded with the Clark
9 County Recorder, are relevant to this case (collectively the “Relevant Recorded Documents”).
10 The Grant, Bargain and Sale Deed, recorded on March 14, 2008, as Book and Instrument Number
11 20080314-0001996 evidences that Joseph Harrison and Bonnie Harrison purchased the Property in
12 2011. *See Exhibit A.* The Deed of Trust, recorded on March 31, 2009, as Book and Instrument
13 Number 20090331-0004948 evidences that Mr. and Ms. Harrison executed a Deed of Trust in
14 favor of the Lender, Direct Equity Mortgage, LLC. *See Exhibit B.* The Assignment of Deed of
15 Trust, recorded on July 23, 2012, as Book and Instrument Number 201207230000030 evidence
16 that the Deed of Trust was assigned to GMAC Mortgage, LLC. *See Exhibit C.*

17
18 The CC&Rs recorded on August 9, 2001, as Book and Instrument Number 20010809-
19 01455 evidence that the Property was subject to the Master Declaration of Covenants, Conditions
20 and Restrictions and Reservation of Easements for Southern Terrace. *See Exhibit D.*
21 The Lien for Delinquent Assessments recorded on December 8, 2011, as Book and Instrument
22 Number 201112080002960 evidences that Red Rock was officially assigned as agent by the
23 Southern Terrace Homeowners Association (“Southern”), in accordance with NRS116, and as
24 outlined in the Association’s CCR’s and that Red Rock notified Mr. and Mrs. Harrison that
25 Southern imposed a Lien for Delinquent Assessments the Property. *See Exhibit E.* The Notice of
26 Default and Election to Sell recorded on February 2, 2012 as Book and Instrument Number
27
28

1 201202020000465 evidences that Red Rock notified Mr. and Mrs. Harrison that it had recorded a
2 Notice that made it known that the obligation under the Covenants, Conditions and Restrictions
3 recorded 08/09/2001, in Book Number 20010809, as Instrument Number 01455, had been
4 breached; and therefore, Southern was declaring any and all amounts secured as well as due and
5 payable, and electing the property to be sold to satisfy the obligation. *See Exhibit F.* The Notice of
6 Foreclosure Sale recorded on May 2, 2013 as Book and Instrument Number 01305020000105
7 evidences that Mr. and Mrs. Harrison were notified and warned: (1) the sale of their property was
8 imminent; (2) the had to pay the specified amount or risk losing their home; (3) they continued to
9 be in Default under the Lien for Delinquent Assessments, (4) their home could be sold at auction,
10 and (5) the auction was scheduled to be held on May 25, 2013 at 9:00AM at 8965 S. Eastern Ave,
11 Suite 350, Las Vegas, NV 89123. *See Exhibit G.* The Foreclosure Deed Upon Sale recorded on
12 May 29, 2013 as Book and Instrument Number 201305290002514 (previously defined as the
13 “HOA Deed”) is attached hereto as *See Exhibit H.*

14
15
16 The Substitution of Trustee, recorded on August 24, 2012, as Book and Instrument
17 Number 201208240003610 evidences that GMAC Mortgage substituted Cooper Castle Law Firm
18 as the Trustee under the Deed of Trust. *See Exhibit J.* The Notice of Breach and Default and of
19 Election to Cause Sale of Real Property Under Deed of Trust, recorded on March 6, 2013, as Book
20 and Instrument Number 201303060002239 evidences that Cooper Castle notified Mr. and Mrs.
21 Harrison that a breach of, and default in, the obligations for which such Deed of Trust is security
22 had occurred. *See Exhibit K.* The Notice of Trustee’s Sale, recorded on November 18, 2013, as
23 Book and Instrument Number 201311180000445 evidences that Cooper Castle Law Firm, LLP, as
24 Trustee, granted and conveyed the Property to Ocwen, without covenant or warranty, expressed or
25 implied, all right title and interest conveyed to and then held by it as Trustee under the Deed of
26 Trust in and to the Property. *See Exhibit L.* The Trustee’s Deed Upon Sale recorded in the Clark
27
28

1 County Recorder's Office as Book and Instrument Number 201401070000775 evidences that
2 Ocwen recorded the Ocwen Deed. *See Exhibit M.* The Deed of Sale recorded on January 13, 2014
3 as Book and Instrument Number 201401130001734 (previously defined as the "Chersus Deed")
4 shows Chersus recorded its Deed. *See Exhibit N.*

5
6 **G. BASED ON THE RELEVANT RECORDED DOCUMENTS, CHERUS IS**
7 **ENTITLED TO SUMMARY JUDGMENT AND PLAINTIFF HAS FAILED TO**
8 **PRODUCE ANY ADMISSIBLE EVIDENCE TO SUPPORT ITS CLAIMS**

9 As stated above, when the parties were briefing cross-motions for summary judgment in
10 2014, the Nevada Supreme Court handed down the *SFR Decision*. After the *SFR Decision*
11 Plaintiff recognized that, based on the Relevant Recorded Documents, Chersus would prevail on
12 Motion for Summary Judgment. Accordingly, Plaintiff moved to amend its complaint and
13 requested additional discovery pursuant to NRCP 56(f).

14 In an effort to stave off summary judgment, Plaintiff made the unsubstantiated Deed of
15 Trust Priority Allegations, the Defective Notice Allegations, the Statutory Allegations, the
16 Constitutional Allegations, the CC&R Allegations, the Commercially Reasonable Allegations, the
17 HOA Duties Allegations, the BFP Allegations, and Plaintiff's Damages Allegations. As is
18 explained below: (1) Plaintiff has failed to prove it has standing to assert the claims it has raised in
19 its Second Amended Complaint; and (2) Plaintiff's allegations remain unsubstantiated and
20 Plaintiff has failed to produce any evidence the Relevant Recorded Documents are not controlling
21 in this case. Accordingly, Chersus's Motion for Summary Judgment must be granted.

22
23 **II. LEGAL STANDARD FOR MOTION FOR SUMMARY JUDGMENT**

24 N.R.C.P. Rule 56(e) states that summary judgment is in order when:

25 The pleadings, depositions, answers to interrogatories, and admissions on file,
26 together with the affidavits, if any, show that there is no genuine issue as to any
27 material fact and that the moving party is entitled to a judgment as a matter of law.
28

1 A genuine issue of material fact exists only when the evidence is adequate to where a
2 "reasonable jury" would return a verdict for the non-moving party. *Dermody v. Reno*, 113 Nev.
3 207, 210 (1997). The Court will accept as true only properly supported factual allegations and
4 reasonable inferences of the party opposing summary judgment. *Wayment v. Holmes*, 112 Nev.
5 232, 237 (1996). "Conclusory allegations and general statements unsupported by evidence creating
6 an issue of fact will not be accepted as true." *Id.*

8 The Nevada Supreme Court provided additional clarity on the standards governing
9 summary judgment motions. See, *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P. 3d 1026 (2005).
10 In *Wood*, the Court "put to rest any questions regarding the continued viability of the 'slightest
11 doubt' standard," when it held that the "substantive law controls which factual disputes are
12 material and will preclude summary judgment; other factual disputes are irrelevant." *Id.*
13 Summary judgment is particularly appropriate where issues of law are controlling and dispositive
14 of the case. *American Fence, Inc. v. Wham*, 95 Nev. 788, 792, 603 P. 2d 274 (1979).

16 IV. LEGAL ARGUMENT.

17 A. NRS 116.3116 Granted to the HOA a Super Priority Lien That Takes Priority 18 Over the Plaintiff's Deed of Trust.

19 NRS 116.3116 provides in part:

20 Liens against units for assessments.

21 1. **The association has a lien on a unit for** any construction penalty that is
22 imposed against the unit's owner pursuant to NRS 116.310305, **any assessment**
23 **levied against that unit or any fines imposed against the unit's owner from**
24 **the time the construction penalty, assessment or fine becomes due.** Unless the
25 declaration otherwise provides, any penalties, fees, charges, late charges, fines
26 and interest charged pursuant to paragraphs U) to (n), inclusive, of subsection 1 of
NRS 116.3102 are enforceable as assessments under this section. If an assessment
is payable in installments, the full amount of the assessment is a lien from the
time the first installment thereof becomes due.

27 3. A lien under this section is prior to all other liens and encumbrances on a unit except:

28 (a) Liens and encumbrances recorded before the recordation of the declaration

1 and, in a cooperative, liens and encumbrances which the association creates, assumes or
2 takes subject to;

3 (b) A first security interest on the unit recorded before the date on which the
4 assessment sought to be enforced became delinquent or, in a cooperative, the first
5 security interest encumbering only the unit's owner's interest and perfected before
6 the date on which the assessment sought to be enforced became delinquent; and

7 (c) Liens for real estate taxes and other governmental assessments or charges
8 against the unit or cooperative.

9 **The lien is also prior to all security interests described in paragraph (b) to the extent of**
10 **any charges incurred by the association on a unit pursuant to NRS 116.310312 and to**
11 **the extent of the assessments for common expenses based on the periodic budget**
12 **adopted by the association pursuant to NRS 116.3115 which would have become due in**
13 **the absence of acceleration during the 9 months immediately preceding institution of an**
14 **action to enforce the lien, unless federal regulations adopted by the Federal Home Loan**
15 **Mortgage Corporation or the Federal National Mortgage Association require a shorter**
16 **period of priority for the lien. If federal regulations adopted by the Federal Home Loan**
17 **Mortgage Corporation or the Federal National Mortgage Association require a shorter**
18 **period of priority for the lien, the period during which the lien is prior to all security**
19 **interests described in paragraph (b) must be determined in accordance with those**
20 **federal regulations, except that notwithstanding the provisions of the federal**
21 **regulations, the period of priority for the lien must not be less than the 6 months**
22 **immediately preceding institution of an action to enforce the lien. This subsection does**
23 **not affect the priority of mechanics' or materialmen's liens, or the priority of liens for**
24 **other assessments made by the association. (emphasis added)**

25 By its clear terms, NRS 116.3116 (2) provides that the super-priority lien for assessments
26 which have come due in the 9 months prior to the initiation of an action to enforce the lien are
27 "prior to all security interests described in paragraph (b)." The Deed of Trust purportedly held by
28 Plaintiff falls squarely within the language of paragraph (b). The statutory language does not
limit the nature of this "priority" in any way. In its recent decision of *SFR Invs. Pool I, LLC v.*
US. Bank, NA., 334 P.3d 408, 411-412, 130 Nev. Adv. Rep. 75 (Nev. 2014), the Supreme Court
held that the foreclosure of the HOA lien extinguishes first trust deeds. The court stated:

NRS 116.3116 gives a homeowners' association (HOA) a superpriority lien on an
individual homeowner's property for up to nine months of unpaid HOA dues.
With limited exceptions, this lien is "prior to all other liens and encumbrances" on
the homeowner's property, even a first deed of trust recorded before the dues
became delinquent. NRS 2116.3116(2). We must decide whether this is a true
priority lien such that its foreclosure extinguishes a first deed of trust on the

1 property and, if so, whether it can be foreclosed nonjudicially. We answer both
2 questions in the affirmative and therefore reverse.

3 The court went on to hold:

4 The NRS 116.3116(2) gives an HOA true “super priority” lien, proper foreclosure of
5 which will extinguish a first deed of trust. Because Chapter 116 permits nonjudicial
6 foreclosure of HOA liens, and because SFR's complaint alleges that proper notices were
7 sent and received, we reverse the district court's order of dismissal. In view of this holding,
we vacate the order denying preliminary injunctive relief and remand for further
proceedings consistent with this opinion.

8 This detailed opinion holds the 9-month HOA "super priority" lien has precedence over the
9 mortgage lien, and that foreclosure of the HOA lien extinguishes a first trust deed.

10 **C. The HOA Complied with Notice Requirements of NRS Chapter 116.**

11 **1. Recitals In The Trustee's Deed Upon Sale Are "Conclusive Proof" The HOA**
12 **Complied With The Notice Requirements Of NRS Chapter 116.**

13 The recitals in this foreclosure deed establish both the default by Mr. and Mrs. Harrison
14 and the HOA’s compliance with each of the notice requirements of NRS 116.31162 through
15 116.31168 for the public auction held on May 25, 2013. In particular, the first page of the
16 foreclosure deed includes the following recitals:

17
18 This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the
19 foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent
20 Assessments, recorded on December 8, 2011 as instrument 201112080002960 in the Official Records
21 of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and
22 Election to Sell, recorded on February 2, 2012 as instrument 201202020000465 in the Official Records
of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including,
but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent
Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of
Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power
under NRS § 116.31164, sold the property at public auction on May 25, 2013.

23 *See Exhibit H.*

24 Since NRS 116.31168(1) expressly incorporates the notice requirements of NRS 107.090
25 requiring that copies of the Notice of Default and Election to Sell (NRS 107.090(3)) and the
26 Notice of Sale (NRS 107.090(4)) be mailed to each "person with an interest or claimed interest"
27 that is "subordinate" to the HOA's “super priority lien,” the HOA’s agent was required to mail
28

1 copies of both the Notice of Default and Election to Sell and the Notice of Sale to the holder of the
2 beneficial interest in the Deed of Trust. Plaintiff has produced no evidence that the HOA's agent
3 did not mailed the notices to the holder of the beneficial interest of the Deed of Trust.

4 The recitals in the Foreclosure Deed set forth above are sufficient and conclusive proof that
5 the HOA's agent mailed copies to the holder of the beneficial of the Deed of Trust. This is because
6 NRS 116.31166 expressly provides:

7
8 **Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for**
9 **proper application of purchase money; title vested in purchaser without**
10 **equity or right of redemption.**

11 1. **The recitals in a deed** made pursuant to NRS 116.31164 of:

12 (a) Default, the mailing of the notice of delinquent assessment, and the recording
13 of the notice of default and election to sell;

14 (b) The elapsing of the 90 days; and

15 (c) The giving of notice of sale,

16 are **conclusive proof of the matters recited.**

17 2. **Such a deed containing those recitals is conclusive against** the unit's former
18 owner, his or her heirs and assigns, **and all other persons.** The receipt for the
19 purchase money contained in such a deed is sufficient to discharge the purchaser
20 from obligation to see to the proper application of the purchase money.

21 3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests
22 in the purchaser the title of the unit's owner without equity or right of redemption.
(emphasis added)

23 In *Pro-Max Corp. v. Feenstra*, 117 Nev. 90, 16 P.3d 1074 (2001), the Nevada Supreme
24 court reversed the district court, which refused to apply the conclusive presumption contained in
25 NRS 106.240 because "[t]he district court determined that the legislature intended for the statute to
26 protect bona fide purchasers." In its reversing decision, the Nevada Supreme Court held:

27 We conclude that the statute is clear and unambiguous. That being the case, no
28 further interpretation is required or permissible. Under the plain language of the
statute, the deeds of trust are conclusively presumed to have been satisfied and the

1 notes discharged. This conclusive presumption is plain, clear and unambiguous. **No**
2 **limitation of the statute's terms to bona fide purchasers can be read into the statute.**
(emphasis added) *Id.* at 117 Nev. at 95, 16 P.3d at 1078-79.

3 NRS 47.240(6) also provides that conclusive presumptions include "[a]ny other presumption
4 which, by statute, is expressly made conclusive." Because NRS 116.31166 contains such an
5 expressly conclusive presumption, the recitals in the foreclosure deed are "conclusive proof" the
6 HOA complied with all notice and mailing requirements for the sale held on May 25, 2013. The
7 conclusive presumption contained in NRS 116.31166 is consistent with the common
8 law presumption that "[a] nonjudicial foreclosure sale is presumed to have been conducted
9 regularly and fairly; one attacking the sale must overcome this common law presumption 'by
10 pleading and proving an improper procedure and the resulting prejudice.'" *Fontenot v. Wells*
11 *Fargo Bank*, 198 Cal. App. 4th 256,272, 129 Cal. Rptr. 3d 467 (2011). Furthermore, "[t]he
12 conclusive presumption precludes an attack by the trustor on a trustee's sale to a bona fide
13 purchaser even though there may have been a failure to comply with some required procedure
14 which deprived the trustor of his right of reinstatement or redemption." *Moeller v. Lien*, 25 Cal.
15 App. 4th 822, 831, 30 Cal. Rptr. 777 (1994). The detailed and comprehensive statutory
16 requirements for a foreclosure sale is indicative of a public policy which favors a final and
17 conclusive sale as to the purchaser.

18 Also, in *SFR Investments Pool 1, LLC v. U.S. Bank*, 130 Nev. Ad. Op. 75, 334 P.3d 408,
19 411-12 (2014), the Nevada Supreme Court recognized this "conclusive" effect of an HOA
20 foreclosure deed when it stated:

21 NRS 116.31164 addresses the procedure for sale upon foreclosure of an HOA lien
22 and specifies the distribution order for the proceeds of sale. **A trustee's deed**
23 **reciting compliance with the notice provisions of NRS 116.31162 through**
24 **NRS 116,31168 "is conclusive" as to the recitals** "against the unit's former
25 owner, his or her heirs and assigns, and all other persons." NRS 116.31166(2).
26 And, "[t]he sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164
27 vests in the purchaser the title of the unit's owner without equity or right of
28 redemption. NRS 116.31166(3). (emphasis added)

1 As a result, no issues of fact exist regarding the unit owner's default, the giving of all required
2 notices, and the extinguishment of the subordinate Deed of Trust.

3 **2. Per the “Mailbox Rule,” Ocwen, and Its Predecessor, GMAC, Presumptively**
4 **Received All of the Notices Required Per NRS 116.31162 through 116.31168**

5 Per the common-law “mailbox rule,” if the HOA’s agents properly and timely mailed the
6 required notices, a rebuttable presumption is raised that the beneficiary of the Deed of Trust
7 received the notices. *See Mahon v. Credit Bureau, Inc.*, 171 F.3d 1197, 1202-1203 (9th Cir. 1999).
8 For the presumption to arise, the sender must establish the notice was sent. *Id.* The sender can
9 establish the notice was sent by providing evidence of its standard business practices such as the
10 use of computerized tracking and filing software that records activities, and that procedures are in
11 place to ensure the number of outgoing notices correspond with the number of notices to be sent.
12 *Turner v. Dep’t of Educ.*, 2011 U.S. Dist. LEXIS 46421 (D. Haw. 2011) (citing *Mahon*, 171 F. 3d
13 at 1199-1202). In this case Red Rock and United acted as agents for Southern. Red Rock’s
14 30(b)(6) witness, Sara Trevino testified about the notices Red Rock mailed in this case. *See*
15 *Deposition of Sara Trevino (DST) at pp. 47-54*. Ms. Trevino’s testimony: (1) authenticated
16 mailing affidavits signed by Red Rock employees that state how many notices were signed and
17 how many were mailed; (2) specifically identified which notices are sent by certified mail and
18 first-class mail, which notices are sent by first-class mail only, (3) when specific notices are sent;
19 (4) how skip-traces and title reports are used to identify addresses for the homeowners and others
20 holding vested interests in the Property, (4) how Red Rock maintains “return receipts” it receives
21 from certified mail; (5) how Red Rock maintains checklists for each type of notice that its
22 employees are to follow when mailing notices and how this information is included in the
23 employees mailing affidavit; (6) how Red Rock uses a third-party vendor Walz to mail many of
24 the notices; (7) how she knows that Walz maintains records proving it sent notices and (8) how
25 she is able to access Walz’s system and obtain proof that notices were mailed. *Id.* Ms. Trevino’s
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1 testimony clearly demonstrates Red Rock sent the Lien for Delinquent Assessment Notices
2 (*Exhibit E*) and the Notice of Default and Election to Sell (*Exhibit "F"*) as required NRS 116. Ms.
3 Trevino also testified about payoff demands that are referenced in Exhibit "B" to her Deposition.
4 *See Exhibit "B" Bates # WFZ0108-133* (showing Payoff Demand and Accounting Ledger sent to
5 Ocwen Counsel, Cooper Castle on April 8, 2013).

6
7 Interestingly, Cooper Castle testified it represented "the interests of GMAC Mortgage,
8 LLC" when it requested the payoff amount. *See WFZ0132*. Ms. Trevino testified Cooper Castle
9 could have calculated the amount of the "super priority" lien by using the Accounting Ledger. *Id.*
10 *at p. 68 -69 referencing WFZ122-130*. Finally, Ms. Trevino testified that Red Rock never received
11 a response to the demand it sent out on April 8, 2013 and Red Rock never received a payment of
12 the lien or partial payment of the lien. *Id. at pp. 70-71*. Ms. Trevino's deposition shows GMAC's
13 counsel/Ocwen's Counsel had notice of the HOA Sale. *Id.* Thus, GMAC or Ocwen could have
14 calculated and paid the "super priority" lien, the full amount of the lien, or any amount in between
15 those two amounts. Nevertheless, neither GMAC or Ocwen paid any portion of the lien. Instead,
16 they sat by and watched the Property be sold at the HOA Sale.

17
18 United's NRCP 30(b)(6) witness, Robert Atkinson, testified about the notices United
19 mailed out in this case. *See Declaration of Robert Atkinson (DRK) attached Exhibit N*). Mr.
20 Atkinson's testimony: (1) authenticated the Notice of Foreclosure sale sent in this case and he
21 explained how it was mailed; (2) described how United conducts its own thorough investigation of
22 the "land records;" including the Assessor's Records to make sure they have the best addresses for
23 the property-owners and other parties holding vested interests in the Property; (3) authenticated
24 the "bulk form certificate of mail," known as Postal Service Form 3877; which evidences the
25 notices were delivered to the post-office and handed to a post-office clerk; (4) explains how
26 United completed the form by filling in the addresses for the Notices and by putting slashes on any
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1 unused lines; (5) explains how the Post-Office Clerk goes and confirms and matches each address
2 to each address on the bulk form; (6) explains how once everything passes, the Post-Office Clerk
3 verifies the mailing with a stamp and gives the original back to United. *Id.* The bulk form is
4 included in Exhibit “A” to Deposition and it bears Bates Stamp # ULS 58. The bulk form shows
5 the Notices of Foreclosure Sale were sent to GMAC Mortgage, LLC and Cooper Castle Law Firm,
6 LLP, who has acted as counsel for GMAC and Ocwen. *Id.* Mr. Atkinson’s testimony clearly
7 shows United sent the Notices of Foreclosure in compliance with NRS 116.31162 through
8 116.31168. *Id.* He also testified United did not receive any payments prior to the HOA Sale. *Id. at*
9 *pp. 73-74.*¹ Again, Ocwen and GMAC knowingly allowed the Property to be sold at the HOA
10 Sale and did not act to protect their interest.

11 **D. Commercial Reasonability**

12 Plaintiff has alleged that HOA Sale was commercially unreasonable and was invalid.
13
14 However, Plaintiff has not produced any evidence to substantiate this allegation. In its responses
15 to Chersus’s written discovery, Plaintiff tried to avoid responding to questions about whether it
16 “wrote off” the debt owed on the Note underlying the Deed of Trust by responding as follows:
17

18 Ocwen's understanding of the substantive law is that the operative elements under state
19 law, notwithstanding Federal Law, is that under *Shadow Wood* is that courts sitting in
20 equity must look to (1) the purchase price, (2) fraud, unfairness, or oppression, and (3) the
21 bona fide purchaser status of a potential purchaser when considering whether to unwind a
22 sale. *Shadow Wood Homeowners*, 366 P. 3d 1105 (Nev. 2016)

23 ¹ It should also be noted in its responses to Chersus’s written discovery, Ocwen admitted it had copies of the notice of
24 Lien for Delinquent Assessment Notices and the Notice of Default and Election to Sell. *See DVN at* . However,
25 Ocwen “qualified” its responses by stating “Ocwen has the notice of default in their records but it is unclear when this
26 notice of default was received. Moreover, Ocwen additionally has an account ledger statement from Red Rock
27 Financial dated April 2, 2013 [which was six-days prior to Cooper Castle’s Demand letter dated April 8, 2013]; but it
28 is also unclear when this was received. *See e.g. Ocwen’s Response to Chersus’s First Request for Admissions attached*
hereto as Exhibit P at Response # 2. Also, in response to Request for Admission #3 regarding whether Ocwen was
aware of the Notice of Foreclosure Sale prior to the HOA Foreclosure Sale, Ocwen stated, “...Ocwen qualifies this
answer pursuant to NRCP 36. Ocwen's records do not reflect actual receipt of a Notice of Sale. As such, Ocwen
Denies this Request.” Based on the Deposition testimony of Ms. Trevino and Mr. Atkinson, and the Exhibits to their
Depositions, Ocwen’s responses are clearly intentionally misleading and deceptive.

1 In *Shadow Wood Homeowners Ass'n v. New York Community Bancorp, Inc.*, 132 Nev. 49,
2 59-60, 366 P.3d 1105, 1111-12 (2016), the Court stated the conclusive effect of the recitals
3 included in a trustee's deed of sale, as set forth in NRS 116.31166, does not preclude the Court
4 from providing equitable relief when the party challenging the sale can show that the sale was
5 affected by fraud, unfairness, or oppression. *See, U.S. Bank N.A. v. Sky Las Vegas Condo. Unit-*
6 *Owners' Ass'n*, 2018 Nev. Unpub. LEXIS 645 (July 20, 2018). *See also Nationstar Mortg. v.*
7 *Saticoy Bay LLC Series 2227 Shadow Canyon*, 133 Nev., Adv. Op. 91, 405 P.3d 641, 647-49
8 (2017). In *Shadow Wood*, the District Court found the HOA acted unfair and oppressively in
9 insisting on more than 9 months of assessments to cancel the sale; the bid price was grossly
10 inadequate; and the foreclosure sale buyer did not qualify as a bona fide purchaser for value. *Id. at*
11 *1107*. First, it is important to note that in *Shadow Wood*, the holder of the Note and Deed of Trust
12 (the "Bank") foreclosed on the property; thereby extinguishing the sub priority portion of the
13 HOA Lien. *Id.* However, the Bank never paid the "super priority" portion of the lien and it failed
14 to pay HOA assessments after it acquired the Property. *Id.* Thus, the Association attempted to
15 foreclose on the lien after the HOA had foreclosed. *Id.* The District Court found HOA acted
16 unfairly and oppressively in insisting on more than that sum to cancel the sale; that the bid price
17 was grossly inadequate; and the foreclosure sale buyer did not qualify as a bona fide purchaser for
18 value. *Id.* The District Court based its finding on the fact that the HOA's counsel sent the holder of
19 the Note and Deed of Trust conflicting information about the amount of the lien, the HOA or its
20 agents were trying to profit off the subject foreclosure by including exorbitant fees and costs that
21 were not permitted as part of an HOA foreclosure; and the HOA rejected the Bank's check in the
22 amount of \$6,783.16. *Id.* The District Court also found the purchaser at the HOA Sale, ("Gogo
23 Way") was not a bona fide purchaser at the HOA Sale solely because of the amount that Gogo
24 Way paid for the Property. *Id. at 1115*. The Supreme Court rejected this finding and stated:
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1 A subsequent purchaser is bona fide under common-law principles if it takes the property "for a
2 valuable consideration and without notice of the prior equity, and without notice of facts which
3 upon diligent inquiry would be indicated and from which notice would be imputed to him, if he
4 failed to make such inquiry." *Bailey v. Butner*, 64 Nev. 1, 19, 176 P.2d 226, 234 (1947)
5 Although [Plaintiff] might believe that Gogo Way purchased the property for an amount lower
6 than the property's actual worth, that Gogo Way paid "valuable consideration" cannot be
7 contested. *Fair v. Howard*, 6 Nev. 305, 308 (1871) ("The question is not whether the consideration
is adequate, but whether it is valuable."); *see also Poole v. Watts*, 139 Wash. App. 1018
(2007) (unpublished disposition) (stating that the fact that the foreclosure sale purchaser purchased
the property for a "low price" did not in itself put the purchaser on notice that anything was amiss
with the sale).

8 *Id. at 1115*. The Court also held the fact that the HOA trustee is attempting to sell the property,
9 and divest the title owner of its interest, is not enough to impart constructive notice onto the
10 purchaser there may be an adverse claim to title. *Id.*

11 The Supreme Court noted the District Court failed to consider the Bank's actions that
12 resulted in the HOA Sale. *Id. at 1114*. The Supreme Court noted the notice of sale was recorded
13 almost one month before the HOA sale. *Id.* The Bank knew the sale had been scheduled even
14 though it disputed the lien amount. *Id.* The Supreme Court noted the Bank did not attend the sale,
15 request arbitration to determine the amount owed, or seek to enjoin the sale. *Id.* The Notice of Sale
16 warned the Bank it could lose the Property, even if it disputed the amount. *Id.* Despite the fact that
17 Notice of Sale listed the lien amount as \$8,539.77, the Bank only tendered \$6,783.16. *Id.*

18 The Supreme Court's holding in *Shadow Wood*, is not relevant to this case because Ocwen
19 has not produced any evidence that shows the sale in this case was affected by fraud, unfairness,
20 or oppression. There is no evidence in this case that the HOA acted unfairly and oppressively by
21 insisting on more than 9 months of assessments to cancel the sale. To the contrary, Red Rock gave
22 Ocwen's counsel sufficient documentation to calculate the "super priority lien." *See DST pp. 69-*
23 *69, referencing Exhibit "B" Bates # WFZ0108-133* (showing Payoff Demand and Accounting
24 Ledger sent to Ocwen Counsel, Cooper Castle on April 8, 2013 and testifying that Cooper Castle
25 could have calculated the amount of the "super priority" lien by using the Accounting Ledger. *Id.*

1 at p. 68 -69 referencing WFZ122-130. Unlike the Bank in *Shadow Ridge*, neither Ocwen or
2 GMAC tendered any payment or partial payment that Red Rock or United rejected. To the
3 contrary, United's PMK, Mr. Atkinson testified, that United could not have determined whether a
4 payment by Ocwen or GMAC would have satisfied the "super priority" amount. *DRA at 73-74*. He
5 testified that United would accept a partial payment and not opine whether the payment satisfied
6 the "super priority" lien. However, he would record the payment and put potential purchasers on
7 notice of the payment, so they would know they could lose the Property if it were determined the
8 holder of the Deed of Trust had discharged the "super priority" lien. However, there were no
9 payment issues, or super priority issues here because neither GMAC, Ocwen, or their Counsel
10 paid any portion of the lien. Plaintiff and GMAC sat on their hands and watched First 100 buy the
11 Property. It is also important to note that Mr. Atkinson testified that he conducted the auction and
12 he recalled the auction was well attended. *DRA at p. 69* (stating one can infer from the \$3,500.00
13 price that there was active bidding on the Property). There is no dispute that First 100 paid the
14 auction price and was granted the HOA Deed. There is also no dispute that Chersus gave
15 consideration for the sale from First 100 to Chersus. Chersus' NRCP 30(b)(6) witness testified that
16 he had a dispute with First 100 about several other properties for which he had paid First 100 and
17 First 100 gave him this Property as partial consideration to resolve the dispute about the other
18 properties. *See Deposition of Jag Mehta attached as Exhibit "O."* Thus, there is no dispute that
19 First 100 and Chersus paid "valuable consideration" as set forth in *Shadow Wood; supra*. Plaintiff
20 has failed to provide any evidence that creates a genuine issue of fact as to this issue and Chersus
21 submits the Court should find there are no genuine issues of material fact that question whether
22 First 100 and Chersus are bona fide purchasers.
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26 It is also important to note Plaintiff's argument that the purchase price was inadequate
27 clearly shows Plaintiff does not understand the underlying transaction between First 100 and the
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1 Association. Plaintiff has claimed that First 100 paid \$1,208.32 for the Property. *See DRA Exhibit*
2 *“A” at pp. 21-22.* However, in his deposition, Mr. Atkinson testified that First 100 did not
3 purchase the “Property” for \$1,208.28. *Id.* Instead, First 100 purchased “Past Proceeds of Income”
4 for 24 delinquent properties pursuant to a Purchase and Sale Agreement (the “PSA”). *Id.* The PSA
5 was negotiated in an “arms-length” tri-partite agreement between First 100, Southern, and United.
6 *Id.* The amount of \$1,208.28 was an amount assigned to PPI for the Property based on calculation
7 that First 100 made in connection with evaluating the value of the PPI the Property as part of the
8 overall transaction. *Id.* Mr. Atkins pointed out that First 100 paid more than \$1,208.32 for the
9 Property. *Id.* First 100 paid the amount in the PSA, United’s fees of \$1,200.00, certain fees of
10 Red Rock, and \$3,500.00 at the HOA sale. *Id.* Thus, First 100 paid approximately \$10,000.00 in
11 connection with acquiring the First Mortgage Lien. As is mentioned above, First 100 transferred
12 the Property to Chersus as partial consideration to resolve some disputed claims. *DJG at 29-30.*
13 OCWEN has produced no evidence showing that transfer was not commercially reasonable.
14 Lastly, Mr. Mehta testified Chersus spent approximately \$40,000 in repairs on the Property. *Id. at*
15 *52, 59.*

16 Thus, between First 100 and Chersus (collectively the “HOA Purchasers”) more than
17 \$50,000 in consideration has been spent to acquire the Property. In addition, Chersus spent
18 significant amounts for legal fees to defend this matter and prosecute its Counterclaims. *See*
19 *Declaration of Vernon Nelson (DVN) at ¶ 2-5.* Thus, it is reasonable to state the amount of
20 consideration the HOA Purchasers have paid for a Property that the do not possess, and which is
21 mired in litigation is equivalent to at least \$75,000.00. *Id.*

22 Plaintiff has produced the Appraisal of R. Scott Dugan date March 14, 2016. *See DVN at*
23 *6-7.* Thus, the appraisal was issued almost three-years after the HOA Sale. Mr. Duggan states, in
24 his opinion, the value of the Property was \$148,000.00 on May 25, 2013. *Id.* However, Mr.
25

1 Duggan expressly states his opinion of value is based on: (1) his assumption that the Property is in
2 average condition and (2) professionally marketed under normal terms. *Id.* On page 4 of his report,
3 Mr. Duggan states:

4 As of the physical date of inspection, the subject exterior was in average condition. In that
5 this is a retrospective assignment per client request, the appraiser invokes the following
6 Extraordinary Assumptions as of the effective date of inspection indicated within this
7 report: 1) the condition of the interior was at minimum average 2) no obsolescence affected
8 the interior improvements (missing kitchen appliances or bath fixtures, no AC, etc.). If one
9 or more of these are found to be false, it could alter the value opinion and or other
conclusions in this report. Refer to the addendum - definition of Extraordinary
Assumption. For further information regarding the improvements, please refer to the
photographs included in this report.

10
11 Based on the testimony of Mr. Mehta, it is clear the Extraordinary Assumptions invoked
12 by Mr. Duggan are false. Thus, by his own admission, the value opinion and other conclusion in
13 the report require alteration. For example, Mr. Duggan states the exterior was is average condition
14 on March 14, 2016. *Id.* However, Mr. Mehta testified he had to paid the exterior of the house and
15 install landscaping. *DJM at 52, 59.* Thus, it is clear exterior was not in average condition on the
16 date of the HOA Sale. Also, Mr. Mehta testified that extensive repairs to the interior were
17 required, including replacing drywall, painting the entire interior, and replacing all of the carpet.
18 *Id.* Thus, it is clear the interior was not at minimum average. *Id.* Mr. Duggan also points out the
19 Property was approved as a short-sale on May 11, 2013 for \$90,000, went into contract a few days
20 later, failed to close, and was ultimately withdrawn in September 2013. *Id.* Chersus submits that
21 this “short sale” offer is consistent with the poor condition of the property as explained in Mr.
22 Mehta’s testimony. With respect the extraordinary assumptions, page 7 of the Report states:

23
24 **This report was completed without an interior inspection of the subject. External sources**
25 **including, but not limited to, information from a drive-by street inspection, appraiser's files,**
26 **county records, and or multiple listing service data were relied upon for information used to**
27 **describe the improvements and or condition of the subject.**

28 **As indicated on page 1 of this report, if the assumptions invoked are found to be false, it**
could alter the value opinion and or other conclusions in this report. As such, the appraiser

1 reserves the right to amend the value opinion and or conclusions based on new or revised
2 information.

3 It is clear that in light of Mr. Mehta's testimony, Mr. Duggan's opinion is largely irrelevant
4 and would not be helpful the trier of fact. Accordingly, Plaintiff anticipates it will file a Motion in
5 Limine to exclude Mr. Duggan's opinion. Lastly, as the Supreme Court noted in *Shadow Wood*;
6 *supra*. it is also important for the Court to consider the actions of Plaintiff, its predecessor GMAC
7 Mortgage, and the actions of their counsel. As is noted above, Counsel for Plaintiff and GMAC
8 knew by in April 2013 that the Notice of Default and Election to Sell ("NOD") had been recorded
9 and sent to the homeowner's and other interested parties including GMAC and its Counsel. *DVN*
10 at 9-10. There is no doubt GMAC and Cooper Castle received the Notice of Foreclosure Sale. *Id.*
11 By this time Cooper Castle was also representing Plaintiff. *Id. at 11-12*. By April/May, 2013,
12 Cooper Castle had the account ledgers from Red Rock and could have determined the amount to
13 the "super priority" portion of the lien and paid it. *Id. at 13-14*. Alternatively, Cooper Castle or its
14 client(s) could have paid the full amount of the lien, subsequently determined the amount of the
15 "super priority" portion and demanded a refund. *Id.*

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18 Based on the foregoing, it is clear the Court's holding in *Shadow Wood Homeowners Ass'n*
19 *v. New York Community Bancorp, Inc.*, 132 Nev. 49, 59-60, 366 P.3d 1105, 1111-12 (2016) is not
20 relevant in this case because Plaintiff cannot show the sale was commercially unreasonable; and it
21 certainly has not produced any evidence of fraud, unfairness, or oppression. To the contrary, the
22 evidence shows Plaintiff sat on its hands, watched the HOA Sale go through, and then complained
23 it was harmed. *Id.* Chersus submits Plaintiff has not shown the sale was affected by fraud,
24 unfairness, or oppression. Thus, Chersus submits the Court should not set aside HOA Sale that
25 was properly conducted in accordance with NRS Chapter 116.
26

27 **E. The Allegations in Plaintiff's Second Amended Complaint Are Not Sufficient to**
28 **Cause the HOA Sale to Be Set Aside; and Plaintiff Has Failed to Produce Any**
Evidence Supporting Its Allegations.

1 Plaintiff has asserted the **Deed of Trust Priority Allegations** described above. For example,
2 Plaintiff asserts First 100's interest was subject to the Deed of Trust and the Trustee's Sale
3 extinguished First 100's interest. Sections IV (A)- (D) above clearly refute these allegations.
4 These sections also show Plaintiff has not produced any evidence to support these allegations.
5 Plaintiff has asserted the **Defective Notice Allegations**. Section IV (C) above clearly refutes most
6 of the allegations. Plaintiff claims the NOD should have contained extensive information
7 regarding the "super priority" portion of the HOA Lien including a statement that the HOA was
8 foreclosing on the "super-priority" lien, and a statement that Plaintiff had the right to cure to the
9 "super-priority" lien. However, at the time the notices in this case were recorded and mailed, NRS
10 116 did not require Redrock to give notice of the "super-priority" amount, the effect of the "super-
11 priority" for closure would have on the Plaintiff, or whether the HOA was for closing on the
12 "super-priority" amount. The statute also did not require Redrock to itemize all amounts included
13 in HOA's lien. In *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.* 130 Nev. Adv. Op. 75, 334
14 P.3d 408 (2014), the Court clearly held the notices received by U.S. Bank showed the amounts
15 due when the NOD was recorded and when the Notice of Sale was sent. *Id.* Nothing stopped US
16 Bank from determining the precise "super-priority" amount in advance of the sale or paying the
17 entire amount and requesting your refund of the balance. *Id.* The *SFR Decision* is "on all fours"
18 with the facts of this case. Finally, in *Horizons at Seven Hills v. IKON Holdings*, 373 P3d. 66, 70
19 (Nev. 2016) the Supreme Court clarified position by stating that interpreting the "super-priority"
20 lien to exclude collection fees and foreclosure costs does not preclude fees and costs and being
21 incurred. *Id.* The Court went on to state when a HOA forecloses on a property, the pre-2015
22 amendments of NRS 116.31164 (3) (c) and NRS 116.3116 (8) allowed for the recoupment of fees
23 and costs. *Id.*

1 Plaintiff also asserted the Statutory Allegations described above, including its allegation
2 that the lien violated the statute because it included fees and costs. As is demonstrated in Section
3 IV above, and by the Court's holding in *Horizons at Seven Hills v. IKON Holdings*, 373 P3d. 66,
4 70 (Nev. 2016), Plaintiff's Statutory Allegations are without merit.

5
6 Plaintiff also asserted various Constitutional Allegations; but reduced such allegations to a
7 single allegation in its Second Amended Complaint. Specifically, Plaintiff alleged the HOA Sale
8 deprived Plaintiff of its right to due process because the foreclosure notices failed to identify the
9 super-priority amount, or to adequately describe the deficiency in payment, to provide Plaintiff
10 notice of the correct super-priority amount, or to provide a reasonable opportunity for Plaintiff to
11 protect its priority by payment to satisfy that amount. The Court's holding in *SFR Investments*
12 *Pool 1, LLC v. U.S. Bank, N.A.* 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014) contradicts this
13 argument. It is also important to note Wells Fargo made a similar argument in *Wells Fargo Bank,*
14 *N.A. v. SFR Invs. Pool 1, LLC*, 2018 U.S. Dist. LEXIS 167306 (D. Nev. Sept. 28, 2018) and the
15 Court clearly explained that any issues regarding the constitutionality of NRS Chapter 116 were
16 resolved in *Bank of New York Mellon v. Star Hill Homeowners Ass'n*, No. 2:16-cv-02561-RFB-
17 PAL, 2017 U.S. Dist. LEXIS 61185, 2017 WL 1439671, at *5 (D. Nev. Apr. 21, 2017), the
18 Nevada Supreme Court's response to a certified question in *SFR Invs. Pool 1, LLC v. Bank of New*
19 *York Mellon*, 422 P.3d 1248 (Nev. 2018). The U.S. District Court noted the Nevada Supreme
20 Court explicitly "decline[d] to follow the majority holding in *Bourne Valley*, 832 F.3d at 1159,"
21 and concluded that "NRS 116.31168 fully incorporated both the opt-in and mandatory notice
22 provisions of NRS 107.090" *Id.* at 1253. Therefore, "before the October 1, 2015, amendment
23 to NRS 116.31168, the statute incorporated NRS 107.090's requirement to provide foreclosure
24 notices to all holders of subordinate interests, even when such persons or entities did not request
25 notice." *Wells Fargo at pp. 8-10 (citing 422 P. 3d at 1253.*
26
27
28

1 Plaintiff also asserted the CC&R Allegations. However, Supreme Court ruled in *SFR*
2 *Investments Pool 1, LLC v. U.S. Bank, N.A.*, 334 P.3d 408, 418-419 (2014), that NRS 116.1104
3 defeats the argument that a mortgagee protection clause of an association's declaration varies the
4 rights of an association as provided for in NRS 116.3116. NRS 116.1104 states that Chapter 116's
5 "provisions may not be varied by agreement, and rights conferred by it may not be waived ...
6 [e]xcept as expressly provided in Chapter 116." *Id.* Nothing in NRS 116.3116 expressly provides
7 for a waiver of the Association's right to a priority position for its "super priority" lien. *Id.*
8 Based on the foregoing, Plaintiff cannot prove the HOA Sale was not valid. Since the HOA Sale
9 was valid, the First Deed of Trust was extinguished. Thus, the Trustee Sale conducted on
10 December 20, 2013 was void and the Ocwen Deed is ineffective and void. Accordingly, Chersus
11 submits the Court must grant its Motion for Summary Judgment on its Second Cause of Action to
12 Quiet Title and it is entitled to Declaratory Relief under its Third Cause of Action.
13
14

15 **F. Chersus is Entitled to Summary Judgment on Its Other Claims**

16 A claim of wrongful foreclosure "will lie if Plaintiff can establish that at the time the
17 power of sale was exercised or the foreclosure occurred, no breach of condition or failure of
18 performance existed on the Plaintiffs part which would have authorized the foreclosure or exercise
19 of the power of sale." *Collins v. Union Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 305, 662 P.2d 610,
20 623 (1983). In this case, it is clear First 100 nor Chersus violated the extinguished Deed of Trust.
21 Thus, Chersus is entitled to summary judgment.
22

23 "The requisites to an action for slander of title are that the words spoken be false, that they
24 be maliciously spoken and that the plaintiff sustain some special damage as a direct and natural
25 result of their having been spoken." *Rowland v. Lepire*, 99 Nev. 308, 313, 662 P.2d 1332, 1335
26 (1983). "In order to prove malice it must be shown that the defendant knew that the statement was
27 false or acted in reckless disregard of its truth or falsity," but "[w]here a defendant has reasonable
28

1 grounds for belief in his claim, he has not acted with malice.” *Id.* In this case, it is clear Plaintiff
2 slandered First 100 and Chersus’s title by foreclosing and it clearly knew First 100 had properly
3 extinguished the Deed of Trust at the HOA Sale. Thus, Plaintiff is entitled to summary judgment
4 on this claim.

5 The elements of a claim for unjust enrichment are: (1) plaintiff conferred a benefit on
6 defendant, (2) defendant appreciated such benefit, and (3) defendant accepted and retained the
7 benefit. *Union America Mfg. v. McDonald*, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981). In this
8 case, Chersus conferred a benefit on Plaintiff by allowing Plaintiff to take control of his property
9 and receive rental income that should have been paid to Chersus. Ocwen appreciated the benefit,
10 and it has accepted and retained the benefit. Chersus is entitled to summary judgment on this
11 claim.
12

13 Chersus Fourth Cause of Action is partially labeled as “Conversion.” However, the claim
14 clearly includes allegations that fall within the definition of Trespass. Whether Ocwen’s actions
15 amounted to a conversion or trespass depends on the classification of Chersus’ property right at
16 the time of Ocwen’s wrongful foreclosure. When Ocwen wrongfully foreclosed, Chersus held a
17 Deed that had not been recorded. It is unclear whether Chersus’s Deed was personal property until
18 it was recorded; or whether it was immediately real property.
19

20 If the Chersus Deed was personal property, then a claim for conversion would arise.
21 Conversion is a distinct act of dominion wrongfully exerted over personal property in denial of, or
22 inconsistent with, title or rights therein or in derogation, exclusion or defiance of such rights.
23 *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725 (2008). In this case, Ocwen clearly
24 wrongfully exercised dominion and control over the Property and defied Chersus’ right to take
25 possession.
26
27
28

1 If the Chersus Deed was real property, then a claim for trespass arises. NRS 40.170 is
2 entitled action for trespass. If Ocwen's actions constitute a trespass upon Chersus's real property
3 than NRS 40.170. *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725 (2008).
4 Chersus contends the cause of action is better described a trespass because Chersus was deprived
5 of its use of real property. Pursuant to NRS 41.170, Chersus is entitled to treble damages. Chersus
6 contends it is entitled to summary judgment on both Conversion and Trespass as it was deprived
7 of money and possession.
8

9 **V. CONCLUSION**

10 For all the foregoing reasons, Chersus's Motion for Summary Judgment must be granted.
11

12 DATED this 22d day of October , 2018

13 THE LAW OFFICE OF VERNON NELSON

14 *Vernon A. Nelson, Jr.*

15 By:

16 VERNON NELSON, ESQ.

17 Nevada Bar No.: 6434

18 9480 S. Eastern Avenue, Suite 252

19 Las Vegas, NV 89123

20 Tel: 702-476-2500

21 Fax: 702-476-2788

22 E-Mail: vnelson@nelsonlawfirmnv.com

23 Attorneys for Cherus Holdings, LLC
24
25
26
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY,

Appellant,

vs.

CHERSUS HOLDINGS, LLC, A
DOMESTIC LIMITED LIABILITY
COMPANY; AND SOUTHERN
TERRACE HOMEOWNERS
ASSOCIATION, A DOMESTIC
NON-PROFIT CORPORATION,

Respondents.

Supreme Court Case No. 82680

District Case No.: A696357

APPELLANT'S APPENDIX - VOLUME VI

WRIGHT, FINLAY & ZAK, LLP
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
(702) 475-7964; Fax: (702) 946-1345
cmiller@wrightlegal.net
*Attorney for Appellant/Plaintiff, Ocwen
Loan Servicing, LLC*

DOCUMENT	VOL	PAGE
Affidavit of Service	I	AA0175
Affidavit of Service	I	AA0176
Affidavit of Service	I	AA0177
Affidavit of Service	I	AA0178
Amended Affidavit of Service	I	AA0200
Amended Certificate of Service	I	AA0013
Answer and Counter-Claim	I	AA0005- AA0012
Answer to Counterclaim	I	AA0014- AA0020
Answer to Counterclaim	I	AA0168- AA0174
Answer to First Amended Complaint and Counter-Claim Against Plaintiff	I	AA0156- AA0167
Answer to Second Amended Complaint and Counterclaim Against Plaintiff	III	AA0338- AA0349
Chersus Holdings, LLC Reply to Ocwen's Opposition to Chersus Holdings, LLC Motion for Summary Judgment	XIII	AA2642- AA2666
Chersus Holdings, LLC's Reply to Ocwen Loan Servicing, LLC's Opposition to Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVIII	AA3422- AA3431
Complaint	I	AA0001- AA0004
Declaration of Jagdish Mehta in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3329- AA3330
Declaration of Jagdish Mehta in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to	XVII	AA3331- AA3333

DOCUMENT	VOL	PAGE
Chersus Holdings LLC and (3) Orders for Specific Performance.		
Declaration of Vernon Nelson in Support of Chersus's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3334-AA3338
Defendant Chersus Holdings Errata to Motion for Summary Judgment (Part 1)	VI	AA0888-AA1108
Defendant Chersus Holdings Errata to Motion for Summary Judgment (Part 2)	VII	AA1109-AA1264
Defendant Chersus Holdings, Motion for Summary Judgment	V	AA0859-AA0887
Defendant/Counterclaimant, Chersus Holdings, LLC's Opposition to Plaintiff, Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 1)	XII	AA2338-AA2465
Defendant/Counterclaimant, Chersus Holdings, LLC's Opposition to Plaintiff, Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 2)	XIII	AA2466-AA2604
Docket	XVIII	AA3566-AA3574
Exhibits to Errata to Motion for Summary Judgment (Part 1)	VII	AA1265-AA1314
Exhibits to Errata to Motion for Summary Judgment (Part 2)	VIII	AA1315-AA1517
Exhibits to Errata to Motion for Summary Judgment (Part 3)	IX	AA1518-AA1756
Exhibits to Errata to Motion for Summary Judgment (Part 4)	X	AA1757-AA1990
Exhibits to Errata to Motion for Summary Judgment (Part 5)	XI	AA1991-AA2228
Exhibits to Errata to Motion for Summary Judgment (Part 6)	XII	AA2229-AA2302
Findings of Fact, Conclusions of Law and Order	XIV	AA2740-AA2780

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Memorandum of Costs and Disbursements	XVII	AA3339-AA3351
Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance. (Part 1)	XV	AA3053-AA3152
Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance. (Part 2)	XVI	AA3153-AA3328
Notice of Appeal	XVIII	AA3459-AA3460
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Notice of Entry of Order	XIV	AA2781-AA2825
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Notice of Entry of Order Denying Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P. 59 and 60	XVIII	AA3454-AA3458
Notice of Entry of Order Granting Judgment in Favor of Counterclaimant Chersus Holdings, LLC.	XVIII	AA3486-AA3497
Ocwen Loan Servicing, LLC's Motion for Reconsideration of the Court's October 30, 2019 Order Pursuant to NRCP 59 and 60	XVIII	AA3432-AA3439
Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 1)	III	AA0363-AA0500
Ocwen Loan Servicing, LLC's Motion for Summary Judgment (Part 2)	IV	AA0501-AA0715

DOCUMENT	VOL	PAGE
Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XIV	AA2826-AA2837
Ocwen Loan Servicing, LLC's Motion to Retax and Settle Costs	XVII	AA3352-AA3359
Ocwen Loan Servicing, LLC's Notice of Supplemental Authority in Support of Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XV	AA3026-AA3036
Ocwen Loan Servicing, LLC's Opposition to Chersus Holdings, LLC's Motion for: (1) Judgment or Prove-Up Hearing for Compensatory, Statutory, and Punitive Damages; (2) Order Awarding Attorney's Fees to Chersus Holdings LLC and (3) Orders for Specific Performance.	XVII	AA3360-AA3418
Ocwen Loan Servicing, LLC's Opposition to Defendant Chersus Holdings' Motion for Summary Judgment	XII	AA2303-AA2316
Ocwen Loan Servicing, LLC's Opposition to Southern Terrace Homeowners Association's Motion for Summary Judgment	XIII	AA2605-AA2641
Ocwen Loan Servicing, LLC's Reply in Support of Motion for Summary Judgment	XIII	AA2667-AA2676
Ocwen Loan Servicing, LLC's Reply in Support of Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60	XV	AA2949-AA3025
Ocwen Loan Servicing, LLC's Request for Judicial Notice in Support of Motion for Summary Judgment	V	AA0716-AA0858
Opposition to Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60 (Part 1)	XIV	AA2838-AA2915
Opposition to Ocwen Loan Servicing, LLC's Motion to Alter or Amend Judgment and for Reconsideration Pursuant to N.R.C.P 59 and 60 (Part 2)	XV	AA2916-AA2948

DOCUMENT	VOL	PAGE
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Order Denying Plaintiff's Motion for Reconsideration	XVII	AA3419-AA3421
Order Granting Judgment in Favor of Counterclaimant Chersus Holdings, LLC.	XVIII	AA3478-AA3485
Order Granting Ocwen Loan Servicing, LLC's Motion for Reconsideration of the Court's October 30, 2019 Order Pursuant to NRCP 59 and 60	XVIII	AA3444-AA3446
Response to Ocwen Loan Servicing, LLC's Notice of Supplemental Authority	XV	AA3037-AA3039
Second Amended Complaint	II	AA0201-AA0334
Second Declaration of Jagish Mehta	XVIII	AA3440-AA3443
Southern Terrace Homeowners Association's Answer to First Amended Complaint	I	AA0190-AA0199
Southern Terrace Homeowners Association's Answer to Second Amended Complaint	III	AA0350-AA0359
Southern Terrace Homeowners Association's Motion for Summary Judgment	XII	AA2317-AA2337
Stipulation and Order to Dismiss Defendant Red Rock Financial Services, LLC Without Prejudice	I	AA0186-AA0189
Stipulation and Order to Dismiss Defendant, Red Rock Financial Services, LLC	III	AA0360-AA0362
Stipulation and Order to Dismiss Defendant, United Legal Services Inc. Without Prejudice	III	AA0335-AA0337
Transcript of Proceedings	XIV	AA2677-AA2739
Transcript of Proceedings	XVIII	AA3461-AA3477
Transcript of Proceedings	XVIII	AA3500-AA3565
United Legal Services Inc.'s Answer to Amended Complaint	I	AA0179-AA0185

VOLUME VI

DATE	DOCUMENT	VOL	PAGE
10/24/18	Defendant Chersus Holdings Errata to Motion for Summary Judgment (Part 1)	VI	AA0888-AA1108

DATED this 21st day of January, 2022.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller

Christina V. Miller, Esq.

Nevada Bar No. 12448

7785 W. Sahara Ave., Suite 200

Las Vegas, NV 89117

*Attorneys for Appellant/Plaintiff, Ocwen Loan
Servicing, LLC*

CERTIFICATE OF SERVICE

I certify that I electronically filed on the 21st day of January, 2022, the foregoing **APPELLANT'S APPENDIX - VOLUME VI** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

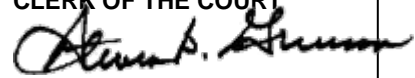
Service via electronic notification will be sent to the following:

Michelle Adams	michellea@nelsonlawfirmnv.com
Legal Assistant	legalassistant@nelsonlawfirmnv.com
Master Calendering	mail@nelsonlawfirmnv.com
Vernon A. Nelson	vnelson@nelsonlawfirmnv.com
Ashlie Surur	ashlie@sururlaw.com

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions

An Employee of WRIGHT, FINLAY & ZAK, LLP



VERNON A. NELSON, JR., ESQ.
Nevada Bar No.: 6434
THE LAW OFFICE OF VERNON NELSON
9480 S. Eastern Ave., Ste. 252
Las Vegas, NV 89123
Tel.: 702-476-2500
Fax.: 702-476-2788
E-Mail: vnelson@nelsonlawfirmnv.com
Attorneys for Defendant CHERSUS HOLDINGS, LLC

DISTRICT COURT

COUNTY OF CLARK, STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, a foreign
Limited Liability Company,

Case No.: A-14-696357-C
Dept No.: IV

Plaintiff,

vs.

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company; First 100, LLC, a
Domestic Limited Liability Company;
SOUTHERN TERRACE HOMEOWNERS
ASSOCIATION, a Domestic Non-Profit
Corporation; RED ROCK FINANCIAL
SERVICES, LLC, A Foreign Limited Liability
Company; UNITED LEGAL SERVICES,
INC., a Domestic Corporation; DOES I
through X; and ROE CORPORATIONS XI
through XX, inclusive

**DEFENDANT CHERSUS HOLDINGS
ERRATA TO MOTION FOR SUMMARY
JUDGMENT**

Defendants,

CHERSUS HOLDINGS, LLC, a Domestic
Limited Liability Company,

Counterclaimant,

vs

OCWEN LOAN SERVICING, LLC, a
Foreign Limited Liability Company,

Counter-Defendants.

COMES NOW, Defendant/Counterclaimant, CHERSUS HOLDINGS, LLC (hereinafter
"Chersus"), by and through its attorneys of record THE LAW OFFICE OF VERNON NELSON,
PLLC, and hereby files it Errata to its Motion for Summary Judgment.

1 This Errata is submitted to correct the sequence of exhibits and to include Exhibits A through
2 R to the Motion for Summary Judgment.

3 **Corrections to Defendant Chersus Holdings Motion to Summary Judgment are in bold.**

Page #	Line #	Current	Correction
9	18	<i>See Exhibit J</i>	<i>See Exhibit I</i>
9	23	<i>See Exhibit K</i>	<i>See Exhibit J</i>
9	28	<i>See Exhibit L</i>	<i>See Exhibit K</i>
10	2	<i>See Exhibit M</i>	<i>See Exhibit L</i>
10	4	<i>See Exhibit N</i>	<i>See Exhibit M</i>
16	16	<i>See Deposition of Sara Trevino (DST) at pp. 47-54</i>	<i>Attached at Exhibit N</i>
17	4	<i>See Exhibit "B"</i>	<i>See DST at Exhibit B</i>
17	19	<i>Exhibit N</i>	<i>Exhibit O</i>
21	20	<i>Exhibit "O"</i>	<i>Exhibit Q</i>
22	21	<i>See Declaration of Vernon Nelson</i>	<i>See Declaration of Vernon Nelson attached as Exhibit "R"</i>

15 DATED this 24rd day of October, 2018

16 THE LAW OFFICE OF VERNON NELSON

17
18 By: /s/ Vernon Nelson
19 VERNON NELSON, ESQ.
20 Nevada Bar No.: 6434
21 9480 S. Eastern Avenue, Suite 252
22 Las Vegas, NV 89123
23 Tel: 702-476-2500
24 Fax: 702-476-2788
25 E-Mail: vnelson@nelsonlawfirmnv.com
26 Attorney for Defendant Chersus Holdings
27
28

1 **PROOF OF SERVICE**

2 **OCWEN LOAN SERVICING, LLC v. CHERSUS HOLDINGS, LLC**
3 **Case No.: A-14-696357-C**

4 I, Ruth M. Lynch, declare:

5 I am over the age of eighteen (18) years and not a party to the within entitled action. I am
6 employed by The Law Office of Vernon Nelson, PLLC, 9480 S. Eastern Avenue, Suite 252, Las
7 Vegas, Nevada 89123. I am readily familiar with The Law Office of Vernon Nelson, PLLC's practice
8 for collection and processing of documents for delivery by way of the service indicated below.

9 On October 24, 2018, I served the following document(s):

10 **DEFENDANT CHERSUS HOLDINGS ERRATA TO**
11 **MOTION FOR SUMMARY JUDGMENT**

12 on the interested party(ies) in this action as follows:

13 "Robert E. Atkinson, Esq." . robert@nv-lawfirm.com

14 Alexandria Raleigh . ARaleigh@lawhjc.com

15 Brody Wight . bwight@kochscow.com

16 Kristin Schuler-Hintz . dcnv@mccarthyholthus.com

17 NVEfile . nvefile@wrightlegal.net

18 Paralegal . bknotices@nv-lawfirm.com

19 Staff . aeshenbaugh@kochscow.com

20 Steven B. Scow . sscow@kochscow.com

21 Thomas N. Beckom . tbeckom@mccarthyholthus.com

22 ☐ **By Electronic Service.** Pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR
23 I caused said documents(s) to be transmitted to the person(s) identified in the E-Service List for this
24 captioned case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State
25 of Nevada. A service transmission report reported service as complete and a copy of the service
26 transmission report will be maintained with the document(s) in this office.

27 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is
28 true and correct.

/s/ Ruth M. Lynch

**An Employee of the Law Offices of Vernon
Nelson**

Exhibit A

Exhibit A



20080314-0001996

 Fee: \$15.00 RPTT: \$1,198.50
 N/C Fee: \$0.00

03/14/2008 13:58:54

T20080044471

Requestor:

LAWYERS TITLE OF NEVADA

 Debbie Conway KXC
 Clark County Recorder Pgs: 3

 APN: 163-31-611-022
 ESCROW NO: 02501471-250-321
 WHEN RECORDED MAIL TO and
 MAIL TAX STATEMENT TO:

 Joseph F. Harrison
 Bonnie L. Harrison
 5946 Lingering Breeze St.
 Las Vegas, NV 89148
GRANT, BARGAIN, SALE DEEDR.P.T.T. **\$1,198.50**

THIS INDENTURE WITNESSETH: That

Fannie Mae aka Federal National Mtg Assn

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, do(es) hereby Grant, Bargain, Sell and Convey to

Joseph F. Harrison and Bonnie L. Harrison, husband and wife, as joint tenants


all that real property situated in the County of Clark, State of Nevada, described as follows:

For legal description of the real property, see Exhibit A attached hereto and made a part hereof.

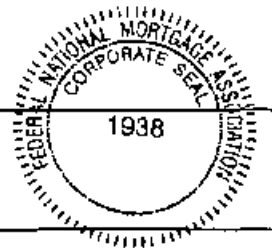
 SUBJECT TO: 1. Taxes for the fiscal year 2007 - 2008
 2. Rights of Way, reservations, restrictions, easements, and conditions of record.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Witness my hand this 13th day of March, 2008.

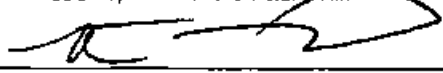


Fannie Mae aka Federal National Mtg Assn

 Brandon Carter
 Assistant Secretary

 STATE OF _____ }
 COUNTY OF TEXAS } ss:
DALLAS

 On March 13, 2008, personally appeared before me, a Notary Public in and for said County and State, * Brandon Carter * who acknowledged to me that he executed the same.

WITNESS my hand and official seal.



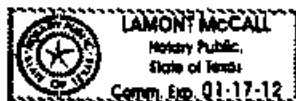
NOTARY PUBLIC in and for said County and State.


Exhibit "A"

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 In the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

STATE OF NEVADA DECLARATION OF VALUE

1. Assessor Parcel Number(s)

a) 163-31-611-022
b) _____
c) _____
d) _____

2. Type of Property:

a) ☐ Vacant Land b) ☒ Single Fam Res
c) ☐ Condo/Twnhse d) ☐ 2-4 Plex
e) ☐ Apt. Bldg f) ☐ Comm'l/Ind'l
g) ☐ Agricultural h) ☐ Mobile Home
Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____
Date of Recording: _____
Notes: _____

3. Total Value/Sales Price of Property:

\$234,900.00

Deed in Lieu of Foreclosure Only (value of property) (\$ _____)

Transfer Tax Value per NRS 375.010, Section 2: **\$234,900.00**

Real Property Transfer Tax Due: **\$1,198.50**

4. If Exemption Claimed

a. Transfer Tax Exemption, per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____

Capacity Grantee

Signature _____

Capacity Grantee

SELLER (GRANTOR) INFORMATION (REQUIRED)

Print Name: Fannie Mae aka Federal National Mtg Assn

Address: 13455 Noel Road #600

City/State/Zip: Dallas, TX 75240-5003

BUYER (GRANTEE) INFORMATION (REQUIRED)

Print Name: Joseph F. Harrison

Address: 5946 Lingering Breeze St.

City/State/Zip: Las Vegas, NV 89148

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

LAWYERS TITLE OF NEVADA, INC.
5502 S. Fort Apache Road
Las Vegas, NV 89148

Escrow #: 2501471-250-J21
Escrow Officer: Joanne Ziegler

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

1996

Exhibit B

Exhibit B

Recording Requested By: 163-31-611-022
DIRECT EQUITY MORTGAGE, LLC

Return To:
DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

Prepared By:

DIRECT EQUITY MORTGAGE, LLC

3285 NORTH FORT APACHE ROAD
LAS VEGAS, NEVADA 89129

TITLE NO.: 09030356SPR
ESCROW NO.: 09030356SPR
LOAN NO.: 4680
Assessor's Parcel Number: 163-31-611-022



20090331-0004948

Fee: \$22.00 RPTT: \$0.00
N/C Fee: \$25.00
03/31/2009 15:09:00
T20090110401
Requestor:
NEVADA TITLE LAS VEGAS
Debbie Conway MSH
Clark County Recorder Pgs: 9

09-03-0356-SPR [Space Above This Line For Recording Data]

State of Nevada

DEED OF TRUST

FHA Case No.
332-4848778-703 - 203(b)

MIN 10052180000037987

THIS DEED OF TRUST ("Security Instrument") is made on MARCH 26, 2009.
The Grantor is
JOSEPH F HARRISON AND BONNIE L HARRISON, HUSBAND AND WIFE, AS JOINT TENANTS

("Borrower"). The trustee is
NEVADA TITLE COMPANY

("Trustee"). The beneficiary is Mortgage Electronic Registration Systems, Inc. ("MERS"), (solely as nominee for Lender, as hereinafter defined, and Lender's successors and assigns). MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

DIRECT EQUITY MORTGAGE, LLC, A NEVADA CORPORATION

("Lender") is organized and existing under the laws of NEVADA, and
has an address of

3285 NORTH FORT APACHE ROAD; LAS VEGAS, NEVADA 89129

Borrower owes Lender the principal sum of
TWO HUNDRED THIRTY FOUR THOUSAND SEVEN HUNDRED THIRTY NINE AND 00/100

Dollars (U.S. \$ 234,739.00).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument

Initials

FHA Nevada Deed of Trust with MERS - 4/96

4N(NV) 103071.01

Page 1 of 8

VMP Mortgage Solutions (600)621-7281

Amended 2/98

DocuPREP SERVICES, INC. FORM - MORTNVS-3229

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("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on
APRIL 01, 2039. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to the Trustee, in trust, with power of sale, the following described property located in
CLARK County, Nevada:
LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

which has the address of **5946 LINGERING BREEZE STREET** [Street]
LAS VEGAS [City], Nevada **89148** [Zip Code]
 ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS, (as nominee for Lender and Lender's successors and assigns), has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS

1. Payment of Principal, Interest and Late Charge. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. Monthly Payment of Taxes, Insurance and Other Charges. Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either: (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to Lender are called "Escrow Funds."

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Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 *et seq.* and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

3. Application of Payments. All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note; and

Fifth, to late charges due under the Note.

4. Fire, Flood and Other Hazard Insurance. Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or

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abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) **Default.** Lender may, except as limited by regulations issued by the Secretary, in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

(i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or

(ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) **Sale Without Credit Approval.** Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

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ORIGINAL

(i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and

(ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property but his or her credit has not been approved in accordance with the requirements of the Secretary.

(c) **No Waiver.** If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

(d) **Regulations of HUD Secretary.** In many circumstances regulations issued by the Secretary will limit Lender's rights, in the case of payment defaults, to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

(e) **Mortgage Not Insured.** Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9(b). Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

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13. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. **Governing Law; Severability.** This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

15. **Borrower's Copy.** Borrower shall be given one unformed copy of the Note and of this Security Instrument.

16. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. **Assignment of Rents.** Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

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18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by applicable law to Borrower and to the persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the time required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 *et seq.*) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

20. Substitute Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor trustee in any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

21. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S.\$ TO BE DETERMINED AT TIME OF REQUEST.

22. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)].

☐ Condominium Rider ☐ Adjustable Rate Rider ☐ Growing Equity Rider
☐ Planned Unit Development Rider ☐ Graduated Payment Rider ☐ Other [Specify]

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4N(NV) 100071.01

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BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

Joseph F. HARRISON (Seal)
 JOSEPH F HARRISON -Borrower

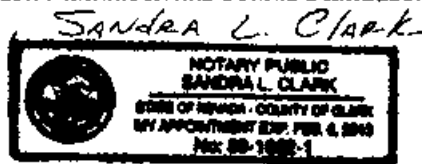
Bonnie L. HARRISON (Seal)
 BONNIE L HARRISON -Borrower

 (Seal) -Borrower

 (Seal) -Borrower

 (Seal) -Borrower

STATE OF NEVADA COUNTY OF *Clark*
 This instrument was acknowledged before me on *March 26, 2009* by
 JOSEPH F HARRISON AND BONNIE L HARRISON



Sandra L. Clark

Feb 6, 2013
NO 88-1652-1

Mail Tax Statements To:
 JOSEPH F HARRISON AND BONNIE L HARRISON

5946 LINGERING BREEZE STREET
 LAS VEGAS, NEVADA 89148

LOAN NO.: 4680

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DOCUPREP SERVICES, INC. FORM - MDDYNVS-3229

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Escrow No.: 09-03-0356-SPR

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF
RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN
BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER
OF CLARK COUNTY, NEVADA.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND
ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE
PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED
HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

Exhibit C

Exhibit C

APN: 163-31-611-022

When Recorded Return To:
Indecomm Global Services
2925 Country Drive
St. Paul, MN 55117

77834587

Inst #: 201207230000030

Fees: \$17.00

N/G Fee: \$0.00

07/23/2012 08:00:17 AM

Receipt #: 1242660

Requestor:

INDECOMM GLOBAL SERVICES

Recorded By: ECM Pg: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

Assignment of Deed of Trust

Dated: July 19, 2012

MIN: 100521800000037987

MERS Phone: 888-679-6377

For value received Mortgage Electronic Registration Systems, Inc., as nominee for Direct Equity Mortgage, LLC, A Nevada Corporation, its successors and assigns, P.O. Box 2026, Flint, MI 48501-2026, the undersigned hereby grants, assigns and transfers to GMAC Mortgage, LLC all beneficial interest under a certain Deed of Trust dated March 26, 2009 executed by JOSEPH F HARRISON AND BONNIE L HARRISON and recorded in Book XX on Page(s) XX as Document Number 20090331-0004948 on March 31, 2009 of real estate records for the County of Clark, Nevada.

MORTGAGE AMOUNT: \$234,739.00

Mortgage Electronic Registration Systems, Inc., as
nominee for Direct Equity Mortgage, LLC, A Nevada
Corporation, its successors and assigns

By:


Sandra Jean Kinnunen,
Assistant Vice President

STATE OF Minnesota)

COUNTY Ramsey) SS



"U02813800"

On July 19, 2012 before me, Lisa M Spurbeck, Notary Public in and for said State personally appeared Sandra Jean Kinnunen, Assistant Vice President of Mortgage Electronic Registration Systems, Inc., personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity, and that by his/her signature on the instrument the entity upon behalf of which the person acted, executed the instrument. WITNESS my hand and official seal.

Prepared By:
Peter Chang
2925 Country Drive
St. Paul, MN 55117


Lisa M Spurbeck, Notary Public
My Commission expires: January 31, 2013

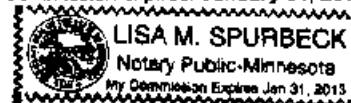


Exhibit D

Exhibit D

20310809
01455

APN: pin of 163-31-501-010, 163-31-501-013,
163-31-501-014, 163-31-501-021

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WHEN RECORDED, RETURN TO

WILBUR M. ROADHOUSE, ESQ.
Gold Patterson DeVore Ales & Roadhouse
4496 South Peccs Road
Las Vegas, Nevada 89121
(702) 436-2600

(Space Above Line for Recorder's Use Only)

**MASTER DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE**

(a Nevada Residential Common-Interest Planned Community)
CLARK COUNTY, NEVADA

AA0908

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01455

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**MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
SOUTHERN TERRACE**

THIS MASTER DECLARATION ("Declaration"), made as of the 8th day of August, 2001, by PERMA-BILT, a Nevada corporation ("Declarant"),

WITNESSETH:

WHEREAS:

A. Declarant owns certain real property located in Clark County, Nevada, on which Declarant intends to subdivide, develop, construct, market and sell a single family detached residential common-interest planned community, to be known generally as "SOUTHERN TERRACE"; and

B. A portion of said property, as more particularly described in Exhibit "A" attached hereto, shall constitute the property initially covered by this Declaration ("Original Property"); and

C. Declarant intends that, upon Recordation of this Declaration, the Original Property shall be a Nevada Common-Interest Community, as defined in NRS § 116.110323, and a Nevada Planned Community, as defined in NRS § 116.110368 ("Community"); and

D. The name of the Community shall be SOUTHERN TERRACE, and the name of the Nevada nonprofit corporation organized in connection therewith shall be SOUTHERN TERRACE HOMEOWNERS ASSOCIATION ("Association"); and

E. Declarant further reserves the right from time to time to add all or any portion of certain other real property, more particularly described in Exhibit "B" hereto ("Annexable Area"); and

F. The total maximum number of Units that may (but need not) be created in the Community is one thousand two hundred (1,200) aggregate Units ("Units That May Be Created"); and

G. Declarant intends to develop and convey all of the Original Property, and any Annexable Area which may be annexed from time to time thereto ("Annexed Property"), pursuant to a general plan and subject to certain protective covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges; and

H. Declarant has deemed it desirable, for the efficient preservation of the value and amenities of the Properties, to organize the Association, to which shall be delegated and assigned the powers of owning, maintaining and administering the Common Elements (as defined herein), administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created. Declarant will cause or has caused, the Association to be formed for the purpose of exercising such functions; and

I. This Declaration is intended to set forth a dynamic and flexible plan of governance of the Community, for the overall development, administration, maintenance and preservation of a master residential community in which the Owners enjoy a quality life style as "good neighbors".

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NOW, THEREFORE, Declarant hereby declares that all of the Original Property, and, from the date(s) of respective annexation, all Annexed Property (collectively, "Properties") shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties (as defined in Article 1 hereof), in furtherance of a general plan for the protection, maintenance, subdivision, improvement, sale and lease of the Properties or any portion thereof. The protective covenants, conditions, restrictions, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Properties and shall be binding upon all Persons having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon, and may be enforced by, Declarant, the Association, each Owner, and their respective heirs, executors and administrators, and successive owners and assigns. All Units within this Community shall be used, improved, and limited exclusively to single Family residential use.

ARTICLE 1 **DEFINITIONS**

Section 1.1 "Annexable Area" shall mean the real property described in Exhibit "B" hereto, all or any portion of which real property may from time to time be made subject to this Declaration pursuant to the provisions of Article 15 hereof. At no time shall any portion of the Annexable Area be deemed to be a part of the Community or a part of the Properties until such portion of the Annexable Area has been duly annexed hereto pursuant to Article 15 hereof.

Section 1.2 "Annexed Property" shall mean any and all portion(s) of the Annexable Area from time to time added to the Properties covered by this Declaration, by Recordation of Annexation Amendment(s) pursuant to Article 15 hereof.

Section 1.3 "ARC" shall mean the Architectural Review Committee created pursuant to Article 8 hereof.

Section 1.4 "Articles" shall mean the Articles of Incorporation of the Association as filed in the office of the Secretary of State of Nevada, as such Articles may be amended from time to time.

Section 1.5 "Assessments" shall refer collectively to Annual Assessments, Capital Assessments, and any applicable Special Assessments (and, if applicable with regard to a particular Neighborhood, Neighborhood Assessments).

Section 1.6 "Assessment, Annual" shall mean the annual or supplemental charge against each Owner and his Unit, representing a portion of the Common Expenses, which are to be paid in equal periodic installments (monthly, quarterly, or annually, as determined from time to time by the Board), commencing as of the Assessment Commencement Date, by each Owner to the Association in the manner and proportions provided herein.

Section 1.7 "Assessment, Capital" shall mean a charge against each Owner and his Unit, representing a portion of the costs to the Association for installation, construction or reconstruction of any improvements on any portion of the Common Elements which the Association may from time to time authorize, pursuant to the provisions of this Declaration. Such charge shall be levied among all Owners and their Units in the same proportion as Annual Assessments.

Section 1.8 "Assessment, Special" shall mean a charge against a particular Owner and his Unit, directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty

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assessed by the Association, plus interest and other charges on such Special Assessments as provided for herein.

Section 1.9 "Assessment Commencement Date" shall mean that date, pursuant to Section 6.7 hereof, duly established by the Board, on which Annual Assessments shall commence.

Section 1.10 "Association" shall mean SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, a Nevada nonprofit corporation, its successors and assigns.

Section 1.11 "Association Funds" shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article 6 hereof.

Section 1.12 "Beneficiary" shall mean a Mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such mortgagee or beneficiary.

Section 1.13 "Board" or "Board of Directors" shall mean the Board of Directors of the Association. The Board of Directors is an "Executive Board" as defined by NRS § 116.110345.

Section 1.14 "Budget" shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration, prepared and approved pursuant to the provisions of this Declaration, including, but not limited to, Section 6.4 below.

Section 1.15 "Bylaws" shall mean the Bylaws of the Association which have or will be adopted by the Board, as such Bylaws may be amended from time to time.

Section 1.16 "Close of Escrow" shall mean the date on which a deed is Recorded conveying a Unit from Declarant to a Purchaser.

Section 1.17 "Common Elements" shall mean all real property or interests therein (including, but not necessarily limited to, those easements over portions of certain Lots, designated on the Plat as pedestrian access corridor easements, landscape easements, drainage easements, and certain other easements) owned or leased by the Association, and includes entry monumentation, private entry gates for the Properties, Common Recreational Area, Private Streets and public utility easements shown on the Plat, street lights, street signs, curbs and gutters, certain drainage and sewer easements, certain water and power easements, Common Element landscaping, access and ingress/egress easements (including, but not necessarily limited to, those areas respectively designated "Private Drive and P.U.E.", and any areas designated as "Private Drainage Easement," "Water Easement," "Power Easement," "Sewer Easement," "Access Easement," "Ingress/Egress Easement," and/or other similar easements on the Plat) but otherwise, shall exclude Units. Portions of Perimeter Walls, pursuant to Section 9.6 below, are located on and constitute portions of Lots, and are not Common Elements. The Common Elements shall constitute Common Elements as to the Properties, as provided in NRS § 116.110318.

Section 1.18 "Common Expenses" shall mean expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, including the actual and estimated costs of: maintenance, management, operation, repair, replacement and insurance of the Common Elements; painting over or removing graffiti on the exterior side of perimeter walls; unpaid Special Assessments or Capital Assessments; costs of any commonly metered utilities and other commonly metered charges for the Properties; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to Managers, accountants, attorneys and employees; costs of all utilities, gardening, trash pickup and disposal, and other services benefiting the Common Elements; costs of fire, casualty and liability insurance, workers' compensation insurance, and any other insurance covering the Common Elements or Properties or deemed prudent and necessary by the Board; costs of bonding the Board, Officers, any Managers, or any other Person handling the funds of the Association; any statutorily required "ombudsman" fees; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Elements or Properties, or portions thereof; costs of any other

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item or items incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of the Owners; prudent reserves; and any other expenses for which the Association is responsible pursuant to this Declaration or pursuant to any applicable provision of NRS Chapter 116.

Section 1.19 "Common Recreational Area" shall mean a common recreational area for the Community, and the building and other improvements on such area which shall be a part of the Common Elements.

Section 1.20 "Community" shall mean a Common-Interest Community, as defined in NRS § 116.110323, and a Planned Community, as defined in NRS § 116.110368.

Section 1.21 "County" shall mean the county in which the Properties are located (i.e., Clark County, Nevada).

Section 1.22 "Declarant" shall mean PERMA-BILT, a Nevada corporation, its successors and any Person to which it shall have assigned any rights hereunder by an express written and Recorded assignment (but specifically excluding Purchasers as defined in NRS § 116.110375).

Section 1.23 "Declarant Control Period" shall have the meaning set forth in Section 3.7, below.

Section 1.24 "Declaration" shall mean this instrument, as may be amended from time to time.

Section 1.25 "Deed of Trust" shall mean a Recorded mortgage or a deed of trust, as the case may be, pursuant to Section 1.42, below.

Section 1.26 "Director" shall mean a duly appointed or elected and current member of the Board of Directors.

Section 1.27 "Dwelling" shall mean a residential building located on a Unit designed and intended for use and occupancy as a residence by a single Family.

Section 1.28 "Eligible Holder" shall mean each Beneficiary, insurer and/or guarantor of a first Mortgage encumbering any Unit, which has filed with the Board a written request for notification as to relevant specified matters.

Section 1.29 "Exterior Walk(s)" shall mean the exterior only face of Perimeter Walls (visible from public streets or other areas outside of and generally abutting the exterior boundary of the Properties).

Section 1.30 "Family" shall mean (a) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (b) a group of natural persons not all so related, but who maintain a common household in a Dwelling, all as subject to and in compliance with all applicable federal and Nevada laws and local health codes and other applicable County ordinances.

Section 1.31 "FHA" shall mean the Federal Housing Administration.

Section 1.32 "FHLMC" shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successors to such corporations.

Section 1.33 "Fiscal Year" shall mean the twelve (12) month fiscal accounting and reporting period of the Association selected from time to time by the Board.

Section 1.34 "FNMA" shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

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Section 1.35 "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and any successors to such association.

Section 1.36 "Governing Documents" shall mean the Declaration, Articles, Bylaws, Plat, and the Rules and Regulations together with, if applicable, any Supplemental Declaration (and, if applicable, any Neighborhood Rules and Regulations or other Neighborhood governing documents, collectively referred to as "Neighborhood Governing Documents", which are specific with regard to a particular Neighborhood). Any inconsistency among the Governing Documents shall be governed pursuant to Section 19.10, below.

Section 1.37 "Identifying Number", pursuant to NRS § 116.110346, shall mean the number which identifies a Unit on the Plat.

Section 1.38 "Improvement" shall mean any structure or appurtenance thereto of every type and kind, whether above or below the land surface, placed in the Properties, including but not limited to Dwellings and other buildings, walkways, sprinkler pipes, swimming pools, spas and other recreational facilities, carports, garages, roads, driveways, parking areas, hardscape, Private Streets, streetlights, curbs, gutters, walls, perimeter walls, party walls, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures or equipment.

Section 1.39 "Lot" shall mean the residential real property of any residential lot to be owned separately by an Owner, as shown on the Plat (subject to Common Element easements over Lots as shown on the Plat, including, but not limited to, any Private Street easements). Notwithstanding the foregoing, in the event that certain Lots, shown as such on the Plat, are expressly designated by Declarant, in its sole and absolute discretion, by separate Recorded instrument to constitute Common Elements, pursuant to Declarant's reserved rights as set forth in Article 14 below, then such specifically designated Lots shall not be Lots for purposes of this Declaration and the other Governing Documents, but shall be conclusively deemed a portion of the Common Elements.

Section 1.40 "Manager" shall mean the Person, if any, whether an employee or independent contractor, appointed by the Association, acting through the Board, and delegated the authority to implement certain duties, powers or functions of the Association as provided in this Declaration.

Section 1.41 "Member," "Membership," "Member" shall mean any Person holding a membership in the Association, as provided in this Declaration. "Membership" shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations, including liability for Assessments, contained in the Governing Documents.

Section 1.42 "Mortgage," "Mortgagee," "Mortgagor," "Mortgage" shall mean any unreleased mortgage or deed of trust or other similar instrument of Record, given voluntarily by an Owner, encumbering his Unit to secure the performance of an obligation or the payment of a debt, which will be released and reconveyed upon the completion of such performance or payment of such debt. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." "Mortgage" shall not include any judgment lien, mechanic's lien, tax lien, or other similarly involuntary lien on or encumbrance of a Unit. The term "Mortgagee" shall mean a Person to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. "Mortgagor" shall mean a Person who mortgages his Unit to another (i.e., the maker of a Mortgage), and shall include the trustor of a Deed of Trust. "Trustor" shall be synonymous with the term "Mortgagor," and "Beneficiary" shall be synonymous with "Mortgagee."

Section 1.43 "Neighborhood" shall have the meaning set forth in Section 17.1, below.

Section 1.44 "Neighborhood Assessments" shall have the meaning set forth in Section 17.1, below.

Section 1.45 "Neighborhood Common Area" shall have the meaning set forth in Section 17.1, below.

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Section 1.46 "Neighborhood Expenses" shall have the meaning set forth in Section 17.1, below.

Section 1.47 "Notice and Hearing" shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at Owner's expense, in the manner further provided in the Bylaws.

Section 1.48 "Officer" shall mean a duly elected or appointed and current officer of the Association.

Section 1.49 "Original Property" shall mean that real property described on Exhibit "A," attached hereto and incorporated by this reference herein, which shall be the initial real property made subject to this Declaration, immediately upon the Recordation of this Declaration.

Section 1.50 "Owner" shall mean the Person or Persons, including Declarant, holding fee simple interest of Record to any Unit. The term "Owner" shall include sellers under executory contracts of sale, but shall exclude Mortgagees.

Section 1.51 "Perimeter Walls" shall mean the walls, initially constructed by Declarant, and located generally around the exterior perimeter of the Properties.

Section 1.52 "Person" shall mean a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

Section 1.53 "Plat" shall mean the final plat maps of SOUTHERN TERRACE, as the same from time to time are Recorded, including the final map of _____, (Recorded on _____, 2001, in Book _____ of Plats, Page _____), and any other final plat maps of the Properties, as all of the same from time to time may be amended or supplemented.

Section 1.54 "Private Streets" shall mean all private streets, rights of way, street scapes, and vehicular ingress and egress easements, in the Properties, shown as such on the Plat.

Section 1.55 "Properties" shall mean all of the Original Property described in Exhibit "A," attached hereto, together with such portions of the Annexable Area, described in Exhibit "B" hereto, as hereafter from time to time may be annexed thereto pursuant to Article 15 of this Declaration.

Section 1.56 "Purchaser" shall have that meaning as provided in NRS § 116.110375.

Section 1.57 "Record," "Recorded," "Filed" or "Recordation" shall mean, with respect to any document, the recordation of such document in the official records of the County Recorder of Clark County, Nevada.

Section 1.58 "Resident" shall mean any Owner, tenant, or other person who is physically residing in a Unit.

Section 1.59 "Rules and Regulations" shall mean the rules and regulations adopted by the Board pursuant to the Declaration and Bylaws, as such Rules and Regulations from time to time may be amended.

Section 1.60 "Sight Visibility Restriction Area" shall mean those areas, portions of which are or may be located on portions of Common Elements and/or Lots, identified on the Plat as "Sight Visibility Restriction Easements," in which the height of landscaping and other sight restricting improvements (other than official traffic control devices) is restricted to a maximum height as set forth on the Plat.

Section 1.61 "Supplemental Declaration" shall mean an instrument Recorded by Declarant or with the express prior written consent of Declarant, in its sole discretion, which shall be supplemental to this

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Declaration, as set forth in further detail in Section 18.1, below. Any purported Supplemental Declaration Recorded without the express prior written consent of Declarant shall be null and void.

Section 1.62 "Unit" shall mean that residential portion of this Community to be separately owned by each Owner (as shown and separately identified as such on the Plat), and shall include a Lot and all improvements thereon (which, with regard to certain Units, shall specifically include the portion of Perimeter Walls located on or within the Unit's boundaries, pursuant to Section 9.6 below). Subject to the foregoing, and subject to Section 9.5, below, the boundaries of each Unit shall be the property lines of the Lot, as shown on the Plat.

Section 1.63 "Units That May Be Created" shall mean the total "not to exceed" maximum number of aggregate Units within the Original Property and the Annexable Area (which Declarant has reserved the right, in its sole discretion, to create) (i.e., 1,200 Units).

Section 1.64 "VA" shall mean the U.S. Department of Veterans Affairs.

Any capitalized term not separately defined in this Declaration shall have the meaning ascribed thereto in applicable provision of NRS Chapter 116.

ARTICLE 2 OWNERS' PROPERTY RIGHTS

Section 2.1 Owners' Easements of Enjoyment. Each Owner shall have a nonexclusive right and easement of ingress and egress and of use and enjoyment in, to and over the Common Elements, which easement shall be appurtenant to and shall pass with title to the Owner's Unit, subject to the following:

- (a) the right of the Association to reasonably limit the number of guests and tenants an Owner or his tenant may authorize to use the Common Elements;
- (b) the right of the Association to establish uniform Rules and Regulations pertaining to the use of the Common Elements;
- (c) the right of the Association, in accordance with the Declaration, Articles and Bylaws, with the vote of at least two-thirds (2/3) of the voting power of the Association and a majority of the voting power of the Board, to borrow money for the purpose of improving or adding to the Common Elements, and in aid thereof, and further subject to the Mortgagee protection provisions of Article 13 of this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such Mortgagee shall be subordinated to the rights of the Owners;
- (d) subject to the provisions of Article 13 of this Declaration, and subject further to the voting requirements set forth in subsection 2.1(c) above, the right of the Association to dedicate, release, alienate, transfer or grant easements, licenses, permits and rights of way in all or any portion of the Common Elements to any public agency, authority, utility or other Person for such purposes and subject to such conditions as may be agreed to by the Members;
- (e) subject to the provisions of Article 14 hereof, the right of Declarant and its sales agents, representatives and prospective Purchasers, to the nonexclusive use of the Common Elements, without cost, for access, ingress, egress, use and enjoyment, in order to show and dispose of the Properties and/or any other development(s) until the last Close of Escrow for the marketing and/or sale of a Unit in the Properties or such other development(s); provided, however, that such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein;

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(f) the other easements, and rights and reservations of Declarant as set forth in Article 14 and elsewhere in this Declaration.

(g) the right of the Association (by action of the Board) to reconstruct, replace or refinish any improvement or portion thereof upon the Common Elements in accordance with the original design, finish or standard of construction of such improvement, or of the general improvements within the Properties, as the case may be; and if not materially in accordance with such original design, finish or standard of construction only with the vote or written consent of the Owners holding seventy-five percent (75%) of the voting power of the Association, and the vote or written consent of a majority of the voting power of the Board, and the approval of the Eligible Holders of fifty-one percent (51%) of the first Mortgages on Units in the Properties.

(h) the right of the Association, acting through the Board, to replace destroyed trees or other vegetation and to plant trees, shrubs and other ground cover upon any portion of the Common Elements.

(i) the right of the Association, acting through the Board, to place and maintain upon the Common Elements such signs as the Board reasonably may deem appropriate for the identification, marketing, advertisement, sale, use and/or regulation of the Properties, or any portion thereof, or any other project of Declarant.

(j) the right of the Association, acting through the Board, to reasonably restrict access to and use of portions of the Common Elements.

(k) the right of the Association, acting through the Board, to reasonably suspend voting rights and to impose fines as Special Assessments, and to suspend the right of an Owner or Resident to use Common Elements, for nonpayment of any regular or special Assessment levied by the Association against the Owner's Unit, or if an Owner or Resident is otherwise in breach of obligations imposed under the Governing Documents.

(l) the obligations and covenants of Owners as set forth in Article 9 and elsewhere in this Declaration.

(m) the use restrictions set forth in Article 10 and elsewhere in this Declaration;

(n) the easements reserved in Sections 2.2 through 2.7, inclusive, Section 2.13, Article 14, Article 15, Article 17, and/or any other provision of this Declaration; and

(o) the rights of any other easement holders.

Section 2.2 Easements for Parking. Subject to the parking and vehicular restrictions set forth in Section 10.19 below, the Association, through the Board, is hereby empowered to establish "parking" and/or "no parking" areas within the Common Elements, and to establish Rules and Regulations governing such matters, as well as to reasonably enforce such parking rules and limitations by all means lawful for such enforcement on public streets, including the removal of any violating vehicle, by those so empowered, at the expense of the Owner of the violating vehicle. If any temporary guest or recreational parking is permitted within the Common Elements, such parking shall be permitted only within any spaces and areas clearly marked or designated by the Board for such purpose.

Section 2.3 Easements for Vehicular and Pedestrian Traffic. In addition to the general easements for use of the Common Elements reserved herein, there shall be reserved to Declarant and all future Owners, and each of their respective agents, employees, guests, invitees and successors, nonexclusive, appurtenant easements for vehicular and pedestrian traffic over private main entry gate areas and all Private Streets, and any walkways within the Common Elements, subject to parking, vehicular, and/or use provisions set forth in Section 2.2 above and Section 10.19, below.

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Section 2.4 Easement Right of Declarant Incident to Construction and/or Marketing and Sales Activities. An easement is reserved by and granted to Declarant, its successors and assigns, and their respective officers, managers, employees, agents, contractors, sales representatives, prospective purchasers of Units, guests and other invitees, for access, ingress, and egress over, in, upon, under, and across the Properties, including Common Elements (including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's use, development, advertising, marketing and/or sales related to the Properties, or any portions thereof); provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to interfere unreasonably with the occupancy, use, enjoyment, or access by any Owner, his Family, guests, or invitees, to or of that Owner's Lot, or the Common Elements. The easement created pursuant to this Section 2.4 is subject to the time limit set forth in Section 14.1(a) below. Without limiting the generality of the foregoing, until such time as the Close of Escrow of the last Unit in the Properties, Declarant reserves the right to control entry gate(s) to the Properties and/or to Neighborhoods, and neither the Association nor any one or more of the Owners shall at any time, without the prior written approval of Declarant in its discretion, cause any entry gate in the Properties to be closed during regular marketing, sales, and/or construction hours (including weekend and/or holiday sales or construction hours) of Declarant, or shall in any other way impede or hinder Declarant's marketing, sales and/or construction activities.

Section 2.5 Easements for Public Service Use. In addition to the foregoing easements over the Common Elements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for: (a) placement of any fire hydrants on portions of certain Lots and/or Common Elements, and other purposes regularly or normally related thereto; and (b) County, state, and federal public services, including but not limited to, the right of postal, law enforcement, and fire protection services and their respective employees and agents, to enter upon any part of the Common Elements or any Lot, for the purpose of carrying out their official duties.

Section 2.6 Easements for Water, Sewage, Utility, and Irrigation Purposes. In addition to the foregoing easements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for purposes of public and private utilities, power, telephone, cable TV, water, and gas lines and appurtenances (including but not limited to, the right of any public or private utility or mutual water and/or sewage district, of ingress or egress over the Properties, including portions of Lots, for purposes of reading and maintaining meters, and using and maintaining any fire hydrants located on the Properties). There is hereby created a blanket easement in favor of Declarant and the Association upon, across, over, and under all Units and the Common Elements, for the installation, replacement, repair, and maintenance of utilities (including, but not limited to, water, sewer, gas, telephone, electricity, "smart" data cabling, if any, and master and cable television systems, if any), provided that said easement shall not extend beyond, across, over, or under any structure located on any Unit. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances in the Properties and to install, repair, and maintain water, sewer and gas pipes, electric, telephone and television wires, circuits, conduits and meters. Notwithstanding anything to the contrary contained in this Section, no sewer, electric, water or gas lines or other utilities or service lines may be installed or relocated within the Properties until the Close of Escrow of the last Unit in the Properties, except as approved by Declarant. This easement shall in no way affect any other Recorded easements in the Properties. There is also hereby reserved to Declarant during such period the non-exclusive right and power to grant such specific easements as may be necessary in the sole discretion of Declarant in connection with the orderly development of any property in the Properties. Any damage to a Unit resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant thereof. Properties, Declarant further reserves and covenants for itself and the Association, and their respective agents, employees and contractors, easements over the Common Elements and all Lots, for the control, installation, maintenance, repair and replacement of water and/or sewage lines and systems for watering or irrigation of any landscaping on, and/or sewage disposal from or related to, Common Elements. In the event that any utility exceeds the scope of this

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or any other easement reserved in this Declaration, and causes damage to property, the Owner of such property shall pursue any resultant claim against the offending utility, and not against Declarant or the Association.

Section 2.7 Additional Reservation of Easements. Declarant hereby expressly reserves for the benefit of each Owner and his Unit, reciprocal, nonexclusive easements over the adjoining Unit(s), for the control, maintenance and repair of the utilities serving such Owner's Unit. Declarant further expressly reserves, for the benefit of all of the real property in the Properties, and for the benefit of all of the Units, the Association and the Owners, reciprocal, nonexclusive easements over all Units and the Common Elements, for the control, installation, maintenance and repair of utility services and drainage facilities serving any portion of the Properties, (which may be located on portions of Lots, pursuant to the Plat), for drainage of water resulting from the normal use thereof or of neighboring Units and/or Common Elements, for the use, maintenance, repair and replacement of Private Streets and/or Perimeter Walls (subject to Section 9.6 below), and for any required customer service work and/or maintenance and repair of any Dwelling or other Improvement, wherever located in the Properties, and for compliance with Sight Visibility Restriction Area maximum permitted height requirements. In the event that any utility or governmental body exceeds the scope of any easement pertaining to the Properties, and thereby causes bodily injury or damage to property, the injured or damaged Owner or Resident shall pursue any and all resultant claims against the offending utility, and not against Declarant or the Association. In the event of any minor encroachment upon the Common Elements or Unit(s), as a result of initial construction or as a result of reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for minor encroachment and for the maintenance of the same shall exist so long as the minor encroachment exists. Declarant, and each Owner of a Unit, on which there is constructed a Dwelling along or adjacent to the property line, shall have an easement appurtenant to such property, over such property line, to and over the adjacent Unit and/or adjacent Common Elements, for the purposes of accommodating any natural movement or settling of such Improvement, any encroachment of such Improvement due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs, patio walls and architectural features comprising parts of the original construction of such Improvement. Declarant further reserves (a) a nonexclusive easement, on or over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of Declarant and its agents and/or contractors, for any required warranty repairs, and (b) a nonexclusive easement on and over the Properties, and all portions thereof (including Common Elements and Units), for the benefit of the Association, and its agents, contractors, and/or any other authorized party, for the maintenance and/or repair of any and all landscaping and/or other improvements located on the Common Elements and/or Units.

Section 2.8 Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Unit or other property owned by said Owner from the liens and charges hereof, by waiver of the use and enjoyment of the Common Elements or any facilities thereon or by abandonment of his Unit or any other property in the Properties.

Section 2.9 Easement Data. 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 the Plat is the same as the Recording data for the Plat.

Section 2.10 Owners' Right of Ingress and Egress. Each Owner shall have an unrestricted right of ingress and egress to his Unit reasonably over and across the Common Elements, which right shall be appurtenant to the Unit, and shall pass with any transfer of title to the Unit.

Section 2.11 No Transfer of Interest in Common Elements. No Owner shall be entitled to sell, lease, encumber, or otherwise convey (whether voluntarily or involuntarily) his interest in any of the Common Elements, except in conjunction with conveyance of his Unit. No transfer of Common Elements, or any interest therein, shall deprive any Unit of its rights of access. Any attempted or purported transaction in violation of this provision shall be void and of no effect.

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Section 2.12 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each Unit. If any taxes or assessments of any Owner may, in the opinion of the Association, become a lien on the Common Elements, or any part thereof, they may be paid by the Association as a Common Expense or paid by the Association and levied against such Owner as a Special Assessment.

Section 2.13 Telecommunications System. In cooperation with one or more telecommunication service provider(s) selected by Declarant ("Provider"), Declarant may, but is not required to, develop an integrated broadband network, linking homes, offices, schools, health care and public facilities to provide the necessary transport platform for network-based services such as integrated voice, messaging, data, CATV, and interactive multimedia applications. Declarant's technology vision ultimately is to provide capability for high speed data connectivity, video teleconferencing, video transport, and interactive multimedia services such as movies on demand, distance learning, remote diagnostic health care, and energy information services to help address the needs of an interactive community, where home, office, retail and commercial needs are met through cooperative and centrally managed network strategies. In addition, Declarant contemplates that a community server platform will create an "intranet" of electronic connections between all homes, offices, schools and other facilities. In connection with the foregoing: (a) Declarant may pre-wire each Dwelling in accordance with specifications furnished to Declarant by a Provider selected by Declarant; (b) each Owner, by acceptance of a deed to a Lot (whether or not so expressed in such deed), shall be deemed to acknowledge and agree that such system, including all components thereof as so installed on the Lot, shall be the sole property of Declarant, or, at the option of Declarant, of Provider; (c) Declarant hereby expressly reserves ownership of the portion of such system located on Lots or otherwise within the Properties; and (d) Declarant further expressly reserves a non-exclusive easement in gross on, over, under or across each lot and the other portions of the Properties for purposes of installation and maintenance of such system and for the benefit of Declarant and/or Provider.

ARTICLE 3

SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

Section 3.1 Organization of Association. The Association is or shall be incorporated under the name of SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, or similar name, as a non-profit corporation under NRS §§81.410 through 81.540, inclusive. Upon dissolution of the Association, the assets of the Association shall be disposed of as set forth in the Governing Documents and in compliance with applicable Nevada law.

Section 3.2 Duties, Powers and Rights. Duties, powers and rights of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers as a non-profit corporation, generally to do any and all things that a corporation organized under the laws of the State of Nevada may lawfully do which are necessary or proper, in operating for the peace, health, comfort, safety and general welfare of its Members, including any applicable powers set forth in NRS § 116.3102, subject to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents, or in any expressly applicable provision of NRS Chapter 116. The Association shall make available for inspection at its office by any prospective purchaser of a Unit, any Owner, and the Beneficiaries, insurers and guarantors of the first Mortgage on any Unit, during regular business hours and upon reasonable advance notice, current copies of the Governing Documents, and all other books, records, and financial statements of the Association.

Section 3.3 Membership. Each Owner, upon acquiring title to a Lot, shall automatically become a Member and shall remain a Member until such time as his ownership of the Unit ceases, at which time his membership in the Association shall automatically cease. Memberships shall not be assignable, except to the Person to which title to the Unit has been transferred, and each Membership shall be appurtenant to and may not be separated from the fee ownership of such Unit. Ownership of such Unit shall be the sole qualification for Membership, and shall be subject to the Governing Documents.

Section 3.4 Transfer of Membership. The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Unit, and then only to the purchaser or Mortgagee of such Unit. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. An Owner who has sold his Unit to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser said Owner's Membership rights. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Unit until fee title to the Unit sold is transferred. If any Owner should fail or refuse to transfer his Membership to the purchaser of such Unit upon transfer of fee title thereto, the Board shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer (which may, but need not necessarily be, a copy of the Recorded deed of transfer) first has been presented to the reasonable satisfaction of the Board, the purchaser shall not be entitled to vote at meetings of the Association, unless the purchaser shall have a valid proxy from the seller of said Unit, pursuant to Section 4.6, below. The Association may levy a reasonable transfer fee against a new Owner and his Unit (which fee shall be added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the records of the Association. The new Owner shall, if requested by the Board or Manager, timely attend an orientation to the Community and the Properties, conducted by an Association Officer or Manager, and will be required to pay any costs necessary to obtain entry gate keys and/or remote controls, if not obtained from the prior Owner at Close of Escrow.

Section 3.5 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws, including any reasonable provisions with respect to corporate matters; but in the event that any such provisions may be, at any time, inconsistent with any provisions of this Declaration, the provisions of this Declaration shall govern. The Bylaws shall provide:

- (a) the number of Directors (subject to Section 3.6 below) and the titles of the Officers;
- (b) for election by the Board of an Association president, treasurer, secretary and any other Officers specified by the Bylaws;
- (c) the qualifications, powers and duties, terms of office and manner of electing and removing Directors and Officers, and filling vacancies;
- (d) which, if any, respective powers the Board or Officers may delegate to other Persons or to a Manager;
- (e) which of the Officers may prepare, execute, certify and record amendments to the Declaration on behalf of the Association;
- (f) procedural rules for conducting meetings of the Association; and
- (g) a method for amending the Bylaws.

Section 3.6 Board of Directors

(a) The affairs of the Association shall be managed by a Board of not less than three (3), nor more than seven (7) Directors, all of whom (other than Directors appointed by Declarant pursuant to Section 3.7 below) must be Members of the Association. In accordance with the provisions of Section 3.7 below, upon the formation of the Association, Declarant shall appoint the Board, which shall initially consist of three (3) Directors. The number of Directors may be increased to five (5) or seven (7) by Declarant (during the Declarant Control Period), or by resolution of the Board, and otherwise may be changed by amendment of the Bylaws, provided that there shall not be less than any minimum number of Directors nor more than any maximum number of Directors from time to time required by applicable Nevada law. The Board may act in

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all instances on behalf of the Association, except as otherwise may be provided in the Governing Documents or any applicable provision of NRS Chapter 116 or other applicable law. The Directors, in the performance of their duties, are fiduciaries, and are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule. Notwithstanding the foregoing, the Board may not act on behalf of the Association to amend the Declaration, to terminate the Community, or to elect Directors or determine their qualifications, powers and duties or terms of office, provided that the Board may fill vacancies in the Board for the unexpired portion of any term. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any Director with or without cause, other than a Director appointed by Declarant. If a Director is sued for liability for actions undertaken in his role as a Director, the Association shall indemnify him for his losses or claims, and shall undertake all costs of defense, unless and until it is proven that the Director acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the costs of defense, and may recover, from the Director who so acted, costs already expended. Directors are not personally liable to the victims of crimes occurring within the Properties. Punitive damages may not be recovered against Declarant or the Association, subject to applicable Nevada law. An officer, employee, agent or director of a corporate Owner, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, or a fiduciary of an estate that owns a Unit, may be an Officer or Director. In every event where the person serving or offering to serve as an Officer or Director is a record Owner, he shall file proof of authority in the records of the Association. No Director shall be entitled to delegate his or her vote on the Board, as a Director, to any other Director or any other Person, and any such attempted delegation of a Director's vote shall be void. Each Director shall serve in office until the appointment (or election, as applicable) of his successor.

(b) The term of office of a Director shall not exceed two (2) years. A Director may be elected to succeed himself. Following the Declarant Control Period, elections for Directors (whose terms are expiring) must be held at the Annual Meeting, as set forth in Section 4.3 below.

(c) A quorum is deemed present throughout any Board meeting if Directors entitled to cast fifty percent (50%) of the votes on that Board are present at the beginning of the meeting.

Section 3.7 Declarant's Control of the Board. During the period of Declarant's control ("Declarant Control Period"), as set forth below, Declarant at any time, with or without cause, may remove or replace any Director appointed by Declarant. Directors appointed by Declarant need not be Owners. Declarant shall have the right to appoint and remove the Directors, subject to the following limitations:

(a) Not later than sixty (60) days after conveyance from Declarant to Purchasers of twenty-five percent (25%) of the Units That May Be Created, at least one Director and not less than twenty-five percent (25%) of the total Directors must be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance from Declarant to Purchasers of fifty percent (50%) of the Units That May Be Created, not less than one-third of the total Directors must be elected by Owners other than Declarant.

(c) The Declarant Control Period shall terminate on the earliest of: (i) sixty (60) days after conveyance from Declarant to Purchasers of seventy-five percent (75%) of the Units That May Be Created; (ii) five years after Declarant has ceased to offer any Units for sale in the ordinary course of business; or (iii) five years after any right to annex any portion of the Annexable Area was last exercised pursuant to Article 15 hereof.

Section 3.8 Control of Board by Owners. Subject to and following the Declarant Control Period: (a) the Owners shall elect a Board of at least three (3) Directors, and (b) the Board may fill vacancies in its membership (e.g., due to death or resignation of a Director), subject to the right of the Owners to elect a replacement Director, for the unexpired portion of any term. After the Declarant Control Period, all of the Directors must be Owners, and each Director shall, within thirty (30) days of his appointment or election, certify

in writing that he is an Owner and has read and reasonably understands the Governing Documents and applicable provisions of NRS Chapter 116 to the best of his or her ability. The Board shall elect the Officers, all of whom (after the Declarant Control Period) must be Owners and Directors. The Owners, upon a two-thirds (2/3) affirmative vote of all Owners present and entitled to vote at any Owners' meeting at which a quorum is present, may remove any Director(s) with or without cause; provided, however that any Director(s) appointed by Declarant may only be removed by Declarant.

Section 3.9 Election of Directors. Not less than thirty (30) days before the preparation of a ballot for the election of Directors, which shall normally be conducted at an Annual Meeting, the Association Secretary or other designated Officer shall cause notice to be given to each Owner of his eligibility to serve as a Director. Each Owner who is qualified to serve as a Director may have his name placed on the ballot along with the names of the nominees selected by the Board or a nominating committee established by the Board. The election of any Director must be conducted by secret written ballot. The Association Secretary or other designated Officer shall cause to be sent prepaid by United States mail to the mailing address of each Unit within the Community or to any other mailing address designated in writing by the Unit Owner, owner, a secret ballot and a return envelope. Election of Directors must be conducted by secret written ballot, with the vote publicly counted (which may be done as the meeting progresses).

Section 3.10 Board Meetings

(a) A Board meeting must be held at least once every 90 days. Except in an emergency, the Secretary or other designated Officer shall, not less than 10 days before the date of a Board meeting, cause notice of the meeting to be given to the Owners. Such notice must be: (1) sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Owner; or (2) published in a newsletter or other similar publication circulated to each Owner. In an emergency, the Secretary or other designated Officer shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each Unit. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each Unit within the Community or posted in a prominent place or places within the Common Elements.

(b) As used in this Section 3.10, "emergency" means any occurrence or combination of occurrences that: (1) could not have been reasonably foreseen; (2) affects the health, welfare and safety of the Owners; (3) requires the immediate attention of, and possible action by, the Board; and (4) makes it impracticable to comply with regular notice and/or agenda provisions.

(c) The notice of the Board meeting must state the time and place of the meeting and include a copy of the agenda for the meeting (or the date on which and the locations where copies of the agenda may be conveniently obtained by Owners). The notice must include notification of the right of an Owner to: (1) have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request (and, if required by the Board, upon payment to the Association of the cost of making the distribution); and (2) speak to the Association or Board, unless the Board is meeting in Executive Session.

(d) The agenda of the Board meeting must comply with the provisions of NRS § 116.3108.3. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the Board may take action on an item which is not listed on the agenda as an item on which action may be taken.

(e) At least once every 90 days, the Board shall review at one of its meetings: (1) a current reconciliation of the Operating Fund (as defined in Section 6.2 below); (2) a current reconciliation of the Reserve Fund (as defined in Section 6.3 below); (3) the actual revenues and expenses for the Reserve Fund, compared to the Reserve Budget for the current year; (4) the latest account statements prepared by the financial institutions in which the accounts of the Association are maintained; (5) an income and expense statement, prepared on, or at least a quarterly basis, for the Operating Fund and Reserve Fund; and (6) the current status of any civil action or claim submitted to arbitration or mediation in which the Association is a party.

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(f) The minutes of a Board meeting must be made available to Owners in accordance with NRS § 116.3108.5

Section 3.11 Attendance by Owners at Board Meetings, Executive Sessions. Owners are entitled to attend any meeting of the Board (except for Executive Sessions) and may speak at such meeting, provided that the Board may establish reasonable procedures and reasonable limitations on the time an Owner may speak at such meeting. The period required to be devoted to comments by Owners and discussion of those comments must be scheduled for the beginning of each meeting. Owners may not attend or speak at an Executive Session, unless the Board specifically so permits. An "Executive Session" is an executive session of the Board (which may be a portion of a Board meeting), designated as such by the Board in advance, for the sole purpose of:

(a) consulting with an attorney for the Association on matters relating to proposed or pending litigation, if the contents of the discussion would otherwise be governed by the privilege set forth in NRS §§ 49.035 to 49.115, inclusive; or

(b) discussing Association personnel matters of a sensitive nature, or

(c) discussing any violation ("Alleged Violation") of the Governing Documents (including, without limitation, the failure to pay an Assessment) alleged to have been committed by an Owner ("Involved Owner") (provided that the Involved Owner shall be entitled to request in writing that such hearing be conducted by the Board in open meeting, and provided further that the Involved Owner may attend such hearing and testify concerning the Alleged Violation, but may be excluded by the Board from any other portion of such hearing, including, without limitation, the Board's deliberation).

No other matter may be discussed in Executive Session. Any matter discussed in Executive Session must be generally described in the minutes of the Board meeting, provided that the Board shall maintain detailed minutes of the discussion of any Alleged Violation, and, upon request, shall provide a copy of said detailed minutes to the Involved Owner or his designated representative.

ARTICLE 4 VOTING RIGHTS

Section 4.1 Owners' Voting Rights. Subject to the following provisions of this Section 4.1, and to Section 4.6 below, each Member shall be entitled to cast one (1) vote for each Unit owned. In the event that more than one Person holds fee title to a Unit ("co-owners"), all such co-owners shall be one Member, and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Unit is entitled. Such co-owners may from time to time all designate in writing one of their number to vote. Fractional votes shall not be allowed. Where no voting co-owner is designated, or if such designation has been revoked, the vote for such Unit shall be exercised as the majority of the co-owners of the Unit mutually agree. No vote shall be cast for any Unit where the co-owners present in person or by proxy owning the majority interests in such Unit cannot agree to said vote or other action. The nonvoting co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Unit and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws, shall be deemed to be binding on all Owners, their successors and assigns. Notwithstanding the foregoing, the voting rights of an Owner shall be automatically suspended during any time period that Annual Assessments or any Special Assessment levied against such Owner are delinquent.

Section 4.2 Transfer of Voting Rights. The right to vote may not be severed or separated from any Unit, and any sale, transfer or conveyance of fee interest in any Unit to a new Owner shall operate to transfer the appurtenant Membership and voting rights without the requirement of any express reference thereto. Each Owner shall, within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Unit, notify the Association in writing of such sale, transfer or conveyance, with the name and address of the

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transferee, the nature of the transfer and the Unit involved, and such other information relative to the transfer and the transferee as the Board may reasonably request, and shall deliver to the Association a copy of the Recorded deed therefor.

Section 4.3 Meetings of the Membership. Meetings of the Association must be held at least once each year, or as otherwise may be required by applicable law. The annual Association meeting shall be held on a recurring anniversary basis, and shall be referred to as the "Annual Meeting." The business conducted at each such Annual Meeting shall include the election of Directors whose terms are then expiring. If the Members have not held a meeting for one (1) year, a meeting of the Association Membership must be held by not later than the March 1 next following. A special meeting of the Association Membership may be called at any reasonable time and place by written request of: (a) the Association President, (b) a majority of the Directors, or (c) Members representing at least ten percent (10%) of the voting power of the Association, or as otherwise may be required by applicable law. Notice of special meetings shall be given by the Secretary of the Association in the form and manner provided in Section 4.4, below.

Section 4.4 Meeting Notices; Agendas; Minutes. Meetings of the Members shall be held in the Properties or at such other convenient location near the Properties and within Clark County as may be designated in the notice of the meeting.

(a) Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Association Secretary shall cause notice to be hand delivered or sent postage prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by any Owner. The meeting notice must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of an Owner to: have a copy of the minutes or a summary of the minutes of the meeting distributed to him upon request, if the Owner pays the Association the cost of making the distribution, and speak to the Association or Board (unless the Board is meeting in Executive Session).

(b) The meeting agenda must consist of

(i) a clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to any of the Governing Documents, any fees or assessments to be imposed or increased by the Association, any budgetary changes, and/or any proposal to remove an Officer or Director, and

(ii) a list describing the items on which action may be taken, and clearly denoting that action may be taken on those items ("Agenda Items"), and

(iii) a period devoted to comments by Owners and discussion of such comments, provided that, except in emergencies, no action may be taken upon a matter raised during this comment and discussion period unless the matter is an Agenda Item. If the matter is not an Agenda Item, it shall be tabled at the current meeting, and specifically included as an Agenda Item for discussion and consideration at the next following meeting, at which time, action may be taken thereon.

(c) In an "emergency" (as said term is defined in Section 3.10(b), above), Members may take action on an item which is not listed on the agenda as an item on which action may be taken.

(d) If the Association adopts a policy imposing a fine on an Owner for the violation of a provision of the Governing Documents, the Board 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 Owner thereof, a specific schedule of fines that may be imposed for those particular violations, at least thirty (30) days prior to any attempted enforcement, and otherwise subject to Section 19.1, below.

(e) Not more than thirty (30) days after any meeting, the Board shall cause the minutes or a summary of the minutes of the meeting to be made available to the Owners. A copy of the minutes or

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a summary of the minutes must be provided to any Owner who pays the Association the cost of providing the copy

Section 4.5 Record Date. The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any Budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for an adjournment of the same meeting. A record date shall not be more than sixty (60) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur.

Section 4.6 Proxies. Every Member entitled to attend, vote at, or exercise consents with respect to, any meeting of the Members, may do so either in person, or by a representative, known as a proxy, duly authorized by an instrument in writing, filed with the Board prior to the meeting to which the proxy is applicable. A Member may give a proxy only to a member of his immediate family, a Resident tenant, or another Member. No proxy shall be valid after the conclusion of the meeting (including continuation of such meeting) for which the proxy was executed. Such powers of designation and revocation may be exercised by the legal guardian of any Member or by his conservator, or in the case of a minor having no guardian, by the parent legally entitled to permanent custody, or during the administration of any Member's estate where the interest in the Unit is subject to administration in the estate, by such Member's executor or administrator. Any form of proxy or written ballot shall afford an opportunity thereon to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy or written ballot is solicited, and shall provide, subject to reasonably specified conditions, that where the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance with such specification. Unless applicable Nevada law provides otherwise, a proxy is void if: (a) it is not dated or purports to be revocable without notice; (b) it does not designate the votes that must be cast on behalf of the Member who executed the proxy; or (c) the holder of the proxy does not disclose at the beginning of the meeting (for which the proxy is executed) the number of proxies pursuant to which the proxy holder will be casting votes and the voting instructions received for each proxy. If and for so long as prohibited by Nevada law, a vote may not be cast pursuant to a proxy for the election of a Director.

Section 4.7 Quorums. The presence at any meeting of Members who hold votes equal to twenty percent (20%) of the total voting power of the Association, in person or by proxy, shall constitute a quorum for consideration of that matter. The Members present at a duly called meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken other than adjournment is approved by at least a majority of the Members required to constitute a quorum, unless a greater vote is required by applicable law or by this Declaration. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which reconvened meeting the quorum requirement shall be the presence, in person or by written proxy, of the Members entitled to vote at least twenty percent (20%) of the total votes of the Association. Notwithstanding the presence of a sufficient number of Owners to constitute a quorum, certain matters, including, without limitation, amendment to this Declaration, require a higher percentage (e.g., 67%) of votes of the total voting Membership as set forth in this Declaration.

Section 4.8 Actions. If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two (2) candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by applicable law or by this Declaration.

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Section 4.9 Action by Meeting, and Written Approval of Absentee Owners. The proceedings and transactions of any meeting of Members, either regular or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members, need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the meeting.

Section 4.10 Action By Written Consent, Without Meeting. Any action which may be taken at any regular or special meeting of the Members may be taken without a meeting and without prior notice, if authorized by a written consent setting forth the action so taken, signed by Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members were present and voted, and filed with the Association Secretary, provided, however, that Directors may not be elected by written consent except by unanimous written consent of all Members. Any Member giving a written consent, or such Member's proxy holder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members required to authorize the proposed action have been filed with the Association Secretary, but may not do so thereafter. Such revocation shall be effective upon its receipt by the Association Secretary. Unless the consents of all Members have been solicited in writing and have been received, prompt notice shall be given, in the manner as for regular meetings of Members, to those Members who have not consented in writing, of the taking of any Association action approved by Members without a meeting. Such notice shall be given at least ten (10) days before the consummation of the action authorized by such approval with respect to the following:

- (a) approval of any reorganization of the Association;
- (b) a proposal to approve a contract or other transaction between the Association and one or more Directors, or any corporation, firm or association in which one or more Directors has a material financial interest; or
- (c) approval required by law for the indemnification of any person.

Section 4.11 Adjourned Meetings and Notice Thereof. Any Members' meeting, regular or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members present either in person or by proxy thereat, but in the absence of a quorum, no other business may be transacted at any such meeting except as provided in this Section 4.11. When any Members' meeting, either regular or special, is adjourned for seven (7) days or less, the time and place of the reconvened meeting shall be announced at the meeting at which the adjournment is taken. When any Members' meeting, either regular or special, is adjourned for more than seven (7) days, notice of the reconvened meeting shall be given to each Member as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a reconvened meeting, and at the reconvened meeting the Members may transact any business that might have been transacted at the original meeting.

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ARTICLE 5

FUNCTIONS OF ASSOCIATION

Section 5.1 Powers and Duties. The Association shall have all of the powers of a Nevada nonprofit corporation, subject only to such limitations, if any, upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association. The Association's obligations to maintain the Common Elements shall commence on the date Annual Assessments commence on Units; until commencement of Annual Assessments, the Common Elements shall be maintained by Declarant, at Declarant's expense. Without in any way limiting the generality of the foregoing provisions, the Association may act through the Board, and shall have:

(a) **Assessments** The power and duty to levy assessments against the Owners of Units, and to enforce payment of such assessments in accordance with the provisions of Article 6 hereof.

(b) **Repair and Maintenance of Common Elements** The power and duty to paint, plant, maintain and repair in a neat and attractive condition, in accordance with standards adopted by the ARC, all Common Elements and all improvements thereon, and to pay for utilities, gardening, landscaping, and other necessary services for the Common Elements. Notwithstanding the foregoing, the Association shall have no responsibility to provide any of the services referred to in this subsection 5.1(b) with respect to any improvement which is accepted for maintenance by any state, local or municipal governmental agency or public entity. Such responsibility shall be that respectively of the applicable agency or public entity.

(c) **Removal of Graffiti** The power and duty to remove or paint over any graffiti from or on Exterior Walls, pursuant and subject to Section 9.6, below.

(d) **Taxes** The power and duty to pay all taxes and assessments levied upon the Common Elements and all taxes and assessments payable by the Association.

(e) **Utility Services** The power and duty to obtain, for the benefit of the Common Elements, any necessary commonly metered water, gas, and/or electric services, (or other similar services) and/or refuse collection, and the power but not the duty to provide for all refuse collection and cable or master television service, if any, for all or portions of the Properties.

(f) **Easements and Rights-of-Way** The power but not the duty to grant and convey to any Person, (i) easements, licenses and rights-of-way in, on, over or under the Common Elements, and (ii) with the consent of seventy-five percent (75%) of the voting power of the Association, fee title to parcels or strips of land which comprise a portion of the Common Elements, for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder: (A) roads, streets, walks, driveways, and slope areas; (B) overhead or underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, television, telephone and other similar purposes; (C) sewers, storm and water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and, (D) any similar public or quasi-public improvements or facilities.

(g) **Manager** The power, subject to Section 5.5, below, but not the duty, to employ or contract with a professional Manager to perform all or any part of the duties and responsibilities of the Association, and the power but not the duty to delegate powers to committees, Officers and employees of the Association. Any such management agreement, or any agreement providing for services by Declarant to the Association, shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon ninety (90) days written notice.

(h) **Rights of Entry and Enforcement** The power but not the duty, after Notice and Hearing (except in the event of emergency which poses an imminent threat to health or substantial damage to property, in which event, Notice and Hearing shall not be required), to enter upon any area of a Unit, without

being liable to any Owner, except for damage caused by the Association entering or acting in bad faith, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain and repair such area as required by this Declaration. All costs of any such maintenance and repair as described in the preceding sentence (including all amounts due for such work, and the costs and expenses of collection) shall be assessed against such Owner as a Special Assessment, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment pursuant to Article 7, below. The responsible Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection. Unless there exists an emergency, there shall be no entry into a Dwelling without the prior consent of the Owner thereof. Any damage caused by an entry upon any Unit shall be repaired by the entering party. Subject to Section 5.3, below, the Association may also commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory injunctions or otherwise, all of the provisions of the Declaration, and, if such action pertaining to the Declaration is brought by the Association, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be fixed by the court.

(j) Other Services. The power and duty to maintain the integrity of the Common Elements and to provide such other services as may be necessary or proper to carry out the Association's obligations and business under the terms of this Declaration to enhance the enjoyment, or to facilitate the use, by the Members, of the Common Elements.

(i) Employees, Agents and Consultants. The power but not the duty, if deemed appropriate by the Board, to hire and discharge employees and agents and to retain and pay for legal, accounting and other services as may be necessary or desirable in connection with the performance of any duties or exercise of any powers of the Association under this Declaration.

(k) Acquiring Property and Construction on Common Elements. The power but not the duty, by action of the Board, to acquire property or interests in property for the common benefit of Owners, including improvements and personal property. The power but not the duty, by action of the Board, to construct new improvements or additions to the Common Elements, or demolish existing improvements (other than maintenance or repairs to existing improvements).

(l) Contracts. The power, but not the duty, to enter into contracts with Owners to provide services or to maintain and repair improvements within the Properties which the Association is not otherwise required to maintain pursuant to this Declaration, and the power, but not the duty, to contract with third parties for such services. Any such contract or service agreement must, however, provide for payment to the Association of the cost of providing such service or maintenance.

(m) Records and Accounting. The power and the duty to keep, or cause to be kept, true and correct books and records of account at the sole cost and expense of the Association in accordance with generally accepted accounting principles. Financial statements for the Association shall be regularly prepared and distributed to all Members as follows:

(i) pro forma operating statements (Budgets), Reserve Budgets and Reserve Studies, shall be distributed pursuant to Section 6.4, below;

(ii) audited or reviewed Financial Statements (consisting of a reasonably detailed statement of revenues and expenses of the Association for each Fiscal Year, and a balance sheet showing the assets (including, but not limited to, Association Reserve Funds) and liabilities of the Association as at the end of each Fiscal Year), and a statement of cash flow for the Fiscal Year, shall be distributed within one hundred twenty (120) days after the close of each Fiscal Year.

(n) Maintenance of Other Areas. The power but not the duty to maintain and repair slopes, parkways, entry structures and Community signs identifying the Properties, other than the Common Elements, to the extent deemed to be reasonable and prudent by the Board.

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(c) Use Restrictions. The power and the duty to enforce use restrictions pertaining to the Properties.

(p) Insurances. The power and the duty to cause to be obtained and maintained the insurance coverages pursuant to Article 12, below.

(q) Licenses and Permits. The power and the duty to obtain from applicable governmental authority any and all licenses and permits reasonably necessary to carry out Association functions hereunder.

Section 5.2 Rules and Regulations. The Board shall be empowered to adopt, amend, repeal, and/or enforce reasonable and uniformly applied Rules and Regulations, which shall not discriminate among Members, for the use and occupancy of the Properties as follows:

(a) General. A copy of the Rules and Regulations, as from time to time may be adopted, amended or repealed, shall be posted in a conspicuous place in the Common Elements and/or shall be mailed or otherwise delivered to each Member and also kept on file with the Association. Upon such mailing, delivery or posting, the Rules and Regulations shall have the same force and effect as if they were set forth herein and shall be binding on all Persons having any interest in, or making any use of any part of, the Properties, whether or not Members; provided, however, that the Rules and Regulations shall be enforceable only to the extent that they are consistent with the other Governing Documents. If any Person has actual knowledge of any of the Rules and Regulations, such Rules and Regulations shall be enforceable against such Person, whether or not a Member, as though notice of such Rules and Regulations had been given pursuant to this Section 5.2. The Rules and Regulations may not be used to amend any of the other Governing Documents.

(b) Limitations. The Rules and Regulations must be:

- (i) reasonably related to the purpose for which adopted;
- (ii) sufficiently explicit in their prohibition, direction, or limitation, so as to reasonably inform an Owner or Resident, or tenant or guest thereof, of any action or omission required for compliance;
- (iii) adopted without intent to evade any obligation of the Association;
- (iv) consistent with the other Governing Documents (and must not arbitrarily restrict conduct, or require the construction of any capital improvement by an Owner if not so required by the other Governing Documents);
- (v) uniformly enforced under the same or similar circumstances against all Owners, provided that any particular rule not so uniformly enforced may not be enforced against any Owner (except as, and to the extent, if any, such enforcement may be permitted from time to time by applicable law); and
- (vi) duly adopted and distributed to the Owners at least thirty (30) days prior to any attempted enforcement.

Section 5.3 Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "Proceeding"). The Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Elements and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

(a) Any Proceeding commenced by the Association: (i) to enforce the payment of an assessment or an assessment lien or other lien against an Owner as provided for in this Declaration, or (ii) to otherwise enforce compliance with the Governing Documents by, or to obtain other relief from, any Owner who has violated any provision thereof, or (iii) to protect against any matter which imminently and substantially threatens all of the health, safety and welfare of the Owners, or (iv) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Ten Thousand Dollars (\$10,000.00) in the aggregate, shall be referred to herein as an "Operational Proceeding." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

(b) Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Section 5.3 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board

(i) The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Members for such additional amount for mediation before proceeding to either arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(1) The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, by obtaining the written opinion of a licensed Nevada attorney regularly residing in Clark County, Nevada, with a Martindale-Hubbell rating of "av", expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association. The Board shall be authorized to spend up to an aggregate of Five Thousand Dollars (\$5,000.00) to obtain such legal opinion, including all amounts paid to said attorney therefor, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said \$5,000.00 limit, with the express consent of more than fifty percent (50%) of all of the Members of the Association, at a special meeting called for such purpose.

(2) Said attorney opinion letter shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "Quoted Litigation Costs") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said opinion letter shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft

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of the attorney's proposed contingent fee agreement. (Such written legal opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "Attorney Letter").

(3) Upon receipt and review of the Attorney Letter, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Members. The written notice to each Member of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, together with a written report ("Special Assessment Report") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Member ("Special Litigation Assessment"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Members, whereupon: (x) if not more than fifty percent (50%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (y) if more than fifty percent (50%) of the total voting power of the Association (i.e., more than fifty percent (50%) of all of the Members of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Members in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees and costs and expenses whatsoever in excess of one hundred twenty percent (120%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Members, not less frequently than quarterly, a written update of the progress and current status of, and the attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of attorneys fees and costs incurred to date in connection therewith.

(4) In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Members of the Association.

(c) In no event shall any Association Reserve Fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Association Reserve Funds, pursuant to Section 6.3, below, are to be used only for the specified replacements, painting and repairs of Common Elements, and for no other purpose whatsoever.

(d) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section 5.3, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section 5.3, shall be unauthorized and ultra vires (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements

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of this Section 5.3 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (ii) this Section 5.3 may not be amended or deleted at any time without the express prior written approval of both: (1) members representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the total power of the Board of Directors; and any purported amendment or deletion of this Section 5.3, or any portion hereof, without both of such express prior written approvals shall be void.

Section 5.4 Additional Express Limitations on Powers of Association The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

(a) Incur aggregate expenditures for capital improvements to the Common Elements in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year, or sell, during any Fiscal Year, any property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year.

(b) Enter into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one (1) year, except (i) a contract with a public or private utility or cable television company, if the rates charged for the materials or services are regulated by the Nevada Public Service Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) prepaid casualty and/or liability insurance policies of no greater than three (3) years duration.

(c) Pay compensation to any Association Director or Officer for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Director or Officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 5.5 Manager The Association shall have the power to employ or contract with a Manager, to perform all or any part of the duties and responsibilities of the Association, subject to the Governing Documents, for the purpose of operating and maintaining the Properties, subject to the following:

(a) Any agreement with a Manager shall be in writing and shall be for a term not in excess of one (1) year, subject to cancellation by the Association for cause at any time upon not less than thirty (30) days written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon not more than ninety (90) days written notice. In the event of any explicit conflict between the Governing Documents and any agreement with a Manager, the Governing Documents shall prevail.

(b) The Manager shall possess sufficient experience, in the reasonable judgment of the Board, in managing residential subdivision projects, similar to the Properties, in the County, and shall be duly licensed as required from time to time by the appropriate licensing and governmental authorities (and must have the qualifications, including education and experience, when and as required for the issuance of the relevant certificate by the Nevada Real Estate Division pursuant and subject to the provisions of NRS Chapter 645 and/or NRS § 116.31139.3, or duly exempted pursuant to NRS § 116.31139.4). Any and all employees of the Manager with responsibilities to or in connection with the Association and/or the Community shall have such experience with regard to similar projects. (If no Manager meeting the above-stated qualifications is available, the Board shall retain the most highly qualified management entity available, which is duly licensed by the appropriate licensing authorities).

(c) No Manager, or any director, officer, shareholder, principal, partner, or employee of the Manager may be a Director or Officer of the Association.

(d) As a condition precedent to the employ of, or agreement with, a Manager, the Manager (or any replacement Manager) first shall be required, at its expense, to review the Governing Documents, Plat, and any and all Association Reserve Studies and inspection reports pertaining to the Properties.

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(e) By execution of its agreement with the Association, a Manager shall be conclusively deemed to have covenanted: (1) in good faith to be bound by, and to faithfully perform all duties (including, but not limited to, full and faithful accounting for all Association funds within the possession or control of Manager) required of the Manager under the Governing Documents (and, in the event of any irreconcilable conflict between the Governing Documents and the contract with the Manager, the Governing Documents shall prevail); (2) that any penalties, fines or interest levied upon the Association as the result of Manager's error or omission shall be paid (or reimbursed to the Association) by the Manager; (3) to comply fully, at its expense, with all applicable regulations of the Nevada Real Estate Division; and (4) at Manager's sole expense, to promptly turn over, to the Board, possession and control of all funds, documents, books, records and reports pertaining to the Properties and/or Association, and to coordinate and cooperate in good faith with the Board in connection with such turnover, in any event not later than ten (10) days of expiration or termination of the Association's agreement with Manager (provided that, without limiting its other remedies, the Association shall be entitled to withhold all amounts otherwise due to the Manager until such time as the Manager turnover in good faith has been completed)

(f) Upon expiration or termination of an agreement with a Manager, a replacement Manager meeting the above stated qualifications shall be retained by the Board as soon as possible thereafter and a limited review performed by qualified Person designated by the Board, of the books and records of the Association, to verify assets

(g) The Association shall also maintain and pay for the services of such other personnel, including independent contractors, as the Board shall determine to be necessary or desirable for the proper management, operation, maintenance, and repair of the Association and the Properties, pursuant to the Governing Documents, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. Such other personnel shall not all be replaced concurrently, but shall be replaced according to a "staggered" schedule, to maximize continuity of services to the Association.

Section 5.6 Inspection of Books and Records

(a) The Board shall, upon the written request of any Owner, make available the books, records and other papers of the Association for review during the regular working hours of the Association, with the exception of: (1) personnel records of employees (if any) of the Association, and (2) records of the Association relating to another Owner.

(b) The Board shall cause to be maintained and made available for review at the business office of the Association or other suitable location: (1) the financial statements of the Association; (2) the Budgets and Reserve Budgets; and (3) Reserve Studies

(c) The Board shall cause to be provided a copy of any of the records required to be maintained pursuant to (a) and (b) above, to an Owner or to the Nevada State Ombudsman, as applicable, within 14 days after receiving a written request therefor. The Board may charge a fee to cover the actual costs of preparing such copy, but not to exceed 25 cents per page (or such maximum amount as permitted by applicable Nevada law)

(d) Notwithstanding the foregoing, each Director shall have the unfettered right at any reasonable time, and from time to time, to inspect all such records

Section 5.7 Continuing Rights of Declarant Declarant shall preserve the right, without obligation, to enforce the Governing Documents (including, without limitation, the Association's duties of maintenance and repair, and Reserve Study and Reserve Fund obligations). After the end of Declarant Control Period, throughout the term of this Declaration, the Board shall deliver to Declarant notices and minutes of all Board meetings and Membership meetings, and Declarant shall have the right, without obligation, to attend such meetings, on a non-voting basis. Declarant shall also receive notice of, and have the right, without obligation, to attend, all inspections of the Properties or any portion(s) thereof. The Board shall also, throughout the term

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of this Declaration, deliver to Declarant (without any express or implied obligation or duty on Declarant's part to review or to do anything) all notices and correspondence to Owners, all inspection reports, the Reserve Studies prepared in accordance with Section 6.3 below, and audited annual reports, as required in Section 5.1(m), above. Such notices and information shall be delivered to Declarant at its most recently designated address.

Section 5.8 Compliance with Applicable Laws. The Association shall comply with all applicable laws, including, but not limited to, applicable laws prohibiting discrimination against any person in the provision of services or facilities in connection with a Dwelling because of a handicap of such person. The provisions of the Governing Documents shall be upheld and enforceable to the maximum extent permissible under applicable federal or state law or City or County ordinance. Subject to the foregoing, in the event of irreconcilable conflict between applicable law and any provision of the Governing Documents, the applicable law shall prevail, and the affected provision of the Governing Document shall be deemed automatically amended (or deleted) to the minimum extent reasonably necessary to remove such irreconcilable conflict. In no event shall the Association adhere to or enforce any provision of the Governing Documents which irreconcilably contravenes applicable law.

ARTICLE 6

COVENANT FOR ASSESSMENTS

Section 6.1 Personal Obligation of Assessments. Each Owner of a Unit, by acceptance of a deed therefor, whether or not so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) Annual Assessments, (b) Special Assessments, and (c) any Capital Assessments, such assessments to be established and collected as provided in this Declaration. All assessments, together with interest thereon, late charges, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such assessment is made. Each such assessment, together with interest thereon, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment became due. This personal obligation cannot be avoided by abandonment of a Unit or by an offer to waive use of the Common Elements. The personal obligation only shall not pass to the successors in title of any Owner unless expressly assumed by such successors.

Section 6.2 Association Funds. The Board shall establish at least the following separate accounts ("Association Funds") into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. The Association Funds shall be established as trust accounts at a federally or state insured banking or savings institution and shall include: (1) an operating fund ("Operating Fund") for current expenses of the Association, and (2) a reserve fund ("Reserve Fund") for capital repairs and replacements as set forth in Section 6.3 below, and (3) any other funds which the Board may establish, to the extent necessary under the provisions of this Declaration. To qualify for higher returns on accounts held at banking or savings institutions, the Board may commingle any amounts deposited into any of the Association Funds, (other than the Reserve Fund, which shall be kept segregated), provided that the integrity of each individual Association Fund shall be preserved on the books of the Association by accounting for disbursements from, and deposits to, each Association Fund separately. Each of the Association Funds shall be established as a separate trust savings or trust checking account, at any federally or state insured banking or lending institution, with balances not to exceed institutionally insured levels. All amounts deposited into the Operating Fund and the Reserve Fund must be used solely for the common benefit of the Owners for purposes authorized by this Declaration. The Manager shall not be authorized to make withdrawals from the Reserve Fund. Withdrawals from the Reserve Fund shall require signatures of both the President and Treasurer (or, in the absence of either the President or Treasurer, the Secretary may sign in place of the absent Officer). The President, Treasurer, and Secretary all must be Directors and (after the Declarant Control Period) must also all be Owners.

Section 6.3 Reserve Fund; Reserve Studies

(a) Any other provision herein notwithstanding (i) the Association shall establish a separate reserve fund ("Reserve Fund"); (ii) the Reserve Fund shall be kept in a segregated account, withdrawals from which shall only be made upon specific approval of the Board subject to the following; (iii) the Reserve Fund shall be used only for capital repairs, restoration, and replacement of major components ("Major Components") of the Common Elements; (iv) in no event whatsoever shall the Reserve Fund be used to pay operating expenses or for regular maintenance recurring on an annual or more frequent basis, or as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding; (v) funds in the Reserve Fund may not be withdrawn without the signatures of both the President and the Treasurer (provided that the Secretary may sign in lieu of either the President or Treasurer, if either is not reasonably available); (vi) under no circumstances shall the Manager (or any one Officer or Director, acting alone) be authorized to make withdrawals from the Reserve Fund; and (vii) under no circumstances shall the Manager divert or be authorized to divert funds allocated to the Reserve Fund (including, but not necessarily limited to, use of such funds to pay operating expenses), and any such diversion by the Manager of funds allocated to the Reserve Fund shall constitute a material breach by the Manager of its obligations to the Association.

(b) The Board shall periodically retain the services of a qualified reserve study analyst, with sufficient experience with preparing reserve studies for similar residential projects in the County, to prepare and provide to the Association a reserve study ("Reserve Study").

(c) The Board shall cause to be prepared a Reserve Study at such times as the Board deems reasonable and prudent, but in any event initially within one (1) year after the Close of Escrow for the first Unit within the Properties, and thereafter at least once every five (5) years (or at such other intervals as may be required from time to time by applicable Nevada law). The Board shall review the results of the most current Reserve Study at least annually to determine if those reserves are sufficient, and shall make such adjustments as the Board deems reasonable and prudent to maintain the required reserves from time to time (i.e., by increasing Assessments). It shall be an obligation of the Manager to timely remind the Board in writing of these Reserve Study requirements from time to time as applicable.

(d) Each Reserve Study must be conducted by a person qualified by training and experience to conduct such a study (including, but not limited to, a Director, an Owner or a Manager who is so qualified) ("Reserve Analyst"). The Reserve Study must include, without limitation: (i) a summary of an inspection of the Major Components which the Association is obligated to repair, replace or restore; (ii) an identification of the Major Components which have a remaining useful life of less than 30 years; (iii) an estimate of the remaining useful life of each Major Component so identified; (iv) an estimate of the cost of repair, replacement or restoration of each Major Component so identified during and at the end of its useful life; and (v) an estimate of the total annual assessment that may be required to cover the cost of repairing, replacement or restoration the Major Components so identified (after subtracting the reserves as of the date of the Reserve Study).

(e) The Reserve Study shall be conducted in accordance with any applicable regulations adopted by the Nevada Real Estate Division. Unless and until otherwise provided by applicable regulation or law, the Association (upon Recordation of this Declaration) and each Owner (by acquiring title to a Unit) shall be deemed to have unequivocally agreed that: (i) utilization, by a Reserve Analyst, of the "pooling" or "cash flow" method for and in connection with preparation of a Reserve Study shall be deemed reasonable and prudent; and/or (ii) utilization, by a Reserve Analyst, of an assumption that there will be future annual increases in amounts from time to time allocated to reserves (provided that there shall be no assumption of such future increases in excess of 10% per year), with corresponding increases in Assessments, shall be deemed reasonable and prudent for and in connection with preparation of a Reserve Study.

Section 6.4 Budget; Reserve Budget

(a) The Board shall adopt a proposed annual Budget (which shall include a Reserve Budget) at least forty-five (45) days prior to the first Annual Assessment period for each Fiscal Year. Within thirty (30) days after adoption of any proposed Budget, the Board shall provide to all Owners a summary of

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the Budget, and shall set a date for a meeting of the Owners to consider ratification of the Budget. Said meeting shall be held not less than fourteen (14) days, nor more than thirty (30) days after mailing of the summary. Unless at that meeting the proposed Budget is rejected by at least seventy-five percent (75%) of the voting power of the Association, the Budget shall be deemed ratified, whether or not a quorum was present. If the proposed Budget is duly rejected as aforesaid, the annual Budget for the immediately preceding Fiscal Year shall be reinstated, as if duly approved for the Fiscal Year in question, and shall remain in effect until such time as a subsequent proposed Budget is ratified.

(b) Notwithstanding the foregoing, except as otherwise provided in subsection (c) below, the Board shall, not less than 30 days or more than 60 days before the beginning of each Fiscal Year, prepare and distribute to each Owner a copy of

(1) the Budget (which must include, without limitation, the estimated annual revenue and expenditures of the Association and any contributions to be made to the Reserve Fund); and

(2) The Reserve Budget, which must include, without limitation:

(A) the current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the Common Elements ("Major Component");

(B) as of the end of the Fiscal Year for which the Reserve Budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the Major Components;

(C) a statement as to whether the Board has determined or anticipates that the levy of one or more Capital Assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves for that purpose; and

(D) a general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (B) above, including, without limitation, the qualifications of the person responsible for the preparation of the Reserve Study.

(c) In lieu of distributing copies of the Budget and Reserve Budget, the Board may distribute to each Owner a summary of those budgets, accompanied by a written notice that the budgets are available for review at the business office of the Association or other suitable location and that copies of the budgets will be provided upon request.

Section 6.5 Limitations on Annual Assessment Increases. The Board shall not levy, for any Fiscal Year, an Annual Assessment which exceeds the "Maximum Authorized Annual Assessment" as determined below, unless first approved by the vote of Members representing at least a majority of the voting power of the Association. The "Maximum Authorized Annual Assessment" in any fiscal year following the initial budgeted year shall be a sum which does not exceed the aggregate of (a) the Annual Assessment for the prior Fiscal Year, plus (b) a twenty-five percent (25%) increase thereof. Notwithstanding the foregoing, if, in any Fiscal Year, the Board reasonably determines that the Common Expenses cannot be met by the Annual Assessments levied under the then-current Budget, the Board may, upon the affirmative vote of a majority of the voting power of the Association and a majority of the voting power of the Board, submit a Supplemental Annual Assessment, applicable to that Fiscal Year only, for ratification in like manner as provided in Section 6.4 above.

Section 6.6 Initial Capital Contributions to Association. At the Close of Escrow for the sale of a Unit by Declarant, the Purchaser of such Unit shall be required to pay a capital contribution to the Association, in an amount equal to two (2) full monthly installments of the greater of the initial or then-applicable Annual Assessment, notwithstanding Section 6.7 below. Such capital contribution is in addition to, and is not to be considered an advance payment of, the Annual Assessment for such Unit, and may be applied to initial working capital needs and/or Reserve Fund of the Association.

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Section 6.7 Assessment Commencement Date The Board, by majority vote, shall authorize and levy the amount of the Annual Assessment upon each Unit, as provided herein. Annual Assessments shall commence on Units on the respective Assessment Commencement Date. The "Assessment Commencement Date" hereunder shall be: (a) with respect to Units in the Original Property, the first day of the calendar month following the Close of Escrow to a Purchaser of the first Unit in the Original Property; and (b) with respect to each Unit within Annexed Property, that date on which the Annexation Amendment for such Unit is Recorded; provided that Declarant may establish, in its sole discretion, a later Assessment Commencement Date uniformly as to all Units by agreement of Declarant to pay all Common Expenses for the Properties up through and including such later Assessment Commencement Date. The first Annual Assessment for each Unit shall be pro-rated based on the number of months remaining in the Fiscal Year. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board, at such frequency and on such due dates as the Board shall determine from time to time in its sole discretion. The Association shall, upon demand, and for a reasonable charge, furnish a certificate binding on the Association, signed by an Officer or Association agent, setting forth whether the assessments on a Unit have been paid. At the end of any Fiscal Year, the Board may determine that all excess funds remaining in the operating fund, over and above the amounts used for the operation of the Properties, may be retained by the Association for use in reducing the following year's Annual Assessment or for deposit in the reserve account. Upon dissolution of the Association incident to the abandonment or termination of the maintenance of the Properties, any amounts remaining in any of the Association Funds shall be distributed proportionately to or for the benefit of the Members, in accordance with Nevada law.

Section 6.8 Capital Assessments The Board may levy, in any Fiscal Year, a Capital 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 or other such addition upon the Common Elements, including fixtures and personal property related thereto, provided that any proposed Capital Assessment shall require the advance consent of a majority of the voting power of the Association.

Section 6.9 Uniform Rate of Assessment Annual Assessments, and Capital Assessments shall be assessed at an equal and uniform rate against all Owners and their Units. Each Owner's share of such assessments shall be a fraction, the numerator of which shall be the number of Units owned by such Owner, and the denominator of which shall be the aggregate number of Units in the Original Property (and, upon annexation, of Units in portions of the Annexed Property). Neighborhood Assessments, if any, may vary by Neighborhood, pursuant to Article 17, below, but shall be assessed at an equal and uniform rate against all Owners and their Units within a given Neighborhood.

Section 6.10 Exempt Property The following property subject to this Declaration shall be exempt from the assessments herein.

(a) all portions, if any, of the Properties dedicated to and accepted by, the United States, the State of Nevada, Clark County, or any political subdivision of any of the foregoing, or any public agency, entity or authority, for so long as such entity or political subdivision is the owner thereof, or for so long as such dedication remains effective; and

(b) the Common Elements owned by the Association in fee.

Section 6.11 Special Assessments The Association may, subject to the provisions of Section 9.3 and Section 11.1 (b) hereof, levy Special Assessments against specific Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. Special Assessments also shall include, without limitation, late payment penalties, interest charges, fines, administrative fees, attorneys' fees, amounts expended to enforce assessment liens against Owners as provided for herein, and other charges of similar nature. Special Assessments, if not paid timely when due, shall constitute unpaid or delinquent assessments, pursuant to Article 7, below.

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ARTICLE 7
EFFECT OF NONPAYMENT OF ASSESSMENTS:
REMEDIES OF THE ASSOCIATION

Section 7.1 Nonpayment of Assessments. Any installment of an Annual Assessment, Special Assessment, or Capital Assessment, shall be delinquent if not paid within thirty (30) days of the due date as established by the Board. Such delinquent installment shall bear interest from the due date until paid, at the rate of two (2) percentage points per annum above the prime rate charged from time to time by Bank of America N.T. & S.A. (or, if such rate is no longer published, then a reasonable replacement rate), but in any event not greater than the maximum rate permitted by applicable Nevada law, as well as a reasonable late charge, as determined by the Board, to compensate the Association for increased bookkeeping, billing, administrative costs, and any other appropriate charges. No such late charge or interest or any delinquent installment may exceed the maximum rate or amount allowable by law. The Association may bring an action at law against the Owner personally obligated to pay any delinquent installment or late charge, or foreclose the lien against the Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or by abandonment of his Unit.

Section 7.2 Notice of Delinquent Installment. If any installment of an assessment is not paid within thirty (30) days after its due date, the Board may mail notice of delinquent assessment to the Owner and to each first Mortgagee of the Unit. The notice shall specify: (a) the amount of assessments and other sums due; (b) a description of the Unit against which the lien is imposed; (c) the name of the record Owner of the Unit; (d) the fact that the installment is delinquent; (e) the action required to cure the default; (f) the date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured, and (g) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of such assessment for the then-current Fiscal Year and sale of the Unit. The notice shall further inform the Owner of his right to cure after acceleration. If the delinquent installment of assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of such assessments levied against such Owner and his Unit to be immediately due and payable without further demand, and may enforce the collection of the full assessments and all charges thereon in any manner authorized by law or this Declaration.

Section 7.3 Notice of Default and Election to Sell. No action shall be brought to enforce any assessment lien herein, unless at least sixty (60) days have expired following the later of: (a) the date a notice of default and election to sell is Recorded; or (b) the date the Recorded notice of default and election to sell is mailed in the United States mail, certified or registered, return receipt requested, to the Owner of the Unit. Such notice of default and election to sell must recite a good and sufficient legal description of such Unit, the Record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment as described in Section 7.1 above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by such lien), the name and address of the Association, and the name and address of the Person authorized by the Board to enforce the lien by sale. The notice of default and election to sell shall be signed and acknowledged by an Association Officer, Manager, or other Person designated by the Board for such purpose, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

Section 7.4 Foreclosure Sale. Subject to the limitation set forth in Section 7.5 below, any such sale provided for above may be conducted by the Board, its attorneys, or other Person authorized by the Board in accordance with the provisions of NRS §116.31164 and Covenants Nos. 6, 7 and 8 of NRS § 107.030 and §107.090, as amended, insofar as they are consistent with the provisions of NRS § 116.31164, as amended, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages and Deeds of Trust, or in any other manner permitted by law. The Association, through its duly authorized agents, shall have the power to bid on the Unit at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Notices of default and election to sell shall be provided as required by NRS § 116.31163. Notice of time and place of sale shall be provided as required by NRS § 116.311635.

Section 7.5 Limitation on Foreclosure. Any other provision in the Governing Documents notwithstanding, the Association may not foreclose a lien by sale for the assessment of a fine or for a violation of the Governing Documents, unless the violation is of a type that substantially and imminently threatens the health, safety, and welfare of the Owners and Residents of the Community. The foregoing limitation shall not apply to foreclosure of a lien for Annual Assessments, or Capital Assessments, or any portion respectively thereof, pursuant to this Article 7.

Section 7.6 Cure of Default. Upon the timely cure of any default for which a notice of default and election to sell was filed by the Association, the Officers thereof shall Record an appropriate release of lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board, to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any two (2) Directors or the Manager, stating the indebtedness secured by the lien upon any Unit created hereunder, shall be conclusive upon the Association and, if acknowledged by the Owner, shall be binding on such Owner as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request, at a reasonable fee, to be determined by the Board.

Section 7.7 Cumulative Remedies. The assessment liens and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law or in equity, including a suit to recover a money judgment for unpaid assessments, as provided above.

Section 7.8 Mortgagee Protection. Notwithstanding all other provisions hereof, no lien created under this Article 7, nor the enforcement of any provision of this Declaration shall defeat or render invalid the rights of the Beneficiary under any Recorded First Deed of Trust encumbering a Unit, made in good faith and for value, provided that after such Beneficiary or some other Person obtains title to such Unit by judicial foreclosure, other foreclosure, or exercise of power of sale, such Unit shall remain subject to this Declaration and the payment of all installments of assessments accruing subsequent to the date such Beneficiary or other Person obtains title. The lien of the assessments, including interest and costs, shall be subordinate to the lien of any First Mortgage upon the Unit. The release or discharge of any lien for unpaid assessments by reason of the foreclosure or exercise of power of sale by the First Mortgagee shall not relieve the prior Owner of his personal obligation for the payment of such unpaid assessments.

Section 7.9 Priority of Assessment Lien. Recording of the Declaration constitutes Record notice and perfection of a lien for assessments. A lien for assessments, including interest, costs, and attorneys' fees, as provided for herein, shall be prior to all other liens and encumbrances on a Unit, except for: (a) liens and encumbrances Recorded before the Declaration was Recorded, (b) a first Mortgage Recorded before the delinquency of the assessment sought to be enforced, and (c) liens for real estate taxes and other governmental charges, and is otherwise subject to NRS § 116.3116. The sale or transfer of any Unit shall not affect an assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a First Mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments which thereafter become due. Where the Beneficiary of a First Mortgage of Record or other purchaser of a Unit obtains title pursuant to a judicial or nonjudicial foreclosure or "deed in lieu thereof," the Person who obtains title and his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such Person. Such unpaid share of Common Expenses and assessments shall be deemed to become expenses collectible from all of the Units, including the Unit belonging to such Person and his successors and assigns.

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ARTICLE 8

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 8.1 **ARC.** The Architectural Review Committee, sometimes referred to in this Declaration as the "ARC," shall consist of three (3) committee members, provided, however, that such number may be increased or decreased from time to time by resolution of the Board. Notwithstanding the foregoing, Declarant shall have the sole right and power to appoint and/or remove all of the members to the ARC until such time as Declarant no longer owns any property in, or has any power to annex, the Annexable Area or any portion thereof, provided that Declarant, in its sole discretion, by written instrument, may at any earlier time turn over to the Board the power to appoint the members to the ARC; thereafter, the Board shall appoint all members of the ARC. A member of the ARC may be removed at any time, without cause, by the Person who appointed such member. Unless changed by resolution of the Board, the address of the ARC for all purposes, including the submission of plans for approval, shall be at the principal office of the Association as designated by the Board.

Section 8.2 **Review of Plans and Specifications.** The ARC shall consider and act upon any and all proposals, plans and specifications, drawings, and other information or other items (collectively in this Article 8, "plans and specifications") submitted, or required to be submitted, for ARC approval under this Declaration and shall perform such other duties as from time to time may be assigned to the ARC by the Board, including the inspection of construction in progress to assure conformance with plans and specifications approved by the ARC.

(a) With the exception of any such activity of Declarant, no construction, alteration, grading, addition, excavation, removal, relocation, repainting, demolition, installation, modification, decoration, redecoration or reconstruction of an Improvement, including Dwelling and landscaping, or removal of any tree, shall be commenced or maintained by any Owner, until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to, and approved in writing by, the ARC. No design or construction activity of Declarant shall be subject to ARC approval. The Owner submitting such plans and specifications ("Applicant") shall obtain a written receipt therefor from an authorized agent of the ARC. Until changed by the Board, the address for submission of such plans and specifications shall be the principal office of the Association. The ARC shall approve plans and specifications submitted for its approval only if it deems that: (1) the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole, (2) the appearance of any structure affected thereby will be in harmony with other structures in the vicinity, (3) the construction will not detract from the beauty, wholesomeness and attractiveness of the Common Elements or the enjoyment thereof by the Members; (4) the construction will not unreasonably interfere with existing views from other Units, and (5) the upkeep and maintenance will not become a burden on the Association.

(b) The ARC may condition its review and/or approval of plans and specifications for any Improvement upon such changes therein as the ARC may deem appropriate or necessary, which may, but need not necessarily include any one or more or all of the following conditions: (1) agreement by the Applicant to furnish to the ARC a cash deposit, bond or other security acceptable to the ARC in an amount reasonably sufficient to (i) assure the completion of such Improvement or the availability of funds adequate to remedy any damage, or any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (ii) to protect the Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Common Elements as a result of such work; (2) such changes therein as the ARC deems appropriate; (3) agreement by the Applicant to grant appropriate easements to the Association for the maintenance of the Improvement; (4) agreement of the Applicant to reimburse the Association for the costs of maintenance; (5) agreement of the Applicant to replace such removed trees as may be designated by the ARC; (6) agreement of the applicant to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvements in detail as actually constructed upon completion of the Improvement; (7) payment or reimbursement, by Applicant, of the ARC and/or its members for their actual costs incurred in considering the plans and specifications; (8) payment by Applicant, of the professional fees of a licensed architect or engineer

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to review the plans and specifications on behalf of the ARC, if such review is deemed by the ARC to be necessary or desirable; and/or (9) such other conditions as the ARC may reasonably determine to be prudent and in the best interests of the Association. The ARC may further require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans and specifications, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The ARC may provide that the amount of such fee shall be uniform, or that the fee may be determined in any other reasonable manner, such as based upon the reasonable cost of the construction, alteration or addition contemplated or the cost of architectural or other professional fees incurred by the ARC in reviewing plans and specifications.

(c) The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of any required plans and specifications, the ARC may postpone review of any plans and specifications submitted for approval. Any application submitted pursuant to this Section 8.2 shall be deemed approved, unless written disapproval or a request for additional information or materials by the ARC shall have been transmitted to the Applicant within forty-five (45) days after the date of receipt by the ARC of all required materials. The ARC will condition any approval required in this Article 8 upon, among other things, compliance with Declarant's (a) design criteria as may be established from time to time, (b) Improvement standards and (c) development standards, as amended from time to time, all of which are incorporated herein by this reference.

(d) Any Owner aggrieved by a decision of the ARC may appeal the decision to the ARC in accordance with procedures to be established by the ARC. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would in the ARC's opinion warrant reconsideration. If the ARC fails to allow an appeal or if the ARC, after appeal, again rules in a manner aggrieving the appellant, the decision of the ARC is final. The foregoing notwithstanding, after such time as the Board appoints all members of the ARC, all appeals from ARC decisions shall be made to the Board, which shall consider and decide such appeals.

(e) Notwithstanding the foregoing or any other provision herein, the ARC's jurisdiction shall normally extend only to the external appearance or "aesthetics" of any Improvement, and shall not extend to structural matters, method of construction, or compliance with a building code or other applicable legal requirement. ARC approval shall be subject to all applicable requirements of applicable government authority, drainage, and other similar matters, and shall not be deemed to encompass or extend to possible impact on neighboring Lots.

Section 8.3 Meetings of the ARC. The ARC shall meet from time to time as necessary to perform its duties hereunder. The ARC may from time to time, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC, except the granting of variances pursuant to Section 8.8 below. In the absence of such designation, the vote of a majority of the ARC, or the written consent of a majority of the ARC taken without a meeting, shall constitute an act of the ARC.

Section 8.4 No Waiver of Future Approvals. The approval by the ARC of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 8.5 Compensation of Members. Subject to the provisions of Section 8.2(b) above, members of the ARC shall not receive compensation from the Association for services rendered as members of the ARC.

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Section 8.6 Correction by Owner of Nonconforming Items Subject in all instances to compliance by Owner with all applicable requirements of governmental authorities, with jurisdiction, ARC inspection (which shall be limited to inspection of the visible appearance of the size, color, location and materials of work), and Owner correction of visible nonconformance therein, shall proceed as follows:

(a) The ARC or its duly appointed representative shall have the right to inspect any Improvement ("Right of Inspection") whether or not the ARC's approval has been requested or given, provided that such inspection shall be limited to the visible appearance of the size, color, location, and materials comprising such Improvement (and shall not constitute an inspection of any structural item, method of construction, or compliance with any applicable requirement of governmental authority). Such Right of Inspection shall, however, terminate sixty (60) days after receipt by the ARC of written notice from the Owner of the Unit that the work of Improvement has been completed. If, as a result of such inspection, the ARC finds that such Improvement was done without obtaining approval of the plans and specifications therefor or was not done in substantial compliance with the plans and specifications approved by the ARC, it shall, within sixty (60) days from the inspection, notify the Owner in writing of the Owner's failure to comply with this Article 8 specifying the particulars of noncompliance. If work has been performed without approval of plans and specifications therefor, the ARC may require the Owner of the Unit in which the Improvement is located, to submit "as-built" record drawings certified by a licensed architect or engineer which describe the Improvement in detail as actually constructed. The ARC shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

(b) If, upon the expiration of sixty (60) days from the date of such notification, the Owner has failed to remedy such noncompliance, the ARC shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance (with the visible appearance of the size, color, location, and/or materials thereof) and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board, at its option, may Record a notice of noncompliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the noncompliance, and, in addition, may peacefully remedy the noncompliance. The Owner shall reimburse the Association, upon demand, for all expenses (including reasonable attorneys' fees) incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Special Assessment against the Owner for reimbursement as provided in this Declaration. The right of the Association to remove a noncomplying Improvement or otherwise to remedy the noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or in this Declaration.

(c) If for any reason the ARC fails to notify the Owner of any noncompliance with previously submitted and approved plans and specifications within sixty (60) days after receipt of written notice of completion from the Owner, the Improvement shall be deemed to be in compliance with ARC requirements (but, of course, shall remain subject to compliance by Owner with all requirements of applicable governmental authority).

(d) All construction, alteration or other work shall be performed as promptly and as diligently as possible and shall be completed within one hundred eighty (180) days of the date on which the work commenced.

Section 8.7 Scope of Review The ARC shall review and approve, conditionally approve, or disapprove, all proposals, plans and specifications submitted to it for any proposed Improvement, alteration, or addition, solely on the basis of the considerations set forth in Section 8.2 above, and solely with regard to the visible appearance of the size, color, location, and materials thereof. The ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any proposal, plan or design from the standpoint of structural safety or conformance with building or other codes. Each Owner shall be responsible for obtaining all necessary permits and for complying with all applicable governmental (including, but not necessarily limited to County) requirements.

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Section 8.8 Variances When circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations may require, the ARC may authorize limited variances from compliance with any of the architectural provisions of this Declaration, including without limitation, restrictions on size (including height, size, and/or floor area) or placement of structures, or similar restrictions. Such variances must be evidenced in writing, must be signed by a majority of the ARC, and shall become effective upon Recordation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of any such variance by ARC shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws, regulations and requirements affecting the use of his or her Unit, including but not limited to zoning ordinances and Lot set-back lines or requirements imposed by the County, or any municipal or other public authority with jurisdiction. The granting of a variance by the ARC shall not be deemed to be a variance or approval from the standpoint of compliance with such laws or regulations, nor from the standpoint of structural safety, and the ARC, provided it acts in good faith, shall not be liable for any damage to an Owner as a result of its granting or denying of a variance.

Section 8.9 Non-Liability for Approval of Plans The ARC's approval of proposals or plans and specifications shall not constitute a representation, warranty or guarantee, whether express or implied, that such proposals or plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such proposals or plans and specifications, neither the ARC, the members thereof, the Association, the Board, nor Declarant, assumes any liability or responsibility therefor, or for any defect in the structure constructed from such proposals or plans or specifications. Neither the ARC, any member thereof, the Association, the Board, nor Declarant, shall be liable to any Member, Owner, occupant, or other Person or entity for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any proposals, plans and specifications and drawings, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved proposals, plans and specifications and drawings.

Section 8.10 Declarant Exemption The ARC shall have no authority, power or jurisdiction over Units owned by Declarant, and the provisions of this Article 8 shall not apply to improvements built by Declarant, or, until such time as Declarant conveys title to the Unit to a Purchaser, to Units owned by Declarant. This Article 8 shall not be amended without Declarant's written consent set forth on the amendment.

ARTICLE 9 MAINTENANCE AND REPAIR OBLIGATIONS

Section 9.1 Maintenance Obligations of Owners It shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration requiring ARC approval, to maintain, repair, replace and restore all improvements located on his Unit, the Unit itself, and any "Limited Common Element" (as said term is defined by NRS § 116.110355) allocated to his Unit, and the Unit itself, in a neat, sanitary and attractive condition, except for any areas expressly required to be maintained by the Association under this Declaration. If any Owner shall permit any improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe or unsightly, or otherwise to violate this Declaration, the Board shall have the right to seek any remedies at law or in equity which the Association may have. In addition, the Board shall have the right, but not the duty, after Notice and Hearing as provided in the Bylaws, to enter upon such Unit to make such repairs or to perform such maintenance and to charge the cost thereof to the Owner. Said cost shall be a Special Assessment, enforceable as set forth in this Declaration.

The foregoing notwithstanding: (a) the Association shall have an easement for the maintenance, repair and replacement of any easement on a portion of a Lot which constitutes a Common Element and any improvements constructed by Declarant or the Association thereon, and (b) each Owner (other than

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Declarant, by acceptance of a deed to a Unit, whether or not so expressed in such deed, is deemed to covenant and agree not to place or install any improvement on a Common Element, and not to hinder, obstruct, modify, change, add to or remove, partition, or seek partition of, any Common Element or any improvement installed by Declarant or the Association thereon.

Section 9.2 Maintenance Obligations of Association. No improvement, excavation or work which in any way alters the Common Elements shall be made or done by any Person other than the Association or its authorized agents after the completion of the construction or installation of the improvements thereto by Declarant. Subject to the provisions of Sections 9.3 and 11.1(b) hereof, upon the Assessment Commencement Date, the Association shall provide for the maintenance, repair, and replacement of the Common Elements. The Common Elements shall be maintained in a safe, sanitary and attractive condition, and in good order and repair. The Association shall also provide for any utilities serving the Common Elements. The Association shall also ensure that any landscaping on the Common Elements is regularly and periodically maintained in good order and in a neat and attractive condition. The Association shall not be responsible for the maintenance of any portions of the Common Elements which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate.

Section 9.3 Damage by Owners to Common Elements. The cost of any maintenance, repairs or replacements by the Association within the Common Elements arising out of or caused by the willful or negligent act of an Owner, his tenants, or their respective Families, guests or invitees shall, after Notice and Hearing, be levied by the Board as a Special Assessment against such Owner as provided in Section 11.1(b) hereof.

Section 9.4 Damage and Destruction Affecting Dwellings and Duty to Rebuild. If all or any portion of any Unit or Dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Unit to rebuild, repair or reconstruct the same in a manner which will restore the Unit substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the ARC. The Owner of any damaged Unit shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause reconstruction to commence within three (3) months after the damage occurs and to be completed within six (6) months after the damage occurs, unless prevented by causes beyond his reasonable control. A transferee of title to the Unit which is damaged shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner at the time of the damage still held title to the Unit. However, in no event shall such transferee of title be required to commence or complete such reconstruction in less than ninety (90) days from the date such transferee acquired title to the Unit.

Section 9.5 Party Walls. Each wall which is built as a part of the original construction by Declarant and placed approximately on the property line between Units shall constitute a party wall. In the event that any party wall is not constructed exactly on the property line, the Owners affected shall accept the party wall as the property boundary. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use such wall in proportion to such use (e.g., if the party wall is the boundary between two Owners, then each such Owner shall bear half of such cost). If a party wall is destroyed or damaged by fire or other casualty, the party wall shall be promptly restored, to its condition and appearance before such damage or destruction, by the Owner(s) whose Units have or had use of the wall. Subject to the foregoing, any Owner whose Unit has or had use of the wall may restore the wall to the way it existed before such destruction or damage, and any other Owner whose Unit makes use of the wall shall contribute to the cost of restoration thereof in proportion to such use, subject to the right of any such Owner to call for a larger contribution from another Owner pursuant to any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section 9.5, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements, or otherwise damaged or destroyed, shall bear the entire cost of furnishing the necessary protection, repair or replacement. The right of any Owner to contribution from any other Owner under this Section 9.5 shall be appurtenant to the land and shall pass to such Owner's successors in title. The foregoing, and any other provision in this Declaration notwithstanding, no Owner shall

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alter, add to, or remove any party wall constructed by Declarant, or portion of such wall, without the prior written consent of the other Owner(s) who share such party wall, which consent shall not be unreasonably withheld, and the prior written approval of the ARC. In the event of any dispute arising concerning a party wall under the provisions of this Section 9.5, each party shall choose one arbitrator, such arbitrator shall choose one additional arbitrator, and the decision of a majority of such panel of arbitrators shall be binding upon the Owners which are a party to the arbitration.

Section 9.6 Perimeter Walls. Portions of Perimeter Walls, constructed or to be constructed by Declarant, abutting or located on individual Lots, are Improvements all portions of which are located, or conclusively deemed to be located, within the boundaries of individual Units. By acceptance of a deed to his Unit, each Owner on whose Unit a portion of the perimeter wall is located, hereby covenants, at the Owner's sole expense, with regard to the portion of the Perimeter Wall ("Unit Wall") located or deemed located on his Unit to maintain at all times in effect thereon property and casualty insurance, on a current replacement cost; to maintain and keep the Unit Wall at all times in good repair; and, if and when reasonably necessary, to replace the Unit Wall to its condition and appearance as originally constructed by Declarant. No changes or alterations (including, without limitation, temporary alterations, such as removal for construction of a swimming pool or other improvement) shall be made to any perimeter wall, or any portion thereof, without the prior written approval of the ARC (and any request therefor shall be subject to the provisions of Article 8 above, including, but not necessarily limited to, any conditions imposed by the ARC pursuant to Section 8.2(b) above). The foregoing and any other provision herein notwithstanding, under no circumstances shall any wall, or portion thereof, originally constructed by Declarant, be changed, altered or removed by any Owner (or agent or contractor thereof) if such wall, or portion thereof, is shown on any improvement plan as a flood control wall, or any other wall, or if such change, alteration or removal in the sole judgment (without any obligation to make such judgment) of the ARC would adversely affect surface water, drainage, or other flood control considerations or requirements. If any Owner shall fail to insure, or to maintain, repair or replace his Unit Wall within sixty (60) days when reasonably necessary, in accordance with this Section 9.6, the Association shall be entitled (but not obligated) to insure, or to maintain, repair or replace such Unit Wall, and to assess the full cost thereof against the Owner as a Special Assessment, which may be enforced as provided for in this Declaration. The foregoing notwithstanding, the Association, at its sole expense, shall be responsible for removing or painting over any graffiti from or on Exterior Walls.

Section 9.7 Installed Landscaping

(a) Declarant shall have the option, in its sole and absolute discretion, to install landscaping on the front yards and other portions of Lots ("Declarant Installed Landscaping"). Subject to the foregoing and to Section 9.9 below, and subject further to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have, following the close of escrow on his Lot: (a) sixty (60) days in which to complete front yard landscaping (provided that front yard landscaping shall be completed on any Custom Lot within sixty (60) days after issuance of an occupancy permit for the Dwelling thereon), and (b) six (6) months within which to commence and thereafter diligently prosecute and complete installation of all other landscaping on the Lot (all, collectively, "Homeowner Installed Landscaping"). Declarant Installed Landscaping and Homeowner Installed Landscaping shall collectively be referred to herein as "Installed Landscaping."

(b) Subject to the requirements of Article 8 (Architectural and Landscaping Control), above, each Owner shall have an aggregate period, following the Close of Escrow on his or her Lot, of (i) not more than six (6) months (with regard to front yard landscaping other than Declarant Installed Landscaping), and one (1) year (with regard to rear yard landscaping), in which to apply for and obtain approval of plans for landscaping and to commence and complete, in accordance with such approved plans, installation of such landscaping on the Lot ("Homeowner Installed Landscaping"). Each Owner shall be responsible, at his sole expense, for (1) maintenance, repair, replacement, and watering of all landscaping on his Unit (whether initially installed by Declarant or an Owner) in a neat and attractive condition; and (2) maintenance, repair, and/or replacement of any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping, subject to subsections (c) through (f), below.

(c) Each Owner covenants to pay promptly when due all water bills for his or her Unit, and (subject to bona-fide force majeure events) to not initiate or continue any act or omission which would have the effect of water being shut off to the Unit. In the event that all or any portion of landscaping and/or related systems is or are damaged because of any Owner's act or omission, then such Owner shall be solely liable for the costs of repairing such damage, and any and all costs reasonably related thereto, and the Association may, in its discretion, perform or cause to be performed such repair, and to assess all related costs against such Owner as a Special Assessment, and the Association, and its employees, agents and contractors, shall have an easement over Lots to perform such function.

(d) In the event that any plants (including, but not necessarily limited to, trees, shrubs, bushes, lawn, flowers, and ground cover) on a Unit require replacement, then the cost of such replacement, and costs reasonably related thereto, shall be the responsibility of the Owner of the Unit.

(e) To help prevent and/or control water damage to foundations and/or walls, each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not cause or permit irrigation water or sprinkler water on his Unit to seep or flow onto, or to strike upon, any foundation, slab, side or other portion of Dwelling, wall (including, but not necessarily limited to, party wall and/or Perimeter Wall), and/or any other Improvement. Without limiting the generality of the foregoing or any other provision in this Declaration, each Owner shall at all times ensure that: (1) there are no unapproved grade changes (including, but not necessarily limited to, mounding) within three (3) feet of any such foundation or wall located on or immediately adjacent to the Owner's Unit; and (2) only non-irrigated desert landscaping is located on the Owner's Unit within three feet of any such foundation, slab, side or other portion of Dwelling, wall (including, but not necessarily limited to, party wall and/or Perimeter Wall).

(f) Absent prior written approval of the ARC, in its sole discretion, no Owner may add to, delete, modify, or change, any landscaping or related system.

Section 9.8 Maintenance of Security Lighting. Each Owner shall maintain in good and operating condition the exterior security landscape lighting (if any) installed on the exterior and/or front yard or rear yard area of the Dwelling. Such maintenance shall include, but not be limited to, the replacement of light bulbs and photoelectric cells, the provision of electrical power to such lights, and timely payment of electrical service, as applicable. Absent prior written approval of the ARC, in its sole discretion, no Owner may delete, modify, or change any photoelectric cell as initially installed by Declarant, or any lighting activated thereby (including, without limitation, disconnecting lighting from such photoelectric cell and/or connecting such lighting to a timer device). If any Owner shall fail to so maintain such exterior lighting, or permit such lighting to fall into disrepair, or delete or modify such lighting without prior approval of the ARC, the Association shall have the right to correct such condition. If any such condition is corrected by the Association, the Association shall be fully reimbursed by the Lot Owner for all costs incurred.

Section 9.9 Modification of Improvements. Maintenance and repair of Common Elements shall be the responsibility of the Association, and the costs of such maintenance and repair shall be Common Expenses; provided that, in the event that any Improvement located on a Common Element is damaged because of any Owner's act or omission, such Owner shall be solely liable for the costs of repairing such damage and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration. Each Owner covenants, by acceptance of a deed to his Unit, whether or not so stated in such deed, to not add to, remove, delete, modify, change, obstruct, or landscape, all or any portion of the Common Elements, or Site Visibility Restriction Area, or Perimeter Wall, and/or any other wall or fence constructed by Declarant on such Owner's Lot, without prior written approval of the ARC, in its sole discretion.

ARTICLE 10
USE RESTRICTIONS

Subject to the rights and exemptions of Declarant as set forth in this Declaration, and subject further to the fundamental "good neighbor" policy underlying the Community and this Declaration, all real property within the Properties shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth in this Declaration. The strict application of the limitations and restrictions set forth in this Article 10 may be modified or waived in whole or in part by the Board in specific circumstances where such strict application would be unduly harsh, provided that any such waiver or modification shall not be valid unless in writing and executed by the Board. Any other provision herein notwithstanding, neither Declarant, the Association, the Board, nor their respective directors, officers, members, agents or employees shall be liable to any Owner or to any other Person as a result of the failure to enforce any use restriction or for the granting or withholding of a waiver or modification of a use restriction as provided herein.

Section 10.1 Single Family Residence. Each Unit shall be improved and used solely as a residence for a single Family and for no other purpose. No part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, primary storage, vending, "reverse engineering" destructive testing, or any other nonresidential purposes; provided that Declarant may exercise the reserved rights described in Article 14 hereof. The provisions of this Section 10.1 shall not preclude a professional or administrative occupation, or an occupation of child care, provided that the number of non-Family children, when added to the number of Family children being cared for at the Unit, shall not exceed a maximum aggregate of five (5) children, and provided further that there is no nuisance under Section 10.5, below, and no external evidence of any such occupation, for so long as such occupation is conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Dwelling as a residential home. This provision shall not preclude any Owner from renting or leasing his entire Unit by means of a written lease or rental agreement subject to this Declaration and any Rules and Regulations; provided that no such lease shall be for a term of less than six (6) months.

Section 10.2 No Further Subdivision. Except as may be expressly authorized by Declarant, no Unit or all or any portion of the Common Elements may be further subdivided (including, without limitation, any division into time-share estates or time-share uses) without the prior written approval of the Board; provided, however, that this provision shall not be construed to limit the right of an Owner: (1) to rent or lease his entire Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Unit is not leased for transient or hotel purposes; (2) to sell his Unit; or (3) to transfer or sell any Unit to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be made expressly subject to the Governing Documents. Any failure by the lessee of such Unit to comply with the terms of the Governing Documents shall constitute a default under the lease or rental agreement. No two or more Units in the Properties may be combined in any manner whether to create a larger Unit or otherwise, and no Owner may permanently remove any block wall or other intervening partition between Units.

Section 10.3 Insurance Rates. Without the prior written approval of the Board, nothing shall be done or kept in the Properties which will increase the rate of insurance on any Unit or other portion of the Properties, nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any Unit or other portion of the Properties or which would be a violation of any law. Any other provision herein notwithstanding, the Board shall have no power whatsoever to waive or modify this restriction.

Section 10.4 Animal Restrictions. No animals, reptiles, poultry, fish, or fowl or insects of any kind ("animals") shall be raised, bred or kept on any Unit, except that a reasonable number of dogs, cats, birds or fish may be kept, provided that they are not kept, bred or maintained for any commercial purpose, nor in unreasonable quantities nor in violation of any applicable City or County ordinance or any other provision of the Declaration, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The

Association, acting through the Board, shall have the right to prohibit maintenance of any animal in any Unit which constitutes, in the opinion of the Board, a nuisance to other Owners or Residents. Subject to the foregoing, animals belonging to Owners, Residents, or their respective Families, licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed yard or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, any Owner and/or Resident shall be liable to each and all other Owners, Residents, and their respective Families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or Resident or respective Family, tenants or guests; and it shall be the absolute duty and responsibility of each such Owner and Resident to clean up after such animals in the Properties or streets abutting the Properties. Without limiting the foregoing: (a) no "dog run" or similar structure pertaining to animals shall be placed or permitted in any Lot, unless approved by the Board in advance and in writing (and, in any event, any such "dog run" or similar improvement shall not exceed the height of any party wall on the Lot, and shall otherwise not be permitted, or shall be immediately removed, if it constitutes a nuisance in the reasonable judgment of the Board); and (b) all Owners shall comply fully in all respects with all applicable County and City ordinances and rules regulating and/or pertaining to animals and the maintenance thereof on the Owner's Unit and/or any other portion of the Properties.

Section 10.5 Nuisances. No rubbish, clippings, refuse, scrap lumber or metal; no grass, shrub or tree clippings, and no plant waste, compost, bulk materials or other debris of any kind; (all, collectively, hereafter, "rubbish and debris") shall be placed or permitted to accumulate anywhere within the Properties, and no odor shall be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, or offensive. Without limiting the foregoing, all rubbish and debris shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purposes. Such containers shall be exposed to the view of the neighboring Units only when set out for a reasonable period of time (not to exceed twelve (12) hours before or after scheduled trash collection hours). No noxious or offensive activities (including, but not limited to the repair of motor vehicles) shall be carried out on the Properties. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Unit so as to be offensive or detrimental to any other Unit or to occupants thereof, or to the Common Elements. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other similar or unusually loud sound devices (other than devices used exclusively for safety, security, or fire protection purposes), noisy or smokey vehicles, large power equipment or large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), inoperable vehicle, unlicensed off-road motor vehicle, or other item which may unreasonably disturb other Owners or Residents or any equipment or item which may unreasonably interfere with television or radio reception within any Unit, shall be located, used or placed on any portion of the Properties without the prior written approval of the Board. No unusually loud motorcycles, dirt bikes or similar mechanized vehicles may be operated on any portion of the Common Elements without the prior written approval of the Board, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security of a Dwelling and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms. The Board shall have the right to reasonably determine if any noise, odor, activity, or circumstance, constitutes a nuisance. Each Owner and Resident shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Unit, including Dwelling. Each Owner and Resident shall be accountable to the Association and other Owners and Residents for the conduct and behavior of children and other Family members or persons residing in or visiting his Unit; and any damage to the Common Elements, personal property of the Association or property of another Owner or Resident, caused by such children or other Family members, shall be repaired at the sole expense of the Owner of the Unit where such children or other Family members or persons are residing or visiting.

Section 10.6 Exterior Maintenance and Repair, Owner's Obligations. No Improvement anywhere within the Properties shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. If any Owner or Resident shall permit any Improvement, which is the responsibility of such Owner or Resident to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after consulting with the ARC, and after affording such Owner or Resident reasonable notice, shall have the right but not the obligation to correct such condition, and to enter

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upon such Owner's Unit, for the purpose of so doing, and such Owner and/or Resident shall promptly reimburse the Association for the cost thereof. Such cost may be assessed as a Special Assessment pursuant to Section 6.11 above, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment for all purposes of Article 7, above. The Owner and/or Resident of the offending Unit shall be personally liable for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner and/or Resident shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

Section 10.7 Drainage. By acceptance of a deed to a Unit, each Owner agrees for himself and his assigns that he will not in any way interfere with or alter, or permit any Resident to interfere with or alter, the established drainage pattern over any Unit, so as to affect said Unit, any other Unit, or the Common Elements, unless adequate alternative provision is made for proper drainage and approved in advance and in writing by the ARC, and any request therefor shall be subject to Article 8 above, including, but not necessarily limited to, any condition imposed by the ARC pursuant to Section 8.2(b) above. Without limiting the generality of the foregoing, any request by an Owner for ARC approval of alteration of established drainage pattern shall be subject to payment, by the Owner, of the professional fees of a licensed engineer to review the plans and specifications on behalf of the ARC, pursuant to Section 8.2(b)(8) above, which shall be required in all such cases, and further shall be subject to the Owner obtaining all necessary governmental approvals pursuant to Section 8.7, above. For the purpose hereof, "established drainage pattern" is defined as the drainage which exists at the time that such Unit is conveyed to a Purchaser from Declarant, or later grading changes which are shown on plans and specifications approved by the ARC.

Section 10.8 Water Supply and Sewer Systems. No individual water supply system, or cesspool, septic tank, or other sewage disposal system, or exterior water softener system, shall be permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water or sewer district serving the Properties, County health department, and any applicable utility and governmental authorities having jurisdiction, and has been approved in advance and in writing by the ARC.

Section 10.9 No Hazardous Activities. No activities shall be conducted, nor shall any Improvements be constructed, anywhere in the Properties which are or might be unsafe or hazardous to any Person, Unit, Common Elements. Without limiting the foregoing, (a) no firearm shall be discharged within the Properties, and (b) there shall be no exterior or open fires whatsoever, except within a barbecue and contained within a receptacle commercially designed therefor, while attended and in use for cooking purposes, or except within a fireplace designed to prevent the dispersal of burning embers, so that no fire hazard is created, or except as specifically authorized in writing by the Board (all as subject to applicable ordinances and fire regulations).

Section 10.10 No Unsightly Articles. No unsightly article, facility, equipment, object, or condition (including, but not limited to, clotheslines, and garden and maintenance equipment, or inoperable vehicle) shall be permitted to remain on any Unit so as to be visible from any street, or from any other Unit, Common Elements, or neighboring property. Without limiting the foregoing or any other provision herein, all refuse, garbage and trash shall be kept at all times in covered, sanitary containers or enclosed areas designed for such purpose. Such containers shall be exposed to view of the public, or neighboring Units, only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours).

Section 10.11 No Temporary Structures. Unless required by Declarant during the initial construction of Dwellings and other Improvements, or unless approved in writing by the Board in connection with the construction of authorized Improvements, no outbuilding, tent, shack, shed or other temporary or portable structure or improvement of any kind shall be placed upon any portion of the Properties. No garage, carport, trailer, camper, motor home, recreational vehicle, or other vehicle, or any improvement other than a Dwelling, shall be used as a residence in the Properties, either temporarily or permanently.

Section 10.12 No Drilling. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted upon,

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in, or below any Unit or the Common Elements, nor shall oil, water or other wells, tanks, tunnels or mineral excavations or shafts be permitted upon or below the surface of any portion of the Properties. No derrick or other structure designed for use in boring for water, oil, geothermal heat, or natural gas, or other mineral or depleting asset shall be erected.

Section 10.13 Alterations There shall be no excavation, construction, alteration or erection of any projection which in any way alters the exterior appearance of any Improvement from any street, or from any other portion of the Properties (other than minor repairs or rebuilding pursuant to Section 10.6 above) without the prior approval of the ARC pursuant to Article 8 hereof. There shall be no violation of the setback, side yard or other requirements of local governmental authorities, notwithstanding any approval of the ARC. This Section 10.13 shall not be deemed to prohibit minor repairs or rebuilding which may be necessary for the purpose of maintaining or restoring a Unit to its original condition.

Section 10.14 Signs Subject to the reserved rights of Declarant contained in Article 14 hereof, no flag, flag pole, balloon, beacon, banner, sign, poster, display, billboard or other advertising device or other display of any kind shall be installed or displayed to public view on any portion of the Properties, or on any public street abutting the Properties, without the prior written approval of the ARC, except (a) one (1) sign for each Unit, not larger than eighteen (18) inches by thirty (30) inches, advertising the Unit for sale or rent; or (b) traffic and other signs installed by Declarant as part of the original construction of the Properties; or (c) signs regulated to the maximum extent permitted by applicable law. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the regulations of all applicable governmental ordinances.

Section 10.15 Improvements.

(a) Unless otherwise designated in the Declaration (or unless an ancillary guest house or "casita" is originally constructed on a Lot by Declarant, in its sole and absolute discretion, without obligation to do so, subject to the proviso that any such "casita" shall be subject to all applicable County ordinances, shall be ancillary and appurtenant to a Unit, and shall not separately comprise another Unit), no Lot shall be improved except with one (1) Dwelling designated to accommodate no more than a single Family and its servants and occasional guests, plus a garage, fencing and such other improvements as are necessary or customarily incident to a single-Family Dwelling, provided that one additional small permanent building (e.g., a small "pool house" or "hobby house") may (but need not necessarily) be authorized on a Lot by the ARC, subject to the following: (1) full compliance with the requirements of Article 8, above; (2) the ARC, in its sole discretion, must determine that the Lot is large enough and otherwise suitable to accommodate such proposed improvement; (3) such improvement in all regards must comply with the Governing Documents, and all applicable governmental ordinances and laws; and (4) such improvement may not and shall not be used for any commercial purpose whatsoever, pursuant to Section 10.1 above. No part of the construction on any Lot shall exceed the height limitations set forth in the applicable provisions of the Governing Documents, or any applicable governmental regulation(s). No projections of any type shall be placed or permitted to remain above the roof of any building within the Properties, except one or more chimneys or vent stacks. No permanent or attached basketball backboard, jungle gym, play equipment, or other sports apparatus shall be constructed, erected, or maintained on the Properties without the prior written approval of the Board. A portable basketball hoop or other portable sports apparatus shall be permitted on a Lot, provided that such item: (i) is not placed in any street, (ii) is used only daylight hours, (iii) during non-daylight hours, is stored on the Lot so as to be out of sight of any street, and (iv) does not otherwise constitute a nuisance in the reasonable judgment of the Board. Apart from any installation by Declarant as part of its original construction, no patio cover, antennae, wiring, air conditioning fixture, water softeners or other devices shall be installed on the exterior of a Dwelling or allowed to protrude through the walls or roof of the Dwelling (with the exception of items installed by Declarant during the original construction of the Dwelling), unless the prior written approval of the ARC is obtained, subject to Section 10.16, below.

(b) All utility and storage areas and all laundry rooms, including all areas in which clothing or other laundry is hung to dry, must be completely covered and concealed from view from other areas of the Properties and neighboring properties.

(c) No fence or wall shall be erected or altered without prior written approval of the ARC. All alterations or modifications of existing fences or walls of any kind shall require the prior written approval of the ARC, in its discretion (and the ARC may, but need not necessarily, require written consent of the Owners of all adjacent Lots as a prerequisite thereto)

(d) Garages shall be used only for their ordinary and normal purposes. Unless constructed or installed by Declarant as part of its original construction, no Owner or Resident may convert the garage on his or her Unit into living space or otherwise use or modify a garage so as to preclude regular and normal parking of vehicles therein. The foregoing notwithstanding, Declarant may convert a garage located in any Unit owned by Declarant into a sales office or related purposes.

Section 10.16 Antennas and Satellite Dishes. Expressly subject to the Declarant exemption set forth in Section 10.23, below, no exterior radio antenna or aerial, television antenna or aerial, microwave antenna, aerial or satellite dish, "C.B." antenna or other antenna or aerial of any type, which is visible from any street or from anywhere in the Properties, shall be erected or maintained anywhere in the Properties. Notwithstanding the foregoing, "Permitted Devices" (defined as antennas or satellite dishes: (i) which are one meter or less in diameter and designed to receive direct broadcast satellite service; or (ii) which are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multi-point distribution services) shall be permitted, provided that such Permitted Device is:

(a) located in the attic, crawl space, garage, or other interior space of the Dwelling, or within another approved structure on the Unit, so as not to be visible from outside the Dwelling or other structure, or, if such location is not reasonably practicable, then,

(b) located in the rear yard of the Unit (i.e., the area between the plane formed by the front facade of the Dwelling and the rear lot line) and set back from all lot lines at least such distance as may be established in the Rules and Regulations and/or by the Board; or, if such location is not reasonably practicable, then,

(c) attached to or mounted on a deck or patio and extending no higher than the eaves of that portion of the roof of the Dwelling directly in front of such antenna; or, if such location is not reasonably practicable, then,

(d) attached to or mounted on the rear wall of the Dwelling so as to extend no higher than the eaves of the Dwelling at a point directly above the position where attached or mounted to the wall, provided that,

(e) if an Owner reasonably determines that a Permitted Device cannot be located in compliance with the foregoing portions of this Section 10.16 without precluding reception of an acceptable quality signal, then the Owner may install such Permitted Device in the least conspicuous alternative location within the Unit where an acceptable quality signal can be obtained; provided that,

(f) Permitted Devices shall be reasonably screened from view from the street or any other portion of the Properties, and shall be subject to Rules and Regulations adopted by the Board, establishing a preferred hierarchy of alternative locations, so long as the same do not unreasonably increase the cost of installation, or use of the Permitted Device.

Declarant or the Association may, but are in no way obligated to, provide a master antenna or cable television antenna for use of all or some Owners. Declarant may grant easements for installation, maintenance, repair and/or replacement of any such master or cable television service.

Section 10.17 Landscaping. Subject to the provisions of Articles 8 and 9 (including, but not limited to, Section 9.7 above), each Owner shall install and shall thereafter maintain the landscaping on his Unit in a neat and attractive condition. No plants or seeds infected with insects or plant diseases shall be brought

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upon, grown or maintained upon any part of the Properties. The Board may adopt Rules and Regulations to regulate landscaping permitted and required in the Properties. If an Owner fails to install and maintain landscaping in conformance with the Governing Documents, or allows his landscaping to deteriorate to a dangerous, unsafe, unsightly, or unattractive condition, the Board shall have the right to either (a) after thirty (30) days' written notice, seek any remedies at law or in equity which it may have; or (b) after reasonable notice (unless there exists a bona-fide unsafe or dangerous condition, in which case, the right shall be immediate, and no notice shall be required), to correct such condition and to enter upon the exterior portion of such Owner's Unit for the purpose of so doing, and such Owner shall promptly reimburse the Association for the cost thereof, as a Special Assessment enforceable in the manner set forth in Article 7, above. Each Owner shall be responsible, at his sole expense, for maintenance, repair, replacement, and watering of any and all landscaping on the Lot, as well as any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping.

Section 10.18 Prohibited Plant Types. Without limiting the generality of any other provision herein, the following plant types are hereby specifically declared to be nuisances, and shall not be permitted anywhere within the Properties: (a) *Olea europaea* ("olive") (other than "fruitless olive," which shall be permitted); (b) *Morus alba* or *negra* ("mulberry"); or (c) *Cynodon dactylon* ("bermuda grass"); (d) *Amaranthus palmeri* ("careless weed"); (e) *Salsola kali* ("Russian thistle"); and/or (f) *Franseria dumosa* ("desert ragweed"). Declarant may, from time to time and at any time, add or delete any plant species to the foregoing list of prohibited plants. If Declarant adds a plant species to the foregoing list of prohibited plants, each Owner shall refrain from planting or placing such plant species on the Properties, provided, however, that Owners shall not be obligated to unearth landscaping existing at such time to remove such newly prohibited plant species from the Properties.

Section 10.19 Parking and Vehicular Restrictions. No Person shall park, store or keep anywhere within the Properties, any inoperable or similar vehicle, or any large commercial-type vehicle, including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck, bus, aircraft, or any vehicular equipment, mobile or otherwise, except wholly within the Owner's garage as originally constructed by Declarant ("Garage") and only with the Garage door closed. Any boat, trailer, camper, motor home, and similar recreational vehicle (collectively and individually, "RV"), shall be parked only (i) wholly within a Garage, with the Garage door completely closed, or (ii) wholly between the building lines (i.e., wholly behind the front building lines and wholly in front of the rear building lines) of the homes on both immediately adjacent Lots (or, if there is only one immediately adjacent Lot, then the building lines of the home on such adjacent Lot, provided that the Board shall have the power and authority, in its sole discretion, to entirely disapprove and/or prohibit parking of an RV on any Lot with only one other Lot immediately adjacent thereto) if such parking reasonably may be deemed to constitute a nuisance, and appropriately screened from view from all streets as determined by the Board in its reasonable discretion, and no variance from this requirement shall be authorized or permitted. The foregoing shall not be deemed to prohibit a pickup or camper truck or similar vehicle up to and including one (1) ton when used for daily transportation of the Owner or Resident, or the Family respectively thereof, which vehicle shall be permitted, subject to the Garage, nuisance, and parking provisions herein. No Person shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of the Properties or on any street abutting the Properties. However, repair and/or restoration of one (1) such item only shall be permitted within the Garage so long as the Garage door remains closed, provided, however, that such activity may be prohibited entirely by the Board if the Board determines in its reasonable discretion that such activity constitutes a nuisance. Vehicles owned, operated or within the control of any Owner or of a resident of such Owner's Dwelling shall be parked in the Garage to the extent of the space available therein. All garages shall be kept neat and free of stored materials so as to permit the parking of at least one (1) standard sized American sedan automobile therein at all times. Garage doors shall not remain open for prolonged periods of time, and must be closed when not reasonably required for immediate ingress and egress. The Association, through the Board, is hereby empowered to establish and enforce any additional parking limitations, rules and/or regulations (collectively, "parking regulations") which it may deem necessary, including, but not limited to, the levying of fines for violation of parking regulations, and/or removal of any violating vehicle at the expense of the owner of such vehicle. No parking of any vehicle shall be permitted along any curb or otherwise on any street within the Properties, except only for ordinary and reasonable guest parking, subject to parking regulations established by the Board. Notwithstanding the

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foregoing, these restrictions shall not be interpreted in such a manner as to permit any parking or other activity which would be contrary to any County ordinance, or which is determined by the Board, in its reasonable discretion, to constitute a bona-fide nuisance.

Section 10.20 Sight Visibility Restriction Areas. The maximum height of any and all sight restricting improvements (including, but not necessarily limited to, landscaping), on all Sight Visibility Restriction Areas, shall be restricted to a maximum height not to exceed twenty-four (24) inches, or such other height set forth in the Plat ("Maximum Permitted Height"). In the event that any Improvement located on any Sight Visibility Restriction Area on a Unit exceeds the Maximum Permitted Height, the Association shall have the power and easement to enter upon such Unit and to bring such Improvement into compliance, and the Owner shall be solely liable for the costs thereof and any and all costs reasonably related thereto, all of which costs may be assessed against such Owner as a Special Assessment under this Declaration.

Section 10.21 Prohibited Direct Access. Any other provision herein notwithstanding, there shall be no vehicular access from any Lot directly onto such streets as designated on the Plat, and no vehicular access from said streets directly onto any abutting Lot, all of which direct vehicular access is hereby prohibited.

Section 10.22 No Waiver. The failure of the Board to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restrictions shall remain in full force and effect. The receipt by the Board or Manager of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board or the Manager.

Section 10.23 Declarant Exemption. Units owned by Declarant, shall be exempt from the provisions of this Article 10, until such time as Declarant conveys title to the Unit to a Purchaser, and activities of Declarant reasonably related to Declarant's development, construction, and marketing efforts, shall be exempt from the provisions of this Article 10. This Article 10 may not be amended without Declarant's prior written consent.

ARTICLE 11

DAMAGE TO OR CONDEMNATION OF COMMON ELEMENTS

Section 11.1 Damage or Destruction. Damage to, or destruction or condemnation of, all or any portion of the Common Elements shall be handled in the following manner:

(a) **Repair of Damage.** Any portion of this Community, for which insurance is required by this Declaration or by any applicable provision of NRS Chapter 116, which is damaged or destroyed, must be repaired or replaced promptly by the Association unless: (i) the Community is terminated, in which case the provisions of NRS § 116.2118, 116.2118.3 and 116.2118.5 shall apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) eighty percent (80%) of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is not repaired or replaced, the proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community; (A) the proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units; and (B) the remainder of the proceeds must be distributed to all the Owners or lien holders, as their interests may appear, in proportion to the liabilities of all the Units for Common Expenses. If the Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and Record an amendment to this Declaration reflecting the reallocations.

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(b) Damage by Owner To the full extent permitted by law, each Owner shall be liable to the Association for any damage to the Common Elements not fully reimbursed to the Association by insurance proceeds, provided the damage is sustained as a result of the negligence, willful misconduct, or unauthorized or improper installation or maintenance of any Improvement by said Owner or the Persons deriving their right and easement of use and enjoyment of the Common Elements from said Owner, or by his respective Family and guests, both minor and adult. The Association reserves the right, acting through the Board, after Notice and Hearing, to: (1) determine whether any claim shall be made upon the insurance maintained by the Association; and (2) levy against such Owner a Special Assessment equal to any deductible paid and the increase, if any, in the insurance premiums directly attributable to the damage caused by such Owner or the Person for whom such Owner may be responsible as described above. In the case of joint ownership of a Unit, the liability of the co-owners thereof shall be joint and several, except to any extent that the Association has previously contracted in writing with such co-owners to the contrary. After Notice and Hearing, the Association may levy a Special Assessment in the amount of the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, against any Unit owned by such Owner, and such Special Assessment may be enforced as provided herein.

Section 11.2 Condemnation If at any time, all or any portion of the Common Elements, or any interest therein, is taken for any governmental or public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Association. Any such award payable to the Association shall be deposited in the operating fund. No Member shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation. The Association shall have the exclusive right to participate in such proceedings and shall, in its name alone, represent the interests of all Members. Immediately upon having knowledge of any taking by eminent domain of Common Elements, or any portion thereof, or any threat thereof, the Board shall promptly notify all Owners and all Eligible Holders.

Section 11.3 Condemnation Involving a Unit For purposes of NRS § 116.1107(2)(a), if part of a Unit is required by eminent domain, the award shall compensate the Owner for the reduction in value of the Unit's interest in the Common Elements. The basis for such reduction shall be the extent to which the occupants of the Unit are impaired from enjoying the Common Elements. In cases where the Unit may still be used as a Dwelling, it shall be presumed that such reduction is zero (0).

ARTICLE 12

INSURANCE

Section 12.1 Casualty Insurance The Board shall cause to be obtained and maintained a master policy of fire and casualty insurance with extended coverage for loss or damage to all of the Association's insurable improvements on the Common Elements, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance, and shall obtain insurance against such other hazards and casualties as the Board deems reasonable and prudent. The Board, in its reasonable judgment, may also insure any other property whether real or personal, owned by the Association or located within the Properties, against loss or damage by fire and such other hazards as the Board may deem reasonable and prudent, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Elements shall be maintained for the benefit of the Association, the Owners, and the Eligible Holders, as their interests may appear as named insured, subject however to the loss payment requirements as set forth herein. Premiums for all insurance carried by the Association are Common Expenses included in the Annual Assessments levied by the Association.

The Association, acting through the Board, shall be the named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any policies shall be paid to the Board as trustee. The Board shall have full power to receive and receipt for the proceeds and to deal therewith as deemed necessary and appropriate. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim,

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and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of insurance maintained by the Association and of all the renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Eligible Holders who have expressly requested the same in writing.

Section 12.2 Liability and Other Insurance The Association shall have the power and duty to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it shall deem desirable (but in no event less than \$1,000,000.00 covering all claims for bodily injury and property damage arising out of a single occurrence), insuring the Association, Board, Directors, Officers, Declarant, and Manager, and their respective agents and employees, and the Owners and Residents of Units and their respective Families, guests and invitees, against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property maintained or required to be maintained by the Association including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such insurance shall also include coverage, to the extent reasonably available, against liability for non-owned and hired automobiles, liability for property of others, and any other liability or risk customarily covered with respect to projects similar in construction, location, and use. The Association may also obtain, through the Board, Worker's Compensation insurance (which shall be required if the Association has one or more employees) and other liability insurance as it may deem reasonable and prudent, insuring each Owner and the Association, Board, and any Manager, from liability in connection with the Common Elements, the premiums for which are a Common Expense included in the Annual Assessment levied against the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its reasonable business judgment.

Section 12.3 Fidelity Insurance The Board shall further cause to be obtained and maintained errors and omissions insurance, blanket fidelity insurance coverage (in an amount at least equal to 100% of Association Funds from time to time handled by such Persons) and such other insurance as it deems prudent, insuring the Board, the Directors, and Officers, and any Manager against any liability for any act or omission in carrying out their respective obligations hereunder, or resulting from their membership on the Board or on any committee thereof. If reasonably feasible, the amount of such coverage shall be at least \$1,000,000.00, and said policy or policies of insurance shall also contain an extended reporting period endorsement (a tail) for a six-year period. The Association shall require that the Manager maintain fidelity insurance coverage which names the Association as an obligee, in such amount as the Board deems prudent. From and after the end of the Declarant Control Period, blanket fidelity insurance coverage which names the Association as an obligee shall be obtained by or on behalf of the Association for any Person handling funds of the Association, including but not limited to, Officers, Directors, trustees, employees, and agents of the Association, whether or not such Persons are compensated for their services, in such an amount as the Board deems prudent; provided that in no event may the aggregate amount of such bonds be less than the maximum amount of Association Funds that will be in the custody of the Association or Manager at any time while the policy is in force (but in no event less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Units, plus Reserve Funds), or such other amount as may be required by FNMA, VA or FHA from time to time, if applicable.

Section 12.4 Other Insurance Provisions The Board shall also obtain such other insurances customarily required with respect to projects similar in construction, location, and use, or as the Board may deem reasonable and prudent from time to time, including, but not necessarily limited to, Worker's Compensation insurance (which shall be required if the Association has any employees). All premiums for insurances obtained and maintained by the Association are a Common Expense included in the Annual Assessment levied upon the Owners. All insurance policies shall be reviewed at least annually by the Board and the limits increased in its sound business judgment. In addition, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and fidelity insurance coverage necessary to meet the requirements for similar developments, as set forth or modified from time to time by any governmental body with jurisdiction, except to the extent such coverage is not available or has been waived in writing by the applicable agency.

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Section 12.5 Insurance Obligations of Owners. Each Owner is required, at Close of Escrow on his Unit, at his sole expense to have obtained, and to have furnished his Mortgagee (or, in the event of a cash transaction involving no Mortgagee, then to the Board) with duplicate copies of, a homeowner's policy of fire and casualty insurance with extended coverage for loss or damage to all insurable improvements and fixtures originally installed by Declarant on such Owner's Unit in accordance with the original plans and specifications, or installed by the Owner on the Unit, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance. By acceptance of the deed to his Unit, each Owner agrees to maintain in full force and effect at all times, at said Owner's sole expense, such homeowner's insurance policy, and shall provide the Board with duplicate copies of such insurance policy upon the Board's request. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability, damage to person or property occurring inside his Unit or elsewhere upon the Properties. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied. Notwithstanding the foregoing, or any other provision herein, each Owner shall be solely responsible for full payment of any and all deductible amounts under such Owner's policy or policies of insurance.

Section 12.6 Waiver of Subrogation. All policies of physical damage insurance maintained by the Association shall provide, if reasonably possible, for waiver of (1) any defense based on coinsurance; (2) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association; (3) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured; (4) any rights of the insurer to repair, rebuild or replace, and, in the event any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; or (5) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Unit. The Association hereby waives and releases all claims against the Board, the Owners, Declarant, and Manager, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss; provided, however, that such waiver shall not be effective as to any loss covered by a policy of insurance which would be voided or impaired thereby.

Section 12.7 Notice of Expiration Requirements. If available, each of the policies of insurance maintained by the Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days' prior written notice to the Board and Declarant and to each Owner and each Eligible Holder who has filed a written request with the carrier for such notice, and every other Person in interest who requests in writing such notice of the insurer. All insurance policies carried by the Association pursuant to this Article 12, to the extent reasonably available, must provide that: (a) each Owner is an insured under the policy with respect to liability arising out of his interest in the Common Elements or Membership; (b) the insurer waives the right to subrogation under the policy against any Owner or member of his Family; (c) no act or omission by any Owner or member of his Family will void the policy or be a condition to recovery under the policy; and (d) if, at the time of a loss under the policy there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

ARTICLE 13

MORTGAGEE PROTECTION CLAUSE

In order to induce any FHA, VA, FHLMC, GNMA and FNMA and any other governmental agency or other Mortgagees to participate in the financing of the sale of Units within the Properties, the following

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provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control)

(a) Each Eligible Holder, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation or the Bylaws, which default is not cured within thirty (30) days after the Association learns of such default. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Unit, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Governing Documents.

(c) Except as provided in NRS § 116.3116(2), each Beneficiary of a first Mortgage encumbering any Unit which obtains title to such Unit or by foreclosure of such Mortgage, shall take title to such Unit free and clear of any claims of unpaid assessments or charges against such Unit which accrued prior to the acquisition of title to such Unit by the Mortgagee.

(d) Unless at least sixty-seven percent (67%) of first Eligible Holders (based upon one (1) vote for each first Mortgage owned) or sixty-seven percent (67%) of the Owners (other than Declarant) have given their prior written approval, neither the Association nor the Owners shall:

(i) subject to Nevada nonprofit corporation law to the contrary, by act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Elements and the Improvements thereon which are owned by the Association, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association as provided in this Declaration shall not be deemed a transfer within the meaning of this clause.

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner, or the method of allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwellings and other Improvements on the Units, the maintenance of the Exterior Walls or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(iv) fail to maintain Fire and Extended Coverage on any insurable Common Elements on a current replacement cost basis in an amount as near as possible to one hundred percent (100%) of the insurance value (based on current replacement cost);

(v) except as provided by any provision of NRS Chapter 116 applicable hereto, use hazard insurance proceeds for losses to any Common Elements property for other than the repair, replacement or reconstruction of such property; or

(vi) amend those provisions of this Declaration or the Articles of Incorporation or Bylaws which provide for rights or remedies of first Mortgagees.

(e) Eligible Holders, upon written request, shall have the right to: (1) examine the books and records of the Association during normal business hours, (2) require from the Association the submission of an annual audited financial statement (without expense to the Beneficiary, insurer, or guarantor requesting

such statement) and other financial data, (3) receive written notice of all meetings of the Members, and (4) designate in writing a representative to attend all such meetings.

(f) All Beneficiaries, insurers, and guarantors of first Mortgages, who have filed a written request for such notice with the Board, shall be given thirty (30) days' written notice prior to: (1) any abandonment or termination of the Association; (2) the effective date of any proposed, material amendment to this Declaration or the Articles or Bylaws; and (3) the effective date of any termination of any agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties. Such first Mortgagees shall be given immediate notice: (i) following any damage to the Common Elements whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000.00); and (ii) when the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Properties.

(g) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Elements property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(h) The Reserve Fund described in Article 6 above must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large extraordinary assessments.

(i) The Board shall require that any Manager, and any employee or agent thereof, maintain at all times fidelity bond coverage which names the Association as an obligee; and, at all times from and after the end of the Declarant Control Period, the Board shall secure and cause to be maintained in force at all times fidelity bond coverage which names the Association as an obligee for any Person handling funds of the Association.

(j) When professional management has been previously required by a Beneficiary, insurer, or guarantor of a first Mortgage, any decision to establish self-management by the Association shall require the approval of at least sixty-seven percent (67%) of the voting power of the Association and of the Board respectively, and the Beneficiaries of at least fifty-one percent (51%) of the Eligible Holders.

(k) So long as VA is insuring or guaranteeing loans or has agreed to insure or guarantee loans on any portion of the Properties, then, pursuant to applicable VA requirement, for so long as Declarant shall control the Association Board, Declarant shall obtain prior written approval of the VA for any material proposed action which may affect the basic organization, subject to Nevada nonprofit corporation law, of the Association (i.e., merger, consolidation, or dissolution of the Association); dedication, conveyance, or mortgage of the Common Elements; or amendment of the provisions of this Declaration, the Articles of Incorporation, Bylaws, or other document which may have been previously approved by the VA; provided that no such approval shall be required in the event that the VA no longer regularly requires or issues such approvals at such time.

In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to reasonably satisfy the express applicable requirements of FHA, VA, FNMA or GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the Membership, as a class of potential Mortgage borrowers and potential sellers of their Units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Unit.

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ARTICLE 14
DECLARANT'S RESERVED RIGHTS

Section 14.1 Declarant's Reserved Rights. Any other provision herein notwithstanding, pursuant to NRS § 116.2105(1)(h), Declarant reserves, in its sole discretion, the following developmental rights and other special Declarant's rights, on the terms and conditions and subject to the expiration deadlines, if any, set forth below:

(a) Right to Complete Improvements and Construction Easement. Declarant reserves, for a period terminating on the fifteenth (15th) anniversary of the Recordation of this Declaration, the right, in Declarant's sole discretion, to complete the construction of the Improvements on the Properties and an easement over the Properties for such purpose; provided, however, that if Declarant still owns any property in the Properties on such fifteenth (15th) anniversary date, then such rights and reservations shall continue for one additional successive period of ten (10) years thereafter.

(b) Exercise of Developmental Rights. Pursuant to NRS Chapter 116, Declarant reserves the right to annex all or portions of the Annexable Area to the Community, pursuant to the provisions of Article 15 hereof, for as long as Declarant owns any portion of the Annexable Area. No assurances are made by Declarant with regard to the boundaries of those portions of the Properties which may be annexed or the order in which such portions may be annexed. Declarant also reserves the right to withdraw real property from the Community.

(c) Offices, Model Homes and Promotional Signs. Declarant reserves the right to maintain signs, sales and management offices, and models in any Unit owned or leased by Declarant in the Properties, and signs anywhere on the Common Elements, for so long as Declarant owns or leases any Unit.

(d) Appointment and Removal of Directors. Declarant reserves the right to appoint and remove a majority of the Board during the Declarant Control Period, as set forth in Section 3.7 hereof.

(e) Designation of Neighborhoods and Neighborhood Common Areas. Declarant reserves the right to designate Neighborhoods and Neighborhood Common Areas, as set forth in Article 17, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(f) Supplemental Declarations. Declarant reserves the right to Record (or to cause to be subject to prior written approval of Declarant, in its sole discretion), all Supplemental Declarations from time to time, as set forth in detail in Article 18, below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration.

(g) Amendments. Declarant reserves the right to amend this Declaration from time to time, as set forth in detail in Section 19.5, below, and any other provision of this Declaration, during the time periods set forth therein.

(h) Appointment and Removal of ARC. Declarant reserves the right to appoint and remove the ARC, for the time period set forth in Section 8.1, above.

(i) Easements. Declarant has reserved certain easements, and related rights, as set forth in this Declaration.

(j) Control of Entry Gates. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities.

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(k) Restriction of Traffic. Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties.

(l) Marketing Names. Declarant reserves the right, for so long as Declarant owns or has any interest in any of the Annexable Area, to market and/or advertise different portions of the Properties under different marketing names.

(m) Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, including, but not limited to, Article 17 below, and, to the maximum extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all Development Rights and Special Declarant Rights as set forth or referenced therein).

Section 14.2 Exemption of Declarant. Notwithstanding anything to the contrary in this Declaration, the following shall apply:

(a) Nothing in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to complete excavation and grading and the construction of improvements to and on any portion of the Properties, or to alter the foregoing and Declarant's construction plans and designs, or to construct such additional improvements as Declarant deems advisable in the course of development of the Properties, for so long as any Unit owned by Declarant remains unsold.

(b) This Declaration shall in no way limit the right of Declarant to grant additional licenses, easements, reservations and rights-of-way to itself, to governmental or public authorities (including without limitation public utility companies), or to others, as from time to time may be reasonably necessary to the proper development and disposal of Units; provided, however, that if FHA or VA approval is sought by Declarant, then the FHA and/or the VA shall have the right to approve any such grants as provided herein.

(c) Prospective purchasers and Declarant shall have the right to use all and any portion of the Common Elements for access to the sales facilities of Declarant and for placement of Declarant's signs.

(d) Without limiting Section 14.1(c), above, or any other provision herein, Declarant may use any structures owned or leased by Declarant, as model home complexes or real estate sales or management offices, subject to the time limitations set forth herein, after which time, Declarant shall restore the improvement to the condition necessary for the issuance of a final certificate of occupancy by the appropriate governmental entity. Any garages which have converted into sales offices by Declarant shall be converted back to garages at the time of sale to a Purchaser of such Unit.

(e) All or any portion of the rights of Declarant in this Declaration may be assigned by Declarant to any successor in interest, by an express and written Recorded assignment which specifies the rights of Declarant so assigned.

(f) The prior written approval (which shall not be unreasonably withheld) of Declarant, as developer of the Properties, shall be required before any amendment to the Declaration affecting Declarant's rights or interests (including, without limitation, this Article 14) can be effective.

(g) The rights and reservations of Declarant referred to herein, if not earlier terminated pursuant to the Declaration, shall terminate on the date set forth in Section 14.1(a) above.

Section 14.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article 14 operate in part to benefit the Declarant, no amendment to this Article 14, and no amendment in derogation of any other provisions of this Declaration benefitting the Declarant, may be made without the written approval

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of the Declarant, and any purported amendment of Article 14, or any portion thereof, or the effect respectively thereof, without such express prior written approval, shall be void, provided that the foregoing shall not apply to amendments made by Declarant.

ARTICLE 15 **ANNEXATION**

Section 15.1 Annexation of Property. Declarant may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portion of the Annexable Area then owned by Declarant, by Recording an annexation amendment ("Annexation Amendment") with respect to the real property to be annexed ("Annexed Property").

Upon the recording of an Annexation Amendment covering any portion of the Annexable Area and containing the provisions set forth herein, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Property in the same manner as if the Annexed Property were originally covered in this Declaration and originally constituted a portion of the Original Property; and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the Annexed Property shall be the same as with respect to the Original Property and the rights, obligations, privileges, duties and liabilities of the Owners and occupants of Units within the Annexed Property shall be the same as those of the Owners and occupants of Units originally affected by this Declaration. By acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B" hereto), in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter (and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.460, of such grantee and his successors and assigns) to unilaterally execute and Record an Annexation Amendment, annexing said real property to the Community, in the manner provided for in this Article 15.

Section 15.2 Annexation Amendment. Each Annexation Amendment shall conform to the requirements of NRS § 116.211, and shall include:

- (a) the written and acknowledged consent of Declarant;
- (b) a reference to this Declaration, which reference shall state the date of Recordation hereof and the County, book and instrument number, and any other relevant Recording data;
- (c) a statement that the provisions of this Declaration shall apply to the Annexed Property as set forth therein;
- (d) a sufficient description of the Annexed Property;
- (e) assignment of an Identifying Number to each new Unit created;
- (f) a reallocation of the allocated interests among all Units; and
- (g) a description of any Common Elements created by the annexation of the Annexed Property

Section 15.3 FHA/VA Approval. In the event that, and for so long as, the FHA or VA is insuring or guaranteeing loans (or has agreed to insure or guarantee loans) on any portion of the Properties with respect to the initial sale by Declarant to a Purchaser of any Unit, then a condition precedent to any annexation of any property other than the Annexable Area shall be written confirmation by the FHA or the VA that the annexation is in accordance with the development plan submitted to and approved by the FHA or the VA; provided,

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however, that such written confirmation shall not be a condition precedent if at such time the FHA or the VA has ceased to regularly require or issue such written confirmations.

Section 15.4 Disclaimers Regarding Annexation. Portions of the Annexable Area may or may not be annexed, and if annexed, may be annexed at any time by Declarant, and no assurances are made with respect to the boundaries or sequence of annexation of such portions. Annexation of a portion of the Annexable Area shall not necessitate annexation of any other portion of the remainder of the Annexable Area. Declarant has no obligation to annex the Annexable Area, or any portion thereof.

Section 15.5 Expansion of Annexable Area. In addition to the provisions for annexation specified in Section 15.2 above, the Annexable Area may, from time to time, be expanded to include additional real property, not as yet identified. Such property may be annexed to the Annexable Area upon the Recordation of a written instrument describing such real property, executed by Declarant and any other owner of such property.

Section 15.6 Contraction of Annexable Area. So long as real property has not been annexed to the Properties subject to this Declaration, the Annexable Area may be contracted to delete such real property effective upon the Recordation of a written instrument describing such real property, executed by Declarant and all other owners, if any, of such real property, and declaring that such real property shall thereafter be deleted from the Annexable Area. Such real property may be deleted from the Annexable Area without a vote of the Association or the approval or consent of any other Person, except as provided herein.

ARTICLE 16

ADDITIONAL DISCLOSURES, DISCLAIMERS, AND RELEASES

Section 16.1 Additional Disclosures and Disclaimers of Certain Matters. Without limiting any other provision in this Declaration, by acceptance of a deed to a Unit, each Owner (for purposes of this Section 16.1, the term "Owner" shall include the Owner, and the Owner's Family, guests and tenants), and by residing within the Properties, each Resident (for purposes of this Article 16, the term "Resident" shall include each Resident, and the Resident's family and guests) shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

(a) that there are or may be major electrical power system components (high voltage transmission or distribution lines, transformers, etc.) presently and from time to time located within, adjacent to, or nearby the Properties (including, but not limited to, the Common Elements and/or the Unit), which generate certain electric and magnetic fields ("EMF") around them, and that Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to EMF;

(b) that the Unit and the other portions of the Properties are or from time to time may be located within or nearby (1) airplane flight patterns or clear zones, and subject to significant levels of airplane noise, and (2) major roadways, and subject to significant levels of noise, dust, and other nuisance resulting from proximity to major roadways and/or vehicles. Also, each Unit is located in proximity to streets and other Dwellings in the Community, and subject to substantial levels of sound and noise. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to such airplane flight patterns or clear zones and/or roadways or vehicles or noise;

(c) that there are presently and may in the future be a water reservoir site and/or other additional water retention facilities located nearby or adjacent to, or within the Community, and the Community is located adjacent to or nearby major water and drainage channels, major washes, and a major water detention basin (all of the foregoing, collectively, "Facilities"), the ownership, use, regulation, operation, maintenance, improvement and repair of which are not within Declarant's control, and over which Declarant has no jurisdiction or authority, and, in connection therewith: (1) the Facilities may be an attractive nuisance; (2) maintenance and use of the Facilities may involve various operations and applications, including (but not necessarily limited to) noisy electric, gasoline or other power driven vehicles and/or equipment used by

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Facilities maintenance and repair personnel during various times of the day, including, without limitation, early morning and/or late evening hours, and (3) the possibility of damage to Improvements and property on the Properties, particularly in the event of overflow of water or other substances from or related to the Facilities, as the result of nonfunction, malfunction, or overtaking of the Facilities or any other reason, and (4) any or all of the foregoing may cause inconvenience and disturbance to Purchaser and other persons in or near the Unit and/or Common Elements, and possible injury to person and/or damage to property:

(d) that, additionally, there is a channel located on or over an easement through the Properties with related improvements (all of the foregoing, collectively, "Channel"), intended to help route flood waters through the Properties; it is presently contemplated that the Channel will constitute a Common Element, to be owned, maintained, repaired and/or replaced by the Association as a Common Expense; the disclosures and disclaimers set forth in the foregoing subsections (c)(1) through (4), inclusive, modified only to apply to the Channel, are incorporated herein by this reference,

(e) that the Properties are or may be located within designated flood plain areas, and the mortgage-holder(s), if any, of Purchaser (and/or subsequent Owners) will or may require flood insurance coverage for the dwelling and any other structures located on the Unit, until such time, if any, as the Properties may be removed from the designated flood plain area; and Declarant specifically disclaims any and all representations and warranties, express or implied, with regard to or pertaining to flood plains, floods, water damage, and/or flood insurance,

(f) that certain governmental officials in Clark County, Nevada, have indicated that Clark County may construct a water detention basin ("Detention Basin") generally to the northwest of the Properties; if and when the Detention Basin is constructed by Clark County and is fully operational, it is possible that the Association and/or Owners may petition to have the Channel vacated and the Properties, or portion(s) thereof, removed from designated flood plain area; Declarant makes no representation whatsoever whether the Detention Basin ever may be constructed or operational, and, if the Detention Basin is constructed and operational, what its effect may be, and whether the Channel may be vacated or the Properties removed from designated flood plain area,

(g) that the Unit and other portions of the Properties are or may be nearby major regional underground natural gas transmission pipelines. Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to gas transmission pipelines;

(h) that the Las Vegas Valley contains a number of earthquake faults, and the Unit and other portions of the Properties may be located on or nearby an identified or yet to be identified seismic fault line. Declarant specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to earthquake or seismic activities;

(i) that construction or installation of Improvements by Declarant, other Owners, or third parties, and/or installation or growth of trees or other plants, may impair or eliminate the view, if any, of or from a Unit. Declarant disclaims any and all representations or warranties, express and implied, with regard to or pertaining to the impairment or elimination of any existing or future view,

(j) that residential subdivision and new home construction is an industry inherently subject to variations and imperfections. Purchaser acknowledges and agrees that items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including, but not limited to: reasonable wear, tear or deterioration, shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; minor flaws or corrective work; and like items) and are not constructional defects. Purchaser acknowledges that: (1) the finished construction of the Unit and the Common Elements, while within the standards of the industry in the Las Vegas Valley, Clark County, Nevada, and while in substantial compliance with the plans and specifications, will be subject to expected minor flaws; and (2) issuance of a Certificate of Occupancy by the relevant governmental authority with jurisdiction shall be deemed conclusive evidence that the relevant improvement has been built within such industry standards;

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(k) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(l) that indoor air quality of the Unit may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and so on;

(m) that installation and maintenance of a gated community and/or any security device shall not create any presumption or duty whatsoever of Declarant or Association (or their respective officers, directors, managers, employees, agents, and/or contractors) with regard to security or protection of person or property within or adjacent to the Properties;

(n) that gated entrances may restrict or delay entry into the Properties by law enforcement, fire protection, and/or emergency medical care personnel and vehicles; and each Owner, by acceptance of a deed to a Unit, whether or not so stated in the deed, shall be deemed to have voluntarily assumed the risk of such restricted or delayed entry.

(o) that the Unit and other portions of the Properties are located adjacent or nearby to certain undeveloped areas which may contain various species of wild creatures (including, but not limited to, coyotes and foxes), which may from time to time stray onto the Properties, and which may otherwise pose a nuisance or hazard;

(p) that the Unit and other portions of the Properties from time to time may, but need not necessarily, experience problems with scorpions, bees, ants, spiders, termites, pigeons, or other insect or pest problems (collectively, "pests"), and that Declarant hereby specifically disclaims any and all representations or warranties, express and implied, with regard to or pertaining to any pest, and each Owner must make its own independent determination regarding the existence or non-existence of any pest(s) which may be associated with the Unit or other portions of the Properties.

(q) that there is a high degree of alkalinity in soils and/or water in the Las Vegas Valley; that such alkalinity tends to produce, by natural chemical reaction, discoloration, leaching and erosion or deterioration of concrete walls and other improvements ("alkaline effect"); that the Unit and other portions of the Properties may be subject to such alkaline effect, which may cause inconvenience, nuisance, and/or damage to property; and that the Governing Documents require Owners other than Declarant to not change the established grading and/or drainage, and to not permit any sprinkler or irrigation water to strike upon any wall or similar improvement.

(r) that Purchaser acknowledges having received from Declarant information regarding the zoning designations and the designations in the master plan regarding land use, adopted pursuant to NRS Chapter 278, for the parcels of land adjoining the Properties to the north, south, east, and west, together with a copy of the most recent gaming enterprise district map made available for public inspection by the jurisdiction in which the Unit is located, and related disclosures. Declarant makes no further representation, and no warranty (express or implied), with regard to any matters pertaining to adjoining land or uses thereof or to gaming uses. Purchaser is hereby advised that the master plan and zoning ordinances are subject to change from time to time. If Purchaser desires additional or more current information concerning these zoning and gaming designations, Purchaser should contact the City of Las Vegas or Clark County Planning Department. Purchaser acknowledges and agrees that its decision to purchase is based solely upon Purchaser's own investigation and not upon any information provided by any sales agent.

(s) that Declarant presently plans to develop only those Lots which have already been released for construction and sale, and Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Unit. The Purchaser or Owner of a Unit may have seen proposed or contemplated residential and other developments which may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or may have been

advised of the same in discussions with sales personnel; however, notwithstanding such plot plans, sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct such future or planned developments or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. A Purchaser or Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions;

(t) that residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, construction-related traffic and traffic restrictions, and other construction-related "nuisances". Each Owner acknowledges and agrees that it is purchasing a Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accept a substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of land being developed) have been completed and sold out;

(u) that Declarant shall have the right, from time to time, in its sole discretion, to establish and/or adjust sales prices or price levels for new homes and/or Lots;

(v) that model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver the Unit in conformity with any model home, and any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded flooring, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to Purchaser unless an authorized officer of Declarant has specifically agreed in a written Addendum to the Purchase Agreement to make specific items a part of the Purchase Agreement;

(w) that the Unit and other portions of the Properties are or may be located adjacent to or nearby a school, and school bus drop off/pickup areas, and subject to levels of noise, dust, and other nuisance resulting from or related to proximity to such school and/or school bus stops;

(x) that some, but not all, Units, are large enough to accommodate parking of a recreational vehicle ("RV") on the side yard area of the Unit, subject to all restrictions set forth in the Declaration. If a Purchaser desires to purchase a Unit suitable for accommodating parking of an RV on the Unit, it is solely the Purchaser's responsibility and obligation to specifically confirm and verify with Declarant in a written addendum to the Purchase Agreement, whether the Unit being purchased may legitimately accommodate parking of an RV, subject to all use and other restrictions set forth in the Declaration;

(y) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities;

(z) that Declarant reserves the right, until the Close of Escrow of the last Unit in the Properties, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Properties, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities, provided that no Unit shall be deprived of access to a dedicated street adjacent to the Properties;

(aa) that Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by NRS Chapter 116, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under NRS Chapter 116 (including, but not necessarily limited to, all special declarant's rights referenced in NRS § 116.110385);

(ab) that Declarant has reserved certain easements, and related rights and powers, as set forth in this Declaration; and

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(ac) that each Purchaser understands, acknowledges, and agrees that Declarant has reserved certain rights in the Declaration, which may limit certain rights of Purchaser and Owners other than Declarant.

Section 16.2 Disclaimers and Releases. As an additional material inducement to Declarant to sell the Unit to Purchaser, and without limiting any other provision in the Purchase Agreement, Purchaser (for itself and all persons claiming under or through Purchaser) acknowledges and agrees: (a) that Declarant specifically disclaims any and all representations and warranties, express and implied, with regard to any of the foregoing disclosed or described matters (other than to the extent expressly set forth in the foregoing disclosures); and (b) fully and unconditionally releases Declarant and the Association, and their respective officers, managers, agents, employees, suppliers and contractors, from any and all loss, damage or liability (including, but not limited to, any claim for nuisance or health hazards) related to or arising in connection with any disturbance, inconvenience, injury, or damage resulting from or pertaining to all and/or any one or more of the conditions, activities, and/or occurrences described in the foregoing portions of this Declaration.

ARTICLE 17 ADDITIONAL PROVISIONS PERTAINING TO NEIGHBORHOODS

Section 17.1 Designation of Neighborhoods and Neighborhood Common Areas. Declarant additionally reserves the right, in its sole discretion to designate Neighborhoods (and to unilaterally redesignate Neighborhood names, designations, and/or boundaries) and Neighborhood Common Areas, as set forth below, until the later of such time as Declarant no longer owns any property in the Properties, or no longer has the power to exercise any developmental right pursuant to this Declaration. Each Unit shall be located within a Neighborhood.

(a) "Neighborhood" shall mean a group of particular Units designated by Declarant as a specific neighborhood for purposes of sharing Neighborhood Common Area (and/or receiving other benefits or services which are not provided to other Units within the Community but outside of such Neighborhood), subject to sharing by Units within the Neighborhood of Neighborhood Expenses through supplemental periodic Neighborhood Assessments, if any, as established by the Board from time to time. Any and all Neighborhoods shall be subject to the Governing Documents, provided that a Neighborhood may (in Declarant's sole discretion), but need not necessarily also be subject to a Supplemental Declaration or within the jurisdiction of a Sub-Association. In such case, in the event of any irreconcilable conflict, the Governing Documents shall prevail, and the Board shall have the power and right, but not the obligation, to veto any action taken or contemplated to be taken by any such Sub-Association or Owner (other than Declarant, whose rights and actions shall not be subject to any such Board veto) or group of Owners which the Board determines, in its reasonable business judgment, to be inconsistent with Community-wide standards or incompatible with the best interests of the Association as a whole.

(b) "Neighborhood Assessments" shall mean those periodic assessments, which shall be supplemental to all Community Assessments, levied by the Board or Board of directors of a Sub-Association, if permitted by Declarant in its sole discretion, uniformly upon the Units within a particular Neighborhood to pay for the Neighborhood Expenses within such Neighborhood.

(c) "Neighborhood Common Area" shall mean a portion of the Common Elements which shall constitute Limited Common Elements allocated for the use and benefit of one or more Neighborhood(s), but less than the entire Community, as designated by Declarant in its sole discretion. Neighborhood Common Area is available for the use and enjoyment of only the Owners (subject to the Sub-Association, if any) within such Neighborhood. Neighborhood Common Area may vary by Neighborhood. Without limiting the preceding sentence, certain Neighborhoods may be gated, and other Neighborhoods may not be gated, in Declarant's sole discretion. The level of maintenance of Neighborhood Common Area shall be determined from time to time by the Board, provided that the Owners of Units within a Neighborhood may request the Board to enhance the level of maintenance in such Neighborhood (at the sole cost of such Neighborhood and the

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Owners thereof), pursuant to Rules and Regulations governing same which may be established and/or revised by the Board from time to time in its reasonable business judgment.

(d) "Neighborhood Expenses" shall mean the expenditures made by, or financial liabilities of, the Association (or Sub-Association, if applicable), together with any allocations to reserves, for maintenance, management, operation, repair, replacement and insurance of Neighborhood Common Area, or for the particular benefit of Owners of Units within a particular Neighborhood, as may be authorized pursuant to this Declaration or in any applicable Supplemental Declaration.

(e) Initially, Declarant contemplates that there will be four Neighborhoods: Autumn Hills, Monterey, Somerset, and Ridgmont; however, Declarant reserves the right from time to time to designate fewer, different, and/or additional Neighborhoods.

Section 17.2 Neighborhood Common Areas. Certain portions of the Common Elements from time to time may be designated by Declarant, in its sole discretion, as Neighborhood Common Area, which shall constitute Limited Common Elements allocated and reserved for the exclusive use or primary benefit of Owners and Residents within a particular Neighborhood. By way of illustration and not limitation, Neighborhood Common Area may, but need not necessarily, include Neighborhood entry features, entry gates, Private Streets, landscaping, and other Limited Common Elements within a particular Neighborhood. Certain Neighborhoods may be gated, and other Neighborhoods may be non-gated, in Declarant's sole discretion. All costs associated with maintenance, management, operation, repair, replacement, and insurance of Neighborhood Common Area shall be a Neighborhood Expense, allocated uniformly and levied as Neighborhood Assessments among the Owners in the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.3 Designation of Neighborhood Common Areas. Any Neighborhood Common Area initially shall be designated as such from time to time in: (a) a separate instrument Recorded by Declarant in its sole discretion, or (b) in the deed conveying such Neighborhood Common Area to the Association (or, if applicable, to a Sub-Association for the Neighborhood), or (c) on the relevant Recorded subdivision plat; provided, however, that any such designation shall not preclude Declarant from later assigning use of the same Neighborhood Common Area to additional Units and/or Neighborhood(s), so long as Declarant has a right to subject additional property to this Declaration pursuant to Article 15, above. Thereafter, allocation of Neighborhood Common Area may be reassigned upon written approval of the Board and the affirmative vote of a majority of the votes within the Neighborhood(s) affected by the proposed reallocation. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article 15 above, any such allocation or reallocation shall also require Declarant's prior written consent, in its sole discretion.

Section 17.4 Use of Neighborhood Common Area. Subject to all of the other provisions of this Declaration (including, without limitation, the easements, use restrictions, maintenance and repair obligations, and architectural and landscaping control provisions), Neighborhood Common Area (which, by way of illustration and not limitation, may but need not necessarily include separate Neighborhood entry gates and Private Streets within the Neighborhood) is exclusively allocated to and reserved for the exclusive use of Owners and Residents of Units within the Neighborhood to which the Neighborhood Common Area is allocated.

Section 17.5 Maintenance, Repair, and Replacement of Neighborhood Common Area. Costs of management, operation, maintenance, repair, replacement and insurance of Neighborhood Common Area shall be a Neighborhood Expense assessed as Neighborhood Assessments to the Owners of Units in the Neighborhood(s) to which the Neighborhood Common Areas are allocated.

Section 17.6 Allocation and Budgeting of Neighborhood Expenses. As part of the annual Budget process set forth in, and, subject to the provisions of Section 6.4 above, the Board shall cause to be prepared and delivered, to each Owner of a Unit in a Neighborhood, a supplemental budget covering the estimated Neighborhood Expenses for a Neighborhood (which shall also include a reasonably prudent allocation for

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reserves for capital repairs and replacement of Neighborhood Common Area). The Association is hereby authorized to levy Neighborhood Assessments uniformly against all Units in the Neighborhood subject to assessment, to fund Neighborhood Expenses. Such Neighborhood budget and Neighborhood Assessments promulgated by the Association shall become effective unless disapproved by Owners of seventy-five percent (75%) of the affected Units in the Neighborhood; however, there shall be no obligation to call a special meeting of the Owners of Units in such Neighborhood. If the proposed budget for a Neighborhood is disapproved, or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board may revise the budget for any Neighborhood, and the amount of any Neighborhood Assessment from time to time during the year, subject to notice and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above. Notwithstanding the foregoing, if a Supplemental Declaration has been duly Recorded, and a Sub-Association has been duly created, with respect to such Neighborhood, then, subject to express delegation set forth in said Supplemental Declaration or separate Recorded delegation by Declarant, the Sub-Association shall be obligated to prepare, notice, and administer a Neighborhood budget in like manner as set forth in Section 6.4 above.

ARTICLE 18

SUPPLEMENTAL DECLARATIONS: SUB-ASSOCIATIONS

Section 18.1 Supplemental Declarations Supplemental Declaration(s) may be Recorded from time to time by Declarant, in its sole discretion. A Supplemental Declaration shall be supplemental to this Declaration, and may but need not necessarily create a Sub-Association and/or impose supplemental obligations, covenants, conditions, or restrictions, or reservations of easements, with respect to a particular Neighborhood or other land described in such instrument. This Declaration and any Supplemental Declaration shall be construed to be consistent with each other to the greatest extent reasonably possible; however, in the event of any irreconcilable conflict, the provisions of this Declaration shall prevail. Any purported Supplemental Declaration Recorded by a Person other than Declarant, without the express prior written consent of Declarant, shall be null and void.

Section 18.2 Sub-Associations No Sub-Association may be validly organized except pursuant to the authority and jurisdiction of a Supplemental Declaration as set forth in Section 18.1. above, and approval of Declarant in its sole discretion. Subject to the foregoing, a duly created Sub-Association shall be a supplemental Neighborhood homeowners association, organized pursuant to the authority and jurisdiction of a Supplemental Declaration, with concurrent and supplemental jurisdiction (subject to this Declaration and the other Community Governing Documents) with the Association with respect to a particular Neighborhood. A Sub-Association shall have the power to establish standards and conduct activities for the property under its responsibility, subject to the Community Governing Documents and the Neighborhood Governing Documents. Notwithstanding the foregoing, the Association shall have the power and authority to veto any action taken or contemplated to be taken by any Sub-Association which the Board reasonably determines to be in violation of the Community Governing Documents, or adverse or detrimental to the best interests of the Association, or its Members. The Association also shall have the power to reasonably require specific action to be taken by any Sub-Association in connection with the Sub-Association's obligations and responsibilities (for example, without limitation, requiring specific maintenance or repairs, or requiring that a proposed Neighborhood budget include certain items and that expenditures be made therefor). A Sub-Association shall take appropriate action required by the Association by written notice, within the reasonable time frame set forth in such notice. If the Sub-Association fails to so comply, the Association shall have the power and authority to effectuate such action on behalf of the Sub-Association and to levy Special Assessments to cover the reasonable costs thereof.

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**ARTICLE 18
GENERAL PROVISIONS**

Section 19.1 **Enforcement.** Subject to Section 5.3 above, the Governing Documents may be enforced by the Association as follows:

(a) Breach of any of the provisions contained in the Declaration or Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal or equitable proceedings instituted, in compliance with applicable Nevada law, by any Owner, including Declarant so long as Declarant owns a Unit, by the Association, or by the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. Each Owner shall have a right of action against the Association for any material, unreasonable, and continuing failure by the Association to comply with the material and substantial provisions of this Declaration, or of the Articles or Bylaws.

(b) The Association further shall have the right to enforce the obligations of any Owner under any material provision of this Declaration, by assessing a reasonable fine as a Special Assessment against such Owner or Resident, and/or suspending the right of such Owner to vote at meetings of the Association and/or the right of the Owner or Resident to use Common Elements (other than ingress and egress, by the most reasonably direct route, to the Unit), subject to the following:

(1) the person alleged to have violated the material provision of the Declaration must have had written notice (either actual or constructive, by inclusion in any Recorded document) of the provision for at least thirty (30) days before the alleged violation; and

(2) such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation, provided that if any such violation continues for a period of ten (10) days or more after actual notice of such violation has been given to such Owner or Resident, each such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties;

(3) notwithstanding the foregoing, each Owner shall have an unrestricted right of ingress and egress to his Unit by the most reasonably direct route over and across the relevant streets;

(4) no fine imposed under this Section may exceed the maximum amount(s) permitted from time to time by applicable provision of NRS Chapter 116 for each failure to comply. No fine may be imposed until the Owner or Resident has been afforded the right to be heard, in person, by submission of a written statement, or through a representative, at a regularly noticed hearing (unless the violation is of a type that substantially and imminently threatens the health, safety and/or welfare of the Owners and Community, in which case, the Board may take expedited action, as the Board may deem reasonable and appropriate under the circumstances, subject to any limitations set forth in this Declaration or applicable law);

(5) subject to this Section 19.1(b), if any such Special Assessment imposed by the Association on an Owner or Resident by the Association is not paid or reasonably disputed in writing delivered to the Board by such Owner or Resident (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then such Special Assessment shall be enforceable pursuant to Articles 6 and 7 above; and

(6) subject to Section 5.3 above, and to applicable Nevada law (which may first require mediation or arbitration), the Association may also take judicial action against any Owner or Resident to enforce compliance with provisions of the Governing Documents, or other obligations, or to obtain damages for noncompliance, all to the fullest extent permitted by law.

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(c) **Responsibility for Violations.** Should any Resident violate any material provision of the Rules and Regulations or Declaration, or should any Resident's act, omission or neglect cause damage to the Common Elements, then such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Unit in which the Resident resides. Likewise, should any guest of an Owner or Resident commit any such violation or cause such damage to Common Elements, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident. Reasonable efforts first shall be made to resolve any alleged material violation, or any dispute, by friendly discussion or informal mediation by the ARC or Board (and/or mutually agreeable or statutorily authorized third party mediator), in a "good neighbor" manner. Fines or suspension of voting privileges shall be utilized only after reasonable efforts to resolve the issue by friendly discussion or informal mediation have failed.

(d) The result of every act or omission whereby any of the provisions contained in this Declaration or the Bylaws are materially violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

(e) The remedies herein provided for breach of the provisions contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(f) The failure of the Association to enforce any of the provisions contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.

(g) If any Owner, his Family, guest, licensee, lessee or invitee violates any such provisions, the Board may impose a reasonable Special Assessment upon such Owner for each violation and, if any such Special Assessment is not paid or reasonably disputed in writing to the Board (in which case, the dispute shall be subject to reasonable attempts at resolution through mutual discussions and mediation) within thirty (30) days after written notice of the imposition thereof, then the Board may suspend the voting privileges of such Owner, and such Special Assessment shall be collectible in the manner provided hereunder, but the Board shall give such Owner appropriate Notice and Hearing before invoking any such Special Assessment or suspension.

Section 19.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 19.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, until duly terminated in accordance with NRS § 116.2118.

Section 19.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Elements. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 19.5 Amendment. Except as otherwise provided by this Declaration, and except in cases of amendments that may be executed by a Declarant, this Declaration, including the Plat, may only be amended by both: (a) the vote and agreement of Owners constituting at least sixty-seven percent (67%) of the voting power of the Association; and (b) the written assent or vote of at least a majority of the total voting power of the Board. Notwithstanding the foregoing, termination of this Declaration and any of the following amendments, to be effective, must be approved in writing by the Eligible Holders of at least two-thirds (2/3)

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of the first Mortgages on all of the Units in the Properties at the time of such amendment or termination, based upon one (1) vote for each first Mortgage owned:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers, and guarantors of first Mortgages as provided in Articles 7, 11, 12, 13, 14 and 19 hereof.

(b) Any amendment which would necessitate a Mortgagee, after it has acquired a Unit through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Unit not being separately assessed for tax purposes.

(d) Any amendment relating to the insurance provisions as set out in Article 12 hereof, or to the application of insurance proceeds as set out in Article 12 hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would or could result in termination or abandonment of the Properties or subdivision of a Unit, in any manner inconsistent with the provisions of this Declaration.

(f) Any amendment which would subject any Owner to a right of first refusal or other such restriction if such Unit is proposed to be sold, transferred or otherwise conveyed.

(g) Any amendment materially and substantially affecting: (i) voting rights; (ii) rights to use the Common Elements; (iii) reserves and responsibility for maintenance, repair and replacement of the Common Elements; (iv) leasing of Units; (v) establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage; (vi) boundaries of any Unit; (vii) Declarant's right and power to annex or de-annex property to or from the Properties; and (viii) assessments, assessment liens, or the subordination of such liens.

Notwithstanding the foregoing, if a first Mortgagee who receives a written request from the Board to approve a proposed termination, amendment or amendments to the Declaration does not deliver a negative response to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed termination, amendment or amendments. Notwithstanding anything contained in this Declaration to the contrary, nothing contained herein shall operate to allow any Mortgagee to: (a) deny or delegate control of the general administrative affairs of the Association by the Members or the Board; (b) prevent the Association or the Board from commencing, intervening in or settling any litigation or proceeding; or (c) prevent any trustee or the Association from receiving and distributing any proceeds of insurance, except pursuant to NRS §§ 116.31133 & 116.31135.

A copy of each amendment (other than any amendment which may be accomplished unilaterally by Declarant) shall be certified by at least two (2) Officers, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) Officers, that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Eligible Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Eligible Beneficiaries has been obtained. Until the first Close of Escrow for the sale of a Unit, Declarant shall have the right to terminate or modify this Declaration by Recordation of a supplement hereto setting forth such termination or modification.

Notwithstanding all of the foregoing, for so long as Declarant owns a Lot or Unit, Declarant shall have the power from time to time to unilaterally amend this Declaration to correct any scrivener's errors, to clarify

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any ambiguous provision, to modify or supplement the Exhibits hereto, to make and process through appropriate governmental authority, minor revisions to the Plat deemed appropriate by Declarant in its discretion, and otherwise to ensure that the Declaration conforms with requirements of applicable law. Additionally, by acceptance of a deed from Declarant conveying any real property located in the Annexable Area (Exhibit "B") hereto, in the event such real property has not theretofore been annexed to the Properties encumbered by this Declaration, and whether or not so expressed in such deed, the grantee thereof covenants that Declarant shall be fully empowered and entitled (but not obligated) at any time thereafter, and appoints Declarant as attorney in fact, in accordance with NRS §§ 111.450 and 111.480, of such grantee and his successors and assigns, to unilaterally execute and Record an Annexation Amendment, adding said real property to the Community, in the manner provided for in NRS § 116.2110 and in Article 15 above, and to make and process through appropriate governmental authority, any and all minor revisions to the Plat deemed appropriate by Declarant in its reasonable discretion, and each and every Owner, by acceptance of a deed to his Unit, covenants to sign such further documents and to take such further actions as to reasonably implement and consummate the foregoing.

Section 19.6 Notice of Change to Governing Documents. If any change is made to the Governing Documents, the Secretary (or other designated Officer) shall, within 30 days after the change is made, 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 Owner, a copy of the changes made.

Section 19.7 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public, or for any public use.

Section 19.8 Constructive Notice and Acceptance. Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

Section 19.9 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 19.10 Priorities and Inconsistencies. The Governing Documents shall be construed to be consistent with one another to the extent reasonably possible. If there exist any irreconcilable conflicts or inconsistencies among the Governing Documents, the terms and provisions of this Declaration shall prevail (unless and to the extent only that the Declaration fails to comply with any applicable provision of NRS Chapter 116 or other applicable law). In the event of any inconsistency between the Articles and Bylaws, the Articles shall prevail. In the event of any inconsistency between the Rules and Regulations and any other Governing Document, the other Governing Document shall prevail. In the event of any inconsistency between any Community Governing Document and any other Governing Document which is specific to a particular Neighborhood, the former shall prevail. Any inconsistency between any Neighborhood-specific Governing Document shall be resolved in like manner as set forth above.

Section 19.11 Limited Liability. Except to the extent, if any, expressly prohibited by applicable Nevada law, none of Declarant, Association, and/or ARC, and none of their respective directors, officers, any committee representatives, employees, or agents, shall be liable to any Owner or any other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was reasonable or in good faith. The Association shall indemnify every present and former Officer and Director and every present and former committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

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Section 19.12 Indemnity. Each Owner shall, to the maximum extent not prohibited by law, indemnify and hold free and harmless each and every one of: Declarant, the Association, and their respective partners, members, divisions, subsidiaries and affiliated companies (if any), and their and their respective employees, officers, directors, members, shareholders, agents, committee members, attorneys, professional consultants and representatives, and all of their respective successors and assigns (collectively, "Indemnitees") from and against any and all claims, damages, losses, liabilities, demands, and expenses, including, but not limited to, reasonable attorneys' fees, court costs and expenses of litigation (collectively, hereinafter referred to as "Liabilities"), arising out of or resulting from, or claimed to arise out of or result from, in whole or in part, any fault, act, or omission of the Owner, any contractor or subcontractor employed by the Owner, anyone directly or indirectly employed by any of the foregoing entities, or anyone for whose acts any of the foregoing entities may be liable, in connection with: (a) any work by or of the Owner within the Properties and/or the performance of the Owner's obligations with respect to any and all improvements designed, installed, constructed, added, altered or remodeled by the Owner pursuant and subject to the Governing Documents, including, without limitation, any such loss, damage, injury or claim arising from or caused by or alleged to have arisen from or have been caused by (i) any use of the Lot, or any part thereof, (ii) any defect in the design, construction of, or material in, any structure or other improvement upon the Lot, (iii) any defect in soils or in the preparation of soils or in the design and accomplishment of grading, including a spill of any contaminants or hazardous materials in or on the soil, (iv) any accident or casualty on the Lot or in the Properties, (v) any representations by Owner or any of its agents or employees, (vi) a violation or alleged violation by the Owner, its employees or agents, of any applicable law, (vii) any slope failure or subsurface geologic or groundwater condition, (viii) any work of design, construction, engineering or other work with respect to the Lot or Properties provided or performed by or for the Owner at any time whatsoever, or (ix) any other cause whatsoever in connection with Owner's use of the Lot or the Properties, or Owner's performance under this Declaration, or any other Governing Document; or (b) the negligence or willful misconduct of Owner or its agents, employees, licensees, invitees or contractors in the development, construction, grading or other work performed off the Properties by Owner pursuant to the Governing Documents, and/or the Master Association Documents, or any defect in any such work. Notwithstanding anything to the contrary contained in any of the documents referenced in the preceding sentence, Owner agrees and acknowledges that Indemnitees shall not be liable to Owner for any Liabilities caused by (i) any act or omission of Indemnitees with respect to the review of the Owner's improvements and/or the drawings or specifications related to the Owner's improvements, or (ii) any inspection or failure to inspect the construction activities of Owner by any of the Indemnitees, or (iii) any direction or suggestion given by any of the Indemnitees with respect to construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Owner's improvements, or the failure to give any such direction or suggestion, or for any Liabilities which are covered by insurance or would be covered by insurance required to be maintained by the Owner, and Owner expressly waives any such Liabilities and releases Indemnitees therefrom. The covenants in this Section 19.12 and the obligations of each Owner, and shall be binding on the Owner until such date as any claim or action for which indemnification or exculpation may be claimed under this Section 19.12 is fully and finally barred (or, if applicable, fully and finally resolved, and any payment required thereby has been made in full).

Section 19.13 Business of Declarant. Except to the extent expressly provided herein or as required by any applicable provision of NRS Chapter 116, no provision of this Declaration shall be applicable to limit or prohibit any act of Declarant, or its agents or representatives in connection with or incidental to Declarant's improvement and/or development of the Properties, so long as any Unit therein owned by Declarant remains unsold.

Section 19.14 Compliance With NRS Chapter 116. It is the intent of Declarant that this Declaration and the Community shall be in all respects consistent with, and not in violation of, applicable provisions of NRS Chapter 116. In the event any provision of this Declaration is found to irreconcilably conflict with or violate any such applicable provision of NRS Chapter 116, such offending Declaration provision shall be automatically deemed modified or severed herefrom to the minimum extent necessary to remove the irreconcilable conflict with or violation of the applicable provision of NRS Chapter 116. Notwithstanding the foregoing or any other provision set forth herein, if any provision of Senate Bill 451 (1999) should, in the future, be removed or made

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less burdensome (from the perspective of Declarant), as a matter of law, then the future change in such provision shall automatically be deemed to have been made and reflected in this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first written above.

DECLARANT:

PERMA-BILT,
a Nevada corporation

By: *Daniel Schwartz*
Daniel Schwartz, President

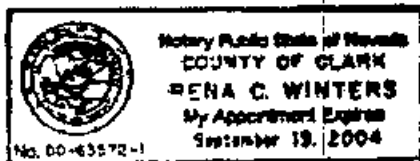
STATE OF NEVADA)
COUNTY OF CLARK) ss.

This instrument was acknowledged before me on this 8th day of August, 2001, by DANIEL SCHWARTZ, as President of PERMA-BILT, a Nevada corporation.

Rena C. Winters
NOTARY PUBLIC
(SEAL)

My Commission Expires:

9-19-2004



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EXHIBIT "A"

ORIGINAL PROPERTY

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF CLARK, STATE OF NEVADA, DESCRIBED AS FOLLOWS:

Lots One Hundred Seven through One Hundred Nine (107 - 109), inclusive, of Block Three (3), of Russell/Fort Apache - Unit 2, as shown by map thereof on file in Book 101 of Plats, Page 3, in the Office of the County Recorder of Clark County, Nevada;

TOGETHER WITH a non-exclusive easement of ingress and egress over and across the entry area and private streets therein, and a non-exclusive easement of use and enjoyment of the other Common Elements thereof (subject to and as set forth in the foregoing Declaration, as the same from time to time may be amended and/or supplemented by instrument recorded in the Office of the County Recorder of Clark County, Nevada).

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EXHIBIT "B"

RUSSELL / FORT APACHE - UNIT 1

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, MD M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF FORT APACHE ROAD AND OQUENDO ROAD; THENCE SOUTH 00°51'28" WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER (SE 1/4), COINCIDENT WITH THE CENTERLINE OF FORT APACHE ROAD, 56.54 FEET; THENCE NORTH 89°08'34" WEST, DEPARTING SAID EAST LINE AND SAID CENTERLINE, 50.00 FEET RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY, 39.78 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°09'52", THENCE NORTH 89°41'34" WEST, 577.37 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET; THENCE SOUTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE SOUTH 89°41'34" WEST, 70.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 15.00 FEET; THENCE NORTHWESTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE SOUTH 89°41'34" WEST, 640.82 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET; THENCE SOUTHWESTERLY, 346.87 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST; THENCE SOUTHWESTERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'03"; THENCE SOUTH 49°39'24" WEST, 35.00 FEET; THENCE NORTH 40°20'36" WEST, 1.91 FEET; THENCE SOUTH 49°39'24" WEST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET; THENCE WESTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 39°02'13" EAST; THENCE SOUTHWESTERLY, 438.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°53'09"; THENCE NORTH 89°09'05" WEST, 183.24 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHWESTERLY, 34.13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 97°45'54"; THENCE SOUTH 83°05'01" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1000.00 FEET; THENCE NORTHWESTERLY, 10.67 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°38'41"; THENCE SOUTH 83°41'42" WEST, 40.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY, 28.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°58'46"; THENCE NORTH 00°50'55" EAST, 35.00 FEET; THENCE NORTH 89°09'05" WEST, 8.02 FEET; THENCE NORTH 00°50'55" EAST, 35.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHEASTERLY, 31.83 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 91°11'22" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 89°39'33" WEST.

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RUSSELL / FORT APACHE - UNIT 1
CONTINUED

THENCE NORTHERLY, 229.94 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°40'04" TO THE BEGINNING OF A REVERSE CURVE CONCAVE WESTERLY HAVING A RADIUS OF 850.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 77°40'23" EAST, THENCE NORTHERLY, 192.32 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°28'42", THENCE NORTH 00°50'55" EAST, 86.61 FEET, THENCE NORTH 89°47'31" EAST, 310.36 FEET, THENCE SOUTH 87°22'43" EAST, 182.33 FEET, THENCE NORTH 89°47'31" EAST, 97.89 FEET, THENCE SOUTH 49°50'36" EAST, 68.20 FEET, THENCE SOUTH 40°09'22" WEST, 25.94 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'58", THENCE SOUTH 40°20'36" EAST, 13.22 FEET, THENCE SOUTH 49°39'24" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, THENCE WESTERLY, 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02", THENCE SOUTH 40°09'22" WEST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHERLY, 29.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 46°50'15" EAST, THENCE SOUTHEASTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09", THENCE SOUTH 40°20'36" EAST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET, THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 31°00'31" EAST, THENCE SOUTHEASTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53", THENCE SOUTH 40°20'36" EAST, 78.62 FEET, THENCE NORTH 49°39'24" EAST, 5.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET, THENCE EASTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 830.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°53'50" WEST, THENCE NORTHEASTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24", THENCE NORTH 89°41'34" EAST, 0.59 FEET, THENCE SOUTH 00°49'12" WEST, 30.01 FEET TO THE CENTERLINE OF SAID OQUENDO ROAD, THENCE NORTH 89°41'34" EAST, ALONG SAID CENTERLINE, 677.73 FEET, THENCE NORTH 00°48'22" EAST, DEPARTING SAID CENTERLINE, 30.01 FEET, THENCE NORTH 89°41'34" EAST, 262.61 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 15.00 FEET, THENCE NORTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE NORTH 89°41'34" EAST, 70.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 15.00 FEET, THENCE SOUTHEASTERLY, 23.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE NORTH 89°41'34" EAST, 315.18 FEET, THENCE SOUTH 00°47'52" WEST, 30.01 FEET, THENCE NORTH 89°41'34" EAST, 338.90 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 1
CONTINUED**

CONTAINING 10.78 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 80 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY, RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

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RUSSELL / FORT APACHE - UNIT 2

BEING A PORTION OF THE NORTH HALF (N 1/2) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 80 EAST, M D M, CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE NORTHWESTERLY CORNER COMMON ELEMENT LOT 18 OF THAT SUBDIVISION KNOWN AS "RUSSELL / FORT APACHE - UNIT 1" ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN BOOK 99, OF PLATS AT PAGE 54, SAME BEING ON THE EASTERLY RIGHT-OF-WAY OF GRAND CANYON PARKWAY; THENCE NORTH 00°50'55" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY, 419.98 FEET; THENCE NORTH 89°47'31" EAST, DEPARTING SAID EASTERLY RIGHT-OF-WAY, 1314.81 FEET; THENCE SOUTH 00°48'37" WEST, 340.03 FEET; THENCE SOUTH 89°44'33" WEST, 338.77 FEET; THENCE SOUTH 00°49'12" WEST, 310.32 FEET TO THE NORTHERLY RIGHT-OF-WAY OF OQUENDO ROAD; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 89°41'34" WEST, 0.59 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 630.00 FEET; THENCE SOUTHWESTERLY, 391.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°35'24" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 35°53'50" EAST; THENCE WESTERLY, 22.40 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 85°33'14" TO THE NORTHEASTERLY RIGHT-OF-WAY OF SWEET JASMINE DRIVE; THENCE FOLLOWING ALONG SAID NORTHEASTERLY RIGHT-OF-WAY AS FOLLOWS SOUTH 49°39'24" WEST, 5.00 FEET; THENCE NORTH 40°20'36" WEST, 76.62 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 100.00 FEET; THENCE NORTHWESTERLY 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 31°00'31" WEST; THENCE NORTHWESTERLY, 32.55 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'53", THENCE NORTH 40°20'36" WEST, 33.12 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 319.50 FEET; THENCE NORTHWESTERLY, 15.72 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°49'09" TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 46°50'15" WEST; THENCE NORTHWESTERLY, 29.06 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°19'07" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF WISPY WINDS STREET; THENCE NORTH 40°09'22" EAST, 67.25 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET; THENCE 34.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°30'02"; THENCE NORTH 49°39'24" EAST, 39.00 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF STRAIT FIELD PLACE; THENCE NORTH 40°20'36" WEST, ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, 13.22 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET; THENCE NORTHERLY, 28.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°29'56" TO THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID WISPY WINDS STREET; THENCE NORTH 40°09'22" EAST, ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY, 25.94 FEET; THENCE NORTH 49°50'38" WEST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY, 68.20 FEET, TO THE NORTHERLY BOUNDARY OF SAID "RUSSELL / FORT APACHE - UNIT 1"; THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89°47'31" WEST, 97.89 FEET; THENCE NORTH 87°22'43" WEST, 182.33 FEET; THENCE SOUTH 89°47'31" WEST, 230.35 FEET TO THE POINT OF BEGINNING

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**RUSSELL / FORT APACHE - UNIT 2
CONTINUED**

CONTAINING 15.10 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVEDA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

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RUSSELL / FORT APACHE - UNIT 3

BEING A PORTION OF THE SOUTH HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST SIXTEENTH SECTION CORNER OF SAID SECTION 31, BEING ON THE CENTERLINE OF OQUENDO ROAD, THENCE NORTH 89°41'34" EAST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SAID NORTHEAST QUARTER (NE 1/4) COINCIDENT WITH THE CENTERLINE OF SAID OQUENDO ROAD 452.09 FEET, THENCE SOUTH 00°18'26" EAST, 30.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OQUENDO ROAD SAME BEING THE POINT OF BEGINNING.

THENCE CONTINUING SOUTH 00°18'26" EAST, 170.00 FEET, THENCE SOUTH 89°41'34" WEST, 18.32 FEET, THENCE SOUTH 00°18'26" EAST, 389.58 FEET, THENCE SOUTH 89°41'34" WEST, 721.80 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 50.00 FEET, THENCE WESTERLY, 23.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°28'15" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 100.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 26°07'48" EAST THENCE WESTERLY, 66.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°58'15" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 11°50'25" EAST, THENCE SOUTHWESTERLY, 14.07 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°52'30", THENCE NORTH 14°42'55" WEST, 39.00 FEET, THENCE NORTH 00°18'26" WEST, 174.21 FEET, THENCE SOUTH 60°12'51" WEST, 228.01 FEET, THENCE SOUTH 89°32'50" WEST, 152.72 FEET, THENCE SOUTH 12°49'01" EAST, 21.38 FEET, THENCE SOUTH 77°10'59" WEST, 112.15 FEET, THENCE SOUTH 70°55'12" WEST, 39.00 FEET, RADIALLY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 319.50 FEET, THENCE NORTHWESTERLY, 17.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°12'53" THENCE SOUTH 81°20'09" WEST, 123.52 FEET, THENCE NORTH 08°39'51" WEST, 212.30 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 630.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 03°19'28" EAST, THENCE NORTHEASTERLY, 337.70 FEET ALONG THE SOUTHEASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD AND SAID CURVE THROUGH A CENTRAL ANGLE OF 30°42'45" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 15.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 39°02'13" WEST, THENCE EASTERLY, 23.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°41'37", THENCE NORTH 49°39'24" EAST, 35.00 FEET TO THE CENTERLINE OF SWEET JASMINE DRIVE, THENCE SOUTH 40°20'36" EAST, ALONG SAID CENTERLINE, 1.91 FEET, THENCE NORTH 49°39'24" EAST, 35.00 FEET, RADIALLY TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 15.00 FEET, THENCE NORTHERLY, 24.92 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'08" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 570.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 35°10'28" WEST, THENCE NORTHEASTERLY, 346.87 FEET CONTINUING ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 34°52'02", THENCE NORTH 89°41'34" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, 790.92 FEET TO THE POINT OF BEGINNING.

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**RUSSELL / FORT APACHE - UNIT 3
CONTINUED**

CONTAINING 15.17 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11.

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RUSSELL / FORT APACHE - UNIT 4

BEING A PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 31, SAME BEING THE CENTERLINE INTERSECTION OF PATRICK LANE AND GRAND CANYON DRIVE, THENCE SOUTH 89°33'42" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 31 COINCIDENT WITH THE CENTERLINE OF SAID PATRICK LANE, 63.56 FEET, THENCE NORTH 00°26'18" WEST, DEPARTING SAID SOUTH LINE AND SAID CENTERLINE, 40.00 FEET TO THE NORTHERLY RIGHT OF WAY OF SAID PATRICK LANE, SAME BEING THE POINT OF BEGINNING, THENCE SOUTH 89°33'42" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY, 954.06 FEET, THENCE NORTH 00°53'34" EAST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, 611.93 FEET, THENCE NORTH 89°33'42" EAST, 76.74 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 10.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 70.00 FEET, THENCE SOUTH 00°26'18" EAST, 5.00 FEET, THENCE NORTH 89°33'42" EAST, 189.00 FEET, THENCE SOUTH 00°26'18" EAST, 105.77 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", THENCE SOUTH 00°26'18" EAST, 39.00 FEET, THENCE SOUTH 89°33'42" WEST, 7.97 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 27.07 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 77°33'47" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 78°00'05" EAST, THENCE SOUTHWESTERLY, 66.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°56'14" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 260.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 66°03'51" WEST, THENCE SOUTHWESTERLY, 44.96 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°11'01", THENCE NORTH 89°33'42" EAST, 479.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1040.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 80°58'43" WEST, THENCE SOUTHWESTERLY, 148.35 FEET ALONG SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°10'22", THENCE SOUTH 00°50'55" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY, 119.02 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 25.00 FEET, THENCE SOUTHWESTERLY, 38.71 FEET ALONG SAID CURVE, DEPARTING WESTERLY RIGHT-OF-WAY OF SAID GRAND CANYON DRIVE THROUGH A CENTRAL ANGLE OF 88°42'47" TO THE NORTHERLY RIGHT-OF-WAY OF SAID PATRICK LANE, BEING THE POINT OF BEGINNING

CONTAINING 10.27 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS.

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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RUSSELL / FORT APACHE - UNIT 5

BEING A SUBDIVISION OF GOVERNMENT LOTS 15 AND 18 AND A PORTION GOVERNMENT LOTS 14 AND LOT 19, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 31, SAME BEING THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 OF SAID SECTION 31, THENCE NORTH 89°31'58" EAST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER (SW 1/4), COINCIDENT WITH THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 17, AND THE CENTERLINE OF PATRICK LANE, A DISTANCE OF 227.80 FEET TO THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE POINT OF BEGINNING:

THENCE NORTH 00°51'50" EAST, DEPARTING SAID CENTERLINE AND ALONG THE EAST BOUNDARY OF SAID GOVERNMENT LOT 17, COINCIDENT WITH THE WEST BOUNDARY OF SAID GOVERNMENT LOT 18, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 18, SAME BEING THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 15, THENCE CONTINUING NORTH 00°51'50" EAST, ALONG THE WEST BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 685.41 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 15, THENCE NORTH 89°42'59" EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 15, A DISTANCE OF 340.09 FEET TO THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 15, SAME BEING THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 14, THENCE CONTINUING NORTH 89°42'59" EAST, ALONG THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 224.92 FEET, THENCE SOUTH 00°28'02" WEST, DEPARTING THE NORTH BOUNDARY OF SAID GOVERNMENT LOT 14, A DISTANCE OF 121.20 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 02°25'26" EAST, THENCE NORTHEASTERLY, 43.73 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°55'55", THENCE SOUTH 11°21'21" EAST, 155.63 FEET, THENCE SOUTH 68°00'54" WEST, 58.02 FEET, THENCE SOUTH 93°19'55" EAST, 187.53 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, THENCE SOUTHWESTERLY, 48.61 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°34'08" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 36°54'01" WEST, THENCE SOUTHERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°58'38", THENCE SOUTH 50°07'21" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, THENCE WESTERLY, 32.46 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°58'38" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 42°51'18" WEST, THENCE SOUTHWESTERLY, 400.97 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°26'05" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 72°17'23" WEST, THENCE SOUTHEASTERLY, 35.17 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 100°45'59", THENCE SOUTH 06°56'38" WEST, 39.00 FEET, RADIAL TO THE BEGINNING OF NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET.

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**RUSSELL / FORT APACHE - UNIT 5
CONTINUED**

THENCE WESTERLY 11.62 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°22'23" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 04°34'15" EAST, THENCE SOUTHWESTERLY, 28.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 82°53'13" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 78°18'58" WEST, THENCE SOUTHERLY, 165.52 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°09'04", THENCE SOUTH 00°28'02" EAST, 58.11 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHEASTERLY, 35.26 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 101°01'27", THENCE SOUTH 11°29'29" EAST, 39.00 FEET, RADIALY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 319.50 FEET, THENCE SOUTHWESTERLY, 0.80 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°08'34", THENCE SOUTH 00°28'02" EAST, 75.74 FEET, RADIALY TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 89°31'58" WEST, THENCE SOUTHEASTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00", THENCE SOUTH 00°28'02" EAST, 60.00 FEET TO THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, SAME BEING THE CENTERLINE OF SAID PATRICK LANE, THENCE SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 19, AND ALONG SAID CENTERLINE, 93.75 FEET TO THE SOUTHEAST CORNER OF GOVERNMENT LOT 18, THENCE CONTINUING SOUTH 89°31'58" WEST, ALONG THE SOUTH BOUNDARY OF SAID GOVERNMENT LOT 18 AND ALONG SAID CENTERLINE A DISTANCE OF 338.36 FEET TO THE POINT OF BEGINNING

CONTAINING 15.25 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°41'34" WEST - BEING THE NORTH LINE OF THE SOUTHEAST (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

203978.9
0.455

RUSSELL / FORT APACHE - UNIT 6

BEING A SUBDIVISION OF PORTIONS OF GOVERNMENT LOTS 14, 19 AND 20, WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M., CLARK COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE WEST SIXTEENTH CENTER SECTION CORNER OF SAID SECTION 31, SAME BEING THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 20 AND THE CENTERLINE INTERSECTION OF CONQUISTADOR STREET AND PATRICK LANE, THENCE SOUTH 89°31'58" WEST, ALONG THE CENTERLINE OF SAID PATRICK LANE, 582.97 FEET, THENCE NORTH 00°28'02" WEST, DEPARTING THE CENTERLINE OF SAID PATRICK LANE, 80.00 FEET, RADIAL TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET, THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 59°31'58" EAST, THENCE NORTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00", THENCE NORTH 00°28'02" WEST, 75.74 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF CLIFTON FORGE STREET, SAME BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 319.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 11°20'55" WEST, THENCE EASTERLY, 0.80 FEET ALONG SAID CURVE AND THE SOUTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET THROUGH A CENTRAL ANGLE OF 00°08'34", THENCE NORTH 11°29'29" WEST, DEPARTING SAID SOUTHERLY RIGHT-OF-WAY, 39.00 FEET, RADIAL TO THE NORTHERLY RIGHT-OF-WAY OF SAID CLIFTON FORGE STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE SOUTHWESTERLY, 35.26 FEET ALONG SAID CURVE, DEPARTING SAID NORTHERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 101°01'27" TO THE EASTERLY RIGHT-OF-WAY OF OQUENDO ROAD, THENCE NORTH 00°28'02" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY, 58.11 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 780.50 FEET, THENCE NORTHERLY, 165.52 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 12°09'04" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 78°18'58" WEST, THENCE NORTHEASTERLY, 28.93 FEET ALONG SAID CURVE AND DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 82°53'13" TO THE SOUTHERLY RIGHT-OF-WAY OF FLOKTON STREET BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 280.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 04°34'15" EAST, THENCE EASTERLY, 11.62 FEET ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF 02°22'23", THENCE NORTH 06°58'38" EAST, DEPARTING THE SOUTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, 39.00 FEET, RADIAL TO THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET, BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 20.00 FEET, THENCE NORTHWESTERLY, 35.17 FEET ALONG SAID CURVE, DEPARTING THE NORTHERLY RIGHT-OF-WAY OF SAID FLOKTON STREET THROUGH A CENTRAL ANGLE OF 100°45'59" TO THE EASTERLY RIGHT-OF-WAY OF SAID OQUENDO ROAD, BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 780.50 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 72°17'23" WEST;

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**RUSSELL / FORT APACHE - UNIT 6
CONTINUED**

THENCE NORTHEASTERLY, 400.97 FEET ALONG SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 29°26'05" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS NORTH 42°51'18" WEST; THENCE NORTHEASTERLY, 32.48 FEET ALONG SAID CURVE, DEPARTING SAID EASTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 92°58'38" TO THE SOUTHWESTERLY RIGHT-OF-WAY OF WONDERFUL DAY AVENUE; THENCE SOUTH 39°52'39" EAST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY, 55.45 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 219.50 FEET; THENCE SOUTHEASTERLY, 33.87 FEET ALONG SAID CURVE AND SAID SOUTHWESTERLY RIGHT-OF-WAY THROUGH A CENTRAL ANGLE OF 08°50'29"; THENCE SOUTH 39°21'25" WEST, DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY, 217.22 FEET, THENCE SOUTH 82°58'49" EAST 69.68 FEET, THENCE NORTH 89°31'58" EAST, 408.27 FEET TO THE EASTERLY BOUNDARY LINE OF SAID GOVERNMENT LOT 20, SAME BEING THE CENTERLINE OF SAID CONQUISTADOR STREET, THENCE SOUTH 00°54'26" WEST ALONG SAID EASTERLY BOUNDARY LINE AND CENTERLINE OF SAID CONQUISTADOR STREET, 613.34 FEET TO THE POINT OF BEGINNING

CONTAINING 9.76 ACRES, MORE OR LESS, AS DETERMINED BY COMPUTER METHODS

BASIS OF BEARINGS

SOUTH 89°31'58" WEST - BEING THE SOUTH LINE OF THE SOUTHWEST (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M D M, CLARK COUNTY, NEVADA, AS SHOWN BY THAT RECORD OF SURVEY ON FILE IN THE OFFICE OF THE COUNTY RECORDER, CLARK COUNTY, NEVADA, IN FILE 101 OF SURVEYS, AT PAGE 11

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EXHIBIT "B"

ANNEXABLE AREA

[ALL, OR ANY PORTIONS OF WHICH, FROM TIME TO TIME MAY, BUT NEED NOT NECESSARILY, BE ANNEXED BY DECLARANT TO THE PROPERTIES]

CERTAIN REAL PROPERTY PRESENTLY OWNED OR TO BE ACQUIRED FROM TIME TO TIME BY DECLARANT AND GENERALLY BOUNDED BY RUSSELL ROAD (TO THE NORTH), FORT APACHE (TO THE EAST), PATRICK LANE (TO THE SOUTH), AND HUALAPAI (TO THE WEST), CLARK COUNTY, NEVADA, SAID PROPERTY TO BE FURTHER DESCRIBED FROM TIME TO TIME BY INSTRUMENT(S) RECORDED BY DECLARANT IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, INCLUDING, BUT NOT LIMITED TO:

- 1 All of the real property in **RUSSELL/FORT APACHE - UNIT 1**, as shown by map final map thereof, on file in **Book 99** of Plats, **Page 54**, in the Office of the County Recorder of Clark County, Nevada;
- 2 All of the real property in **RUSSELL/FORT APACHE - UNIT 2**, as shown by map final map thereof, on file in **Book 101** of Plats, **Page 3**, in the Office of the County Recorder of Clark County, Nevada, EXCEPTING THEREFROM the Original Property described on the foregoing Exhibit "A"

[ADDITIONAL SUBDIVISION MAP DESCRIPTIONS TO BE SUPPLIED FOLLOWING RECORDATION FROM TIME TO TIME OF RELEVANT FINAL MAPS]

[NOTE: DECLARANT HAS SPECIFICALLY RESERVED THE RIGHT FROM TIME TO TIME TO UNILATERALLY ADD TO AND/OR MODIFY OF RECORD ALL OR ANY PARTS OF THE FOREGOING DESCRIPTIONS]

When Recorded, Return To:

WILBUR M. ROADHOUSE, ESQ.
Goold Patterson DeVore Ales & Roadhouse
4496 South Pecos Road
Las Vegas, Nevada 89121
(702) 436-2600

(ATTN: 3383 28 1 CCRS 01 wpd)

-80-

CLARK COUNTY, NEVADA
JUDITH A. VANDEVER, RECORDER
RECORDED AT REQUEST OF:
GOOLD PATTERSON ET AL
08-09-2001 15:53 JVB 84
OFFICIAL RECORDS
BOOK: 2010604 INST. 01455
FEE: 50.00 RPT. .00

AA0991

Exhibit E

Exhibit E

Assessor Parcel Number: 163-31-611-022
File Number: R98668

Accommodation

Inst #: 201112080002960

Fees: \$17.00

N/C Fee: \$0.00

12/08/2011 09:26:38 AM

Receipt #: 1002082

Requestor:

NORTH AMERICAN TITLE COMPAN

Recorded By: KGP Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

LIEN FOR DELINQUENT ASSESSMENTS

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

NOTICE IS HEREBY GIVEN: Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Southern Terrace Homeowners Association, herein also called the Association, in accordance with Nevada Revised Statutes 116 and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 08/09/2001, in Book Number 20010809, as Instrument Number 01455 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada, which have been supplied to and agreed upon by said owner.

Said Association imposes a Lien for Delinquent Assessments on the commonly known property:

5946 Lingering Breeze St. Las Vegas, NV 89148

RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, in the County of Clark

Current Owner(s) of Record:

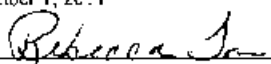
JOSEPH F. HARRISON, BONNIE L. HARRISON

The amount owing as of the date of preparation of this lien is **\$737.04.

This amount includes assessments, late fees, interest, fines/violations and collection fees and costs.

** The said amount may increase or decrease as assessments, late fees, interest, fines/violations, collection fees, costs or partial payments are applied to the account.

Dated: December 1, 2011


Prepared By Rebecca Tom, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

STATE OF NEVADA)

COUNTY OF CLARK)

On December 1, 2011, before me, personally appeared Rebecca Tom, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

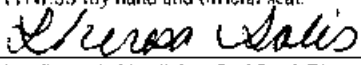

When Recorded Mail To: Red Rock Financial Services
7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



Exhibit F

Exhibit F

Assessor Parcel Number: 163-31-611-022
 File Number: R98668
 Property Address: 5946 Lingering Breeze St
 Las Vegas, NV 89148
 Title Order Number: 36904

Inst #: 201202020000465
 Fees: \$17.00
 N/C Fee: \$0.00
 02/02/2012 10:26:14 AM
 Receipt #: 1054640
 Requestor:
 AMERICAN LOT BOOK
 Recorded By: LEX Fga: 1
 DEBBIE CONWAY
 CLARK COUNTY RECORDER

**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE
 LIEN FOR DELINQUENT ASSESSMENTS**

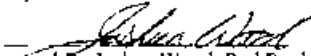
◆ IMPORTANT NOTICE ◆

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN
 THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE
 AMOUNT IS IN DISPUTE!**

NOTICE IS HEREBY GIVEN: Red Rock Financial Services officially assigned as agent by the Southern Terrace Homeowners Association, under the Lien for Delinquent Assessments, recorded on 12/08/2011, in Book Number 20111308, as Instrument Number 0002960, reflecting JOSEPH F. HARRISON, BONNIE L. HARRISON as the owner(s) of record on said lien, land legally described as RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 08/09/2001, in Book Number 20010809, as Instrument Number 01455, has been breached. As of 09/01/2011 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes 116, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of January 27, 2012, the amount owed is \$ 1,870.61. This amount will continue to increase until paid in full.

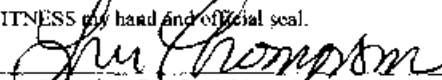

 Prepared By Joshua Wood, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

Dated: January 27, 2012

STATE OF NEVADA)
 COUNTY OF CLARK)

On January 27, 2012, before me, personally appeared Joshua Wood, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


 When Recorded Red Rock Financial Services
 Mail To: 7251 Amigo Street, Suite 100
 Las Vegas, Nevada 89119
 702-932-6887

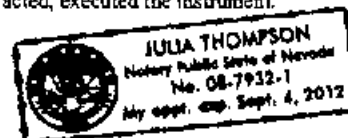


Exhibit G

Exhibit G

APN: 163-31-611-022

ULS#: NV-SO3-04

When recorded mail to:
United Legal Services Inc.
A Nevada Law Firm
9484 South Eastern Ave. #163
Las Vegas, NV 89123
Phone: (702) 617-3263

Inst #: 201305020000105

Fees: \$17.00

N/C Fee: \$0.00

06/02/2013 08:31:16 AM

Receipt #: 1691518

Requestor:

UNITED LEGAL SERVICES INC.

Recorded By: ECM Pgs: 1

DEBBIE CONWAY

CLARK COUNTY RECORDER

NOTICE OF FORECLOSURE SALE
UNDER THE LIEN FOR DELINQUENT ASSESSMENTS

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-9907.

YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on December 8, 2011 as instrument 201112080002960 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Southern Terrace Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on February 2, 2012 as instrument 201202020000465 in the Official Records. The property owner(s) of record is/are: Joseph F and Bonnie L Harrison. The total amount necessary to satisfy the lien as of the proposed sale date is \$4,197.60.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

NOTICE IS HEREBY GIVEN THAT on May 25, 2013 at 9:00 AM at 8965 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 116, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 5946 Lingering Breeze St, Las Vegas, Nevada 89148. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 1, 2013

By:


Mia Fregeau

An employee of United Legal Services Inc.

As authorized agent for, and on behalf of, Southern Terrace Homeowners Association

Exhibit H

Exhibit H

Inst #: 201305290002514

Fees: \$15.00 N/C Fee: \$0.00

RPTT: \$691.05 Ex: #

05/29/2013 12:22:37 PM

Receipt #: 1833728

Requestor:

UNITED LEGAL SERVICES INC.

Recorded By: DXI Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 163-31-611-022

Return document and mail tax statements to:

First 100, LLC
10620 Southern Highlands Pkwy, Ste. 110-485
Las Vegas NV 89141

FORECLOSURE DEED UPON SALE

Foreclosing lienholder **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**, under power of sale pursuant to NRS Chapter 116, does hereby sell, without warranty, expressed or implied, to:


FIRST 100, LLC

the real property situated in Clark County, Nevada legally described as:

SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on December 8, 2011 as instrument 201112080002960 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on February 2, 2012 as instrument 2012020000465 in the Official Records of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on May 25, 2013.

By: 
Robert Opdyke, Esq.
United Legal Services Inc.
As authorized agent for, and on behalf of, foreclosing Association

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me
on May 28, 2013, by: Robert Opdyke.


NOTARY PUBLIC

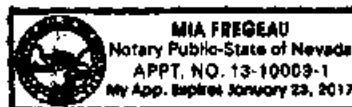


EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
Other _____

FOR RECORDERS OPTIONAL USE ONLY
Book _____ Page: _____
Date of Recording: _____
Notes: _____

3.a. Total Value/Sales Price of Property \$ 135,500.00
b. Deed in Lieu of Foreclosure Only (value of property (_____))
c. Transfer Tax Value: \$ 135,500.00
d. Real Property Transfer Tax Due \$ 691.05

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: _____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature [Signature] Capacity: Seller's Agent

Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: United Legal Services Inc.*
Address: 9484 S. Eastern Ave. #163
City: Las Vegas
State: NV Zip: 89123

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: First 100, LLC
Address: 10620 Southern Highland 110-485
City: Las Vegas
State: NV Zip: 89141

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: United Legal Services Inc. Escrow # _____
Address: 9484 S. Eastern Ave. #163
City: Las Vegas State: NV Zip: 89123

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED
**As agent for Southern Terrace Homeowners Association*

Exhibit I

Exhibit I

02

RECORDING COVER PAGE

Must be typed or printed clearly in black ink only.

Inet #: 201208240003610

Fee: \$15.00

N/C Fee: \$25.00

08/24/2012 12:31:10 PM

Receipt #: 1283514

Requestor:

DOCUMENT PROCESSING SOLUTIONS

Recorded By: SCA Page: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN# 163-31-611-022

11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrealprop/owner.aspx>

TITLE OF DOCUMENT (DO NOT Abbreviate)

Substitution of Trustee

TS: 12-05-42957

Order #: 6734622

Title of the Document on cover page must be EXACTLY as it appears on the first page of the document to be recorded.

Recording requested by:

Cooper Castle Law Firm

Return to:

Name Cooper Castle Law Firm

Address 5275 S Durango Drive

City/State/Zip Las Vegas, NV 89113

This page provides additional information required by NRS 111.312 Sections 1-2.

An additional recording fee of \$1.00 will apply.

To print this document properly—do not use page scaling.

P:\Recorder\Frms 12_2010

When Recorded Mail To:
The Cooper Castle Law Firm
5275 S. Durango Drive
Las Vegas, Nevada 89113
Attn: Foreclosure Department

T.S. No.: 12-05-42957-NV
APN: 163-31-611-022
TITLE REPORT No.: N/A

SUBSTITUTION OF TRUSTEE

WHEREAS, Joseph F Harrison and Bonnie L Harrison, the original Trustor, Nevada Title Company was the original Trustee, and Mortgage Electronic Registration Systems, Inc. (MERS) as nominee for Direct Equity Mortgage, LLC, A Nevada Corporation, its successor and assigns was the original Beneficiary under that certain Deed of Trust dated March 26, 2009 and recorded on March 31, 2009, as Book: 20090331 Instrument: 0004948 of Official Records of Clark County, Nevada; and

WHEREAS, the undersigned is the present Beneficiary under said Deed of Trust, and

WHEREAS, the undersigned desires to substitute a new Trustee effective as of 7/27/12 under said Deed of Trust in place and instead of said original Trustee, or Successor Trustee, thereunder, in the manner in said Deed of Trust provided,

NOW, THEREFORE, the undersigned hereby substitutes Cooper Castle Law Firm, LLP, A Multi-Jurisdictional Law Firm, as Trustee under said Deed of Trust.

The Beneficiary hereby ratifies and confirms all action taken on the Beneficiary's behalf by the instant and/or Successor Trustee prior to the recording of the substitution of trustee.

Date: 7/27/12

GMAC Mortgage, LLC

Katrina Jordan Authorized Officer

Acknowledgement:
State of Pennsylvania
County of Montgomery

On 7/27/12 before me, Ranee J. Shipley, personally appeared Katrina Jordan, who provided to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of Pennsylvania that the foregoing paragraph is true and correct. x that

WITNESS my hand and official seal.

Signature: Ranee J. Shipley
12-05-42957-NV

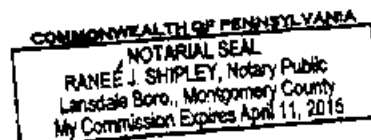


Exhibit J

Exhibit J

APN No.(s): 163-31-611-022

Recording requested by:

When recorded mail to:
Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, NV 89113

T.S. No.: 12-05-42957-NV

Order No.: 6734622

Property Address: 5946 Lingerin Breeze Street, Las Vegas, NV 89148

It is hereby affirmed that this document submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030).

NOTICE OF BREACH AND DEFAULT AND OF ELECTION TO CAUSE SALE OF REAL PROPERTY UNDER DEED OF TRUST

NOTICE IS HEREBY GIVEN: That THE COOPER CASTLE LAW FIRM, LLP, A MULTIJURISDICTIONAL LAW FIRM is either the original trustee or the duly appointed substituted Trustee under a Deed of Trust dated March 26, 2009, executed by Joseph E. Harrison and Bonnie L. Harrison, as Trustor, to secure certain obligations in favor of Mortgage Electronic Registration Systems, Inc. (MERS), as beneficiary, recorded on March 31, 2009 as 20090331-0004948 of Official Records in the office of the Recorder of Clark County, Nevada securing, among other obligations including NOTE(S) FOR THE ORIGINAL sum of \$234,739.00, that the beneficial interest under such Deed of Trust and the obligations secured hereby are presently held by the beneficiary; that a breach of, and default in, the obligations for which such Deed of Trust is security has occurred or that payment has not been made of;

The installment of principal and interest which became due on August 1, 2011 and all subsequent installments of principal and interest through the date of this Notice, plus amounts that are due for late charges, delinquent property taxes, insurance premiums, advances made on senior liens, taxes and/or insurance, trustee's fees, and any attorney fees and court costs arising from or associated with the beneficiaries efforts to protect and preserve its security, all of which must be paid as a condition of reinstatement, including all sums that shall accrue through reinstatement or pay-off (and will increase until your account becomes current). Please see the attached Affidavit of Authority to Exercise the Power of Sale for further details about the deficiency in performance or payment. Nothing in this notice shall be construed as a waiver of any fees owing to the Beneficiary under the Deed of Trust pursuant to the terms of the loan documents.

Pursuant to the attached Affidavit, the present Beneficiary under such Deed of Trust has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

Inst #: 201303060002239

Fees: \$225.00

N/C Fee: \$25.00

03/06/2013 12:37:21 PM

Receipt #: 1523031

Requestor:

FIRST AMERICAN NATIONAL DEF

Recorded By: ANI Pgs: 12

DEBBIE CONWAY

CLARK COUNTY RECORDER

NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, the time to reinstate may be extended to 5 days before the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

For information relating to the foreclosure status of the property and/or to determine if a reinstatement is possible and the amount, if any, to cure the default, please contact:

GMAC Mortgage, LLC
C/O The Cooper Castle Law Firm, LLP
A MultiJurisdictional Law Firm
5275 S. Durango Drive
Las Vegas, Nevada 89113
(702) 435-4175 Telephone
(702) 877-7424 Facsimile

To reach a Loss Mitigation Representative who is authorized to negotiate a Loan Modification, please contact: 800-850-4622

Attached hereto and incorporated herein by reference is the Affidavit of Authority to Exercise the Power of Sale pursuant to NRS 107.080.

You may wish to consult a credit-counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with the name and address of the local HUD approved counseling agency by calling their toll-free hotline at (800) 569-4287 or you can go to The Department of Housing and Urban Development (HUD) web site at <http://portal.hud.gov/portal/page/portal/HUD/localoffices>.

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If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale provided the sale is concluded prior to the conclusion of the foreclosure.

Dated: March 4, 2013

THE COOPER CASTLE LAW FIRM, LLP, as Trustee
A Multi-Jurisdictional Law Firm

By: Matthew Dayton
Attorney at Law
Matthew Dayton

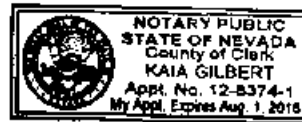
State of NEVADA } ss.
County of CLARK }

On March 4, 2013, personally appeared before me, Kaia Gilbert a notary public,
Matthew Dayton who proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Nevada that the foregoing paragraph
is true and correct.

WITNESS my hand and official seal.

Signature Kaia Gilbert (Seal)



**THIS OFFICE IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION
OBTAINED WILL BE USED FOR THAT PURPOSE.**

As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be
submitted to a credit report agency if you fail to fulfill the terms of your credit obligations.

T.S. No.: 12-05-42957-NV
Notice of Default

**STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
ELECTION/WAIVER OF MEDIATION FORM**

Print Form

(This Section to be Completed by Trustee)

ASSESSOR PARCEL NUMBER (APN) _____		TS # <u>12-05-42957</u>	
Homeowner's Last Name _____		Homeowner's First Name _____	
Co-Owner's Last Name _____		Co-Owner's First Name _____	
Property Address _____		County in which Property is located _____	
Trustee _____		Beneficiary _____	
Loan # _____		DoT Doc # _____	
Book # _____		Page # _____	
Inst # _____			

ATTENTION: YOU MUST ACT WITHIN THIRTY (30) DAYS. IF NO ACTION IS TAKEN, THE FORECLOSURE MAY PROCEED.

You have been served with a Notice of Default and Election to Sell (copy enclosed), which could result in the loss of your home. The State of Nevada Foreclosure Mediation Program provides an opportunity for homeowners, whose owner-occupied, primary residence is subject to foreclosure to meet with a lender and a neutral Mediator to discuss alternatives to foreclosure. The Mediator will be appointed by the State of Nevada Foreclosure Mediation Program Administrator. The Mediator cannot provide legal advice to either party; free and low cost legal advice and housing counseling is available through HUD-approved counseling agencies and legal aid organizations. Please see attached Resource Sheet. If you feel the need for legal representation, it is recommended you consult an attorney.

Property Owner's Name: _____	Co-owner's Name: _____
Mailing Address: _____	Mailing Address: _____
Phone No: _____ (Day)	Phone No: _____ (Day)
Phone No: _____ (Evening)	Phone No: _____ (Evening)
Email Address: _____	Email Address: _____

(Please list additional property owners on a separate sheet of paper)

PLEASE SELECT ONE OF THE CHOICES BELOW:

☐ **ELECTION OF MEDIATION** - The undersigned hereby request[s] foreclosure mediation be scheduled to attempt to work out a resolution of the loan. (\$200.00 Money Order or Cashier's Check must be enclosed; Personal Checks not accepted).
You must include ALL the following with your election form:

☐ \$200 Money Order/Cashier's Check ☐ Notice of Default

Are you in Bankruptcy? Yes ☐ No ☐ If yes, date filed? _____

☐ Individuals are encouraged to learn about nonprofit community organizations providing free foreclosure counseling and legal assistance (not affiliated with the State of Nevada Foreclosure Mediation Program). Check this box if you do not wish to be contacted by a nonprofit community organization.

☐ **WAIVER OF MEDIATION** - The undersigned is/are aware of the right to seek mediation but have determined that I/we do not want to proceed with mediation and hereby waive the right to do so.

The undersigned hereby certifies under the penalty of perjury that I/we are the owner[s] of the real property that is the subject of the pending foreclosure and occupy the real property as my/our primary residence.

Signature of Property Owner _____	Date _____	Signature of Property Owner _____	Date _____
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If you have chosen to seek mediation, you must send a money order or cashier's check for \$200 payable to: "State of Nevada Foreclosure Mediation Program." This payment and the forms must be returned to the Program Administrator within 30 days of receiving the Notice of Default and Election to Sell. For your use in this packet are two unstamped, pre-addressed envelopes. Send to: 201 S. Carson Street, Ste 250 Carson City NV 89701.

Please complete two copies of this form as stated above, forward the originals to the Program Administrator with the \$200 payment. Send one copy to the Trustee of the deed of trust and retain your copy for mediation.

**STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
INSTRUCTIONS FOR THE
ELECTION/WAIVER OF MEDIATION FORM**

To the Trustee:

You must fill out the top box on the Approved Form including the Property Address, the Assessor's Parcel Number (APN), the Loan Number and TS Number, Dot Number, Book/Page and Instrument Number. Please provide the homeowner with the Election/Waiver of Mediation and the Required Documents for Foreclosure Mediation documents, as well as two preaddressed envelopes addressed to you (Trustee) and the Foreclosure Mediation Program (FMP) 201 S. Carson St, Ste 250 Carson City, NV 89701.

To the Homeowner:

You are eligible to participate in this program if you:

1. **Have a recorded Notice of Default.**
2. If you do not have an open bankruptcy filed on or after July 1, 2009.
3. If you have been discharged from Bankruptcy or the court has ordered you into the FMP.
4. If this property is your **primary, owner-occupied residential property**, and not a vacation, rental or other property where the homeowner does not live.

ELECTION/WAIVER OF MEDIATION - You must complete the Election/Waiver of Mediation Form and provide a copy of the Notice of Default to the Foreclosure Mediation Program.

- Print your name and mailing address in the spaces provided. Include your telephone numbers and your email addresses. If you have a co-owner, their name, address, phone numbers and email addresses must be included. This information will only be used for the mediation purposes.

In the designated location on the ELECTION/WAIVER OF MEDIATION form, you must select (with a check mark or "X") one of two choices. Select **ONLY** one:

1. "ELECTION OF MEDIATION" if you choose to enter into the Mediation Program; OR
2. "WAIVER OF MEDIATION" if you do not want to participate in the foreclosure Mediation Program.

If you choose to enter (Election of Mediation) into the Foreclosure Mediation Program:

- You must then sign and date each form. **NOTE** that by signing the form you are certifying under penalty of perjury that you own and occupy the subject property as your primary residence.
- Using the preaddressed envelopes, one completed copy of the forms must be mailed to the Trustee of the deed of trust by certified mail, return receipt requested.
- The original of the completed form must be mailed by certified mail in the preaddressed envelope (addressed to the Foreclosure Mediation Program Administrator). If you elect mediation, you must include **\$200.00 (cashiers check or money order ONLY)** along with all required forms payable to:

State of Nevada Foreclosure Mediation Program
201 S Carson St, Ste 250
Carson City NV 89701

- The envelope addressed to the ADMINISTRATOR must be mailed no later than 30 days after receiving the forms and the Notice of Default from the Trustee. You will need to pay the postage for the mailings.

If you choose to forego or waive mediation, there is no need to send the \$200.00. Please send the Election/Waiver of Mediation form to the Trustee and the Administration in the pre addressed envelopes. If you do not mail the form to the Trustee and the Program Administrator, you will not be allowed to participate in the mediation program and a foreclosure sale may be noticed according to law. **This is your only opportunity to elect to participate in the foreclosure mediation process.**

STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM Foreclosure Mediation Resources

The following Agencies and Non-Profit Organizations to provide free resources and help. The following programs, resources, and tips will answer many questions and help you become better prepared:

Free Foreclosure Mediation Classes

Homeowners will learn about their options and various programs.

- *How the Foreclosure Process Works.*
- *How to Prepare for Mediation.*
- *Loan Modifications and Short Sales, including tax consequences and deficiencies.*
- *Free Legal Information Manual, including forms, samples and legal information.*

Las Vegas:

- Legal Aid Center of Southern Nevada. Call (702) 386-1070 for monthly class schedule. Visit www.lacsn.org for more information.
- Nevada Legal Services. Call (702) 386-0404, ext. 511 for class schedule. For more information visit www.nevadalegalservices.org.

Reno:

- Reno Senior Center, 1155 E. 9th Street. Call (775) 328-2592 for weekly class schedule. For more information visit www.washoecounty.us/seniorsrv/legal.htm.
- Nevada Legal Services, 650 Tahoe Street. Call (775) 284-3491 for monthly class schedule. For more information visit www.nevadalegalservices.org.

Rural Nevada:

- Monthly classes are held throughout the rural counties of Nevada. Call (877) 693-2163 for a schedule of times and locations.

HUD-Approved Housing Counseling Agencies

Free loan modification and foreclosure mediation counseling

- Community Services of Nevada - Las Vegas, (702) 307-1710, www.csnv.org
- Financial Guidance Center - Las Vegas, (702) 364-0344, www.cccsnv.org
- Financial Guidance Center - Henderson, (702) 364-0344, www.cccsnv.org
- Financial Guidance Center - Reno, (800) 451-4505, www.cccsnv.org
- Housing for Nevada - Las Vegas, (702) 270-0300, www.housingfornevada.org
- NACA - Las Vegas, (702) 362-6199, www.naca.com
- Nevada Legal Services - Statewide, (877) 693-2163, www.nevadalegalservices.org
- NHH-HCA - Las Vegas, (702) 228-1975, www.nhdonline.org
- Nevadaebt - Henderson, (888) 697-7980, www.novalebt.org
- Springboard - Henderson, (800) 947-3752, www.credit.org
- Women's Development Center - Las Vegas, (702) 796-7770, www.wdcnv.org

Free Legal Representation

- *Foreclosure Legal Information*
- *Low-Income Legal Representation.*
- *Advice and Counsel from Volunteer Attorneys*

Statewide:

- Home Again: Nevada Homeowner Relief Program. Call (855) 457-4638.

Las Vegas:

- Legal Aid Center of Southern Nevada. Call (702) 868-1147, or visit www.lacsn.org.
- Civil Law Self-Help Center, First Floor, Regional Justice Center, 200 Lewis Ave.
- Nevada Legal Services. Call (702) 386-0404, ext. 511, or visit www.nevadalegalservices.org.

Reno:

- Washoe County Senior Law Project. Call (775) 328-2592, or visit www.washoecounty.us/seniorsrv/legal.htm.
- Nevada Legal Services. Call (775) 284-3491, or visit www.nevadalegalservices.org.

Carson City:

- Nevada Legal Services. Call (775) 883-0404, or visit www.nevadalegalservices.org.

Elko:

- Nevada Legal Services. Call (775) 753-5880, or visit www.nevadalegalservices.org.

Other Legal Resources

- State Bar of Nevada Lawyer Referral Service. Call (702) 382-0504 or (800) 789-5747, or visit www.nvbar.org.

Useful Websites

- foreclosure.nevadajudiciary.us
- foreclosurehelp.nv.gov
- homeagainnevada.gov
- hud.gov
- makinghomeaffordable.gov
- naha.org
- slupayforeclosures.org

**STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM**

Possible Documents Required for Foreclosure Mediation

If you choose to participate in the State of Nevada Foreclosure Mediation Program (FMP) to seek an alternative to foreclosure, the following documents may be required to qualify you for loan modification, short sale, or other foreclosure alternatives. The Beneficiary of the Deed of Trust will provide you a complete list of documents needed for mediation after your request to participate in mediation has been assigned to a FMP mediator.

The following documents can be found at the State of Nevada Foreclosure Mediation Program website at <http://foreclosure.nevadajudiciary.us/index.php/documents-and-forms/>

- Request for Modification Affidavit (RMA)
- Uniform Borrower Assistance Form (Form 710)
- Borrower Financial Statement
- Tax Form 4506-T or 4506T-EZ
- DODD-FRANK Certification Form
- Third Party Authorization Form (if applicable)

In addition, you may be required to provide:

- **Proof of Income** (all borrower(s) on loan):
 - A minimum of 4 most recent pay stubs detailing year-to-date earnings, hourly and salary wages.
 - Award letters for any income benefits, pension, retirement, unemployment and two corresponding bank statement deposits.
 - If self-employed, provide a borrower signed Profit and Loss statement (P&L) for the last quarter.
 - Documentation and Letter of Explanation (LOE) for any other income.
- **Household Expenses** (all borrower(s) on loan).
- **Signed Tax Returns** including all schedules for the past two (2) years.
- **Bank Statements - Checking and Savings - 3 Recent Months** (all borrower(s) on loan).
- **A current Utility Bill** showing the homeowner name and property address (gas, electric, water, sewer).
- **A signed Hardship Letter** explaining the reason for your hardship and your intention regarding the property.
- **Military Orders.**
- **An HOA bill, letter or coupon** with HOA contact information and property address showing current on all HOA assessments.
- **Divorce Decree and/or Separation Documentation** (all borrower(s) on loan).
- **Child Support/Alimony** (Copy of relevant orders with proof of 4 months payments).
- **Rental/Lease Agreement Information** (if applicable to household income).
- **Bankruptcy Filing** (if currently open/in process).

Do Not Forward Copies of these documents to the Trustee or the State of Nevada Foreclosure Mediation Program at this time.

You will receive instructions from your mediator on when and where to send your documents.



State of Nevada Foreclosure Mediation Program

200 Lewis Avenue, 17th Floor
Las Vegas, NV 89101
(702) 486-9380

201 South Carson Street, Suite 250
Carson City, NV 89701
(775) 687-9816

(888) 421-3004 - Rural Nevada

foreclosure.nevadajudiciary.us

Important Information! Please Read.

You may have a right to mediation.

Foreclosure mediation is available to Nevada homeowners of owner-occupied residential property after a Notice of Default has been filed with a County Recorder (NRS 107.086).

You must act quickly.

An eligible homeowner of an owner-occupied residential property has thirty (30) days to request mediation after receipt of a Notice of Default. To participate, homeowners complete an Election/Waiver Form, sent by the homeowner's lender, and submit a non-refundable mediation fee of \$200 to the State of Nevada Foreclosure Mediation Program.

The State of Nevada provides an opportunity to meet with your lender.

Foreclosure mediation provides eligible homeowners with the option to meet face-to-face with their lender and discuss alternatives to foreclosure. Lender representatives must have the authority to negotiate and modify the terms of a loan. Mediations often result in loan modification, a short sale agreement, or other resolution.

Questions?

Contact us by telephone or visit our website, foreclosure.nevadajudiciary.us.

Homeowner Education and Legal Aid Programs

The following programs provide free legal assistance and foreclosure education to Nevada homeowners:

- **Home Again Nevada**
(855) 457-4638
- **Financial Guidance Center**
(800) 451-4505
- **Nevada Legal Services**
(877) 693-2163
- **Legal Aid Center of Southern Nevada**
(702) 868-1147
- **Civil Law Self-Help Center**
Regional Justice Center - Las Vegas
200 Lewis Avenue, First Floor
Walk-in hours: 8:00 am-4:00 pm (M-F)

***Mediation
provides eligible
homeowners with the
option to meet face-to-
face with their lender to
discuss alternatives to
foreclosure.***

Notice FMP-02 (1-2013) © Copyright 2013 State of Nevada Foreclosure Mediation Program

NRS 107.080 Compliance Affidavit**AFFIDAVIT OF AUTHORITY TO EXERCISE THE POWER OF SALE****Property Owners:**Joseph F. HarrisonBonnie L. Harrison**Trustee Address:**The Cooper Castle Law Firm, LLP5275 S. Durango Dr.Las Vegas, NV 89113**Property Address:**5946 Lingerin Breeze StreetLas Vegas, Nevada 89148**Deed of Trust Document Instrument
Number**20090331-0004948**Lepketia Dukes**

, being of lawful age and being first duly sworn on oath, under penalty of perjury, states and deposes as follows:

1. I am the Authorized Officer of GMAC Mortgage, LLC ("GMACM"), servicer for Gmac Mortgage Lls, the current beneficiary under the Deed of Trust.
2. I make this affidavit based upon my personal knowledge, review of certain documents which are of public record in the State of Nevada and/or my review of GMACM's business records (collectively, "Records").
3. The full name and business address of the trustee or the trustee's representatives or assignee is:

The Cooper Castle Law Firm, LLP, 5275 S. Durango Dr., Las Vegas, NV 89113

Full Name

Street, City, County, State, Zip

4. The full name and business address of the current or constructive holder of the note secured by the Deed of Trust is:

GMAC Mortgage, LLC1100 Virginia DriveFort Washington, PA 19034

5. The full name and business address of the current beneficiary of record of the Deed of Trust is:

GMAC Mortgage, LLC1100 Virginia DriveFort Washington, PA 19034

6. The full name and business address of the servicers of the obligation or debt secured by the Deed of Trust is:

GMAC Mortgage, LLC
1100 Virginia Drive
Fort Washington, PA 19034

7. The full name and last known business address of the current and every prior known beneficiary of the Deed of Trust, is:

GMAC Mortgage, LLC
1100 Virginia Drive
Fort Washington, PA 19034

Mortgage Electronic Registration Systems, Inc.
As nominee for GMAC Mortgage, LLC
PO Box 2026
Flint, MI 48501-2026

Mortgage Electronic Registration Systems, Inc.
As nominee for Federal Home Loan Mortgage Corporation
PO Box 2026
Flint, MI 48501-2026

Federal Home Loan Mortgage Corporation
5000 Plano Pkwy
Carrollton TX 75010

Mortgage Electronic Registration Systems, Inc.
As nominee for Ally Bank, a Utah Corporation (Formerly GMAC Bank)
PO Box 2026
Flint, MI 48501-2026

Ally Bank, a Utah Corporation (Formerly GMAC Bank)
6985 Union Park Center Ste 435
Midvale, UT 84047

Mortgage Electronic Registration Systems, Inc.
As nominee for Direct Equity Mortgage, LLC
PO Box 2026
Flint, MI 48501-2026

Direct Equity Mortgage, LLC
3285 North Fort Apache Road
Las Vegas, Nevada 89129

8. The beneficiary, successor in interest of the beneficiary, or trustee of the Deed of Trust, has actual or constructive possession of the note secured by the Deed of Trust.

9. The trustee has been authorized to exercise the power of sale under Chapter 107 of NRS with respect to the property encumbered by the Deed of Trust, pursuant to the instruction of the beneficiary of record (or the authorized representative of the same) and the current holder of the note secured by the Deed of Trust (or the authorized representative of the same).
10. According to the Records, as of 02/04/13, the following is the information regarding the amount in default, the principal amount secured by the Deed of Trust, a good faith estimate of fees imposed and to be imposed because of the default and the costs and fees charged to the debtor in connection with the exercise of the power of sale:
- a. Missed payments and interest in default is: \$ 31,652.78
 - b. Fees and costs already charged in connection with the exercise of power of sale: \$ 220.25
 - c. Unpaid principal amount of the debt secured by the Deed of Trust: \$227,324.19
 - d. A good faith estimate of all fees imposed and to be imposed because of the default, excluding the foreclosure fees and costs set forth below:
To be determined
 - e. A good faith estimate of the total costs and fees to be charged to the debtor in connection with the exercise of the power of sale: \$2,525
 - f. Suspense Balance 0.00

///

///

///

11. The following is information regarding the instrument(s) that conveyed the interest of each beneficiary:

<u>March 26, 2009</u>	<u>n/a</u>	<u>Promissory Note</u>
Date	Document Instrument Number	Name of Document Conveying Interest of Beneficiary
<u>March 26, 2009</u>	<u>20090331-0004948</u>	<u>Deed of Trust</u>
Date	Document Instrument Number	Name of Document Conveying Interest of Beneficiary
<u>July 19, 2012</u>	<u>20120723-0000030</u>	<u>Assignment</u>
Date	Document Instrument Number	Name of Document Conveying Interest of Beneficiary

12. Following is the true and correct signature of the affiant:

 2/6/13
 Affiant Name: Lepeketa Dukes
 Print name: Lepeketa Dukes
 Title: Authorized Officer
 GMAC Mortgage LLC

Sworn to and subscribed before me.

this 13 day of February, 2013

Patricia Nolan Hoffman
 Notary Public, State of Pennsylvania

County of Montgomery

Commissioned Name of Notary Public Patricia Nolan Hoffman

My commission Expires 11-15-15

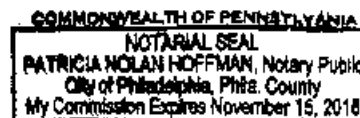


Exhibit K

Exhibit K

WHEN RECORDED MAIL TO:
The Cooper Castle Law Firm
5275 S. Durango Drive
Las Vegas, Nevada 89113
Attn: Foreclosure Dept.

T.S. No: **12-05-42957-NV**
APN: **163-31-611-022**
Title Report No.: **6734622**

Inet #: 201311180000445
Fees: \$18.00
N/C Fee: \$2.00
11/18/2013 09:51:49 AM
Receipt #: 1845406
Requestor:
COOPER CASTLE LAW FIRM- NEV
Recorded By: MAT Pgs: 2
DEBBIE CONWAY
CLARK COUNTY RECORDER

NOTICE OF TRUSTEE'S SALE

YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED March 26, 2009. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

A public auction sale to the highest bidder for a cashier's check drawn on a state or national bank will be held by the duly appointed trustee as shown below. The sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by the Deed of Trust, with interest and late charges thereon, as provided in the note(s), advances, under the terms of the Deed of Trust, interest thereon, fees, charges and expenses of the Trustee for the total amount (at the time of the initial publication of the Notice of Sale) reasonably estimated to be set forth below. The amount may be greater on the day of sale.

TRUSTOR: **Joseph F Harrison and Bonnie L Harrison**
Duly Appointed Trustee: **The Cooper Castle Law Firm aka The Cooper Christensen Law Firm, LLP**
Recorded on **March 31, 2009**, in **20090331-0004948** of Official Records in the office of the Recorder of Clark County, Nevada, Described as follows:

PARCEL I:
LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF RUSSELL/FORT APACHE-UNIT 3, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101, OF PLATS, PAGE 45, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL II:
A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND ENJOYMENT AND PUBLIC UTILITY PURPOSES ON, OVER AND ACROSS THE PRIVATE STREETS AND COMMON AREAS ON THE MAP REFERENCED HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

Date of Sale: **12/20/2013 at 09:00 AM**
Place of Sale: **At the Front Entrance of Nevada Legal News, 930 S. Fourth St, Las Vegas, NV 89101**
Estimated Sale Amount: **\$259,100.58**
Street Address or other common designation of real property: **5946 Lingering Breeze Street,
Las Vegas, NV 89148**

PAGE 1 OF 2

APN #: 163-31-611-022

The undersigned Trustee disclaims any liability for any incorrectness of the street address or other common designation, if any, shown above. If no street address or other common designation is shown, directions to the location of the property may be obtained by sending a written request to the beneficiary within 10 days of the date of first publication of this Notice of Sale.

Date: November 15, 2013

The Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, Nevada 89113
(702) 435-4175
www.ccfirm.com

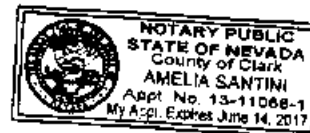

Justin Gourney, Esq.
Attorney at Law

State of NEVADA } SS.
County of CLARK }

On November 15, 2013, before me, the undersigned, Amelia Santini, personally appeared Justin Gourney personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Amelia Santini (Seal)



PAGE 2 OF 2

Exhibit L

Exhibit L

A.P.N.: 163-31-611-022
Requested and Prepared by:
Cooper Castle Law Firm, LLP

When Recorded Mail To:
Cooper Castle Law Firm, LLP
5275 S. Durango Drive
Las Vegas, NV 89113

Forward Tax Statements to
the address given below

Inst #: 201401070000775
Fees: \$19.00 N/C Fee: \$0.00
RPTT: \$879.75 Ex: #
01/07/2014 08:18:28 AM
Receipt #: 1893423
Requester:
THE CASTLE LAW GROUP, LLC.
Recorded By: ECM Pgs: 4
DEBBIE CONWAY
CLARK COUNTY RECORDER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

T.S. NO.: 12-05-42957-NV
TITLE ORDER # 6734622

TRUSTEE'S DEED UPON SALE

A.P.N.: 163-31-611-022 TRANSFER TAX: \$879.75

The Grantee Herein Was the Foreclosing Beneficiary.
The Amount of the Unpaid Debt was \$227,324.19, plus any Accrued Interest, Late Charges, Escrow Shortages,
and other Collection Costs pursuant to the Promissory Note/Deed of Trust/Loan Modification Agreement.
The Amount Paid by the Grantee Was \$172,200.00
Said Property is in the City of Las Vegas, County of Clark

Cooper Castle Law Firm, LLP, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

Ocwen Loan Servicing LLC

(herein called Grantee), whose legal address is 110 Virginia Drive, Fort Washington PA 19034 but without covenant or warranty, expressed or implied, all right title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Clark, State of Nevada, described as follows:

SEE EXHIBIT A HERE TO AND INCORPORATED HEREIN BY REFERENCE

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by Joseph F Harrison and Bonnie L Harrison, as Trustors, dated March 26, 2009 of the Official Records in the office of the Recorder of Clark County, Nevada under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on March 31, 2009, 20090331-0004948 of Official records. The Trustee has complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Breach and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified mail, postage pre-paid, to each person entitled to notice in compliance with Nevada Revised Statutes Chapter 107.

TRUSTEE'S DEED UPON SALE

T.S. NO.: 12-05-42957-NV
TITLE ORDER # 6734622

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on **December 20, 2013**. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid, being **\$172,200.00**, in lawful money of the United States, receipt thereof is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, Cooper Castle Law Firm, LLP as Trustee, has this day, caused its name to be hereunto affixed by its officer thereunto duly authorized by its corporation by-laws.

Date: 1/3/14

THE COOPER CASTLE LAW FIRM, LLP

By: 

Justin Gourley

Attorney at Law

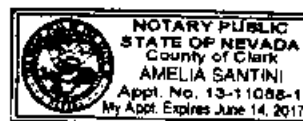
State of Nevada } SS.
County of Clark }

On 1-3-14 before me, the undersigned, Amelia Santini, Notary Public, personally appeared Justin Gourley personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 

(Seal)



Joseph F Harrison and Bonnie L Harrison / 12-05-42957-NV

EXHIBIT A

**THE LAND REFERRED TO IN THIS GUARANTEE IS SITUATED IN THE STATE OF NEVADA,
COUNTY OF CLARK, CITY OF LAS VEGAS, AND IS DESCRIBED AS FOLLOWS:**

PARCEL I:

**LOT ONE HUNDRED THIRTY-ONE (131) IN BLOCK FIVE (5) OF RUSSELL/FORT APACHE-UNIT 3,
AS SHOWN BY MAP THEREOF ON FILE IN BOOK 101, OF PLATS,PAGE 45, IN THE OFFICE OF
THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.**

PARCEL II:

**A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE AND ENJOYMENT AND PUBLIC
UTILITY PURPOSES ON, OVER AND ACROSS THE PRIVATE STREETS AND COMMON AREAS
ON THE MAP REFERENCED HEREINABOVE, WHICH EASEMENT IS APPURTENANT TO
PARCEL ONE (I).**

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-611-022
b.
c.
d.

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Townhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
i. ☐ Other

FOR RECORDERS OPTIONAL USE ONLY
Book _____ Page _____
Date of Recording: _____
Notes: _____

3.a. Total Value/Sales Price of Property \$ 172,200.00
b. Deed in Lieu of Foreclosure Only (value of property) \$ _____
c. Transfer Tax Value \$ 172,500.00
d. Real Property Transfer Tax Due \$ 879.75

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____
b. Explain Reason for Exemption: _____

5. Partial Interest Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: _____ Capacity: Attorney At Law
Signature: _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: Cooper Castle Law Firm
Address: 5275 S. Durango Drive
City: Las Vegas
State: NV Zip: 89113

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Cowen Loan Servicing LLC
Address: 110 Virginia Drive
City: Fort Washington
State: PA Zip: 19034

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: Cooper Castle Law Firm Escrow # _____
Address: 5275 S. Durango Drive
City: Las Vegas State: NV Zip: 89113

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit M

Exhibit M

Inet #: 201401130001734
Fees: \$18.00 N/C Fee: \$0.00
RPTT: \$889.96 Ex: #
01/13/2014 03:17:13 PM
Receipt #: 1900146
Requestor:
CHERUS HOLDINGS LLC
Recorded By: SCA Pgs: 3
DEBBIE CONWAY
CLARK COUNTY RECORDER

APN: 163-31-611-022

Return document and mail tax statements to:

Cherus Holdings, LLC
1354 Opai Valley St
Henderson NV 89052

DEED OF SALE

THIS INDENTURE WITNESSETH: That first party

FIRST 100, LLC

for valuable consideration, the receipt of which is hereby acknowledged, does hereby convey
without warranty, express or implied, to grantee:

CHERSUS HOLDINGS, LLC

the real property situated in Clark County, State of Nevada, described as follows:

**** SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION ****

and commonly known as 5946 LINGERING BREEZE ST, LAS VEGAS NV 89148.

Together with all and singular the tenements, hereditaments and appurtenances thereunto
belonging or in any way appertaining.

Subject to: (i) Property taxes; (ii) conditions, covenants, restrictions, reservations, rights, rights of
way, and easements now of record, if any; and (iii) liens, deeds of trust, and other encumbrances
now in force, if any.

By: [Signature]
Authorized Signatory, First 100 LLC

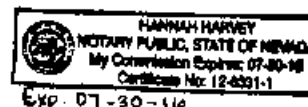
Print Name: Carlos Cardenas
Carlos Cardenas

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me on October 23rd, 2013,

by: Carlos Cardenas
(print name of above signatory)

[Signature]
NOTARY PUBLIC



Exp. 07-30-16

EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

Lot 131 in Block 5 of RUSSELL FORT APACHE - UNIT 3, as shown by map thereof on file in Book 101 of Plats, Page 45 in the Office of the County Recorder of Clark County, Nevada.

PARCEL TWO (2):

A non-exclusive easement for ingress, egress, use and enjoyment and public utility purposes on, over and across the Private Streets and Common Areas on the map referenced hereinabove, which easement is appurtenant to Parcel One (1).

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a. 163-31-811-022
b. _____
c. _____
d. _____

2. Type of Property:

a. ☐ Vacant Land b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
i. ☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____
Date of Recording: _____
Notes: _____

3.a. Total Value/Sales Price of Property

\$ 174,083.00

b. Deed in Lieu of Foreclosure Only (value of property (_____))

c. Transfer Tax Value:

\$ 174,083.00

d. Real Property Transfer Tax Due

\$ 889.66

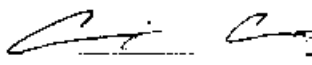
4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature  Capacity: Seller (Grantor) Representative

Signature _____ Capacity: _____

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Print Name: First 100, LLC
Address: 11920 Southern Highlands Ste 200
City: Las Vegas
State: Nevada Zip: 89141

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Chorus Holdings, LLC
Address: 1354 Opal Valley St
City: Henderson
State: Nevada Zip: 89052

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: First 100, LLC
Address: 11920 Southern Highlands Ste 200
City: Las Vegas

Escrow # _____
State: Nevada Zip: 89141

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit N

Exhibit N

DISTRICT COURT
CLARK COUNTY, NEVADA

OCWEN LOAN SERVICING, LLC, a)
foreign Limited Liability)
Company,)
Plaintiff,)

vs.

CASE NO. A-14-696357-C
DEPT NO. IV

CHERSUS HOLDINGS, LLC, a)
domestic limited liability)
company; FIRST 100, LLC, a)
domestic Liability company;)
SOUTHERN TERRACE HOMEOWNERS)
ASSOCIATION, a Domestic)
Non-Profit Corporation; RED ROCK)
FINANCIAL SERVICES, LLC, a)
foreign limited liability)
company; UNITED LEGAL SERVICES,)
INC., a domestic corporation;)
DOES I through X; and ROE)
CORPORATIONS XI through XX,)
inclusive,)
Defendants.)

DEPOSITION OF SARA TREVINO
30(b)(6) REPRESENTATIVE OF RED ROCK FINANCIAL
SERVICES, LLC

Taken on Thursday, August 2, 2018

At 2:00 p.m.

At Wright Finlay & Zak, LLP

7785 W. Sahara Avenue

Suite 200

Las Vegas, Nevada

REPORTED BY: SHIFRA MOSCOVITZ, CCR NO. 938

PAGES 1 - 78

1
2 CHERSUS HOLDINGS, LLC, a)
Domestic Limited Liability)
3 Company,)
4)
Counterclaimant,)
5)
vs.)
6)
OCWEN LOAN SERVICING, LLC, a)
Foreign Limited Liability)
7 Company,)
8)
Counter-Defendants.)
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

Page 2

1 APPEARANCES:
2 For Ocwen Loan Servicing, LLC:
3 PATERNO JURANI, ESQ.
WRIGHT FINLAY & ZAK, LLP
4 7785 W. Sahara Avenue
Suite 200
5 Las Vegas, Nevada 89117
(702)435-7569
6
7
8 For Southern Terrace Homeowners Association:
9 ASHLIE L. SURUR, ESQ.
HALL, JAFFE & CLAYTON, LLP
10 7425 Peak Drive
Las Vegas, Nevada 89128
11 (702)316-4111
12
13 For Red Rock Financial Services, LLC
14 Brody Wight, Esq.
KOCH & SCOW
11500 S. Eastern Avenue
15 Suite 210
Henderson, Nevada 89052
16 (702)318-5040
17
18
19
20
21
22
23
24
25

Page 3

1 EXAMINATION
2 WITNESS: PAGE
Roy Cordero
3
4 Examination by
Mr. Jurani 5
5
Ms. Surur 57
6
7
8
9 EXHIBITS
10 EXHIBIT PAGE
11 Exhibit A Notice of Deposition 10
12 Exhibit B Red Rock's Disclosures 21
13
14
15
16
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21
22
23
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25

Page 4

1 LAS VEGAS, NEVADA; AUGUST 2, 2018
2 2:00 P.M.
3 -oOo-
4 (NRCp Rule 30(b)(4) waived by the parties prior to the
5 commencement of the deposition.)
6 (FRCP Rule 30(b)(5) waived by the parties prior to the
7 commencement of the deposition.)
8 Thereupon--
9 SARA TREVINO,
10 was called as a witness, and having been first duly sworn,
11 was examined and testified as follows:
12 EXAMINATION
13 BY MR. JURANI:
14 Q. Good afternoon, could you please state and
15 spell your name for the record?
16 A. Sara Trevino, T-R-E-V-I-N-O.
17 Q. Okay. Is that Sara with an H?
18 A. No, H, S-A-R-A.
19 Q. Okay. And you are here on behalf of Red
20 Rock Financial Services, is that right?
21 A. Correct.
22 Q. Okay. You understand you are here with
23 regard to a lawsuit titled Ocwen versus Chersus
24 Holdings and others, is that right?
25 A. Yes.

Page 5

2 (Pages 2 - 5)

1 Q. My name is Paterno Jurani, I represent
2 Owen in this case?
3 A. Okay.
4 Q. Have you ever had your deposition taken
5 before?
6 A. Yes.
7 Q. How many times?
8 A. Three times.
9 Q. When is the last time?
10 A. Tuesday.
11 Q. Oh, just this past Tuesday?
12 A. Yes.
13 Q. Well, I will still go over with you a
14 couple of our admonitions. You understand that even
15 though we are in an informal setting here the oath
16 you took still has the same force and effect and the
17 same penalties for Perjury as if we were in a court
18 of law?
19 A. Yes.
20 Q. She is taking down everything we say, so
21 please try to let me finish my question, I will let
22 you finish your answer so we are not talking over
23 each other, okay?
24 A. Yes.
25 Q. Please answer yes or no, don't say uh-huh

Page 6

1 or shake your head yes or no, just again she is
2 taking down everything you say, okay?
3 A. Okay.
4 Q. If you don't understand one of my
5 questions, please ask me to clarify?
6 A. Okay.
7 Q. If you need a break at any time, please
8 let me know, I don't anticipate us being that long,
9 but at the end of this deposition you will have an
10 opportunity to review the deposition transcript. I
11 will caution you, if you do make any substantive
12 changes that could be used to affect your
13 credibility, okay?
14 A. Yes.
15 Q. Is there any reason why you wouldn't be
16 able to give your best testimony?
17 A. No.
18 Q. For example, medications, anything like
19 that?
20 A. Nothing that would affect my ability to
21 testify.
22 Q. Okay. Are you currently employed by Red
23 Rock?
24 A. Yes.
25 Q. What is your, what capacity?

Page 7

1 A. I am the current trustee sale officer, I
2 also hold the back up collections managers license.
3 Q. I am sorry, what kind of officer did you
4 say?
5 A. Trustee sale officer.
6 Q. Okay. How long have you held that
7 position?
8 A. About two years.
9 Q. What kind of duties does that entail?
10 A. I handle everything that has to do with
11 the association foreclosure sales from after the
12 notice of default, so the corresponding with the
13 association back and forth, whether they approve the
14 foreclosure sale, actually setting and preparing the
15 accounts for foreclosure sale and handling the day
16 of sales operation as well and I also handle payoff
17 demands and other office inquiries.
18 Q. Prior to being a trustee sale officer did
19 you hold any or position at Red Rock?
20 A. Account coordinator.
21 Q. How long were you an account coordinator?
22 A. Five years.
23 Q. What did your duties entail there?
24 A. Just multiple different things across the
25 accounts, I did some correspondence, I did some

Page 8

1 generating of different letters within the
2 collection process.
3 Q. Okay. Prior to that, do you yield any
4 other positions with Red Rock?
5 A. Not with Red Rock.
6 Q. So you are there a total of seven years?
7 A. Yes.
8 Q. Prior to that, what was your employment?
9 A. I was a stay at home mother.
10 Q. What is your highest level of education?
11 A. Some college.
12 Q. What were you studying?
13 A. Criminal justice.
14 Q. Do you hold any professional licenses?
15 A. The collections, qualified collections
16 managers license.
17 Q. What does that entail to obtain that
18 license?
19 A. To study and take a test on NRS and FDCPA.
20 Q. How long is that course of study?
21 A. It was just as long as I wanted to study
22 before I took the test to ensure, I studied about
23 two months prior to taking the test, along with my
24 six years of previous experience in the collection
25 agency.

Page 9

3 (Pages 6 - 9)

1 Q. Okay. At what point, when did you obtain
2 your license?
3 A. I took the test and past in October, I
4 just recently obtained my physical license a couple
5 of months ago.
6 Q. So October of 2017?
7 A. Correct.
8 Q. Okay. And any other professional
9 licenses?
10 A. No, I am a Notary, if that has anything.
11 Q. Okay.
12 A. That's about it.
13 Q. Other than what we discussed do you have
14 any other formal training in real estate?
15 A. No.
16 Q. How about any other formal training in
17 law?
18 A. No.
19 Q. Have you ever testified at trial at all?
20 A. Not at trial.
21 (Exhibit A was marked for
22 identification.)
23 Q. This should be a copy of the notice of
24 deposition, have you seen that document before?
25 A. Yes.

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1 Q. When was the last time you saw it?
2 A. Earlier today.
3 Q. Did you have a chance to review it?
4 A. Yes.
5 Q. Starting on, I believe, page 2, you should
6 see a list of topics, do you see that?
7 A. Yes.
8 Q. And I believe it goes for a couple of
9 pages. Did you have a chance to review those
10 topics?
11 A. Yes.
12 Q. As you reviewed those topics did you
13 identify anyone from Red Rock that might be a better
14 witness to respond to those documents?
15 A. Nobody that's currently employed with Red
16 Rock.
17 Q. Okay. How is it that you were chosen to
18 testify on behalf of Red Rock?
19 A. My supervisor and our attorneys decided it
20 was okay for me to come here today instead of my
21 supervisor Julia Thompson.
22 Q. Julia Thompson is your supervisor?
23 A. Yes.
24 Q. How did you prepare for your deposition
25 today?

Page 11

1 A. I reviewed the file and the account.
2 Q. Did you speak to anyone in preparation?
3 A. No.
4 Q. And the fHOA, well, let me go over some
5 definitions briefly. You understand the property
6 that we are here with regard to is 5946 Lingerin
7 Breeze Street, Las Vegas, Nevada 89148, is that
8 right?
9 A. Yes.
10 Q. So if I refer to a property that's the one
11 I am referring to, if I refer to an HOA sale, I am
12 referring to the one that took place on May 25th
13 2013, and that's a sale that was on behalf of
14 Southern Terrace Homeowners Association. Okay. So
15 if I refer to HOA or Southern Terrace, that's who I
16 am referring to?
17 A. Okay.
18 Q. Are you familiar with United Legal
19 Services?
20 A. Somewhat.
21 Q. Okay. Well for the course of this
22 deposition if I say United or ULS, that's who I am
23 referring to?
24 A. Okay.
25 Q. Are you familiar with First 100, LLC?

Page 12

1 A. Yes.
2 Q. Okay if I refer to First 100, that's who I
3 am referring to. Are you familiar with Chersus
4 Holdings, LLC?
5 A. Somewhat.
6 Q. Again, if I say Chersus, that's who I am
7 referring to. And the HOA in this case was Southern
8 Nevada, is that correct?
9 A. Correct.
10 Q. Did they have a management company?
11 A. I believe it was First Service
12 Residential.
13 Q. And when I say did they have, I mean at
14 the time of this sale in 2012, 2013 time frame?
15 A. Okay, I believe at that time it was First
16 Service Residential.
17 Q. Okay. Is there a relationship between
18 First Service and Red Rock?
19 A. We are both under the same parent company.
20 Q. Okay. What is that parent company?
21 A. First Service Residential, there is First
22 Service Residential, which is a national company and
23 then there is First Service Residential Nevada,
24 which is the association management company and Red
25 Rock Financial Services, who does collections and we

Page 13

4 (Pages 10 - 13)

1 are both under First Service Residential, but
 2 Residential Nevada is the management company
 3 separate from us.
 4 Q. Okay. Well, for the remainder of this
 5 deposition, if I say First Service, I am referring
 6 to the First Service Nevada, the management company?
 7 A. Yes.
 8 Q. What is the process as far as an account
 9 with Red Rock?
 10 A. The process from what?
 11 Q. Well, how do you get an account?
 12 A. Once an account is delinquent enough to be
 13 sent into collections the management company will
 14 send their pre-collections or delinquent notice and
 15 once that has either not gotten a response or didn't
 16 get the response that they needed, the account
 17 didn't get paid, they will send the account to our
 18 office. With First Service Residential Nevada,
 19 their accounting synchs into our system so somebody
 20 in there clicks a button that will send the account
 21 to us and their accounting and owner information
 22 will create a new account in our system.
 23 Q. Okay. So how long does an account have to
 24 be delinquent before it goes to Red Rock?
 25 MS. SURUR: Objection, form, foundation.

Page 14

1 A. Depending on the association, it's either
 2 60 or 90 days.
 3 Q. Okay. And then you said they basically
 4 well, what happened after that 60 or 90 days?
 5 A. They send out a letter, it's a delinquency
 6 notice or pre-collections letter letting the
 7 homeowner know that they are going to go into
 8 collections if they don't carry the account.
 9 Q. Okay. If they don't receive a response
 10 from the homeowner then it goes to you?
 11 A. Yes.
 12 Q. And you said basically they just have to
 13 click a button and it goes to Red Rock?
 14 A. With First Service Residential, yes.
 15 Q. Okay. Specifically because you have that
 16 relationship with them?
 17 A. Right, so their system will synch the
 18 information into our system.
 19 Q. Did they provide you any other information
 20 or it's just they click that button you have
 21 everything down?
 22 A. We don't necessarily have everything they
 23 have. We have the property address, the homeowner,
 24 the deed of the owners name and the mailing address
 25 they have on file for the owner and then the

Page 15

1 accounting ledger.
 2 Q. Okay. Does Red Rock produce a different
 3 accounting ledger than First Service?
 4 A. Yes.
 5 Q. So they would appear different if I were
 6 to look at either of them, is that right?
 7 A. Yes.
 8 Q. Would they include different information?
 9 A. Yes.
 10 Q. What kind of information would differ?
 11 A. An accounting ledger from First Service
 12 would only have the association fees on it, an
 13 accounting ledger from Red Rock would have both the
 14 association fees and the collection fees.
 15 Q. Meaning Red Rock's collection fees, is
 16 that right?
 17 A. Correct.
 18 Q. The remainder of the information would be
 19 the same?
 20 A. Yes.
 21 Q. Is there a process for the HOA board to
 22 approve an account to go to collections?
 23 MS. SURUR: Objection, form and
 24 foundation.
 25 A. That would be with First Service

Page 16

1 Residential, I wouldn't know.
 2 Q. Okay. As part of Red Rock's handling of
 3 an account, do you review the CC&R's at all?
 4 A. I believe when we take on an association
 5 the CC&R's are reviewed at that time.
 6 Q. So when you take on an individual account
 7 you don't necessarily review them then?
 8 A. No, not necessarily.
 9 Q. Are you aware if the HOA had any kind of
 10 independent collection policy at this time, between
 11 the 2012, 2013 time frame?
 12 A. Not that I am aware, it's usually included
 13 in the CC&R's if it's part of the account.
 14 Q. Okay. So when an account now has been
 15 transferred to Red Rock, what happened at that
 16 point?
 17 A. From that point we would review the
 18 account, review ownership, and if everything looks
 19 proper with what they sent to us then we would send
 20 out an intent to lien letter letting the homeowner
 21 know that we intend to file a claim of lien on the
 22 property, and there is an outstanding balance and
 23 giving them 30 days to contact our office and
 24 letting them know they do have the option to dispute
 25 the debt if they chose to do so.

Page 17

5 (Pages 14 - 17)

1 Q. When you say review ownership, what does
2 that mean?

3 A. We review public records to make sure the
4 owner listed on the account is dated owner on the
5 property.

6 Q. When you say public record, is that the
7 assessors page?

8 A. Yes, and the county recorder.

9 Q. Do you review anything at this point?

10 A. No, at that point, no.

11 Q. When an account has been turned over to
12 Red Rock, what is the scope of that?

13 MS. SURUR: Objection, form, foundation,
14 calls for a legal conclusion and it's vague.

15 MR. WIGHT: I join.

16 Q. Do you take care of all mailings?

17 MS. SURUR: Objection, form.

18 A. At that point in the process any
19 correspondence out to the homeowner or coming in to
20 the homeowner should be handled through our office.

21 Q. And not the management company anymore?

22 A. Correct.

23 Q. Red Rock would take care of all
24 publications also?

25 MS. SURUR: Objection, form.

Page 18

1 A. We actually have a third party vendor.

2 Q. Who is that?

3 A. There are multiple vendors at the time I
4 am not sure who they were using. There has been
5 Priority Posting and Publishing, Innovative Field
6 Services, First American, I believe at one point.

7 Q. What was the second one you said?

8 A. Innovative Field Services, there is
9 multiple vendors we have used.

10 Q. Would American be one?

11 A. They are a title company, I don't believe
12 they take care of publishing for our office, that's
13 actually who provides our title report.

14 Q. Okay. So you said you send out the
15 initial letters, is that right, and then they are
16 given 30 days?

17 A. Correct.

18 Q. What happens if you don't receive a
19 response for 30 days?

20 A. We would prepare and file a claim of lien
21 on the property.

22 Q. Prior to preparing the claim of lien do
23 you do anything?

24 A. They would, again, verify ownership to
25 ensure that nothing has changed with the county

Page 19

1 assessor page, county recorder's page and the
2 accounting to make sure that no payments have been
3 made directly to the association or to our office
4 otherwise.

5 Q. Okay. At some point do you obtain a title
6 report?

7 A. Yes.

8 Q. When is that?

9 A. Prior to preparing the notice of default
10 on the property.

11 Q. Okay. Is that the only time?

12 A. No, another title report or a date down
13 would be requested at the time a sale is prepared on
14 the property to ensure that we have everybody
15 notified properly, and then the day before the sale
16 another one is requested to ensure that there is no,
17 there is been nothing added to the title report.

18 Q. Prior to the notice of default is one?

19 A. Correct.

20 Q. Prior to the notice of sale is another?

21 A. Yes.

22 Q. And the day before the sale, is that
23 right?

24 A. Correct.

25 Q. What happens if you find something new the

Page 20

1 day before the sale?

2 A. The sale would then be postponed to allow
3 us time to find any new contacts.

4 Q. Do you obtain a full title report or TSG?

5 A. The original is a TSG, and then after that
6 they are called date downs and if anything has been
7 updated on the title report.

8 Q. Okay. Do you do any research to determine
9 whether or not the homeowners are in bankruptcy?

10 A. Yes.

11 Q. When do you do that?

12 A. It's done by the title company when we
13 have requested a title report or date down and we
14 also do that in office prior to setting a sale on
15 the property, and then prior to recording a notice
16 of sale and the day before the sale was also
17 checked.

18 Q. Okay. What did they use to check that?

19 A. The pacer website.

20 (Exhibit B was marked for
21 identification.)

22 Q. I will represent to you that Exhibit B
23 that we marked are documents that were produced in
24 response to our subpoena to Red Rock.

25 A. Okay.

Page 21

6 (Pages 18 - 21)

1 Q. Who is it from Red Rock that would be
2 responsible to respond to our subpoena?
3 A. I believe it was Julia Thompson.
4 Q. And in the bottom right-hand corner of
5 these we have what we call a Bates stamp. Okay?
6 A. Yes.
7 Q. If you look at WFZ 0036 for me please, it
8 should be a copy of the lien, do you recognize this
9 document?
10 A. Yes.
11 Q. Who would have prepared that?
12 A. It appears to be prepared by Rebecca Tom.
13 Q. Is that individual from Red Rock?
14 A. At the time, yes.
15 Q. Okay. What is Red Rock's process for
16 preparing the lien?
17 A. Again, it's just checking ownership to
18 ensure that it's still the same owner, that the debt
19 is still there, they would review the file, review
20 the accounting ledger, review the assessor's page
21 and the recorders page to ensure nothing has
22 changed, and then I believe the lien is just auto
23 generated with all the homeowner information, it's a
24 form letter in our account.
25 Q. From your computer system?

Page 22

1 A. Yes.
2 Q. Okay. Does the HOA provide you any
3 information in preparation of this document?
4 A. With First Service Residential, or they
5 were RMI at the time, it automatically synched into
6 our system, so we would just check their accounting
7 and make sure that everything was still correct, if
8 the accounting and no payments had been made or
9 anything.
10 Q. So you would already have that
11 information?
12 A. Yes.
13 Q. When you say it's auto generated, is this
14 something where you know you just push a button and
15 it creates a document or how does that work?
16 A. Yes, you would search, it's like a drop
17 down menu for which document and then the computer
18 would automatically populate the address and any
19 recording information in the account the homeowner's
20 name, the address is auto generated on to the letter
21 for the specific account.
22 Q. So it's not like a word document template
23 that you fill in, you actually, the computer
24 actually generates the entire thing, is that right?
25 A. Yes, it can be edited if it needs to be

Page 23

1 edited, but most of the time it auto generates.
2 Q. Is it reviewed by anybody from Red Rock?
3 A. Yes, the person that created the document?
4 Q. What are they reviewing?
5 A. The property address the homeowner name,
6 the balance on the account to ensure that everything
7 is correct.
8 Q. Okay. Does anyone from the HOA review it?
9 MS. SURUR: Objection, form, foundation.
10 A. I don't know.
11 Q. I am sorry, that was a no?
12 A. No.
13 Q. Does the HOA have any input as to who it
14 should be mailed to?
15 MS. SURUR: Objection, form, foundation.
16 A. I am not really sure how to answer that,
17 anything it's mailed to the deeded owners on the
18 property from our office.
19 Q. Okay. Is it because you are using
20 information from the HOA from their account that
21 helps you decide the addresses, is that why you had
22 trouble answering that question?
23 MS. SURUR: Objection, form, it's
24 confusing.
25 A. Yes, I don't understand what you meant by

Page 24

1 if they have any authority or any suggestion over
2 who I send it to, it's sent to the deeded owner of
3 the property or deeded owners of the property, there
4 is not really an option to change that.
5 Q. And I am not referring to the management
6 company, but does the HOA actually say to you, also
7 mail it to this address or that address, that kind
8 of thing?
9 A. No.
10 Q. Okay. Are you aware if this lien complies
11 with the CC&R's?
12 A. I do believe so.
13 Q. Do you have any reason to believe it
14 doesn't?
15 A. No.
16 Q. Do you have any reason to believe it
17 doesn't comply with any billing claim in the
18 collection policy that was in the effect at the
19 time?
20 MS. SURUR: Objection, form, foundation.
21 MR. WIGHT: I join.
22 A. No.
23 Q. Does the HOA give you any input as to who
24 this should be e-mailed to?
25 MS. SURUR: Objection. Asked and

Page 25

7 (Pages 22 - 25)

1 answered.
 2 A. Again, it's mailed to the deeded owner of
 3 the property, they don't have any option to change
 4 who we mail to.
 5 Q. Okay. Did they have any input as to
 6 whether this should be e-mailed certified mail,
 7 first class or that kind of thing?
 8 A. I don't know if they do, I believe it's
 9 required that we mail out a lien for delinquent
 10 assessment by certified, as well as first class
 11 mail.
 12 Q. How much is a lien amount in this case?
 13 A. \$737.04.
 14 Q. Okay. Are you able to determine by
 15 looking at this the amount, the number of months
 16 that are delinquent?
 17 A. No.
 18 Q. Are you able to determine the amount of
 19 the super priority lien?
 20 MS. SURUR: Objection, form, vague, calls
 21 for legal conclusion.
 22 MR. WIGHT: I join.
 23 Q. Are you able to determine whether this
 24 amount includes any kind of violations?
 25 A. I can't say for sure that it does or does

Page 26

1 not.
 2 Q. So that would be no, you are not able to?
 3 A. No, I wouldn't be able to determine from
 4 that document.
 5 Q. If you can look at the previous document,
 6 WFZ 0035. It should be a copy of the notice of
 7 default, do you recognize that document?
 8 A. Yes.
 9 Q. And who would have prepared that?
 10 A. I would say it's prepared by Joshua Wood.
 11 Q. From Red Rock?
 12 A. Yes, at the time.
 13 Q. And how was this one formed, is it the
 14 same auto generation we discussed before with the
 15 lien?
 16 A. Yes, so the account information, our
 17 specific account we would have inputted the lien
 18 recording information and the instrument number for
 19 that already in the account, so that would auto
 20 generate into the document as well as the property
 21 address and the homeowner name.
 22 Q. Okay. And is this document reviewed by
 23 Red Rock before it's recorded and mailed?
 24 A. Yes.
 25 Q. And who would review that?

Page 27

1 A. The employee who generated it.
 2 Q. Joshua in this case?
 3 A. Yes.
 4 Q. Does the HOA have any input as to the
 5 information that is contained in the notice of
 6 default?
 7 MS. SURUR: Objection, form, vague.
 8 A. I am not sure what you are looking for
 9 there.
 10 Q. Just like the lien, do they specifically,
 11 so you put this in there, put that in there?
 12 A. No, they do not.
 13 Q. Does the HOA have any input as to who it
 14 should be mailed to?
 15 MS. SURUR: Objection, form.
 16 A. No.
 17 Q. Do they give you any request whether it
 18 should be mailed first class mail, certified mail?
 19 MS. SURUR: Objection to form.
 20 A. I believe it's required by law to mail
 21 certified and first class.
 22 Q. But do they give you instructions?
 23 A. No.
 24 Q. Are you aware if this complies with the
 25 CC&R's?

Page 28

1 A. I believe so.
 2 Q. Are you aware if it complies with any
 3 delinquent collection policies in effect at the
 4 time?
 5 A. I believe it would have, I have no reason
 6 to believe it wouldn't.
 7 Q. And how much is the amount for in this
 8 case?
 9 A. At the time it was prepared the amount
 10 owed was \$1,870.65.
 11 Q. Okay. Are you able to tell me by looking
 12 at this notice of default the number of months it's
 13 delinquent?
 14 A. No.
 15 Q. Are you able to tell me the amount of the
 16 super priority lien?
 17 MS. SURUR: Objection, form, calls for
 18 legal conclusion.
 19 MR. WIGHT: I join.
 20 A. No.
 21 Q. Okay. Are you able to tell me if this
 22 amount includes any violations?
 23 A. Just based on this document, I wouldn't be
 24 able to.
 25 Q. Okay. If can you turn to 37, WFZ 37, what

Page 29

8 (Pages 26 - 29)

1 Is this document?
2 A. It is an accounting ledger from Red Rock
3 Financial Services.
4 Q. Okay. And as we discussed before, so this
5 would be actually generated by Red Rock, is that
6 right?
7 A. Yes.
8 Q. Which would differ from the one generated
9 by the IIOA?
10 A. Correct.
11 Q. Even though they are drawn from the same
12 data base, is that fair to say?
13 A. Not necessarily, their information synchs
14 into our system, but they don't have access to our
15 system, so our information doesn't go back into
16 theirs. They have no way of having the information
17 from our system without us providing it.
18 Q. Which would mostly include the Red Rock
19 fees, is that right?
20 A. Correct.
21 Q. And costs?
22 A. Yes.
23 Q. How much are the assessments in 2012?
24 A. It looks like they were charging multiple
25 assessments, they were charging a monthly assessment

Page 30

1 and a master assessment in 2012, looks like it
2 totaled \$73.
3 Q. How much were the assessments in 2013?
4 MS. SURUR: Objection, foundation.
5 A. It appears at that time it was a single
6 charge for \$72.
7 Q. Per month?
8 A. Yes.
9 Q. And jumping ahead a little bit, this
10 account was eventually sold to First 100, is that
11 right?
12 A. It was transferred over, yes.
13 Q. And how much was it delinquent at that
14 time, when it was transferred to First 100?
15 MS. SURUR: Objection, form, vague, as to
16 the word transferred.
17 A. When was it transferred again?
18 Q. Well, let me ask you this way. First of
19 all, this ledger is starting on WFZ 0037, and how
20 far does it go, does it go to 55?
21 A. No.
22 Q. Forty-five?
23 A. Yes, the one that begins on 37 goes to 45,
24 and then it appears to be another accounting ledger
25 for a different date.

Page 31

1 Q. A different date from 46 to 55, is that
2 right?
3 A. Yes.
4 Q. Okay. And it looks like the one starting
5 on 37 is April 29, 2013, according to the top of the
6 page?
7 A. Yes.
8 Q. And the one starting on 36 is after that?
9 A. Correct.
10 Q. Let's look at the May 1st one then, it
11 only goes to again this goes to 55, is that right?
12 A. I believe through 59, that's also
13 included, it's a part of this ledger, it's just a
14 breakdown of the charges.
15 Q. The ledger itself goes to 55, is that
16 right?
17 A. Yes.
18 Q. And it looks like the last date there is
19 May 1st, 2013, is that right?
20 A. Correct.
21 Q. Does anything on this ledger reflect the
22 transfer to First 100?
23 MS. SURUR: Objection, form, foundation.
24 A. Not at this time it doesn't look like it.
25 Q. And you were the one that mentioned

Page 32

1 transfer earlier, what was your understanding of
2 what that means?
3 A. The account was transferred from our
4 office to First 100 to be handled.
5 Q. Okay. And I am sorry, you said there is
6 no reference to that transfer on this ledger, is
7 that right?
8 A. On this accounting ledger, no.
9 Q. Do you know why that would be?
10 A. Only if there had not been any payment at
11 that time from their office to our office.
12 Q. Is it unusual to you at all that there is
13 no reference to First 100 in this letter?
14 MS. SURUR: Objection, form.
15 A. No, there is not.
16 Q. If I can have you turn to WFZ 0060. Have
17 you seen that document before?
18 A. Briefly.
19 Q. What is your understanding of what it is?
20 MS. SURUR: Objection, form, foundation.
21 A. My understanding, it's a purchase and sale
22 agreement between the association and First 100.
23 Q. And you mentioned earlier that you do have
24 some familiarity with First 100, is that right?
25 A. Yes.

Page 33

1 Q. How are you familiar with them?
2 A. Just from my work at Red Rock, and the
3 accounts that had been transferred over to their
4 office.
5 Q. Okay. Has Red Rock had any direct dealing
6 with First 100?
7 A. Other than these transfers, not that I am
8 aware of.
9 Q. Okay. This purchase and sale agreement on
10 WFZ 60, Red Rock is not a party to that, is that
11 right?
12 A. I believe that's correct.
13 Q. To your knowledge, has Red Rock had any
14 contract with First 100?
15 A. Not that I am aware of.
16 Q. Do you have an understanding of what was
17 being purchased from this agreement?
18 MS. SURUR: Objection, foundation, and
19 outside the scope of the deposition.
20 A. I am not, we were not a party to the
21 purchase and sale agreement, so I am not really
22 aware of what it was.
23 Q. Do you know if anybody from Red Rock was
24 required to prove this agreement?
25 A. Not that I am aware of.

Page 34

1 Q. On that first page, Page 60, you see kind
2 of in the middle of the page the largest paragraph
3 at the end of it, it says in italics, proceeds on
4 past income or PPI, do you see that?
5 A. Yes.
6 Q. Do you have an understanding of what that
7 means?
8 MS. SURUR: Objection, foundation and
9 outside the scope of the deposition topics.
10 MR. WIGHT: Mr. White.
11 A. No.
12 MR. WIGHT: I would also object as to
13 outside the witness' knowledge.
14 Q. If you look on Page WFZ 70, it's the
15 signature page?
16 A. Okay.
17 Q. On the top there it says First 100, and it
18 looks like it says Chris Weed, is that what it
19 looks like to you?
20 A. It would be Chris Wood.
21 Q. Okay. Do you know who that is?
22 A. At the time I believe he was a party to
23 First 100.
24 Q. Okay. Are you familiar with, is that a
25 Mr. or Mrs. Wood?

Page 35

1 A. Mr.
2 Q. Are you familiar with Mr. Wood?
3 A. Vaguely.
4 Q. How are you familiar?
5 A. He has been employed by multiple companies
6 around my company, so in and out of work, I have
7 come across him or his name or been associated with
8 him just through different work functions.
9 Q. If you say companies around your company,
10 any companies that were also related to your
11 company?
12 A. I believe at one time he was an employee
13 at First Service Residential Nevada.
14 Q. Do you know what he did with them?
15 A. No.
16 Q. Do you know how long he was with them?
17 A. I believe he is still employed by them, I
18 don't know how long he has been there, but I believe
19 he is currently employed.
20 Q. Do you have any idea what his position
21 would be?
22 A. No.
23 MR. WIGHT: I am going to object as to
24 outside the scope of the deposition.
25 Q. Has Red Rock had any direct dealings with

Page 36

1 Mr. Wood?
2 A. Not that I am aware of.
3 Q. Has Red Rock had any direct dealings with
4 First 100?
5 A. Other than these transfers, not that I am
6 aware of.
7 Q. Okay. And you see on the next signature
8 line it looks like it says Aron Camden, do you see
9 that?
10 A. Yes.
11 Q. Do you know who that is?
12 A. It was a board member at the time for
13 Southern Terrace Homeowners Association.
14 Q. Okay. And below it says United Legal
15 Services, Inc. and then there is a signature for, it
16 says Robert Atkinson, president, do you see that?
17 A. Yes.
18 Q. Are you familiar with Mr. Atkinson?
19 A. Not personally, no.
20 Q. Okay. When you say not personally, has
21 Red Rock had any dealings with Mr. Atkinson?
22 A. Other than these transfers and the First
23 100 accounts, not that I am aware of.
24 Q. Are you aware of any direct agreements
25 with Red Rock between Red Rock and ULS?

Page 37

10 (Pages 34 - 37)

1 A. Not that I am aware of.
2 Q. So just transferring files to them, is
3 that right?
4 A. Correct.
5 Q. Can you look on Page 72 for me, please?
6 A. Yes.
7 Q. It looks like this property is number 5946
8 Lingerin Breeze Street, do you see that?
9 A. Yes.
10 Q. Do you have any idea, you see on the far
11 right it says purchase price 1,000, do you see that?
12 A. Yes.
13 Q. Would you have any idea how that amount
14 was arrived at?
15 MS. SURUR: Objection, form, foundation,
16 outside the scope of the deposition.
17 A. No.
18 Q. And if you can turn to 80 for me, please,
19 it looks to be an invoice from American Lot Book, is
20 that right?
21 A. Yes.
22 Q. And I believe you mentioned before you
23 just used them to obtain a title report, is that
24 correct?
25 A. Correct.

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1 Q. Do you know on Page starting on 81, well,
2 looking at 81, are you aware what the document is?
3 A. Yes.
4 Q. And what is that?
5 A. It's a bill pay stub for NACH of payments
6 to Red Rock.
7 Q. Payments by who to Red Rock?
8 A. It would be from multiple different
9 places. It would be payments made under reference,
10 it shows account number, so it would be payments
11 either from homeowners or just any payments made on
12 those accounts. This would be Red Rock's portion of
13 those payments at that time.
14 Q. Okay. Is it fair to say this represents
15 multiple properties, though?
16 A. Yes.
17 Q. And how far does this document go, does it
18 go to 83?
19 A. I believe that one just goes to 82.
20 Q. Okay. And what is 83?
21 A. Eighty-three is the breakdown for the
22 check that's at the bottom for the multiple
23 different accounts and payments for those accounts
24 going to American that are included in that check.
25 Q. Again, so this is for multiple properties?

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1 A. Yes.
2 Q. And what would these payments be with
3 regard to?
4 A. The ones to American Lot Book would be for
5 their services on those accounts.
6 Q. WFZ 84, do you recognize that document,
7 the check?
8 A. Yes.
9 Q. And it appears to be a check to Red Rock
10 From First 100, is that right?
11 A. Correct.
12 Q. Do you know what this would be for?
13 A. I believe it was the payment for Red Rock
14 or the collection fees on the account because it was
15 then being transferred to First 100.
16 Q. When you say the collection fees, what are
17 you referring to?
18 A. The Red Rock fees on the account for the
19 work we had done on the account prior to the
20 transfer.
21 Q. Are you just looking at 84 at the moment?
22 A. Yes.
23 Q. Okay. It looks like it's for 1,537.64, is
24 that right?
25 A. Correct.

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1 Q. Do you know how that was calculated?
2 A. I believe it just would have been the
3 outstanding collection fees at the time that would
4 be just my belief, I don't know, I would have to
5 look at the accounting from that period.
6 Q. Looking down a little lower, it says date,
7 look like April 25th, 2013, do you see that?
8 A. Yes.
9 Q. And then it looks like Master APN list, do
10 you know what this refers to?
11 A. No.
12 Q. If you go across the amount \$42,000, the
13 original amount balance due, and then a payment of
14 137.64, do you see that?
15 A. Yes.
16 Q. Do you know what that is for?
17 A. No.
18 Q. And then below that, on June 2nd, 2014, it
19 says looks like Southern Terrace, and then it says
20 1400, do you see that?
21 A. Yes.
22 Q. 1400 across the board, do you know what
23 that represents?
24 A. I believe that would be the collection
25 fees on the account, but I can't be positive.

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11 (Pages 38 - 41)

1 Q. Okay. But it's your belief their
2 collection fees to Red Rock and doesn't entail any
3 assessments, is that right?

4 MS. SURUR: Objection, form, foundation.

5 A. Correct.

6 Q. If you can look at the next page, 85 for
7 me, please, and it looks to be another check to Red
8 Rock, is that right?

9 A. Yes.

10 Q. For \$150 this time?

11 A. Correct.

12 Q. Do you have an understanding of what this
13 is for?

14 A. From the note on the account, it appears
15 that the previous check was short \$150 of the total
16 amount due.

17 Q. Okay. Which note are you referring to,
18 specifically?

19 A. The hand written note at the bottom of the
20 page.

21 Q. Was \$50 short of, short of total due?

22 A. Yes.

23 Q. If can you turn to 89 for me, please?

24 MS. SURUR: I am sorry, what number are we
25 going to?

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1 MR. JURANI: 89.

2 Q. Looks like there are a number of
3 envelopes, and then all the way to 94, is that your
4 return receipt green card, is that right?

5 A. Yes.

6 Q. Okay. Do you know if these all go
7 together?

8 A. There is 93 and 94, these go together, 91
9 and 92 would be front and back of an envelope and 89
10 and 90 would be front and back of the envelope.

11 Q. Okay. Do you know what would have been
12 mailed with these envelopes?

13 MS. SURUR: Objection, are we on 89?

14 MR. JURANI: Yes.

15 A. It appears to be the final notice.

16 MS. SURUR: I am sorry, I need to object,
17 foundation. Go ahead.

18 A. The intent to conduct foreclosure sale is
19 courtesy notice that's sent out prior to preparing
20 and recording the notice of sale.

21 Q. Okay. Looking again at 89, it appears it
22 has, well, it appears to be a sticker, return to
23 sender, do you see that?

24 A. It says attempted not known, unable to
25 forward, yes.

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1 Q. If Red Rock were to get a letter back that
2 had a notice like that from the post office what
3 would be your procedure at that point?

4 A. I believe it's just to get a copy in the
5 file, as long as the address is showing as the
6 possible current address for the homeowner we would
7 still not do it and if it's showing on a title
8 report we would still mail to Red Rock.

9 Q. Okay. And in a case like this where it
10 says unable to forward, does Red Rock do any kind of
11 research to determine another address?

12 A. We do at multiple stages in the process,
13 we do try to obtain multiple addresses, so there
14 would be multiple addresses in our system.

15 Q. You say you do at multiple stages, would
16 you do it at this stage?

17 A. No, we wouldn't do it in just response to
18 receiving this letter.

19 Q. Is it because of what was e-mailed out?

20 A. Because it's just done as a regular part
21 of our process, and we do know that some of the
22 addresses may not be good addresses anymore. We
23 don't do additional research in response to
24 receiving a return to sender, but at specific points
25 in the process we are going to do research.

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1 Q. You are researching what addresses may be
2 available for in this case Bonnie Harris, and that's
3 necessarily from receiving a notice like this from
4 USPS?

5 A. Correct.

6 Q. 95 for me, please?

7 A. It's a copy of the notice of sale.

8 Q. Who prepared this document?

9 MS. SURUR: Objection, foundation.

10 A. It appears to be Mia, I am not sure how to
11 pronounce her last name, she was an employee of
12 United Legal Services at the time.

13 Q. Does Red Rock provide any information to
14 ULS, as far as the preparation of this document?

15 MR. WIGHT: Objection, beyond the scope of
16 the witness' knowledge.

17 A. When the account was transferred over to
18 First 100, they would have received account
19 information from our office, I believe, that's about
20 it.

21 Q. Okay. When the account was transferred,
22 what information would have been provided to ULS?

23 MS. SURUR: Objection, form.

24 A. From Red Rock's office?

25 Q. Yes?

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12 (Pages 42 - 45)

1 A. I believe it is just the property
2 information and any recorded documents that we had
3 prepared on the property.
4 Q. Would you have provided a ledger to them?
5 A. No, I don't believe so.
6 Q. And why is it that you think that?
7 A. Because they would not be working for our
8 office with our accounting, they would be working
9 for the association so they would need to get that
10 information from the association directly.
11 Q. Okay. Or in this case you mean the
12 management company?
13 A. Yes.
14 Q. Okay. If you can go to 164 for me, it
15 appears to be a letter dated December 27, 2012, is
16 that right?
17 A. Correct.
18 Q. And it looks like through 167 it's a
19 letter maybe addressed to different people, is that
20 right?
21 A. Yes.
22 Q. Okay. Have you seen this document before?
23 A. Yes.
24 Q. And what is this?
25 A. A payment plan denial letter.

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1 Q. Okay. Basically in response to the
2 borrower's request for a payment plan, is that
3 right?
4 A. Correct.
5 Q. At any point during your handling of this
6 account Red Rock's handling of this account, did the
7 borrowers have an official payment plan?
8 A. I don't believe so, if I remember
9 correctly they requested twice and were denied both
10 times.
11 MS. SURUR: I am sorry, what page are you
12 looking at?
13 MR. JURANI: That was 164.
14 Q. Can you turn to 175 for me, please, and it
15 looks like it's a mailing affidavit?
16 A. Yes.
17 Q. Do you recognize this document?
18 A. Yes.
19 Q. And can you describe to me what it is,
20 please?
21 A. It is the document that our mail clerks
22 use to fill out when they mailed certified letters
23 by hand from our office.
24 Q. Okay.
25 A. Stating how many they mailed and signing,

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1 stating they mailed those certified letters out from
2 our office.
3 Q. Are you aware of what would have been
4 mailed with this affidavit?
5 A. It appears to have been the final notice.
6 Q. And what is it you are looking at, what
7 number?
8 A. 89.
9 Q. So 181, is that what you said?
10 A. Yes.
11 Q. And what is that letter?
12 A. I guess the intent to conduct foreclosure
13 letter, it's the final notice that we would send out
14 to the homeowner prior to preparing the notice of
15 sale in the property.
16 Q. Can you turn to 190 for me, please?
17 A. Okay.
18 Q. What is this document?
19 A. It's a skip trace.
20 Q. How far does this go, 195?
21 A. No, the first one is through 192, and then
22 from 193 to 195 is the second.
23 Q. Okay. One is for Bonnie Harris and one is
24 for Joseph Harris, is that correct?
25 A. Yes.

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1 Q. At what point do you run a skip trace?
2 A. At the final notice stage, and when
3 preparing the notice of sale, and again the day of
4 the sale, to ensure that we had all the current
5 addresses for the homeowner.
6 Q. Okay. And in your review of the file in
7 preparation for your deposition, did you see
8 multiple copies of the skip trace in there?
9 A. I did not.
10 Q. Should there be multiple?
11 A. Not on this file because if I was
12 transferred prior to us reaching the stages where we
13 would have done more of the searches.
14 Q. Okay. Well, it's done, when did you say?
15 A. At the final notice stage. So between the
16 notice of default and the notice of sale.
17 Q. Okay.
18 A. And then it's done again when the notice
19 of sale is prepared by our office, and again on the
20 day of the sale, if we are holding a sale.
21 Q. And you didn't prepare the notice of sale
22 here?
23 A. No, we did not.
24 Q. And 198 for me, please, do you recognize
25 that document?

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13 (Pages 46 - 49)

1 A. Yes.
 2 Q. And what is this document?
 3 A. It's a mortgage letter. It goes out
 4 approximately 60 days after the notice of default
 5 has been recorded to advise that in 30 days we do
 6 intend on moving into foreclosure and it's mailed
 7 out to any mortgage holders, lenders, third parties
 8 who have vested interest in the property.
 9 Q. And how do you determine those addresses
 10 from the title report?
 11 A. Yes, it's provided by the title company on
 12 a ten day mailing list.
 13 Q. How is this letter mailed out, certified
 14 mail, first class?
 15 A. I believe this is just first class.
 16 Q. Okay. So no return receipt card or
 17 anything like that?
 18 A. Correct.
 19 Q. 205 for me, please, what is this document?
 20 A. This is the letter that goes out with the
 21 notice of default.
 22 Q. And how is this sent out?
 23 A. Certified and first class, and this would
 24 go to all parties on the property, including the
 25 homeowner.

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1 Q. Would there be any return receipts for
 2 this letter?
 3 A. If they were signed and sent back they
 4 would be in the file.
 5 Q. Okay. Do you keep certified mail
 6 receipts?
 7 A. If they are signed and sent back, yes.
 8 Q. Well, maybe I am misunderstanding myself,
 9 but there is a difference between the return receipt
 10 and actual certified mail receipts saying that you
 11 paid for postage, and sent it out, is that right?
 12 A. Yes, these were sent out through a vendor,
 13 we can go into their system and pull proof of
 14 mailing.
 15 Q. Who is the vendor?
 16 A. WALZ.
 17 Q. Can you spell that?
 18 A. W-A-L-Z.
 19 Q. Would that be true with all the mailings
 20 from Red Rock?
 21 A. Most of them, yes, and if it was not
 22 mailed out through the third party there would be
 23 the mailing affidavit that you saw previously.
 24 Q. Okay. So if it's mailed, just so I am
 25 understanding, we looked at an affidavit earlier, if

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1 Red Rock mails it directly they would prepare that
 2 affidavit, is that right?
 3 A. Correct, and have a copy of the mailer
 4 with the number on it and everything in the file.
 5 Q. Okay. But if you use the outside provider
 6 in this case, WALZ, that information wouldn't be in
 7 your file?
 8 A. No, we would have to go into their system
 9 to pull it, but we can, we do have access to do so.
 10 Q. Starting at 205, how far does this
 11 document go?
 12 A. I believe to 212.
 13 Q. Okay. And then 215, if you can look at
 14 that for me, please, what is this letter.
 15 A. I believe this is the intent to notice of
 16 default, it's a courtesy letter that's sent out
 17 advising that we had received no response from our,
 18 after mailing out our lien in and in ten days we
 19 intend to file a notice of default on the property.
 20 Q. 219, for me, please, what is this letter?
 21 A. This would be the lien letter. So this is
 22 the letter that is sent out with a copy of the
 23 recorded lien once we have it recorded on the
 24 property.
 25 Q. Okay. How far does this document go?

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1 A. 223, I believe.
 2 Q. And is this one that would have been sent
 3 by WALZ?
 4 A. Yes, I believe so.
 5 Q. 228 for me, what is this document?
 6 A. This is the checklist that they used at
 7 the time to, for the employee who was preparing the
 8 lien, just to make sure that they followed all the
 9 proper steps and did all the proper verification.
 10 Q. Would this only be for the preparation of
 11 lien or notice of default?
 12 A. If there was one used for the notice of
 13 default there would be a copy in the file, but they
 14 don't necessarily all use them on all files.
 15 Q. But this particular list is for the lien
 16 only, correct?
 17 A. Correct.
 18 Q. Is this something that only Red Rock has
 19 access to?
 20 A. Yes, it's in our file, it's just used by
 21 our employees.
 22 Q. So the HOA would not use this?
 23 A. No.
 24 Q. ULS wouldn't be checking on anything on
 25 this, is that right?

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14 (Pages 50 - 53)

1 A. No, they shouldn't be.
 2 Q. And then the last letter, 229?
 3 A. It appears to be the intent to lien
 4 letter, which is our initial correspondence that we
 5 send out when we start a collections account.
 6 Q. It looks like it's 229 and 230, is that
 7 right?
 8 A. Correct.
 9 Q. In the 2012 to 2013 time frame, what was
 10 Red Rock's understanding of what a super priority
 11 lien was?
 12 MR. WIGHT: Objection, calls for legal
 13 conclusion.
 14 MS. SURUR: Join, and foundation.
 15 A. At that point I don't believe we had any
 16 real information about a super priority lien, we
 17 just believed that we were foreclosing subject to
 18 the first deed of trust in all cases.
 19 Q. What is your understanding of what that
 20 means, as far as subject to the first deed of trust?
 21 A. That their interest on the property would
 22 remain intact.
 23 Q. Did Red Rock have an understanding in
 24 2012, 2013 as far as what the super priority lien
 25 entailed?

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1 A. Not that I am aware.
 2 Q. In 2012 and 2013, did Red Rock have an
 3 understanding of when the super priority lien would
 4 have been triggered?
 5 A. Not that I am aware of.
 6 Q. What was Red Rock's policy in 2012, 2013
 7 as far as when a partial payment of lien came in?
 8 MS. SURUR: Objection, form, foundation,
 9 and irrelevant.
 10 A. It would depend on the payment, if it's
 11 just a partial payment with no other verbiage or
 12 just a partial payment on the account it would be
 13 processed as a partial payment on the account, there
 14 were times that partial payments were returned to
 15 sender because they included conditions or
 16 restrictive verbiage on either the payment or the
 17 letter that came with the payment.
 18 Q. It would depend on the particular
 19 verbiage, is that right?
 20 A. Yes.
 21 Q. And the HOA sale in this case was not done
 22 by Red Rock, is that right?
 23 A. Yes.
 24 Q. Did Red Rock have any input as to what
 25 should be cried at the sale?

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1 A. No.
 2 Q. Did Red Rock have any input as to whether
 3 or not the super priority amount should be included
 4 in the sale?
 5 A. No.
 6 Q. Did Red Rock provide any instructions to
 7 UJS about whether or not the sale should be
 8 conducted pursuant to a super priority lien?
 9 A. No.
 10 Q. Did anyone from Red Rock attend the sale?
 11 A. No.
 12 Q. Do you know if anyone from the HOA
 13 attended the sale?
 14 A. I would not know.
 15 Q. Okay. And I believe we discussed, correct
 16 me if I am wrong, you said your only familiarity
 17 with First 100 is with regard to these transfers, is
 18 that right?
 19 A. Yes.
 20 Q. How about with regard to Chersus Holdings,
 21 LLC?
 22 A. I have seen the name on multiple different
 23 accounts, that's the only way I know anything about
 24 it.
 25 Q. Do you know if Red Rock has any direct

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1 dealings with Chersus?
 2 A. Not that I am aware of.
 3 Q. Do you know if Red Rock has entered into
 4 any particular agreement with Chersus?
 5 A. Not that I am aware of.
 6 Q. That's all I have.
 7 MS. SURUR: I have a few.
 8 EXAMINATION
 9 BY MS. SURUR:
 10 Q. My name is Ashlie Surur, I represent
 11 Southern Terrace Homeowners Association. Okay. I
 12 will try to be as quick as possible, bare with me.
 13 Can you do me a favor and take a look, I think it's
 14 Exhibit B, is that the one in front of you?
 15 A. Yes.
 16 Q. And we are going to look at WFZ 89 through
 17 94. This series of documents includes copies of
 18 mail envelopes and return receipt requested,
 19 correct?
 20 A. Correct.
 21 Q. Okay. From looking at this series of
 22 documents, can you tell me what was mailed out in
 23 these envelopes?
 24 A. Because of the stamp on here it says final
 25 notice, that tells me it was the final notice

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15 (Pages 54 - 57)

1 letter, the intent to conduct foreclosure sale
2 letter.
3 Q. It was a letter that was sent out before
4 the notice of delinquent assessment lien was
5 recorded or am I misunderstanding that?
6 A. No, this would have been before a notice
7 of sale would be prepared on the property. It would
8 be the final notice to the homeowner that we are
9 preparing to move into setting the foreclosure sale.
10 Q. Okay. And is that, can you do me a favor,
11 I think that letter is in here somewhere, maybe
12 towards the end of the package, can you point that
13 out to us, that would be helpful?
14 A. That would be 175, with the mailing
15 affidavit, through 183. So the actual letters are
16 180 through 183.
17 Q. Does Nevada law require the letter that
18 you identified to be sent out?
19 A. No, this letter is sent as a courtesy.
20 Q. Do the HOA CC&R's require that these
21 series of letters be sent out?
22 A. Not that I am aware of.
23 Q. You mentioned before the company WALZ,
24 correct?
25 A. Yes.

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1 Q. Do you have a contact at WALZ?
2 A. My supervisor would, I don't have a direct
3 contact.
4 Q. Who is your supervisor?
5 A. Julia Thompson.
6 Q. Is WALZ a company that's local here in Las
7 Vegas?
8 A. I believe they are in California.
9 Q. If I needed to send a request to Red Rock
10 to obtain WALZ's file related to this property what
11 information would I need to provide to Red Rock to
12 obtain that?
13 A. It would depend on what you are looking
14 for, if you are looking for their proof of mailings,
15 we can provide that, with just a simple request that
16 you would like proof of mailings for this property.
17 Q. Okay. If I wanted anything other than a
18 proof of mailing, would that request need to be
19 directed to WALZ?
20 A. I believe so.
21 Q. You testified earlier that Red Rock's
22 collection file for this property was transferred to
23 First 100, correct?
24 A. Correct.
25 Q. Is there anything in Red Rock's documents

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1 that show what documents or information was
2 transferred from Red Rock to First 100?
3 A. No, I don't believe they received our
4 account documents, I believe they received the
5 account information, the homeowner information and
6 property information, accounting ledger from the
7 association as they would then be the agent of the
8 association, and the information they would have
9 received from us regarding documents on the property
10 would have been just the recording information where
11 they could find the recorded lien and notice of
12 default on the property.
13 Q. Where do you draw that belief on that?
14 A. That's my understanding of what was
15 physically transferred to them from our office.
16 Q. Sure. Where does that understanding come
17 from, is it from documents you reviewed, people you
18 talked to, policies and procedures of Red Rock?
19 A. Yes, people I talked to that handled the
20 transfers previously.
21 Q. And you talked to them to prepare for your
22 deposition today?
23 A. No, it was regarding other accounts
24 surrounding the transfers. They were multiple
25 accounts, it was a very big undertaking at our

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1 office at one time.
2 Q. Okay. And its Red Rock's understanding
3 that First Service assumed the collection process
4 for this property?
5 A. First 100.
6 Q. As opposed to United Legal Services?
7 A. I believe they were the same entity at the
8 time, it was United Legal Services handling
9 collections with First 100.
10 Q. And where does Red Rock draw that
11 understanding from?
12 A. It would be the same as the way that we
13 were doing collections for the HOA, we were an agent
14 of the HOA who just assumed First 100 and United
15 Legal Services were acting as an agent on behalf of
16 the HOA.
17 Q. Let me clarify my question, where does Red
18 Rock draw its understanding that United Legal
19 Services and First 100 were essentially the same
20 entity acting as the agent for the HOA as opposed to
21 the separate entity and separate roles?
22 A. I believe we were told that anybody that
23 contacted regarding any of the first 100 properties
24 were to be directed to Mr. Atkinson at United Legal
25 Services, so.

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16 (Pages 58 - 61)

1 Q. Was that noted in your file somewhere?
 2 A. It's in the First 100 files in our system,
 3 it would say anybody contacting for information
 4 please refer to Robert Atkinson.
 5 Q. If I went in, just as quickly as possible
 6 or as briefly as possible describe to me if I were
 7 to look at Red Rock's files for this property where
 8 in your system would it note that it was a First 100
 9 property and that information should be directed to
 10 Mr. Atkinson at ULS?
 11 A. I don't believe it's in the collection
 12 file, it's in the account in our system, just an
 13 internal note for our office.
 14 Q. And that note applied to this property,
 15 correct?
 16 A. Yes.
 17 Q. So you were asked a series of questions
 18 and we are going to look, same exhibit, we are
 19 looking at 84 and 85. Were you asked a series of
 20 questions about these checks?
 21 A. Yes.
 22 Q. In order to tell us what fees were owed to
 23 Red Rock as of June 2nd and June 6th, 2014, what
 24 document would you need to refer to other than the
 25 checks on Pages 84 and 85?

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1 A. It would be an invoice, I believe it is
 2 the first page of that packet of Exhibit B.
 3 Q. Okay. It looks like you are looking at an
 4 invoice with some pages right now. Can you tell us
 5 the pages you are referring to?
 6 A. The first page number 34.
 7 Q. Okay.
 8 A. That appears to be the invoice for this
 9 specific property to Southern Terrace, care of RMI.
 10 regarding the collection fees, which is what was
 11 being paid by First 100 on these checks, sorry, I
 12 didn't read what that was earlier.
 13 Q. That's fine, that's what follow ups are
 14 for. As of June 6th, 2013 Red Rock Financial
 15 Services had been paid for its collection fees and
 16 costs related to this property, correct?
 17 A. Correct.
 18 Q. All right. While we were on 34, you still
 19 have that in front of you?
 20 A. Yes.
 21 Q. Do you see on April 7th, 2013, there is
 22 an entry labeled payoff demands?
 23 A. Yes.
 24 Q. Did Red Rock receive a payoff demand or
 25 request for a pay off demand in this case?

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1 A. I believe so, that's the only time it's
 2 charged to the account and prepared is when we
 3 received a request.
 4 Q. So why don't you take a look at WFZ 132 to
 5 133. Is this the payoff demand that's reflected on
 6 the invoice on Page 34?
 7 MR. JURANI: I will object to form,
 8 foundation.
 9 A. Page 34 is not a payoff demand.
 10 Q. So sorry, maybe I misunderstood, take a
 11 look at WFZ 132 and 133, let's back up, what is the
 12 document that's identified as 132?
 13 A. It does appear to be a payoff request from
 14 Cooper Castle Law Firm.
 15 Q. Okay. And as of March 1st, 2013, based on
 16 this letter, did Red Rock have an understanding as
 17 to who Cooper Castle Law Firm was representing?
 18 A. Yes, it does say right here they were
 19 representing JMAC Mortgage.
 20 Q. Did Red Rock forward this letter to the
 21 community management company for the HOA as it
 22 existed in or around March 1st, 2013?
 23 A. I don't believe so, I believe it would be
 24 handled by Red Rock Financial Services on behalf of
 25 the HOA.

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1 Q. And how did Red Rock handle this letter?
 2 A. It looks like it was received by our
 3 office on March 21st, I believe that would be the
 4 payoff demand that would have been charged on
 5 April 8th. I would have to look through here to see
 6 if there was a payoff demand provided that is in the
 7 file.
 8 Q. Okay. And I didn't mean to cut you off,
 9 let me give you some assistance. I think this will
 10 help, I think for this continued series of questions
 11 if you can look at 109 through 133. I believe they
 12 are listed in reverse chronology, so the older
 13 document has the lower Bates number, does that make
 14 sense?
 15 A. So the date on this page is April 8th, it
 16 would be the payoff demand that was charged on
 17 April 8th.
 18 Q. That begins on what page?
 19 A. I believe on 109.
 20 Q. And this payoff demand, it includes a
 21 total of 11 pages, correct?
 22 A. It appears to go through 119 so.
 23 Q. And this payoff demand was e-mailed to
 24 Brian Jacob at Cooper Castle, is that correct?
 25 A. Yes.

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17 (Pages 62 - 65)

1 Q. Who is Jason Cernak?
2 A. He was a mail clerk at Red Rock Financial
3 Services.
4 Q. Okay. And who was Elizabeth Cernak?
5 A. She was the person who prepared payoff
6 demands at that time.
7 Q. Is there anything in Red Rock's file to
8 indicate that Mr. Jacob did not receive the payoff
9 demand that was emailed on April 8th, 2013 at
10 4:27 p.m.?
11 A. Not that I am aware of.
12 Q. Do you know if Red Rock, when they sent
13 this e-mail if they used a read receipt?
14 A. Not that I am aware of.
15 Q. Okay. Let's go to Page 120, are you
16 there?
17 A. Yes.
18 Q. Okay. This looks like an e-mail from Red
19 Rock, correct?
20 A. Correct.
21 Q. Okay. Looks like the e-mail was printed
22 by a Terry Hartman, do you see that at the top?
23 A. Yes.
24 Q. Who is Terry?
25 A. At the time she was in correspondence in

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1 our office.
2 Q. What do you mean, at the time?
3 A. She is no longer employed with our office.
4 And at the time she was employed working in
5 correspondence.
6 Q. When would this e-mail have been printed?
7 A. It should have been printed immediately
8 after being sent.
9 Q. Okay. And while we were on that subject
10 the prior e-mail, the one on Page 110, would Jason
11 have printed that on or near the time he sent that
12 e-mail?
13 A. Yes.
14 Q. So let's go back to 120, sorry to jump a
15 round a bit. The front line says it's from RRFS
16 letters, do you see that?
17 A. Yes.
18 Q. Do you know what e-mail address is
19 associated with RRFS letters?
20 A. Yes.
21 Q. Okay. What is it?
22 A. It's the general correspondence inbox that
23 we have that we both mail from and receive e-mails
24 into, and multiple employees have access to it. And
25 which would be why it says Terry Hartman on the top,

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1 she would be the person who had printed the letters.
2 Q. So Terry used the e-mail address to send
3 it to bjacob@cmsatty.com, correct?
4 A. Yes.
5 Q. This indicates there was some attachments,
6 can you tell us from the documents in front of
7 those, what documents are using Bates numbers?
8 A. It would be the accounting ledger starting
9 on Page 122 going through Page 130.
10 Q. Okay. Let's take a look at that
11 accounting ledger that starts on Page 122. This
12 accounting ledger includes a breakdown of the
13 monthly common assessments owed to the HOA, correct?
14 A. Yes.
15 Q. It also breaks out what any late fees are
16 that are owed to the HOA, correct?
17 A. Yes, it has, it's an itemized list of
18 charges on the account, including Red Rock charges.
19 Q. From this accounting ledger that's on 122
20 through 130, can someone determine what amount of
21 the monthly assessment owed to this HOA between
22 December, 31st, 2008 and April 1st, 2013, what that
23 amount is?
24 A. Not necessarily, I mean not just for the
25 assessment amount, no, it's a running balance of the

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1 full accounting, so your balance doesn't say
2 specifically if the assessment was paid for if the
3 late fee was paid or what was paid by the late fee
4 that came in. So at the time the payment was
5 processed on to the account it just shows the
6 payment of whatever the amount of the payment and
7 then the balance after that amount was taken off, it
8 doesn't say which exact charge it was applied, so
9 you wouldn't know exactly what was outstanding.
10 Q. But can I look at this ledger and find out
11 the monthly assessment for this HOA at a particular
12 time?
13 A. Yes.
14 Q. Okay. Go ahead and look at Page 131 for
15 me, for us, are you there?
16 A. Yes.
17 Q. This page looks like it was printed by
18 Terry Hartman, is that correct?
19 A. Yes.
20 Q. Okay. And do you know why this page was
21 generated?
22 A. It appears to be the request for the
23 ledger that was sent to RRFS general, which is
24 another general correspondence inbox by an employee
25 who received the request. So that was sent over to

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18 (Pages 66 - 69)

1 the general correspondence inbox to be handled by
2 the correspondence department, which is where Terry
3 got the request to send the e-mail with the ledger.
4 She also included that request on the bottom of her
5 e-mail showing that the ledger is in response to
6 that request.

7 Q. Okay. Just be clear, in case someone else
8 reads this transcript, when you refer to that we are
9 talking about Terry's e-mail, you are talking about
10 WFZ 102, correct?

11 A. Yes, 131 might be included in what was
12 attached to the e-mail or it was put in the file as
13 part of the back up for it, as to where she got the
14 request for it.

15 Q. Okay. What we see on 131, would that have
16 been generated when somebody went to Red Rock's
17 website and made a payoff request?

18 A. It didn't go through the payoff portion of
19 the website, it went to marketing, but it is a
20 request that would have been filled out on our
21 website.

22 Q. Did Red Rock ever receive a response to
23 the demand it set out on April 8th, 2013?

24 A. Not that I am aware of.

25 Q. Did Red Rock ever receive a payment of the
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1 lien or partial payment of the lien?

2 A. Not that I am aware of.

3 Q. If Red Rock had received a response to the
4 letter that it sent to Cooper Castle on April 8th,
5 2013 would that response have been included in Red
6 Rock's documents?

7 A. Yes.

8 Q. And more specifically, in the documents
9 that have been attached as Exhibit B?

10 A. I believe so, a copy would have been
11 placed in the file.

12 Q. If Red Rock had received a check for
13 payment towards the HOA lien for this property,
14 would a copy of that check have been placed in Red
15 Rock's file for this property?

16 A. I believe so, it's our usual procedure to
17 place a copy.

18 Q. Okay. Would receipt of that check have
19 been noted somewhere in Red Rock's file?

20 A. It would be noted in the account notes and
21 a copy would have been placed in the file with a
22 check received, and if anything was done with the
23 check if it was processed, if it was returned a copy
24 of that would be placed in the file, as well.

25 Q. And in your preparation for this
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1 deposition and review of Red Rock's file for this
2 property, which we have identified as Exhibit B in
3 your deposition, did you see any notation in the
4 file of receipt and/or rejection of any type of
5 check for payment towards the HOA's lien for this
6 property?

7 A. Not that I recall.

8 Q. Getting there. Okay. Let's take a look
9 at, well let me just ask you this, I think I can
10 probably look this up myself. Just to be clear for
11 the record Red Rock's account number for this
12 property, when it handled the collection process was
13 98668, correct?

14 A. Correct.

15 Q. And Red Rock would use that account number
16 on any reference on bill payment stubs, correct?

17 A. Correct.

18 Q. Okay. Can you take a look at Page Number
19 98, please?

20 A. Yes.

21 Q. You were asked a while back about what
22 amounts were included in the \$1,870.61 that is shown
23 owed as of the time that the notice of default and
24 election to sell was recorded on February 27th,
25 2012, do you remember that series of questions?
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1 A. Yes.

2 Q. What document in Red Rock's file would you
3 need to refer to, to tell us what amounts were
4 actually included in the \$1,870.61?

5 A. An accounting ledger from that time.

6 Q. Okay. Just bare with me, but for the
7 record, can you use the Bates labels or Bates
8 numbers to show us or tell us what ledger you would
9 use?

10 A. Not sure there is a current accounting
11 ledger from that one in here, it does not appear to
12 be a copy of the accounting ledger from that time in
13 the file.

14 Q. Okay. Could you use the accounting
15 ledgers on Pages 46 to 59?

16 A. It's not from the same time period, if
17 there were any payments that came in after that
18 document was prepared, and I would not be able to,
19 no, I wouldn't be able to without the accounting
20 ledger from that time period.

21 Q. Okay. Well, take a look at Page 51 of
22 that document?

23 A. Okay.

24 Q. And go to the entries on January 27, 2012?

25 A. Yes.
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1 Q. Okay. So on January 27th, 2012, it says
2 NOD mailing costs, are you on that line?
3 A. Yes.
4 Q. Okay. And if you go all the way to the
5 far right, the total balance is \$1,870.61, right?
6 A. Yes.
7 Q. Does reviewing this account detail in
8 conjunction with the notice of default allow you to
9 tell us whether or not the amounts included in the
10 HOA lien as of January 27th, 2012, whether they
11 included any fines for violations?
12 A. In reviewing from the last time there was
13 a zero balance on the account to the time the NOD
14 was filed, there are no funds charged.
15 Q. And in fact, you wouldn't include fines
16 for violations in a delinquent assessment lien,
17 correct?
18 A. I believe they are possibly included in
19 the lien, if they are on the account when the lien
20 is sent to us the entire balance would be included,
21 but there are not included on the notice of default
22 or the foreclosable balance.
23 Q. Just to be clear?
24 A. This is at that time now they are handled
25 separately.

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1 Q. Let's just talk about this time, let's
2 talk about the time that Red Rock was pursuing
3 foreclosure for the HOA. But at the time that Red
4 Rock was pursuing foreclosure, did the foreclosable
5 portion of the lien include any fines for
6 violations?
7 A. No.
8 Q. Okay. You told us earlier what Red Rock's
9 understanding was in 2012 and 2013 of the effect of
10 an HOA foreclosure sale on a first deed of trust, do
11 you remember that testimony?
12 A. Yes.
13 Q. In 2012 and 2013, did Red Rock communicate
14 that understanding to this HOA in regards to this
15 property?
16 A. I am not sure.
17 Q. Do you know if Red Rock had communicated,
18 who at Red Rock would know?
19 A. I am not sure, it may actually be in the
20 documents that we sent over for board signature to
21 approve the sale, but I am not sure if it is or how.
22 Q. Are you talking about the document on Page
23 134?
24 A. I believe so.
25 Q. Okay. So in essence, any other

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1 understanding that Red Rock had regarding the impact
2 or effect of an HOA foreclosure sale on a holder of
3 a first deed of trust would be included in the
4 document on 135, if it was communicated at all, is
5 that correct?
6 A. Yes, I believe so.
7 Q. Okay.
8 A. It specifically states the first mortgage
9 would remain on the property.
10 Q. Okay. I think you mentioned earlier that
11 in 2012, 2013 actually I want to back up because I
12 think Red Rock first received this file in 2011.
13 Between 2011 and 2013, when Red Rock had this
14 property for collections, the HOA did have access to
15 a part of Red Rock's system, correct?
16 A. Yes.
17 Q. And what part of the system did the HOA
18 either directly or through it's management company
19 have access to?
20 A. I believe the HOA board members, the
21 community manager and the management company all
22 have the same access to our website, which provides
23 account information, balance information, progress
24 notes, what steps we have taken on the account and
25 the account balance.

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1 Q. Okay. I didn't see any progress notes in
2 Exhibit B. Did I miss them or were they not
3 included?
4 A. They may not be in here because they are
5 not part of the file, they are just part of the
6 account in our system. And they can be provided if
7 needed.
8 Q. Other than the progress notes, are there
9 any other, is there any other information or
10 documents related to this property that Red Rock
11 maintains that are not included in what you would
12 consider the property file?
13 A. Not that I am aware of.
14 Q. Okay. That's all I have.
15 (The deposition concluded at
16 3:45 p.m.)
17 * * * * *

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20 (Pages 74 - 77)

1
2 CERTIFICATE OF REPORTER

3 I, Shifra Moscovitz, Certified Court Reporter,
4 State of Nevada, do hereby certify:

5 That I reported the deposition of
6 SARA TREVINO, commencing on Thursday,
7 August 2nd, 2018, at 2:00 p.m.

8 That prior to being deposed, the witness was duly
9 sworn by me to testify to the truth. That I thereafter
10 transcribed my said shorthand notes into typewriting and
11 that the typewritten transcript is a complete, true and
12 accurate transcription of my said shorthand notes. That
13 prior to the conclusion of the proceedings, the reading and
14 signing was not requested by the witness or a party.

15 I further certify that I am not a relative or
16 employee of counsel of any of the parties, nor a relative or
17 employee of the parties involved in said action, nor a
18 person financially interested in the action.

19 In witness whereof, I hereunto subscribe my name
20 at Las Vegas, Nevada, this 20th day of August, 2018.

21
22
23
24
25 SHIFRA MOSCOVITZ, CCR No. 938
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Nevada Rules of Civil Procedure
Part V. Depositions and Discovery

Rule 30

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

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Red Rock Financial Services

4775 W Tecco Ave #104
Las Vegas, NV 89118
702-932-6887

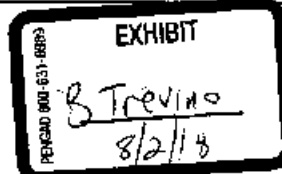
DATE: April 29, 2013
INVOICE # 98668
FOR: Services Rendered

Bill To:
Southern Terrace HOA c/o RMI Management, LLC
830 Trade Center Drive, #101 Las Vegas, NV 89119

DESCRIPTION		AMOUNT
<i>Collection services provided on 5946 Lingerin Breeze</i>		
11/17/2011	Intent to Lien Letter	\$125.00
11/17/2011	Mailing Costs	\$8.96
11/17/2011	Mailing Costs	\$8.96
12/1/2011	Mailing Costs	\$8.96
12/1/2011	Lien for Delinquent Assessment	\$275.00
12/1/2011	Mailing Costs	\$8.96
12/1/2011	Lien Release	\$33.00
12/1/2011	Lien Recording Costs	\$31.00
1/13/2012	Intent to Lien Letter	\$25.00
1/13/2012	Mailing Costs	\$8.96
1/13/2012	Mailing Costs	\$8.96
1/13/2012	Intent to NOD	\$90.00
1/27/2012	Notice of Default	\$375.00
1/27/2012	NOD Release	\$30.00
1/27/2012	Trustee Sale Guarantee	\$205.00
1/27/2012	NOD Recording Costs	\$22.00
1/27/2012	NOD Release Recording Costs	\$22.00
1/27/2012	NOD Mailing Costs	\$89.70
1/27/2012	NOD Mailing Charges Adjustment	(\$53.82)
4/9/2012	Intent to NOS	\$90.00
8/14/2012	Intent to Conduct Foreclosure	\$25.00
4/8/2013	Payoff Demand	\$150.00
Due Upon Receipt		
TOTAL		\$ 1,687.64

Make all checks payable to Red Rock Financial Services

Page 1



WFZ0034

AA1068

Assessor Parcel Number: 163-31-611-022
File Number: R98668
Property Address: 5946 Lingering Breeze St
Las Vegas, NV 89148
Title Order Number: 36904

Inet #: 201202020000465
Fees: \$17.00
N/C Fee: \$0.00
02/02/2012 10:26:14 AM
Receipt #: 1054640
Requestor:
AMERICAN LOT BOOK
Recorded By: LEX Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

**NOTICE OF DEFAULT AND ELECTION TO SELL PURSUANT TO THE
LIEN FOR DELINQUENT ASSESSMENTS**

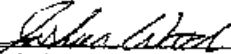
◆ IMPORTANT NOTICE ◆

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

NOTICE IS HEREBY GIVEN: Red Rock Financial Services officially assigned as agent by the Southern Terrace Homeowners Association, under the Lien for Delinquent Assessments, recorded on 12/08/2011, in Book Number 20111208, as Instrument Number 0002960, reflecting JOSEPH F. HARRISON, BONNIE L. HARRISON as the owner(s) of record on said lien, land legally described as RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, of the Official Records in the Office of the Recorder of Clark County, Nevada, makes known the obligation under the Covenants, Conditions and Restrictions recorded 08/09/2001, in Book Number 20010809, as Instrument Number 01455, has been breached. As of 09/01/2011 forward, all assessments, whether monthly or otherwise, late fees, interest, Association charges, legal fees and collection fees and costs, less any credits, have gone unpaid.

Above stated, the Association has equipped Red Rock Financial Services with verification of the obligation according to the Covenants, Conditions and Restriction in addition to documents proving the debt, therefore declaring any and all amounts secured as well as due and payable, electing the property to be sold to satisfy the obligation. In accordance with Nevada Revised Statutes 116, no sale date may be set until the ninety-first (91) day after the recorded date or the mailing date of the Notice of Default and Election to Sell. As of January 27, 2012, the amount owed is \$ 1,870.61. This amount will continue to increase until paid in full.

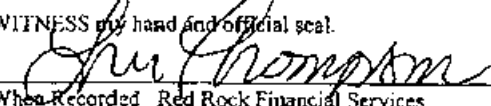

Prepared By Joshua Wood, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

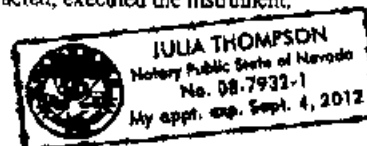
Dated: January 27, 2012

STATE OF NEVADA)
COUNTY OF CLARK)

On January 27, 2012, before me, personally appeared Joshua Wood, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


When Recorded Red Rock Financial Services
Mail To: 7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



WFZ0035

AA1069

Assessor Parcel Number: 163-31-611-022
File Number: R98668

Accommodation

Inst #: 201112080002960
Fees: \$17.00
N/C Fee: \$0.00
12/08/2011 09:26:38 AM
Receipt #: 1002082
Requestor:
NORTH AMERICAN TITLE
COMPAN
Recorded By: KGP Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER

LIEN FOR DELINQUENT ASSESSMENTS

Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

NOTICE IS HEREBY GIVEN: Red Rock Financial Services, a division of RMI Management LLC, officially assigned as agent by the Southern Terrace Homeowners Association, herein also called the Association, in accordance with Nevada Revised Statutes 116 and outlined in the Association Covenants, Conditions, and Restrictions, herein also called CC&R's, recorded on 08/09/2001, in Book Number 20010809, as Instrument Number 01455 and including any and all Amendments and Annexations et. seq., of Official Records of Clark County, Nevada, which have been supplied to and agreed upon by said owner.

Said Association imposes a Lien for Delinquent Assessments on the commonly known property:

5946 Lingering Breeze St, Las Vegas, NV 89148

RUSSELL FORT APACHE-UNIT 3 PLAT BOOK 101 PAGE 45 LOT 131 BLOCK 5, in the County of Clark

Current Owner(s) of Record:

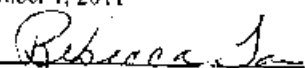
JOSEPH F. HARRISON, BONNIE L. HARRISON

The amount owing as of the date of preparation of this lien is **\$737.04.

This amount includes assessments, late fees, interest, fines/violations and collection fees and costs.

** The said amount may increase or decrease as assessments, late fees, interest, fines/violations, collection fees, costs or partial payments are applied to the account.

Dated: December 1, 2011



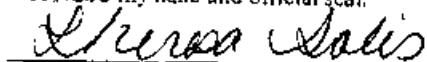
Prepared By Rebecca Tom, Red Rock Financial Services, on behalf of Southern Terrace Homeowners Association

STATE OF NEVADA)

COUNTY OF CLARK)

On December 1, 2011, before me, personally appeared Rebecca Tom, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



When Recorded Mail To: Red Rock Financial Services
7251 Amigo Street, Suite 100
Las Vegas, Nevada 89119
702-932-6887



WFZ0036

AA1070



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingering Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
12/31/2008	Monthly Assessment	\$11.00	\$11.00		Monthly Assessment
12/31/2008	Master Assessments	\$64.56	\$65.56		Master Assessments
1/1/2009	Master Assessments	\$62.00	\$127.56		Master Assessments
1/1/2009	Monthly Assessment	\$11.00	\$138.56		Monthly Assessment
1/26/2009	Association Mgmt Payment	(\$88.00)	\$70.56	005243	Receipt Processing
2/1/2009	Master Assessments	\$62.00	\$132.56		Master Assessments
2/1/2009	Monthly Assessment	\$11.00	\$143.56		Monthly Assessment
2/4/2009	Association Mgmt Payment	(\$73.00)	\$70.56	05258	Lockbox Payment
3/1/2009	Master Assessments	\$62.00	\$132.56		Master Assessments
3/1/2009	Monthly Assessment	\$11.00	\$143.56		Monthly Assessment
3/1/2009	Association Mgmt Payment	(\$73.00)	\$70.56	05262	Lockbox Payment
3/27/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05270	Lockbox Payment
4/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
4/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
4/8/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05278	Lockbox Payment
5/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
5/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
5/29/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05290	Lockbox Payment
6/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
6/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
6/30/2009	Late Fees	\$10.00	\$80.56		Late Fees
7/1/2009	Master Assessments	\$62.00	\$142.56		Master Assessments
7/1/2009	Monthly Assessment	\$11.00	\$153.56		Monthly Assessment
7/10/2009	Association Mgmt Payment	(\$73.00)	\$80.56	05302	Lockbox Payment
7/23/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05308	Lockbox Payment
8/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
8/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
8/1/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05315	Lockbox Payment



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
9/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
9/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
9/22/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05325	Lockbox Payment
10/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
10/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
10/22/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05337	Lockbox Payment
11/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
11/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
11/17/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05342	Lockbox Payment
12/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
12/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
12/10/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05351	Lockbox Payment
1/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
1/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
1/11/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00535	Lockbox Payment
2/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
2/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
2/12/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00537	Lockbox Payment
3/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
3/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
3/9/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00538	Lockbox Payment
4/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
4/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
4/16/2010	Association Mgmt Payment	(\$73.00)	\$7.56	05397	Lockbox Payment
5/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
5/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
5/17/2010	Association Mgmt Payment	(\$73.00)	\$7.56	05406	Lockbox Payment
6/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
6/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
6/16/2010	Association Mgmt Payment	(\$61.00)	(\$0.44)	05420	Lockbox Payment
7/1/2010	Master Assessments	\$62.00	\$61.66		Master Assessments
7/1/2010	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
7/7/2010	Association Mgmt Payment	(\$73.00)	(\$0.44)	05427	Lockbox Payment
7/29/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05440	Lockbox Payment
8/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
8/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
8/13/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05444	Lockbox Payment
9/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
9/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
9/16/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05455	Lockbox Payment
10/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
10/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
10/19/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05460	Lockbox Payment
11/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
11/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
11/10/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05466	Lockbox Payment
12/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
12/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
1/1/2011	Master Assessments	\$62.00	\$61.56		Master Assessments
1/1/2011	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
1/7/2011	Association Mgmt Payment	(\$73.00)	(\$0.44)	05480	Lockbox Payment
1/28/2011	Association Mgmt Payment	(\$73.00)	(\$73.44)	05492	Lockbox Payment
2/1/2011	Master Assessments	\$62.00	(\$11.44)		Master Assessments
2/1/2011	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
2/7/2011	Association Mgmt Payment	(\$73.00)	(\$73.44)	05496	Lockbox Payment
3/1/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05501	Lockbox Payment



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingering Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
3/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
3/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
3/2/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05507	Lockbox Payment
4/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
4/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
4/12/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05518	Lockbox Payment
5/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
5/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
5/11/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05526	Lockbox Payment
6/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
6/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
7/1/2011	Master Assessments	\$62.00	(\$11.44)		Master Assessments
7/1/2011	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
8/1/2011	Master Assessments	\$62.00	\$61.56		Master Assessments
8/1/2011	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
8/4/2011	Association Mgmt Payment	(\$75.00)	(\$2.44)	05545	Lockbox Payment
9/1/2011	Master Assessments	\$62.00	\$59.56		Master Assessments
9/1/2011	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
9/30/2011	Late Fees	\$10.00	\$80.56		Late Fees
10/1/2011	Master Assessments	\$62.00	\$142.56		Master Assessments
10/1/2011	Monthly Assessment	\$11.00	\$153.56		Monthly Assessment
11/1/2011	Master Assessments	\$62.00	\$215.56		Master Assessments
11/1/2011	Monthly Assessment	\$11.00	\$226.56		Monthly Assessment
11/17/2011	Intent to Lien Letter	\$125.00	\$351.56		
11/17/2011	Mailing Costs	\$8.96	\$360.52		
11/17/2011	Mailing Costs	\$8.96	\$369.48		
11/29/2011	Association Interest	\$0.64	\$370.12		
12/1/2011	Late Fees	\$10.00	\$380.12		Late Fees



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
12/1/2011	Mailing Costs	\$8.96	\$389.08		
12/1/2011	Lien for Delinquent Assessment	\$275.00	\$664.08		
12/1/2011	Mailing Costs	\$8.96	\$673.04		
12/1/2011	Lien Release	\$33.00	\$706.04		
12/1/2011	Lien Recording Costs	\$31.00	\$737.04		
12/1/2011	Master Assessments	\$62.00	\$799.04		Master Assessments
12/1/2011	Monthly Assessment	\$11.00	\$810.04		Monthly Assessment
12/30/2011	Late Fees	\$10.00	\$820.04		Late Fees
12/30/2011	Association Interest	\$0.95	\$820.99		
1/1/2012	Master Assessments	\$62.00	\$882.99		Master Assessments
1/1/2012	Monthly Assessment	\$11.00	\$893.99		Monthly Assessment
1/13/2012	Intent to Lien Letter	\$125.00	\$1,018.99		
1/13/2012	Mailing Costs	\$8.96	\$1,027.95		
1/13/2012	Mailing Costs	\$8.96	\$1,036.91		
1/13/2012	Intent to NOD	\$90.00	\$1,126.91		
1/27/2012	Notice of Default	\$375.00	\$1,501.91		
1/27/2012	NOD Release	\$30.00	\$1,531.91		
1/27/2012	Trustee Sale Guarantee	\$205.00	\$1,736.91		
1/27/2012	NOD Recording Costs	\$22.00	\$1,758.91		
1/27/2012	NOD Release Recording Costs	\$22.00	\$1,780.91		
1/27/2012	NOD Mailing Costs	\$89.70	\$1,870.61		
1/27/2012	NOD Mailing Charges Adjustment	(\$53.82)	\$1,816.79		
1/29/2012	Association Interest	\$1.27	\$1,818.06		
1/30/2012	Late Fees	\$10.00	\$1,828.06		Late Fees
2/1/2012	Master Assessments	\$62.00	\$1,890.06		Master Assessments
2/1/2012	Monthly Assessment	\$11.00	\$1,901.06		Monthly Assessment
3/1/2012	Master Assessments	\$62.00	\$1,963.06		Master Assessments
3/1/2012	Monthly Assessment	\$11.00	\$1,974.06		Monthly Assessment



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerling Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
3/1/2012	Association Interest	\$1.59	\$1,975.65		
3/2/2012	Late Fee	\$10.00	\$1,985.65		
3/30/2012	Late Fees	\$10.00	\$1,995.65		Late Fees
4/1/2012	Master Assessments	\$62.00	\$2,057.65		Master Assessments
4/1/2012	Monthly Assessment	\$11.00	\$2,068.65		Monthly Assessment
4/1/2012	Association Interest	\$1.91	\$2,070.56		
4/4/2012	Fine	\$50.00	\$2,120.56		Fine
4/9/2012	Intent to NOS	\$90.00	\$2,210.56		
4/18/2012	Fine	\$50.00	\$2,260.56		Fine
4/25/2012	Fine	\$50.00	\$2,310.56		Fine
4/25/2012	Late Fees	\$10.00	\$2,320.56		Late Fees
4/30/2012	Association Interest	\$2.23	\$2,322.79		
5/1/2012	Master Assessments	\$62.00	\$2,384.79		Master Assessments
5/1/2012	Monthly Assessment	\$11.00	\$2,395.79		Monthly Assessment
5/2/2012	Fine	\$50.00	\$2,445.79		Fine
5/9/2012	Fine	\$50.00	\$2,495.79		Fine
5/16/2012	Fine	\$50.00	\$2,545.79		Fine
5/23/2012	Fine	\$50.00	\$2,595.79		Fine
5/30/2012	Fine	\$50.00	\$2,645.79		Fine
5/30/2012	Association Interest	\$2.55	\$2,648.34		
5/31/2012	Late Fees	\$10.00	\$2,658.34		Late Fees
6/1/2012	Master Assessments	\$62.00	\$2,720.34		Master Assessments
6/1/2012	Monthly Assessment	\$11.00	\$2,731.34		Monthly Assessment
6/8/2012	Fine	\$50.00	\$2,781.34		Fine
6/13/2012	Fine	\$50.00	\$2,831.34		Fine
6/20/2012	Fine	\$50.00	\$2,881.34		Fine
6/27/2012	Fine	\$50.00	\$2,931.34		Fine
6/27/2012	Late Fees	\$10.00	\$2,941.34		Late Fees



Red Rock Financial Services
Accounting Ledger
 Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
6/30/2012	Association Interest	\$2.87	\$2,944.21		
7/1/2012	Master Assessments	\$62.00	\$3,006.21		Master Assessments
7/1/2012	Monthly Assessment	\$11.00	\$3,017.21		Monthly Assessment
7/4/2012	Fine	\$50.00	\$3,067.21		Fine
7/11/2012	Fine	\$50.00	\$3,117.21		Fine
7/18/2012	Fine	\$50.00	\$3,167.21		Fine
7/25/2012	Fine	\$50.00	\$3,217.21		Block Walls - Sprinkler Damage
7/30/2012	Association Interest	\$3.19	\$3,220.40		
7/31/2012	Late Fees	\$10.00	\$3,230.40		Late Fees
8/1/2012	Master Assessments	\$62.00	\$3,292.40		Master Assessments
8/1/2012	Monthly Assessment	\$11.00	\$3,303.40		Monthly Assessment
8/1/2012	Fine	\$50.00	\$3,353.40		Block Walls - Sprinkler Damage
8/8/2012	Fine	\$50.00	\$3,403.40		Block Walls - Sprinkler Damage
8/14/2012	Intent to Conduct Foreclosure	\$25.00	\$3,428.40		
8/15/2012	Fine	\$50.00	\$3,478.40		Block Walls - Sprinkler Damage
8/22/2012	Fine	\$50.00	\$3,528.40		Block Walls - Sprinkler Damage
8/29/2012	Fine	\$50.00	\$3,578.40		Block Walls - Sprinkler Damage
8/29/2012	Association Interest	\$3.53	\$3,581.93		
8/31/2012	Late Fees	\$10.00	\$3,591.93		Late Fees
9/1/2012	Master Assessments	\$62.00	\$3,653.93		Master Assessments
9/1/2012	Monthly Assessment	\$11.00	\$3,664.93		Monthly Assessment
9/5/2012	Fine	\$50.00	\$3,714.93		Block Walls - Sprinkler Damage
9/12/2012	Fine	\$50.00	\$3,764.93		Block Walls - Sprinkler Damage
9/19/2012	Fine	\$50.00	\$3,814.93		Block Walls - Sprinkler Damage
9/26/2012	Fine	\$50.00	\$3,864.93		Block Walls - Sprinkler Damage
9/29/2012	Association Interest	\$3.85	\$3,868.78		
9/30/2012	Late Fees	\$10.00	\$3,878.78		Late Fees
10/1/2012	Master Assessments	\$62.00	\$3,940.78		Master Assessments



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98668
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
10/1/2012	Monthly Assessment	\$11.00	\$3,951.78		Monthly Assessment
10/3/2012	Fine	\$50.00	\$4,001.78		Block Walls - Sprinkler Damage
10/10/2012	Fine	\$50.00	\$4,051.78		Block Walls - Sprinkler Damage
10/17/2012	Fine	\$50.00	\$4,101.78		Block Walls - Sprinkler Damage
10/24/2012	Fine	\$50.00	\$4,151.78		Block Walls - Sprinkler Damage
10/30/2012	Fine	\$50.00	\$4,201.78		Landscaping - Palm Fronds - Trim
10/30/2012	Association Interest	\$4.17	\$4,205.95		
10/31/2012	Fine	\$50.00	\$4,255.95		Block Walls - Sprinkler Damage
10/31/2012	Late Fees	\$10.00	\$4,265.95		Late Fees
11/1/2012	Master Assessments	\$62.00	\$4,327.95		Master Assessments
11/1/2012	Monthly Assessment	\$11.00	\$4,338.95		Monthly Assessment
11/7/2012	Fine	\$50.00	\$4,388.95		Block Walls - Sprinkler Damage
11/13/2012	Fine	\$50.00	\$4,438.95		Landscaping - Palm Fronds - Trim
11/14/2012	Fine	\$50.00	\$4,488.95		Block Walls - Sprinkler Damage
11/20/2012	Fine	\$50.00	\$4,538.95		Landscaping - Palm Fronds - Trim
11/21/2012	Fine	\$50.00	\$4,588.95		Block Walls - Sprinkler Damage
11/27/2012	Fine	\$50.00	\$4,638.95		Landscaping - Palm Fronds - Trim
11/28/2012	Fine	\$50.00	\$4,688.95		Block Walls - Sprinkler Damage
11/29/2012	Association Interest	\$4.48	\$4,693.44		
11/30/2012	Late Fees	\$10.00	\$4,703.44		Late Fees
12/1/2012	Master Assessments	\$62.00	\$4,765.44		Master Assessments
12/1/2012	Monthly Assessment	\$11.00	\$4,776.44		Monthly Assessment
12/4/2012	Fine	\$50.00	\$4,826.44		Landscaping - Palm Fronds - Trim
12/5/2012	Fine	\$50.00	\$4,876.44		Block Walls - Sprinkler Damage
12/11/2012	Fine	\$50.00	\$4,926.44		Landscaping - Palm Fronds - Trim
12/12/2012	Fine	\$50.00	\$4,976.44		Block Walls - Sprinkler Damage
12/18/2012	Fine	\$50.00	\$5,026.44		Landscaping - Palm Fronds - Trim
1/1/2013	Fine	\$50.00	\$5,076.44		Block Walls - Sprinkler Damage



Red Rock Financial Services
Accounting Ledger
Information as of: April 29, 2013

Account Number: 98868
Association: Southern Terrace Homeowners Association
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Ledger Balance: \$5,815.60
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Posting	Description	Amount	Balance	Pmt Ref	Memo
12/25/2012	Fine	\$50.00	\$5,126.44		Landscaping - Palm Fronds - Trim
12/26/2012	Fine	\$50.00	\$5,176.44		Block Walls - Sprinkler Damage
12/30/2012	Association Interest	\$4.81	\$5,181.25		
12/31/2012	Late Fees	\$10.00	\$5,191.25		Late Fees
1/1/2013	Master Assessments	\$62.00	\$5,253.25		Master Assessments
1/1/2013	Monthly Assessment	\$11.00	\$5,264.25		Monthly Assessment
1/1/2013	Fine	\$50.00	\$5,314.25		Landscaping - Palm Fronds - Trim
1/1/2013	Monthly Assessment	(\$11.00)	\$5,303.25		Adj 01/13 Monthly Assessment
1/1/2013	Master Assessments	(\$62.00)	\$5,241.25		Adj 01/13 Master Assessments
1/1/2013	Master Assessments	\$72.00	\$5,313.25		Master Assessments
1/1/2013	Fine	\$50.00	\$5,363.25		Block Walls - Sprinkler Damage
1/8/2013	Fine	\$50.00	\$5,413.25		Landscaping - Palm Fronds - Trim
1/29/2013	Association Interest	\$5.13	\$5,418.38		
2/1/2013	Master Assessments	\$72.00	\$5,490.38		Master Assessments
3/1/2013	Master Assessments	\$72.00	\$5,562.38		Master Assessments
3/1/2013	Association Interest	\$5.45	\$5,567.83		
3/2/2013	Late Fees	\$10.00	\$5,577.83		Late Fees
3/31/2013	Late Fees	\$10.00	\$5,587.83		Late Fees
4/1/2013	Master Assessments	\$72.00	\$5,659.83		Master Assessments
4/1/2013	Association Interest	\$5.77	\$5,665.60		
4/8/2013	Payoff Demand	\$150.00	\$5,815.60		Cooper Castle



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Date	Description	Amount	Balance	Pmt Ref #	Memo
12/31/2008	Monthly Assessment	\$11.00	\$11.00		Monthly Assessment
12/31/2008	Master Assessments	\$54.56	\$65.56		Master Assessments
1/1/2009	Master Assessments	\$62.00	\$127.56		Master Assessments
1/1/2009	Monthly Assessment	\$11.00	\$138.56		Monthly Assessment
1/26/2009	Association Mgmt Payment	(\$68.00)	\$70.56	005243	Receipt Processing
2/1/2009	Master Assessments	\$62.00	\$132.56		Master Assessments
2/1/2009	Monthly Assessment	\$11.00	\$143.56		Monthly Assessment
2/4/2009	Association Mgmt Payment	(\$73.00)	\$70.56	05258	Lockbox Payment
2/11/2009	Master Assessments	\$62.00	\$132.56		Master Assessments
3/1/2009	Monthly Assessment	\$11.00	\$143.56		Monthly Assessment
3/5/2009	Association Mgmt Payment	(\$73.00)	\$70.56	05262	Lockbox Payment
3/27/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05270	Lockbox Payment
4/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
4/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
4/8/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05278	Lockbox Payment
5/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
5/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
5/29/2009	Association Mgmt Payment	(\$73.00)	(\$2.44)	05290	Lockbox Payment
6/1/2009	Master Assessments	\$62.00	\$59.56		Master Assessments
6/1/2009	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
6/30/2009	Late Fees	\$10.00	\$80.56		Late Fees
7/1/2009	Master Assessments	\$62.00	\$142.56		Master Assessments
7/1/2009	Monthly Assessment	\$11.00	\$153.56		Monthly Assessment
7/10/2009	Association Mgmt Payment	(\$73.00)	\$80.56	05302	Lockbox Payment
7/23/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05308	Lockbox Payment

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Red Rock Financial Services is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose.

Information as of 05/01/13

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Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

8/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
8/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
8/13/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05315	Lockbox Payment
9/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
9/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
9/22/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05325	Lockbox Payment
10/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
10/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
10/22/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05337	Lockbox Payment
10/22/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
11/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
11/17/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05342	Lockbox Payment
12/1/2009	Master Assessments	\$62.00	\$69.56		Master Assessments
12/1/2009	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
12/10/2009	Association Mgmt Payment	(\$73.00)	\$7.56	05351	Lockbox Payment
1/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
1/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
1/11/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00535	Lockbox Payment
2/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
2/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
2/12/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00537	Lockbox Payment
3/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
3/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
3/9/2010	Association Mgmt Payment	(\$73.00)	\$7.56	00538	Lockbox Payment
3/9/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
4/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingering Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

4/16/2010	Association Mgmt Payment	(\$73.00)	\$7.56	05397	Lockbox Payment
5/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
5/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
5/17/2010	Association Mgmt Payment	(\$73.00)	\$7.56	05406	Lockbox Payment
6/1/2010	Master Assessments	\$62.00	\$69.56		Master Assessments
6/1/2010	Monthly Assessment	\$11.00	\$80.56		Monthly Assessment
6/16/2010	Association Mgmt Payment	(\$81.00)	(\$0.44)	05420	Lockbox Payment
7/1/2010	Master Assessments	\$62.00	\$61.56		Master Assessments
7/1/2010	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
7/1/2010	Association Mgmt Payment	(\$73.00)	(\$0.44)	05427	Lockbox Payment
7/29/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05440	Lockbox Payment
8/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
8/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
8/13/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05444	Lockbox Payment
9/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
9/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
9/16/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05455	Lockbox Payment
10/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
10/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
10/19/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05460	Lockbox Payment
11/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
11/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
11/10/2010	Association Mgmt Payment	(\$73.00)	(\$73.44)	05466	Lockbox Payment
12/1/2010	Master Assessments	\$62.00	(\$11.44)		Master Assessments
12/1/2010	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
1/1/2011	Master Assessments	\$62.00	\$61.56		Master Assessments



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

1/1/2011	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
1/7/2011	Association Mgmt Payment	(\$73.00)	(\$0.44)	05480	Lockbox Payment
1/28/2011	Association Mgmt Payment	(\$73.00)	(\$73.44)	05492	Lockbox Payment
2/1/2011	Master Assessments	\$62.00	(\$11.44)		Master Assessments
2/1/2011	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
2/7/2011	Association Mgmt Payment	(\$73.00)	(\$73.44)	05496	Lockbox Payment
2/22/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05501	Lockbox Payment
3/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
3/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
3/1/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05507	Lockbox Payment
4/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
4/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
4/12/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05518	Lockbox Payment
5/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
5/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
5/11/2011	Association Mgmt Payment	(\$73.00)	(\$146.44)	05526	Lockbox Payment
6/1/2011	Master Assessments	\$62.00	(\$84.44)		Master Assessments
6/1/2011	Monthly Assessment	\$11.00	(\$73.44)		Monthly Assessment
7/1/2011	Master Assessments	\$62.00	(\$11.44)		Master Assessments
7/1/2011	Monthly Assessment	\$11.00	(\$0.44)		Monthly Assessment
8/1/2011	Master Assessments	\$62.00	\$61.56		Master Assessments
8/1/2011	Monthly Assessment	\$11.00	\$72.56		Monthly Assessment
8/4/2011	Association Mgmt Payment	(\$75.00)	(\$2.44)	05545	Lockbox Payment
9/1/2011	Master Assessments	\$62.00	\$59.56		Master Assessments
9/1/2011	Monthly Assessment	\$11.00	\$70.56		Monthly Assessment
9/30/2011	Late Fees	\$10.00	\$80.56		Late Fees



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

10/1/2011	Master Assessments	\$62.00	\$142.56	Master Assessments
10/1/2011	Monthly Assessment	\$11.00	\$153.56	Monthly Assessment
11/1/2011	Master Assessments	\$62.00	\$215.56	Master Assessments
11/1/2011	Monthly Assessment	\$11.00	\$226.56	Monthly Assessment
11/17/2011	Intent to Lien Letter	\$125.00	\$351.56	
11/17/2011	Mailing Costs	\$8.96	\$360.52	
11/17/2011	Mailing Costs	\$8.96	\$369.48	
11/29/2011	Association Interest	\$0.64	\$370.12	
11/30/2011	Late Fees	\$10.00	\$380.12	Late Fees
12/1/2011	Mailing Costs	\$8.96	\$389.08	
12/1/2011	Lien for Delinquent Assessment	\$275.00	\$664.08	
12/1/2011	Mailing Costs	\$8.96	\$673.04	
12/1/2011	Lien Release	\$33.00	\$706.04	
12/1/2011	Lien Recording Costs	\$31.00	\$737.04	
12/1/2011	Master Assessments	\$62.00	\$799.04	Master Assessments
12/1/2011	Monthly Assessment	\$11.00	\$810.04	Monthly Assessment
12/30/2011	Late Fees	\$10.00	\$820.04	Late Fees
12/30/2011	Association Interest	\$0.96	\$820.99	
1/1/2012	Master Assessments	\$62.00	\$882.99	Master Assessments
1/1/2012	Monthly Assessment	\$11.00	\$893.99	Monthly Assessment
1/13/2012	Intent to Lien Letter	\$125.00	\$1,018.99	
1/13/2012	Mailing Costs	\$8.96	\$1,027.95	
1/13/2012	Mailing Costs	\$8.96	\$1,036.91	
1/13/2012	Intent to NOD	\$90.00	\$1,126.91	
1/27/2012	Notice of Default	\$375.00	\$1,501.91	
1/27/2012	NOD Release	\$30.00	\$1,531.91	



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingering Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

1/27/2012	Trustee Sale Guarantee	\$205.00	\$1,736.91	
1/27/2012	NOD Recording Costs	\$22.00	\$1,758.91	
1/27/2012	NOD Release Recording Costs	\$22.00	\$1,780.91	
1/27/2012	NOD Mailing Costs	\$89.70	\$1,870.61	
1/27/2012	NOD Mailing Charges Adjustment	(\$53.82)	\$1,816.79	
1/29/2012	Association Interest	\$1.27	\$1,818.06	
1/30/2012	Late Fees	\$10.00	\$1,828.06	Late Fees
2/1/2012	Master Assessments	\$62.00	\$1,890.06	Master Assessments
2/1/2012	Monthly Assessment	\$11.00	\$1,901.06	Monthly Assessment
2/1/2012	Master Assessments	\$62.00	\$1,963.06	Master Assessments
3/1/2012	Monthly Assessment	\$11.00	\$1,974.06	Monthly Assessment
3/1/2012	Association Interest	\$1.59	\$1,975.65	
3/2/2012	Late Fee	\$10.00	\$1,985.65	
3/30/2012	Late Fees	\$10.00	\$1,995.65	Late Fees
4/1/2012	Master Assessments	\$62.00	\$2,057.65	Master Assessments
4/1/2012	Monthly Assessment	\$11.00	\$2,068.65	Monthly Assessment
4/1/2012	Association Interest	\$1.91	\$2,070.56	
4/4/2012	Fine	\$50.00	\$2,120.56	Fine
4/9/2012	Intent to NOS	\$90.00	\$2,210.56	
4/18/2012	Fine	\$50.00	\$2,260.56	Fine
4/25/2012	Fine	\$50.00	\$2,310.56	Fine
4/30/2012	Late Fees	\$10.00	\$2,320.56	Late Fees
4/30/2012	Association Interest	\$2.23	\$2,322.79	
5/1/2012	Master Assessments	\$62.00	\$2,384.79	Master Assessments
5/1/2012	Monthly Assessment	\$11.00	\$2,396.79	Monthly Assessment
5/2/2012	Fine	\$50.00	\$2,445.79	Fine



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

5/9/2012	Fine	\$50.00	\$2,495.79	Fine
5/16/2012	Fine	\$50.00	\$2,545.79	Fine
5/23/2012	Fine	\$50.00	\$2,595.79	Fine
5/30/2012	Fine	\$50.00	\$2,645.79	Fine
5/30/2012	Association Interest	\$2.55	\$2,648.34	
5/31/2012	Late Fees	\$10.00	\$2,658.34	Late Fees
6/1/2012	Master Assessments	\$62.00	\$2,720.34	Master Assessments
6/1/2012	Monthly Assessment	\$11.00	\$2,731.34	Monthly Assessment
6/8/2012	Fine	\$50.00	\$2,781.34	Fine
6/13/2012	Fine	\$50.00	\$2,831.34	Fine
6/20/2012	Fine	\$50.00	\$2,881.34	Fine
6/27/2012	Fine	\$50.00	\$2,931.34	Fine
6/30/2012	Late Fees	\$10.00	\$2,941.34	Late Fees
6/30/2012	Association Interest	\$2.87	\$2,944.21	
7/1/2012	Master Assessments	\$62.00	\$3,006.21	Master Assessments
7/1/2012	Monthly Assessment	\$11.00	\$3,017.21	Monthly Assessment
7/4/2012	Fine	\$50.00	\$3,067.21	Fine
7/11/2012	Fine	\$50.00	\$3,117.21	Fine
7/18/2012	Fine	\$50.00	\$3,167.21	Fine
7/26/2012	Fine	\$50.00	\$3,217.21	Block Walls - Sprinkler Damage
7/30/2012	Association Interest	\$3.19	\$3,220.40	
7/31/2012	Late Fees	\$10.00	\$3,230.40	Late Fees
8/1/2012	Master Assessments	\$62.00	\$3,292.40	Master Assessments
8/1/2012	Monthly Assessment	\$11.00	\$3,303.40	Monthly Assessment
8/1/2012	Fine	\$50.00	\$3,353.40	Block Walls - Sprinkler Damage
8/8/2012	Fine	\$50.00	\$3,403.40	Block Walls - Sprinkler Damage



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Date	Description	Amount	Balance	Notes
8/14/2012	Intent to Conduct Foreclosure	\$25.00	\$3,428.40	
8/15/2012	Fine	\$50.00	\$3,478.40	Block Walls - Sprinkler Damage
8/22/2012	Fine	\$50.00	\$3,528.40	Block Walls - Sprinkler Damage
8/29/2012	Fine	\$50.00	\$3,578.40	Block Walls - Sprinkler Damage
8/29/2012	Association Interest	\$3.53	\$3,581.93	
8/31/2012	Late Fees	\$10.00	\$3,591.93	Late Fees
9/1/2012	Master Assessments	\$62.00	\$3,653.93	Master Assessments
9/1/2012	Monthly Assessment	\$11.00	\$3,664.93	Monthly Assessment
9/5/2012	Fine	\$50.00	\$3,714.93	Block Walls - Sprinkler Damage
9/12/2012	Fine	\$50.00	\$3,764.93	Block Walls - Sprinkler Damage
9/19/2012	Fine	\$50.00	\$3,814.93	Block Walls - Sprinkler Damage
9/26/2012	Fine	\$50.00	\$3,864.93	Block Walls - Sprinkler Damage
9/29/2012	Association Interest	\$3.86	\$3,868.78	
9/30/2012	Late Fees	\$10.00	\$3,878.78	Late Fees
10/1/2012	Master Assessments	\$62.00	\$3,940.78	Master Assessments
10/1/2012	Monthly Assessment	\$11.00	\$3,951.78	Monthly Assessment
10/3/2012	Fine	\$50.00	\$4,001.78	Block Walls - Sprinkler Damage
10/10/2012	Fine	\$50.00	\$4,051.78	Block Walls - Sprinkler Damage
10/17/2012	Fine	\$50.00	\$4,101.78	Block Walls - Sprinkler Damage
10/24/2012	Fine	\$50.00	\$4,151.78	Block Walls - Sprinkler Damage
10/30/2012	Fine	\$50.00	\$4,201.78	Landscaping - Palm Fronds - Trim
10/30/2012	Association Interest	\$4.17	\$4,205.95	
10/31/2012	Fine	\$50.00	\$4,255.95	Block Walls - Sprinkler Damage
11/1/2012	Late Fees	\$10.00	\$4,265.95	Late Fees
11/1/2012	Master Assessments	\$62.00	\$4,327.95	Master Assessments



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

11/1/2012	Monthly Assessment	\$11.00	\$4,338.95	Monthly Assessment
11/7/2012	Fine	\$50.00	\$4,388.95	Block Walls - Sprinkler Damage
11/13/2012	Fine	\$50.00	\$4,438.95	Landscaping - Palm Fronds - Trim
11/14/2012	Fine	\$50.00	\$4,488.95	Block Walls - Sprinkler Damage
11/20/2012	Fine	\$50.00	\$4,538.95	Landscaping - Palm Fronds - Trim
11/21/2012	Fine	\$50.00	\$4,588.95	Block Walls - Sprinkler Damage
11/27/2012	Fine	\$50.00	\$4,638.95	Landscaping - Palm Fronds - Trim
11/28/2012	Fine	\$50.00	\$4,688.95	Block Walls - Sprinkler Damage
11/29/2012	Association Interest	\$4.49	\$4,693.44	
12/0/2012	Late Fees	\$10.00	\$4,703.44	Late Fees
12/1/2012	Master Assessments	\$62.00	\$4,765.44	Master Assessments
12/1/2012	Monthly Assessment	\$11.00	\$4,776.44	Monthly Assessment
12/4/2012	Fine	\$50.00	\$4,826.44	Landscaping - Palm Fronds - Trim
12/5/2012	Fine	\$50.00	\$4,876.44	Block Walls - Sprinkler Damage
12/11/2012	Fine	\$50.00	\$4,926.44	Landscaping - Palm Fronds - Trim
12/12/2012	Fine	\$50.00	\$4,976.44	Block Walls - Sprinkler Damage
12/18/2012	Fine	\$50.00	\$5,026.44	Landscaping - Palm Fronds - Trim
12/19/2012	Fine	\$50.00	\$5,076.44	Block Walls - Sprinkler Damage
12/25/2012	Fine	\$50.00	\$5,126.44	Landscaping - Palm Fronds - Trim
12/26/2012	Fine	\$50.00	\$5,176.44	Block Walls - Sprinkler Damage
12/30/2012	Association Interest	\$4.81	\$5,181.25	
12/31/2012	Late Fees	\$10.00	\$5,191.25	Late Fees
1/1/2013	Master Assessments	\$62.00	\$5,253.25	Master Assessments
1/1/2013	Monthly Assessment	\$11.00	\$5,264.25	Monthly Assessment
1/1/2013	Fine	\$50.00	\$5,314.25	Landscaping - Palm Fronds - Trim



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98868
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

1/1/2013	Monthly Assessment	(\$11.00)	\$5,303.25	Adj 01/13 Monthly Assessment
1/1/2013	Master Assessments	(\$62.00)	\$5,241.25	Adj 01/13 Master Assessments
1/1/2013	Master Assessments	\$72.00	\$5,313.25	Master Assessments
1/2/2013	Fine	\$50.00	\$5,363.25	Block Walls - Sprinkler Damage
1/8/2013	Fine	\$50.00	\$5,413.25	Landscaping - Palm Fronds - Trim
1/29/2013	Association Interest	\$5.13	\$5,418.38	
2/1/2013	Master Assessments	\$72.00	\$5,490.38	Master Assessments
3/1/2013	Master Assessments	\$72.00	\$5,562.38	Master Assessments
3/1/2013	Association Interest	\$6.45	\$5,567.83	
2013	Late Fees	\$10.00	\$5,577.83	Late Fees
3/31/2013	Late Fees	\$10.00	\$5,587.83	Late Fees
4/1/2013	Master Assessments	\$72.00	\$5,659.83	Master Assessments
4/1/2013	Association Interest	\$5.77	\$5,665.60	
4/8/2013	Payoff Demand	\$150.00	\$5,815.60	Cooper Castle
5/1/2013	Master Assessments	\$72.00	\$5,887.60	Master Assessments



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668

Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148

Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Balance Summary

Association

Charges

Association Interest	\$54.40
Fine	\$2,450.00
Late Fee	\$10.00
Late Fees	\$170.00
Master Assessments	\$3,452.56
Monthly Assessment	\$550.00

Credits

Association Interest	\$0.00
Fine	\$0.00
Late Fee	\$0.00
Late Fees	\$10.00
Master Assessments	\$2,103.00
Monthly Assessment	\$374.00

Balance: \$4,199.96

RRFS

Charges

Intent to Conduct Foreclosure	\$25.00
Intent to Lien Letter	\$250.00
Intent to NOD	\$90.00
Intent to NOS	\$90.00



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Red Rock Financial Service

Account Number: 98668
Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148
Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Lien for Delinquent Assessment	\$275.00
Lien Recording Costs	\$31.00
Lien Release	\$33.00
Mailing Costs	\$53.76
NOD Mailing Costs	\$89.70
NOD Release	\$30.00
NOD Release Recording Costs	\$22.00
Notice of Default	\$375.00
Payoff Demand	\$150.00

Credits

Intent to Conduct Foreclosure	\$0.00
Intent to Lien Letter	\$0.00
Intent to NOD	\$0.00
Intent to NOS	\$0.00
Lien for Delinquent Assessment	\$0.00
Lien Recording Costs	\$0.00
Lien Release	\$0.00
Mailing Costs	\$0.00
NOD Mailing Costs	\$53.82
NOD Release	\$0.00
NOD Release Recording Costs	\$0.00
Notice of Default	\$0.00
Payoff Demand	\$0.00

Balance: \$1,460.64



Red Rock Financial Services
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Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Title

Charges

NOD Recording Costs	\$22.00
Trustee Sale Guarantee	\$205.00

Credits

NOD Recording Costs	\$0.00
Trustee Sale Guarantee	\$0.00

Balance: \$227.00

Publishing

Charges

Credits

Balance: \$0.00

Miscellaneous Charges

Charges

Credits

Balance: \$0.00

Open Credits

\$0.00

Balance: \$0.00



Red Rock Financial Services
Account Detail
Information as of: May 01, 2013
Southern Terrace Homeowners Association

Red Rock Financial Service

Account Number: 98668

Property Address: 5946 Lingerin Breeze St, Las Vegas, NV 89148

Homeowner(s): Bonnie L. Harrison; Joseph F. Harrison; DIRECT EQUITY MORTGAGE, LLC; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS; Joseph F. Harrison; Bonnie L. Harrison

Total: \$5,887.60

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement"), executed on April 23, 2013 ("Effective Date") is made by and between buyer FIRST 100, LLC, a Nevada limited liability company ("Buyer"), seller SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, a Nevada non-profit corporation ("Seller"), and authorized agent UNITED LEGAL SERVICES INC., a Nevada corporation and law firm ("Agent"). Buyer, Seller, and Agent may be referred to hereafter individually as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, Seller possesses delinquent homeowner's association assessments related to and arising from the monthly, quarterly, semi-annual or annual HOA fees for parcels of real property as described in Exhibit 1 attached hereto, including interest and late charges thereon (the "Current Delinquent Assessments"); and

WHEREAS, Seller reasonably anticipates that in the future other parcels of real property in its association will also become delinquent on monthly HOA assessments, including interest and late charges thereon (the "Future Delinquent Assessments") (collectively with the Current Delinquent Assessments hereinafter referred to as the "Delinquent Assessments"); and

WHEREAS, the Current Delinquent Assessments have previously been recognized as income by Seller,¹ and the parties agree and understand that the Assets sold herein (as defined below) constitute proceeds and receivables relating to past income, and in no way constitute future income or assessments; and

WHEREAS, Seller anticipates that payments on and proceeds relating to the Delinquent Assessments will be received by, or otherwise are payable to, the Seller (as assessment claimant and lienholder) in the future (i) whether paid in cash, check, money order, credit card, debit card, escrow, or otherwise, and (ii) whether paid pre-foreclosure, via a foreclosure sale conducted pursuant to NRS §116.3116 *et. seq.*, through post-lender-foreclosure lien satisfaction, or otherwise, and (iii) whether paid by the homeowner, unit owner, interested party, third party, or otherwise (the "Proceeds on Past Income" or "PPF"); and

WHEREAS, Seller desires to reduce its costs of carrying and collection of the Delinquent Assessments; and

WHEREAS, for the duration of the term of the Agreement, Seller desires to sell to Buyer select PPI arising from the Delinquent Assessments for an amount to be proposed by Buyer (and subject to acceptance by Seller) on the terms and conditions contained in this Agreement, and Buyer desires to purchase the same; and

WHEREAS, in facilitation of this Agreement, and in recognition that Buyer is bearing the costs and risks associated with an unknown future PPI stream, Seller agrees to cease using its existing collections agency on the Select Delinquent Assessments (as defined below), and further agrees to not send to any of the Select Delinquent Assessments to any other collections agency; and

WHEREAS, to protect Buyer from third-party lawsuits against the Seller that may arise in the future, Seller hereby grants a security interest in the PPI sold pursuant to this Agreement and authorizes that Buyer and/or its designees may file a UCC-1 Financing Statement, as may be amended or renewed from time to time, identifying the PPI (as accounts receivable) as collateral; and

¹ Similarly, any Future Delinquent Assessments at that time in the future would have (by then) previously been recognized as income by the Seller prior to their PPI being subject to sale under this Agreement.

WHEREAS, some of the Select Current Delinquent Assessments are in various stages of lien/default/foreclosure; and

WHEREAS, Seller agrees to henceforth use Agent as its designated agent and hereby irrevocably appoints and authorizes Agent to act on Seller's behalf, as its agent, attorney, collections agency, and person conducting the sale (to the maximum extent possible as those terms are used in NRS §116.3116 *et. seq.*) only for those select Delinquent Assessments for which the PPI are sold pursuant to this Agreement, as proposed by Seller and as mutually agreed upon by Buyer (the "Select Delinquent Assessments"), and to prepare the various notices and conduct foreclosure sales on behalf of Seller for any parcels of any Select Delinquent Assessments that currently are, or may at any time be, in default or subject to foreclosure, and; (i) Agent agrees to assume the rights, duties and obligations of that role; and (ii) Buyer agrees to assume all costs and pay for the services provided by the Agent to Seller under this Agreement;

NOW, THEREFORE, in consideration of the mutual representations, warranties, and covenants of the Parties as provided below, the Parties, intending to be legally bound, do hereby agree as follows:

ARTICLE I. INCORPORATION

Section 1.01 Incorporation of Recitals. The recitals of this Agreement above are true, and accurately reflect the intent of the Parties, and they are hereby incorporated into and made a part of this Agreement.

Section 1.02 Incorporation of Exhibits. The Exhibits attached to this Agreement, namely:

- EXHIBIT 1: Select Current Delinquent Assessments and Initial Payment Price
- EXHIBIT 2: Authorization to Release Information
- EXHIBIT 3: Template for Sale of PPI from Select Future Delinquent Assessments

are hereby incorporated into and made a part of this Agreement.

ARTICLE II. SALE AND PURCHASE

Section 2.01 Assets Sold. Subject to the terms and conditions herein set forth, for the consideration of the Payment Price (as defined below) and the other consideration contained herein, and on the basis of the representations, warranties and agreements herein contained, Seller hereby sells and transfers to Buyer the following property (hereinafter the "Assets");

- All of Seller's interest in any and all PPI arising from or relating to the Select Delinquent Assessments.

Section 2.02 Payment Price. The price paid by Buyer for the PPI arising from the Select Current Delinquent Assessments shall be the total price as proposed by the Buyer and as agreed to by the Seller (the "Initial Payment Price"). Similarly, the prices subsequently paid by Buyer for the occasional sale to Buyer of PPI arising from the Select Future Delinquent Assessments will be the price as then proposed by the Buyer and as agreed to by the Seller (the "Subsequent Payment Price").

ARTICLE III. DUTIES AND OBLIGATIONS OF BUYER, SELLER, AND AGENT

Section 3.01 Seller's Duties and Obligations (Pre-Sale). Prior to sale to Buyer of any PPI, Seller agrees (if it

has not already done so) to, and hereby does:

- (a) Authorize Agent to compose and mail a Notice of Delinquent Assessment ("Notice of Delinquent Assessment") to each parcel ("Parcel") associated with each Select Delinquent Assessment;
- (b) Authorize Agent to execute in its behalf, for each Parcel, a Notice of Lien, Notice of Default and Election to Sell, and Notice of Foreclosure Sale, each naming the Seller as lienholder;
- (c) Authorize Agent to interact with the Seller's current collections agency to obtain the current amount of collections costs accrued for each Select Delinquent Assessment;
- (d) Authorizes Agent and Buyer to interact with the Seller's community manager and collections agency (and hereby instructs the community manager and collections agency to engage in such interaction) to subsequently identify the Select Future Delinquent Assessments, including Parcel identification and then-current outstanding collections costs; and
- (e) Shall provide Buyer a copy of the applicable CC&Rs for the community, along with any amendments thereto.

Section 3.02 Seller's Duties and Obligations (Post-Sale to Buyer). After sale of any PPI to Buyer, Seller hereby:

- (a) Authorizes and instructs the Seller's community manager and current collection agency that, for each Select Delinquent Assessment: (i) that the account is to be transferred to Agent, and (ii) the collections agency is no longer responsible for collections efforts on those Select Delinquent Assessments. Seller agrees to cease using any third party collections agent for any PPI sold to Buyer;
- (b) Instructs its community manager and collections agency to promptly remit to Buyer all PPI (whether received directly, by the community manager, or remitted to the prior collections agency, or otherwise) that may be paid to or received by Seller (wherein such proceeds are used to satisfy past due assessments first, followed by current assessments, followed by past due late fees and interest, unless otherwise directed by the remitter of such payment), with such remittance to Buyer to occur within one week;
- (c) Instructs its community manager and collections agency to promptly (within two business days) notify the Agent of any Parcel for which the homeowner has paid a Select Delinquent Assessment claim in full;
- (d) Instructs its community manager and prior collections agency to permit Agent at any time to confirm with community manager and prior collections agency that the relevant Select Delinquent Assessment has not been paid in full;
- (e) Agrees that Agent may collect payments and funds received in satisfaction of PPI and remit such payments collected directly to Buyer, and hereby pre-authorizes Agent to endorse checks payable to Seller in order to facilitate this remittance;
- (f) Agrees that Buyer, at Buyer's sole option, may place back any Delinquent Assessment with Seller for any Parcel in which a bankruptcy has been filed prior to any foreclosure sale that identifies the Parcel as property of the bankruptcy estate, and if such place back occurs then Seller shall credit Buyer's account for the original purchase price paid by

Buyer to Seller (inclusive of any collections costs advanced by Buyer on behalf of Seller) for the PPI on that Parcel's delinquent assessment, with such credit to be applied towards the next Subsequent Payment Price and in no instance shall Seller be required to remit cash back to Buyer;

- (g) Agrees that Agent, as authorized agent for Seller, may interact directly with the community manager and former collections agency to obtain information on the Select Delinquent Assessments, the amounts due, and whether any payments were remitted prior to sale by the homeowner, and hereby authorizes and instructs the community manager and former collections agency to interact with Agent on these matters, and as further shown in Exhibit 2;
- (h) Irrevocably authorizes and instructs Agent to expeditiously move forward on behalf of the Seller with the foreclosure sale on each Parcel, pursuant to NRS §116;
- (i) Agrees that Agent may use sub-agents for auctions;
- (j) Agrees to forward and refer to Agent all homeowner calls/emails that Seller may receive regarding the Notice of Default or Notice of Foreclosure Sale, and hereby instructs its community manager to do the same;
- (k) Grants an irrevocable proxy to Buyer and Agent to act on the behalf of Seller with respect to any short-sale (or any other) offers made to pay off, or enter into a payment plan, on any Select Delinquent Assessment;
- (l) Places with the Agent a pre-set opening credit bid for Seller of ninety-nine dollars (\$99.00) for each Parcel ("Opening Bid"), and authorizes the Agent to open the auction for any Parcel with the Opening Bid, and not to bid any higher;
- (m) Authorizes the Agent to prepare foreclosure deeds for all sales, reflecting the value as the higher of: (i) the total amount of the lien, or (ii) the sales price at auction;
- (n) That any deficiency between the total lien amount due at sale and the final winning bid amount at auction shall survive as an unsecured debt of the homeowner, and: (i) that all right, title, and interest in any such deficiency shall, upon sale at auction, be transferred to Buyer or its assigns; and (ii) that Buyer can, at its own cost, initiate collections actions on that unsecured debt, with any net proceeds thereof from such post-foreclosure collections actions to be property of Buyer; and (iii) Agent is hereby authorized to prepare and execute bills of sale to Buyer or its assigns for title to any such deficiency remaining after the application of proceeds of the sale pursuant to NRS §116.31164(3)(c); and
- (o) To provide reasonable audit rights to Buyer to ensure that remittances made to Seller which are due to Buyer (as referred to in subsection (b) above) are being paid promptly and accurately.
- (p) Hereby provides Board authorization that Buyer may rent the property to tenants, and, if the CC&Rs for the community prohibit renting to non-owner-occupants, this authorization shall act as a waiver to Buyer of that restriction.

Section 3.03 Buyer's Duties and Obligations. Buyer agrees:

- (a) To promptly pay the Initial Purchase Price to the Seller within 30 days of execution of this document by all Parties;

- (b) To promptly pay the Subsequent Purchase Price(s) upon each sale of the PPI for the Future Delinquent Assessments;
- (c) To cover all of Seller's obligations to its collections agency for collections work performed relating to the Assets sold hereunder, up to the statutory maximum, provided, however, that the collections agency agrees to extend to Buyer any indemnification its provided to Seller regarding: (i) the accuracy of the amounts owed for each Parcel, and (ii) the legal compliance of any recorded documents prepared by it;
- (d) To maintain all units purchased by Buyer at foreclosure sale in compliance with the CC&R obligations to the Seller, inclusive of timely remittance of all future assessments following the foreclosure sale, as well as to bring into compliance and maintain ongoing each units compliance for so long as the Buyer owns any property it may purchase at foreclosure sale;
- (e) To pay for all of the costs of Agent for services provided by Agent to Seller hereunder, and Agent agrees not to seek any payment whatsoever from Seller for fees or expenses of all services provided by Agent relating to this Agreement; and
- (f) To promptly pay for all of the costs of Agent in support of the Agent's obligation to promptly and diligently move forward with foreclosure sales.

Section 3.04 Agent's Duties and Obligations. Agent agrees:

- (a) To be paid solely by Buyer (under separate payment arrangement with Buyer) for all for fees or expenses incurred for all services provided by Agent to Seller relating to this Agreement, and not to seek any payment whatsoever from Seller;
- (b) To prepare and record any appropriate documents required by statute on any particular Parcel not heretofore recorded, including Notice of Lien, Notice of Default and Election to Sell, and Notice of Foreclosure Sale, and to mail/notice/serve all documents as may be required by statute, with such recordation costs to be borne by Buyer, and Seller hereby authorizes the Agent to do the same;
- (c) To handle inbound queries and process payments from homeowners relating to the PPI, including entering into payment plans with homeowners or authorizing sale postponements, in Agent's discretion, and Seller hereby authorizes the Agent to do the same;
- (d) To not perform any outbound-calling collections efforts on the PPI, other than (i) the implied and inherent collections efforts in the recordings, notices, and mailings of the documents identified in subsection (b) above, or (ii) returning inbound calls from homeowners;
- (e) To report to the Seller and Buyer of any Parcel for which the homeowner or other person in interest has, prior to foreclosure, entered into a payment plan or made full payment on a Select Delinquent Assessment;
- (f) In Agent's sole discretion, to appear on behalf of Seller in any bankruptcy proceeding of any homeowner to seek relief from the automatic stay or any other appropriate relief, at Buyer's cost, and Seller hereby authorizes the Agent to do the same;
- (g) To appropriately and responsibly act (as agent and attorney) on behalf of Seller (as principal and client) in carrying out its duties hereunder, including conducting foreclosure sales, the execution thereof which may be carried out by sub-agents as designated by Agent, which Seller hereby authorizes;

- (h) To promptly and diligently move forward with foreclosure sales;
- (i) To apply foreclosure sale proceeds in accordance with NRS §116.31164(3)(c); however, because Seller's portion of said proceeds are PPI, Agent shall remit the Seller's portion directly to Buyer.

ARTICLE IV. REPRESENTATIONS and WARRANTIES

Section 4.01 Prior to the sale of any PPI to Buyer. Seller warrants and represents that:

- (a) The dollar amount of delinquent assessment for each Select Delinquent Assessment (as communicated to Agent by Seller's community manager or collections agency) is accurate as of the date of sale to Buyer, except for sums which may be owed to the Association as current assessments; and
- (b) The PPI sold to Buyer originate only from Select Delinquent Assessments arising from overdue monthly HOA assessments (together with late charges and interest), and not compliance account fines or penalties arising from a homeowner's violation of the governing documents.

Section 4.02 After the sale of any Receivable to Buyer. Seller warrants and represents that:

- (a) Seller will promptly remit to Buyer all payments that may be paid directly to or received by Seller on the Select Delinquent Assessments;
- (b) Seller will not take any action to reduce or discourage incoming payments on the Select Delinquent Assessments, or to inhibit the process of receiving PPI;
- (c) Seller will not agree to (and hereby instructs Agent to similarly not agree to) any homeowner payment plan proposal regarding any Select Delinquent Assessment that: (i) pays less than the full lien amount due as of the proposed date of sale, or (ii) requires more than 12 months to complete;
- (d) Seller will not take any action or inaction that would reduce the Select Delinquent Assessment obligations on any Parcel, other than through: (i) an actual payment received; or (ii) the foreclosure sale contemplated herein;
- (e) Seller will not permit any event to occur or otherwise fail to take any action which could have an adverse effect on the ability to accept PPI owed;
- (f) Seller will not pledge, hypothecate, encumber, collateralize, or otherwise suffer claims against any of the PPI relating to the Select Delinquent Assessments;
- (g) It will not discuss the confidential terms of this Agreement with any homeowner, tenant, or occupant of any Select Delinquent Assessment, and will refer any inquiring person or entity to Agent (not Buyer).
- (h) Seller will cease outside collections efforts on the Select Delinquent Assessments (but may continue to use outside third-party collections agents for compliance account fines and penalties); and
- (i) That for all foreclosure sales, Seller shall not send any person or agent to credit bid for or on behalf of the Seller on any Parcel in any amount in excess of the Opening Bid.

- Section 4.03 Ownership. Seller represents and warrants that it is the sole legal owner of the Assets.
- Section 4.04 No Third-Party Encumbrances or Rights to Acquire. Seller represents and warrants that there are no judgments, court order, contracts, liens, notes, hypothecations, options, or any other agreements or instruments whatsoever that either: (i) encumbers, collateralizes, pledges, liens, or otherwise grants the Assets as security; or (ii) allows any person or entity (including Seller) to acquire the Assets.
- Section 4.05 Authorization. Seller, Buyer, and Agent represent that each is authorized to engage in the transaction described herein. The signatories to this Agreement personally represent that they are authorized signatories of the Parties. Seller has approved this Agreement by Board vote.

ARTICLE V. TERM, TERMINATION, AND DEFAULT

- Section 5.01 Term. The Term of this Agreement ("Initial Term") shall be three (3) years from the Effective Date. At the end of the Initial Term, this Agreement shall automatically renew on a year-to-year basis (with each successive year a "Successive Term") unless either Buyer or Seller provides a written notice of non-renewal no earlier than 90 but no later than 45 days prior to the expiration of the Initial Term or any Successive Term (a "Non-Renewal Notice Period").
- Section 5.02 Termination. This Agreement shall terminate upon one of the following conditions:
- (a) Delivery of a written notice of non-renewal by either Buyer or Seller during a Non-Renewal Notice Period; or
 - (b) Upon a failure by either Buyer or Seller to timely cure an Event of Default, as described below, unless expressly waived by the Parties; or
 - (c) By mutual agreement.
- Section 5.03 Effect of Termination. In recognition of the subsequent and occasional sale of the PPI portfolio sold to Buyer, and of the potentially substantial sums paid up front to Seller by Buyer for each portfolio of PPI, termination of this Agreement shall be orderly. Upon termination:
- (a) Seller shall remain responsible for all remittances received by Seller relating to any and all PPI that were (i) sold to Buyer and also (ii) paid in full by Buyer prior to the termination date ("Sold and Paid for PPI");
 - (b) Agent shall remain responsible for foreclosing on all Select Delinquent Assessments relating to the Sold and Paid for PPI prior to the termination date, at Buyer's expense;
 - (c) Seller shall have no further obligation to make subsequent PPI sales to Buyer.
- Any PPI whose purchase price were not paid in full by Buyer prior to the termination date ("Sold But Not Paid For PPI") shall upon termination of this Agreement be automatically reversed back to Seller at no cost, with all rights to and interest in the Sold But Not Paid For PPI immediately vesting back in Seller.
- Section 5.04 Default. The following events shall constitute a material breach of this contract and be considered an event of default hereunder ("Event of Default"):

- (a) Failure of Buyer to pay the Initial Purchase Price to Seller within ten (10) business days of complete execution of this Agreement and identification of the Select Current Delinquent Assessments.
- (b) Failure of Buyer to pay any Subsequent Payment Price to Seller within ten (10) business days of the subsequent placement of PPI on the Select Future Delinquent Assessments.
- (c) Failure of any Party to perform their duties and obligations under Article III of this Agreement, without cure after five (5) days' written notice of default by another Party.
- (d) Material breach of any other term of this Agreement, without cure after fifteen (15) days' written notice of default by another Party.

ARTICLE VI. INDEMNIFICATION

Section 6.01 Indemnification by Buyer. With respect to any Assets sold to Buyer, Buyer will indemnify, defend (including provide counsel for), and hold harmless Seller and Agent in the event of any lawsuit, class action, regulatory proceeding, or administrative proceeding relating to: (i) pre-foreclosure challenges by homeowner; (ii) any post-foreclosure "wrongful foreclosure" suits; or (iii) the business model of Buyer, with three exceptions: Neither Buyer nor Agent shall be responsible for, nor indemnify Seller in any way whatsoever in, any lawsuits, class actions, regulatory proceedings, or administrative proceedings:

- (a) In the event that any of the documents, recordings, or mailings for which Seller or its community manager or any of its collections agents or other agents (other than Agent) prepared are alleged to be materially flawed or defective in any way (including lien amounts);
- (b) For any so-called "improper collections" actions heretofore filed against Seller prior to the execution of this Agreement, or filed or brought against Seller, Buyer, or the Agent after the execution of this Agreement, that relate in any way to collections activities of Seller's previous collections agent(s); or
- (c) Arising from any violation of any warranties of Seller made Article IV.

Buyer's indemnification of Seller and Agent is subordinated to any indemnification provided to Seller by its prior or current collections agencies or community manager(s). It is the intent of the parties that if any lawsuit or proceeding either (i) names the Seller's community manager or collections agency, or (ii) alleges flaws in the documents produced, recorded, and/or served by Seller's community manager or collections agency (including flawed calculations of lien amounts owed), then Seller's community manager or collections agency should be indemnifying Seller in such action.

ARTICLE VII. GENERAL PROVISIONS

Section 7.01 Confidentiality. Seller, Buyer and Agent agree to keep the terms of this Agreement confidential, with the exception of communications that may occur between the parties and Seller's community manager, collections agency, and their attorneys. In no event should the Agreement terms contained herein be communicated to any third party, including homeowners, tenants, or occupants of community properties relating to the Select Delinquent Assessments, provided,

however, that Seller is permitted to discuss and vote on this Agreement and any amendments thereto in public board meetings, as may be required.

Section 7.02 Notices. All notices must be in writing. A notice must be delivered to a Party at the following addresses:

If to Buyer: **FIRST 100, LLC**
11920 Southern Highlands Pkwy, Suite 200
Las Vegas, NV 89141
Phone: (702) 823-3600

If to Seller: **SOUTHERN TERRACE HOMEOWNERS ASSOCIATION**
Attn: c/o RMI Management
630 Trade Center Dr
Las Vegas, NV 89119
Phone: 702-737-8580

If to Agent: **UNITED LEGAL SERVICES INC.**
8965 South Eastern Ave Suite 350
Las Vegas, NV 89123
Phone: (702) 617-3263
Fax: (702) 614-0647

or to a new address that a Party subsequently designates in writing. To be effective, a notice must be delivered in person, by U.S. mail, or by overnight courier.

Section 7.03 Assignment and Succession. Buyer is permitted to freely assign or pledge its ownership interest in the Assets. This Agreement is binding on and enforceable by each Party's successors and assignees.

Section 7.04 Governing Law. This agreement will be governed by and construed in accordance with the laws of the state of Nevada. Venue shall be in Clark County, Nevada.

Section 7.05 Limitation of Liability. Subject to the indemnification provisions of Article VI, neither party will be liable to the other for losses or damages (including special or consequential damages such as lost profits or loss of use) arising from any cause of action related to this Agreement, whether in contract, tort, or otherwise.

Section 7.06 Severability. If any court determines that any provision of this agreement is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this agreement invalid or unenforceable.

Section 7.07 Integration. The Parties actively negotiated the terms of this Agreement. This Agreement sets forth the entire agreement of the Parties. It replaces and supersedes any and all oral agreements or statements made between the Parties, as well as any prior writings. As of the date of execution of this Agreement, there are no side agreements or other agreements or contracts, oral or otherwise, between the parties relating to the subject matters discussed herein.

Section 7.08 Limited Scope of Attorney-Client Representation. By this contract, an attorney-client relationship is established between Agent and Seller; however, Agent is not the general counsel

for Seller and is the attorney-at-law of Seller only for the limited scope of services described herein and contemplated to be performed by Agent under this Agreement. Communications between Agent and Seller shall be privileged attorney-client communications.

Section 7.09 Waiver of Conflict of Interest. Seller and Buyer hereby waive any conflict of interest, actual or potential, that arises from either: (i) the Agent's position and payment arrangement described in this Agreement (e.g., Agent is an agent-attorney to Seller's principal-client, but Agent's costs and fees are paid for by Buyer); or (ii) that Agent and Buyer's outside counsel have shared staff, which Seller hereby acknowledges.

Section 7.10 Dispute Resolution. In the event of a failure to reasonably resolve any issues among any of the Parties (or their owners, assigns, or successors), the disputes of those parties will be referred to binding arbitration for resolution thereof, and each party waives any right to litigation in favor of such resolution through binding arbitration.

- (a) Arbitration shall be conducted under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). Judgment on the arbitrator's award may be entered in any court having jurisdiction thereof. The arbitration shall be held in the City of Las Vegas and State of Nevada, and shall be conducted before a single arbitrator agreeable to the parties or, if no agreement can be reached, then as selected by the AAA. The arbitrator shall make findings of fact and law in writing in support of his decision, and shall award reimbursement of attorney's fees and other costs of arbitration to the prevailing party as the arbitrator deems appropriate. The provisions hereof shall not preclude any party from seeking preliminary injunctive relief to protect or enforce its rights hereunder, or prohibit any court from making preliminary findings of fact in connection with granting or denying such preliminary injunctive relief after and in accordance with the decision of the arbitrator. No decision of the arbitrator shall be subject to judicial review or appeal; the parties waive any and all rights of judicial appeal or review of any decision of the arbitrator.
- (b) Should any party initiate a civil proceeding against any other, notwithstanding the binding arbitration provision above, such party initiating civil litigation shall recognize that it has caused material damage and harm to the other by way of their breach of this agreement, and hereby agrees to an award, to each named defendant party, liquidated damages in the amount of any costs of defense incurred by the aggrieved party plus ten thousand dollars (\$10,000.00).

Section 7.11 Modification. This Agreement may be amended only by a writing signed by all Parties.

Section 7.12 Counterparts. This Agreement may be executed in a number of counterparts, each of which shall be deemed an original and all of which together shall constitute the same document.


Section 7.13 Delivery by Facsimile. Delivery by facsimile of an executed counterpart by any Party to any Party shall have the same force and effect as a delivery in person of that document.

* * * * *

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

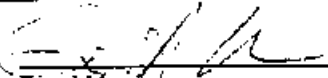
BUYER: FIRST 100, LLC

By: 
Authorized Signatory

4-29-13
Date

Printed Name: CHRIS WOOD

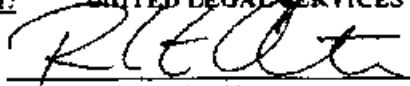
SELLER: SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

By: 
Board Member

4/23/2013
Date

Printed Name: ERIAN A CAMDEN

AGENT: UNITED LEGAL SERVICES INC.

By: 
Robert Atkinson, President

4/25/13
Date

EXHIBIT 1:
Select Current Delinquent Assessments and Initial Payment Price

CONFIDENTIAL

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EXHIBIT I to PURCHASE and SALE AGREEMENT

No.	Property Address	Assessments Due	Purchase Price
1	5783 Field Breeze St	\$1,826.00	\$1,208.28
2	5812 Pastel Colors St	\$707.23	\$707.23
3	5922 Moon Garden St	\$946.00	\$946.00
4	5946 Lingering Breeze St	\$1,381.56	\$1,208.28
5	10007 Liberty View Rd	\$1,001.00	\$1,001.00
6	6036 Fair Valley St	\$776.00	\$776.00
7	6071 Mild Wind St	\$606.00	\$606.00
8	6141 Yucca Fields Ct	\$3,835.00	\$1,208.28
9	6175 Novelty St	\$966.00	\$966.00
10	9544 Knotweed Ave	\$866.00	\$866.00
11	9734 Mild Weather Ct	\$2,036.00	\$1,208.28
12	9766 Gentle Spirit Dr	\$1,233.98	\$1,208.28
13	9772 Gentle Spirit Dr	\$590.00	\$590.00
14	9775 Colored Wind Ave	\$2,564.00	\$1,208.28
15	9783 Colored Wind Ave	\$2,126.00	\$1,208.28
16	9828 Maidenfair Ct	\$1,645.00	\$1,208.28
17	6123 Yucca Fields Ct	\$2,736.00	\$1,208.28
18	6117 Yucca Fields Ct	\$3,364.86	\$1,208.28
19	9484 Moon Vista Ave	\$1,895.00	\$1,208.28
20	5984 Lingering Breeze St	\$647.00	\$647.00
21	6055 Amazing Grace Ct	\$208.00	\$208.00
22	9933 Wonderful Day Dr	\$2,387.00	\$1,208.28
23	9728 Gentle Spirit Dr	\$1,885.00	\$1,208.28
24	9524 Spring Blush Ave	\$146.00	\$146.00
Total		\$36,374.63	\$23,166.87

INITIAL PAYMENT PRICE (PAID TO HCOA) \$23,166.87

plus collections costs (paid directly to collections company), per the Offer Letter

ACCEPTED BY SELLER:

By:

Board Member

Date

CONFIDENTIAL

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EXHIBIT 2:
Authorization to Release Information

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AA1107

EXHIBIT 2 to PURCHASE and SALE AGREEMENT

AUTHORIZATION TO RELEASE INFORMATION

HOA: SOUTHERN TERRACE HOMEOWNERS ASSOCIATION

Collections Agency: Red Rock Financial Services

Community Manager: RMI Management

Pursuant to the Purchase and Sale Agreement between the parties (the "Agreement"):

United Legal Service, Inc. ("Agent") and First 100, LLC ("Buyer") hereby authorized to interact with the above-referenced Collections Agency and Community Manager to: (i) obtain the current amount of collections costs accrued, and (ii) to determine whether any payments are remitted by the homeowner prior to auction.

The above-referenced HOA hereby gives permission to the above-referenced Collections Agency and Community Manager to Buyer and Agent on all properties shown on Exhibits 1 or 3 to the Agreement.

Upon receipt of the payment of the collections costs accrued, the Collections Agency is hereby authorized and instructed to transfer the collections account to Agent.

SIGNED:

By:

Board Member

4/23/2013
Date

CONFIDENTIAL

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