

DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF

SUMMERFIELD VILLAGE



FILE COPY

THIS DECLARATION, made and entered into this 20th day of November, 1981, by U. S. HOME CORPORATION, a Delaware corporation, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain real property in the County of Clark, State of Nevada, which is described on Exhibit A attached hereto and incorporated herein by this reference.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which shall run with the land and be binding on all parties having any right, title or interest in the above-described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Summerfield Village Homeowners' Association, Inc., a Nevada non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property described on Exhibit A attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all property (including the improvements thereto and thereon) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described on Exhibit B attached hereto and incorporated herein by this reference.

Section 5. "Lot" shall mean and refer to any plot of land within the Properties and shown on any subdivision map, with the exception of the Common Area and any public streets, but together with all appurtenances and improvements now or hereafter thereon.

Section 6. "Declarant" shall mean and refer to U. S. Home Corporation, a Delaware corporation, its successors and

assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to each Owner of a Lot that is subject to assessment. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot.

Section 8. "Architectural Control Committee" shall mean the committee appointed by Declarant or by the Board of Directors of the Association.

Section 9. "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the Office of the County Recorder, Clark County, Nevada, having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgage" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the original seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the said Administrator and is owned by the Administrator's assignee, or a remote assignee, and the Official Records in the Office of the Recorder of Clark County, Nevada show the said Administrator as having the record title to the Lot.

Section 10. "First Mortgagee" shall mean and refer to any person named as a mortgagee or beneficiary under any First Mortgage (including the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the Official Records of the Recorder of Clark County, Nevada show the said Administrator as having the record title to the Lot) under which the interest of any Owner is encumbered, or any successor to the interest of any such person under such First Mortgage.

Section 11. "Mortgage Insurer or Guarantor" shall mean and refer to an insurer or governmental guarantor of a First Mortgage.

Section 12. "Lease" shall mean and refer to any agreement for the leasing or rental of a Lot.

ARTICLE II

PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owners' Easements of Enjoyment. Subject to the provisions of Sections 2 and 3 of this Article and subject to the provisions and limitations of Articles VIII and XI of this Declaration, every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Extent of Owner's Easements. The rights and easements of the enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and, with written consent of the Members entitled to vote sixty-seven percent (67%) of the votes of each class of membership and 67% of all First Mortgagees of Lots (based upon one vote for each First Mortgage owned), to mortgage said property as security for any such loan; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and

(c) The right of the Association to promulgate and publish rules and regulations which each Member shall strictly comply with, including, but not limited to, the right of the Association to establish reasonable charges for the use of all or a portion of the Common Area; and

(d) The right of the Association as provided in its Articles and Bylaws, to suspend the voting rights and the right to use the recreation facilities within the Common Area of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless first approved in writing by the Members entitled to vote sixty-seven percent (67%) of the votes of each class of membership hereunder and by 67% of the First Mortgagees of Lots (based upon one vote for each First Mortgage owned, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken, and unless such dedication or transfer is approved by the City of Henderson, Nevada, or any successor governmental entity having jurisdiction over the Properties, if required by resolutions or ordinances thereof. Notwithstanding the foregoing, the granting of easements for public utilities and/or for other purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this Subsection (e); and

(f) The right of the Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area.

Section 3. Carport Easements. The portions of the Common Area shown as cross-hatched Carport Parking Easement Areas on Exhibits C, D and E attached hereto and incorporated herein by this reference (hereinafter "Carport") are hereby made subject to and Declarant hereby grants to each Owner of those Lots hereinafter described, an exclusive easement upon, over, under and across such Carport and, in particular, in an area approximately 9 feet by 19 feet in such Carport (hereinafter "Parking Space") for Lots shown in Exhibit C, D and E, which Lots are identified thereon by the same four-digit number and letter of the alphabet as the corresponding Parking Space, for the purpose of vehicular parking for each such Owner of each such Lot. The Lots benefited by this easement and to which this easement is appurtenant are those Lots for which there is a corresponding Parking Space on the Common Area as shown in said Exhibits C, D and E, and such easement shall be solely for the benefit of and appurtenant to

each such Lot for parking purposes, and shall not be for the benefit of any other Owners nor appurtenant to any other Lots, except that the Association may have access to Carports and Parking Spaces for maintenance and repair, and other Owners may have access to Carports and Parking Spaces for such uses as do not interfere with the exclusive rights of vehicular parking granted herein to the Owners of Lots benefited by this easement and to which this easement is appurtenant. Damage to any of the Carports or Parking Spaces shall be repaired by the Association as a common expense, except that any damage resulting from the negligent or willful act or omission of any Owner or a member of an Owner's family or a guest or invitee of an Owner (such determination of negligence or willful act or omission and the amount of the Owner's liability having been determined by the Association by a hearing after notice to the Owner) shall be charged by the Association to such Owner, and any and all costs, expenses and fees incurred by the Association for such maintenance and repair shall be added to and become part of the assessment to which such Owner's Lot is subject and shall become a lien against such Owner's Lot as provided in Article IV of this Declaration. Except as provided above, the cost of maintenance and repair of the Carports and Parking Spaces shall be by the Association as Common Area pursuant to the terms of this Declaration.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on his Lot.

Section 5. Payment of Taxes or Insurance by Mortgagees. First Mortgagees of Lots shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and any First Mortgagees making any such payment shall be owed immediate reimbursement therefor from the Association.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned which is neither leased, nor rented, nor otherwise occupied as a residence. Leasing, renting, or allowing entry for residential occupancy shall terminate the Declarant's weighted voting advantage in relation to any such Lot so leased, rented, or occupied as a residence, and will limit Declarant in relation to any such Lots

to the same voting rights as a Class A Member. All then existing Class B Membership shall be converted to Class A Membership on the happening of any of the following events, whichever occurs earlier:

(a) 120 days after the total votes outstanding in the first phase Class A Membership equal the total votes outstanding in the first phase Class B Membership or;

(b) Three (3) years after the conveyance of the first Lot by Declarant or;

(c) on January 1, 1984.

After the conversion date, the total Class B Membership votes thereafter existing may not equal or exceed the total Class A Membership votes, except that the total Class B Membership votes shall never be less than one (1) vote for each Lot owned by Declarant.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The provisions of NRS 278A.150-170 (1979) or any successor statute or statutes are hereby adopted and incorporated herein for the purpose, among other things, of establishing the manner in which assessments and other charges referred to herein shall be and become a lien against a Lot, the priority of such liens, and the manner in which they are enforced. Any lien so created shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or the enforcement of such lien. The lien may also be enforced in any other manner permitted by law. The lien for each unpaid assessment attaches to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for filing any notice of assessment shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. Each assessment, together with interest, cost, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on a Lot for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Nevada or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote

the recreation, health, safety and welfare of the residents of the Properties, for the improvement, maintenance and repair of the Common Area, for the establishment and maintenance of insurance coverage, as more fully provided in Article VI hereof, and for the exterior maintenance of the structures located on Lots and payment of sewer service bills, as more fully provided in Article X of this Declaration.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot by Declarant, the maximum annual assessment shall be sixty-five dollars (\$ 65.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant, the maximum annual assessment may be increased effective January 1 each year in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D. C.) for the preceding month of July.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant, the maximum annual assessment may be increased above that established by the Consumer Price Index formula by a vote of the Members for the next succeeding one (1) year and at the end of each such one (1) year period, for each succeeding period of one (1) year, provided that any such increase shall have the assent of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose. The Board of Directors of the Association may, after consideration of the current maintenance costs and the financial requirements of the Association, fix the annual actual assessment at an amount less than the maximum.

(c) The Association shall maintain an adequate reserve fund out of the annual assessment for the maintenance, repair and replacement of those elements of the Common Area that must be maintained, repaired or replaced on a periodic basis.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article shall be sent to all Members not less than 30 days or more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots sufficient to meet the expected needs of the Association, provided that the rate set for the Lots owned by Declarant which are either unimproved or improved and not occupied as a residence shall be fixed at one-quarter (1/4) of the assessment rate for the other Lots; and further provided, however, that in the event the assessed fees due the Association fail to meet its needs for a particular annual assessment period because of such partial Declarant assessment, then Declarant shall, upon written notice from the Association, pay a sufficient amount to the Association to meet any such shortfall so long as (a) such notice must be given within one year after the date of closing of the last Lot owned by Declarant in the Properties and is waived if not made in such timely manner, and (b) Declarant shall have no obligation for any such shortfall caused by any decrease in assessments or expenditures for capital improvements, unless the same has been previously approved in writing by Declarant; and further provided, that at the time any Lot owned by Declarant is leased, rented, or occupied as a residence, that Lot shall be assessed at the uniform rate of assessment for privately owned Lots.

Section 7. Date of Commencement of Annual Assessments. The initial and all subsequent annual assessments shall commence on the first day of such month as determined by the Board of Directors of the Association, and shall be made due and payable in twelve monthly installments per annum on such dates as determined by the Board. Any owner purchasing a Lot between installment due dates shall pay a pro rata share of the last installment due.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and in the event a judgment is obtained, such judgement shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Working Capital. The Association or Declarant may require the first private Owner of any Lot who purchases that Lot from Declarant to make a non-refundable contribution to capital of \$150.00 with the Association, which sum shall be held, without interest, by the Association as and for working capital. Such deposit shall not relieve an Owner from making the regular payment of assessments as the same become due.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any First Mortgage, including any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether such contract is recorded or not. The lien of such assessments shall be superior to any homestead exemption or other exemption as is now or may hereafter be provided by Nevada or federal law. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien. Sale or transfer of any Lot shall not affect the lien for said charges except

that sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, including deed in lieu of foreclosure or cancellation or forfeiture of an executory land sales contract, shall extinguish the lien of such charges as to payments which became due prior any such sale, transfer, cancellation or forfeiture of executory land sales contract. No sale, transfer, cancellation or forfeiture of executory land sales contract shall relieve such Lot from liability for any such charges thereafter becoming due or from the lien thereof; provided, however, that in the event of foreclosure of a First Mortgage or the taking of a deed in lieu thereof, such First Mortgagee shall not be liable for unpaid assessments or other charges which accrue prior to the acquisition of title to the Lot in question by such First Mortgagee.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Composition of Committee. The Architectural Control Committee shall consist of three (3) persons appointed by the Board of Directors of the Association. A majority of the committee may designate a representative to act for it.

Section 2. Review by Committee. No structure or any attachment to an existing structure, whether a residence, any accessory building, a tennis court, a swimming pool, fences, walls, exterior lighting facilities, athletic facility, or other similar improvements or attachments, shall be constructed upon the Properties and no alteration of the exterior of a structure shall be made nor the installation of any landscaping to any part of a Lot not enclosed by a fence or other structure shall be performed, unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, location of the structure or addition to the structure, plotted horizontally and vertically, location and size of driveways, general plan of landscaping, fencing, walls, wind-breaks and the grading plan) shall have been first submitted to and approved in writing by the Architectural Control Committee. The Architectural Control Committee shall exercise its best judgment to the end that all attachments, improvements, construction, landscaping and alterations to structures and on lands within the Properties conform to and harmonize with the existing surroundings and structures.

Section 3. Procedures. The Architectural Control Committee shall approve or disapprove all plans within thirty (30) days after submission. In the event that the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 4. Vote. A majority vote of the Architectural Control Committee is required to approve a proposed improvement, unless the committee has designated a representative to act for it, in which case the decision of the representative shall control.

Section 5. Records. The Architectural Control Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 6. Liability. The Architectural Control Committee and the Members thereof shall not be liable in damages to any person submitting request for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 7. Variance. The Architectural Control Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article XI hereof in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the restrictions contained in this Article or Article XI hereof. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 8. Minor Violations of Setback Restrictions. If upon the erection of any residence upon any of the Lots which are subject to these restrictions, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of the Lots immediately adjoining the Lot upon which the violation or infringement occurs, and such waiver shall be binding upon all other Owners who are subject to this Declaration. Nothing herein shall prevent the prosecution of a suit for any other violation of the restrictions contained in this Declaration. A "minor violation" for the purpose of this Section is a violation of not more than one (1) foot beyond the required setback lines or lot lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to any of such structures.

ARTICLE VI

INSURANCE

Section 1. Insurance on Common Area. The Association shall maintain insurance covering all insurable improvements located or constructed upon the Common Area. The Association shall maintain the following types of insurance, to the extent that such insurance is reasonably available:

(a) A policy of property insurance covering all insurable improvements located on the Common Area, with coverage sufficient to obtain a replacement cost endorsement providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and including a "Inflation Guard Endorsement" and an "Agreed Amount Endorsement." The Association may also purchase a "Demolition Endorsement," an "Increased Cost of Construction Endorsement," a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, and/or coverage on personal property owned by the Association. Such insurance as maintained by the Association pursuant to this subsection shall afford protection against at least the following:

(1) loss or damage by fire and other hazards covered by the standard all risk form; and

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

(b) A comprehensive policy of public liability insurance covering all of the Common Area, insuring the Association in an amount not less than \$1,000,000 covering bodily injury, personal injury and property damage liability arising out of a single occurrence, such coverage to include protection against liability for non-owned and hired automobile and, if applicable, garagekeeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use.

(c) A policy providing adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all other who handle or are responsible for handling funds of the Association. Such fidelity coverage or bonds shall meet the following requirements:

(1) all such fidelity coverage or bonds shall name the Association as an obligee;

(2) such fidelity coverage or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(3) the total amount of fidelity bond coverage shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or a managing agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months' aggregate assessments on all Lots plus reserve funds.

(d) If the Properties are located in an area which has been identified as having special flood hazards by any agency having jurisdiction, the Association shall maintain a policy of flood insurance on Common Area buildings and any other common property, not less than:

(1) the maximum coverage available under the National Flood Insurance Program for all buildings located within a designated flood hazard area, or;

(2) 100% of current "replacement cost" of all such buildings.

All such policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Member of the Association and shall provide that the policies may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the insured, as well as to the First Mortgagees, and, Mortgage Insurers and Guarantors of any Lot who have requested such notice. Duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to any First Mortgagee of any Lot upon written request. The insurance shall be carried in blanket forms naming the Association as the insured, as trustee and attorney in fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any such Owner's membership in the Association.

Section 2. Workmen's Compensation. The Association shall obtain or provide workmen's compensation insurance for employees of the Association in such manner as is legally required.

Section 3. Insurance on the Structures on Lots. The Board of Directors of the Association or its agent may obtain and maintain at all times insurance of the type and kind hereinafter provided, to the extent that such insurance is reasonably available: A policy of property insurance covering the residences located on each Lot with coverage sufficient to obtain a replacement cost endorsement providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and including an "Inflation Guard Endorsement" and an "Agreed Amount Endorsement." The Association may also purchase a "Demolition Endorsement," an "Increased Cost of Construction Endorsement" and/or a "Contingent Liability from Operation of Buildings Law Endorsement" or the equivalent. Such insurance as maintained by the Association pursuant to this section shall afford protection against at least the following:

(a) loss or damage by fire and other hazards covered by the standard all risk form; and

(b) such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

(c) If the Properties are located in an area which has been identified as having special flood hazards by any agency having jurisdiction, the Association shall maintain a policy of flood insurance on the residences on the Lots, not less than:

(1) the maximum coverage available under the National Flood Insurance Program for all buildings located within a designated flood hazard area, or;

(2) 100% of current "replacement cost" of all such buildings.

If the insurance as provided in this Section 3 is carried by the Association, such insurance shall be carried in blanket policy form naming the Association as insured, as trustee and attorney in fact for all Owners. The policy or policies shall contain a standard non-contributory First Mortgagee's clause in favor of each First Mortgagee and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured, each First Mortgagee, and any Mortgage Insurers and Guarantors who have requested such notice. The Association shall furnish a certified copy of such blanket policy and a certificate identifying the interest of the Owner in question, to any party in interest upon request. All blanket policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of a particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission shall not

be invalidated or suspended and shall remain in full force and effect.

Section 4. Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance.

Section 5. Other Insurance to be Maintained by Owners. Insurance coverage on the furnishings and other items of personal property belonging to an Owner and public liability insurance coverage upon each Lot shall be the responsibility of the Owner thereof.

Section 6. Notice of Loss to First Mortgagees. Provided that a First Mortgagee or Mortgage Insurer or Guarantor has, in writing, requested the following information with respect to a Lot upon which said First Mortgagee holds the First Mortgage or with respect to which the First Mortgage is insured or guaranteed by a Mortgage Insurer or Guarantor, and has furnished the Association with the address to which said First Mortgagee or Mortgage Insurer or Guarantor wants the information sent, then in the event that there shall be any damage to or destruction of: (a) any improvement on such Lot which shall be in excess of One Thousand Dollars (\$1,000.00) and/or (b) the Common Area which shall be excess of Ten Thousand Dollars, (\$10,000.00), then timely written notice of any such damage of destruction shall be given by the Association to such First Mortgagee or Mortgage Insurer or Guarantor, as the case may be.

Section 7. Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors of the Association to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association.

ARTICLE VII

DAMAGE OR DESTRUCTION

Section 1. Damage to Common Area. In the event of damage or destruction to all or a portion of the Common Area due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Area damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Area, the Association shall present to the Members a notice of a special assessment for approval by the Membership in accordance with Article IV, Section 4 hereof. If such assessment is approved, the Association shall levy such assessment and proceed to make such repairs or reconstruction. If such assessment is not approved, the insurance proceeds may be applied in accordance with the wishes of the membership as expressed by the written consent of seventy-five per cent (75%) of the Owners other than Declarant, except that the proceeds shall not be distributed to the Owners, unless made jointly payable to Owners and the First Mortgagees of their respective Lots, if any. The assessment as to each Owner and Lot shall be equal to the assessment against every other Owner and Lot, except those Lots owned by Declarant; those Lots owned by Declarant shall be assessed at one-quarter (1/4) of the assessment rate for other Lots, as more

fully provided in Article IV, Section 6 hereof. Such assessment shall be due and payable as provided by resolution of the Board of Directors, but not sooner than sixty (60) days after written notice thereof. The assessment provided for herein shall be a debt of each Owner and a lien on his Lot and the improvements thereon, and may be enforced and collected in the same manner as any assessment lien provided for in this Declaration.

Section 2. Destruction of Improvement on Lot. In the event of damage or destruction to a residence located on a Lot due to fire or other disaster, the insurance proceeds shall be adjusted with the Association and paid or payable to the Association as trustee for the Owners, and shall not be paid or payable to any First Mortgagee, but shall be held by the Association in trust for Owners and First Mortgagees as their interests may appear. "Repair and Reconstruction" of any residence located on a Lot, as used in this Section 2, shall mean restoring the improvements to substantially the same condition in which they existed prior to such damage or destruction with each such residence having the same boundaries as before.

(a) If such insurance proceeds are sufficient to repair or reconstruct any damaged or destroyed residence, and less than 75% of the improvements on the Properties have been destroyed or substantially damaged, the Association shall promptly authorize the necessary repair and reconstruction work, and the insurance proceeds shall be applied by the Association to defray the cost thereof. If such insurance proceeds are sufficient to repair or reconstruct any damaged or destroyed residence, and 75% or more of the improvements on the Properties have been destroyed or substantially damaged, the Association shall promptly authorize the necessary repair and reconstruction work, and the insurance proceeds shall be applied by the Association to defray the cost thereof, unless such repair and reconstruction is disapproved of by Owners of greater than 50% of the Lots.

(b) If the insurance proceeds are insufficient to repair or reconstruct any damaged or destroyed residence located on a Lot, such damage or destruction shall be promptly repaired and reconstructed by the Association, using the insurance proceeds and the proceeds of a special assessment against the Owners of such damaged or destroyed residences; provided, however, that if 75% or more of the improvements on the Properties have been destroyed or substantially damaged, repair and reconstruction shall not proceed if disapproved by Owners of greater than 50% of the Lots. Any special assessment hereunder shall be equal to the amount by which the cost of reconstruction or repair of such residence(s) exceeds the sum of the insurance proceeds allocable to such residence(s). Such assessment shall be due and payable as provided by resolution of the Board of Directors, but not sooner than thirty (30) days after written notice thereof. The special assessment provided for herein shall be a debt of each Owner whose Lot is subject to such assessment and a lien on such Lot and the improvements thereon, and may be enforced and collected as provided in Article IV hereof.

(c) Notwithstanding anything to the contrary contained in this Section 2, the Owners and First Mortgagees of any or all of the destroyed or damaged residences may agree that the destroyed or damaged residences shall forthwith be demolished and all debris and rubble caused by such demolition be removed and the applicable Lot(s) regraded and landscaped to the satisfaction of the Architectural Control Committee. The costs of such landscaping and demolition work shall be paid for by any and all available insurance proceeds. If such insurance proceeds are

insufficient to pay the cost of such landscaping and demolition work, the Owners of such damaged or destroyed residences shall pay the costs thereof pursuant to a special assessment, as provided in Section 2(b) of this Article VII. Any excess insurance proceeds shall be disbursed to each such Owner and his First Mortgagee jointly, and said Owner shall convey his Lot to the Association upon such terms and conditions as may be agreed to by the Association and such Owner, and such Lot shall become part of the Common Area.

ARTICLE VIII

EASEMENTS

Section 1. Easements Across Lots. The portions of Lots shown as shaded Easement Areas on Exhibits C, D, E, F, G and H attached hereto and incorporated herein by this reference are hereby made subject to and Declarant hereby grants to all Owners, their family members, guests and invitees a non-exclusive easement for ingress, egress and access over, under, upon and across such Easement Areas for the pedestrian and vehicular traffic. The easements granted in this Section 1 shall not burden those portions of Lots which are enclosed by a fence, building or other structure, including elevated balconies or decks, or which contain a concrete porch, patio or stoop thereon. Landscaping, maintenance and repair of the areas affected by this easement, including lawn and landscape maintenance and the maintenance and repair of asphalt, shall be done by the Association as a common expense (pursuant to Article X of this Declaration,) except that any damage resulting from the negligent or willful act or omission of any Owner or a member of an Owner's family or a guest or invitee of an Owner (such determination of negligence or willful act or omission and the amount of the Owner's liability having been determined by the Association by a hearing after notice to the Owner) shall be charged by the Association to such Owner, and any and all cost, expenses and fees incurred by the Association for such maintenance or repair shall be added to and become part of the assessment to which such Owner's Lot is subject and shall become a lien against such Owner's Lot as provided in Article IV of this Declaration.

Section 2. Emergency Access Easement. An easement and right-of-way for ingress, egress and access for service and emergency vehicles is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or persons over, across, on and through any and all private roads and ways now or hereafter established on the Properties.

Section 3. Easements Running with the Land. The easements created by this Article and Article II, Section 3, shall apply to and run with the land benefited and burdened by the easements, and all successive future Owners and occupants of the Properties shall have the same right to invoke and enforce the easements granted herein as the Declarant and original purchasers hereof.

ARTICLE IX

PARTY WALLS

Section 1. Definition. For purposes of this Article IX, "Party Wall" shall mean and refer to any two one-hour fire walls which are part of the original construction of the residences upon the Properties and are placed immediately adjacent to or on a Lot line and immediately adjacent to one another.

Section 2. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 3. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the Party Wall in proportion to such use.

Section 4. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, except in the case of a casualty for which repair is provided in Article VII, any Owner who has used the Party Wall may restore it, and if the other Owners thereafter make use of the Party Wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts of omissions.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to and run with the land and shall pass to such Owner's successors in title.

Section 7. Arbitration. In the event of any dispute arising concerning a Party Wall under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within 10 days after written request therefor by an Owner, the Board of Directors of the Association shall select an arbitrator for the refusing party. The parties to the arbitration shall share the costs thereof, but each party shall pay its own attorneys' fees.

ARTICLE X

EXTERIOR MAINTENANCE AND SEWER SERVICE

Section 1. General. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon the structures of each Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, fences, walks, and other exterior improvements. Such exterior maintenance shall not include windows or other glass surfaces or any air conditioning units. Notwithstanding anything to the contrary contained in this Section 1, the Association shall not provide exterior maintenance upon the structures of any Lot on which Declarant pays one-quarter (1/4) of the assessment rate for the other Lots pursuant to Article IV, Section 6 hereof.

Section 2. Maintenance of Lots. The Association shall be responsible for the landscaping and maintenance of the Common Area and the easement area of each Lot as shown on Exhibits C, D, E, F, G, and H attached hereto and shall have the grass, weeds,

trees, and vegetation cut and/or trimmed when necessary. No Owner shall, in whole or in part, change the landscaping adjacent to his Lot, except the landscaping within any portion of a Lot enclosed by a fence or other structure, by the addition or removal of any items thereon without prior written approval of the Architectural Control Committee.

Section 3. Access Easement. Each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance as provided in this Article X during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot, except that in emergency situations entry upon a Lot may be made at any time, provided that the Owners or occupants of affected Lots shall be warned of impending emergency entry as early as is reasonably possible. The interior of any residence located on a Lot shall not be subject to such easements as provided for in this Section.

Section 4. Owner's Negligence. Notwithstanding anything to the contrary contained in this Article X, in the event that the need for maintenance or repair of a Lot or the improvements thereon is caused by the willful or negligent act or omission of any Owner or by any member of the Owner's family or by a guest or invitee of any Owner, the cost of such repair or maintenance shall be performed by the Association with the costs therefor charged to such Owner, and any and all costs, expenses and fees incurred by the Association for such maintenance shall be added to and become part of the assessment to which such Owner's Lot is subject and shall become a lien against such Owner's Lot as provided in Article IV of this Declaration. A determination of the negligence or willful act or omission of any Owner or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Owner, except that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

Section 5. Sewer Service. The Association shall pay all sewer service bills in accordance with one annual or quarterly composite statement from the City of Henderson. The Association will collect sewer service fees from the Owners for all property, common and personal.

ARTICLE XI

RESTRICTIONS

Section 1. General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Properties, all thereof in order to enhance the value, desirability, and attractiveness of the Properties and subserve and promote the sale thereof.

Section 2. Restrictions Imposed. The Declarant hereby declares that all of the Properties shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon, and hypothecated upon, and subject to the following provisions, conditions, limitations, restrictions, agreements, and covenants.

Section 3. Use of Common Area.

(a) No use shall be made of the Common Area which will in any manner violate the statutes, rules, or regulations of

any governmental authority having jurisdiction over the Common Area.

(b) No Owner shall place any structure whatsoever upon the Common Area, nor shall any Owner engage in any activity, except vehicular parking in the Parking Space to which that Owner's Lot has an easement appurtenant as created and established in Article II, Section 3, which will temporarily or permanently deny free access to any part of the Common Area to all Members.

(c) The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

(d) No use shall ever be made of the Common Area which will deny ingress and egress to those Owners having access to Lots only over Common Area, and the right of ingress and egress to said Lots by vehicle and otherwise is hereby expressly granted.

Section 4. Single Family Use. Except for Common Area, all Lots shall be used for private family residence purposes only. No business or profession of any nature shall be conducted on any Lot or in any structure constructed thereon except as provided below.

Declarant may use Lots and residences erected thereon for show homes and sales offices, field construction offices, storage facilities, and general business offices and for parking areas incident to any of the aforesaid.

Section 5. Animals. No horses, cattle, sheep, goats, pigs, rabbits, poultry, or other animals of any description shall be kept or maintained on any Lot except that Owners may keep dogs, cats, fish, or other domestic animals which are bona fide household pets so long as such pets are not kept for commercial purpose and do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of adjacent property, and in compliance with all existing applicable local ordinances.

Section 6. Temporary Structures. No temporary house, trailer, tent, garage, or outbuilding shall be placed or erected upon any Lot, and no residence placed or erected upon any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans, nor shall any residence when completed be in any manner occupied until made to comply with all requirements, conditions, and restrictions herein set forth; provided, however, that during the actual construction or alteration of a structure on any Lot, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering, or remodeling any structure on any part of any Lot shall be prosecuted diligently from the commencement thereof until the completion thereof.

Section 7. Miscellaneous Structures. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number and except for a "For Sale" sign not to exceed five (5) square feet; except that the Declarant shall be permitted to use larger signs such as will not unreasonably interfere with Owners' use of the Common Area until all Lots, including Lots in annexed Properties, are conveyed to the first Owner

(other than to Declarant). No patio covers or storage sheds shall be placed, permitted or maintained on any Lot. All types of refrigerating, cooking, or heating apparatus shall be concealed. No garbage or trash cans or receptacles shall be maintained in an exposed and unsightly manner. All antennae shall be installed inside the improvement on any Lot.

Section 8. Lots to be Maintained. Each Lot at all times shall be kept in a clean, sightly, and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building materials shall be permitted to remain exposed upon any Lots so that the same are visible from any neighboring Lot of street, except as necessary during the period of construction.

Section 9. Lots Not to be Subdivided or Regraded. No Lot or Lots shall be subdivided, except for the purpose of combining portions with an adjoining Lot provided that no additional building site is created thereby. Not less than one entire Lot, as conveyed, shall be used as a building site. No change shall be made in the final grade of any Lot as established by Declarant.

Section 10. Underground Electric Lines. All electric, television, radios, and telephone line installations and connections from any property line of a Lot to a residence or other structures shall be placed underground, except that during the construction of a residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

Section 11. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others.

Section 12. No Hazardous Activities. No activities shall be conducted on the Properties and on improvements constructed on the Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any of the Properties and no open fires shall be lighted or permitted on the Properties except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace or except such campfires or picnic fires on properly designated for such by the Association.

Section 13. No Annoying Light, Sounds, or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any Lot which is unreasonably loud or annoying; and no odor shall be emitted on any Lot which is noxious or offensive to others.

Section 14. Restrictions of Parking and Storage. Except as expressly heretofore provided, no portion of the Properties, including, but not limited to Lots, the street and Association-owned private streets, drives, or parking areas, unless specifically designated by the Association therefor, shall be used as a parking, storage display, or accommodation area for any type of house trailer, camping trailer, boat trailer, hauling trailer, running gear, boat, or accessories thereto, truck, self-contained motorized vehicle, or any type of van except as a temporary expedience for loading, delivery, or emergency. The same shall be stored, parked, or maintained wholly within the

garage area of a Lot, or within the Parking Space appurtenant to a Lot as provided in Article II, Section 3, or in an area designated by the Association for such parking, storage, display or accommodation, the making of such designation to be in the sole discretion of the Association. This restriction, however, shall not restrict trucks or other commercial vehicles within the Properties which are necessary for the construction of residential dwellings or the maintenance of the Common Area or Lots.

Section 15. Height Restrictions. No structure shall be erected or maintained on any Lot which is in excess of forty (40) feet in height. Height shall be the vertical distance of the structure measured from the lowest point of a finished grade on the Lot adjacent to the foundation of the structure to the uppermost point of the structure. Chimneys, if allowed, shall be excluded in determining the height of a structure.

Section 16. Dwelling Cost, Quality, and Size. No dwelling shall be permitted on any Lot at a construction cost of less than \$10,000, based on a cost level prevailing on the date this instrument is recorded, it being the intention and purpose hereof to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date this instrument is recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure of a Lot, exclusive of open porches and garages, shall not be less than 500 square feet for a one-story dwelling, nor less than 300 square feet on the main floor for a dwelling of more than one story.

Section 17. Clotheslines and Storage. No clothesline, dog runs, drying yards, service yards, wood piles, or storage areas shall be so located on any Lot as to be visible from a street and/or public view and/or from the Common Area.

Section 18. Garbage and Refuse Disposal. No garbage, refuse, rubbish, or cuttings shall be deposited on any street, and not on any Lots unless placed in a suitable container suitably located, solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in clean and sanitary condition.

Section 19. Repair. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing or any kind of vehicles, trailers, or boats, may be performed on any Lot unless it is done within completely enclosed structures located on the Lot which screen the sight and sound of the activity from the street and from adjoining property nor shall any such activity be performed on the Common Area or within any Carport located thereon. The foregoing restriction shall not be deemed to prevent washing or polishing of any motor vehicle, boat, trailer, or motor-driven cycle together with those activities normally incident and necessary to such washing and polishing.

Section 20. Tanks. No tanks of any kind, either elevated or buried, shall be erected, placed, or permitted upon any Lot.

Section 21. Interior Maintenance and Repair. The maintenance and repair of the interior of each residence and any portion of a Lot enclosed by a fence or other structure shall be the responsibility of the Owner thereof. Each Owner, its agents and contractors, are hereby granted an easement for the purpose

of maintenance and repair, in and upon adjacent Lots on reasonable notice to the Owners thereof. Any damage occasioned to the adjacent Lot or improvements thereon in exercising said easements shall be the responsibility of the Owner performing the maintenance or repair.

Section 22. Carport Conversion. No carport may be enclosed or converted to any other use.

ARTICLE XII

FIRST MORTGAGEES

Section 1. Member and First Mortgagee Approval. Notwithstanding anything to the contrary set forth in this Declaration, the Association shall not:

(a) unless it has obtained the prior written consent of at least two-thirds (2/3) of all classes of Members and/or First Mortgagees of Lots (based upon one vote for each First Mortgage owned):

(1) by act of omission, change, waive, or abandon any scheme of architectural control, or enforcement thereof, as set forth in this Declaration, regarding the design or maintenance of the Lots, improvements thereon or the Common Area,

(2) fail to maintain full current replacement cost fire and extended insurance coverage on the Common Area, or

(3) use hazard insurance proceeds for Common Area property losses for purposes other than to repair, replace, or reconstruct such property; or

(b) unless it has obtained the prior written consent of at least two-thirds (2/3) of all classes of Members and 100% of all First Mortgagees of Lots (based upon one vote for each First Mortgage owned):

(1) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer any common property owned, directly or indirectly, by the Association for the benefit of the Owners (excluding the granting of easements for public utilities or other purposes consistent with the intended use of such common property or as provided in Article II, subsections 2(a) and 2(e)), or

(2) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner.

(3) effectuate any decision to terminate professional management and assume self-management of the Properties.

Section 2. Notice of Default. The Association shall notify in writing the First Mortgagee or Mortgage Insurer or Guarantor of any Lot, upon request, when the Owner thereof is in default in the payment of any assessment, or in default of any obligation under the Declaration, Articles of Incorporation or Bylaws of the Association and the Board of Directors of the Association has actual knowledge of such default, and said de-

fault has not been cured within sixty (60) days after said Board of Directors has actual knowledge thereof, provided that said First Mortgagee, Mortgage Insurer or Guarantor, as the case may be, has previously given notice in writing to the Association of the existence of such First Mortgage.

Section 3. Notice of Other Action. Every First Mortgagee or Mortgage Insurer or Guarantor shall receive written notice from the Association of any action which would require the consent of a certain percentage of eligible mortgage holders as specified above in Section 1 of this Article XII. A First Mortgagee or Mortgage Insurer or Guarantor shall only be entitled to notice, pursuant to this Section 3, if prior to such action such First Mortgagee or Mortgage Insurer or Guarantor, as the case may be, shall deliver to the Association a written request for such notice specifying the address to which such notice is to be sent.

Section 4. Documents. The Association shall be required to make available to Owners and First Mortgagees current copies of this Declaration, the Bylaws, project rules and regulations, and the books, records and financial statements of the Association. These documents shall be open for inspection, upon request, during normal business hours. First Mortgagees shall also be entitled, upon written request, not less than 90 days after the close of any fiscal year of the Association, to an audited financial statement for the immediately preceding fiscal year free of charge.

Section 5. Conflict. In the event of any conflict between the provisions of this Article XII and any other term, covenant or condition hereof, the provisions of this Article XII control.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 3. Construction and Maintenance Easement. If any portion of any exterior wall of a residence is situated within three feet of any adjoining Lot line, a valid easement shall and does exist, three feet in width along the adjoining Lot and adjacent to the said Lot line, which easement may be used for the purpose of construction, reconstruction, maintenance and repair of said exterior wall of a residence that is situated within three feet from the nearest point of said easement.

Section 4. Easement for Encroachments. If any portion of a residence encroaches upon the Common Area or upon any adjoining Lot, including any future encroachments arising or resulting from the repair or reconstruction of a residence subsequent to its damage, destruction, or condemnation, a valid easement extending a linear distance of up to one foot from a Lot

line onto the Common Area or on any adjoining Lot and not interfering with any improvements on the Common Area or on any adjoining Lot, on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 5. Conflicts of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and Bylaws of the Association, the Articles of Incorporation shall control.

Section 6. Annexation. Declarant may annex additional residential property and common area in phases as described on Exhibit I attached hereto and incorporated herein by this reference, without consent of the Association, subject to a determination by the Federal Housing Administration of the U.S. Department of Housing and Urban Development and the Veterans Administration that the annexation is in accord with the general plan heretofore approved by them. In no event may more than 122 Lots be annexed pursuant to this Section. The first phase must be annexed within three (3) years of the recording of this Declaration, annexation of each additional phase must be completed within three (3) years of the completion of annexation of the previous phase, and all annexation must be completed within seven (7) years of the recording of this Declaration. Residences which are part of the original structures constructed by Declarant on any property annexed by Declarant as provided herein shall be of comparable style, quality, size and cost, and shall be substantially the same style, floor plan, size and quality as the residences existing on the Properties on the date of such annexation. All taxes, liens or assessments attaching to the property to be annexed must be paid or satisfied by Declarant prior to annexation. The annexation of such property shall become effective when Declarant shall have recorded an amendment to this Declaration, which may consist of one or more documents and which shall among other things:

- (a) Describe the real property which is to be annexed;
- (b) Set forth or refer to such additional covenants, conditions and restrictions applicable to such property if any; and
- (c) Declare that such property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to this Declaration.

The foregoing may be accomplished by recording a statement incorporating all terms of this Declaration as being applicable to the property to be annexed. The amendment to this Declaration effecting such annexation shall provide that such new Common Area be owned by the Association, and a deed thereto shall be delivered to the Association by Declarant.

Upon annexation pursuant to this Section, any parts of the annexed areas so designated at such time shall become part of the Common Area. In particular, but not by way of limitation, except as expressly provided herein or in any amendment hereto all Common Area, whether original or annexed, may be used by Owners of all Lots, whether original or annexed, to the same extent that the original Common Area may be used by Owners of the original Lots.

Upon annexation, the Owners of all Lots in any annexed area, including Declarant, shall become members of the Association on the same basis, and with the same voting power provided in Article III hereof.

Section 7. Condemnation. In the event proceedings are initiated by any government or agency thereof, seeking to take by eminent domain the Common Area, any part thereof or interest therein, any improvement thereon, or any interest therein, with a value (including loss of value to the balance of the Common Area and improvements thereof), as reasonably determined by the Association in excess of \$10,000, the Association shall give prompt notice thereof, including a description of the part of or interest in the Common Area or improvement thereon sought to be so condemned, to all First Mortgagees, Mortgage Insurers and Guarantors, who have requested notice thereto, to Members, and to the Declarant. The Association shall have full power and authority to defend in said proceedings but the Association shall not enter into proceedings, pursuant to which the Common Area or any part thereof or any interest therein, or any improvement thereon or any part thereof or interest therein, is relinquished without giving all First Mortgagees, Members, and Declarant at least fifteen (15) days prior written notice thereof.

In the event, following such proceedings, there is such a taking in condemnation or by eminent domain of a part or all of the Common Area, the award made for such taking shall be payable to the Association, subject to the rights of all First Mortgagees. If fifty-one percent (51%) or more of the Owners approve the repair and restoration of the Common Area, the Association shall arrange for the same and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that fifty-one percent (51%) or more of the Owners do not duly and promptly approve the repair and restoration of such Common Area, the Association shall disburse the net proceeds of such award to the Owners, the Owner of each Lot receiving one (1) equal share, provided that the Association shall first pay out the share of each Owner the amount of any unpaid liens or encumbrances on his Lot in the order of the priority of such liens or encumbrances. No provision of this Declaration or of any other documents relating to the Properties shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee pursuant to a First Mortgagee or seller of holder of any Veterans Administration installment contract for sale of real estate on such Owner's Lot in the case of a distribution to an Owner of insurance proceeds or condemnation award for losses to or taking of Lots or Common Area, or both.

Section 8. Duration, Revocation, and Amendment. Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of the Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be amended during the first twenty (20) year period by an instrument approved in writing by not less than 90% of the Members of all classes and by 75% of the First Mortgagees who have given the Association notice of their interest in any Lot, and thereafter by any instrument approved in writing by not less than 75% of the Members of all classes and 75% of said First Mortgagees. Such amendment or revocation shall be effective when duly recorded; provided, however, that any amendment or revocation must comply with the statutes of Nevada and the resolutions and ordinances of the City of Henderson, Nevada, or of any successor governmental entity

having jurisdiction over the Properties in existence at the time such amendment become effective. The manner in which common expenses are assessed shall not be altered, except with the express written consent of all Members of all classes and all First Mortgagees of Lots.

Notwithstanding the provisions of this Section 8, if Declarant shall determine that any amendments to this Declaration or any amendment to the Articles of Incorporation or Bylaws of the Association shall be necessary in order for existing or future mortgages to be acceptable to the Veterans Administration, the Federal Housing Administration of the U.S. Department of Housing and Urban Development, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, then, subject to the following sentence of this Section 8, Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendments without obtaining the approval of the Owners or First Mortgagees. Each such amendment of this Declaration or of the Articles of Incorporation or Bylaws shall be made, if at all, by Declarant prior to (a) closing of the sale of the last Lot by Declarant to the first Owner (other than Declarant) thereof or (b) January 1, 1987, whichever shall be first to occur; and each such amendment must contain thereon the written approval of the Veterans Administration or the Federal Housing Administration of the U. S. Department of Housing and Urban Development.

Section 9. Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notice, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands, or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage paid to 417 Barrett Street, Henderson, Nevada 89015, until such address is changed by a notice of change of address mailed to each Owner by the Association.

Section 10. Leases. Any lease agreements between an Owner and a lessee shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms and provisions of such documents shall be a default under the lease. Further, all leases shall be in writing and for a period not less than 30 days.

Section 11. Managing Agent. The Association may enter into agreements for professional management of the Association's business. All employees of a manager or managing agent who handle or are responsible for the handling of the Association's monies shall be bonded.

Any agreement for professional management of the Association's business must provide for termination by either party with or without cause and without payment of a termination fee upon thirty (30) days prior written notice, and shall have a maximum term of one (1) year. Each and every management contract made between the Association and a manager or managing agent during the period when the Declarant or other developer controls the Association shall terminate absolutely, in any event, not later than thirty (30) days after the termination of the Class B membership pursuant to the terms of Article III, Section 2 here-

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of. All such management contracts entered into by the Association with a manager or managing agent during the period of control by the Declarant or developer shall be subject to review and approval by the Federal Housing Administration of the U. S. Department of Housing and Urban Development or the Veterans Administration.

Section 12. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration of the U. S. Department of Housing and Urban Development or the Veterans Administration: annexation of additional properties, dedication of Common Area, and amendment of this Declaration.

Section 13. Dedication of Common Areas. Declarant in recording this Declaration of Covenants, Conditions and Restrictions has designated certain areas of land as Common Area intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Area is not dedicated hereby for use by the general public but it dedicated to the common use and enjoyment of the Owners, as more fully provided in this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal as of the day and year first above written.

[SEAL]

U. S. HOME CORPORATION,
a Delaware corporation

By: Timothy Tennant

417 BARRET ST
HENDERSON, NV

ATTEST:

89015

Barbara A. Casanova

RETURN TO: TIMOTHY TENNANT

417 BARRET ST

HENDERSON NV

89015

CLARK COUNTY, NEVADA
JOAN L. SWIFT, RECORDER
RECORDED AT REQUEST OF

Timothy Tennant

MAY 24 2 00 PM '82

FEE 24.00 DEPUTY DR
OFFICIAL RECORDS
BOOK INSTRUMENT

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