

# CITY OF NORTH LAS VEGAS

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## DAMAGE DEPOSIT AGREEMENT

THIS AGREEMENT is made and entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_ whose mailing address is \_\_\_\_\_ (hereinafter referred to as "Developer"), and the CITY OF NORTH LAS VEGAS, a political subdivision of the State of Nevada (hereinafter referred to as "City"):

WHEREAS, Developer has performed and completed all off-site work and improvements within the Development in accordance with the improvement plans approved by the City except for the development of vacant lots (collectively, the "Improvements") and posted surety with the City in connection with the Improvements (the "Bond");

WHEREAS, Developer has completed the Improvements for the Development, and the City is prepared to release the surety upon Developer's delivery to the City of a Damage Deposit in the amount of \_\_\_\_\_ to ensure that any damage caused to the Improvements by homebuilding activities on the vacant lots are repaired (the "Damage Deposit"); The vacant lots are identified as the following APNs \_\_\_\_\_ located within the subdivision known as \_\_\_\_\_;and

WHEREAS, Developer has agreed to furnish the Damage Deposit to the City for the vacant lots.

NOW, THEREFORE, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, the parties do hereby agree as follows:

1. **Repair Obligation.** Developer, at its own cost, shall repair any damage to the Improvements in the Development caused by Developer or its parent, subsidiaries, or affiliates, or their respective employees, representatives, subcontractors or agents arising directly or indirectly out of or in connection with the construction of the Homes or other improvements on or to the vacant lots, in accordance with currently applicable ordinances, regulations, standards and specifications, or other requirements of the City in the particular circumstances of the Development herein specified ("Developer's Repair Obligations").

2. **Security.** Developer shall furnish, without cost to the City, a surety bond, cash deposit with cash in lieu of bond agreement, or other form of security or surety established by City ordinance to be a proper form of security or surety. The security or surety furnished shall be in favor of the City in the amount of \_\_\_\_\_. In the event Developer fails to perform Developer's Repair Obligations within thirty (30) days after written notice from City to do so, said security or surety shall be used by the City for the payment of the costs of completion of

repairs to the Improvements. The security or surety shall be released and returned to Developer in an amount equal to \$2,500.00 per vacant lot, from time to time, as certificates of occupancy are issued by the City for each Lot.

3. Nevada and City Law. The laws of the State of Nevada and the North Las Vegas Municipal Code shall govern the validity, construction, performance and effect of this Agreement, without regard to conflicts of law.

4. Successors. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

5. Assignment. Any attempt to assign this Agreement by the Services Provider without the prior written consent of the City shall be void.

6. Non-Waiver. The failure to enforce or the delay in enforcement of any provision of this Agreement by a party hereto or the failure of a party to exercise any right hereunder shall in no way be construed to be a waiver of such provision or right (or of any other provision or right) unless such party expressly waives such provision or right in writing.

7. Partial Invalidity. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all provisions, covenants, and conditions of this Agreement, and all applications thereof, not held invalid, void or unenforceable, shall continue in full force and effect.

8. Attorney's Fees. In the event any action is commenced by either party against the other in connection herewith (including any action to lift a stay or other bankruptcy proceeding), the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, as determined by the court. This Section 12.6 shall survive the completion of the Project and the Services until the applicable statutes of limitation expire.

9. Entire Agreement. This Agreement constitutes the entire Agreement between the parties pertaining to the subject matter contained herein and supersedes all prior representations, agreements and understandings of the parties. No addition to or modification of this Agreement shall be binding unless executed in writing by the parties hereto.

10. Time of Essence. Time is of the essence in the performance of this Agreement and all terms, provisions, covenants and conditions hereof.

*[Remainder of this page intentionally left blank.]*

