APNs: 002-01-510-001;002-01-510-004

002-01-212-001; 002-01-317-001; 002-01-719-001; 002-01-614-002;

001-06-312-001;

NCS · 897056 (ad) When Recorded, Return To:

PN II, Inc.

Attn: John F. Cahlan and Quincy Edwards

7255 S. Tenaya Way, Suite 200 Las Vegas, Nevada 89113 Inst #: 20180629-0003792

Fees: \$40.00

06/29/2018 03:06:37 PM Receipt #: 3443207

Requestor:

FIRST AMERICAN TITLE NCS LA Recorded By: CHONGMA Pgs: 15

DEBBIE CONWAY

CLARK COUNTY RECORDER

Sre: ERECORD
Ofe: ERECORD

# SUPPLEMENTAL DECLARATION TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CONESTOGA GOLF CLUB

## SUPPLEMENTAL DECLARATION TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CONESTOGA GOLF CLUB

THIS SUPPLEMENTAL DECLARATION TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CONESTOGA GOLF CLUB (this "Supplement") is made by PN II, Inc., a Nevada corporation ("Declarant") and Par 3, LLC, an Utah limited liability company ("Golf Course Owner") to be effective as of the date this Supplement is recorded in the Official Records of the Recorder of Clark County, Nevada ("Effective Date").

### RECITALS

- A. Declarant recorded that certain Declaration of Covenants, Conditions, Restrictions and Easements for Conestoga Golf Club on May 23, 2007 in the official records of the Recorder of Clark County, Nevada in Book 20070523 as Instrument 2197 (the "Golf Course Declaration") with respect to the real property described on Exhibit A attached hereto (the "Golf Course Property") as well as the real property described on Exhibit B of the Golf Course Declaration ("Residential Property"). All capitalized words and terms used in this Supplement shall have the meanings given to them in the Golf Course Declaration.
- B. The Golf Course Declaration was recorded for the purpose of setting forth certain rights of Declarant, the homeowners' governing the Residential Property and all owners and residents of the Residential Property, and establishing certain easements, restrictions and obligations applicable to the Golf Course Property and the Residential Property.
- C. Section 8.3.1 of the Golf Course Declaration reserves to the Declarant the right to amend the Golf Course Declaration without the consent of any other Person for so long as Declarant owns any Unit or other property within the Anthem Mesquite Property. As of the date of this Supplement, Declarant is the owner of the real property adjacent to or in the immediate vicinity of the Golf Course and is developer of the Residential Property.
- D. In connection with the sale of the Golf Course Property to Golf Course Owner, Declarant with the consent of Golf Course Owner desires to establish this Supplement to impose additional operational covenants on the Golf Course and the Golf Course Owner to preserve and protect Declarant's continuing interest in the Residential Property and the development of the Residential Property.

NOW, THEREFORE, Declarant with the consent and agreement of Golf Course Owner, agrees and acknowledges as follows:

1. <u>Acknowledgement Regarding Acquisition of Golf Course Property</u>. Golf Course Owner covenants and agrees that it is acquiring the Golf Course Property for the operation of the Golf

Course in accordance with the covenants set forth in the Golf Course Declaration and those additional covenants set forth below in Section 2.

- 2. <u>Supplemental Declaration</u>. Declarant with the consent and agreement of Golf Course Owner hereby supplements, modifies, and amends the Golf Course Declaration, with respect to and only with respect to Golf Course Property:
  - Cooperation Regarding Lots. For a period commencing upon the Effective Date Closing and continuing until the development of the Unit in the Residential Property (the "Residential Lots"), Golf Course Owner shall reasonably cooperate with Declarant and its Affiliates, at no cost to Golf Course Owner, in connection with the development of the Residential Lots, by the execution of easement agreements and such other documents regarding the construction of perimeter walls, grading and drainage as may be reasonably requested by Declarant, provided that such documents do not materially adversely affect the operation or management of the 18-hole championship golf course located on the Golf Course Property ("Golf Course"), as reasonably determined by Golf Course Owner in the exercise of Golf Course Owner's good faith judgment. As used herein, "Affiliate" means, with respect to any an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization ("Person"), any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person. For purposes of this definition, the term "control" means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.
  - b. <u>Golf Course Improvements</u>. Golf Course Owner agrees and acknowledges that any exterior alterations to any Improvements, and the construction of any new Improvements, shall be subject to the requirements contained in the Golf Course Declaration.
  - c. <u>Grille Discount</u>. All Unit Owners and their accompanied guests, shall be entitled to a ten percent (10%) discount on all food and beverage ordered at any existing or future grille or restaurant at the clubhouse located on the Golf Course Property ("Clubhouse").
  - d. <u>Home Sales Relationships</u>. Prospective purchasers of Units, as so designated by a representative of Declarant or its Affiliates, shall be entitled to all of the rights, privileges and benefits of a Unit Owner pursuant to Article 4 of the Golf Course Declaration and Section 2(c) of this Supplement.
  - e. <u>Maintenance of HOA Common Elements</u>. Golf Course Owner shall irrigate and maintain those common areas which are shown on <u>Exhibit B</u> attached hereto and incorporated herein by this reference (the "Adjacent Common Areas") to the same

- standard of maintenance and quality as all other Master Common Elements of the planned community known as Anthem at Mesquite which is created by the Master Declaration ("Residential Planned Community").
- f. HOA Relationships. Subject to availability, Golf Course Owner shall allow the Master Association to hold board, committee and community meetings at the Clubhouse, and provide a ten percent (10%) discount to the Master Association for all applicable facility and food and beverage charges.
- g. Golf Passes. On or before the Effective Date, Golf Course Owner shall comp rounds of golf, club rentals, and practice facilities for executives of Declarant with accompanying guests on a case by case basis arranged through Golf Course Owner. A minimum of 12 rounds per month are guaranteed with ten (10) days advance notice for reservations by executives of Declarant.
- h. Right of First Refusal. Golf Course Owner further acknowledges that Declarant has a continuing interest in the development of the Residential Planned Community and the successful operation of the Golf Course, and, in order to protect such interests of Declarant, Golf Course Owner covenants and agrees that Golf Course Owner shall not resell any portion of the Golf Course Property to any person or entity unless Golf Course Owner has complied with the right of first refusal provisions contained in this Section. After Closing, Declarant shall have a right of first refusal ("ROFR") with respect to a sale of all of the Golf Course Property by the Golf Course Owner to any party that is not controlled by, or under common control with, the Golf Course Owner. The ROFR shall also apply to any transfer of any controlling ownership interest in the Golf Course Owner, to the extent that such transfer is not to an affiliate of Golf Course Owner. The terms of the ROFR shall be as follows: If the Golf Course Owner receives an irrevocable and unconditional (except such offer may be conditional upon the non-exercise of this right of first refusal) bona-fide, arms-length, written offer from an independent third party ("Offer") to purchase the Golf Course Property, which Golf Course Owner desires to accept, Golf Course Owner shall first give Declarant written notice of such Offer ("Offer Notice") prior to becoming unconditionally obligated to sell to any third party. The Offer Notice shall include a copy of the Offer, indicating the assets being sold, the proposed purchase price, the date of closing, purchase money financing terms (if any), allocation of closing costs, and all other material terms and conditions of the sale ("Terms"). Declarant shall have a period of thirty (30) calendar days after receipt of Golf Course Owner's Offer Notice ("Offer Review Period") to accept or reject the Offer in whole, on the Terms set forth therein. In the event that Declarant does not accept or reject the Offer within the Offer Review Period, Declarant shall be deemed to have rejected the Offer. If the Offer is rejected by Declarant, Golf Course Owner's interest in the Golf Course Property as is reflected in the Offer Notice may be sold to the offeror in accordance with the terms of the Offer not later than one hundred twenty (120) days after the expiration of the

Offer Review Period. If Declarant accepts the Offer, the closing shall occur ninety (90) days after the expiration of the Offer Review Period, and on the same Terms reflected in the Offer Notice. Golf Course Owner shall notify Declarant in writing in the event the closing fails to occur within such 120-day period and of any modification of the Offer, and any sale or proposed sale by Golf Course Owner of any portion of the Golf Course Property (including a sale pursuant to an Offer which has failed to close within such 120-day period or sale upon modified terms) shall again be subject to the terms of this Section 2(h).

## i. Option to Repurchase.

Right to Repurchase. Golf Course Owner grants to Declarant the right, but (1) not the obligation, to repurchase the Golf Course Property and all improvements thereon, including but not limited to the Clubhouse (the "Right to Repurchase"), if Golf Course Owner fails to perform its obligations under the Supplemental Declaration or the Golf Course Declaration, or, subject to the occurrence of a Permitted Closure (as defined herein), otherwise ceases operation of the Golf Course and/or Clubhouse for more than one hundred twenty (120) calendar days during any calendar year for any reason other than a casualty event, and such failure or shutdown is not cured within thirty (30) days following written notice of such failure or shutdown from Declarant; provided, however, that there shall be no right to cure if Golf Course Owner commits the same failure more than once in any calendar year (such uncured failure or shutdown being referred to as a "Triggering Event"). The actual purchase of the Golf Course Property as contemplated by this Agreement is referred to as the "Repurchase". Prior to the Closing Date (as defined below), upon written notice thereof to the Golf Course Owner, Declarant shall have the right to acquire, for no additional consideration, any other Golf Course Property of the Golf Course Owner reasonably deemed necessary by Declarant for the operation of the Golf Course to the same standard and quality as operated on the Effective Date. Golf Course Owner shall deliver, or cause to be delivered, such assignments, bills of sale and other documents as may be reasonably required by Declarant to convey title to all the Golf Course Property being transferred by Golf Course Owner pursuant to this Section 2(i), and agrees to cooperate with Declarant to effectuate such transfers, free and clear of all liens and encumbrances. For purposes of this Section, the terms (A) "Permitted Closure" shall mean an act of God, vandalism or a Planned Re-Design (as defined herein) of the Golf Course Property; provided, however, that any closure resulting from (i) an act of God or vandalism shall not exceed one hundred eighty (180) days after the occurrence thereof, and (ii) a Planned Re-Design of the Golf Course Property shall be diligently pursued through completion and shall not exceed one hundred eighty (180)

- days, and (B) "Planned Re-Design" shall mean any redevelopment of the Clubhouse and/or Golf Course necessitating a closure thereof.
- Repurchase Price. Following the occurrence of a Triggering Event, on the Closing Date (as defined in Section 2(i)(5) below), Declarant shall pay to Golf Course Owner for the Repurchase an amount equal to the lesser of: (i) the purchase price paid by Golf Course Owner for the Golf Course Property under the Agreement, and (ii) the current fair market value of the Golf Course Property, as determined by an MAI appraisal from a licensed appraiser engaged by Declarant (the "Repurchase Price").
- (3) Escrow. Escrow shall be with First American Title Insurance Company or, if not available, another reputable title insurance company with an office in Clark County, Nevada as reasonably selected by Declarant (for the purposes, "Escrow Agent"). Escrow shall open as of the date upon which Escrow Agent has received a recorded copy of the Supplemental Declaration, a copy of the specific notice of exercise of the Right of Repurchase, and a certified statement from Declarant stating that a Triggering Event has occurred. The date all such items have been delivered to Escrow Agent shall be referred to herein as the "Opening of Escrow" and reported by letter to the Parties by Escrow Agent.
- (4) <u>Due Diligence</u>. A title commitment shall be ordered from the Escrow Agent by Golf Course Owner immediately upon Opening of Escrow, a copy of which shall be delivered to Declarant. Golf Course Owner shall pay for the cost of such title commitment. Within (30) days from the receipt of the title commitment, Declarant shall notify Golf Course Owner whether the condition of title is unacceptable to Declarant and terminate escrow. Notwithstanding the foregoing, Golf Course Owner shall in all events be obligated to sell and convey the Golf Course Property to Declarant free and clear of all liens and encumbrances other than those which were recorded against the Golf Course Property as of the Effective Date (provided, that Escrow Agent may apply all or a portion of the Repurchase Price to the satisfaction of such monetary liens). If applicable, Golf Course Owner agrees to provide to the Escrow Agent assurance reasonably satisfactory to the Escrow Agent such that the Escrow Agent will issue, or be irrevocably committed to issue, a title policy to Declarant at closing without exception to mechanics' or materialmen's liens. Any time after the Opening of Escrow, Declarant shall have the right, from time to time, at Declarant's sole cost, expense, risk, and hazard, and in all such manner as Declarant may reasonably determine, without material damage being imposed upon the Golf Course Property, to enter upon the Golf Course Property, to conduct any inspections, investigations, tests and studies deemed necessary by Declarant.

- (5) Closing. Closing of the Repurchase shall occur at the office of the Escrow Agent at a time mutually agreed upon by the Parties on a date that is not more than ninety (90) days after Declarant delivers to Golf Course Owner a written notice of exercise of the Right to Repurchase (the "Closing Date"). Declarant agrees to give Golf Course Owner not less than thirty (30) days prior written notice of the proposed Closing Date. At the closing, Golf Course Owner shall sell and convey the Golf Course Property to Declarant by grant, bargain, and sale deed with Golf Course Owner paying the cost for (i) an ALTA standard coverage owner's title insurance policy in the amount of the Repurchase Price, and (ii) one-half (1/2) of any transfer taxes. Declarant shall pay for one-half (1/2) of any transfer taxes. Escrow costs shall be shared equally by the Parties, unless a Party fails to close escrow, which in such event, the Party causing such failure shall be solely responsible for all escrow costs. Closing adjustments shall include rent, utilities, expenses, and real Golf Course Property taxes and assessments, both general and special, which shall be prorated by the Escrow Agent as of the date the deed is recorded, using for such purposes the rate and valuation shown from the last available tax information.
- Access Easement. In connection with the development and maintenance of the Residential Planned Community, Declarant and/or the Master Association will install and maintain desert landscaping from time to time within certain boundary areas of the Planning Community, as more particularly set forth on Exhibit C attached hereto and incorporated herein by this reference (the "Landscaping Areas"), which landscaping will be manually watered. Declarant hereby reserves for itself and the Master Association a perpetual non-exclusive irrevocable access easement over and across those portions of the Golf Course Property adjacent to the Landscaping Areas as may be necessary for the purpose of accessing any quick couplers thereon to be used to provide water for such manual irrigation.
- k. Master Association Assessments. Commencing on the Effective Date, Golf Course Owner shall pay to the Master Association, on a monthly basis due and payable on the first day of each month, an assessment for the maintenance and repair by the Master Association of certain common area landscaping adjacent to the Golf Course Property. The monthly assessment payable to the Master Association hereunder shall be the amount determined by multiplying (i) the number of acres comprising the common area landscaping adjacent to the Golf Course Property, by (ii) four (4) times the monthly amount then being assessed to a single-family residence by the Master Association. Golf Course Owner and Declarant agree the number of acres comprising the common area landscaping adjacent to the Golf Course Property is four (4) for purposes of determining the monthly assessment due under this paragraph k. Golf Course Owner's obligation to pay such amounts

- to the Master Association shall be subject to the provisions of Article of the Golf Course Declaration (including without limitation, lien rights).
- l. Water Features. The Master Association currently owns, or will own, and will maintain the water features shown on Exhibit D attached hereto and incorporated herein by this reference (the "Water Features"). Commencing on the Effective Date, Golf Course Owner shall pay to the Master Association, on the first day of each month, the amount of Two Thousand Dollars (\$2,000.00) per month for the Master Association's maintenance and repair of the Water Features (the "Water Feature Contribution"). The Water Feature Contribution shall be increased annually to reflect annual increases in the Consumer Price Index-All Urban Consumers\_All Items. Golf Course Owner's obligation to pay such amounts to the Master Association shall be subject to the provisions of Article of the Golf Course Declaration (including without limitation, lien rights).
- 3. <u>Duration</u>. This Supplemental Declaration shall remain in full force and effect for so long as the Golf Course Declaration shall remain in effect.
- 4. <u>Notices</u>. Except as otherwise provided in this Supplement or required by law, any notice, demand, request or other communication required or appropriate hereunder shall be in writing and shall be given by hand-delivering the same in person or by depositing the same in the United States mail, registered or certified, return receipt requested, postage prepaid. All notices sent by mail as aforesaid shall be addressed as follows:

In the case of Declarant:

PN II, Inc. 7255 S. Tenaya Way, Suite 200 Las Vegas, Nevada 89113

or as otherwise may be designated by Declarant from time to time in writing to Golf Course Property Owner.

With a copy to:

Rice Reuther Sullivan & Carroll, LLP 3800 Howard Hughes Parkway, Suite 1200 Las Vegas, Nevada 89169

and in the case of Golf Course Owner:

Par 3, LLC Brian Ray Timothy, Manager Vernal, Utah 84078

or as otherwise may be designated by Golf Course Owner from time to time in writing to Declarant.

## With a copy to:

Sumsion Steele & Crandall PLLC Attn: Jason S. Crandall 545 E. University Pkwy, Ste 200 Orem, Utah 84097

- 5. <u>Recording</u>. This Supplement shall be recorded by Declarant in the real property records of Clark County, Nevada.
- 6. <u>Benefited Parties</u>. This Supplement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns, and the parcels of land owned by each as set forth in the Golf Course Declaration.
- 7. <u>Miscellaneous Provisions</u>. Each party hereto represents and warrants that the execution of this Supplement has been duly authorized by such party. Except as modified by this Supplement, the Golf Course Declaration remains in full force and effect. This Supplement sets forth the entire agreement between the parties with respect to the matters described herein. This Supplement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns, and the parcels of land owned by each as set forth in the Golf Course Declaration.
- 8. <u>Counterparts</u>. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK [COUNTERPART SIGNATURE PAGES ARE ATTACHED]

IN WITNESS WHEREOF, Declarant and Golf Course Owner have duly executed this Supplemental Declaration to Declaration of Covenants, Conditions, Restrictions and Easements for Conestoga Golf Club as of the date first written above.

## **DECLARANT:**

• • • • • • • • • • • • • • • • • • • •	
PN II, INC., a Nevada corporation	
By:  Name: G. QUINCY EDWARDS  Its: VICE TRESIDENT, LAND	
personally appeared George Quincy Edwa evidence to be the person(s) whose name( acknowledged to me that he/she/they capacity(ies), and that by his/her/their sig entity upon behalf of which the person(s)	Nicole Burguin, a Notary Public, rds, who proved to me on the basis of satisfactory (s) is/are subscribed to the within instrument and executed the same in his/her/their authorized mature(s) on the instrument the person(s), or the acted, executed the instrument. I certify under we of the State of California that the foregoing
WITNESS my hand and official seal.	NICOLE BURGUIN  NOTARY PUBLIC  STATE OF NEVADA

Nicole Buguin No. 18-1297-1 EXP. Jan 11, 2022

## [CONTINUATION SIGNATURE PAGE TO SUPPLEMENTAL DECLARATION TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CONESTOGA GOLF CLUB]

### **EXHIBIT A**

## CONESTOGA GOLF COURSE, ANTHEM MESQUITE LEGAL DESCRIPTION

LOCATED IN SECTION 6, TOWNSHIP 13 SOUTH, RANGE 71 EAST AND SECTION 1, TOWNSHIP 13 SOUTH, RANGE 70 EAST, MOUNT DIABLO BASE AND MERIDIAN, WITHIN THE CITY OF MESQUITE, CLARK COUNTY, NEVADA, AND BEING MORE PARTICULARLY DESCRIBED AS:

ALL OF GOLF LOT 1, GOLF LOT 2, GOLF LOT 3, GOLF LOT 4, GOLF LOT 5, GOLF LOT 6 AND GOLF LOT 7 AS RECORDED ON THE FINAL MAP OF CONESTOGA GOLF COURSE, AN AGE RISTRICTED, COMMON INTREST COMMUNITY AT ANTHEM MESQUITE PLANNED UNIT DEVELOPMENT IN BOOK 155, PAGE 41 OF PLATS IN THE OFFICIAL RECORDS OF CLARK COUNTY, NEVADA.

**CONTAINS 217.76 ACRES** 

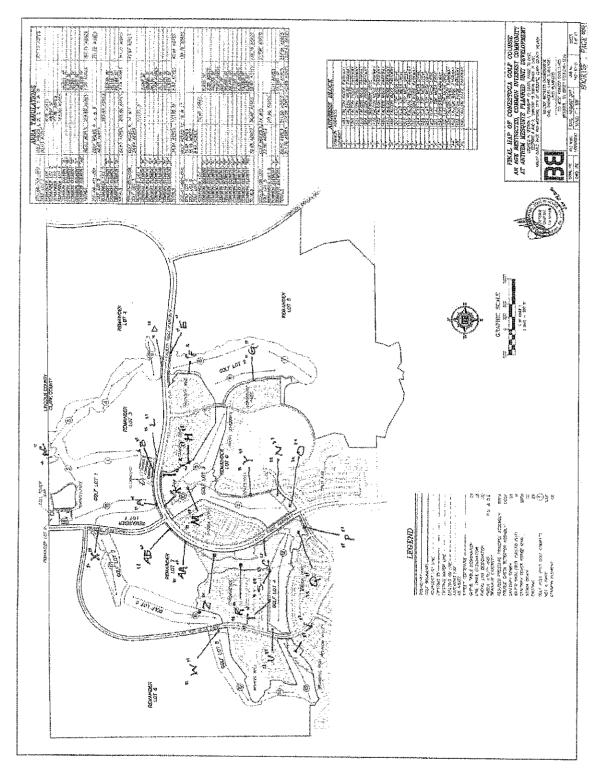
## Exhibit B - Adjacent Common Area

Common elements A, B, D, L, AC, E, F, G, H, J, K, M, Y, N, O, P, Q, C, R, S, T, U, X, Z, AA, AB, V, and W as depicted on the final map of Conestoga Golf Course An Age Restricted, Common Interest Community At Anthem Mesquite Planned Unit Development located in Section 1, Township 13 South, Range 70 East, Sections 6 and 7, Township 13 South, Range 71 East, Mount Diablo Base and Meridian, City of Mesquite, Clark County, Nevada Book 155, Page 0041, in the Office of the County Recorder of Clark County, Nevada.

Exhibit B Adjacent Common Area

## Exhibit C - Landscape Area

Common elements A, B, D, L, AC, E, F, G, H, J, K, M, Y, N, O, P, Q, C, R, S, T, U, X, Z, AA, AB, V, and W as depicted on the final map of Conestoga Golf Course An Age Restricted, Common Interest Community At Anthem Mesquite Planned Unit Development located in Section 1, Township 13 South, Range 70 East, Sections 6 and 7, Township 13 South, Range 71 East, Mount Diablo Base and Meridian, City of Mesquite, Clark County, Nevada Book 155, Page 0041, in the Office of the County Recorder of Clark County, Nevada.



## Exhibit D - Water Feature Elements

Common elements M, N, and O as depicted on the final map of Conestoga Golf Course An Age Restricted, Common Interest Community At Anthem Mesquite Planned Unit Development located in Section 1, Township 13 South, Range 70 East, Sections 6 and 7, Township 13 South, Range 71 East, Mount Diablo Base and Meridian, City of Mesquite, Clark County, Nevada Book 155, Page 0041, in the Office of the County Recorder of Clark County, Nevada.

Exhibit D Anthem Mesquite Water Feature Exhibit