

Deed Upon Death (NV)

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A Standard Document creating a revocable deed upon death (DUD) under Nevada law (sometimes called a transfer on death deed, beneficiary deed, or enhanced life estate deed in other jurisdictions). It allows a real property owner (also called a grantor or transferor) to designate a beneficiary to receive title to real property on the owner's death without a probate proceeding or trust administration. This Standard Document has integrated notes with explanations and drafting tips.

DRAFTING NOTE: READ THIS BEFORE USING DOCUMENT

Nevada's Uniform Real Property Transfer on Death Act (URPTDA) (NRS 111.655 to 111.699) governs deeds upon death (DUDs), as they must be called under the URPTDA in Nevada (NRS 111.671). A DUD:

- Is a non-testamentary instrument that enables a real property owner (also referred to as a transferor in this Standard Document and called a grantor under the URPTDA) to transfer real property at the transferor's death without:
 - the formalities required for a will or trust; or
 - the necessity of a probate or trust administration.
- Allows a transferor to designate a beneficiary to receive the real property after the transferor's death.
- Conveys no rights to the designated beneficiary during the transferor's lifetime.

The transferor can revoke a DUD at any time during the transferor's lifetime, if the transferor has capacity to do so. On the transferor's death, title to real property subject to a DUD transfers automatically to the designated beneficiary without a probate.

Nevada's URPTDA provides that a DUD must be in substantially the form provided under NRS 111.695. This Standard Document:

- Follows the form provided under Nevada's URPTDA and includes integrated notes outlining the

requirements, advantages, and disadvantages of using a DUD in Nevada.

- Is intended for use where a real property owner wants to transfer the real property owner's interest in the real property to one or more beneficiaries at the owner's death.
- Can be modified, provided that the DUD is substantially in the form provided under NRS 111.695.

Qualifying Real Property

A DUD can convey an interest in real property located in the State of Nevada that is transferable on the real property owner's (transferor's) death (NRS 111.669).

When to Use a DUD

A DUD may be useful:

- When real property is not to be immediately sold after the transferor's death, as there may be creditor claims issues that affect the ability to immediately sell the property at that time (see Payment of Transferor's Debts and Liens on Death).
- When the transferor wants to avoid probate in an estate of modest value (a transfer of real property by DUD is a non-probate transfer) and the transferor's

other assets may be transferred by using other non-probate transfers.

- Where the transferor does not want to use a trust because of its cost or complexity.

For more information on the advantages of DUDs, see [Advantages of DUDs](#).

When to Avoid Using a DUD

A DUD is generally not preferred if:

- Potential multiple DUD beneficiaries do not get along or may disagree about how the real property should be managed after the transferor's death.
- The transferor has creditors, because property conveyed by a DUD is subject to the creditors claim process under NRS 111.689 (see [Payment of Transferor's Debts and Liens on Death and Disadvantages of DUDs](#)).

While owning property jointly (with or without a survivorship right and including community property) does not prohibit a real property owner from transferring their interest in the property using a DUD, there are special considerations when transferring this type of property by DUD (see [DUDs and Jointly Owned Property](#)).

Individuals wanting to use DUDs should consult with an attorney to make sure a DUD is the most appropriate device for their specific circumstances and to determine whether or what type of further estate planning might be desirable or necessary.

Requirements to Create a DUD

Capacity Requirements

When creating (or revoking) a DUD, the transferor must have the same capacity as the capacity required to create a will (NRS 111.679). An individual has capacity to create a will if the individual is both:

- Of sound mind. For a definition of sound mind in the context of wills, see [State Q&A, Wills: Nevada: Question 3](#).
- At least 18 years of age.

(NRS 133.020.)

DUD Instrument Requirements

A DUD must be in substantially the form provided under NRS 111.695, which requires:

- Each transferor's name.
- Each designated beneficiary's name.
- A statement that the transfer to the designated beneficiary is to occur at the transferor's death.
- A clause transferring title.
- A full legal description of the real property transferred (see [Drafting Note, Legal Description](#)).
- Each transferor's signature.
- An acknowledgment by each transferor in the presence of a notary public.
- Clauses stating:
 - "THIS DEED IS REVOCABLE. THIS DEED DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE GRANTOR(S). THIS DEED REVOKES ALL PRIOR DEEDS BY THE GRANTOR(S) WHICH CONVEY THE SAME REAL PROPERTY PURSUANT TO NRS 111.655 TO 111.699, INCLUSIVE, REGARDLESS OF WHETHER THE PRIOR DEEDS FAILED TO CONVEY THE ENTIRE INTEREST OF THE GRANTOR(S) IN THE SAME REAL PROPERTY."; and
 - "THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER."

(NRS 111.695.) A DUD in Nevada does not require:

- Notice or delivery to or acceptance by the designated beneficiary during the transferor's life.
- Consideration for the transfer.

(NRS 111.683.)

Recording DUDs

Formalities of Properly Recordable DUDs

A DUD must be:

- In substantially the form provided under NRS 111.695, which includes essential deed elements (see [DUD Instrument Requirements](#)).

- Executed, including notarial acknowledgment, and recorded as provided by law in the office of the county recorder of the county where the property is located before the death of the transferor or the death of the last surviving transferor (NRS 111.681; see Drafting Note, Notarial Acknowledgment).

Additional County-Specific Recording Requirements

The recording requirements in Nevada counties are generally uniform. However, each county clerk may have additional policies, fees, and procedures governing recordation of deeds and other documents in that specific county. Counsel should consult the applicable county clerk's official website or contact a local title company for additional information regarding recording requirements in a specific county.

The county recorder reviews DUDs submitted for recording to ensure compliance with applicable state and local recording requirements. The recorder either:

- Rejects the DUD for noncompliance.
- Accepts the DUD and records it in the public records.

Content Requirements and Cover Sheet

When an individual presents a DUD to a county clerk for recording, the first page of the document (or a cover sheet submitted with the DUD, if the DUD does not contain this information) must include:

- The name and return mailing address of the person requesting the recording. Since the designated beneficiary of a DUD does not receive any interest in the property before the transferor's death, there is no grantee on a DUD and therefore no grantee listed.
- The mailing address for tax statements.
- The property assessor's parcel number (APN) in the top left corner within the top margin.
- The title or type of the recorded document.

(NRS 111.312.)

In addition to the foregoing:

- The name of each person signing the DUD must be typed or printed under the signer's signature (NRS 247.190).

- Each signature on the DUD must be notarized in compliance with NRS 240.001 to 240.206.
- The DUD must be clearly readable and capable of being produced in a manner allowing a legible copy to be made (NRS 247.120).

Formatting Requirements

Nevada statutes contain additional requirements for recording deeds (including DUDs), including that the deed:

- Be on white, 20-pound paper that is 8 1/2 inches by 11 inches in size.
- Have a margin of one inch on the left and right sides and at the bottom of each page.
- Have a space of three inches by three inches at the upper right corner of the first page and have a margin of one inch at the top of each succeeding page.
- Not be on sheets of paper that are bound together at the side, top, or bottom.
- Not contain printed material on more than one side of each page.
- Not have any documents or other materials physically attached to the paper.

(NRS 247.110(3).) Deeds, including DUDs, must also not contain:

- Colored markings to highlight text or any other part of the document.
- A stamp or seal that overlaps with text or a signature on the document, except in the case of a validated stamp or seal of a professional engineer or land surveyor who is licensed under NRS 625.005 to 625.590.
- Text that is smaller than a ten-point Times New Roman font or printed in any ink other than black.
- More than nine lines of text per vertical inch.

(NRS 247.110(3)(f).)

Recording Fees

Counsel should check the website of the applicable county recorder's office for the fees to record a DUD. Nevada counties generally charge a recording

fee, including surcharges, totaling at least \$25 per document. Each county may charge varying rates for recording documents. County recorders typically publish the current recording fees on their county websites. (NRS 247.305; see, for example, [Clark County: General Recording Fees.](#))

If the document does not comply with content or formatting requirements but can still be legally recorded, the county may charge a non-compliance fee, typically \$25, in addition to the standard recording fee as a penalty for presenting a nonstandard instrument for recording.

Correcting Mistakes

Once a DUD is recorded, the DUD becomes part of the permanent public record and cannot be removed or changed. Each county may have certain policies, fees, and procedures governing re-recording of deeds and other documents specific to that county. Counsel should consult the applicable county clerk's office or contact a local title company for additional information regarding correcting mistakes in a deed and re-recording requirements in a specific county.

For example, in Clark County, to correct missing or inaccurate information on a DUD, the transferor must re-record the document by submitting:

- A certified copy (an official record of the recorded document ordered through the Clark County Recorder's Office) of the DUD with the corrections.
- A new cover sheet with reason for re-recording (for example, to correct spelling of name).
- A new recording fee.

The Clark County recorder records the document with a new recording number and cross references it to the original recording. For more information on re-recording a deed in Clark County, see [Clark County: How to ReRecord.](#)

Effect of a DUD During Transferor's Life

During the transferor's life, execution and recordation of a DUD does not:

- Affect the transferor's ownership rights. The transferor may sell, rent, encumber, or transfer

the property in any way otherwise permitted under Nevada law.

- Create or affect an interest or right of a designated beneficiary, even if the designated beneficiary has actual or constructive notice of the DUD.
- Affect an interest or right of a secured or unsecured creditor or future creditor of the transferor, even if the creditor has actual or constructive notice of the DUD.
- Affect the transferor's or designated beneficiary's eligibility for any form of public assistance.
- Subject the real property to claims or process of a creditor of the designated beneficiary.

(NRS 111.685.) Since a DUD is revocable, it creates no present interest in the designated beneficiary (such as a life estate or other vested interest in real property) until the death of the real property owner, even if the DUD or another instrument states otherwise (NRS 111.685, 111.695, and 111.697).

Effect of a DUD After Transferor's Death

On the transferor's death and unless the DUD specifies otherwise:

- The interest in the real property transfers to the designated beneficiary or beneficiaries under the DUD, except in certain cases involving joint ownership of the property (see DUDs and Jointly Owned Property).
- A designated beneficiary taking the real property generally takes it subject to any liens on the property in existence on the transferor's date of death.

(NRS 111.691.) If no designated beneficiary survives the transferor, the property belongs to the owner's estate (NRS 111.767(5); see Drafting Note, Lapse on Beneficiary's Death).

Memorializing Transfer on Death

Title to the DUD property transfers to the designated beneficiary automatically at the transferor's death, except in certain cases involving joint ownership of the property (see DUDs and Jointly Owned Property). The designated beneficiary inherits the interest the transferor had in the real property at the transferor's

death, subject to any liens on the property in existence on the transferor's date of death (NRS 111.691).

No Nevada real estate excise tax is due when the transferor dies (NRS 375.090(10)). However, following the transferor's death, when title to the property vests in the beneficiary, the beneficiary should file with the office of the county recorder where the DUD was recorded both:

- A declaration of value of property under NRS 375.060.
- A Death of Grantor Affidavit, which must be in the form substantially under statute, with a copy of the death certificate of each transferor attached (NRS 111.699).

Payment of Transferor's Debts and Liens on Death

If a transferor's probate estate is insufficient to satisfy an allowed claim against the transferor's estate or a statutory allowance to the transferor's surviving spouse or child, the transferor's estate may enforce the liability against property transferred under a DUD (NRS 111.689(1)). A designated beneficiary receives the DUD real property subject to any liens on the property in existence on the transferor's date of death (NRS 111.691).

On the transferor's death, the DUD beneficiary must publish a notice under NRS 155.020(1)(b), substantially in the statutory form, and mail a copy of the notice to:

- The transferor's personal representative, if known.
- The Department of Health and Human Services.
- Any known or readily ascertainable creditors of the transferor or the transferor's probate estate.

(NRS 111.689(3).)

Any person or entity with a claim against the transferor or the transferor's probate estate must provide the claim to the DUD beneficiary or file the claim in the transferor's probate proceeding (if applicable) within 90 days after notice is mailed or published as applicable. Any claim not provided to the DUD beneficiary or filed in the probate within that period is forever barred. (NRS 111.689(5).) If a beneficiary does not publish the notice under NRS

155.020(1)(b), the period for which to bring a claim against the transferor or the transferor's probate estate is set by the statute of limitations applicable to the underlying claim.

If the DUD beneficiary rejects a claim, they must notify the claimant of the rejection within ten days after the rejection by written notice sent by registered or certified mail. The claimant must then bring suit against the beneficiary within 30 days after the notice is sent, whether the claim is due or not, or the claim is barred forever. (NRS 111.689(7).)

For more information on claims against a transferor's probate estate, see [State Q&A, Probate: Nevada: Question 14](#).

Disclaimer of DUD Interest

While not common, a designated beneficiary may disclaim all or part of the designated beneficiary's interest in the real property transferred by a DUD after the transferor's death by recording a disclaimer in the office of the county recorder in the county where the property is located, using the statutory disclaimer process provided under NRS 120.100 to 120.350 (NRS 111.687).

A disclaimer of an interest in real property is barred by a written waiver of the right to disclaim. A disclaimer of an interest in real property is also barred if, before the disclaimer becomes effective:

- The designated beneficiary accepted the interest sought to be disclaimed.
- The designated beneficiary voluntarily assigned, conveyed, encumbered, pledged, or transferred the interest to be disclaimed or contracted to do any of these things.
- The interest was sold or otherwise disposed of by judicial process.

(NRS 120.300.)

A designated beneficiary or heir may decide to disclaim an interest, for example:

- When there are environmental contamination issues and the real property is more of a liability than an asset.
- When the equity in the real property will be consumed by creditor claims.

- When the designated beneficiary or heir is wealthy and wants the real property to pass to other beneficiaries or heirs.
- To equalize distributions among other beneficiaries or family members.
- To carry out the transferor's intent regarding the transferor's overall estate plan if the DUD creates an unintended or unfair result and the designated beneficiary agrees to the reapportionment of the transferor's probate, trust, DUD, or other estate assets (often through a nonjudicial settlement agreement).

There may be tax consequences associated with a disclaimer. A designated beneficiary generally should consult with tax counsel before disclaiming an interest.

DUDs and Jointly Owned Property

Joint Tenancy or Tenancy in Common

Real property held with a right of survivorship can be transferred by a DUD, but the transfer is subject to the survivorship right. When a transferor uses a DUD to transfer real property held as a joint owner with right of survivorship, if the transferor under the DUD is:

- Not the last joint owner to die, the transferor's interest in the real property belongs to the surviving owners with a survivorship right, not the designated beneficiary under the DUD.
- The last joint tenant to die, the real property transfers on the transferor's death by the DUD.

(NRS 111.675(2).) If the DUD includes a conveyance of the interest from each of the other joint owners, the DUD becomes effective on the date of the death of the last surviving owner (NRS 111.675(1)).

Multiple owners can hold property as tenants in common, which:

- Provides no survivorship right (a deceased owner's interest becomes part of that owner's estate on death).
- Is presumed to be the title where a deed names multiple transferees, unless the deed states otherwise.

(NRS 111.060 and 111.064.) A tenant in common may transfer that tenant's interest in the real property

to a beneficiary using a DUD, without regard to the interests of other tenants in common. For more information about DUD beneficiaries generally, see Drafting Note, Beneficiaries.

Community Property

If the real property is community property (in which case the transferor must be married or in a registered domestic partnership) with a right of survivorship, the effect of the DUD depends on:

- Whether the DUD includes a conveyance from the transferor's spouse or partner.
- If the DUD does not include a conveyance from the transferor's spouse or partner, the order of death of the transferor and the transferor's spouse or partner.

If the DUD:

- Does not include a conveyance from the transferor's spouse or partner, the DUD is effective on the transferor's date of death, creating the DUD only if that transferor is the last surviving owner.
- Includes a conveyance from the transferor's spouse or partner, the DUD is effective on the date of the death of the last surviving owner.

(NRS 111.675.)

Real property may be held as community property without the right of survivorship (NRS 111.064(2)). In this case, one spouse may transfer that spouse's interest in the community real property to a beneficiary using a DUD without regard to the interests of the other spouse unless there is a marital agreement otherwise governing the disposition of that real property.

Advantages and Disadvantages of DUDs

Advantages of DUDs

Avoiding Probate

The main benefit of using a DUD is bypassing the probate process for the real property at the transferor's death. A transfer of real property by a DUD is a non-probate transfer. A DUD can help avoid probate if the real property that is the subject of the

DUD is the transferor's only asset or if other assets of the transferor are held in a way to also enable a non-probate transfer (such as a beneficiary designation or joint account).

Alternatively, if probate is not completely avoided, a DUD can reduce the size of the estate subject to probate so that a simplified probate proceeding may be applicable. For more information on probate and simplified or special proceedings in Nevada, see [State Q&A, Probate: Nevada](#).

Retaining Control During Lifetime of Real Property Owner

A transferor executing and properly recording a DUD retains all the transferor's rights in and control over the real property while the transferor is living. Only once the transferor dies is the designated beneficiary generally entitled to the transferor's interest in the property. (NRS 111.671 and 111.685; see *Effect of a DUD During Transferor's Life*.)

No Present Interest in Real Property for Designated Beneficiary

Naming a designated beneficiary on a DUD does not create a present interest in the real property for the designated beneficiary. The real property is therefore not subject to the designated beneficiary's creditors, any divorce proceedings of the designated beneficiary, or other financial or legal issues that the designated beneficiary may experience before the transferor's death and the vesting of a beneficiary's interest. The transferor can also change the designated beneficiary at any time while the transferor is living and has capacity. (NRS 111.685 and 111.697; see *Effect of a DUD During Transferor's Life and Capacity Requirements*.)

Capital Gains Taxes

Because the interest in the DUD real property is transferred only at the transferor's death, the real property's income tax basis is adjusted to the property's fair market value at the time of the transferor's death. This is often called a step up (or step down) in basis and generally depends on the value of the property interest at the transferor's death versus the value when acquired by the transferor (the transferor's basis). A step up in basis can reduce or eliminate capital gains taxes if the beneficiary sells the real property soon after the transferor's death.

However, if the transferor transferred the property to the beneficiary during the transferor's life, the beneficiary does not receive an adjustment of income tax basis to the property. The beneficiary receives the transferor's basis in the property (often called carryover basis). A sale by the beneficiary more likely results in capital gains tax as it is more likely the property's sale value exceeded its carryover income tax basis. (26 U.S.C. § 1014.)

Disadvantages of DUDs

Potential Frustration of Estate Plan

It is possible a DUD may conflict with the transferor's will or revocable trust instrument, if the will or trust instrument identifies the same real property in a way that the transferor did not intend. For example, a valid and unrevoked DUD may direct the real property to the transferor's son, while the transferor's will may give that same real property to the transferor's daughter. In this case, the real property passes to the son because a validly recorded and unrevoked DUD controls (NRS 111.671). A decedent's will has no effect on the decedent's non-probate assets, including any real property controlled by a DUD, unless the decedent's probate assets are insufficient to pay creditor claims (see *Payment of Transferor's Debts and Liens on Death*).

Whether a transfer of property under a trust instrument takes precedence over a DUD is determined by whether the property was validly transferred into the trust after the DUD was created. If so, the trust controls.

Multiple Transferor Issues

If multiple owners own real property jointly with a right of survivorship and:

- Only one owner (the transferor) transfers the property using a DUD, on the transferor's death, the real property interest subject to the DUD passes:
 - to the surviving joint owners if the transferor is not the last joint owner to die; or
 - consistent with the DUD if the transferor is the last surviving joint owner.
- Multiple joint owners transfer their interests in the property using a DUD (each owner a transferor):

- each surviving transferor may revoke the DUD after a previous transferor's death; and
- the revocation by one transferor may be inconsistent with the preferences of a deceased transferor.

(NRS 111.675 and 111.697; see DUDs and Jointly Owned Property.) These issues can create challenges for the intended passing of property under a DUD.

Multiple Beneficiary Issues

When there are multiple people named as beneficiaries of certain real property, the beneficiaries may have different opinions on the proper management of the real property on the transferor's death, including how and when to sell the real property and on what terms. These disagreements often require legal advice to resolve. A will or a trust may be more effective in avoiding these issues because typically one fiduciary is charged with making those types of decisions. In some instances, such as a trust, specific provisions regarding the management or disposition of the real property can be included to direct the fiduciary on how to manage the real property.

Issues Affecting the Transfer of Real Property, Including by DUD

Mortgaged Real Property

If real property is subject to a mortgage, a real property owner wanting to execute a DUD should consider that most mortgages include a due-on-sale clause. Under these clauses, the lender may require payment of the loan in full if the real property is transferred or sold, including at the real property owner's death, unless either:

- The real property owner notifies and obtains the lender's prior approval before the sale or transfer.
- The due-on-sale clause is preempted and does not apply, such as for a transfer to a child, relative, former spouse, current spouse, or revocable living trust where the transferor is a trust beneficiary.

(12 U.S.C. § 1701j-3(d)(5)-(8).) For a DUD (as for a will), the transfer and possible triggering of the due-on-sale clause occurs at the real property owner's death, when the transfer of the DUD property interest occurs.

Where there is no preemption of the due-on-sale clause (for example, the beneficiary is unrelated to the real property owner), a due-on-sale clause is generally triggered on the transfer of property, including under a DUD at the transferor's death, unless either:

- The lender agrees to waive it.
- The beneficiary has sufficient collateral, can provide a letter of credit to the lender, or can otherwise qualify as a guarantor of that loan.

If the prospective DUD beneficiary does not fall within the exceptions to the application of the due-on-sale clause after the transferor's death, the owner may want to attempt to obtain approval from the lender waiving the clause's application at the transferor's death.

If the DUD triggers a due-on-sale clause at the transferor's death, the beneficiary must pay the mortgage in full, address foreclosure proceedings, or try to sell the real property in whatever economic market exists at the time and despite the cloud on title caused by the creditor claim period (see Title Insurance Issues). This can create problems when the real property owner's probate or trust property is insufficient to satisfy creditors' claims and the DUD beneficiaries are different from those in the owner's will or trust (see Payment of Transferor's Debts and Liens on Death).

Title Insurance Issues

Many title companies do not insure real property until creditors are barred from enforcing claims against the transferor. A beneficiary under a DUD should therefore either:

- Publish and mail the notice to creditors under NRS 111.689.
- Ensure that probate is opened and the creditor period is initiated through the estate. For more information on probate in Nevada, see [State Q&A, Probate: Nevada](#).

Assumptions

This Standard Document assumes that:

- The transferor wants to use a DUD for the conveyance of real property.

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- The real property being transferred is:
 - a real property interest located in the State of Nevada; and
 - within a single county in the State of Nevada.
- The DUD is to be recorded with the county recorder of the county where the real property is located.
- The DUD is validly acknowledged in Nevada (see Drafting Note, Notarial Acknowledgment). If the transferor wants to acknowledge it in another state, the notary public or other authorized individual can revise the notarial acknowledgment accordingly.

Bracketed Items

The drafting party should replace bracketed language in ALL CAPS with case-specific facts or other information. Bracketed language in sentence case is optional language that the drafting party may include, modify, or delete in its discretion. A forward slash between words or phrases indicates that the drafting party should include one of the words or phrases contained in the brackets in the document.

APN: [ASSESSOR'S PARCEL NUMBER]

RECORDING REQUESTED BY:

[NAME]

[ADDRESS]

WHEN RECORDED RETURN TO:

[NAME]

[ADDRESS]

DRAFTING NOTE: APN (ASSESSOR'S PARCEL NUMBER)

Counsel should include the assessor's parcel number (APN) for the real property, which usually is found on the current vesting deed related to the property. If not, counsel can usually find the number by looking up the property on the applicable county assessor's website.

Name and Address for Party Requesting Recording

Assuming counsel will be recording the DUD for the transferor, counsel should include counsel's name and address as the party requesting the recording, so

the recorder may know whom to contact regarding an issue pertaining to the recording.

Name and Address for DUD Return

Counsel should include the transferor's name and return address so that the recorder's office can return the original recorded DUD to the transferor. However, the transferor may prefer to include counsel's name and address so that the recorder's officer returns the recorded DUD to counsel rather than to the transferor.

DEED UPON DEATH

[I/We] [GRANTOR NAME] hereby convey to [BENEFICIARY NAME], effective on [my/our] death, all right, title and interest in the real property commonly known as [REAL PROPERTY ADDRESS], City of [CITY], County of

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[COUNTY], State of Nevada, or located in the County of [COUNTY], State of Nevada, and more particularly described as:

[LEGAL DESCRIPTION]

Together with all improvements, tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

DRAFTING NOTE: DEED UPON DEATH

Counsel must title a Nevada deed upon death (DUD) instrument as Deed Upon Death (NRS 111.671). Counsel should include the title immediately below the blank space at the top of the first page reserved for the return address and the recorder's use, as required by the recording statutes (see Drafting Note, Formalities of Properly Recordable Deeds).

Grantor (or Transferor)

Counsel should insert the transferor's name (the name of the owner of the real property that is the subject of the DUD) in the DUD, where indicated. Counsel may add additional names of co-owners if there is more than one owner transferring an interest in the DUD property. Alternatively, counsel can create separate DUDs to transfer each transferor's real property interest individually.

The transferor's name must match the name shown on the vesting deed by which the transferor acquired the specified real property. The DUD should explain any difference between the transferor's current legal name and that recorded on the previous instrument if there is any difference (for example, if client Jane Doe took title to real property but later married and changed her legal name to Jane Smith, counsel should identify the transferor as "Jane Smith, formerly known as Jane Doe").

Beneficiaries

The transferor:

- Must name at least one beneficiary to receive the real property by DUD (NRS 111.671).
- May name multiple beneficiaries to receive the real property by DUD (NRS 111.673).

Counsel should insert the name or names of the DUD beneficiaries in the DUD, where indicated. Counsel may also include specific language on the DUD about whether:

- A beneficiary takes title to the property as the sole and separate property of the beneficiary.
- Multiple beneficiaries take title to the property as:
 - joint tenants with right of survivorship;
 - tenants in common; or
 - a married couple as community property, community property with right of survivorship, or any other tenancy recognized in the state of Nevada (NRS 111.673).

If there are two or more beneficiaries, there is no survivorship right regarding those beneficiaries, who receive their shares as tenants in common, unless the beneficiary designation expressly provides for a survivorship right between those beneficiaries (NRS 111.767(4)). For more information regarding jointly owned property and DUDs, see Drafting Note, DUDs and Jointly Owned Property.

Nevada does not authorize the transferor to designate alternate beneficiaries to receive the real property through the DUD if the named beneficiary either:

- Does not survive the transferor (see Lapse on Beneficiary's Death).
- Disclaims their interest in the real property (see Drafting Note, Disclaimer of DUD Interest).

If no beneficiary survives the transferor, the DUD is ineffective and the DUD real property belongs to the owner's estate (NRS 111.767(5)). To minimize the chances of the DUD being ineffective, the transferor may designate multiple beneficiaries to

receive interests in the real property (see Lapse on Beneficiary's Death).

No Delivery, Acceptance, Consideration, or Permission Required

For a DUD to be effective:

- The transferor is not required to notify or deliver the DUD to the designated beneficiaries.
- The designated beneficiaries are not required to accept the DUD during the transferor's life.
- The transferor does not need to provide consideration.

(NRS 111.683.)

However, the transferor should inform the beneficiaries of the existence of the DUD so that on the transferor's death, the beneficiary knows to file with the office of the county recorder where the DUD was recorded a declaration of value of property under NRS 375.060 and a Death of Grantor Affidavit under NRS 111.699 (see Drafting Note, Memorializing Transfer on Death).

The transferor is not required to request or obtain permission from the named DUD beneficiary before revoking the DUD, changing the DUD beneficiary, or selling or mortgaging the real property subject to the DUD (NRS 111.685 and 111.697; see Drafting Note, Effect of a DUD During Transferor's Life).

Lapse on Beneficiary's Death

Nevada's URPTDA does not address a designated beneficiary dying before the transferor. However, Nevada's general provisions for the transfer of non-probate property on death provide that:

- Unless the beneficiary designation provides for a survivorship right between two or more designated beneficiaries, the surviving beneficiaries receive their interests as tenants in common (NRS 111.767(4)). If one of the surviving beneficiaries receiving an interest in the property subsequently dies and there is:

- a designated survivorship right between the multiple beneficiaries, the surviving designated beneficiary receives the deceased beneficiary's share; or

- no designated survivorship right between the multiple beneficiaries, the deceased beneficiary's share lapses and becomes part of the deceased beneficiary's estate.

- If no beneficiary survives the transferor (including if there is a single beneficiary that does not survive the transferor) or if the designated beneficiaries disclaim their shares of the real property, the DUD property belongs to the transferor's estate.

(NRS 111.767(4), (5); see Drafting Note, Disclaimer of DUD Interest.)

Identifying the Real Property

Street Address

Counsel should include in this Standard Document, where indicated, the street address of the DUD real property, including the city and county where the property is located (NRS 111.695).

Legal Description

Counsel should also include in this Standard Document, where indicated, the full legal description of the DUD real property, using the legal description in the current vesting deed by which the transferor obtained the real property specified. If the transferor does not have a copy of the vesting deed, counsel can usually obtain a copy from the county assessor's office, from the county recorder's office, or through a title company.

Counsel should include the legal description exactly as it appears on the vesting deed. Otherwise, the transfer could create title problems in the future. If the vesting deed does not reflect title accurately (for example, there is a spelling error or portions of the legal description are missing), counsel should notify the client and contact an experienced real estate attorney to correct title as soon as possible.

THIS DEED IS REVOCABLE. THIS DEED DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE GRANTOR(S). THIS DEED REVOKES ALL PRIOR DEEDS BY THE GRANTOR(S) WHICH CONVEY THE SAME REAL PROPERTY PURSUANT TO NRS 111.655 TO 111.699, INCLUSIVE, REGARDLESS OF WHETHER THE PRIOR DEEDS FAILED TO CONVEY THE ENTIRE INTEREST OF THE GRANTOR(S) IN THE SAME REAL PROPERTY.

DRAFTING NOTE: REVOCABLE AND EFFECTIVE ON DEATH

In Nevada, specific language is not required to create a valid DUD, but a DUD must be substantially in the form as outlined under NRS 111.695, including the statutory language required in this section stating that the DUD:

- Is revocable.
- Does not transfer any ownership interest until the transferor's death (see Drafting Note, Effect of a DUD During Transferor's Life).
- Revokes all prior DUDs by the same transferor for the same property.

Revocation of a DUD

To revoke a DUD, the real property owner must have the same capacity as is required to create a will, which is to be of sound mind and over the age of 18 years (NRS 111.679 and 133.020; see [State Q&A, Wills: Nevada: Question 3](#)).

A real property owner may revoke a DUD or any part of it only by recording an acknowledged document revoking the DUD before the transferor's death in the records of the county where the real property is located (NRS 111.697). This revoking document must be:

- A subsequent DUD naming a designated beneficiary different from a previous recorded DUD for the same real property interest. The DUD that is last recorded before the death of the real property owner takes precedence and is the effective deed (NRS 111.677(2)).
- An instrument of revocation expressly revoking the DUD, which must be substantially in the form as provided under statute (NRS 111.697).
- An *inter vivos* deed that transfers the real property owner's interest in the real property, which voids the previously recorded DUD (NRS 111.677(1)).

No Revocation by Revocatory Act

After the transferor records a DUD, the transferor cannot revoke the DUD by a revocatory act on the DUD. For example, the transferor cannot revoke the DUD by tearing up the DUD, writing the word cancel

on it, or telling people the transferor wants to revoke the DUD. (NRS 111.697.)

Revocation by Joint Owner

If joint owners with rights of survivorship create a DUD and the revocation is not executed by all those owners, the revocation does not become effective unless the revocation is executed and recorded by the last surviving owner. If only one of the joint owners is surviving, the last surviving joint owner may revoke the DUD entirely. (NRS 111.697; see Drafting Note, Joint Tenancy or Tenancy in Common.)

When the DUD property is community property:

- With the right of survivorship created by both spouses or domestic partners, the revocation does not become effective unless the revocation is executed and recorded by the last surviving spouse or domestic partner. If only one of them is then surviving, that spouse or domestic partner may revoke the DUD entirely.
- Without the right of survivorship, either spouse can execute and record a revocation regarding their interest in the DUD property, which is effective as to that interest.

(NRS 111.697; see Drafting Note, Community Property.)

Revocation by Divorce and Annulment

In Nevada, any DUD designating the transferor's former spouse as designated beneficiary is automatically revoked on divorce or annulment, unless the DUD, court order, or settlement agreement expressly provides otherwise (NRS 111.781(1)(a)). If a DUD designation is revoked because of this section, the designation is revived by the divorced person's remarriage to the former spouse or by a nullification of the divorce or annulment (NRS 111.781(4)).

Individuals should always meet with an estate planning attorney to execute a new estate plan after a divorce, especially if the real property owner intends to name a former spouse as a designated beneficiary or devisee of the individual's estate plan after the divorce or annulment. This helps minimize:

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- Confusion or doubt about the transferor's intent.
- Future disputes among heirs, trust beneficiaries, devisees of a will, beneficiaries by operation of law, and the DUD beneficiaries, especially when they are not the same individuals named consistently throughout the transferor's estate plan.

Additional Terms

Nevada requires that the DUD be substantially in the form provided under statute (NRS 111.695). Counsel and the transferor should take care when adding statements or terms to those provided in the statutory form or when altering any of the language provided in the statutory form.

THE UNDERSIGNED HEREBY AFFIRMS THAT THIS DOCUMENT SUBMITTED FOR RECORDING DOES NOT CONTAIN A SOCIAL SECURITY NUMBER.

[EXECUTION DATE] (Date)

_____ (Signature)

[TRANSFEROR NAME]

State of Nevada }
County of [COUNTY] } ss.
}

Subscribed and sworn to on this [DATE] day of [MONTH], in the year [YEAR], before me, [NOTARY NAME], by [TRANSFEROR NAME].

On this [DATE] day of [MONTH], in the year [YEAR], before me, [NOTARY NAME], personally appeared [TRANSFEROR NAME] personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

_____ (Signature of Notary Public)

NOTARY SEAL

DRAFTING NOTE: EXECUTION OF DUD

The transferor must:

- Affirm on the DUD that the DUD does not contain a Social Security number.
- Execute the DUD.

(NRS 111.681 and 111.695.)

Counsel should add additional signature lines if more than one transferor is executing the DUD. Alternatively, counsel can create separate DUDs for each transferor executing a DUD, transferring their respective interests in the property.

Execution of DUD by Agent

A lawful agent of a subscribing party, including an agent under a power of attorney, may execute a DUD (NRS 111.020 and 132.045). However, the language of the power of attorney appointing the agent determines whether the agent has the required authority to sign a DUD for the principal. Unless the power of attorney expressly states that the agent may execute a DUD for the principal, the agent's power and the validity of a DUD transfer is in question, as the statutes are ambiguous about

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which or whether statutory authorization provides the agent with this authority (NRS 162A.310(1)(c), 162A.450, and 162A.480). To provide notice of any authority to make the DUD, the agent should record the power of attorney with or before the DUD.

For more information on powers of attorney in Nevada, see [Standard Document, Power of Attorney \(NV\)](#).

Notarial Acknowledgment

The DUD must be recorded before the transferor's (or last surviving transferor's) death (NRS 111.681).

For a DUD to be recorded, the transferor must acknowledge the transferor's signature on the DUD before a notary public or other authorized official, as with any other type of deed (NRS 111.240 and 111.265; see [Drafting Note, Recording DUDs](#)).

The notarial officer or the officer's relative, the officer's spouse or domestic partner, or a relative of the officer's spouse or domestic partner cannot be a party to or have a direct beneficial interest in the DUD. The notarial officer also cannot notarize the notarial officer's own signature. (NRS 240.065.)

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