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**FIRST STATUTORILY MANDATED AMENDED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR DAY STAR PROPERTY OWNERS ASSOCIATION**

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**FIRST STATUTORILY MANDATED AMENDED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR DAY STAR PROPERTY OWNERS ASSOCIATION**

THIS FIRST STATUTORILY MANDATED AMENDED DECLARATION is made on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by the DAY STAR PROPERTY OWNERS ASSOCIATION, a Nevada non-profit corporation (the "Association").

**RECITALS**

WHEREAS, the Declaration of Covenants, Conditions & Restrictions for Day Star Property Owners Association (the "Declaration") created the Association a Nevada non-profit corporation, and vested the Board of Directors (the "Board") with the power to govern and control the Day Star community (the "Community" or "Association"); and

WHEREAS, the Declaration was recorded in the office of the Clark County Recorder on \_\_\_\_\_, \_\_\_\_\_, which Declaration provided for a method to make amendments to the Declaration;

WHEREAS, the 1999 Nevada Legislature adopted Senate Bill 451 on October 1, 1999 which made certain changes to Nevada Revised Statutes Chapter 116, the Uniform Common-Interest Ownership Act;

WHEREAS, NRS 116.12065 requires that any declaration, bylaw or other governing document of a common-interest community created on or after January 1, 1992, that does not conform to the provisions of Chapter 116 of NRS, as amended by this act, must be changed to conform to those provisions, and may be so changed without complying with the procedural requirements generally applicable to the adoption of an amendment to such a declaration, bylaw, or other governing document.

NOW THEREFORE, the following sections of the Declaration of Covenants, Conditions, and Restrictions of the Association are hereby changed, deleted, or added as follows:

**I.  
DEFINITIONS**

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

Section 1.2. “ARC” shall mean the Architectural Review Committee created pursuant to Article VIII hereof.

Section 1.3. “Articles” shall mean the Articles of Incorporation of the Association filed or to be filed in the office of the Secretary of State of the State of Nevada, as such Articles may be amended from time to time.

Section 1.4. “Assessment, Annual” shall mean the annual or supplemental charge against each Owner and his Unit, representing a portion of the Common Expenses, which are to be paid by each Owner to the Association in the manner and proportions provided herein.

Section 1.5. “Assessment, Capital Improvement” shall mean a charge against each Owner and his Unit, representing a portion of the costs to the Association for installation or construction of any Improvements on any portion of the Common Area which the Association may from time to time authorize, pursuant to the provisions of this Declaration. Such charge shall be levied among all Owners and their Units in the same proportion as Annual Assessments.

Section 1.6. “Assessment, Reconstruction” shall mean a charge against each Owner and his Unit, representing a portion of the cost to the Association for reconstruction of any portion of the Improvements on the Common Area pursuant to the provisions of this Declaration. Such charge shall be levied among all Owners and their Units in the same proportion as Annual Assessments.

Section 1.7. “Assessments, Special” shall mean a charge against a particular Owner and his Unit, directly attributable to, or reimbursable by, that Owner, equal to the cost incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty assessed by the Association, plus interest and other charges on such Special Assessments as provided for herein.

Section 1.8. “Association” shall mean Day Star Property Owners Association, a Nevada non-profit corporation, its successors and assigns.

Section 1.9. “Association Maintenance Funds” shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article VI hereof.

Section 1.10. “Beneficiary” shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such mortgagee or beneficiary.

Section 1.11. “Board” or “Board of Directors” shall mean the Board of Directors of the Association. The Board of Directors is an “Executive Board” as defined by NRS 116.110345.

Section 1.12. “Budget” shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration, prepared and approved pursuant to the provisions of this Declaration.



Section 1.13. “Bylaws” shall mean the Bylaws of the Association, as such Bylaws may be amended by the Members of the Association from time to time.

Section 1.14. “City” shall mean the city in which the properties are located.

Section 1.15. “Close of Escrow” shall mean the date on which a deed is Recorded conveying a Unit in the Properties from Declarant to a “Purchaser”, as defined in NRS 116.110375.

Section 1.16. “Common Area” shall mean the Common Elements but shall exclude Units. The Common Area shall include all of that real property designated as Common Area or Common Elements on the Plat, including private streets, and private street lighting.

Section 1.17. “Common Elements” shall mean all real property or interests therein and any personal property owned or leased by the Association, as provided in NRS 116.110318.

Section 1.18. “Common Expenses” shall mean those expenses for which the Association is responsible under this Declaration, including the actual and estimated costs of: maintenance, management, operation, repair and replacement of the Common Elements; unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments; the costs of any commonly metered utilities and other commonly metered charges for the Properties; costs of maintaining, and repairing the Streets; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all utilities and other services benefitting the Common Elements; the costs of liability insurance, worker’s compensation insurance, and other insurance all covering the Properties; the costs of bonding the members of the management body; amounts paid by the Association for discharge of any lien or encumbrance levied against the Properties, or portions thereof; the costs of any other item or items incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of all of the Owners; and any other expenses for which the Association is responsible pursuant to Chapter 116 of Nevada Revised Statutes and all amendments.

Section 1.19. “County” shall mean the county in which the Properties are located.

Section 1.20. “Declarant” shall mean Nevada Homes Group, Inc., a Nevada corporation, its successors and any Person or entity to which it shall have assigned any rights hereunder by an express written assignment.

Section 1.21. “Declaration” shall mean this instrument as it may be amended from time to time.

Section 1.22. “Deed of Trust” shall mean a mortgage or a deed of trust, as the case may be.

Section 1.23. "Director" shall mean a duly appointed or elected and current member of the Board of Directors.

Section 1.24. "Dwelling" shall mean a building located on a Unit designed and intended for use and occupancy as a residence by a single Family.

Section 1.25. "Family" shall mean (a) a group of natural Persons related to each other by blood or legally related to each other by marriage or adoption, or (b) a group of natural Persons not all so related, but who maintain a common household in a Dwelling.

Section 1.26. "FHLMC" shall mean the Federal Home Loan Mortgage Corporation (also known as The Mortgage Corporation) created by Title II of the Emergency Home Finance Act of 1970, and any successor to such corporations.

Section 1.27. "FHA" shall mean the Federal Housing Administration.

Section 1.28. "Fiscal Year" shall mean the twelve (12) month fiscal accounting and reporting period of the Association selected by the Board from time to time.

Section 1.29. "FNMA" shall mean the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and any successors to such corporation.

Section 1.30. "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development., and any successors to such association.

Section 1.31. "Improvement" shall mean any structure or appurtenance thereto of every type and kind, including but not limited to Dwellings and other buildings, walkways, sprinkler pipes, recreational facilities, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, signs, storage areas, exterior air conditioning and water-softening fixtures or equipment.

Section 1.32. "Lot" shall mean any residential Unit as shown on the Plat.

Section 1.33. "Manager" shall mean the Person, if any, appointed by the Association hereunder as its agent and delegated certain duties, powers or functions of the Association as further provided in this Declaration and in the Bylaws.

Section 1.34. "Member." "Membership" "Member" shall mean any Person holding a membership in the Association, as provided in this Declaration. "Membership" shall mean the property, voting and other rights and privileges of Members as provided herein, together with the

correlative duties and obligations, including liability for Assessments, contained in this Declaration and the Articles and Bylaws of the Association.

Section 1.35. “Mortgage.” “Mortgagee.” “Mortgagor” “Mortgage” shall mean any Recorded mortgage or deed of trust or other conveyance of a Unit or other portion of the Properties to secure the performance of an obligation, which will be reconveyed upon the completion of such performance. “Deed of Trust” or “Trust Deed” when used herein shall be synonymous with the term “Mortgage.” “Mortgagee” shall mean a Person to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. “Mortgagor” shall mean a person or entity who mortgages his or her Unit to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. “Trustor” shall be synonymous with “Mortgagor,” and “Beneficiary” shall be synonymous with “Mortgagee.”

Section 1.36. “Notice and Hearing” shall mean written notice and a hearing before the Board, at which the Owner concerned shall have an opportunity to be heard in person, or by counsel at Owner’s expense, in the manner further provided in the Bylaws.

Section 1.37. “Original Property” shall mean that real property described on Exhibit “A” attached hereto and incorporated by this reference herein, which shall be the initial real property made subject to this Declaration, immediately upon the recordation of this Declaration.

Section 1.38. “Owner” shall mean the Person or Persons, including Declarant, holding fee simple interest of record to any Unit. The term “Owner” shall include sellers under executory contracts of sale, but shall exclude Mortgagees.

Section 1.39. “Person” shall mean a natural individual or any other entity with the legal right to hold title to real property.

Section 1.40. “Plat” shall mean the subdivision map Recorded by Declarant on July 24, 1996 in Book 75 of Plats, Page 23, in the Office of the County Recorder, Clark County, Nevada, as the same shall from time to time be amended.

Section 1.41. “Properties” shall mean all of the original Property described in Exhibit “A” attached hereto, together with such portions of the Annexable Property described in Exhibit “B” hereto, as may hereafter be annexed thereto pursuant to Article XV of this Declaration.

Section 1.42. “Record.” “Recorded.” “Filed” or “Recordation” shall mean with respect to any document, the recordation of such document in the official records of the County Recorder of Clark County, Nevada.

Section 1.43. “Rules and Regulations” shall mean the rules and regulations adopted by the Board pursuant to the Bylaws, as such Rules and Regulations may be amended from time to time.

Section 1.44. "Streets" shall mean the privately owned streets within this Common Interest Community, certain portions of which are individually owned by certain Owners as part of their respective Units (i.e., as to Units 1-41 inclusive, located within the portion of each such unit extending from the unit to the property line in the center of the private street) shown on the Plat, the obligation for maintenance and repair of which streets, as Common Expenses, is the sole responsibility of the Association.

Section 1.45. "Unit" shall mean that portion of this Common Interest Community to be separately owned by each Owner, and shall include such Owner's Lot and all Improvements thereon, and that portion of the bed of any Street contained within the boundaries of the Lot. The vertical boundaries of each Unit shall be the boundaries of the Lot. The horizontal boundaries of each Unit shall extend into the earth and the heavens, as at common law.

Section 1.46. "Units that May be Created" shall mean the total number of Units within the Original Property and the Annexable Property.

Section 1.47. "VA" shall mean the U.S. Department of Veterans Affairs.

## **II.**

### **OWNER'S PROPERTY RIGHTS**

Section 2.1 Owners' Easements of Enjoyment. Every owner shall have a right and easement of ingress and egress and of enjoyment in, to and over the Common Area and the Streets, and such easement shall be appurtenant to and shall pass with title to every Unit, subject to the following:

- (a) The right of the Association to reasonably limit the number of guests and tenants an Owner or his tenant may authorize to use the Common Area and /or the Streets;
- (b) The right of the Association to establish uniform Rules and Regulations pertaining to the use of the Common Area and/or the Streets;
- (c) Subject to the provisions of Article XIII of this Declaration, and subject to the written assent described in subsection (c) above, the right of the Association to dedicate, release, alienate or transfer the Common Elements to any public agency, authority, utility or other Person for such purposes and subject to such conditions as may be agreed to by the Members;

(d) Subject to the provisions of Article XIV hereof, the right of Declarant and its sales agents, representatives and prospective Purchasers, to the non-exclusive use of the Common Area and the Streets, without cost;

(e) The rights and reservations of Declarant as set forth in Article XIV of this Declaration;

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

(g) The right of the Association to replace destroyed trees or other vegetation and to plant trees, shrubs and ground cover upon any portion of the Common Area, or to maintain and repair the Streets;

(h) The right of the Association, acting through the Board, to reasonably restrict access to portions of the Common Area and/or the Streets; and

(i) The easements reserved in Sections 2.3, 2.4, 2.6 and 16.8.

Section 2.2. Parking Restrictions The Association, through its Board will allow on-street parking. Restricted to no parking are RVs, Boats, Trailers, and Commercial Vehicles. RVs, Boats, Trailers, Commercial Vehicles, etc. may be parked in the rear yard as long as they are fenced in such a manner as not to be seen from the street.

Section 2.3. Easements for Vehicular and Pedestrian Traffic In addition to the general easements for use of the common Area and Streets reserved herein, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners within the properties, non-exclusive appurtenant easements for vehicular and pedestrian traffic over the Streets, subject to the parking provisions set forth in Section 2.2 and 10.5 hereof. Any other provision herein notwithstanding, by acceptance of the deed to his Unit, each respective Owner of said Units covenants to leave clear and unobstructed that portion of his Unit which constitutes a Street.

Section 2.4. Easements for Public Service Use. In addition to the foregoing easements over the Common Area and Streets, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for public services of the City and County, including but not limited to, the right of the police and fire departments to enter upon any part of the Common Area or Streets for the purpose of carrying out their official duties.

Section 2.5 Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Unit or other property owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Streets or Common Elements or any facilities thereon or by abandonment of his Unit or any other property in the Properties.

Section 2.6. Easements for Water and Utility Purposes. In addition to the foregoing easements over the Common Area and Streets, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, easements for public and private utility purposes, including but not limited to, the right of any public utility or mutual water district rights of ingress or egress over the Common Area and Streets for purposes of reading and maintaining meters, and using and maintaining fire hydrants located on the Common Area or Streets.

Section 2.7. Easement Data. The recording data for any easements and licenses appurtenant to or included in this Common Interest Community or to which any portion of this Common Interest Community is or may become subject by virtue of a reservation in this Declaration is as follows: The recording data for all easements and licenses reserved pursuant to the terms of this Declaration is the same as the recording data for this Declaration. The recording data for any easements and licenses created by the Plat is the same as the recording data for the Plat.

Section 2.8. Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Association to obtain separate real estate tax assessment of each Unit. If any taxes or assessments of any Owner may, in the opinion of the Association, become a lien on the Common Area, or any part thereof, they may be paid by the Association as a Common Expense or paid by the Association and levied against such Owner as a Special Assessment.

### III.

#### DAY STAR PROPERTY OWNERS ASSOCIATION

Section 3.1 Organization of Association The Association is or shall be incorporated under the name of Day Star Property Owners Association, as a non-profit corporation under Nevada law.

Section 3.2. Duties and Powers. Duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers of a non-profit corporation, generally to do any and all things that a corporation organized under the laws of the State of Nevada may lawfully do which are necessary or proper, in operating for the peace,

health, comfort, safety and general welfare of its Members, including any applicable powers set forth in NRS § 116.3102, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, in this Declaration or the applicable provisions of NRS Chapter 116. The Association shall make available for inspection by any prospective purchaser of a Unit, any Owner, and the Beneficiaries, insurers and guarantors of the first Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations and all other books, records, and financial statements of the Association.

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

Section 3.4. Transfer. The Association membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Owner's Unit, and then only to the purchaser or Mortgagee of such Unit. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. An Owner who has sold his Unit to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser said Owner's Membership rights. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Unit until fee title to the Unit sold is transferred. If the Owner of any Unit should fail or refuse to transfer his Membership to the purchaser of such Unit upon transfer of fee title thereto, the Board shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser shall not be entitled to vote at meetings of the Association. The Association may levy a reasonable transfer fee against a new Owner and his Unit (which fee shall be added to the annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the membership to the new Owner on the records of the Association.

Section 3.5. Board of Directors. Except as otherwise provided in this Declaration, the Bylaws, or by applicable provisions of NRS Chapter 116, the Board may act in all instances on behalf of the Association. Notwithstanding the foregoing, the Board may not act on behalf of the Association to amend the Declaration, to terminate the Common Interest Community or to elect Directors or determine their qualifications, powers and duties or terms of office, but the Board may fill vacancies in its Directors for the unexpired portion of any term. Notwithstanding any provisions of this Declaration or the Bylaws to the contrary, the Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any Director with or without cause, other than a Director appointed by the Declarant. If a Director is sued for liability for actions undertaken in his role as a Director, the Association shall indemnify

the Director for his losses or claims, and undertake all costs of defense, until and unless it is proven that the Director acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the cost of defense, and the Association may recover costs already expended from the Director who so acted. Directors are not personally liable to the victims of crimes occurring within the Properties. Punitive damages may not be recovered against the Association, but may be recovered from persons whose activity gave rise to the damages. An officer, employee, agent or director of a corporate Owner of a Unit, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, and a fiduciary of an estate that owns a Unit may be a Director or Association officer. In all events where the persons serving or offering to serve as a Director or Association officer is not the record Owner, he shall file proof of authority in the records of the Association.

Section 3.6. Bylaws. The Bylaws must provide:

- (a) The number of Directors and the titles of Association officers.
- (b) For election by the Board of an Association president, treasurer, secretary and any other officers specified by the Bylaws.
- (c) The qualifications, powers and duties, terms of office and manner of electing and removing Directors and Association officers, and filling vacancies.
- (d) Which, if any, of their powers the Board or Association officers may delegate to other persons or to a manager.
- (e) Which of its officers may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.
- (f) A method for amending the Bylaws.

Section 3.7. Meetings of the Association. A meeting of the Association must be held at least once every ninety (90) days. Special meetings of the Association may be called by the president, a majority of the Board of Directors or by Owners having ten percent (10%) of the votes in the Association. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Association secretary shall cause notice to be hand delivered or sent postage prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by any Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budgetary changes and any proposal to remove an Association officer or Director. A quorum is present throughout any meeting of the Association if Members entitled to cast at least twenty percent (20%) of the votes of the Association are present in person or by proxy at the beginning of the meeting. A quorum is deemed present throughout any meeting of the Board of



Directors when Directors entitled to cast at least fifty percent (50%) of the votes on that Board are present at the beginning of the meeting. Notwithstanding the presence of a sufficient number of Members to constitute a quorum, certain matters, including, without limitation, amendment to this Declaration, require a higher percentage i.e., at least sixty-seven percent (67%) of votes of the total voting Membership.

#### IV. VOTING RIGHTS

Section 4.1. Voting. Subject to Section 4.3, below, all Owners shall be entitled to cast one vote for each Unit owned.

Section 4.2 Appointment of Board. Declarant shall have the right to appoint and remove a majority of the Directors, subject to the following limitations:

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

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

(c) The power reserved to Declarant in this Section 4.2 to appoint or remove a majority of the directors shall terminate on the earliest of (1) sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created from Declarant to Purchasers, (2) two years after Declarant has ceased to offer any Units for sale in the ordinary course of business, or (3) two years after any right to annex any portion of the Annexable Property was last exercised pursuant to Article XV hereof.

Section 4.3. Multiple Owners. When more than one Person holds such interest or interests in any Unit ("co-owners"), all such co-owners shall be Members and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Unit is entitled. Such co-owners may from time to time all designate in writing one of their number to vote. Fractional votes shall not be allowed. Where no voting co-owner is designated or if such designation has been revoked, the vote for such Unit shall be exercised as the majority interests in such Unit agree to said vote or other action. The non-voting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Unit and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully

made by the Association in accordance with the voting percentages established herein, or in the Bylaws, shall be deemed to be binding on all owners, their successors and assigns.

Section 4.4 Proxies. Every Member entitled to vote or execute statements or consents shall have the right to do so either in person or by a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community or another unit's owner who resides in the common-interest community, as authorized by a written proxy executed by a unit's owner (N.R.S. 116.311(2)) provided, however that no such proxy shall be valid after the conclusion of the meeting for which it was executed (N.R.S. 116.311(2)(k)). The form of any such proxy shall be the subject to the reasonable approval of the Board of Directors.

V.

**JURISDICTION OF ASSOCIATION**

The Association's obligations to maintain the Common Area and Streets shall commence on the date Annual Assessments commence on Units in the Properties. Until commencement of annual Assessments, the Common Area and Streets shall be maintained by Declarant, at Declarant's expense. The Association, acting through the Board, shall have:

- (a) The power and duty to maintain, repair and otherwise manage the Common Area and all facilities, Improvements and landscaping thereon, and the Streets, in accordance with the provisions of Article VI and Article IX of this Declaration.
- (b) The power and duty to obtain for the benefit of the properties, all commonly metered utility and the power but not the duty to provide for refuse collection and cable or master television service.
- (c) The power and duty to grant easements, rights of way or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Units.
- (d) The power and duty to maintain such policy or policies of liability with respect to the Common Elements and/or Streets as provided herein in furthering the purposes of and protecting the interests of the Association and Members and as directed by this Declaration and the Bylaws.
- (e) The power but not the duty to employ or contract with a professional Manager to perform all or any part of the duties and responsibilities of the Association, and the power to delegate its powers to committees, officers and employees. Any such management agreement, or any agreement providing for services by

fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment became due. This personal obligation cannot be avoided by abandonment of a Unit or by an offer to waive use of the Common Area and/or Streets. The personal obligation for delinquent Assessments shall not pass to any new Owner ("purchaser") unless expressly assumed by said purchaser.

Section 6.2. Maintenance Funds of Association. The Board shall establish no fewer than two (2) separate accounts (the "Association Maintenance Funds") into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or saving institution and shall include: (1) An Operating Fund for current expenses of the Association, and (2) a Reserve Fund for replacements, painting and repairs (which would not reasonably be expected to recur on an annual or more frequent basis) of the Common Area and/or Streets, and (3) any other funds which the Board may establish to the extent necessary under the provisions of this Declaration.

Section 6.3. Purpose of Annual Assessments. The Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit, recreation and welfare of the Owners and for the improvement and maintenance of the properties as provided herein. However, disbursements from the Reserve Fund shall be made by the Board only for the specific purposes specified in this Article VI. Disbursements from the Operating Fund shall be made by the Board only for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Reserve Fund are to be used. Nothing in this Declaration shall be construed in such a way as to permit the use of Association assessments or funds to abate any nuisance or annoyance emanating from outside the boundaries of the Properties. Annual Assessments shall be used to satisfy Common Expenses, as provided herein and in the Bylaws.

Section 6.4. Budget. The Board shall adopt a proposed annual budget at least fifteen (15) days prior to the first common Assessment period for each fiscal year. Within thirty (30) days after adoption of any proposed Budget, the Board shall provide a summary of the budget to all Owners.

Section 6.5. Limitation on Annual Assessment Increases. The annual average liability for common expenses of all Units hereunder, exclusive of insurance premiums paid by the Association and any optional user fees, may not exceed \$500.00 per Unit. Subject to the foregoing, the Board shall not levy, for any Fiscal Year, an Annual Assessment which exceeds the "Maximum Authorized Annual Assessment" as determined pursuant to Sections 6.5(a) and 6.5(b) below, unless first approved by the vote of Members representing at least a majority of the voting power of the Association.

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- (a) Maximum Authorized Annual Assessment for Initial Year of operations. The initial assessment shall be \$8.00 per month for a fiscal year and may be charged quarterly or yearly as the board deems reasonable.
- (b) Maximum Authorized Annual Assessment for Subsequent Fiscal Years. Each year thereafter the assessments may be increased by the Board up to 10% of the first assessment without approval of the Owners.
- (c) Additional Assessments. The Board, may with the approval of 51% of the Owners, increase the annual assessment above the 10% to an amount determined to be needed for the running of the corporation and the funding of the reserve account.

Section 6.6. Capital Improvement and Reconstruction Assessment. The Board may levy in any fiscal Year a Capital Improvement Assessment or Reconstruction Assessment applicable to that fiscal Year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital Improvement or other such addition upon the Common Area, or any part respectively thereof.

Section 6.7. Uniform Rate of Assessment. Except as otherwise indicated in the Budget, Annual Assessments, Capital Improvement Assessments and Reconstruction Assessments provided for in this Article VI shall be assessed equally and uniformly against all Owners and their Units. Each Owner's share of such Assessments shall be a fraction, the numerator of which shall be the number of Units owned by such Owner, and the denominator of which shall be the total number of Units in the Common Interest Community. The Association may, subject to the provisions of Section 9.3 and Section 11.1(b) hereof, levy Special Assessments against selected Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their tenants, families, guests, invitees or agents. All installments of Annual Assessments shall be collected in advance on a regular basis by the Board at such frequency as the Board shall determine from time to time.

Section 6.8 Date of Commencement of Annual Assessments. The Board by majority vote shall authorize and levy the amount of the Annual Assessment upon each Unit as provided herein, which shall be paid monthly or at any other interval prescribed by the Board. The due dates shall also be prescribed by the Board. All Annual Assessments shall commence on each Unit within the Common Interest Community on the date of the close of escrow of the first sale of each Unit. The first Annual Assessment on a Unit shall be prorated according to the number of months remaining in that fiscal year as set forth in the Bylaws. Written notice of any change in the amount of Annual Assessment shall be sent to every Owner of a Unit not less than thirty (30) days prior to the effective date of such change. The Board may reduce the Assessments if it is so inclined.

Declarant to the Association, shall be for a term not in excess of one(1) year, subject to cancellation by the Association for cause at any time upon not less than sixty (60) days' written notice, and without cause (and without penalty or the payment of a termination fee) at any time upon not less than ninety (90) days' written notice.

(f) The power but not the duty, after Notice and Hearing, to enter upon any area of a Unit, without being liable to any Owner for damage caused by such entry, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain or repair any such area as required by this Declaration. The cost of such enforcement, maintenance and repair shall be a Special Assessment enforceable as set forth in this Declaration. The Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection may be added, at the option of the Board, to the amounts specially assessed against such Owner. Notwithstanding the foregoing, in the event of an emergency, entrance upon a Unit by or on behalf of the Board shall be permitted without Notice and Hearing for the purpose of enforcing the provisions of the Declaration or for the purpose of maintaining or repairing any area of the Unit improperly maintained by the Owner.

(g) The power but not the duty to reasonably limit the number of guests and tenants of the Owners using the Common Area and/or Streets, as provided in this Declaration.

(h) The power but not the duty to establish uniform Rules and Regulations for the use and enjoyment of the Common Area and/or Streets, as provided in this Declaration.

## VI.

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Unit owned within the Properties, hereby covenants, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) Annual Assessments, (b) Capital Improvement Assessments, (c) Special Assessments, and (d) Reconstruction Assessments; such assessments to be established and collected as provided in this Declaration. Except as provided in this Section 6.1, all such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such assessment is made. Each such Assessment, together with interest, costs and reasonable attorneys'

At the close of escrow for the first sale of each Unit by Declarant, the Purchaser of the Unit shall be required to pay a capital contribution to the Association in an amount equal to two (2) monthly installments of the then-applicable Annual Assessments. This capital contribution is in addition to the Annual Assessments.

Section 6.9. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments herein:

- (a) All portions of the Properties, if any, dedicated to and accepted by a local public authority; and
- (b) The Common Elements owned by the Association in fee.

## VII.

### EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION

Section 7.1. Effect of Nonpayment of Assessments; Remedies of the Association. Any installment of an Annual Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment shall be delinquent if not paid within thirty (30) days of the due date as established by the Board. The Board shall be authorized to adopt a system pursuant to which any installment of Annual Assessments, Capital Improvement Assessments, Special Assessments, or Reconstruction Assessments not paid within thirty (30) days after the due date shall bear interest at the rate of up to ten percent (10%) per annum, commencing thirty (30) days from the due date until paid. In addition, the Board may require the delinquent Owner to pay a reasonable late charge to compensate the Association for increased bookkeeping, billing, and other administrative costs. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Unit. 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 Unit. If any installment of an Assessment is not paid within thirty (30) days after its due date, the Board may mail an acceleration notice to the Owner and to each first Mortgagee of a Unit which has requested a copy of the notice. The notice shall specify (1) the fact that the installment is delinquent, (2) the action required to cure the default, (3) a date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured, and (4) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of such Assessment for the then current Fiscal Year and sale of the Unit. If the delinquent installment or installments of any Assessment and any charges thereon are not paid in full on or before the date specified in the notice, the Board at its option may declare all of the unpaid balance of such Assessment levied against such Owner and his Unit to be immediately due and payable without further demand and may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law and this Declaration.

Section 7.2. Enforcement. The Association has a lien on a Unit for any assessment levied against that Unit or fines imposed against the Owner from the time the assessment or fine becomes due, together with all fees, charges, late charges, fines and interest payable thereon. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. A lien under this section is prior to all other liens and encumbrances on a Unit except: (a) liens and encumbrances recorded before the recordation of the Declaration, (b) a first security interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent, and (c) liens for real estate taxes and other governmental assessments or charges against the Unit. The lien is also prior to all security interests described in subpart (b) of the preceding sentence to the extent of the Assessments for Common Expenses based on the periodic Budget adopted by the Association which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien. Recording of this Declaration constitutes record notice and protection of the lien. No further recordation of any claim of lien for assessment shall be required. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessments becomes due. None of the foregoing shall prohibit the Association from bringing an action to recover sums for which this Declaration creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. The judgment or decree in any action brought in connection herewith shall include costs and reasonable attorneys fees for the prevailing party. The Association, upon written request, shall furnish an Owner a statement setting forth the amount of unpaid assessments against the Unit. The statement must be in recordable form.

Section 7.3. Foreclosure of Lien. The Association may foreclose its lien by sale after:

- (a) The Association has caused to be Recorded a notice of delinquent assessment, which states the amount of the assessment and other sums which are due, a description of the Unit against which the lien is imposed, and the name of the record Owner;
- (b) The Association or other Person conducting the sale has executed and caused to be Recorded a notice of default and election to sell the Unit to satisfy the lien, which contains the same information as the notice of delinquent assessment, but must also describe the deficiency in payment and the name and address of the Person authorized by the Association to enforce the lien by sale; and
- (c) The Owner or successor-in-interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for sixty (60) days following the Recording of the notice of default and election to sell.

The notice of delinquent assessment must be signed by the Association president.

The period of sixty (60) days begins on the first day following the later of (a) the day on which the notice of default is Recorded, or (b) the day on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the Owner or his successor-in-interest at his address, if known, otherwise to the address of the Unit.

The Association or other Person conducting the sale shall also, after the expiration of the 60 days and before selling the Unit, give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the Owner or successor-in-interest at his address, if known, otherwise to the address of the Unit.

The foreclosure sale shall be conducted in accordance with NRS 116.31164. Notices of default and sale shall be afforded to any Person who Records a request for notice in the manner provided by NRS 107.090, as required by NRS 116.31168.

Section 7.4. Curing of Default. All moneys owed, including management fees and delinquent fees must be paid in full during curing of default. Management fees become a part of moneys owed.

Section 7.5. Cumulative Remedies. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

Section 7.6. Mortgagee Protection. Notwithstanding all other provisions hereof, except as provided in NRS 116.3116(2) (pertaining to six (6) months; assessments) no lien created under this Article VII, nor any breach of this Declaration, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the Beneficiary under any Recorded first Mortgage or first Deed of Trust upon a Unit made in good faith and for value; provided that after such Mortgage or some other Person obtains title to such Unit by judicial foreclosure or by means of the powers set forth in such Deed of Trust, such Unit shall remain subject to the Declaration and the payment of all installments of Assessments accruing subsequent to the date such Mortgagee or other Person obtains title.

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## VIII. ARCHITECTURAL CONTROL

Section 8.1. Members of Committee. The Architectural Review Committee, sometimes referred to in this Declaration as the "ARC", shall consist of three (3) members, who shall be appointed by the Board.

Section 8.2. Review of Plans and Specifications. The ARC shall consider and act upon any and all plans and specifications submitted for its approval under this Declaration. With the exception of any such activity of Declarant, no construction, alteration, removal, relocation, repainting, demolition, addition, installation, modifications, decoration, redecoration or reconstruction of an Improvement, including Dwellings and landscaping, shall be commenced or maintained, until the plans and specifications therefore showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the ARC and approved in writing by the ARC. No design or construction activity of Declarant shall be subject to ARC approval. The Owner submitting such plans and specifications ("Applicant") shall obtain a written receipt therefor from an authorized agent to the ARC. Until changed by the Board, the address for submission of such plans and specifications shall be the principal office of the Association. The ARC shall approve plans and specifications submitted for its approval only if it deems that (a) the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole; (b) the appearance of any structure affected thereby will be in harmony with the surrounding structures; (c) the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Elements or the enjoyment thereof by the Members, and (d) the upkeep and maintenance thereof will not become a burden on the Association.

The ARC may condition its approval of proposals or plans and specifications for any Improvement (1) upon the agreement by the Applicant submitting the same to furnish to the ARC a bond or other security acceptable to the ARC in an amount reasonably sufficient to (i) assure the completion of such improvement or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (ii) to protect the Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Common Elements as a result of such work, (2) on such changes therein as it deems appropriate, (3) upon the agreement by the Applicant to grant appropriate easements to the Association for the maintenance of the Improvement, (4) upon the agreement of the Applicant to reimburse the Association for the cost of maintenance, or all four, and may require submission for additional plans and specifications or other information prior to approving or disapproving material submitted. Plans Requests will be answered within sixty (60) days.

Section 8.3. No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to

constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 8.4. Compensation of Members. The ARC members shall receive no compensation for services rendered, other than reimbursement by the Association for expenses incurred by them in the performance of their duties hereunder, provided that any expense in excess of Twenty-five dollars (\$25.00) shall require the approval of the majority of the Board prior to expenditure.

Section 8.5. Correction of Defects. Inspection of work and correction of defects therein shall proceed as follows:

(a) If as a result of such inspection, the ARC finds that such Improvement was done without obtaining approval of the plans therefor or was not done in substantial compliance with the plans approved by the ARC, it shall notify the Owner in writing of failure to comply with this Article VIII within sixty (60) days from the inspection, specifying the particulars of noncompliance. The ARC shall have the authority to require the Owner to take such action as may be necessary to remedy the noncompliance.

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

have at law, in equity, or in this Declaration.

Plans requests will be answered within sixty (60) days.

Section 8.6. Scope of Review. Each Owner shall be responsible for obtaining all necessary permits and for complying with all city and County requirements with respect to the implementation of such plans.

Section 8.7. Front Yard Landscaping. Each Owner is required, and by acceptance of the deed to his Unit agrees, at such Owner's sole cost: (a) within sixty (60) days after close of escrow on his Unit, to submit to the ARC detailed and complete landscaping design plans for the front yard of his Unit; and (b) to promptly accomplish any landscaping design changes which may be required by the ARC; and (c) within ninety (90) days after ARC approval, to complete all front yard landscaping work in conformity with such approved landscaping designing plans.

## IX.

### MAINTENANCE AND REPAIR OBLIGATIONS

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

Section 9.2. Maintenance Obligations of Association. No improvement, excavation or work which in any way alters the Common Area and/or the Streets shall be made or done by any Person other than the Association or its authorized agents after the completion of the construction of the Streets or the Common Area or the construction or installation of the Improvements thereto by Declarant. Subject to the provisions of Sections 6.3 and 9.3 hereof, upon commencement of Annual Assessments in the Properties the Association shall provide for the maintenance, repair and replacement of the Streets and any Improvements thereon. The Streets and any Improvements thereon shall be maintained in a safe, sanitary and attractive condition, and in good order and repair. The Association shall also provide for the utilities serving the Streets. The Association shall also ensure that the Streets are maintained free of weeds and disease. The Association shall not be responsible for the maintenance of any portions of the Streets which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board

shall determine in its judgment to be appropriate.

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

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

Section 9.5. Party Walls. Each wall which is built as a part of the original construction of a Dwelling and placed on the property line between Units shall constitute a party wall. In the event that any party wall is not constructed exactly on the property line, the Owners affected shall accept the party wall as the property boundary. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use such wall in proportion to such use (e.g., if the party wall is the boundary between two Owners, then such Owners each shall bear half of such cost). If a party wall is destroyed or damaged by fire or other casualty, any Owner whose Unit has use of the wall may restore it, and any other Owner whose Unit makes use of the wall shall contribute to the cost of restoration thereof in proportion to such use. The foregoing shall not prejudice the right of any such Owner to call for a larger contribution from another Owner pursuant to any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any provision of this Section 9.5, any Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements. The right of any Owner to contribution from any other Owner under this Section 9.5 shall be appurtenant to the land and shall pass to such Owner's successors in title. In the event of any dispute arising concerning a party wall under the provisions of this Section 9.5, each party shall choose one arbitrator, such arbitrator shall choose one additional arbitrator, and the decision of a majority of such panel or arbitrators shall be binding upon the Owners which are a party to the arbitration.

Section 9.6. Exterior Lighting. Any unit that has any exterior lighting attached to the dwelling will be responsible for the care and maintenance and changing of bulbs at the owners expense.

**X.**  
**USE RESTRICTIONS**

All real property within the Properties shall be held, used and enjoyed subject to the following limitations and restrictions and the rights of Declaration in Article XIV hereof:

Section 10.1. Single Family Residence. Each Unit shall be used as a residence for a single Family and for no other purpose; provided that any portion of a Unit which constitutes a Street shall be used solely in the normal manner of a street, and for no other purpose.

Section 10.2. Business or Commercial Activity. Except for the normal use of Streets as streets, no part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such nonresidential purposes; provided that Declarant, its successors and assigns, may exercise the reserved rights described in Article XIV hereof. The provisions of this Section 10.2 shall not preclude professional and administrative occupations without external evidence thereof, for so long as such occupations are conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Dwelling as a residential home.

Section 10.3. Signs. Subject to the reserved rights of Declarant contained in Article XIV hereof, no sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Properties, or on any public street abutting the Properties, without the prior written consent of the Board, except (a) one (1) sign for each Unit not larger than eighteen (18) inches by thirty (30) inches, advertising the Unit for sale or rent, or (b) traffic and other signs installed by Declarant as part of the original construction of the Properties. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the regulations of all applicable governmental ordinances.

Section 10.4. Parking and Vehicular Restrictions. Passenger vehicles may be parked on the street except as restricted. Inoperable, unregistered, or commercial vehicles may not be parked, stored, or kept on the property except in the garage except to enter and exit. Pick-up trucks and vans shall be considered regular passenger vehicles unless clearly used for commercial purposes. RV's and boats and campers may be stored in the back yard if they are not visible from the street. Repairs may be done in the garage, but may be deemed a nuisance by the Board and shall be terminated.

Section 10.5. Animal Restrictions. No animals, reptiles, poultry, fish or fowl or insects of any kind ("animals") shall be raised, bred or kept on any Unit, except that a reasonable number of dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, nor in unreasonable quantities nor in violation of any City or County

ordinance or any other provision of the Restrictions, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, that the Board may determine that a reasonable number in any instance may be more or less. The Association, acting through the Board, shall have the right to prohibit maintenance of any animal maintained in any Unit which constitutes, in the opinion of the Board, a nuisance to other Owners. Animal's belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed yard or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, any Owner shall be liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or by members of his Family, tenants or guests, and it shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used any portion of the Common Area or streets abutting the properties.

Section 10.6. Trash. No rubbish, trash or garbage or other waste material shall be kept or permitted upon any Unit (including Streets), the Common Area or any public street abutting or visible from the Properties, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Properties, or any portion thereof, unsanitary, unsightly, offensive detrimental to any other property in the vicinity thereof or to its occupants. Such container shall be exposed to the view of neighboring Units only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours). There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefor and fire pits in enclosed areas and designed in such a manner that they do not create a fire hazard. No clothing or household fabrics shall be hung, dried, or aired on or over any Unit in such a way as to be visible from any other Unit, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Properties except within an enclosed structure or if appropriately screened from view. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown or maintained upon the Properties

Section 10.7. Temporary Buildings. No outbuilding, basement, tent, shack, shed or other temporary building or Improvement of any kind shall be placed upon any portion of the Properties either temporarily or permanently, except as may be approved by the ARC during their initial construction of a Dwelling. No garage, carport, trailer, camper, motor home, recreational vehicle or other vehicle shall be used as a residence in the Properties, either temporarily or permanently. If viewed from the street, the structure is subject to ARC approval.

Section 10.8. Common Area Facilities. Nothing shall be constructed in or removed from the Common Area and/or Association properties without the prior written consent of the Board.

Section 10.9 Outside Installations. No radio station or shortwave operators of any kind shall operate from any Unit unless approved by the ARC. No exterior radio antenna, "C.B." antenna,

television antenna, Satellite dish (18" max allowed) or other antenna of any type shall be erected or maintained in the Properties. However, a master antenna or antennae or cable television antenna or antennae may, but need not, be provided by Declarant for the use of all Owners, and Declarant may grant easements for such purposes. Portable basketball hoops may be used on the Properties.

Section 10.10. Drilling. No oil drilling shall be permitted upon or in any Unit or the Common Area.

Section 10.11. Further Subdivision. No Owner shall further partition or subdivide his Unit, provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease this entire Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Unit is not leased for transient or hotel purposes; (2) to sell his Unit; or (3) to transfer or sell any Unit to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be made expressly subject to this Declaration and the Bylaws. Any failure by the lessee of such Unit to comply with the terms of this Declaration, the Bylaws or the Rules and Regulations shall constitute a default under the lease or rental agreement. No Owner may permanently remove any block wall between Units.

Section 10.12. Drainage. By acceptance of a deed to a Unit, each Owner agrees for himself and his assigns that he will not in any way interfere with or alter the established drainage pattern over any Unit.

Section 10.13. Water Supply Systems. No individual water supply, sewage disposal system or water softener system shall be permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Board, any water district serving the Properties, the County health department, and all applicable governmental authorities.

## XI.

### DAMAGE TO OR CONDEMNATION OF COMMON AREA

(a) Each Member shall be liable to the Association for any damage to the Common Area and/or Streets not fully reimbursed to the Association by insurance proceeds which may be sustained by reason of the negligence or, willful misconduct of said Member or the Persons driving their right and easement of use and enjoyment of the Common Area and/or Streets from said Member, or of his respective Family and guests, both minor and adult. The Association reserves the right, acting through the Board, after Notice and Hearing, to (1) determine whether any claim shall be made upon the insurance maintained by the Association and (2) levy against such member a special Assessment equal to any deductible paid and the increase, if

any, in the insurance premium directly attributable to the damage caused by such Member or the Persons for whom such Member may be liable as described herein. In the case of joint ownership of a Unit, the liability of the co-owners thereof shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint owners to the contrary. After Notice and Hearing, the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, shall be a Special Assessment against such Member.

Section 11.1 Condemnation. If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken must be paid to the Association.

Section 11.2 Condemnation Involving a Unit. If part of a Unit is acquired by eminent domain, the award shall compensate the Owner for the reduction in value of the Units interest in the Common Elements. The basis for such reduction shall be the extent to which the occupants of the Unit are impaired from enjoying the Common Elements. In cases where the Units may still be used as a Dwelling, it shall be presumed that such reduction is zero(0).

## **XII.** **INSURANCE**

Section 12.1 Insurance to be Obtained. The Association shall obtain and maintain in full force and effect at all times insurance coverage meeting the requirements of NRS 116.3113, 116.31133, 116.31135 as specified in NRS Chapter 116, the *Common-Interest Ownership Act*, provided by companies duly authorized to do business in Nevada, generally as set forth in this Article, and specifically as required by FNMA, FHLMC, United States Department of Veterans Affairs ("VA") and the United States Department of Housing and Urban Development ("HUD") if the Project has been, or is intended to be, qualified with such entities.

The Association, acting through the Board, shall be the named insured under policies of insurance purchased and maintained by the Owners. All insurance proceeds under any policies shall be paid to the Board as trustees. The Board shall have full power to receive and receipt for the proceeds and to deal therewith as deemed necessary and appropriate. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties with respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance duplicate originals or certificates of all policies of insurance maintained by the Association and of all the renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Mortgagees who have requested the same in writing.



Section 12.2. Insurance Obligations of Owners. Each Owner is required, at close of escrow on his Unit, at this sole expense to have obtained, and to have furnished his Mortgagee (or, in the event of a cash transaction involving no Mortgagee, then to the Board) with duplicate copies of a homeowner's policy of fire and casualty insurance with extended coverage for loss or damage to all insurance Improvements and fixtures originally installed by Declarant on such Owner's Unit in accordance with the original plans and specification, or installed by the Owner on the Unit, for the full insurance replacement cost thereof without deduction for depreciation or coinsurance. By acceptance of the deed to his Unit, each Owner agrees to maintain in full force and effect at all times, at said Owner's sole expense, such homeowner's insurance policy, and shall provide the Board with duplicate copies of such insurance policy upon the Board's request. Nothing herein shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability, damage to person or property occurring inside his Unit or elsewhere upon the Properties. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

It is the Association's responsibility to maintain the public liability insurance on the common areas, which include the private streets and lighting. The private streets and lighting are the responsibility of the Association.

Each home owner shall carry insurance for liability to include coverage for property within their property boundaries.

It is the full responsibility of each owner to maintain property insurance on the home and all property included in the deed to the property. The private streets and lighting are not the responsibility of each individual home owner.

THERE ARE COMMON AREAS IN DAY STAR PROPERTY OWNERS ASSOCIATION.

**XIII.**  
**MORTGAGEE PROTECTION CLAUSE**

In order to induce FHA, VA, FHLMC, GNMA and FNMA and any other governmental agency or other entity to participate in the financing of the sale of Units within the Properties, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

...

(a) Each Beneficiary, insurer and guarantor of a first Mortgage encumbering any Unit, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation or the Bylaws, which default is not cured within thirty (30) days after the Association learns of such default. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or Deeds of Trust on a Unit, and "first Mortgagee" shall mean the Beneficiary of a first Mortgage.

(b) Each Owner, including every first Mortgagee of a Mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by this Declaration, the Articles, the Bylaws, or the Rules and Regulations.

(c) Except as provided in NRS 116.3116(2), each Beneficiary of a first Mortgage encumbering any Unit which obtains title to such Unit or by foreclosure of such Mortgage, shall take title to such Unit free and clear of any claims of unpaid assessments or charges against such Unit which accrued prior to the acquisition of title to such Unit by the Mortgagee.

(d) Unless at least sixty-seven percent (67%) of First Mortgagees (based upon one (1) vote for each first Mortgage owned) or sixty-seven percent (67%) of the Owners have given their prior written approval, neither the Association nor the Owners shall:

(1) Subject to Nevada nonprofit corporation law to the contrary, by act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Improvements thereon which are owned by the Association;

The granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association as provided in this Declaration shall not be deemed a transfer within the meaning of this clause.

(2) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner, or the method of allocating distributions of hazard insurance proceed or condemnation awards;

(3) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwelling and other Improvements on the Units, the maintenance of the exterior walls or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(4) Amend those provisions of this Declaration or the Articles of Incorporation or Bylaws of the Association which provide for rights or remedies of first Mortgagees.

(e) Beneficiaries, insurers and guarantors of first Mortgages, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours, (2) require from the Association the submission of an annual financial statement (without expense to the Beneficiary, insurer or guarantor requesting such statement) and other financial data, (3) receive written notice of all meetings of the Members, and (4) designate in writing a representative to attend all such meetings.

(f) All Beneficiaries, insurers and guarantors of first Mortgages, who have filed a written request for such notice with the Board shall be given thirty (30) days' written notice prior to (1) any abandonment or termination of the Association, (2) the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association, and (3) the effective date of any termination of any agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties. Such first Mortgagees shall be given immediate notice (1) following any damage to the Common Area whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000.00) and (2) when the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Properties.

...  
...

(g) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(h) The Reserve Fund described in Article VI of this Declaration must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by large extraordinary Assessments.

(i) The Board shall secure and cause to be maintained in force at all times a fidelity bond for any Person handling funds of the Association, including, but not limited to, employees of any Manager.

(j) When professional management has been previously required by a Beneficiary, insurer or guarantor of a first Mortgagor, any decision to establish self-management by the Association shall require the approval of sixty-seven percent (67%) of the voting power of the Association and the Beneficiaries of fifty-one percent (51%) of the first Mortgages of Units in the Properties.

In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of FHA, VA, FHLMC, FNMA, or GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the Membership, as a class of potential Mortgage borrowers and potential sellers of their Units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Unit.

#### **XIV.** **ANNEXATION**

Section 14.1 Annexation of Property. Subject to the requirements of applicable law, Declarant may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portion of the property described in Exhibit "B" hereto (the "Annexable Property") then owned by Declarant by recording in accordance with applicable law an Annexation Amendment ("Annexation Amendment") with respect to the real property to be annexed ("Annexed Property").

Upon the Recording of an Annexation Amendment covering any portion of the Annexable Property and containing the provisions set forth herein, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Property in the same manner as if it were originally covered in this Declaration and originally constituted a portion of the Original Property, and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the Original Property and the rights, privileges, duties and liabilities of the Owners and occupants of Units within the Annexed Property shall be the same as those of the Owners and Occupants of Units originally affected by this Declaration.

Section 14.2 Disclaimer. Portions of the Annexable Property may be annexed at any time by Declarant, and no assurances are made with respect to the boundaries or sequence of annexation of such portions. Annexation of a portion of the Annexable Property shall not necessitate annexation of any other portion of the remainder of the Annexable Property.

Section 14.3 Other Additions. Additional real property may be annexed to the Properties by Declarant and brought within the general plan and scheme of this Declaration.

## XV. GENERAL PROVISIONS

Section 15.1 Enforcement. This, Declaration, the Articles, and the Bylaws may be enforced by the Association as follows:

- (a) Breach of any of the provisions contained in the Declaration or the Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings instituted by any Owner, by the Association or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. Each Owner shall have a right of action against the Association for any failure by the Association to comply with the provisions of this Declaration, or of the Bylaws or Articles.
- (b) The result of every act or omission whereby any of the provisions contained in this Declaration or the Bylaws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

(c) The remedies herein provided for breach of the provisions contained in this Declaration or in the Bylaws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the provisions contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.

(e) If any Owner, his Family, guest, licensee, lessee or invitee violates any such provisions, the Board may impose a reasonable Special Assessment upon such Owner for each violation and may suspend the voting privileges of such Owner as further provided in the Bylaws. Such Special Assessment shall be collectible in the manner provided hereunder, but the Board shall give such Owner Notice and Hearing before invoking any such Special Assessment or suspension.

Section 15.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 15.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, until duly terminated.

Section 15.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Area. The article and section heading have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 15.5 Amendment. Except as provided by this Declaration, and except in cases of amendments that may be executed by Declarant or by the Association, this Declaration, including the Plat, may only be amended by the vote and agreement of Owners constituting at least sixty-seven percent (67%) of the voting power of the Association. Notwithstanding the foregoing, termination of this Declaration and any of the following amendments, to be effective, must be approved in writing by the beneficiaries of at least sixty-seven percent (67%) of the first Mortgagees on all of the Units in the Properties at the time of such amendment or termination, based upon one (1) vote for each first Mortgage owned.

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers and guarantors of first Mortgages as provided in Articles VII, XII, XIII, XIV and XVI hereof.

(b) Any amendment which would necessitate a Mortgagee after it has acquired a Unit through foreclosure, to pay more than its proportionate share of any unpaid assessment or assessments accruing after such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Unit not being separately assessed for tax purposes.

(d) Any amendment relating to the insurance provisions as set out in Article XII hereof, or to the application of insurance proceeds as set out in Article XII hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would subject any Owner to a right of first refusal or other such restriction if such Unit is proposed to be sold, transferred or otherwise conveyed.

(f) Any amendment concerning:

(i) Voting rights;

(ii) Rights to use the Common Areas and/or Streets;

(iii) Reserves and responsibility for maintenance, repair and replacement of the Common Area and/or Streets;

(iv) Leasing of Units;

(v) Establishment of self-management by the Association where professional management has been required by any Beneficiary, insurer or guarantor of a first Mortgage;

(vi) Annexation or de-annexation of property to or from the Properties; and

(vii) Assessments, assessment liens, or the subordination of such liens.

Notwithstanding the foregoing, if a first Mortgagee who receives a written request from the Board to approve a proposed termination amendment or amendments to the Declaration does not deliver a negative response to the board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed termination, amendment or amendments. Notwithstanding anything contained in this Declaration to the contrary, nothing contained herein shall operate to allow any Mortgagee to (a) deny or delegate control of the general administrative affairs of the Association by the Members or the Board; (b) prevent the Association or the Board from commencing, intervening in or settling any litigation or proceeding; or (c) prevent any trustee or the Association from receiving and distributing any proceeds of insurance, except pursuant to NRS 5 116.31133 and 116.31135.

A copy of each amendment shall be certified by at least two (2) Association officers, and the amendment shall be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) Association officers that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Beneficiaries of first Mortgages shall include a certification that the requisite approval of such first Mortgagees has been obtained. Until the first Close of Escrow for the sale of a Unit in the Properties, Declarant shall have the right to terminate or modify this Declaration by Recordation of a supplement hereto setting forth such termination or modification.

Section 15.6 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public, or for any public use.

Section 15.7 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Properties does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

Section 15.8 Reservation of Easements. Declarant hereby reserves for the benefit of each Owner and his Unit reciprocal, nonexclusive easements over the adjoining Units for the control, maintenance and repair of the utilities serving such Owner's Unit. Declarant expressly reserves for the benefit of all of the Units, the Association and the Owners, reciprocal, nonexclusive easements over all Units and the Common Area, for the installation, maintenance and repair of utility services and drainage facilities, for drainage from the Units of water resulting from the normal use of adjoining Units, and for maintenance and repair of any Dwelling. In the event that any Dwelling encroaches upon the Common Area and Improvements thereon, as a result of construction or as a result of reconstruction, repair, shifting, settlement or movement of any portion of the Properties,



a valid easement for minor encroachment and for the maintenance of the same shall exist so long as the minor encroachment exists. Declarant and the Owners of each Unit on which there is constructed a Dwelling among or adjacent to such Unit line shall have an easement appurtenant to such Unit over the Unit line to and over the adjacent Unit, for the purposes of accommodating any natural movement or settling of any Dwelling located on such Unit, any encroachment of any Dwelling due to minor engineering or construction variances, and any encroachment of eaves, roof overhangs, patio walls and architectural features comprising parts of the original construction of any Dwelling located on such Unit.

Section 15.9 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United State mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 15.10 Priorities and Inconsistencies. If there are conflicts or inconsistencies between this Declaration and either the Articles or the Bylaws, the terms and provisions of this Declaration shall prevail (unless and to the extent this Declaration fails to comply with an applicable provision of NRS Chapter 116).

Section 15.11 Compliance with NRS Chapter 116. It is the intent of Declarant that this Declaration shall be in all respects consistent with, and not violative of applicable provisions of NRS Chapter 116. In the event any provision of this Declaration is found to violate any applicable provision of NRS Chapter 116, such provision shall be severed herefrom; provided, however, that if such severance shall impair the integrity of this Declaration, said offending provision shall be automatically deemed modified to the minimum extent necessary to conform to any applicable provision of NRS Chapter 116.

Section 15.12 Limited Liability. Except to the extent, if any, specifically disallowed by applicable law, neither Declarant, the Association, any Director, any Association officer, any committee representative, nor any agent or employee of Declarant or the Association shall be liable to any Owner or any other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith. The Association shall indemnify every present and former officer and Director of the Association and every present and former Director and Association officer and every present and former committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

...

This First Statutorily Mandated Amended Declaration has been executed by the Association this 8<sup>th</sup> day of May, 2003. The undersigned hereby certifies that this First Statutorily Mandated Amendment has been adopted and approved in accordance with the Act, that the undersigned has read the foregoing and knows the contents thereof.

By: Richard Grob  
President

STATE OF NEVADA )  
 ) ss.  
COUNTY OF CLARK )

On this 8<sup>th</sup> day of May, 2003, before me, the undersigned Notary Public in and for said County and State, personally appeared RICHARD GROB known to me to be the person whose name is subscribed to the within FIRST STATUTORILY MANDATED AMENDED DECLARATION and acknowledged to me that he did so freely and voluntarily and for the purposes therein mentioned.

WITNESS my hand and official seal.  
Kathey L Morrill  
NOTARY PUBLIC

