

DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
STARFIRE ESTATES III TOWNHOMES

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DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
STARFIRE ESTATES III TOWNHOMES
LAS VEGAS, NEVADA

This Declaration of Covenants, Conditions and Restrictions is made this 29th day of June, 1995, by RW DEVELOPMENT, INC. a Nevada corporation ("Declarant").

WHEREAS Declarant is the owner of certain real property in Clark County, Nevada, more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS Declarant intends that the Property, together with certain adjacent real property, shall be a Planned Community and a Common-Interest Community as defined in Nevada's Uniform Common-Interest Ownership Act, Chapter 116 of Nevada Revised Statutes, upon recordation of this Declaration; and

WHEREAS the name of the Common-Interest Community shall be STARFIRE ESTATES III TOWNHOMES, and the name of the homeowners association created pursuant to this Declaration shall be STARFIRE ESTATES III HOMEOWNERS ASSOCIATION; and

WHEREAS Declarant desires that the Property be subject to, certain covenants, conditions, restrictions and easements, under a general plan of improvement for the benefit of all Lots in the Property and the owners thereof, and that a property owners association be established for the purpose of assessing, managing and administering the Property; and

WHEREAS Declarant further reserves the right to add the "Annexable Area" (as defined herein) to the Property, up to a maximum of eighty-four (84) aggregate Lots;

NOW, THEREFORE, Declarant hereby declares that all of the Property shall at all times be owned, held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions and reservation of easements contained herein, all of which are established and declared for the purpose of increasing the economic value, desirability and attractiveness of the Property and for the mutual benefit of the owners of Lots therein. The covenants, conditions, restrictions and easements set forth in this Declaration shall run with such real property and shall be binding upon Declarant, each owner, and all other persons acquiring any right, title or interest in and to said real property or any part thereof, and shall inure to the benefit of the property owners association, Declarant, and each person who becomes an owner

of any part of the Property, as well as their respective successors-in-interest.

ARTICLE I
DEFINITIONS

Section 1.00. "Act" shall mean Nevada's Uniform Common-Interest Ownership Act, codified in Chapter 116 of Nevada Revised Statutes, as the same may be amended from time to time. Except as otherwise indicated, capitalized terms herein shall have the same meanings ascribed to such terms in the Act.

Section 1.01. "Annexable Area" shall mean the real property described in Exhibit "B" attached hereto and incorporated herein.

Section 1.02. "Articles" shall mean the Articles of Incorporation of the Association as filed or to be filed in the Office of the Secretary of State of the State of Nevada, as amended from time to time.

Section 1.03. "Assessment, Common" shall mean the annual charge against each Owner and his or her Lot, representing a portion of the costs incurred by the Board or the Association in enforcing and administering this Declaration and in otherwise performing the acts or duties which are required or permitted to be performed by the Board or the Association pursuant to the provisions of this Declaration.

Section 1.04. "Assessment, Special" shall mean a charge against a particular Owner and his Lot, directly attributable to or reimbursable by the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, or levied by the Board as a reasonable fine or penalty for noncompliance herewith, plus interest and other charges on such Special Assessment as provided for in this Declaration.

Section 1.05. "Association" shall mean STARFIRE ESTATES III HOMEOWNERS ASSOCIATION, a Nevada non-profit corporation.

Section 1.06. "Association Property" shall mean all real and personal property owned at any time by the Association, including the Common Areas and all facilities therein, and the Association's beneficial interest in any easements hereunder.

Section 1.07. "Board" shall mean the Board of Directors of the Association, elected in accordance with the Bylaws of the Association and this Declaration. The Board is an "Executive Board" as defined in NRS 116.110345.

Section 1.08. "Building" shall mean each structure erected by

Declarant on the Property which contains Units, together with all fixtures and equipment appurtenant thereto.

Section 1.09. "Bylaws" shall mean the Bylaws of the Association, as amended from time to time.

Section 1.10. "Common Areas" shall mean all portions of the Property with the exception of the Lots.

Section 1.11. "Declarant" shall mean RW DEVELOPMENT, INC., a Nevada corporation, together with its successors-in-interest.

Section 1.12. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

Section 1.13. "Lot" shall mean each residential lot in the Property shown as such on the Plat.

Section 1.14. "Member" shall mean any person who is a member of the Association pursuant to Article II hereof.

Section 1.15. "Mortgage" shall mean any mortgage or deed of trust or other conveyance of a Lot or other portion of the Property to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance. The term "deed of trust" when used herein shall be synonymous with the term "Mortgage."

Section 1.16. "Mortgagee" shall mean a person or entity to whom a Mortgage is made and shall include the beneficiary of a deed of trust.

Section 1.17. "Owner" shall mean the person or persons, including Declarant, holding a fee simple interest to a Lot which is a part of the Property, excluding (a) persons holding title as security for the performance of an obligation, and (b) vendors under installment land sale contracts. Vendees under installment land sale contracts shall be deemed "Owners" for purposes hereof, so long as the Board has received written notification of such installment land sale contract.

Section 1.18. "Phases" shall mean (a) the original Property, and (b) each portion of the Annexable Area hereinafter annexed to the Property pursuant to Article XI hereof.

Section 1.19. "Plat" shall mean that plat map of Starfire Estates III filed and recorded pursuant to NRS §116.2109, in Book 67 of Plats, Page 85, Official Records, Clark County, Nevada.

Section 1.20. "Property" shall mean that real property described in Exhibit "A" attached hereto and incorporated herein,

and any portions of the Annexable Area hereafter annexed to the real property subject to this Declaration in accordance herewith.

Section 1.21. "Resident" shall mean any person who is physically residing in a Unit.

Section 1.22. "Unit" shall mean each individual dwelling in a Building, comprised of all portions of the Building up to the center of the common demising wall, together with the airspace within such dwelling.

Section 1.23. "VA" shall mean the United States Department of Veterans Affairs.

ARTICLE II THE ASSOCIATION

Section 2.01. Organization. Starfire Estates III Homeowners Association has been or will be incorporated as the Association to which reference is made in this Declaration. The Association is organized and established under the Nevada Non-Profit Corporation Act. Upon dissolution of the Association, the assets of the Association shall be disposed of as set forth in its Articles of Incorporation or Bylaws.

Section 2.02. Membership. Each Owner (including Declarant), by virtue of being an Owner and only for so long as an Owner, shall be a Member of the Association. Membership in the Association shall be subject to this Declaration, the Articles of Incorporation and the Bylaws of the Association.

Section 2.03. Voting. Subject to Section 2.04 below, all Owners shall be entitled to cast one (1) vote for each Lot owned. In the event that fee simple title to a Lot is held by multiple Owners, the multiple Owners shall, prior to each meeting of the Association, provide the Association with a written statement, signed by all such multiple Owners, designating one person who shall have the right to cast the single vote assigned to the Lot owned by such multiple Owners.

Section 2.04. Appointment of Board. Declarant shall have the right to appoint and remove the members of the Board of Directors, subject to the following limitations:

(a) Not later than sixty (60) days after conveyance by Declarant of twenty-five percent (25%) of all Lots which Declarant has herein reserved the right to create, at least one (1) Director and not less than twenty-five percent (25%) of the total Directors must be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance by Declarant of fifty percent (50%) of all such Lots, not less than one-third (1/3) of the total Directors must be elected by Owners other than Declarant.

(c) The power reserved to Declarant in this Section 2.04 to appoint or remove a majority of the members of the Board of Directors shall terminate on the earlier of:

(i) Sixty (60) days after conveyance by Declarant of seventy-five percent (75%) of all Lots which Declarant has herein reserved the right to create;

(ii) Five (5) years after Declarant has ceased to offer any Lots for sale in the ordinary course of business; or

(iii) Five (5) years after any right to annex the Annexable Area has last been exercised pursuant to Article XI hereof.

Section 2.05. Transfer of Voting Rights. The right to vote may not be severed or separated from any Lot, and any sale, transfer or conveyance of fee interest in any Lot to a new Owner or Owners shall operate to transfer the appurtenant membership and voting rights without the requirement of any express reference thereto. Each Owner shall, within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Lot, notify the Association of such sale, transfer or conveyance.

Section 2.06. Removal of Directors. The Members, upon a two-thirds (2/3) affirmative vote of all persons present and entitled to vote at any Members' meeting at which a quorum is present, may remove any Director(s) with or without cause; provided, however that any Director appointed by Declarant may only be removed by Declarant.

Section 2.07. Annual Meeting of Members. The first meeting of the Members in the Property, whether annual or special, shall be held no later than six (6) months after the close of escrow for the first sale of a Lot in the Property. Thereafter there shall be an annual meeting of the Members on the anniversary of the first annual meeting, or the next business day thereafter if such anniversary falls on a weekend or holiday.

Section 2.08. Notice and Place of Meetings. Meetings of the Members shall be held in the Property or at such other convenient location near the Property and within Clark County as may be designated in the notice of the meeting. Written notice of meetings shall state the place, date and time of the meeting and those matters which the Board of Directors of the Association, at the time the notice is given, intends to present for action by the Members. The Secretary of the Association shall cause notice of

meetings to be sent to each Member within the Property, no earlier than sixty (60) days nor later than ten (10) days prior to the meeting.

Section 2.09. Special Meetings. A special meeting of the Members in the Property may be called at any reasonable time and place by written request (i) by the president of the Association, (ii) by a majority of the Directors, or (iii) by Members representing at least fifteen percent (15%) of the voting power of the Association. Notice of special meetings shall be given by the Secretary of the Association in the form and manner provided in Section 2.08, above.

Section 2.10. Record Date. The Board shall have the power to fix in advance a date as a record date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for an adjournment of the same meeting. A record date shall not be more than sixty (60) days nor less than ten (10) days prior to the date on which the particular action requiring determination of Members is proposed or expected to be taken or to occur. (34)

Section 2.11. Quorums. The presence at any meeting of Members who hold votes equal to forty percent (40%) of the total voting power of the Association, in person or by proxy, shall constitute a quorum for consideration of that matter. The Members present at a duly called meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken other than adjournment is approved by at least a majority of the Members required to constitute a quorum, unless a greater vote is required by law or by this Declaration. If any meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which reconvened meeting the quorum requirement shall be the presence, in person or by written proxy, of the Members entitled to vote at least twenty-five percent (25%) of the total votes of the Association. (21)

Section 2.12. Proxies. Every Member entitled to vote or execute statements or consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his or her duly authorized agent; provided, however that no such proxy shall be valid after the

expiration of one (1) year after the date of its execution.

Section 2.13. Actions. If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two (2) candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by law or by this Declaration.

Section 2.14. Consent of Absentees. The proceedings and transactions of any meeting of Members, either annual or special, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, a consent to the holding of such meeting or an approval of the minutes thereof. Neither the business to be transacted at, nor the purpose of any regular or special meeting of Members, need be specified in any written waiver of notice. All such waivers, consents or approvals shall be filed with the Association records or made a part of the minutes of the meeting.

Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by law to be included in the notice but not so included, if such objection is expressly made at the meeting.

Section 2.15. Action Without Meeting. Any action which may be taken at any annual or special meeting of the Members may be taken without a meeting and without prior notice, if authorized by a written consent setting forth the action so taken, signed by Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Members were present and voted, and filed with the Secretary of the Association; provided, however, that Directors may not be elected by written consent except by unanimous written consent of all Members. Any Member giving a written consent, or such Member's proxyholder, may revoke any such consent by a writing received by the Association prior to the time that written consents of the number of Members required to authorize the proposed action have been filed with the Secretary of the Association, but may not do so thereafter. Such revocation shall be effective upon its receipt by the Secretary of the Association.

Unless the consents of all Members have been solicited in writing and have been received, prompt notice shall be given, in the manner as for annual meetings of Members, to those Members who

have not consented in writing, of the taking of any Association action approved by Members without a meeting. Such notice shall be given at least ten (10) days before the consummation of the action authorized by such approval with respect to the following:

- (i) Approval of any reorganization of the Association;
- (ii) A proposal to approve a contract or other transaction between the Association and one or more Directors, or any corporation, firm or association in which one or more Directors has a material financial interest; or
- (iii) Approval required by law for the indemnification of any person.

Section 2.16. Adjourned Meetings and Notice Thereof. Any Members meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by a vote of a majority of the Members present either in person or by proxy thereat, but in the absence of a quorum, no other business may be transacted at any such meeting except as provided in Section 2.11.

When any Members meeting, either annual or special, is adjourned for seven (7) days or less, the time and place of the reconvened meeting shall be announced at the meeting at which the adjournment is taken. When any Members' meeting, either annual or special, is adjourned for more than seven (7) days, notice of the reconvened meeting shall be given to each Member as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at a reconvened meeting, and at the reconvened meeting the Members may transact any business that might have been transacted at the original meeting.

Section 2.17. Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association, including any reasonable provisions with respect to corporate matters; but in the event that any such provisions may be, at any time, inconsistent with any provisions of this Declaration, the provisions of this Declaration shall govern.

ARTICLE III RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 3.01. Common Areas. The Association shall be obligated to provide for the care, management, maintenance, and repair of the Association Property and Common Areas. Without limiting the generality of the foregoing, such obligation shall include keeping

the Common Areas in good, clean, attractive and sanitary condition, order and repair; repairing damage caused by the elements; removing any debris or foreign materials; disposing of trash placed in any common receptacles; repair and maintenance of any entry features, signage, landscaping common utility facilities and drainage facilities; replacement of burned-out streetlamps; and making all necessary alterations, additions, betterments or improvements to or on the Common Areas. Association Property may include such personal property as is necessary or appropriate to enable the Association to perform the duties or acts required or permitted to be performed by the Association pursuant to the provisions of this Declaration.

Section 3.02. Maintenance Inspections. Within thirty (30) days after the date which is one (1) year after the first close of escrow for a Lot, and annually thereafter, the Board and (so long as Declarant owns any portion of the Property) a representative of Declarant shall conduct a thorough walk-through inspection of the Common Areas and all exterior portions of the Buildings, including roofs. If at the time of such inspection there are no Board members other than those appointed by Declarant, up to two (2) Lot Owners shall be permitted to accompany such inspection. Following the inspection, the Board shall prepare a detailed written description of the existing condition of all such areas, facilities and Buildings, including a checklist of all items requiring repairs or special attention. A similar checklist shall be prepared and signed by the Board within thirty (30) days after the election of the first Board of Directors elected following Declarant's relinquishment of control of the Board pursuant to Section 2.04 above. It shall at all times be an express obligation of the Board to properly inspect (as aforesaid), repair, maintain and/or replace such items, facilities, structures, landscaping and areas as are required to maintain the Property in accordance with the condition thereof as originally constructed by Declarant (reasonable wear and tear excepted). The foregoing notwithstanding, neither Declarant nor the Board shall be liable for any failure or omission under this Section, so long as Declarant and/or the Board (as applicable) has acted in good faith and with reasonable due diligence in carrying out its responsibilities hereunder.

Section 3.03. Assessments. The Association shall levy assessments on the Owners in the Property and shall be empowered to enforce payment thereof, in accordance with the provisions of Article V hereof.

Section 3.04. Other Services. The Association may undertake or contract for any lawful activity, function or service provided for under the Articles of Incorporation, the Bylaws or this Declaration for the benefit of the Owners. In addition to the assessments described in Article V, all costs and expenses of activities, functions or services undertaken by the Association for the benefit of fewer than all of the Owners may, at the discretion of the Board, be assessed to the Owners benefitted thereby, and such

assessments shall be enforced in accordance with the provisions of Article V. The Association shall obtain from any governmental authority any licenses necessary or appropriate to carry out its functions hereunder.

Section 3.05. Rules and Regulations. The Association may make and enforce reasonable and uniformly applied rules and regulations governing the use of Lots and the Common Areas. Such rules and regulations may, without limitation: (i) regulate the use and parking of vehicles within the Property; (ii) regulate the use of the Common Areas; and (iii) prohibit noxious or offensive activities, nuisances, unsafe or hazardous activities or construction, emission of loud sounds or offensive odors and unsightliness. The Association shall furnish each Owner with a written copy of each such rule or regulation, but failure to furnish such copy shall not be deemed to invalidate such rules or regulations to any extent.

The Association shall have the right to enforce any of the rules and regulations of the Association and the obligations of any Owner under this Declaration or any provision of its Articles of Incorporation or By-Laws by assessing a reasonable fine against such Owner or Resident and/or suspending the right of such Owner to vote at meetings of the Association; provided that such use and/or voting suspension may not be imposed for a period longer than thirty (30) days per violation; and provided further that if any such violation continues for a period of ten (10) days after notice of such violation has been given to such Owner or Resident, such continuing violation shall be deemed to be a new violation and shall be subject to the imposition of new penalties. If any such fine imposed on an Owner or Resident by the Association is not paid by said Owner or Resident within thirty (30) days after written notice of the imposition of such fine, then the amount of such fine shall be added to the amount of the Common Assessment charged to the Lot of said Owner and shall be enforceable as an assessment in accordance with Article V. No penalty may be imposed under this Section until the Owner or Resident accused of any such violation has been afforded the right to be heard in person, by submission of a written statement, or through a representative, at any such hearing. The Association may also take judicial action against any Owner or Resident to enforce compliance with such rules, regulations or other obligations or to obtain damages for noncompliance, all to the extent permitted by law.

Should any Resident violate any rule or regulation or any provision of this Declaration, or should any Resident's act, omission or neglect cause damage to Common Areas or Association Property, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Lot on which the Resident resides. Likewise, should any guest of an Owner or Resident commit any such violation or cause such damage to Common Areas or Association Property, such

violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident (as well as the Owner of the Lot on which the Resident resides).

Section 3.06. Insurance. The Board shall cause to be obtained and maintained adequate blanket public liability insurance (including medical payments), with such limits as may be considered acceptable to the Federal National Mortgage Association (not less than \$1 million covering all claims for personal injury and property damage arising out of a single occurrence), insuring against liability for bodily injury, death and property damage arising from the activities of the Association and its Members, with respect to the Association Property and the Common Areas. The Board shall also cause to be obtained and maintained fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Common Areas and Association Property. Such insurance shall be maintained for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear as named insured, subject, however, to loss payment requirements as set forth herein. The Association shall purchase and maintain such additional insurance as it deems necessary and prudent, including, but not limited to, errors and omissions, directors, officers and agents' liability insurance, general casualty and/or liability insurance, medical payments, malicious mischief and vandalism insurance, fidelity bonds and workers' compensation, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect any insurance necessary to meet any requirements established by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), VA and/or FHA, so long as any such entity is an Owner of a Lot or holder or insurer of a Mortgage on a Lot in the Property, except to the extent such coverage is not available or has been waived in writing by the FNMA, GNMA, FHLMC, VA and FHA, as applicable. Certificates of insurance shall be issued to each Owner and Mortgagee upon written request.

As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors, and Declarant to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of such persons.

If available, all of the policies of insurance maintained by the Association shall contain a provision that such policy or policies shall not expire nor be canceled, terminated, or materially modified without at least thirty (30) days' prior written notice to the Board, Declarant, and Owners and those holders or insurers of first Mortgages who have filed a written request with the carrier for such notice, and every other person in interest who requires such notice of the insurer. The Association, acting through its Board of Directors, shall be the named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for herein shall be paid to the Board of Directors as trustees. The Board shall have full power to receive and to 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 in 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 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.

Each Owner shall be obligated to procure and maintain at all times, at such Owner's sole expense, a policy or policies of fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of such Owner's Unit and all fixtures, installations or additions comprising a part of the Unit, in accordance with the original plans and specifications. The Association shall be an additional named insured on each such policy. Each such policy shall include a clause providing for not less than thirty (30) days prior written notice to the Association of any cancellation, non-renewal or reduction of coverage under such policies. A certificate evidencing the current existence and validity of a policy containing all of the foregoing requirements shall be provided by each Owner to the Association no later than close of escrow for the sale of such Owner's Unit from Declarant to said Owner. The Association shall also be entitled from time to time to require any Owner to provide current certificate(s) evidencing the existence and validity of any insurance policy required hereunder. In the event any Owner fails to maintain any policy of insurance as required hereunder, the Association shall have, in addition to all other rights and remedies available under this Declaration, the right to purchase and obtain appropriate insurance with respect to any Unit. In such event, the Owner of such Unit shall be obligated to immediately reimburse the Association for the cost of the applicable premium and any other costs incurred by the Association in connection with such action, which reimbursement shall be a Special Assessment against the Owner

and his Unit, enforceable in accordance with the terms of this Declaration.

Section 3.07. Taxes. The Association shall timely pay all real and personal property taxes and assessments levied against the Common Areas and other Association Property. Each Owner shall timely pay all taxes levied against his Lot and any personal property.

Section 3.08. Right of Entry to Lots. The Association shall have an easement over each Lot for the purpose of performing its functions hereunder. The Association shall also have the right, upon not less than twenty-four (24) hours prior written notice (except in emergencies), to enter into any Unit for the purpose of carrying out its functions hereunder, or to enforce this Declaration or any rules and regulations of the Association. Any damage to any Lot or Unit caused by the Association or its agents during any such entry into any Lot or Unit shall be repaired by and at the expense of the Association, unless such entry was necessitated by the negligence or misconduct of the Owner, Resident or guest of such Unit.

Section 3.09. Implied Rights. The Association shall also have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by NRS 116.3102 or other applicable law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

Section 3.10. Limitation on Rights. The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

(a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one (1) year, except (i) a contract with a public utility company if the rates charged for the materials or services are regulated by the Nevada Public Service Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) prepaid casualty and/or liability insurance policies of no greater than three (3) years duration.

(b) Paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

(c) Commencing any legal action against Declarant or any officer, director, employee or affiliate of Declarant.

ARTICLE IV
COMMON AREAS AND EASEMENTS

Section 4.01. Conveyance to Association. All Common Areas in Phase 1 and each subsequent Phase shall be conveyed to the Association prior to the first close of escrow for sale of a Lot in Phase 1 or in such subsequent Phase (as applicable).

Section 4.02. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress and egress and of use and enjoyment in, to and over all Common Areas in the Property and all improvements and facilities located thereon. Said right and easement shall be appurtenant to and shall pass with the title to each Lot, subject to:

(a) The right of the Association to suspend voting rights and to impose fines and to suspend an Owner's right to use Common Areas and Association Property for nonpayment of any regular or special assessment by the Association against the Owner's Lot, or if an Owner is otherwise in breach of obligations imposed under this Declaration, the Bylaws, or the rules and regulations adopted by the Association;

(b) The right of the Association to adopt uniform rules and regulations regarding use, maintenance and upkeep of the Common Areas and Association Property;

(c) The right of the Association in accordance with the Articles, Bylaws and this Declaration, to borrow money for the purpose of improving the Common Areas and facilities and, so long as Owners constituting a majority of the voting power of the Association (including a majority of the votes allocated to Lots not owned by Declarant) have given their written assent, to (i) mortgage, pledge, deed in trust or hypothecate any or all of the Common Areas as security for money borrowed or debts incurred, provided that the rights of the mortgagee shall be subordinated to the rights of the Owners hereunder; and (ii) dedicate, release, alienate or transfer the Common Areas to any public agency, authority, utility or other person for such purposes and subject to such conditions as may be agreed upon by the Owners;

(d) The right of the Association (by action of the Board) to reconstruct, replace or refinish any Buildings or Common Areas in accordance with the original design, finish or standard of construction thereof; and if not in accordance with the original design, finish or standard of construction only with the vote or written consent of 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 Lots in the Property; and

(e) The right of all other Owners to similarly use and enjoy the Common Areas.

The foregoing rights and easements shall not be conveyed or otherwise transferred separately from the Lot to which they are appurtenant, and said rights and easements shall be deemed to be conveyed or encumbered with the Lot to which they are appurtenant whether or not the deed or instrument of conveyance makes reference thereto.

Section 4.03. Easements for Utilities, Repair, Maintenance, Emergencies. Declarant hereby reserves for itself and all future Owners easements over the Common Areas and all Lots for providing utilities, for maintaining the Common Areas and Association Property as required hereunder, and for making emergency repairs necessary to prevent damage to the Common Areas or any Lot.

Section 4.04. Sales/Management Office and Models. Declarant hereby reserves unto itself the right to maintain (a) a sales and/or management office, and (b) any number of model homes located in any Lots owned or leased by Declarant within the Property. Such office and models may be of such size as Declarant may see fit. Declarant shall have the right to relocate such office and/or model(s) from time to time to any Lots owned by Declarant. Declarant's rights under this Section shall terminate on the earlier of (i) the date all Lots in the Property have been conveyed by Declarant to homebuyers, or (b) five (5) years after the first close of escrow of a sale of a Lot by Declarant.

Section 4.05. Party Walls. Each wall which is constructed as part of the original construction of a Building and which is located on the dividing line between separate Units is herein referred to as a "party wall." The cost of reasonable repair and maintenance of a party wall shall be shared equally by each Owner whose Unit is demised in part by such wall. No structural changes in any party wall shall be undertaken without the prior written consent and approval of the Board and each of the adjoining Owners which share the use of the wall. In the event any party wall is damaged or destroyed through the act of one adjoining Owner or his guests, tenants, licensees, agents or members of his family, then such responsible party shall promptly proceed to rebuild or repair the same to as good a condition as prior to the incident at such party's sole cost and expense. Each Owner shall permit the adjacent Unit Owner or its contractors, when so required and upon reasonable prior notice, to enter his or her Unit for the purpose of repairing or replacing a party wall.

Section 4.06. Easement Data. The recording data, required to be contained herein pursuant to the provisions of NRS

116.2105(1)(m), 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 means 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 4.07. Encroachments. The physical boundaries of an existing Unit, or of a Unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than any metes and bounds expressed in the Plat or in an instrument conveying, granting or transferring a Lot, regardless of settling or lateral movement and regardless of minor variances between boundaries shown on the Plat or reflected in the instrument of grant, assignment or conveyance and the actual boundaries existing from time to time.

ARTICLE V FUNDS AND ASSESSMENTS

Section 5.01. Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or such other instrument, is deemed to covenant and agree to pay to the Association (1) annual Common Assessments for common expenses and (2) Special Assessments; such assessments to be established and collected as hereinafter provided. All assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. The personal obligation of assessments shall not pass to the successors-in-title of any Owner, unless expressly assumed by them.

Section 5.02. Maintenance Funds. The Board shall establish and maintain at least the following separate accounts (the "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: (1) an Operating Fund for current expenses of the Association, (2) a Reserve Fund for maintenance, replacement and improvements not required to be performed annually, and (3) any other funds which the Board of Directors may establish, to the extent necessary under the provisions of this Declaration. To qualify for higher returns on accounts held at banking or savings institutions, the Board may commingle any amounts deposited into any of the Maintenance Funds with amounts deposited into any other Maintenance Funds, provided that the integrity of each individual Maintenance Fund shall be preserved on the books of the Association by accounting for disbursements from, and deposits to, each Mainte-

nance Fund separately. Each of the Maintenance Funds shall be established as separate trust savings or trust checking accounts. The Maintenance Funds may be established as trust accounts at federally insured banking or lending institutions.

Section 5.03. Purpose of Assessments. All amounts deposited into the Operating Funds and the Reserve Fund must be used solely for the common benefit of all of the Owners for purposes authorized by the Articles, Bylaws and this Declaration, as they may be amended from time to time.

Section 5.04. Common Assessments. Each annual Common Assessment shall constitute an aggregate of separate assessments for each of the Maintenance Funds, reflecting an itemization of the amounts assessed and attributable to prospective deposits into the Reserve Fund, the Operating Fund and any other Maintenance Fund established by the Association.

Section 5.05. Date of Commencement of Common Assessments. Common Assessments shall commence as to all Lots in a particular Phase of the Property on the earlier of (a) the first close of escrow for the sale of any Lot in such Phase, or (b) conveyance of the Common Areas in such Phase to the Association. Each such Lot shall thereafter be subject to its share of the then established annual Common Assessment as set forth herein. The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year as set forth in the Bylaws. Said Common Assessment shall be levied equally against each Lot in the Property. Each Owner's share of such assessments shall be a fraction, the numerator of which shall be the number of Lots owned by such Owner, and the denominator of which shall be the total number of Lots in the Common-Interest Community. All installments of Common Assessments shall be collected in advance on a monthly basis by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments against a Lot shall be binding upon the Association as of the date of its issuance.

The Board shall adopt a proposed annual budget at least forty-five (45) days prior to the commencement of each fiscal year of the Association, which budget shall be subject to the limitations of Section 5.06 below. Within thirty (30) days after adoption of any proposed budget, the Board shall provide a summary of the budget to all Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget. Said meeting shall be held not less than fourteen (14) days nor more than thirty (30) days after mailing of the summary. Unless at that meeting the proposed budget is rejected by at least seventy-five percent (75%) of the voting power of the Association, the budget shall be deemed ratified, whether or not a quorum was present. If the proposed budget is duly

rejected as aforesaid, the annual budget for the immediately preceding fiscal year shall remain in effect until such time as a subsequent proposed budget is ratified.

From time to time the Board of Directors may determine that all excess funds remaining in the Operating Fund, over and above the amounts used for the operation of the Property, may be retained by the Association and used to reduce the following year's Common Assessment. Upon dissolution of the Association incident to the abandonment or termination of the maintenance of the Property, any amounts remaining in any of the Maintenance Funds shall be distributed pursuant to NRS 116.2118(7).

Section 5.06. Limitations on Common Assessment Increases. The Board shall not levy, for any fiscal year, an annual Common Assessment which exceeds the "Maximum Authorized Common Assessment" as determined pursuant to Section 5.06(a), below, unless first approved by the vote of Members representing at least a majority of the total voting power of the Association.

(a) Maximum Authorized Common Assessment for Initial Year of Operation. Until the first day of the fiscal year immediately following the fiscal year in which Common Assessments commence, the annual Maximum Authorized Common Assessment per Lot shall be Seven Hundred Dollars (\$700.00), prorated for the number of days remaining in said first fiscal year.

(b) Maximum Authorized Common Assessment for Subsequent Fiscal Years. Beginning with the fiscal year immediately following the fiscal year in which Common Assessments commence, the Maximum Authorized Common Assessment in any fiscal year shall not exceed one hundred fifteen percent (115%) of the Maximum Authorized Common Assessment in effect for the immediately preceding fiscal year (i.e., the Maximum Authorized Common Assessment shall not be increased by more than 15% in any one fiscal year).

(c) Supplemental Common Assessment. If in any fiscal year the Board reasonably determines that the common expenses of the Association cannot be met by the Common Assessments levied under the current budget, the Board may, upon the affirmative vote of a majority of the voting power of the Association, submit a Supplemental Common Assessment, applicable to that year only, for ratification as provided in Section 5.05 above.

Section 5.07. Capital Improvement Assessment. The Board, with the vote of Members representing at least fifty-one percent (51%) of the voting power of the Association, may levy, in any fiscal year, a capital improvement assessment applicable to that 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 upon the Property, including fixtures and personal property related thereto. All such capital improvement assessments must be fixed in the same proportion as Common Assessments are levied, and they may be collected in the manner and frequency as determined by the Board from time to time.

Section 5.08. Special Assessments. If any Owner or his family, guests, licensees, lessees or invitees violates the Articles, Bylaws, rules and regulations or this Declaration, the Board may, after Notice and Hearing as provided in the Bylaws, impose a reasonable Special Assessment upon such Owner for each violation.

Section 5.09. Remedies of the Association. In the event any installment of a Common Assessment or Special Assessment is not paid within fifteen (15) days after the due date, a late charge of Ten Dollars (\$10.00) shall be added to the amount of said installment. In addition, any installment of a Common or Special Assessment not paid within thirty (30) days after the due date shall bear interest from the due date of such installment at a rate of twelve percent (12%) per annum, but in no event shall such interest be more than the then maximum rate permitted by law. If any assessment or installment of an assessment is not paid within thirty (30) days after it is due, the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against his Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 5.10. Notice of Lien. No action shall be brought to enforce any assessment lien herein unless a Notice of Lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot, and a copy thereof has been recorded by the Association. Such Notice of Lien must state (a) the amount of the assessment and interest, costs (including attorneys' fees) and penalties, (b) a description of the Lot against which the assessment was made, and (c) the name of the record Owner of the Lot. The Notice of Lien shall be signed and acknowledged by an officer of the Association. The lien shall continue until fully paid or otherwise satisfied.

Section 5.11. Foreclosure Sale. The Association may enforce the lien by sale of the applicable Lot or Lots. In exercising its power of sale, the Association shall comply with such requirements and conditions and shall follow such procedure as may be established under the Act relative to the enforcement of such liens.

Unless otherwise permitted by law, no sale to foreclose an assessment lien may be conducted until (1) the Association, its agent or attorney has first executed and recorded a notice of default and election to sell the Lot or cause its sale to satisfy

the assessment lien ("Notice of Default"), and (2) the delinquent Owner or such Owner's successor in interest has failed to pay the amount of the delinquent assessment and interest, costs (including attorneys' fees) and expenses incident to its enforcement for a period of sixty (60) days. Such sixty (60) day period shall commence on the later of (a) the day on which the Notice of Default is recorded, or (b) the day upon which a copy of the Notice of Default is mailed by certified mail with postage prepaid to the Owner or such Owner's successor in interest at his address, if the address is known, and otherwise to the address of the Lot. The Notice of Default must describe the deficiency in payment, the name of the Owner and a legal description of the Lot. The Association, its agent or attorney shall, after the expiration of such sixty (60) day period and before the foreclosure sale, 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 first publication or posting by certified mail with postage prepaid to the Owner or such Owner's successor in interest at his address if known, and otherwise to the address of the Lot.

Section 5.12. Curing of Default. Upon the timely curing of any default for which a Notice of Lien was filed by the Association, the Association shall record an appropriate Release of Lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board, to cover the cost of preparing and recording such release.

Section 5.13. Cumulative Remedies. The assessment liens and the rights of 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 5.14. Priority of Assessment Lien. The lien of the assessments, including interest and costs (including attorneys' fees) as provided for herein, is prior and superior to all other liens and encumbrances except (a) liens and encumbrances recorded prior to the recordation of this Declaration, (b) liens for real estate taxes and other governmental assessments and charges, and (c) any bona fide first Mortgage recorded upon a Lot prior to the date the delinquent assessment(s) first accrued; provided, however, that the assessment lien is also prior to any Mortgage described in subsection (c) above to the extent of Common Assessments which became due during the six (6) months immediately preceding the date of filing of the Notice of Default described in Section 5.11 above. No such sale or transfer shall relieve any Lot from lien rights for any assessments coming due after the sale or transfer. The assessment lien shall not be affected by the sale or conveyance of any Lot except pursuant to foreclosure as aforesaid.

Section 5.15. Capital Contributions to the Association. Upon acquisition of record title to a Lot from Declarant, each Owner shall contribute to the capital account of the Association an amount equal to one-sixth (1/6th) of the amount of the then-applicable annual Common Assessment for such Lot. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed therefrom into the capital account of the Association.

ARTICLE VI
PROVISIONS WITH RESPECT TO THE LOTS AND THE COMMON AREAS

Section 6.01. Owner's Obligations to Maintain and Repair. Each Owner shall be obligated, at such Owner's sole expense, to maintain his or her Lot and that portion of any Building which is located on his or her Lot, in a clean, safe and attractive condition, substantially as originally installed (reasonable wear and tear excepted). Such maintenance obligations shall include, without limitation: (a) repainting the exterior of the Building at least every five (5) years or more frequently as necessary in the reasonable judgment of the Board; (b) repairing or replacing the roof as needed to withstand the elements and maintain the attractive condition of the roof; (c) promptly replacing any burned-out light bulbs or broken fixtures in the entry to the Unit; and (d) maintaining in an attractive condition all landscaping, sidewalks, walls and other improvements located on each such Owner's Lot. Each Owner shall also be responsible at such Owner's expense for maintenance, repair and replacement of the interior of his Unit, including (without limitation) all interior surfaces and all windows and doors enclosing his Unit. Each Owner shall also be responsible at such Owner's expense for maintenance, repair and replacement of the plumbing, electrical, heating and air conditioning equipment and facilities servicing his Unit.

Section 6.02. Alterations, Additions and Improvements.

(a) No Owner shall make any alterations, repairs of or additions to his Lot, Building or Unit (including, without limitation, re-painting or re-roofing), which would substantially alter the exterior appearance thereof, without the prior written approval of the plans and specifications therefor by the Board. The Board shall grant its approval only in the event that the proposed work will benefit and enhance the Property in a manner generally consistent with the plan of development thereof. The Board's approval or disapproval shall be in writing. Neither the Board nor any Architectural Review Committee established by the Board shall be responsible for reviewing, nor shall their approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

(b) The Board may delegate its powers under this Section

to an Architectural Review Committee appointed by the Board, which need not consist of Owners.

Section 6.03. Restrictions on Use of the Property.

The Property shall be occupied and used as follows:

(a) Each Lot shall be used exclusively for residential purposes. No part of the Property shall be used for commercial, manufacturing, mercantile, storage, vending or other such non-residential purposes; except that Declarant shall have the right to exercise the rights reserved in Section 4.04 above. No garage shall be utilized as living space.

(b) No Owner shall park, store or keep anywhere in the Property any large commercial type vehicle (including, but not limited to, any dump truck, cement mixer truck, fuel truck or delivery truck). The foregoing excludes trucks up to one (1) ton when used for everyday-type transportation. No vehicle shall be parked or stored on any street or right-of-way in the Property. Vehicles shall be parked in garages or in designated parking spaces, which shall be subject to the rules and regulations promulgated by the Board. No Owner shall park, store or keep anywhere in the Property any inoperable vehicle.

(c) No repairs of any vehicle shall be undertaken within the Property, except for oil changes and similar routine maintenance, which shall be conducted wholly within a garage with the door closed.

(d) No Owner shall permit anything to be done or kept in his Lot or Unit or in the Common Areas which would be in violation of any law. No waste shall be committed in any Unit, Lot or Common Areas. Nothing shall be kept or stored in the Common Areas, nor shall anything be altered, or constructed or planted in, or removed from, the Common Areas, without the written consent of the Board.

(e) No sign of any kind shall be displayed to the public view on or from any part of the Property without the prior consent of the Board, except (i) signs used by Declarant in the original development, sale and/or leasing of the Property, and (ii) one (1) "For Sale" sign of dimensions no larger than 18" x 24" on any Lot during the time such Lot is actually being offered for sale.

(f) No noxious or offensive activity shall be carried on, nor shall any outside lighting or loudspeakers or other sound producing devices be used, nor shall anything be done in any part of the Property, which, in the judgment of the Board, may be or become an unreasonable annoyance or nuisance to the

other Owners. All garbage shall be placed in dumpsters or other common receptacles placed on the Property by Declarant or the Association.

(g) No clothes, clothesline, sheets, blankets, laundry of any kind or articles shall be hung out or exposed on any part of the Lots or Common Areas, with the exception of well-maintained patio furniture on patios. All Lots and Common Areas shall be kept clear of rubbish, debris and other unsightly materials. Barbecue devices shall be well-maintained and used in strict accordance with all applicable fire codes and other regulations.

(h) Window treatment other than draperies, curtains or blinds (horizontal or vertical) are subject to the prior written approval of the Board. Aluminum foil and similar material shall not be permitted in any exterior windows. Window tinting shall require the prior written approval of the Board, and shall be properly installed and maintained so as not to become damaged, scratched, discolored or otherwise unsightly.

(i) No antennae or satellite dish shall be installed or maintained anywhere in the Property.

(j) Each Owner may keep no more than two (2) common household pets in his Lot (except fish and caged birds. Pets shall not be allowed on any portion of the Common Areas unless the Board elects otherwise pursuant to its Rules and Regulations. No animal shall be kept, bred or maintained for commercial purposes, and each Owner shall be responsible for cleaning up any excrement or other unclean or unsanitary condition caused by said animal in the Lots or Common Areas. The Board shall have the right to prohibit any animal within the Property which constitutes a private nuisance to any person. The Board may also promulgate additional rules and regulations further regulating the keeping of pets.

(k) No outbuilding, tent, shack, shed or other temporary building or improvement of any kind shall be placed upon any portion of the Property, except as used by Declarant during the original period of construction.

(l) There shall be no interference with the established drainage pattern over any Lot in the Property, unless and until adequate alternative drainage provisions are made with the approval of the Board.

(m) No Lot or Unit shall be rented or leased for hotel or transient purposes. Any lease for a period of less than thirty (30) days shall be deemed to be for transient purposes. Any lease of a Lot or Unit shall be in writing and shall include

an acknowledgment by the tenant of the applicability of this Declaration and the Rules and Regulations of the Board. Copies of all leases shall be provided to the Board for its prior approval. ←

Section 6.04. Liability of Owners for Negligence. Each Owner shall be liable to the Board for any damage to the Association Property and Common Areas caused by the negligence or willful misconduct of the Owner or his family, resident, tenant, guests, invitees or pets, to the extent that the damage is not covered by insurance.

Section 6.05. Rules of the Board. All Owners and occupants shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Board for all damages and costs, including attorneys' fees.

Section 6.06. Abatement of Violations. The violation of any rule or regulation adopted by the Board, or the breach of this Declaration, shall give the Board the right, in addition to any other right or remedy elsewhere available to it:

(a) to enter onto a Lot in which, or as to which, such violation or breach exists, and to summarily abate and remove, at the expense of its Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of any of the foregoing documents, and the Board shall not be deemed to have trespassed or committed forcible or unlawful entry or detainer;

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve percent (12%) per annum until paid, shall be charged to and assessed against such defaulting Owner, and the Board shall have a lien for all of the same upon the Lot of such defaulting Owner. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

Section 6.07. Owner's and Mortgagee's Power to Enforce Declaration. If the Board has failed to act to enforce any provision of this Declaration for ten (10) days after written demand by any Owner or Mortgagee of any Lot, then any such Owner or Mortgagee shall be entitled to prosecute, on behalf of the Board

ers, any action authorized hereunder to be
Board, and shall be entitled to any other
ble relief.

No Waiver. The failure of the Board to insist in
stances upon the strict performance of any of the
conditions or restrictions of this Declaration,
or to exercise any right or option herein contained, or to serve
any notice or to institute any action, shall not be construed as a
waiver or a relinquishment for the future of such term, covenant,
condition or restriction, but such term, covenant, condition or
restrictions shall remain in full force and effect. The receipt by
the Board or its manager of any assessment from an Owner with
knowledge of the breach of any covenant hereof shall not be deemed
a waiver of such breach, and no waiver by the Board or its manager
of any provision hereof shall be deemed to have been made unless
expressed in writing and signed by the Board or the manager.

Section 6.09. Transfers. Prior to transfer of a Lot, the Owner
thereof shall notify the Board in writing of the name and address
of the transferee, the nature of the transfer and the Lot involved,
as well as such other information relative to the transfer and the
transferee as the Board may reasonably request.

ARTICLE VII AMENDMENT

Section 7.01. Amendment By Declarant. Any amendment to this
Declaration pursuant to the exercise of any Developmental Rights
reserved herein may be made by recordation of a written instrument
signed by Declarant setting forth such amendment, in accordance
with NRS 116.2110.

Section 7.02. Amendment By Members. Except as provided in
Section 7.01 above, the provisions of this Declaration may be
amended only by recordation of a certificate, signed and
acknowledged by the President or Secretary of the Association,
setting forth the amendment and certifying that such amendment has
been approved by Members representing at least sixty-seven percent
(67%) of the voting power of the Association and the requisite
percentage of holders and insurers of first Mortgages, in the case
of those amendments which this Declaration requires to be approved
by first Mortgagees, and such an amendment shall be effective upon
recordation. In addition, except as permitted by the Act, no
amendment may change the boundaries of any Lot, change the uses to
which any Lot is restricted or change the allocated interests of a
Lot, without the unanimous consent of all Owners whose Lots are so
affected.

Section 7.03. Approval of First Mortgagees. Anything to the
contrary herein notwithstanding, any of the following amendments,

to be effective, must be approved by the record holders and insurers of sixty-seven percent (67%) of all first Mortgages at the time of such amendment, based upon one (1) vote for each Mortgage owned or insured:

(a) Any amendment which affects or purports to affect the validity or priority of encumbrances or the rights or protections granted to holders, insurers and guarantors of first Mortgages as provided herein.

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

(c) Any amendment which would or could result in an encumbrance being canceled by forfeiture, or in the individual Lot not being separately assessed for tax purposes.

(d) Any amendment relating to the insurance provisions or to the application of insurance proceeds as set out in Section 3.06 hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which would or could result in termination or abandonment of the Property or subdivision of a Lot, in any manner inconsistent with the provision of this Declaration.

(f) Any amendment concerning:

(i) Voting rights;

(ii) Reserves for maintenance, repair, and replacement of Common Areas;

(iii) Responsibility for maintenance and repairs;

(iv) Reallocation of interests in the Common Areas or rights to their use;

(v) Reallocation of obligations of any Lot(s) for purposes of levying assessments;

(vi) Convertibility of Lots into Common Areas or vice versa;

(vii) Expansion or contraction of the project,

or the addition, annexation, or withdrawal of property to or from the project, except for Annexation Amendments adding portions of the Annexable Area in the manner provided in Article XI below;;

(viii) Imposition of any restrictions on an Owner's right to sell or transfer his or her Lot;

(ix) A decision by the Association to establish self-management where professional management has been required by any Mortgagee, insurer or guarantor of any first Mortgage;

(x) Restoration or repair of the Property (after damage or partial condemnation) in a manner other than that specified in this Declaration;

(xi) Any provisions that expressly benefit mortgage holders, insurers, or guarantors; and

(xii) Any material amendment as defined in Section 601.02 of the FNMA Lending Guide (as amended from time to time).

Any approval by a holder, insurer or guarantor of a first Mortgage required under this Article VII, or required pursuant to any other provisions of this Declaration, shall be given in writing: provided that prior to any such proposed action, the Association or Declarant, as applicable, may give written notice of such proposed action to any or all holders, insurers and guarantors of a first Mortgage, and for thirty (30) days following the receipt of such notice, such holder, insurer or guarantor of a first Mortgage shall have the power to disapprove such action by giving written notice to the Association or Declarant, as applicable. If no written notice of disapproval is received by the Association or Declarant, as applicable, within such thirty (30) day period, then the approval of such holder, insurer or guarantor shall be deemed given to the proposed action, and the Association or Declarant, as applicable, may proceed as if such approval was obtained with respect to the request contained in such notice.

A certificate, signed and sworn to by two (2) officers of the Association that Members representing a majority of the voting power of the Association have voted for any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The certificate reflecting any termination or amendment which requires a written consent of Declarant or any of the record holders of the first Mortgages shall include a certification that the requisite approval of Declarant or such holders of first Mortgages has been obtained or waived. The Association shall

maintain in its files the record of all such votes and Mortgagee consent solicitations and disapprovals for a period of at least four (4) years.

ARTICLE VIII
MORTGAGEE PROTECTION

Any and all provisions of this Declaration to the contrary notwithstanding, in order to induce FHLMC, GNMA, FNMA, VA and FHA to participate in the financing of the sale of Lots within the Property, the following provisions are added hereto (and to the extent these added provisions, pertaining to the rights of Mortgagees, FHLMC, FNMA, GNMA, VA and FHA, conflict with any other provisions of this Declaration, the Articles or Bylaws, these added restrictions shall control):

(a) Each holder, insurer and guarantor of a first Mortgage encumbering any Lot, upon filing a written request for notification with the Board, is entitled to written notification from the Association of (i) any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under the Declaration, which default is not cured within sixty (60) days after the Association learns of such default; (ii) any condemnation or casualty loss which affects either a material portion of the project or the Lot securing its Mortgage; (iii) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (iv) any proposed action requiring the consent of a specified percentage of eligible Mortgagees. For purposes of this Declaration, "first Mortgage" shall mean a Mortgage with first priority over other Mortgages or deeds of trust on a Lot in the Property and "first Mortgagee" shall mean the holder of a first Mortgage.

(b) Each first Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to judicial foreclosure or the powers provided in such Mortgage shall take title to such Lot free and clear of any claims for unpaid assessments or charges against such Lot which became due during the six (6) months immediately preceding the date of filing of the Notice of Default described in Section 5.11 above.

(c) 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 Areas and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(d) The Reserve Fund described in Article V of this Declaration must be funded by regularly scheduled monthly, quarterly, semiannual or annual payments rather than by large, special (irregular) assessments.

(e) The Board shall secure and cause to be maintained in force at all times a fidelity bond for any person or entity handling funds of the Association, including, but not limited to, employees of any professional manager. ←

(f) Each Owner, including every first Mortgagee which obtains title to a Lot, shall be exempt from any "right of first refusal" created or purported to be created by this Declaration.

(g) In addition to the foregoing, the Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of FHLMC, FNMA, GNMA, VA and FHA, or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first Mortgages encumbering Lots with residences thereon. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential Mortgage borrowers and potential sellers of their respective Lots, if such agencies approve the Property as a qualifying community 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 Lot.

ARTICLE IX DESTRUCTION AND CONDEMNATION

Section 9.01. Damage or Destruction. Damage to or destruction of all or any portion of the Property shall be handled in the following manner:

(a) Any portion of the Property for which the Association is required by this Declaration to maintain insurance, which is damaged or destroyed, must be replaced or repaired promptly by the Association unless: (i) the common-interest community is terminated, in which case the provisions of NRS 116.2118, 116.21183 and 116.21185 apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or (iii) 80% of the Lot Owners vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If all damaged portions of the Property are not repaired or replaced, (1) the proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Property, and

(2) the remainder of the proceeds must be distributed to all Owners or lien holders, as their interests may appear, in proportion to the liabilities of all Lots for common expenses.

(b) Any Unit which is damaged or destroyed must be promptly replaced or repaired, by and at the sole expense of the Owner of such Unit, substantially to its appearance and condition immediately prior to such casualty or as otherwise approved by the Board. The Owner of any such damaged Unit shall proceed with all due diligence hereunder, and shall cause reconstruction to commence within thirty (30) days after the damage occurs and to be completed within six (6) months thereafter, unless prevented by causes outside such Owner's reasonable control. The cost of repair, maintenance and restoration of common demising walls between any two Units shall be shared equally by the Owners thereof. The foregoing notwithstanding, any Owner who by his willful or negligent acts or omissions causes damage to any common demising wall shall bear the entire cost of repairing or replacing the wall. The right of any Owner to contribution from an adjoining Owner under this Section shall run with the land and shall pass to each such Owner's successor-in-interest.

(c) Each Owner shall be liable to the Association for any damage to the Common Elements not fully reimbursed to the Association by insurance proceeds which may be sustained by reason of the negligence or willful misconduct of said Owner or of the persons deriving their right and easement of use and enjoyment of the Common Elements from said Owner, or of his respective family and guests, both adult and minor. The Association reserves the right, acting through the Board, after Notice and Hearing, to (i) determine whether any claim shall be made upon the insurance maintained by the Association, and (ii) levy against such Owner a Special Assessment equal to any deductible paid and to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner or the persons for whom such Owner may be liable as described herein. In the case of joint ownership of a Lot, the liability of the 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 Owner.

Section 9.02. Eminent Domain. If part of the Common Areas are acquired by eminent domain, the portion of the award attributable to the Common Areas taken must be paid to the Association. For purposes of NRS 116.1107(2)(a), if part of a Lot is acquired by eminent domain, the award shall compensate the Lot's Owner for the reduction in value of the Lot's interest in the Common Areas. The

basis for such reduction shall be the extent to which the occupants of the Lot are impaired from enjoying the Common Areas. In cases where the Lot may still be used for dwelling purposes, it shall be presumed that such reduction is zero (0).

ARTICLE X
SPECIAL DECLARANT'S RIGHTS

Section 10.01. Special Declarant's Rights. Pursuant to NRS 116.2105(1), Declarant reserves the following Special Declarant's Rights, on the terms and conditions and subject to the expiration deadlines set forth below:

Section 10.02. Right to Complete Improvements and Construction Easement. Declarant hereby reserves the right, for a period of sixty (60) months following the recordation of this Declaration, to complete the construction of improvements on the Property, and Declarant reserves an easement over the Property for the purpose of doing so. Any damage caused to a Lot or the Common Areas by Declarant or its agents in the use or exercise of such right and/or easement shall be repaired by and at the expense of Declarant.

Section 10.03. Offices, Model Homes and Promotional Signs. Declarant reserves the right to maintain offices for sales and management and models as provided in Section 4.04 above, and signs on the Common Areas, for so long as Declarant owns any Lot.

Section 10.04. Appointment and Removal of Directors. Declarant reserves the right to appoint and remove a majority of the Board, as set forth in Section 2.04 above, for the time period set forth therein.

ARTICLE XI
ANNEXATION

Section 11.01. Annexation of Additional Territory. Portions of the Annexable Area may be annexed to the Property from time to time in the manner set forth hereinafter.

Section 11.02. Additions by Declarant. Declarant or its successors or assigns shall have the right from time to time to add the Annexable Area, or any Phases therein (including any Common Areas located therein), to the Property and to bring such added territory within the general plan and scheme of this Declaration without the approval of the Association, its Board, or Members; provided that the improvements to be constructed thereon are substantially completed prior to annexation, and further provided that such a right of Declarant and its successors and assigns shall terminate on the fifth (5th) anniversary of the recordation of this Declaration. Any such future improvements on annexed property

shall be consistent with the initial improvements in terms of quality of construction. Prior to any annexation under this Section, detailed plans for the development of the additional property must be submitted to the VA and the VA must first determine that such plans are in accordance with the development plan and so advise Declarant.

Section 11.03. Rights and Obligations of Members of Added Territory. Subject to the provisions of Section 11.04, upon the recording of an appropriate "Annexation Amendment," all provisions contained in this Declaration shall apply to the real property described in such Annexation Amendment (the "added territory") in the same manner as if it were originally covered by this Declaration. Thereafter, the rights, powers and responsibilities of the parties to this Declaration with respect to the added territory shall be the same as with respect to the property originally covered hereby, and the rights, powers and responsibilities of the Owners, lessees and occupants of Lots within the added territory, as well as within the property originally subject to this Declaration, shall be the same as if the added territory were originally covered by this Declaration. Upon annexation to the Property, the Owners of Lots located in the added territory shall share in the payment of assessments to the Association. Voting rights attributable to the Lots in the added territory shall not vest until annual assessments have commenced as to such Lots. Upon annexation of any added territory, all Developmental Rights (as defined in NRS 116.11034) reserved with respect to such added territory shall be deemed to have expired.

Section 11.05. Annexation Amendment. The additions authorized under Sections 11.02 shall be made by recording an Annexation Amendment to this Declaration which shall (a) describe the added territory, (b) assign an identifying number to each new Lot created, (c) reallocate the allocated interests among all Lots to the extent required by NRS 116.2110, and (d) describe any Common Areas. The Annexation Amendment shall be signed by Declarant. Upon recordation of said Annexation Amendment, and upon compliance with NRS 116.2109(6) with respect to amendment of the Plat, said added territory shall become and constitute a part of the Property, become subject to this Declaration and encompassed within the general plan and scheme of covenants, conditions, restrictions, reservation of easements and equitable servitudes contained herein, and become subject to the functions, powers and jurisdiction of the Association; and the Owners of Lots in the added territory shall automatically become Members.

ARTICLE XII MISCELLANEOUS

Section 12.01. Duration of Declaration. Each of the provisions contained in this Declaration shall run with the land and continue and remain in full force and effect perpetually, unless a

Declaration of Termination approved by at least eighty percent (80%) of the voting power of the Association is recorded.

Section 12.02. Effect of Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration (i) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in the Property or in any Lot is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (ii) shall, by virtue of acceptance of any right, title or interest in the Property or in any Lot by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and shall be binding on such Owner and such Owner's heirs, personal representatives, successors and assigns to, with and for the benefit of the Association and with and for the benefit of any other Owner; (iii) shall be deemed a real covenant by Declarant for itself, its successors and assigns and also an equitable servitude, running, in each case, as a burden with and upon the title to the Property and each Lot for the benefit of the Property and each Lot; and (iv) shall be deemed a covenant, obligation and restriction secured by a lien in favor of the Association, burdening and encumbering the title to the Property and each Lot in favor of the Association.

Section 12.03. Enforcement and Remedies. In addition to any other remedies herein provided, each provision of this Declaration may be enforced by the Association, or any Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages. By accepting a deed to his Lot each Owner hereby acknowledges and agrees that every violation of this Declaration shall create an irrebuttable presumption of immediate and irreparable damage without adequate remedy at law, entitling Declarant, the Association and/or any Owner to obtain a temporary restraining order, preliminary or permanent injunction (mandatory or prohibitory) abating such violation. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover from the losing party any costs and expenses in connection therewith, including reasonable attorneys' fees.

Section 12.04. Protection of Encumbrances. Notwithstanding any other provision hereof, no amendment, violation, breach of, or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any Mortgage, deed of trust or other lien on any Lot taken in good faith and for value and recorded prior to the time of recording of notice of such amendment, violation, breach or failure to comply. Any subsequent Owner of such Lot shall, however, take subject to this Declaration, whether

such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

Section 12.05. Construction. The provisions of this Declaration shall be liberally construed to promote and effectuate the purposes of the Association as set forth in this Declaration, and no provision hereof shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over the Property. The provisions of this Declaration shall be construed and governed by the laws of the State of Nevada. This Declaration is intended to comply with the provisions of Nevada's Uniform Common-Interest Ownership Act, Chapter 116 of Nevada Revised Statutes (the "Act"). In the event any provision of this Declaration is held to be violative of the Act, this Declaration shall be deemed amended to the extent necessary to comply with the Act.

Section 12.06. Non-Avoidance. No Owner through non-use or abandonment of his or her Lot may avoid the burdens imposed on him or her by this Declaration.

Section 12.07. Limited Liability. Neither Declarant, the Association, any member of the Board of Directors of the Association, any officer of the Association, any committee representative, nor any agent or employee of Declarant or the Association, shall be liable to any Owner or 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 committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

Section 12.08. Business of Declarant. Declarant hereby reserves the right to create and develop up to eighty four (84) total Lots, together with such additional improvements as may be indicated on the Plat and Plans (as the same may be amended from time to time); provided, however, that Declarant makes no assurances as to whether all of such Lots and improvements will be created or developed, nor any representation as to the sequence, timing or location of such further development. Unless otherwise expressly provided elsewhere herein, any "Developmental Rights" or "Special Declarant's Rights" (as those terms are defined in the Act) reserved to Declarant in this Declaration may be exercised with respect to different portions of the Property at different times, and the exercise of such rights in a portion of the Property shall not necessitate the exercise of any such right in all or any portion of the remaining Property.

Section 12.09. Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association, each Owner and their respective heirs, personal representatives,

successors and assigns.

Section 12.10. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid or enforceable part of a provision of this Declaration.

Section 12.11. Priorities and Inconsistencies. If there exists any conflict or inconsistency between this Declaration and the Articles of Incorporation, the Bylaws, or any rules and regulations of the Association, the terms and provisions of this Declaration shall prevail.

Section 12.12. Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

Section 12.13. No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

Section 12.14. Further Assurances. The Association and each Owner hereby agree to do such further acts and execute and deliver such further instruments as may reasonably be required to effectuate the intent of this Declaration.

Section 12.15. Notices. Any notice, information or material required to be given hereunder shall be deemed furnished or delivered to a party at the time a copy thereof is deposited in regular U.S. mail, postage prepaid, addressed to the party, and in any event, when such party actually receives such notice, information or material. Any notice, information or material shall be deemed properly addressed to an Owner if it is addressed to the name and address shown on the most recent written notice of name and address, if any, furnished to the Association by such Owner or, if a name and address is not so furnished, if it is addressed to the Owner at the street address of a Lot owned by Owner. Notices, information and material required to be given hereunder to Declarant, the Association, the Board or any committee shall be addressed to such entity care of the Association at the main office of the Association.

Section 12.16. VA/FHA Approval. So long as Declarant retains effective control of the Association, the following actions shall require the prior written approval of VA and FHA, as applicable: (a) amendment of this Declaration; (b) mergers, consolidations or dissolutions of the Association; (c) annexation or deannexation of real property to or from the Property; and (d) dedication, conveyance or mortgage of Common Areas or Association Property.

IN WITNESS WHEREOF the undersigned has executed this

Declaration as of the date first set forth above.

DECLARANT:

RW DEVELOPMENT, INC., a Nevada corporation

By:

[Signature]
Richard W. Wenman
President

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

This instrument was knowledged before me on July 3, 1995, by RICHARD W. WENMAN as President of RW Development, Inc.

[Seal]

Wanda J. Fish

NOTARY PUBLIC

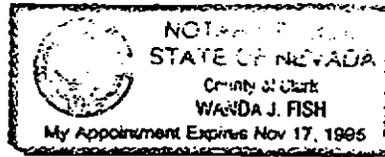


EXHIBIT "A"

(Description of Property)

A portion of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of Section 33, Township 20 South, Range 60 East, M.D.B. & M., City of Las Vegas, Clark County, Nevada, more particularly described as follows:

ALL OF STARFIRE ESTATES III AS SHOWN BY MAP ON FILE IN BOOK 67 OF PLATS, PAGE 85, AND RECORDED MAY 12, 1995 AS INSTRUMENT NO. 01358 IN BOOK 950512, OFFICIAL RECORDS, CLARK COUNTY, NEVADA;

EXCEPTING THEREFROM: LOTS THIRTEEN (13) THROUGH FIFTY SIX (56), INCLUSIVE, AND LOTS SIXTY NINE (69) THROUGH EIGHTY (80), INCLUSIVE, AS SHOWN ON THE ABOVE-REFERENCED MAP.

EXHIBIT "B"
(Annexable Area)

LOTS THIRTEEN (13) THROUGH FIFTY SIX (56), INCLUSIVE, AND LOTS SIXTY NINE (69) THROUGH EIGHTY (80), INCLUSIVE, OF STARFIRE ESTATES III AS SHOWN BY MAP THEREOF ON FILE IN BOOK 67 OF PLATS, PAGE 85, OFFICIAL RECORDS, CLARK COUNTY, NEVADA, AND RECORDED MAY 12, 1995 AS INSTRUMENT NO. 01358 IN BOOK 950512, OFFICIAL RECORDS, CLARK COUNTY, NEVADA.

When recorded return to:

Timothy J. Adams, Esq.
6900 Westcliff Drive
Suite 515
Las Vegas, Nevada 89128

When Recorded Return To:

Angela K. Rock, Esq.
James, Driggs, Walch, Santoro,
Kearney, Johnson & Thompson
3773 Howard Hughes Parkway, Suite 290N
Las Vegas, NV 89109

APN:

**FIRST STATUTORILY MANDATED AMENDMENT
TO THE DECLARATION OF COVENANTS, CONDITIONS, & RESTRICTIONS OF
THE STARFIRE ESTATES III HOMEOWNERS' ASSOCIATION**

AMENDMENT TO THE DECLARATION

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FIRST STATUTORILY MANDATED AMENDMENT TO THE DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE STARFIRE ESTATES III HOMEOWNERS' ASSOCIATION

THIS AMENDMENT TO THE DECLARATION is made on this 4 day of Oct 2000,
by the Starfire Estates III Homeowners' Association, a Nevada non-profit corporation (the
"Association").

RECITALS

WHEREAS, the Declaration of Covenants Conditions and Restrictions for the Starfire Estates III Homeowners' 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 Starfire Estates III Community (the "Community"); and

WHEREAS, the Declaration was recorded in the office of the Clark County Recorder on August 2, 1995 in Book No. 950802 Instrument No. 01304 which Declaration provides 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 Section 37 of Senate Bill 451 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 his 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:

DEFINITIONS

Article I Section 1.00A is hereby added to read as follows:

Section 1.00A **Administrator**

"Administrator" shall mean the administrator of the Real Estate Division of the Department of Business and Industry.

DEFINITIONS

Article I Section 1.12A is hereby added to read as follows:

Section 1.12A Emergency

“Emergency” shall mean any occurrence or combination of occurrences that:

- a. Could not have been reasonably foreseen;
- b. Affects the health, welfare, and safety of the units’ owners of the Association;
- c. Requires the immediate attention of, and possible action by, the Board; and
- d. Makes it impracticable to comply with the notice, agenda, or Owner comment requirements applicable to meetings of either the Members or the Board, as the case may be.

CREATION AND MEMBERSHIP IN ASSOCIATION

Article II Section 2.00 is hereby added to read as follows:

Section 2.00 Turnover by Declarant

Within 30 days after Members other than the Declarant may elect a majority of the Directors, the Declarant shall deliver to the Association all property of the Members and of the Association held by or controlled by Declarant, including, but not limited to:

1. The original or a certified copy of the recorded Declaration as amended, the Articles of Incorporation, if applicable, the By-Laws, Rules and Regulations, if applicable, minute books, and other books and records of the Association; and
2. An accounting of the money of the Association and financial statements from the date the Association received money to the date the period of the Declarant’s control ends. The financial statements must fairly and accurately report the Association’s financial condition prepared in accordance with generally accepted accounting principles; and
3. A complete study of the reserves of the Association, conducted by a person qualified by the Administrator, and at the time the control of the Declarant ends, the Declarant shall:
 - a. Deliver to the Association a reserve account that contains the Declarant’s share of the amounts then due, and control of the account.
 - b. Disclose, in writing, the amount by which the Declarant has subsidized the Association’s dues on a per unit or per lot basis; and
4. The Association’s money or control thereof; and

5. All of the Declarant's tangible personal property that has been represented by the Declarant as property of the Association or, unless the Declarant has disclosed in the public offering statement that all such personal property used in the Association will remain the Declarant's property, all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties; and
6. A copy of any and all plans and specifications used in the construction of the improvements in the Association which were completed within 2 years before the Declaration was recorded; and
7. All insurance policies, then in force, in which the Members, the Association, or the Directors and Officers are named as insured persons; and
8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Association other than units in a planned community; and
9. Any renewable permits and approvals issued by governmental bodies applicable to the Association which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the Community; and
10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective; and
11. A roster of Members and Mortgagees of units and their addresses and telephone numbers, if known, as shown on the Declarant's records; and
12. Contracts of employment in which the Association is a contracting party; and
13. Any contract for service in which the Association is a contracting party or in which the Association or the Members have any obligation to pay a fee to the persons performing the services.

RIGHTS AND OBLIGATIONS

Article III Section 3.00 is hereby added to read as follows:

Section 3.00 Powers and Duties

The duties and powers of the Association are those set forth in the Act and this Declaration, the Articles and By-Laws, together with the general and implied powers of a non-profit corporation generally to do any and all things that such a corporation may lawfully do which

are necessary or proper, in operating for the peace, health, comfort, safety, and general welfare of its Members. This Declaration may not impose limitations on the power of the Association to deal with the Declarant which are more restrictive than the limitations imposed on the power of the Association to deal with other persons.

RIGHTS AND OBLIGATIONS

Article III Section 3.05 is hereby amended to include the following:

Section 3.05 Rules and Regulations

1. **Purpose:** The Rules and Regulations must be reasonably related to the purpose for which they are adopted and sufficiently explicit in their prohibition, direction, or limitation to inform a Member or other individual of any action or omission required for compliance. In addition, the Rules and Regulations must not be adopted to evade any obligation of the Association and they must be consistent with the Declaration and By-Laws. They may not arbitrarily restrict conduct or require the construction of any capital improvement by a Member that is not required by the Declaration or By-Laws.
2. **Enforcement:** The Rules and Regulations must be uniformly enforced under the same or similar circumstances against all Members.
3. **Fines:** A fine may be imposed for the violation of any Rule or Regulation if, at least 30 days before the violation, the Member and/or individual received notice of the Rule or Regulation and then, after the violation, the Member or individual received notice of the right to request a hearing and be heard regarding the alleged violation.

FUNDS AND ASSESSMENTS

Article V Section 5.04 is hereby amended to include the following:

Section 5.04 Common Assessments

1. **Declarant Responsibility:** Until the Association establishes an annual assessment for common expenses, the Declarant shall pay all common expenses.
2. **Time Period:** After an assessment has been made by the Association, assessments must be made at least annually, based on a budget adopted at least annually by the Association. The Budget must include a Budget for the daily operation of the Association and the money for the reserve required by the Act.
3. **Applicability:** Except for assessments under subsections 4 to 7, inclusive, all common expenses, including a reserve, must be assessed against all the units in accordance with the allocations set forth in this Declaration pursuant to the Act.

4. **Interest Rate:** Any past due assessment for common expenses or installment thereof bears interest at the rate established by the Association not exceeding 18 percent per year.
5. **Limited Common Elements** To the extent required by this Declaration any common expense associated with the maintenance, repair, restoration, or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the Declaration provides. Additionally, any common expense or portion thereof benefitting fewer than all of the units must be assessed exclusively against the units benefitted and the costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.
6. **Judgments Against the Association:** Assessments to pay a judgment against the Association may be made only against the units in the Association at the time the judgment was entered, in proportion to their liabilities for common expenses.
7. **Individual Actions** If any common expense is caused by the misconduct of any Member or tenant, guest, or invitee of a Member, the Association may assess that expense exclusively against the Member.
8. **Reallocated Costs:** If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

FUNDS AND ASSESSMENTS

Article V Section 5.08A is hereby added to read as follows:

Section 5.08A Special Assessment for Violations

1. **Sanctions:** If a Member or tenant, family member, guests, or invitee of a Member violates a provision of the governing documents, the Board may, after written notice and opportunity to be heard:
 - a. Prohibit, for a reasonable time, the individual from voting on matters related to the Association and using the common elements, except for any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking;
 - b. Require the individual or Member to pay a fine for each failure to comply, the amount of which shall be commensurate with the severity of the violation and otherwise consistent with the Act.

2. **Amount and Frequency of Fines:** If a fine is imposed pursuant to subsection 1b, above, and the violation is not cured within 14 days or a longer period as may be established by the Board, the violation shall be deemed a continuing violation. If a continuing violation is established, the Board may:
 - a. Impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured, the amount of which shall be commensurate with the severity of the violation and consistent with the Act. Any additional fine for a continuing violation may be imposed without notice and an opportunity to be heard.

3. **Inconsistent Provisions** If this provision is inconsistent with any other provision of the Declaration or By-Laws of the Association, this provision shall govern only those portions which shall be determined to be inconsistent.

FUNDS AND ASSESSMENTS

Article V Section 5.11 is hereby amended to include the following:

Section 5.11 Foreclosure Sale

1. **Foreclosure** Except as otherwise provided in subsection 4, the Association may foreclose its lien by sale after:
 - a. The Association has mailed by certified or registered mail, return receipt requested, to the Member or his successor in interest, at his or her address if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with the Act, a description of the unit against which the lien is imposed, and the name of the record owner of the unit; and
 - b. The Association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the Association or any part of it is situated, 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 his successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 60 days following the recording of the notice of default and election to sell.

2. **Authority to Sign** The notice of default and election to sell must be signed by the person designated in the Declaration or by the Association for that purpose, or if no one is designated, by the President of the Association.

3. **Time Periods** The period of 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, and at the address of the unit.
 - c. The Association may not foreclose a lien by sale for the assessment of a fine for a violation of the Declaration, Bylaws, Rules or Regulations of the Association, unless the violation is of a type that threatens the health, safety or welfare of the residents of the Association.

4. **Super Priority** A lien filed by the Association takes priority over all liens and encumbrances filed against any Lot except
 - a. Liens and encumbrances recorded before the recordation of the Declaration
 - b. A first security interest on the Lot recorded before the date that the assessment sought to be enforced became delinquent.
 - c. Liens for real estate taxes and other governmental assessments or charges against the Lot

The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the period budget adopted by the association pursuant to the Act which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien.

MISCELLANEOUS

Article XII Section 12.17 is hereby added to read as follows:

Section 12.17 Commencement of Civil Actions

1. **Ability to Commence** Association may commence a civil action only upon a vote or written agreement of the Members of units to which at least a majority of the votes of the Members of the Association are allocated unless the civil action is commenced:
 - a. To enforce the payment of an Assessment;
 - b. To enforce the Declaration, By-Laws or Rules and Regulations of the Association;
 - c. To proceed with a counterclaim; or
 - d. To protect the health, safety and welfare of the Members of the Association.

2. **Commencement Without Approval** If a civil action is commenced without the required vote or agreement, the action must be ratified within 90 days after the commencement of the action by a vote or written agreement of the owners of the units to which at least a majority of votes of the Members of the Association are allocated.

3. **Notice** At least 10 days before the Association commences or seeks to ratify the commencement of a civil action, the Association shall provide a written statement to all Members that includes:
 - a. A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;
 - b. An explanation of the potential benefits of the civil action and the potential adverse consequences if the Association does not commence the action or if the outcome of the action is not favorable to the Association; and
 - c. All disclosures that are required to be made upon the sale of any property.

4. **Objection to Commencement** No person other than an Member may request the dismissal of a civil action commenced by the Association on the ground that the Association failed to comply with any provision of this section.

MISCELLANEOUS

Article XII Section 12.18 is hereby added to read as follows:

Section 12.18 Inconsistent Provisions

In the event that any provision of the Declaration shall be inconsistent with any provision adopted pursuant to Senate Bill 451 or any subsequent provision of the Act, the provision adopted pursuant to Senate Bill 451 or the provision of the Act shall control unless stated otherwise in the provision or the Act.

