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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SANTA RITA RANCH III

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

SANTA RITA RANCH III

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SANTA RITA RANCH III is made as of the 1st day of April, 2014, by FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, solely in its capacity as Trustee under Trust No. 9316, as "Declarant," with reference to the following:

A. As of the date hereof, Declarant, whose beneficiary is Santa Rita Ranch III, LLC, a Delaware limited liability company, is the owner of fee title to certain real property situated in the County of Pima, State of Arizona, and more particularly described in the subdivision plat identified as Santa Rita Ranch III, Lots 1-275 and Common Areas A (Drainage/Recreation/Functional Open Space) and Common Area B (Natural Open Space) according to the plat thereof recorded in the office of the Recorder of Pima County, Arizona, in Sequence No. 20141350560.

B. Declarant intends by this Declaration to impose upon the Property (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property within the Property. Declarant desires to provide a flexible (yet common) and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the Property now and hereafter subjected to this Declaration and which shall be binding on all parties having any right, title or interest in said Property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of all or any part thereof.

ARTICLE 1

DEFINITIONS

Except as otherwise expressly provided in this Declaration, the following terms shall, for purposes of this Declaration, have the meanings set forth below:

1.1 "A.R.S." means the Arizona Revised Statutes, as they may be amended from time to time.

1.2 "ADR Provisions" means the alternative dispute resolutions attached hereto as Exhibit B.

1.3 "Additional Assessments" means Assessments charged for Common Areas that benefit less than all of the Property equally against those Lots within the applicable benefited portion of the Property as more fully described in Section 8.15.

1.4 "Additional Structure" means storage sheds, tool sheds, gazebos, casitas or similar structures placed, erected or maintained upon any part of the Property.

1.5 "Annexable Property" means the real property described on Exhibit C hereto.

1.6 "Annual Assessments" means the Assessments levied pursuant to Article 8.

1.7 "Architectural Committee" means the committee established pursuant to Article 9.

1.8 "Architectural Committee Rules" means the rules and guidelines adopted by the Architectural Committee pursuant to Section 9.2, as amended or supplemented from time to time.

1.9 "Articles" means the articles of incorporation of the Association, as amended from time to time.

1.10 "Assessments" means the Annual Assessments, the Special Assessments and any other amounts declared by this Declaration to be a part of the Assessments or declared by this Declaration to be secured by the lien created under Section 8.4.

1.11 "Association" means Santa Rita Ranch III Homeowners Association, an Arizona nonprofit corporation, and its successors and assigns.

1.12 "Association Rules" means the rules and regulations adopted by the Association pursuant to Section 7.3, as amended from time to time.

1.13 "Board" means the board of directors of the Association.

1.14 "Bylaws" means the bylaws of the Association, as amended from time to time.

1.15 "Common Area" means all real property (including the improvements thereon, all easements and licenses, all other real property interests, and all personal property and facilities) owned, managed or maintained by the Association for the common use and enjoyment of the Owners.

1.16 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.17 "County" means Pima County, Arizona.

1.18 "Declarant" means First American Title Insurance Company, a California corporation, solely in its capacity as Trustee under Trust No. 9316, its successors and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.19 **"Declarant Affiliate"** means any Person directly or indirectly controlling, controlled by or under common control with Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.20 **"Declaration"** means this Declaration of Covenants, Conditions and Restrictions for Santa Rita Ranch III, as amended from time to time.

1.21 **"Designated Builder"** means any Person other than Declarant who (i) is engaged in the business of construction and selling residences in the Property to the public, (ii) has acquired one or more Lots in connection with and in the course of such business, and (iii) is designated by Declarant by Recorded instrument as having any of the special rights, privileges or immunities of Declarant under this Declaration. In the discretion of Declarant, such Recorded instrument may (but need not) specifically describe the special rights, privileges or immunities that are included in the Person's designation as a Designated Builder. If the Person's Lots are specifically described in the Recorded instrument designating the Person as a Designated Builder, then such Person's Designated Builder rights shall apply only to the specified Lots. If such instrument does not include a specific description of Lots, then the Person's Designated Builder rights shall apply to the Lots owned by the Person at the time the Designated Builder designation is made. If the Person acquires additional Lots after the designation as a Designated Builder, the Person will not have Designated Builder rights with respect to the Lots acquired subsequently unless Declarant, in its discretion, designates the Lots as subject to the Person's Designated Builder rights in a written Recorded instrument.

1.22 **"Dwelling Unit"** means any building or part thereof situated upon a Lot and intended for use and occupancy as a residence by a Single Family.

1.23 **"Financial Statement"** means an annual financial audit, review or compilation of the Association.

1.24 **"First Mortgage"** means a Mortgage Recorded against a Lot which has priority over all other Mortgages Recorded against that Lot.

1.25 **"Institutional Mortgagee"** means a Mortgagee that is a bank, insurance company, trust company, mutual fund, savings and loan association, pension fund, pension trust or college or university or any real estate investment trust, real estate mortgage conduit, securitized lender or other entity commonly considered to be an institutional lender or that is owned in principal part by entities that are commonly considered to be institutional lenders or in which interests are publicly traded on recognized securities exchange or in the over-the-counter market, or a privately held entity primarily engaged in the business of commercial lending. Notwithstanding the foregoing, an Institutional Mortgagee does not include any Mortgagee that is a Related Party to the Owner of the Lot with respect to which the Mortgagee holds a Mortgage, but only for the periods during which the Mortgagee is a Related Party to the Owner. For purposes of the foregoing sentence, one Person is a "Related Party" to another Person if the Person or any officer, director, manager, member, shareholder, principal or employee thereof directly or indirectly controls or is controlled by or under common control with, or holds an ownership

interest or management rights in, or is a trustor, trustee or beneficiary of, or is a relative of (including, but not limited to, by blood, adoption, marriage, civil union or otherwise), the other Person or any officer, director, manager, member, shareholder, principal or employee thereof.

1.26 "Lot" means a Lot into which any part of the Property is subdivided as set forth in a subdivision plat now or hereafter Recorded with respect to all or any part of the Property. For purposes of this Declaration, a Lot shall be deemed to come into existence on and as of the date the plat depicting and establishing such Lot is Recorded. In no event shall the term "Lot" mean or refer to all or any part of the Common Area.

1.27 "Maximum Annual Assessment" means the amount determined for each fiscal year of the Association in accordance with Section 8.8.

1.28 "Member" means any Person entitled to membership in the Association, as provided in this Declaration.

1.29 "Mortgage" means a deed of trust, as well as a mortgage, which, in either case, is Recorded against a Lot.

1.30 "Mortgagee" means any Person that is a beneficiary under a deed of trust, as well as a mortgagee under a mortgage, which, in either case, is Recorded against a Lot.

1.31 "Occupant" means any Person other than an Owner who occupies or is in possession of a Lot, whether as a lessee under a lease or otherwise.

1.32 "Owner" means the Person or Persons who individually or collectively own fee title to a Lot (as evidenced by a Recorded instrument), provided that: (a) Declarant (and not the fee title holder) shall be deemed to be the "Owner" of each Lot with respect to which fee title is held by a Declarant Affiliate or by a trustee (other than the trustee of a deed of trust) for the benefit of Declarant or a Declarant Affiliate; (b) if, and for so long as, Declarant or a Declarant Affiliate has an existing right or option to acquire any one or more Lots, pursuant to a written agreement, Declarant shall also be deemed to be the "Owner" of each Lot with respect to which Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes, the owner of the trustor's interest under the deed of trust shall be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to Lots "owned by" a Person, such phrase shall be deemed to refer to Lots of which that Person is the Owner, as determined pursuant to this Section. The term "Owner" shall not include: (i) any Person who holds an interest in a Lot merely as security for the performance of an obligation; or (ii) a lessee, tenant or other Occupant of a Lot.

1.33 "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.34 "Property" means the real property referenced in Recital A and further described on Exhibit A hereto, and shall further refer to such additional real property, if any, as may hereafter be annexed thereto pursuant to Article 6 or as is now or may hereafter be owned in fee

simple by the Association, but shall not include real property, if any, which is deleted and removed from the Property pursuant to Section 6.6.

1.35 "Property Documents" means this Declaration, all Tract Declarations, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules.

1.36 "Record", "Recording", "Recorded" and "Recordation" means placing or having placed an instrument of public record in the official records of Pima County, Arizona.

1.37 "Reserve Account" means a separate bank account maintained by the Association for funds reserved for repair and replacement of improvements on the Common Areas.

1.38 "Retail Purchaser" means a Person who in a retail transaction purchases a Lot on which a completed Dwelling Unit has been constructed. The term "Retail Purchaser" shall not include a Person who purchases such a Lot and simultaneously with such purchase leases such Lot and the Dwelling Unit thereon back to Declarant, any Declarant Affiliate, or any Designated Builder for use as a model home, for so long as the Dwelling Unit continues to be used for marketing rather than residential purposes.

1.39 "Single Family" means a group of persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, who maintain a common household.

1.40 "Special Assessments" means those Assessments levied pursuant to Section 8.10.

1.41 "Special Use Fees" means fees levied by the Association for the use of the Common Area pursuant to Section 2.1(d).

1.42 "Tract Declaration" means any declaration of covenants, conditions and restrictions or like instrument Recorded by Declarant after the Recording of this Declaration in regard to one or more groups of lots, which shall in all cases be consistent with and subordinate to this Declaration.

1.43 "Visible From Common Areas" means, with respect to any given object, that the object is or would be visible to a person six feet tall standing on the Common Areas, on the level of the base of the structure or building being viewed.

1.44 "Visible From Neighboring Property" means, with respect to any given object, that the object is or would be visible to a person six feet tall standing on neighboring property, on the level of the base of the structure or building being viewed.

ARTICLE 2

EASEMENTS

2.1 Owners' Easements of Enjoyment.

2.1.1 Subject to the rights and easements granted to Declarant in Section 2.4, each Owner, and each Occupant of such Owner's Lot, shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area, which right and easement shall be appurtenant to and shall pass with the title to each Lot, subject to the provisions of this Declaration including, without limitation, the following:

(a) The Association shall have the right to dedicate or transfer all or any part of the Common Area to a public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board. Unless otherwise required by zoning stipulations or agreements with any municipality having jurisdiction over the Property, or any part thereof, effective prior to the date hereof or specified on a Recorded subdivision plat, no such dedication or transfer shall be effective unless approved by Owners representing two-thirds of each class of Members, except that the Board shall have authority to transfer to such public agencies, authorities or utilities easements and rights-of-way which are intended to benefit the Property and which do not have any substantial adverse effect on the enjoyment of the Common Area by the Owners.

(b) The Association shall have the right to regulate the use of the Common Area through the Association Rules (which may include, without limitation, the adoption and implementation of a reservation system for such portions of the Common Area, or improvements or amenities thereon, as the Board deems appropriate) and to prohibit access to such portions of the Common Area, such as landscaped right-of-ways, not intended for use by the Owners or Occupants, and to prohibit or restrict the activities that occur on the Common Area, regardless of whether the activities prohibited or restricted otherwise would be lawful activities.

(c) Declarant and the Association shall each have the right to convey certain portions of the Common Area to Owners of adjoining Lots, provided, however, that neither the Association nor Declarant shall have the right to transfer or convey any portion of the Common Area upon which is situated any recreational facility unless approved by a vote of the Owners pursuant to Subsection 2.1.1(a).

(d) The Association shall have the right to charge Special Use Fees for the use of the Common Area. The Special Use Fees, if any, shall be set by the Board from time to time, in its discretion. Special Use Fees shall be charged only for actual entry upon or use of those portions of the Common Area, if any, selected by the Board to be subject to a Special Use Fee, and shall be imposed only where the Board deems it appropriate to collect revenue from the actual users of such selected portions of the Common Area so that all of the costs of operating such selected portions of the Common Area are not borne by all of the Owners through Annual Assessments, but rather are borne, at least in part, by the Owners, Occupants and other Persons using such selected portions of the Common Area.

(e) The Board shall have the right to suspend the rights of any Owner or Occupant to use and enjoy recreational facilities on the Common Area: (1) for any period during which an Assessment remains delinquent; (2) for a period not to exceed sixty (60) days for any infraction of the Property Documents; or (3) for successive sixty- (60) day periods if any such infraction is not corrected during any preceding suspension period. Any suspension of the

rights of an Owner or Occupant to use and enjoy recreational facilities on the Common Area shall automatically, without any further action, also act as a suspension of any rights or privileges any guest, family member, lessee or invitee of such Owner or Occupant might otherwise have to use and enjoy any such recreational facilities.

2.1.2 If a Lot is leased or rented by its Owner, the Occupants of such Lot shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

2.1.3 The Board shall have the right to limit the number of guests and invitees who may use the recreational facilities located on the Common Area at any one time and may restrict the use of the recreational facilities by guests and invitees to certain specified times.

2.2 Utility Easement. There are hereby created easements upon, across, over and under the Common Area, Lots and other portions of the Property for reasonable ingress, egress, installation, replacement, repair and maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of these easements, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Area, Lots and other portions of the Property, but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Area, Lots and other portions of the Property except as initially designed, approved and constructed by Declarant or as approved by the Board (and, in the case of a Lot, by the Owner of such Lot).

2.3 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Area. There are also hereby created easements for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of the Lots and their guests, families, tenants and invitees. There are also hereby created easements upon, across and over the Common Area and all private streets, private roadways, private driveways and private parking areas within the Property for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel.

2.4 Declarant's Use and Easements.

2.4.1 Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models on any portion of the Property owned by such Declarant, and each Designated Builder shall have the right and easement to maintain such offices and models on the respective Lots owned by such Designated Builder. Declarant shall have the right and easement to maintain, and to grant to any Designated Builder the right and easement to maintain, one or more advertising signs on the Common Area located upon the property owned by Declarant while Declarant and/or such Designated Builder, as applicable, is selling Lots or other property within the Property. Such advertising signs shall be erected in compliance with any and all ordinances, regulations and other requirements of the applicable governmental entities, shall be maintained in a good and sightly manner and shall not

substantially interfere with the views to the models or other signage of any other Declarant or Designated Builders from adjacent roadways, sidewalks or Common Areas. Declarant reserves the right to place models, management offices and sales and leasing offices on any Lots or other property owned by Declarant and on any portion of the Common Area in such number, of such size and in such locations as Declarant deems appropriate.

2.4.2 So long as Declarant or any Designated Builder is marketing Lots or other portions of the Property or the Annexable Property, Declarant or Designated Builder shall have the right to restrict the use of the parking spaces on the Common Area. Such right shall include reserving such spaces for use by prospective purchasers, Declarant's employees, the Designated Builders and their employees, and others engaged in sales, leasing, maintenance, construction or management activities.

2.4.3 Declarant shall have the right and an easement on and over the Common Area to construct all improvements Declarant may deem necessary and to use the Common Area and any Lots and other property owned by Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the property or portion thereof owned by the Designated Builder, provided that such Designated Builder keeps the Lots owned by such Designated Builder in a reasonably clean and neat fashion.

2.4.4 Declarant shall have the right and an easement upon, over, and through the Common Area as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by Declarant by this Declaration. Upon the written approval of Declarant, any Designated Builder may have the right and an easement upon, over, and through the Common Area upon any portion of the Property owned by Declarant as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by such Designated Builder by this Declaration.

2.5 Easement in Favor of Association. The Lots are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

2.5.1 For inspection during reasonable hours of the Lots in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

2.5.2 For inspection, maintenance, repair and replacement of portions of the Common Area accessible only from such Lots;

2.5.3 For correction of emergency conditions on one or more Lots or on portions of the Common Area accessible only from such Lots;

2.5.4 For the purpose of enabling the Association, the Board, the Architectural Committee or any other committees appointed by the Board to exercise and discharge their respective rights, powers and duties under the Property Documents;

2.5.5 For inspection of the Lots in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Property Documents.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS; POWERS OF THE BOARD

3.1 Membership; Power to Vote. Every Owner of a Lot automatically shall be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Owner's membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot to which the membership is attributable. If any Lot is owned by two or more Persons, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the membership as to such Lot shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall either: (a) make such designation, in which event such designation shall be binding for all purposes; or (b) declare that until all Persons who together hold such membership jointly make such written designation, the vote(s) attributable to such membership under this Declaration shall not be cast or counted on any questions before the Members; provided, however, that if any one of such Persons casts a vote representing a certain Lot without objection from any other Person sharing ownership of such Lot, that Person will thereafter be conclusively presumed to be acting with the authority and consent of all other Persons sharing ownership of such Lot unless and until objection thereto is made to the Board, in writing. Notwithstanding the foregoing, so long as the Class B membership is in existence, no Class B Member shall at the same time be a Class A Member nor shall a Class B Member have any Class A votes, and the membership and number of votes of the Class B Member(s) shall be determined in accordance with Subsection 3.3.2.

3.2 Declarant's Membership. Declarant shall be a Member of the Association for so long as it holds a Class A or Class B membership.

3.3 Voting Classes; Number of Votes. The Association shall have two classes of Members, as follows:

3.3.1 Class A. Class A Members shall be all Owners, except that until the conversion of a Class B membership to Class A membership as provided below, Declarant and any Designated Builder that Declarant has provided a Class B membership to shall be a Class B Member, not a Class A Member. Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have one vote for each Lot owned by such Member; and

3.3.2 Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three votes for each Lot owned by such Member. Declarant shall have the right, at any time and from time to time, to assign all or any part of its voting rights appurtenant to its Class B membership (as well as all or any other rights appurtenant thereto) to one or more Persons acquiring, for purposes of development and sale, including a Designated Builder, any

part of the Property. Further, Declarant shall have the right, at any time and from time to time, to designate an individual or individuals to exercise Declarant's voting rights (whether appurtenant to Class A or Class B membership); provided, however, that such designation shall not act as an assignment by Declarant of its membership or voting rights hereunder. Subject to the provisions of Article 6 below, the Class B membership shall automatically cease and be converted to a Class A membership upon the happening of the first of the following events:

- (a) the date on which seventy-five percent (75%) of the Lots are owned by Class A Members;
- (b) the date that is twenty (20) years after the date this Declaration is Recorded; or
- (c) the date on which Declarant (and all Designated Builders to the extent such Designated Builders have received an assignment of Class B membership from Declarant) Records a written notice electing to convert their Class B membership to Class A membership.

3.4 Right to Vote. The Board shall not be required to recognize a change in the ownership of a Lot as being effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof. The vote for each Member must be cast as a single unit. Split or fractional votes shall not be allowed. Any Owner of a Lot which is leased or which is subject to a valid, outstanding and Recorded executory agreement of sale may, in the lease, agreement of sale or other written instrument, assign the voting rights appurtenant to the Lot to the lessee thereof or to the purchaser thereof under such agreement of sale, as applicable, provided that a copy of the written assignment of such voting rights is furnished to the Secretary of the Association prior to any meeting at which such lessee or purchaser seeks to exercise such voting rights. The Board shall have the right to suspend the voting rights of any Owner for such period of time as the Owner is delinquent in the payment of any Annual Assessments and/or Special Assessments required to be paid by this Declaration.

3.5 Members' Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules and any other rules and regulations adopted pursuant to any of the foregoing, including, but not limited to the right to enforce the terms and provisions set forth in this Declaration.

3.6 Transfer of Membership. Except as otherwise provided in this Declaration, the rights, duties and obligations of a Class A Member cannot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Class A Member's Lot and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure or other legal process authorized under Arizona law, shall operate to transfer the membership appurtenant thereto to the new Owner and any attempt to make any other form of transfer shall be void.

ARTICLE 4

MAINTENANCE

4.1 Association's General Responsibilities. The Association shall maintain and keep in good condition and repair the Common Area (and certain other areas, as more expressly provided in this Section 4.1), and the costs of such maintenance shall be Common Expenses of the Association (subject to any insurance then in effect). This maintenance shall include, but not be limited to:

4.1.1 maintenance, repair and replacement of all landscaping, structures and improvements (including, without limitation, any and all recreational facilities and appurtenant improvements) situated upon the Common Area;

4.1.2 maintenance, repair and replacement of landscaping in or upon public rights-of-way immediately adjacent to the exterior boundaries of the Property (or between such public rights-of-way and perimeter or boundary walls on or surrounding the exterior boundaries of the Property), and of any perimeter or boundary walls on or surrounding the exterior boundaries of the Property;

4.1.3 maintenance, repair and replacement of all wrought iron portions of a wall which borders a Common Area;

4.1.4 maintenance, repair and replacement of landscaping and signs within areas designated on one or more subdivision plats or other instruments Recorded by, or bearing the written approval of, Declarant (or, after termination of the Class B membership, the Association) with respect to all or portions of the Property as "landscape easements," "landscape and wall easements" or "landscape and sign easements" (or similar designations) to be maintained by the Association;

4.1.5 except where otherwise provided in an instrument Recorded by, or bearing the written approval of Declarant, the Association shall be responsible for maintaining the side of any boundary wall facing a public street or roadway (or a private street or roadway owned by the Association), while the Owner of a Lot shall be responsible for maintaining the side of any boundary wall facing such Owner's Lot. For purposes of the preceding sentence a "boundary wall" shall be any wall or fence separating a Lot from a public street or roadway adjacent to or along the exterior perimeter boundaries of the Property or adjacent to or along a major arterial street or roadway (whether public or owned by the Association) within the Property if, in the case of a wall within the Property, such wall is designed as a "common" or "theme" wall presenting a uniform appearance along its length; and

4.1.6 maintenance and repair of any drainage easements upon or across the Common Area. The Association shall also have the right, power and authority to maintain and repair drainage easements upon and across one or more Lots where: (a) the Association is required to do so by applicable statute, ordinance, code, rule or regulation, or by the terms of a Recorded subdivision plat signed or otherwise approved in writing by Declarant or the Association; (b) in the reasonable discretion of the Board, such maintenance and repair is

necessary or advisable to protect any Common Area or other Lots or to permit proper flow of runoff through other portions of the Property; or (c) in the reasonable discretion of the Board, such maintenance and repair is otherwise in the best interests of the Association or serves a reasonable goal of the Association. The costs of any maintenance and repair described in the preceding sentence shall be Common Expenses, subject to any right the Association may have to recover all or any portion of such costs from insurance or from any Owner or other Person whose negligent or reckless act, breach of this Declaration or other misconduct gave rise to need for such maintenance or repair. Except for public parks, if any, within the Property, the County is not responsible for and will not accept maintenance of any private facilities, landscaped areas, etc. within the Property.

4.2 Maintenance of Owner's Structures. Each Owner shall be responsible for the maintenance, cleaning, painting, repair and general care of all structures existing or constructed upon such Owner's Lot and, in particular, each Owner shall cause the exterior of said structures to be maintained in good condition and repair and in an attractive state consistent with general community standards within the Property. If the Board determines, after providing reasonable notice and an opportunity to be heard, that any Owner is in breach of such Owner's obligations under the preceding sentence, the Board shall promptly give such Owner written notice of such determination, including a reasonably detailed list or description of the repairs, maintenance or other work required to cure such Owner's breach, and if the Owner shall not have cured such breach within fifteen (15) days after the date of said written notice, the Association may, in the discretion of the Board, cause the repairs, maintenance or other work to be performed so as to cure such Owner's breach, and the costs of doing so, together with interest from the date of expenditure at the rate set forth in Section 8.3, shall be the personal obligation of such Owner and shall constitute a lien on such Owner's Lot, which lien shall have the priority and may be enforced in the manner described in Section 8.4. The Association shall also have standing and authority to request that a court of competent jurisdiction compel such Owner to cure such breach, and to the extent not inconsistent with an order of such court, the Association may pursue either or both of the courses of action described in the preceding sentence. The Association shall have an easement on, over, across and through each Lot to permit it to exercise its rights and carry out its duties and obligations under this Article 4.

4.3 Publicly Dedicated Areas. Except: (a) as expressly provided in this Article 4; (b) as may otherwise be required by applicable law; and (c) as may be voluntarily assumed by the Board, the Association shall have no responsibility to maintain any areas within the Property (including, but not limited to, public streets) which are dedicated to or the responsibility of a municipality, utility or other governmental entity.

4.4 Landscaping Replacement. Landscaping originally planted on the Common Areas may exceed the landscaping that is ultimately planned for Common Areas due to over-planting in anticipation of normal plant losses. The Board is hereby granted the authority to remove and not replace dead or damaged landscaping if, in the reasonable discretion of the Board, (a) the remaining landscaping is acceptable to the Board and (b) the remaining landscaping is generally consistent in quality and quantity with the landscaping shown on approved landscaping plans filed with governmental entities in connection with the Property, even if the location or type of specific plants is different than the types or locations shown on such approved landscaping plans. Neither Declarant nor any other installer of landscaping on

Common Areas shall be responsible for replacement of landscaping that dies more than ninety (90) days following installation or that requires replacement due to vandalism, lack of proper watering or maintenance by the Association or damage due to negligence; the Association shall be solely responsible for such replacement (subject to potential recovery by the Association from any vandal or negligent person).

4.5 Assumption of Other Responsibilities. The Association may, in the discretion of the Board, assume the maintenance responsibilities set out in any Tract Declaration upon all or any portion of the Property. In such event, all costs of such maintenance shall be assessed as Additional Assessments only against the Owners of Lots or parcels encumbered by the Tract Declaration, which Additional Assessments shall be secured by the lien for Assessments created by and described in, and enforced in accordance with, Article 8.

4.6 No Discrimination. The provision of services in accordance with this Article shall not be deemed to be discrimination in favor of or against any Owner.

ARTICLE 5

INSURANCE AND FIDELITY BONDS; CASUALTY LOSSES

5.1 Insurance to be Obtained by the Association.

5.1.1 Hazard Insurance.

(a) The Board, acting on behalf of the Association, shall obtain and maintain at all times insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of Arizona, against all other perils customarily covered for similar types of projects (including those covered by the "special form" endorsement available from time to time in the State of Arizona), and against loss or damage due to vandalism and malicious mischief. Said insurance shall be in an amount equal to one hundred percent (100%) of the current replacement cost, from time to time, without deduction for depreciation, of all such insurable improvements (excluding land, foundations, excavations and other items usually excluded from such insurance coverage, but including fixtures and building service equipment and personal property and supplies owned by the Association), with such amount to be redetermined annually (and upon the subjection of any portion, or all, of the Annexable Property to the effect of this Declaration if such subjection results in an addition to the Common Area of property upon which are situated improvements required to be insured hereunder) by the Board with the assistance of the insurer or insurers providing such coverage.

(b) The policy or policies providing the insurance required by this Subsection 5.1.1 shall provide that: (i) any insurance trust agreement shall be recognized; (ii) the insurer shall waive any right of subrogation against the Owners, the Board or the Association, and their respective agents, tenants, servants, employees, guests and household members; (iii) such insurance shall not be canceled, invalidated or suspended by reason of any acts or omissions of any Owner (or of such Owner's invitees, agents, tenants, servants, employees,

guests or household members), or of any member, officer or employee of the Board without a prior written demand to the Board that any such act or omission be cured and without providing a sixty- (60) day period within which the Board may cure such act or omission (or cause the same to be cured); (iv) such insurance coverage shall be primary, and shall in no event be brought into contribution with any insurance maintained by individual Owners, their Mortgagees or other lien holders; and (v) the coverage afforded by such policy or policies shall not be prejudiced by any act or omission of any Owner or Occupant (or their agents) when such act or omission is not within the control of the Association.

(c) The policy or policies providing the insurance required by this Subsection 5.1.1 shall also contain (if available at no additional cost or at such additional cost as is not demonstrably unreasonable) the following endorsements (or their equivalents): (i) "agreed amount" and "inflation protection" endorsements; (ii) "increased cost of construction" endorsement; (iii) "contingent liability from operation of building laws or codes" endorsement; (iv) "demolition cost" endorsement; and (v) "current replacement cost" endorsement.

(d) Unless a higher maximum deductible amount is required by applicable law, each policy providing the insurance coverage required by this Subsection 5.1.1 shall provide for deductibles determined to be commercially reasonable at the discretion of the Board.

5.1.2 Liability Insurance. The Board, acting on behalf of the Association, shall obtain and maintain at all times a comprehensive general liability policy insuring the Association, each member of the Board, each Owner and each Declarant Designee (as defined below), against any liability to the public or to any Owner or Occupant (and such Owner's or Occupant's invitees, agents, employees, tenants, guests, servants and household members) for death, bodily injury and property damage arising out of or incident to the ownership or use of the Common Area or arising out of or incident to the performance by the Association of its maintenance and other obligations hereunder. The Board, with the assistance of the insurer(s) providing such coverage, shall review annually the amounts of coverage afforded by said comprehensive general liability policy or policies and adjust such amounts of coverage as the Board deems appropriate, but in no event shall said policy or policies provide coverage less than \$1,000,000 for death, bodily injury and property damage for any single occurrence. The policy or policies providing such insurance shall, by specific endorsement or otherwise, preclude denial by the insurer(s) providing such insurance of a claim under such policy or policies because of negligent acts or omissions of the Association, any Owner(s) or any Declarant Designee(s) or any other Person named as an insured or additional insured thereunder. For purposes of this Subsection 5.1.2 (and Subsection 5.1.7), the term "Declarant Designee" shall mean Declarant and, so long as Declarant or any Declarant Affiliate, or any Person with whom Declarant or any such Declarant Affiliate contracts directly for the performance of all or a substantial portion of Declarant's rights and obligations hereunder, or for the construction of substantial improvements on the Property, retains an interest in the Property or any Lot, such affiliate and such other Person, if identified by Declarant to the Association, provided that any added premium cost or other expense resulting from naming any Declarant Designee(s) as insured(s) shall be borne by such Declarant Designee(s).

5.1.3 Flood Insurance. If any part of the Common Area is in a "special flood hazard area," as defined by the Federal Emergency Management Agency (or its successors), the Board, acting on behalf of the Association, shall obtain (and maintain at all times during which any part of the Common Area is in such a "special flood hazard area") a "master" or "blanket" policy of flood insurance covering all insurable improvements on the Common Area and covering any personal property situated from time to time within such improvements (to the extent such personal property is normally covered by the standard flood insurance policy available from time to time in the State of Arizona). Said insurance shall be in an amount not less than the lesser of: (a) one hundred percent (100%) of the current replacement cost, from time to time, of all such insurable improvements (and such insurable personal property) located in the "special flood hazard area"; or (b) the maximum coverage available for such insurable improvements and insurable personal property under the National Flood Insurance Program. Unless a higher maximum deductible amount is required by applicable law, the policy providing such insurance shall provide for a deductible not to exceed the lesser of \$5,000 or one percent (1%) of the face amount of such policy.

5.1.4 General Provisions Governing Insurance. The insurance required to be obtained under Subsections 5.1.1, 5.1.2 and 5.1.3 shall be written in the name of the Association as trustee for each of the Owners and for each Mortgagee (as their respective interests may appear) and shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with one or more companies authorized to provide such insurance in the State of Arizona;

(b) Exclusive authority to adjust losses under policies in force on property owned or insured by the Association shall be vested in the Board;

(c) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, Occupants or their Mortgagees or other lienholders, and the insurance carried by the Association shall be primary;

(d) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for a waiver of subrogation by the insurer as to any claims against the Board or the Owners and their respective tenants, servants, agents, employees, guests and household members;

(e) Each policy providing insurance coverage required by Subsections 5.1.1, 5.1.2 and 5.1.3 shall require the applicable insurer to endeavor to give not less than ten (10) days prior written notice to the Association, and to each Mortgagee which shall have previously given such insurer written notice of such Mortgagee's interest in a Lot (which notice must include the name and address of such Mortgagee), of any cancellation, refusal to renew or material modification of such policy; and

(f) To the extent reasonably available, each policy providing insurance coverage required by Subsections 5.1.1, 5.1.2 and 5.1.3 shall contain a waiver by the applicable insurer of its rights to repair and reconstruct instead of paying cash.

5.1.5 Fidelity Bonds. The Board, acting on behalf of the Association, shall obtain and maintain at all times adequate fidelity bond coverage to protect against dishonest acts on the part of officers, directors and employees of the Association and all others who handle, or are responsible for handling, funds held or administered by the Association, whether or not such officers, directors, employees or others receive compensation for services they render to or on behalf of the Association. In addition, the Board shall have the right, power and authority, at its reasonable discretion, to obtain and maintain fidelity bond coverage with respect to the activities of any independent management agent which handles funds for the Association and of the officers, directors and employees of such agent (separate and apart from any fidelity bond or similar coverage such agent may itself maintain). Each fidelity bond: (a) shall name the Association as obligee; (b) shall be issued by one or more companies authorized to issue such bonds in the State of Arizona; (c) in the case of fidelity bond coverage with respect to the Association and its officers, directors, employees and the like, shall be in an amount sufficient to cover the maximum total of funds reasonably expected by the Board to be in the custody of the Association at any time while such bond is in force, but in no event shall the amount of such fidelity bond coverage be less than the sum of three (3) months' Annual Assessments on all Lots, plus the total of funds held in the Association's reserves; and (d) in the case of fidelity bond coverage obtained by the Association, at the Board's discretion, with respect to the activities of any independent management agent (or the directors, officers or employees of such agent), shall be in such amount as the Board reasonably deems appropriate. Each fidelity bond shall provide that the issuer thereof shall endeavor to provide not less than ten (10) days prior written notice to the Association and to each Mortgagee which shall have previously given such insurer written notice of such Mortgagee's interest in a Lot (which notice must include the name and address of such Mortgagee), of any cancellation, refusal to renew or material modification of such policy.

5.1.6 Workers' Compensation Insurance. The Board, acting on behalf of the Association, shall obtain and maintain workers' compensation insurance if and to the extent necessary to meet the requirements of applicable law.

5.1.7 Cost of Insurance. All premiums for the insurance or bonds required to be obtained by the Board by this Section 5.1 shall be Common Expenses (except that, as provided in Subsection 5.1.2, any added premium cost of naming any Declarant Designee as an insured shall be borne by such Declarant Designee). The Board shall not be liable for failure to obtain or maintain any of the insurance coverage required by this Section 5.1, or for any loss or damage resulting from such failure, if such failure is due to the unavailability of such insurance coverage from reputable companies authorized to provide such insurance in the State of Arizona, or if such insurance coverage is available only at an unreasonable cost.

5.2 Insurance to be Obtained by the Owners. Each Owner shall be responsible for providing such comprehensive fire, liability, theft and any other insurance on his own Lot, Dwelling Unit and any other structure(s) on such Owner's Lot, and, if any, his additions and improvements thereto, his furnishings, fixtures and personal property on such Lot and Dwelling Unit, his furnishings, fixtures and personal property stored elsewhere within the Lot and Dwelling Unit, his personal liability to the extent not covered by the public liability insurance obtained by the Association and any other insurance as the Owner desires. No Owner shall maintain any insurance, whether on his Lot, Dwelling Unit, or otherwise, which would limit or

reduce the insurance proceeds payable under the casualty insurance maintained by the Association in the event of damage to the improvements or fixtures on the Common Areas.

5.3 Casualty Losses.

5.3.1 Damage and Destruction.

(a) Immediately after any damage or destruction by fire or other casualty to all or any part of the property required to be insured by the Association under Section 5.1, the Board or its duly authorized agent shall: (i) proceed with the filing and adjustment of all claims arising under such insurance; (ii) obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property; and (iii) upon receipt of the proceeds of such insurance and except as is otherwise provided in this Subsection 5.3.1, use such proceeds to repair or reconstruct the damaged or destroyed part of the property. The terms "repair" and "reconstruction" (or variants thereof), as used in this Article 5 shall mean repairing or restoring the part of the property in question to substantially the same condition as that in which it existed prior to the fire or other casualty (or, where applicable, replacing the damaged or destroyed property with property substantially similar to the damaged or destroyed part of the property as it existed prior to such damage or destruction).

(b) Any major damage or destruction to the property required to be insured by the Association under Section 5.1 shall be repaired or reconstructed unless at a special meeting of the Members of the Association duly noticed and convened within sixty (60) days after the occurrence of such damage or destruction, the Members determine, by a vote of Persons holding not less than seventy-five percent (75%) of the votes in each class of Members, not to so repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made or become available; provided, however, that such extension shall not exceed an additional sixty (60) days. The Board shall determine whether any minor damage or destruction to the Common Area should be repaired or reconstructed.

(c) If it is determined in the manner described above that the damage or destruction of any part of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event such property shall be maintained by the Association in a neat and attractive condition as an undeveloped portion of the Common Area.

5.3.2 Excess or Deficiency of Proceeds. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to pay the cost thereof, the Board may, without the necessity of a vote of the Members, levy Assessments against the Owners of all Lots, which Assessments shall be allocated equally among all Lots. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Any Assessments levied pursuant to this Subsection 5.3.2 shall be deemed to be a part of the Assessments and shall be secured by the lien created by Section 8.4. If the funds available from insurance exceed the cost of repair, such

excess shall be used to meet Common Expenses or, in the discretion of the Board, placed in a reserve account for contingencies or capital improvements.

5.3.3 Repair or Reconstruction of Dwelling Units or Other Structures. If a Dwelling Unit or other structure on a Lot is destroyed, or if damage to such Dwelling Unit or other structure which, in the reasonable judgment of the Board, materially affects the exterior appearance thereof, the Board shall have the right, at its option, exercisable by written notice to the Owner of the Lot upon which such Dwelling Unit or other structure is situated, to require such Owner to repair or reconstruct (or cause to be repaired or reconstructed), at such Owner's expense (subject to any insurance proceeds as such Owner may then or thereafter receive in respect of such destruction or damage), such Dwelling Unit or other structure within such reasonable period of time as shall be specified by the Board in such notice (which period of time shall in no event be less than eight (8) months from the date of such destruction or damage). The Board may exercise such right and establish such time period notwithstanding such Owner's failure to maintain hazard or casualty insurance upon such Owner's Lot or any structures thereon and notwithstanding any unavailability or delay in receipt of proceeds of any insurance policy or policies, although the Board may take such matters into account in establishing or extending the time period within which such repair or reconstruction must be completed. Any such repair or reconstruction work shall be performed in compliance with all applicable provisions thereof, and the Owner of such Lot shall take such steps as are reasonably necessary to prevent damage to surrounding property and injury to persons as may result from or arise in connection with the destroyed or damaged Dwelling Unit or other structure or the repair or reconstruction activities with respect thereto.

ARTICLE 6

ANNEXATION OF ADDITIONAL PROPERTY; DEANNEXATION

6.1 Reservation of Certain Annexation Rights. Declarant hereby reserves the right, privilege and option from time to time hereafter to add and annex to the Property (and thereby to subject to the provisions of this Declaration) any part(s) or all of the Annexable Property, without the vote of the Members and without notice to or approval of any holder, insurer or guarantor of any Mortgage or of any other Person, provided, however, that the right, privilege and option reserved in this sentence shall expire and terminate at 11:59 p.m. local time on December 31 of the calendar year in which falls the tenth anniversary of the date this Declaration is Recorded. Notwithstanding the foregoing sentence, no portion of the Annexable Property may be annexed to the Property unless, at the time of each and any such annexation either: (a) the portion of the Annexable Property to be annexed is owned either by Declarant or by a trustee for the benefit of Declarant; or (b) the owner of the portion to be annexed (if other than Declarant or such trustee) consents in writing to the proposed annexation of the Annexable Property.

6.2 Limitations on Other Annexations. As of the date this Declaration is Recorded, Declarant does not anticipate that any additional Property, other than portions or all of the Annexable Property, as provided in Section 6.1, will be annexed to the Property, and additional Property not included within the Annexable Property may be annexed to the Property only: (a) by the affirmative vote of two-thirds of the votes of each class of Members represented in person at a meeting of Members duly called for that purpose or by absentee ballot; and (b) with

the express written consent of each owner of all or any part of the Property proposed to be annexed.

6.3 Recordation of Annexation Instrument. Upon approval to the extent required by this Article 6 of any annexation of Property to the Property, Declarant, in the case of annexation of all or any part of the Annexable Property pursuant to Section 6.1, or the President and Secretary of the Association, in the case of any other annexation, shall execute, acknowledge and Record an instrument effecting and evidencing such annexation (which instrument shall also be duly executed and acknowledged by each owner of all or any part of the Property being annexed), and such annexation shall be deemed effective only upon such Recordation.

6.4 Effect of Annexation. Upon the effective date of an annexation pursuant to this Article 6: (a) the Property so annexed shall immediately be and become a part of the Property and subject to all of the provisions hereof; (b) any Lot then or thereafter constituting a part of the annexed Property, and the Owner of any such Lot, shall thereupon be subject to all of the provisions of this Declaration; (c) any part or parts of the Property annexed which is or are designated or declared to be Common Area shall thereupon be subject to the provisions of this Declaration; and (d) improvements then or thereafter situated upon the annexed Property shall be subject to the provisions of this Declaration and shall be reasonably consistent, in terms of quality of construction, with the improvements situated upon other portions of the Property prior to such annexation.

6.5 No Obligation to Annex. Nothing herein shall constitute a representation, warranty or covenant that Declarant, any successor or assign of Declarant, or any other Person will subject any additional Property (whether or not a part of the Annexable Property) to the provisions of this Declaration, nor shall Declarant, any successor or assign of Declarant, or any other Person be obligated so to do, and Declarant may, by Recorded instrument executed by Declarant, waive its rights so to do, in whole or in part, at any time or from time to time.

6.6 De-Annexation. Notwithstanding any other provision of this Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any other Person (except as provided in this Section 6.6), to delete from the Property and remove from the effect of this Declaration one or more portions of the Property, provided, however, that: (a) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal such portion is either (i) owned by Declarant, (a Declarant Affiliate or a trustee of a trust for the benefit of Declarant or a Declarant Affiliate), or (ii) Declarant executes and Records an instrument approving such deletion and removal; (b) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal no Dwelling Units or Common Area recreational facilities have been constructed thereon (unless the de-annexation is for purposes of accomplishing minor adjustments to the boundaries of one or more Lots, any Common Area or another portion of the Property); and (c) a portion of the Property may not be so deleted and removed if such deletion and removal would deprive Owners and Occupants of other parts of the Property of access or other easements or rights-of-way necessary to the continued use of their respective parts of the Property (unless at the same time provision is made for reasonably adequate replacement easements or rights-of-way). Declarant may exercise its rights under this Section 6.6 in each case by executing and causing to be Recorded an instrument which identifies the portion of the Property to be so deleted and removed and which

is executed by each owner of such portion (if other than Declarant), and the deletion and removal of such portion of the Property shall be effective upon the later of: (i) the date such instrument is Recorded; or (ii) the effective date specified in such instrument, if any, whereupon, except as otherwise expressly provided in this Section 6.6, the portion of the Property so deleted and removed shall thereafter for all purposes be deemed not a part of the Property and not subject to this Declaration, and the owner(s) thereof (or of interests therein) shall not be deemed to be Owners or Members with respect to the deleted portion of the Property or have any other rights or obligations hereunder with respect to the deleted portion of the Property except as members of the general public. No such deletion and removal of a portion of the Property shall act to release such portion from the lien for Assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal, and no Assessments or other charges shall thereafter accrue hereunder with respect to the portion of the Property so deleted and removed.

ARTICLE 7

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

7.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Common Area and shall keep the Common Area in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof. Except for public parks, if any, within the Property, the County is not responsible for and will not accept maintenance of any private facilities, landscaped areas, etc. within the Property.

7.2 Personal Property and Real Property for Common Use. The Association, through action of the Board, may acquire, hold and dispose of tangible and intangible personal property and real property, except that, unless otherwise provided in this Declaration, no dedication, sale, mortgage or transfer of all or any part of the Common Area shall be made or effective unless approved by not less than two-thirds of the votes of each class of Members represented in person at a meeting of Members duly called for such purpose or by absentee ballot (except in connection with minor adjustments to the boundaries of any Lot(s), any Common Area or any other portion of the Property, which may be approved by the Board without submitting the same to the Members for approval). The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interests within, adjacent to or related to all or any part of the Property as may be conveyed or assigned to the Association by Declarant (including, but not limited to, such parts of the Common Area as may now or hereafter be held by Declarant). Declarant shall convey the Common Area to the Association free and clear of any encumbrances prior to the first Lot being conveyed to a Retail Purchaser.

7.3 Rules and Regulations. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. Upon termination of the Class B membership, the adoption, amendment and repeal of any rules and regulations by the Board shall be subject to review and approval of Declarant so long as Declarant then owns any Property or Annexable Property. The Association Rules may restrict and govern the use of the Common Area, areas Visible From Common Areas

and areas Visible From Neighboring Property; provided, however, that the Association Rules shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of the Property and the Common Area. Upon adoption, the Association Rules shall have the same force and effect as if set forth herein. Sanctions for violation of the Association Rules or of this Declaration may be imposed by the Board and may include suspension of the right to vote and the right to use the recreational facilities on the Common Area, and may also include reasonable monetary fines. An Owner's right to vote or the right of such Owner (or any Occupant of such Owner's Lot or any guest or household member of such Owner or Occupant) to use the recreational facilities on the Common Area due to a violation of the Association Rules shall be suspended until such violation ceases or is corrected.

7.4 Availability of Books, Records and Other Documents. The Association shall maintain complete and current copies of this Declaration, the Articles, the Bylaws and the Association Rules (as well as any amendments to the foregoing) and of the books, records and financial statements of the Association in accordance with the requirements set forth in A.R.S. § 33-1805, and, upon the prior written request to the Association by any Owner or by any holder, insurer or guarantor of a First Mortgage, shall make the same available for inspection (pursuant to the standards set forth in A.R.S. § 33-1805) by such Owner or such holder, insurer or guarantor.

7.5 Financial Statements. The Board shall obtain an annual Financial Statement of the Association not later than one hundred eighty (180) days after the end of the Association's fiscal year. Financial Statements may be made available to Members in accordance with the standards set forth in A.R.S. § 33-1805.

7.6 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

7.7 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager or management company to be responsible for the day-to-day operation of the Association and the Common Area. The Board shall determine the compensation to be paid to the manager or management company. Until the termination of the Class B Membership in the Association, Declarant shall have the right to appoint and remove members of the Board. After the termination of the Class B Membership, the members of the Board shall be elected by the Members of the Association at the annual meeting of the Members as provided in the Bylaws.

ARTICLE 8

ASSESSMENTS

8.1 Creation of Assessment Right. In order to provide funds to enable the Association to meet its financial and other obligations and to create and maintain appropriate reserves, there is hereby created a right of assessment exercisable on behalf of the Association by the Board. Annual Assessments and Special Assessments shall be for Common Expenses, maintenance, repair, replacement, and operation and shall be allocated equally among all Lots, subject to the provisions of this Article 8.

8.2 Declarant's Exemption from Assessments. Anything in the Property Documents to the contrary notwithstanding, Declarant shall not be obligated to pay any Assessments provided for herein. Declarant may, but shall not be obligated to, subsidize, loan money to, or provide services and materials to the Association.

8.3 Covenants with Respect to Assessments. Each Owner, by acceptance of his, her or its deed (or other conveyance instrument) with respect to a Lot, is deemed to covenant and agree to pay the Assessments levied pursuant to this Declaration with respect to such Owner's Lot, together with: (a) interest from the date due at a rate equal to the greater of: (i) ten percent (10%) per annum; or (ii) the annual rate of interest, if any, then in effect for new first priority single family residential mortgage loans guaranteed by the FHA/VA; (b) such late fees as may be established from time to time by the Board and that are payable in accordance with A.R.S. § 33-1803; and (c) such costs and reasonable attorneys' fees, costs and other litigation fees and costs as may be incurred by the Association in seeking to collect such Assessments. Each of the Assessments with respect to a Lot, together with interest, late fees, costs and reasonable attorneys' fees, costs and other litigation fees and costs as provided in this Section 8.3, shall also be the personal obligation of the Person who or which was the Owner of such Lot at the time such Assessment arose with respect to such Lot, provided, however, that the personal obligation for delinquent Assessments shall not pass to a successor in title of such Owner unless expressly assumed by such successor (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title). No Owner shall be relieved of his, her or its obligation to pay any of the Assessments (or any other amounts owing by such Owner to the Association hereunder, all of which shall be deemed a part of the Assessments) by abandoning or not using his, her or its Lot or the Common Area, or by leasing or otherwise transferring occupancy rights with respect to his, her or its Lot. However, upon transfer by an Owner of fee title to such Owner's Lot, as evidenced by a Recorded instrument, such transferring Owner shall not be liable for any Assessments thereafter levied against such Lot. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or setoff shall be claimed or allowed by reason of the alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration, the Articles or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority. Except as otherwise provided in any FHA/VA loan documentation

(including without limitation any deed of trust or other instrument securing an FHA/VA loan), the failure of an Owner to pay the Assessments levied pursuant to this Declaration shall not constitute a default under any insured FHA/VA mortgage. Furthermore, nothing herein shall be interpreted to require or obligate Mortgagees to collect Assessments from any Owner.

8.4 Assessment Lien: Foreclosure. There is hereby created and established a lien against each Lot which shall secure payment of all present and future Assessments assessed or levied against such Lot or the Owner thereof (together with any present or future charges, fines, penalties or other amounts levied against such Lot or the Owner thereof pursuant to this Declaration or any of the other Property Documents) (the "Assessment Lien"). Such Assessment Lien is and shall be prior and superior to all other liens affecting the Lot in question, except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (b) the lien or charge of any First Mortgage made in good faith and for value held by an Institutional Mortgagee. An Assessment Lien may be foreclosed in the manner provided by law for the foreclosure of mortgages. The sale and transfer of any Lot pursuant to a mortgage foreclosure or any proceeding or conveyance in lieu thereof pertaining to a First Mortgage held by an Institutional Mortgagee shall extinguish the Assessment Lien (but the personal obligation of the Owner for amounts due hereunder shall not be extinguished) as to payments which became due prior to such sale or transfer, but no such sale or transfer shall relieve such Lot from liability for any Assessments becoming due after such sale or transfer, or from the Assessment Lien thereof. The Association shall have the power to bid for any Lot at any sale to foreclose the Association's lien on the Lot, and to acquire and hold, lease, mortgage and convey the same. During the period any Lot is owned by the Association, no right to vote shall be exercised with respect to said Lot and no Assessments shall be assessed or levied on or with respect to said Lot, provided, however, that the Association's acquisition and ownership of a Lot under such circumstances shall not be deemed to convert the same into Common Area. In addition to the Assessment Lien, the Association shall also have a lien on each Lot for all monetary penalties and the reasonable fees, attorneys' fees, court costs, charges, late charges and interest charged with respect to such monetary penalties (the "Penalty Charges") after the entry of a judgment in a civil suit for such Penalty Charges from a court of competent jurisdiction and the Recording of such judgment as otherwise provided by law (the "Penalty Lien"). The Penalty Lien may not be foreclosed and is effective only on conveyance of any interest in the Lot except as otherwise may be permitted by law. Recording of this Declaration constitutes record notice and perfection of the liens established hereby, and further Recordation of any claim of a lien for Assessments or other amounts hereunder shall not be required, whether to establish or perfect such lien or to fix the priority thereof, or otherwise (although the Board shall have the option to Record written notices of claims of lien in such circumstances as the Board may deem appropriate).

8.5 Dates Assessments Commence: Designated Builder Assessments. The first Annual Assessment against each Lot shall be adjusted according to the number of days remaining in the fiscal year at the time Assessments commence on the Lot. As to any Lot conveyed to a Retail Purchaser, Assessments shall be payable with respect to a Lot from the date upon which title to the Lot shall first be conveyed to a Retail Purchaser, and such Assessments shall be payable regardless of whether a Dwelling Unit or other structure shall be situated upon such Lot on such date. As to any Lot conveyed to a Designated Builder, Assessments shall be payable with respect to the Lot from the date of conveyance of the Lot to a Designated Builder; provided, however, until the date that is six (6) months following the recordation of this

Declaration, a Designated Builder shall only pay fifty percent (50%) of all such Assessments with respect to such Lot or Lots it owns. After the date that is six (6) months following the recordation of this Declaration, Designated Builders shall pay one hundred percent (100%) of all Assessments on any Lot or Lots owned by a Designated Builder. Declarant shall be exempt from the obligation to pay Assessments, as more particularly set forth in Section 8.2.

8.6 Computation of Assessments; Annual Budget. The Board shall prepare and adopt an estimated annual budget for each fiscal year of the Association, which annual budget shall serve as the basis for determining the Annual Assessments for the applicable fiscal year (subject to the limitations of Section 8.8 hereof). Such budget shall take into account the estimated Common Expenses and cash requirements of the Association for the year. The annual budget shall also take into account the estimated net available cash income for the year, if any, from the operation or use of any of the Common Area. The annual budget shall also provide for a reserve for contingencies for the year (and for subsequent fiscal years) and a reserve for replacements, all in such reasonably adequate amounts as shall be determined by the Board, taking into account the number and nature of replaceable assets, the expected life of each asset, and each asset's expected repair or replacement cost. Not later than sixty (60) days following the meeting of the Board at which the Board adopts the annual budget for the year in question, the Board shall cause to be delivered or mailed to each Owner a copy of the budget and a statement of the amount of the Annual Assessments to be levied against such Owner's Lot for the fiscal year in question. If the Board fails to adopt a budget for any fiscal year prior to commencement of such fiscal year, then until and unless such budget is adopted, the budget (and the amount of the Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. Subject to the provisions of this Section 8.6 and of Sections 8.8 and 8.10, neither the annual budget (nor any amended budget) adopted by the Board, nor any Assessment levied pursuant thereto, shall be required to be ratified or approved by the Owners. If, at any time during a fiscal year of the Association the Board deems it necessary to amend the budget for such year, the Board may do so and may levy an additional Annual Assessment for such year (subject to the limitations imposed by Section 8.8) or may call a meeting of the Members to request that the Members approve a Special Assessment pursuant to Section 8.10. Within sixty (60) days after adoption of the amended budget (if the Board elects to levy an additional Annual Assessment), the Board shall cause a copy of the amended budget and a statement of the additional Annual Assessments to be levied against the Lots to be delivered or mailed to each Owner; if, instead, the Board elects to call a meeting of Members to seek approval of a Special Assessment, the Board shall cause a copy of the amended budget proposed by the Board to be delivered or mailed to each Owner with the notice of such meeting, and if a Special Assessment is duly approved by the Members at such meeting, shall cause a statement of the Special Assessment to be levied against each Lot to be promptly mailed or delivered to each Owner.

8.7 Due Dates. Annual Assessments for each fiscal year shall be due and payable in equal periodic installments, payable not more frequently than monthly nor less frequently than semiannually, as determined for such fiscal year by the Board, with each such installment to be due and payable on or before the first day of the applicable period during that fiscal year. Special Assessments, if any, shall be paid in such manner and on such dates as may be fixed by the Board. In addition to any other powers of collection or enforcement granted hereunder, if any Assessments (or installments thereof) with respect to a Lot are delinquent, the Board shall have the right, in its sole discretion, to accelerate the date on which all Assessments with respect

to such Lot are due and payable. For purposes of this Declaration, Assessments shall be deemed "paid" when actually received by the Association or by its manager or agent designated by the Association to collect the same (provided, however, that if any Assessments were paid by check and the bank or other institution upon which such check is drawn thereafter dishonors and refuses to pay such check, those Assessments shall not be deemed "paid" and shall remain due and payable with interest accruing from the date such Assessments were originally due). As provided in Section 8.3, the Board shall have the right to establish from time to time, in its reasonable discretion, late fees which may be charged if Assessments or other amounts payable to the Association are not paid on or before the applicable due dates, and may, at its election, provide grace period(s) following the applicable due date(s) before such late fees begin to accrue.

8.8 Maximum Annual Assessment. The Maximum Annual Assessment for each fiscal year of the Association shall be as follows:

8.8.1 Until January 1 of the year immediately following the conveyance of the first Lot to a Retail Purchaser, the Maximum Annual Assessment for each Lot shall be prepared and adopted by the Board, prior to the time of conveyance of the first Lot to a Retail Purchaser, based upon a budget of the estimated Common Expenses required for the initial Annual Assessment period, including any contribution required to be made for reserves as required under Section 8.18.

8.8.2 From and after January 1 of the year immediately following the conveyance of the first Lot to a Retail Purchaser, the Board may, without a vote of the Members, increase the Maximum Annual Assessment during each fiscal year of the Association by the greater of (a) an amount established by the Board not to exceed the maximum amount permitted under applicable state law or (b) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) U.S. City Average (1982-1984 Average = 100 Base) published by the Bureau of Labor Statistics of the U.S. Department of Labor (or its successor governmental agency), or, if such index is no longer published by said Bureau or successor agency, then the index most similar in composition to such index. Notwithstanding the foregoing, the Board may, without the approval of the Members, increase the Maximum Annual Assessment for any fiscal year by an amount sufficient to permit the Board to meet any increases over the preceding fiscal year in: (i) premiums for any insurance coverage required by the Declaration to be maintained by the Association; or (ii) charges for utility services necessary to the Association's performance of its obligations under this Declaration, in either case (i) or (ii) notwithstanding the fact that the resulting increase in the Maximum Annual Assessment is at a rate greater than otherwise permitted under the preceding sentence. Nothing herein shall obligate the Board to levy, in any fiscal year, Annual Assessments in the full amount of the Maximum Annual Assessment for such fiscal year, and the election by the Board not to levy Annual Assessments in the full amount of the Maximum Annual Assessments for any fiscal year shall not prevent the Board from levying Annual Assessments in subsequent fiscal years in the full amount of the Maximum Annual Assessment for such subsequent fiscal year (as determined in accordance with this Section 8.8). If, for any fiscal year, the Board elects to levy an Annual Assessment at less than the full amount of the Maximum Annual Assessment for such fiscal year, the Board may, if in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Annual Assessment during said fiscal year so long as the total of the Annual

Assessments levied during said fiscal year does not exceed the Maximum Annual Assessment for such fiscal year.

8.9 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the other Property Documents, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 8.10 hereof; or (b) approving any increase in the Maximum Annual Assessment greater than that permitted by application of the formula as set forth in Section 8.8, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Annual Assessment, a quorum shall consist of fifty percent (50%) of the votes in each class of Members (whether represented in person or by absentee ballot), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

8.10 Special Assessments. In addition to the Annual Assessments, the Association may levy Special Assessments from time to time, provided, however, that any Special Assessment shall be effective only with the approval of not less than two-thirds of the votes of each class of Members represented in person at a meeting of Members duly called and convened to consider such Special Assessment or by absentee ballot. Subject to Section 8.5, Special Assessments shall be allocated equally among all Lots.

8.11 Certificates. The Association shall, upon the written request of any Owner or the holder, insurer or guarantor of any Mortgage, and upon payment of such reasonable charge as may be determined by the Board, furnish to the requesting party a certificate, executed by an officer of the Association, stating the date to which Assessments with respect to such Owner's Lot have been paid and the amount, if any, of any Assessments which have been levied with respect to said Lot but which remain unpaid as of the date of such certificate; said certificate shall be binding upon the Association as to the matters set forth therein as of the date thereof.

8.12 Surplus Monies. Unless otherwise expressly determined by the Board, any surplus monies of the Association shall be held by the Association and placed in one or more reserve accounts as determined by the Board, and shall not be paid to the Owners or credited against the Owners' respective liabilities for Assessments.

8.13 Deficiency Obligations. If the Association determines that the total Assessments for the current year are, or will become, inadequate to meet all Common Expenses for whatever reason, including Common Expenses in excess of the estimated Common Expenses used in preparation of the Association's budget for that year, the Association shall then determine the approximate amount of the inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Assessments to be paid by each Owner for the balance of the year, and the date or dates when due. If the estimated total Assessments for the current year prove to be in excess of the actual Common Expenses, the Association may, at the discretion of the Board, retain the excess as additional working capital or reserves, reduce the

amount of the Assessments for the succeeding year, or abate collection of Assessments for a period of time deemed appropriate by the Board. No reduction or abatement of Assessments because of any anticipated surplus may diminish the quantity or quality of services upon which the Common Expenses for the year in question are based.

8.14 Common Expenses Resulting from Misconduct. Notwithstanding any other provision of this Article 8, if any Common Expense is caused by the misconduct of any Owner (or of any Occupant, tenant, employee, servant, agent, guest or invitee for whose actions such Owner is responsible under applicable law), the Association may assess that Common Expense exclusively against such Owner and such Owner's Lot, which amount (together with any and all costs and expenses, including but not limited to attorneys' fees, costs and other litigation fees and costs incurred by the Association in recovering the same) shall be secured by the lien created pursuant to Section 8.4; provided, however, that nothing in this Section 8.14 shall be interpreted as imposing absolute liability on any Owner for damage to the Common Areas or Lots.

8.15 Additional Assessments Against Certain Lots. Where the Association has the responsibility to maintain, repair, replace, and operate a portion of the Common Area that is different from or in addition to the types of Common Area in the balance of the Property and that is designed to benefit less than all of the Property (e.g. private streets, separate entryways or gates, enhanced landscaping, community centers, swimming pools, and other related equipment and facilities appurtenant thereto), the Board, in its sole discretion, may assess the costs of such maintenance, repair, replacement, and operation solely against those Lots within the applicable portion of the Property (and the respective Owners thereof) as Additional Assessments, which shall be assessed equally against each of the Lots within the portion of the Property that are benefited and shall be secured by the lien for Assessments created by and described in, and enforceable in accordance with this Article 8. Such Additional Assessments may also include amounts to establish and fund reserves for such maintenance, repair, replacement, and operation and to purchase public liability, property damage and/or casualty insurance for the specific improvements, all if and as the Board may deem reasonable and appropriate. If the Board elects to separately assess certain Lots as a result of such Common Areas that exclusively or disproportionately benefit the Owners of such Lots, the Board shall Record a notice or memorandum against those Lots disclosing the Additional Assessments for those Lots.

8.16 Reduced Assessments. Notwithstanding anything in this Declaration to the contrary, if the Board elects to separately assess Additional Assessments against certain Lots as a result of the Common Area(s) that exclusively or disproportionately benefits the Owners of those certain Lots within a portion of the Property, as more particularly set forth in Section 8.15, the Assessments applicable to each Lot within said portion of the Property may, at the Board's election, be levied and assessed at a rate equal to fifty percent (50%) of the Assessments levied and assessed against other Lots within the Property that are not subject to any Additional Assessments.

8.17 Working Capital Fund. To ensure that the Association shall have adequate funds to meet its expenses or purchase necessary equipment or services, each Person (with the exception of Declarant and any Designated Builders) who purchases a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth of the current Annual Assessment for the Lot. Funds paid to the Association pursuant to this Section

may be used by the Association for payment of operating expenses or any other purpose permitted under this Declaration. Payments made pursuant to this Section shall be nonrefundable and shall not be offset or credited against or considered as advance payment of any Assessments levied by the Association pursuant to this Declaration.

8.18 Reserve Fund. To ensure that the Association shall have adequate funds reserved for repair and replacement of improvements on the Common Area, each Person (with the exception of Declarant and any Designated Builders) who purchases a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth of the current Annual Assessment for the Lot. Funds paid to the Association pursuant to this Section shall be deposited in the Reserve Account established pursuant to Section 8.19. Payments made pursuant to this Section shall be nonrefundable and shall not be offset or credited against or considered as advance payment of any Assessments levied by the Association pursuant to this Declaration.

8.19 Reserves. Each budget adopted by the Board shall include reasonable amounts as determined by the Board to be collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Area. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a Reserve Account to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board shall not expend funds designated as reserve funds for any purpose other than those purposes for which they were collected. The Board shall obtain an initial reserve study and then provide updates thereto at least once every three (3) years. The reserve study shall at a minimum include (i) identification of the major components of the Common Area which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years, (ii) identification of the probable remaining useful life of the identified major components as of the date of the study, (iii) an estimate of the cost of repair, replacement, restoration or maintenance of the identified major components during and at the end of their useful life, and (iv) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain the identified major components during and at the end of their useful life, after subtracting total reserve funds as of the date of the reserve study. Provided that the Board acts in good faith to determine the amount to be collected as reserves, Declarant (and any Designated Builders) shall not be liable to the Association or any Member if the amount collected as reserves proves to be inadequate to pay for all required periodic maintenance, repair and replacement which was intended to be funded from reserves.

8.20 Fee for Matters Touching and Concerning Land. Each Person or entity (other than Declarant and any Designated Builders) who purchases a Lot may be required to pay to the Association immediately upon becoming the Owner of the Lot a fee in such amount as may be established from time to time by the Board. The fee charged shall not be an amount higher than is permitted by applicable law. Any such fees received by the Association may only be used for the construction, maintenance, repair, alteration and replacement of the Common Area, including any improvements, amenities and recreational facilities thereon, or for other purposes that touch and concern the land and are permitted under this Declaration. To the extent that any fee

authorized under this Section 8.20 is determined to be unenforceable under applicable law, this Section 8.20 shall be deemed modified to the extent necessary for the fee to be enforceable.

8.21 Failure of Designated Builder to Pay Assessments. Declarant shall have the right to withdraw the Designated Builder status of any Person, or to withdraw any or all Designated Builder rights of such Person, for failure to pay amounts owed under this Declaration under this Article 8, in accordance with the following provisions:

8.21.1 If a Designated Builder fails to pay any amounts owed under this Declaration within fifteen (15) days following the date such amounts are due and payable, Declarant may deliver written notice to such Designated Builder of Declarant's intent to withdraw the Designated Builder status of such Person. If the Person fails to pay in full all amounts owed within twenty (20) days after the Person's receipt of such notice, Declarant may at any time thereafter cause to be Recorded a written instrument withdrawing the Person's designation as a Designated Builder, or withdrawing any or all of the special rights, privileges or immunities of such Person, and upon the Recordation of such instrument, the Person shall have no further rights of a Designated Builder, unless reinstated as permitted herein.

8.21.2 If, following the withdrawal of a Person's status as a Designated Builder, (i) the Person pays all amounts that are then delinquent and any other amounts necessary to compensate Declarant for any obligations of the Person that Declarant elected to cure (together with interest on any such obligations at a rate set by Declarant and permitted at law), and (ii) the Person delivers written evidence to Declarant of such payment and of request for reinstatement of Designated Builder status, then Declarant shall cause to be Recorded a written instrument reinstating the Person's designation as a Designated Builder, or reinstating the withdrawn Designated Builder rights. In any such instrument, Declarant, in its discretion, may modify any of the special rights, privileges or immunities that such Designated Builder will have under this Declaration. Notwithstanding any of the foregoing, Declarant shall not be obligated to reinstate any Person's designation as a Designated Builder if the Person does not comply with the foregoing requirements (i) and (ii) within twelve (12) months of the date that any unpaid amounts became delinquent, nor shall Declarant be obligated to reinstate any Person's designation as a Designated Builder more than one time during any twelve- (12) month period or on any occasion that the Person has failed to fulfill multiple obligations of the Person under this Declaration.

8.21.3 The withdrawal of a Person's designation as a Designated Builder shall not release the Person from any financial obligations accruing during periods in which the Person held Designated Builder status.

8.21.4 The Declarant's election to withdraw a Person's status as a Designated Builder shall not prejudice or waive any right of the Declarant to exercise any other remedy permitted under this Declaration.

ARTICLE 9

ARCHITECTURAL STANDARDS, ARCHITECTURAL COMMITTEE

9.1 Appointment of Architectural Committee: Standing to Enforce. The Property which is now or hereafter subject to this Declaration shall be subject to architectural, landscaping and aesthetic review as provided herein. This review shall be in accordance with this Article 9 and such standards as may be promulgated by the Architectural Committee, which is hereby established. Authority and standing on behalf of the Association to enforce in any court of competent jurisdiction decisions of the Architectural Committee and the provisions of this Article 9 shall be vested in the Board, provided, however, that so long as Declarant has the right to appoint the Architectural Committee under this Section 9.1, Declarant shall have the right, but not the obligation, to enforce decisions of the Architectural Committee and the provisions of this Article 9, on behalf of the Association, in courts of competent jurisdiction. So long as Declarant (or a trustee for the benefit of Declarant) owns any part of the Property, the Architectural Committee shall consist of three individuals appointed by Declarant. At such time as either: (a) neither Declarant nor a trustee for the benefit of Declarant owns any part of the Property; or (b) Declarant executes a written waiver of its right to appoint the Architectural Committee, the Board shall appoint the members of the Architectural Committee, which shall have such number of members (but not less than three) as the Board may elect, from time to time. Each member of the Architectural Committee appointed by the Board shall serve in such capacity until: (i) such member is removed by the Board; or (ii) such member resigns such position or dies. Prior to the appointment of the initial members of the Architectural Committee, and at any time when there is no one serving on the Architectural Committee (whether due to death, resignation or removal), the Board shall have and exercise any and all rights, powers, duties and obligations of the Architectural Committee.

9.2 Jurisdiction of the Architectural Committee; Promulgation of Standards. The Architectural Committee shall have exclusive jurisdiction over all original construction and any modifications, additions or alterations to improvements on any portion of the Property (including, but not limited to, the construction or installation of, or modifications, additions or alterations to: (a) Dwelling Units and any other buildings or other structures; (b) landscaping; (c) fences and fence walls; (d) heating, ventilating, air conditioning and cooling units; (e) solar panels; (f) paint; and (g) any other construction, modification, addition or alteration affecting the exterior appearance of any structure or Lot). The Architectural Committee shall adopt, and may from time to time amend, supplement and repeal, the Architectural Committee Rules, which shall include architectural and landscaping standards and application procedures, and shall make the same available to Owners, builders and developers who seek to engage in development of or construction upon any portion of the Property. The Architectural Committee Rules shall interpret, implement and supplement this Declaration, and shall set forth procedures for Architectural Committee review, and may include, without limitation, provisions regarding:

9.2.1 the size of Dwelling Units;

9.2.2 architectural design, with particular regard to the harmony of the design with surrounding structures and topography;

9.2.3 placement of buildings;

9.2.4 landscaping design, content and conformance with the character of the Property, and permitted and prohibited plants;

9.2.5 requirements concerning exterior color schemes, exterior finishes and materials;

9.2.6 signage; and

9.2.7 perimeter and screen wall design and appearance.

The Architectural Committee Rules shall have the same force and effect as the Association Rules. Further, after termination of Declarant's right to appoint the members of the Architectural Committee pursuant to Section 9.1, any and all amendments, supplements, repeals or replacements to or of the Architectural Committee Rules shall be subject to the approval of the Board.

9.3 Submission and Review of Plans. No original construction, modification, alteration or addition subject to the Architectural Committee's jurisdiction (including, but not limited to, landscaping) shall be commenced until it has been approved or is deemed approved by the Architectural Committee as provided herein. Any Owner or other Person seeking to construct or install any new improvements or landscaping or to make any modification, alteration or addition to any existing improvement (including, but not limited to, landscaping) upon any portion of the Property (or to cause same to be constructed, installed or made) shall first submit to the Architectural Committee detailed plans, specifications and elevations relating to the proposed construction, installation, modification, alteration or addition; said plans, specifications and elevations (including, but not limited to, a detailed site plan) shall be sent by: (a) personal delivery to designated member(s) of the Architectural Committee, in which case the Person delivering the same shall obtain a signed and dated receipt from the recipient thereof (in which event they shall be deemed received as of the date indicated by the recipient on such receipt); or (b) by U.S. mail, postage paid, certified mail, return receipt requested (in which event they shall be deemed received as of the date indicated on the return receipt). The Architectural Committee shall have forty-five (45) days after receipt of such plans, specifications and elevations to approve or disapprove of the proposed construction, installation, modification, alteration or addition or to request additional information, and, if the Architectural Committee disapproves, to give Owner or other Person reasonably detailed written reasons for such disapproval. If the Architectural Committee fails either to approve or disapprove the proposed construction, installation, modification, alteration or addition (or to request additional information) within said forty-five (45) day period, such proposed construction, installation, modification, alteration or addition shall be deemed approved. The approval required of the Architectural Committee pursuant to this Article 9 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

9.4 Obligation to Obtain Approval.

9.4.1 Except as otherwise expressly provided in this Declaration or the Architectural Committee Rules, without the prior written approval by the Architectural Committee of plans and specifications prepared and submitted to the Architectural Committee in accordance with the provisions of this Declaration and the Architectural Committee Rules:

(a) no improvements, alterations, repairs, excavation, grading, landscaping or other work shall be done which in any way alters the exterior appearance of any property or improvements thereon from their natural or improved state existing on the date such property first becomes subject to this Declaration; and

(b) no building, fence, exterior wall, roadway, driveway or other structure, improvement or grading shall be commenced, erected, maintained, altered, changed or made on any Lot at any time.

9.4.2 No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon the Property except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Committee in accordance with the Architectural Committee Rules and except in compliance with Section 9.12.

9.4.3 No material changes or deviations in or from the plans and specifications for any work to be done on the Property, once approved by the Architectural Committee, shall be permitted without approval of the change or deviation by the Architectural Committee.

9.4.4 No other item or matter required by this Declaration to be approved in accordance with this Article 9 shall be done, undertaken or permitted until approved by the Architectural Committee.

9.5 Changes to Interiors of Dwelling Units or Other Structures. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his, her or its Dwelling Unit or other structure on such Owner's Lot or to paint the interior of his, her or its Dwelling Unit or such other structure any color desired, except to the extent such remodeling or painting is Visible From Neighboring Property or other structure or affects the exterior appearance of such Dwelling Unit or other structure.

9.6 Other Approvals: Liability. No approval by the Architectural Committee of any proposed construction, installation, modification, addition or alteration shall be deemed to replace or be substituted for any building permit or similar approval required by any applicable governmental authority, nor shall any such approval be deemed to make the Architectural Committee (or the Board or the Association) liable or responsible for any damage or injury resulting or arising from any such construction, modification, addition or alteration. Neither Declarant, the Association, the Board nor the Architectural Committee (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

9.6.1 the approval or disapproval of any plans, drawings or specifications, whether or not defective;

9.6.2 the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or

9.6.3 the development of any Lot.

9.7 Fee. The Architectural Committee may establish, in the Architectural Committee Rules, a reasonable processing fee to defer the costs of the Architectural Committee in considering any request for approvals submitted to the Architectural Committee or for appeals to the Board, which fee shall be paid at the time the request for approval or review is submitted. Such fee, if established and charged by the Architectural Committee, shall be set at such reasonable level as the Architectural Committee may estimate will be necessary to defray the reasonable costs and expenses of the Architectural Committee in reviewing and evaluating any such request or application, and may include, if the Architectural Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Architectural Committee by an architect or engineer.

9.8 Inspection. Any member or authorized consultant of the Architectural Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot, after reasonable notice to the Owner or Occupant of such Lot, in order to inspect the improvements constructed or being constructed on such Lot to ascertain that such improvements have been, or are being, built in compliance with this Declaration, the Architectural Committee Rules and any approved plans, drawings or specifications.

9.9 Waiver. Approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring approval of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

9.10 Appeal to Board. Except as provided in this Section 9.10, any Owner or Occupant aggrieved by a decision of the Architectural Committee may appeal the decision to the Board in accordance with procedures to be established in the Architectural Committee's standards and procedures. If the Architectural Committee's decision is overruled by the Board on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by the Board. Notwithstanding the foregoing, until termination of Declarant's right to appoint the members of the Architectural Committee pursuant to Section 9.1, no decision of the Architectural Committee may be appealed to the Board.

9.11 Nonapplicability to Declarant. The provisions of this Article 9 shall not apply to any portions of the Property owned by Declarant, by any Declarant Affiliate, or by a trustee for the benefit of any of the foregoing so long as any improvements constructed thereon (or any additions, modifications or alterations to any such improvements) are constructed or made in a good and workmanlike fashion and are generally comparable in terms of quality of construction to other improvements theretofore constructed by Declarant, or by any Declarant Affiliate on the Property (or on other property adjacent to or near the Property). Further, this Article 9 may not

be amended without the written consent of Declarant so long as Declarant, any Declarant Affiliate, or a trustee for the benefit of any of the foregoing owns any of the Property.

9.12 Landscaping.

9.12.1 All Lots, excluding driveways, parking areas and areas covered by structures, shall be landscaped in a manner and using plants and soil approved in advance by the Architectural Committee and shall comply with Architectural Committee Rules. No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon any Lot except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Committee in accordance with this Article 9 and the Architectural Committee Rules. No material changes or deviations in or from the plans and specifications for any work to be done on any Lot, once approved by the Architectural Committee, shall be permitted without approval of the change or deviation by the Architectural Committee. Neither this Section 9.12 nor Sections 9.3 or 9.4 above shall be construed to prevent normal landscape maintenance or the replacement of dead or diseased plants with other similar plants (so long as the replacement plants are permitted by the Architectural Committee Rules).

9.12.2 Prior to the conveyance of a Lot to a Retail Purchaser, Designated Builder shall complete the landscaping of front yards and any areas within the Lot that are Visible From Neighboring Property and/or Visible From Common Areas and any public right-of-way areas (other than sidewalks or bicycle paths) lying between the front boundaries of such Lot and an adjacent street, except where the installation or maintenance (or both) of landscaping within any public right-of-way area is designated on a plat Recorded by or with the written approval of Declarant as being the responsibility of the Association. Within one hundred eighty (180) days of acquiring a Lot, each Owner (other than Declarant or a Designated Builder) shall landscape such areas within the Lot not previously landscaped by a Designated Builder including, without limitation, side and back yards of the Lot and any public right-of-way areas (other than sidewalks or bicycle paths) lying between the side or back boundaries of such Lot and an adjacent street, except where the installation or maintenance (or both) of landscaping within any public right-of-way area is designated on a plat Recorded by or with the written approval of Declarant as being the responsibility of the Association.

9.12.3 Any alterations or modifications made to the landscaping of a Lot as originally installed must be approved in advance by the Architectural Committee. If any Owner (including a Designated Builder) does not install and complete approved landscaping within the applicable time periods required by this Section, the Association, after giving the Owner thirty (30) days written notice to cure any such default, shall have the right to cause the necessary landscaping to be installed at the expense of such Owner, which expense together with attorneys' fees, costs and other litigation fees and costs, plus any interest as provided in Section 8.3, shall be secured by the lien on such Owner's Lot as established by Section 8.4.

9.13 Exemptions. Anything herein to the contrary notwithstanding, Declarant shall have the right to exempt one or more Designated Builders from all or portions of the provisions of this Article 9 so long as such Designated Builder constructs improvements in a good and workmanlike fashion and subject to any other conditions imposed by Declarant.

ARTICLE 10

USE RESTRICTIONS AND OTHER COVENANTS, CONDITIONS AND EASEMENTS

10.1 Residential and Recreational Purpose. The Property shall be used only for residential, recreational and related purposes. No Lot or any other part of the Property shall be used, directly or indirectly, for any business, commercial, manufacturing, industrial, mercantile, vending or other similar purpose, except for use by Declarant or a Designated Builder (or a Declarant Affiliate or affiliate of a Designated Builder or assignee of Declarant), for a period not to exceed ten (10) years from the first conveyance by Declarant of a Lot to a Retail Purchaser, directly in connection with construction and sales activities with respect to the Property (including, but not limited to, maintenance and operation of model homes, sales offices and signs advertising the Property or portions thereof). Notwithstanding the foregoing, an Owner or other Occupant of a Dwelling Unit may conduct a business activity upon a Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all applicable zoning ordinances or requirements for the Property; (c) the business activity does not involve the door-to-door solicitation of Owners or other Occupants in the Property; (d) the use of the Dwelling Unit for trade or business shall in no way destroy or be incompatible with the residential character of the Dwelling Unit or the surrounding neighborhood; (e) the trade or business shall be conducted only inside the Dwelling Unit or inside an accessory building or garage; (f) the trade or business shall be conducted by an Occupant or Occupants of the Dwelling Unit with no more than one employee working in or from such Dwelling Unit who is not an Occupant thereof; (g) no more than twenty percent (20%) of the total floor area of the Dwelling Unit shall be used for trade or business; (h) the Dwelling Unit used for trade or business shall not be used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business shall not utilize large vehicles not customary to a residential use. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Dwelling Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

10.2 Garages and Driveways. The interior of all garages situated upon the Property shall be maintained by the respective Owners or Occupants thereof in a neat, clean and sightly condition. Such garages shall be used only for parking of Motor Vehicles (as defined in Section 10.11) and storage of personal property, but garages shall not be used for storage of personal property if doing so would prevent the Owner from storing all the Owner's Motor Vehicles (up to the number of Motor Vehicles the garage is intended to hold) in the garage as required by Section 10.11. Garages shall not be used or converted for living or recreational activities. All driveways on Lots shall be of concrete construction.

10.3 Temporary Structures. No temporary residence, structure or garage shall be placed or erected upon any part of the Property (except as may otherwise be permitted by Section 10.4 or Section 10.21). Except with the express written approval of Declarant, no Dwelling Unit or other structure on any Lot shall be occupied in any manner while in the course of original construction or prior to issuance by the appropriate local governmental authority of a certificate of occupancy (or other similar document) with respect to such Dwelling Unit or other structure.

10.4 New Construction. All buildings or structures erected on the Property shall be of new construction and the buildings and structures shall not have been moved to the Property from other locations (except for temporary construction and/or sales facilities placed or maintained on the Property by Declarant, a Designated Builder or a Declarant Affiliate or assignee of Declarant in connection with the construction and sales activities of Declarant, a Designated Builder or such Declarant Affiliate or assignee of Declarant).

10.5 Signs. No billboards or signs of any type or character shall be erected or permitted on any part of the Property or on any Lot, except for signs used by Declarant or a Designated Builder (or a Declarant Affiliate, or assignee of Declarant or Designated Builder) to advertise the Property (or to identify builders, contractors or lenders) during the construction and sales period and except for any sign erected by the Association. Nothing herein shall be deemed to prohibit:

10.5.1 the attachment to the exterior of a Dwelling Unit of a single nameplate and a single address plate identifying the Occupant and the address of such Dwelling Unit, provided that such nameplate and address plate shall be subject to the rules and regulations of the Architectural Committee;

10.5.2 the placing upon the exterior of any Dwelling Unit (or upon the Lot containing the Dwelling Unit) of any of the following, to the extent such items are protected under A.R.S. § 33-1808 or other applicable laws: (a) a single "For Sale" sign, providing that such "For Sale" sign shall not exceed thirty inches by twenty-four inches in size, (b) a single sign rider accompanying a "For Sale" sign, which sign rider shall not exceed six inches by twenty-four inches in size, (c) a single "For Lease" sign, providing that such sign shall not exceed eighteen inches by twenty-four inches in size, or (d) temporary "Open House" signs that are industry standard size;

10.5.3 the placement upon the Lot of a single "security" sign, provided that such "security" sign shall not have dimensions exceeding eight inches by ten inches;

10.5.4 the placement of no more than three political signs (or such greater number of political signs as is expressly permitted by ordinance of the County or the city in which the Property is located if the County or the city regulates the number of political signs that may be displayed on residential property), to the extent such items are protected under A.R.S. § 33-1808 or other applicable laws, on any Lot that are erected not more than forty-five (45) days prior to an election, which political signs must be removed no later than seven (7) days following the election; for purposes of this Section, "political signs" shall mean a sign that attempts to influence the outcome of an election;

10.5.5 directional signs, subdivision identification signs, street signs or similar signs as may be approved by the Architectural Committee for installation and/or maintenance by the Association;

10.5.6 the display upon a Lot of any of the following, to the extent such items are protected under A.R.S. § 33-1808 or other applicable laws: (a) the American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard if the flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10) (as the same laws and regulations may be amended from time to time); (b) the POW/MIA flag; (c) the Arizona state flag; or (d) an Arizona Indian nations flag; all of the foregoing shall be subject to compliance with any Association Rules or Architectural Committee Rules applicable thereto; or

10.5.7 the display of cautionary signs regarding children to the extent such items are protected under A.R.S. § 33-1808 or other applicable laws; any such signs shall be (a) professionally manufactured or produced and no taller than three feet in height, (b) displayed in residential areas only when children are actually present within fifty feet of the sign, and (c) removed within one hour of children ceasing to play.

10.6 Heating, Ventilating and Air Conditioning Units. No heating, air conditioning or evaporative cooling units or equipment shall be placed, constructed or maintained upon the Property, unless such unit or equipment is attractively screened or concealed so as not to be Visible From Neighboring Property, which means of screening or concealment shall be subject to the regulations and approval of the Architectural Committee. Except as initially installed by the builder, all units shall be ground mounted, located within the perimeter of the rear yard and screened or concealed from the view of neighboring property.

10.7 Solar Collecting Panels or Devices. Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, Declarant desires to promote and preserve the attractive appearance of the Property and the improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans therefor by the Architectural Committee pursuant to Article 9 above, solar collecting panels and devices may be placed, constructed or maintained upon any Lot within the Property (including upon the roof of any structure upon any Lot), so long as either: (a) such solar collecting panels and devices are placed, constructed and maintained so as not to be Visible From Neighboring Property; or (b) such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Committee may reasonably deem appropriate to limit, to the extent possible, being Visible From Neighboring Property. Neither the Association nor the Architectural Committee may establish rules regarding or impose conditions on solar collecting panels and devices if such rules or conditions would prevent the installation, impair the functioning, restrict the use, or adversely affect the cost or efficiency of the solar collecting panels and devices in violation of applicable law.

10.8 Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or maintained upon the Property (including, but not limited to, upon the roof or exterior walls of any Dwelling Unit or other structure), unless: (a) such antenna, pole, tower or dish has been approved by the Architectural Committee; and (b) such antenna, pole, tower or dish complies with the Architectural Committee Rules applicable thereto. The Architectural Committee may establish, as part of the Architectural Committee Rules, rules and regulations relating to such antennas, poles, towers and dishes (including, but not limited to, the location, placement, and appearance thereof), which rules and regulations shall be subject to the requirements of applicable law, including, but not limited to, the rules of the Federal Communications Commission promulgated pursuant to the Telecommunications Act of 1996, as amended from time to time, pertaining to satellite dishes and antennas. Notwithstanding the foregoing, the Board may (but shall not be obligated to) install (or permit to be installed) upon the Common Area a television and/or radio "dish type" antenna designed and intended to serve all Owners and Occupants of the Property (or as many of such Owners and Occupants as elect to use such service). Further, notwithstanding the foregoing, the Architectural Committee may adopt a rule or regulation permitting an Owner or Occupant to install and maintain a flagpole upon such Owner's or Occupant's Lot, provided that the location and size of such flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by the Architectural Committee and may, if so provided in such rule or regulation, be made subject to the prior approval thereof by the Architectural Committee. Poles to which basketball backboards, goals and related equipment are affixed shall be governed by Section 10.9. Finally, notwithstanding the foregoing, prior approval of the Architectural Committee is not required for (i) an antenna or dish that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter, or (ii) an antenna or dish that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement.

10.9 Basketball Goals or Similar Structures. No basketball backboard, hoop or similar structure or device shall be permitted except in accordance with the Architectural Committee Rules.

10.10 Tanks. No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on the Property unless such tanks are either: (a) buried underground; or (b) of such size and height, in such location and attractively screened and not Visible From Neighboring Property in such manner, as may be required by the Architectural Committee. Nothing herein shall be deemed to prohibit use or storage upon the Property of propane or similar fuel tanks with a capacity of ten gallons or less used in connection with a normal residential gas barbecue, grill or fireplace.

10.11 Vehicles and Parking. As used in this Section: (i) "Motor Vehicle" means a car, van, sport utility vehicle, bus, truck, recreational vehicle, motor home, motorcycle, all terrain vehicle, utility vehicle, pickup truck or other motor vehicle; and (ii) "Streets" means the streets shown on any Recorded plat of the Property or private roadways.

10.11.1 Except as specifically permitted by the Association Rules or permitted by this Section, there shall be no parking on any Streets within the Property other than in parking areas designated by the Board. Each Owner and the Occupants of his Dwelling Unit shall park all of their Motor Vehicles first within the garage and then, if the garage is holding the maximum number of Motor Vehicles the garage is intended to hold, on the driveway of the Owner's Lot. Except as otherwise set forth below, garage doors must be kept closed at all times. Between the hours of 6:00 a.m. and midnight, garage doors may be open when the garage area is being used for entry and/or exit of vehicles or persons for any purpose including, but not limited to, being open for periods of time that are reasonably necessary to access tools and items needed for the maintenance of the Lot or Dwelling Unit. Between the hours of midnight and 6:00 a.m., garage doors shall remain closed with the exception of entry and/or exit of vehicles. Notwithstanding the foregoing, Persons other than Owners and Occupants of the Property, including, without limitation, their guests, invitees, and licensees, may park their Motor Vehicles on the streets of the Property in parking areas designated by the Board between the hours of 7:00 a.m. and 10:00 p.m. During times other than these hours, including overnight stays, Motor Vehicles of such other persons must be parked in accordance with the provisions above in this Section. This Section shall not prohibit the parking of public service and public safety emergency vehicles protected by A.R.S. § 33-1809 or other applicable laws.

10.11.2 No Motor Vehicle classed by manufacturer rating as exceeding one ton, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or Common Area if Visible from Neighboring Property or Visible From Common Area or on any Street within the Property, except for purposes of loading and unloading and subject to such limitations as may be established by the Board. None of the vehicles described above, or any other vehicle, may be used as a living area or otherwise occupied while located on the Property. This Section shall not prohibit the parking of public service and public safety emergency vehicles protected by A.R.S. § 33-1809 or other applicable laws.

10.11.3 No Motor Vehicles of any kind which are not in operating condition shall be parked on any Lot or Common Area if Visible from Neighboring Property, or on any Street within the Property. In addition, no Motor Vehicle or Motor Vehicle equipment, mobile or otherwise, may be parked, stored, or kept anywhere within the Property that is deemed to be a nuisance by the Board, in its sole discretion.

10.11.4 No Motor Vehicles designed or used for carrying merchandise, supplies or equipment for commercial purposes may be parked on the Common Area or on a Lot, except for vehicles parked entirely within an enclosed garage and the temporary parking of the Motor Vehicles of contractors, subcontractors, suppliers or vendors of Declarant, Association or the Owners or Occupants.

10.11.5 The Board shall have the right and power to adopt Association Rules governing and further restricting the parking of Motor Vehicles on Lots or the Streets and implementing the provisions of this Section, and establishing certain exceptions that may in certain cases be warranted. If any of the provisions of this Section and the Association Rules adopted by the Board conflict or are inconsistent, the provisions of this Section shall control.

10.11.6 The Association may adopt additional parking restrictions including the establishment of fines and assessments for their violation, enforceable as all other Assessments and in the same manner as other provisions of this Declaration.

10.12 Underground Facilities. No cesspool or well may be dug or installed without the prior written approval of the Board. No part of the Property shall be used for purposes of boring, mining, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth (except to the limited extent required in connection with the normal construction activities of Declarant, the Designated Builders, a Declarant Affiliate or assignee of Declarant during the applicable construction period).

10.13 Outdoor Burning. There shall be no outdoor burning of trash or other debris; provided, however, that the foregoing shall not be deemed to prohibit the use of normal residential barbecues or other similar outside cooking grills or outdoor fireplaces.

10.14 Sanitation. Garbage and refuse facilities, containers and the like shall be attractively screened and camouflaged in such manner as not to be visible from roads or streets (except during reasonable periods to allow for collection by the appropriate municipal or private sanitation service). All screening and camouflaging materials, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the standards and requirements set forth in Article 9 including, without limitation, Architectural Committee review and approval of such screening and camouflaging materials. All equipment for the storage or disposal of garbage or other waste shall be kept in a clean and sanitary condition. All rubbish, trash and garbage shall be kept only in containers meeting applicable municipal sanitation requirements (and any applicable reasonable rules and regulations of the Association), shall be regularly removed from the Property and shall not be allowed to accumulate thereon.

10.15 Fences, Interferences and Obstructions.

10.15.1 All fences shall be of block construction (except as may be otherwise permitted with the prior written consent of the Architectural Committee) and, except as otherwise approved by the Architectural Committee, shall be color coordinated with the exterior of the structure(s) enclosed by or upon the same Lot as such fence. No fence shall exceed six and one-half feet in height, provided that no fence within fifteen feet of the front property line of a Lot shall exceed three feet in height (provided that the Architectural Committee shall have the authority to establish and enforce even more restrictive limitations on the height, locations and appearance of fences and fence walls, either in individual cases or as a general restriction on portions or all of the Property, where necessary or appropriate, in the reasonable judgment of the Architectural Committee, to comply with applicable zoning, building or public safety ordinances). The foregoing shall not apply to boundary walls or fences (if any) constructed by Declarant along Property lines bounding public rights-of-way, provided, however, that such boundary walls or fences shall be constructed so as to comply with applicable municipal zoning and other laws and ordinances. No fence shall be permitted to interfere with existing recorded restrictions, drainageways or easements. Except as otherwise provided by applicable law or governmental rule or regulation, and subject to any applicable restrictions or requirements set forth in any recorded plat of all or any part of the Property, fences may be constructed in or over

a recorded utility easement, provided, however, that should the utility companies ever require access to such easement, it shall be the responsibility of the Owner of the applicable Lot, at his, her or its sole expense, to remove and replace such fence.

10.15.2 No structure, shrubbery or other vegetation shall be permitted to exist on any Lot or other portion of the Property, the height or location of which shall be deemed by the Architectural Committee either to constitute a traffic hazard or to be unattractive in appearance or unreasonably detrimental to adjoining Property. As an aid to freer movement of vehicles at and near street intersections and in order to protect the safety of pedestrians, property and the operators of vehicles, the Board or Architectural Committee may impose further limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, and construction and planting on corner Lots at the intersection of two or more streets or roadways.

10.16 Nuisance. No rubbish or debris of any kind shall be placed or permitted to accumulate for any unreasonable length of time on any portion of the Property, and no odors shall be permitted to arise therefrom, so as to render the Property or any portion thereof unsanitary, unsightly or offensive or detrimental to any other portion of the Property in the vicinity thereof or to its Owners or Occupants. No noxious, destructive or offensive activity, or any activity constituting an unreasonable source of annoyance, shall be conducted on any Lot or on the Common Area. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except ordinary intercom systems or security devices used exclusively for security purposes, shall be located, used or placed on the Property. The Board in its discretion shall have the right to determine the existence of any such activity or item. The Association shall have the standing and authority to institute legal proceedings to abate such activity or to secure the removal of such item. Furthermore, the Board shall have the right to remove any such activity or item at the expense of the Owner responsible for the nuisance (or at the expense of the Owner whose tenant, Occupant or guest is responsible for such activity or item). Each Owner and Occupant shall refrain from any act on or use of his, her or its Lot or the Common Area which could reasonably cause embarrassment, discomfort or annoyance to other Owners or Occupants, and the Board shall have the power to make and enforce reasonable rules and regulations in furtherance of this provision.

10.17 Drainage Alteration; Easements. No vegetation (except suitable ground cover) may be planted or permitted to remain on areas subject to drainage easements, as shown on Recorded plats, in such manner as to interfere with drainage or which shall be deemed by the Board to be a detriment to utilities located under or near such vegetation. Except as otherwise provided herein, or by applicable governmental rule, regulation or ordinance, the owner of property subject to Recorded easements shall be responsible for maintaining said property.

10.18 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any part of the Property unless they are erected, placed or maintained exclusively within a fenced yard or otherwise concealed and shall not be Visible From Neighboring Property.

10.19 Pets. No animals, horses, livestock or poultry of any kind shall be raised, bred or kept on the Property; provided, however, that nothing herein shall be construed as prohibiting the

keeping of a reasonable number of ordinary household pets in or on a Lot, subject to rules and regulations adopted by the Board, provided that such pets are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no pets may be kept upon the Property or on or in any Lot which, in the opinion of the Board, result in any annoyance or are obnoxious to Owners or Occupants of other Lots in the vicinity.

10.20 Leasing: Obligations of Tenants and Other Occupants.

10.20.1 All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules. All tenants shall be subject to the terms and conditions of this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules as though such tenant were an Owner (except that such tenant shall not have any voting rights appurtenant to the Lot occupied by such tenant except pursuant to an express written assignment complying with Section 3.4). Each Owner shall provide his, her or its tenants and other Occupants with copies of this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules and shall cause such tenants and Occupants to comply with the terms of such documents. To the extent permitted by applicable law, each Owner shall be responsible and liable for all violations and losses caused by such Owner's tenants or Occupants, including, but not limited to, any assessments, fines, charges, or costs imposed upon his, her or its Lot or incurred by his, her or its tenants or Occupants, notwithstanding the fact that such tenants or Occupants are also fully liable for any violation of each and all of those documents.

10.20.2 If a tenant or other Occupant violates any provision of this Declaration, the Articles, the Bylaws, the Association Rules or the Architectural Committee Rules, the Association shall have the power, after written notice to the Owner of the Lot, to enforce any remedies set forth in this Declaration against the tenant or other Occupant, bring an action or suit against such tenant or other Occupant to recover sums due for damages or injunctive relief, evict such tenant or other Occupant if within a twelve- (12) month period the tenant or Occupant commits three or more material violations of this Declaration, the Articles, the Bylaws, the Association Rules or the Architectural Committee Rules, regardless of whether such violations are cured, or to pursue any other remedy available at law or equity. The Association's costs in doing so, including, but not limited to, reasonable attorneys' fees, costs and other litigation fees and costs, together with interest as provided in Section 8.3, shall be reimbursed by the tenant or other Occupant to the Association (or, in the absence of reimbursement by the tenant or other Occupant, or at the election of the Board, by the Owner of the Lot occupied by such tenant or other Occupant) and constitute a lien on the applicable Lot which shall have the priority, and may be enforced in the manner, described in Section 8.4.

10.20.3 The Board shall also have the power to suspend the right of the tenant or other Occupant to use the recreational facilities on or constituting a part of the Common Area for any violation by the tenant or other Occupant of any duty imposed under this Declaration, the Articles, the Bylaws, the Association Rules or the Architectural Committee Rules and to impose reasonable monetary fines upon the tenant, Occupant or the Owner of the applicable Lot, or upon all such parties. In the event of any such violation of any duty imposed under this Declaration, the right of the tenant or other Occupant to use the recreational facilities on or constituting a part

of the Common Area due to any such violation shall be suspended until such violation ceases or is corrected; the foregoing limitation shall not affect or prevent termination of the applicable lease if permitted by the terms of said lease or otherwise by applicable law.

10.20.4 No Owner may lease less than his, her or its entire Lot. No Lot may be leased for a period of less than thirty (30) days. Upon leasing his, her or its Lot, an Owner shall promptly notify the Association of the commencement and termination dates of the lease and the names of each tenant or other Person who will occupy the Lot during the term of the lease, and thereafter shall advise the Association promptly of any changes in any of such information. Within five (5) business days following written request by the Board, by any officer of the Association or by the Association's independent management agent, the Owner shall deliver to the Board, such officer or such agent, as applicable, a true, correct and complete copy of the fully signed lease, including any and all amendments or modifications thereto.

10.20.5 The provisions of this Section 10.20 shall not apply to Declarant's or Designated Builder's use of Lots owned by (or leased to) Declarant or any such Designated Builder as a model home or office or for marketing purposes pursuant to Section 10.1.

10.21 Additional Structures. No Additional Structures shall be placed, erected or maintained upon any part of the Property except: (a) where such Additional Structure is constructed as an integral part of a Dwelling Unit (including materials, color and the like); or (b) where such Additional Structure is temporarily placed on the Property by Declarant or a Declarant Affiliate in connection with construction activities of Declarant or such Declarant Affiliate. Notwithstanding part (a) of this Section 10.21, an Owner or other Person shall be permitted to erect, on his, her or its Lot, an Additional Structure which is not attached to the Dwelling Unit on that Lot, so long as the Additional Structure meets all of the following requirements:

10.21.1 Roof and wall (if applicable) color and materials must either (i) match those used by the builder in the original construction of the Dwelling Unit; or (ii) be approved by the Architectural Committee prior to installation;

10.21.2 The Additional Structure shall comply with all laws, ordinances and regulations (including, but not limited to, set back requirements);

10.21.3 The Additional Structure shall not be attached at any point to any fence (including any block wall fence); and

10.21.4 Any Owner or other Person who wishes to erect such Additional Structure on his, her or its Lot must still comply with all other provisions of this Declaration and, in particular, shall submit plans for the proposed Additional Structure to the Architectural Committee for review in accordance with Article 9 of this Declaration, and shall not commence erection or construction of such Additional Structure until such plans are approved by the Architectural Committee in accordance with Article 9 of this Declaration.

10.22 Dwelling Units, Landscaping and Maintenance. If landscaping has been installed by a Designated Builder and prior to the conveyance of a Lot to a Retail Purchaser, the Designated Builder shall maintain the Dwelling Unit and the landscaping of front yards and any

areas within the Lot that are Visible From Neighboring Property and/or Visible From Common Areas and any public right-of-way areas (other than sidewalks or bicycle paths) lying between the front boundaries of such Lot and an adjacent street, except where the maintenance of landscaping within any public right-of-way area is designated on a plat Recorded by or with the written approval of Declarant as being the responsibility of the Association. Prior to the conveyance of a Lot to a Retail Purchaser, Designated Builders shall maintain the exterior of a Dwelling Unit in accordance with standards prescribed by the Board and otherwise in a manner and to a level not less than the standards of quality established by the Board with respect to the quality, quantity and frequency of painting and the like. Each Owner (other than Declarant) shall maintain the landscaping on such Owner's Lot and any public right-of-way areas lying between the front, rear, or side boundaries of such Lot and an adjacent street and shall keep the land free of debris and weeds at all times and promptly repair portions of the landscaping which have been damaged. Each Owner (other than Declarant) shall maintain the aforementioned landscaping and exterior of the Owner's Dwelling Unit in accordance with standards prescribed by the Board and otherwise in a manner and to a level not less than the standards of quality established by the Board with respect to the quality, quantity and frequency of watering, mowing, weeding, trimming, fertilizing, painting and the like. If any Owner fails to perform the obligations provided herein, the Association may, at the discretion of the Board, perform those obligations at the expense of such Owner, which expense, together with attorneys' fees, costs and other litigation fees and costs, plus any interest as provided in Section 8.3, shall be secured by the lien on such Owner's Lot established by Section 8.4. In addition to the requirements set forth above, Declarant, Designated Builder, or Owner owning a Lot or any other portion of the Property, whether improved or not, shall maintain such Lot or portion of the Property free of debris and weeds at all times and promptly repair portions of the land which may have been damaged.

10.23 Roof Materials. The roof of each Dwelling Unit (or of any building containing Dwelling Units) within the Property shall consist of concrete or clay tile, unless such Dwelling Unit has a flat roof with no pitch (i.e., a horizontal roof).

10.24 Encroachments. There are reserved and granted for the benefit of each Lot, over, under and across each other Lot and the Common Area, and for the benefit of the Common Area, over, under and across each Lot, non-exclusive easements for encroachment, support, occupancy and use of such portions of Lots and/or Common Area as are encroached upon, used and occupied as a result of any original construction design, accretion, erosion, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building or structure or any portion thereof, or any other cause. If any improvements on a Lot or on the Common Area are partially or totally destroyed, the encroachment easement shall exist for any replacement structure which is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching improvement(s) shall exist for as long as the encroachment exists; provided, however, that no easement of encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement of encroachment may but need not be cured by repair and restoration of the structure.

10.25 Easement for Annexable Property. Declarant shall have, and hereby expressly reserves, for itself and its agents, successors and assigns, an easement over and across the Common Area for the purposes of reasonable ingress to and egress from, over and across the

Property, including private roads and pathways, to the Annexable Property until all of the Annexable Property is fully developed and sold to retail purchasers.

10.26 Windows/Sun Screens. Permanent draperies or suitable window treatments shall be installed on all front facing windows within ninety (90) days of occupancy. No reflective materials, including but not limited to, aluminum foil, reflective screens or glass, mirrors or similar type material, shall be installed or placed upon the outside or inside of any windows.

10.27 Lights and Decorations. Any lights and decorations installed or situated on a Lot that are Visible from Neighboring Property other than those that have been installed as part of the original construction or approved as permanent improvements by the Architectural Committee shall be removed within thirty (30) days after the date the lights and decorations are put on display or, if the lights and decorations are installed in connection with a holiday that will occur within thirty (30) days after the date the lights and decorations are put on display, the lights and decorations shall be removed within twenty (20) days after the holiday, and in no event may any such lights and decorations remain on display for more than sixty (60) days. If any such lights and decorations remain on display in violation of this Section, in addition to any other rights or remedies set forth in this Declaration or available at law or equity, the Board shall have the right, upon thirty (30) days prior written notice to the Owner of a Lot, to designate a party to enter upon the Lot and summarily remove exterior lights or decorations displayed in violation of this provision, and the Owner of the Lot shall be responsible for all costs incurred in connection with such action. The Board, and the individuals removing the lights and decorations, shall not be liable to the Owner or to any tenant or Occupant for trespass, conversion, or damages of any kind except intentional misdeeds and gross negligence.

10.28 Swimming Pools. All swimming pools shall be maintained (i) in compliance with any and all laws, ordinances, regulations and other requirements of applicable governmental entities, including, but not limited to, those pertaining to health and safety, and (ii) in a condition not creating a nuisance or a threat to public health or safety. If any swimming pool is not maintained as required by this Section, then in addition to any other rights or remedies set forth in this Declaration or available at law or equity, the Board shall have the right, upon thirty (30) days prior written notice to the Owner of a Lot with such swimming pool, to designate a party to enter upon the Lot and cause such maintenance as is necessary to cause the swimming pool to be in compliance with this Section, and the Owner of the Lot shall be responsible for all costs incurred in connection with such action. The Board, and the individuals conducting such maintenance, shall not be liable to the Owner or to any tenant or Occupant for trespass, conversion, or damages of any kind except intentional misdeeds and gross negligence.

10.29 Miscellaneous. The Board, in its good faith discretion, is hereby authorized to grant such waivers of the restrictions contained in this Article 10 as it shall deem appropriate in the circumstances, so long as the use permitted by such waiver shall not result in an unsafe, unsanitary or aesthetically displeasing condition and shall not result, in the Board's discretion, in a substantial departure from the common plan of development contemplated by this Declaration. In addition, all portions of the Property shall continue at all times to be subject to any and all applicable zoning laws and ordinances, provided, however, that where the provisions of this Declaration are more restrictive than such laws or ordinances, the provisions of this Declaration shall control.

ARTICLE 11

PARTY WALLS

11.1 General Rules of Law to Apply. Each wall or fence which is located between two Lots or between a Lot and Common Area shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article 11, the general rules of law regarding party walls and liability for property damages due to negligent or willful acts or omissions shall apply thereto. For purposes of this Article 11 only, in the case of a party wall between a Lot and Common Area, in interpreting the provisions of this Article the Common Area bounded by such wall shall be deemed to be a "Lot" and the Association shall be deemed to be the "Owner" of such "Lot."

11.2 Repair and Maintenance. No Owner or Occupant of any Lot (or any tenant, guest, invitee, employee or agent of such Owner or Occupant) shall do or permit any act (or omit to do any act) that will or does damage, destroy or impair the structural soundness or integrity of any party wall, or which would cause any party wall to be damaged by exposure to the elements, and, if any such Owner, Occupant, tenant, guest, invitee, employee or agent does or permits any such act (or so omits to do any act), such Owner's or Occupant's liability with respect to such damage, destruction, impairment or exposure shall be determined in accordance with applicable law.

11.3 Sharing of Repair and Maintenance. If any repair, maintenance or reconstruction of any party wall shall be necessary (other than due to the negligence or willful act or omission of the Owner or Occupant of one Lot, or such Owner's or Occupant's tenants, guests, invitees, employees or agents in which event such costs shall be the sole responsibility of the Owner) the cost thereof shall be borne equally by the Owners and/or Occupants of the Lot(s) having in common such party wall, provided, however, that all wrought iron portions of such wall shall remain the Association's maintenance responsibility. If any Owner (or Occupant) fails or refuses timely to pay such Owner's (or Occupant's) share of such cost, the other Owner (or Occupant) shall have the right to pay in full such cost and recover from such Owner (or Occupant) such Owner's (or Occupant's) share of such cost (together with interest as provided in Section 8.3).

11.4 Consents to Modification. No Owner or Occupant shall alter or modify any party wall in any respect without having first obtained the written consent of the Owner of the other Lot adjoining such party wall, provided that such consent shall not be required in the case of repair or restoration of such party wall to its condition prior to any damage or destruction if the negligence or willful act or omission of the Owner or Occupant of such other Lot was the cause of such damage or destruction and such Owner or Occupant fails or refuses to repair or restore such party wall promptly upon the request of the other Owner or Occupant. Any consent required by this Section 11.4 shall be in addition to and not in substitution for the consents or approvals of the Architectural Committee required by this Declaration or of any municipal or other governmental body having jurisdiction over the Property.

ARTICLE 12

GENERAL PROVISIONS

12.1 Term. The covenants, conditions and restrictions of this Declaration; (a) shall run with and bind the Property; (b) shall inure to the benefit of and shall be enforceable by the Association or by the owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns; and (c) shall remain in full force and effect until January 1, 2060; beginning January 1, 2060 and at January 1 every twenty-five (25) years thereafter, this Declaration, and all of the conditions, covenants and restrictions herein, shall automatically be extended for successive periods of twenty-five (25) years each, unless and until revoked by an affirmative vote of Members holding not less than sixty-seven percent (67%) of all votes then entitled to be cast. For any such revocation to be effective, the vote required by this Section 12.1 shall be taken at a special meeting of Members duly called for such purpose, which meeting shall be held no earlier than six (6) months before the January 1 date at which this Declaration would automatically be extended absent such vote; if such meeting is duly called and held, and at that meeting the requisite number of votes are cast to revoke this Declaration, the President and Secretary of the Association shall execute and Record a notice of such revocation, and such revocation shall be effective as of the applicable January 1 date at which this Declaration would automatically be extended absent such vote. Notwithstanding any such revocation of this Declaration, each Owner of a Lot (and such Owner's Occupants, tenants, agents, guests and invitees) shall nevertheless have a permanent easement across the Common Area for access to such Lot and for access to and use of such recreational facilities as may exist on the Common Area at the time of such revocation.

12.2 Amendment. Except as otherwise provided in this Declaration, this Declaration may be amended only by the affirmative vote (in person or by absentee ballot) or written consent of: (a) Members holding not less than sixty-seven percent (67%) of all Class A votes then entitled to be cast; and (b) so long as the Class B membership is in existence, Declarant. In addition, Declarant shall have the right, without the consent of any other Person, to amend all or any part of this Declaration to address changes in applicable law if such changes are necessary or appropriate, as determined by Declarant in its reasonable discretion. No amendment to this Declaration shall be effective unless and until such amendment is Recorded.

12.3 Indemnification. The Association shall indemnify each and every officer and director of the Association (including, for purposes of this Section, former officers and directors of the Association, and members of the Architectural Committee) against any and all expenses, including attorneys' fees and costs and other litigation related fees and costs, reasonably incurred by or imposed upon any officer, director or member of the Association in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an officer and/or director of the Association or member of the Architectural Committee, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except indirectly to the extent that such officers or directors may also be members of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association

shall indemnify and forever hold each such officer and director free and harmless for, from and against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or member of the Architectural Committee, former officer or director of the Association, or member of the Architectural Committee may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any director, officer or member of the Architectural Committee (or former director, officer or member of the Architectural Committee) of the Association who may be entitled to indemnification hereunder to enable such Person to meet ongoing costs and expenses of defending himself or herself in any action or proceeding brought against such Person by reason of his or her being, or having been, an officer or director of the Association or member of the Architectural Committee. If it is ultimately determined that a current or former officer or director to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 12.3 or otherwise under the Articles, Bylaws or applicable law, such current or former officer or director shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

12.4 Easements for Utilities. There is hereby reserved to the Board, acting on behalf of the Association, the power to grant easements upon, across, over and under all or any portion(s) of the Common Area for installation, replacement, repair, and maintenance of master television antenna systems, security and similar systems, and all utilities, including, but not limited to, water, sewer, telephone, cable television, gas and electricity, and for delivering or providing public or municipal services such as refuse collection and fire and other emergency vehicle access (which easements shall also include appropriate rights of ingress and egress to facilitate such installation, replacement, repair and maintenance, and the delivery or provision of such public, municipal or emergency services), provided that no such easement shall interfere with a Dwelling Unit or its reasonable use or with Declarant's or Designated Builder's construction and sales activities and such easements shall require the holder of the easement to repair any damage caused to the property of any Owner. The Association shall have the right to grant any such easement either: (a) as a "blanket" easement covering all or a significant portion of the Common Area; or (b) if the Board deems it appropriate, as an easement affecting a smaller, more particularly identified portion of the Common Area.

12.5 No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any Person seek, any judicial partition of the Common Area. No Owner shall have any interest in the Common Area or any funds or other assets of the Association, other than indirectly as a Member of the Association, and no Owner shall sell, convey, transfer, assign, hypothecate or otherwise alienate any interest in the Common Area or any funds or other assets of the Association except that this Section shall not be deemed to prohibit an Owner from selling, conveying, encumbering or hypothecating such Owner's Lot (or an interest therein), including Owner's rights and interests under this Declaration and as a Member of the Association (which are appurtenant to title to such Lot). This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area, which shall be subject to Section 7.2).

12.6 Severability; Interpretation; Exhibits; Gender. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. The provisions hereof shall be construed and interpreted with reference to the laws of the State of Arizona. References in this Declaration to Articles, Sections and Subsections shall be deemed to be references to the specified Articles, Sections and Subsections of this Declaration (unless otherwise specifically stated), whether or not phrases such as "of this Declaration," "hereof" or "herein" are used in connection with such references. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof. Where the context hereof so requires, any personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all genders, and the singular shall include the plural and vice versa. Titles of Articles and Sections are for convenience only and shall not affect the interpretation hereof.

12.7 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

12.8 Disputes with Declarant. The following dispute resolution procedure is implemented for the Property in accordance with the philosophy and intent of the Federal Arbitration Act (9 U.S.C. Sections 1-16) which is designed to encourage use of alternative methods of dispute resolution that avoid costly and potentially lengthy traditional court proceedings. The dispute resolution procedure in this Section is to be interpreted and enforced as authorized by the Federal Arbitration Act. Parties interpreting this Section shall follow the federal court rulings which provide, without limitation, that the Federal Arbitration Act (1) is a congressional declaration of a liberal federal policy favoring arbitration agreements, notwithstanding substantive or procedural state policies to the contrary, (2) requires that federal and state courts rigorously enforce agreements to arbitrate, (3) requires the scope of this alternative dispute resolution agreement be interpreted broadly in favor of arbitration, and (4) requires disputes over whether an issue is arbitrable be resolved by a finding in favor of arbitration. Specifically, this Section is to be interpreted in accordance with Allied-Bruce Terminix Companies, Inc. v. Dobson, 115 S.Ct. 834 (1995), and other federal court rulings.

12.8.1 Alternative Dispute Resolution Provisions. Any Dispute, as defined in the alternative dispute resolutions attached hereto as Exhibit B, shall be governed by and resolved in accordance with the ADR Provisions.

12.8.2 Required Vote to Make Claim. Prior to filing a claim pursuant to the ADR Provisions, the Association must obtain the vote or written consent of Owners other than Declarant who represent not less than fifty-one percent (51%) of the Association's voting power (excluding the voting power of Declarant). The notice to the Owners of the vote or request for consent shall contain, at a minimum, the following information: (a) a description of the alleged defect or Dispute; (b) a description of the attempts of the Declarant to correct the alleged defect or Dispute and the opportunities provided to the Declarant to correct the alleged defect or Dispute; (c) the name and professional background of the attorney retained by the Association to pursue the claim against the Declarant and a description of the relationship between the attorney

and member(s) of the Board or the Association's management company (if any); (d) a description of the fee arrangement between the attorney and the Association; (e) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against the Declarant and the source of the funds that will be used to pay the fees and expenses; (f) the estimated time necessary to conclude the action against the Declarant; (g) a good faith estimate of the fees and costs the Association may be required to pay to the Declarant if the Association's claim is unsuccessful; and (h) an affirmative statement from a majority of the members of the Board that the action is in the best interests of the Association and its Members. If the Dispute pertains to an alleged defect, the notice to the Owners shall also contain an estimate of the cost to repair the alleged defect and a certification from an architect or engineer licensed in the State of Arizona that the alleged defect exists along with a description of the scope of work necessary to cure the alleged defect.

12.8.3 Declarant Party. This Section 12.8 governs only the resolution of Disputes with Declarant parties on the one hand, and the Association and/or one or more Owners/subsequent Owners, on the other hand. Except as otherwise provided in the ADR Provisions, each party in a Dispute with the Declarant shall bear its own attorneys' fees and costs, and the prevailing party shall not be entitled to an award of attorneys' fees or costs.

12.8.4 AGREEMENT TO METHOD OF RESOLVING DISPUTES: WAIVER OF RIGHT TO JURY TRIAL; AMENDMENT. DECLARANT, THE ASSOCIATION AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 12.8 TO RESOLVE ALL DISPUTES AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES IN ANY OTHER MANNER. DECLARANT, THE ASSOCIATION, AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 12.8, THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES TRIED BEFORE A JURY, PURSUANT TO THE FEDERAL ARBITRATION ACT. THIS SECTION 12.8 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.

12.9 Alternative Dispute Resolution for Owner Disputes. Any dispute or claim between or among (a) any Owner and another Owner; or (b) the Association and any Owner, including any claim based on contract, tort, or statute, arising out of or relating to (i) the rights or duties of the parties under this Declaration or the other Property Documents; or (ii) the design or construction of any portion of the Property, but excluding disputes relating to the payment of any type of Assessment (collectively an "Owner Dispute"), shall be subject first to negotiation, then mediation, and then arbitration as set forth in this Section 12.9 prior to any party to the Owner Dispute instituting litigation with regard to the Owner Dispute. Notwithstanding the foregoing sentence, any Owner Dispute that involves a dispute with Declarant shall be resolved pursuant to the terms of Section 12.8.

12.9.1 Negotiation. Each party to an Owner Dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving an Owner Dispute by good faith negotiation. Upon receipt of a written request from any party to the Owner Dispute, the Board may appoint a representative to assist the parties in resolving the dispute by negotiation, if in its discretion the Board believes its efforts will be beneficial to the parties and

to the welfare of the community. Each party to the Owner Dispute shall bear their own attorneys' fees and costs in connection with any such negotiation.

12.9.2 Mediation. If the parties cannot resolve the Owner Dispute pursuant to the procedures described in Section 12.9.1 within such time period as may be agreed upon by the parties (the "Termination of Negotiations"), the party instituting the Owner Dispute (the "Disputing Party") shall have thirty (30) days after the Termination of Negotiations within which to submit the Owner Dispute to mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other independent entity providing similar services upon which the parties to the Dispute may mutually agree. No person shall serve as a mediator in any Owner Dispute in which the person has a financial or personal interest in the result of the mediation, except by the written consent of all parties to the Owner Dispute. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. If the Disputing Party does not submit the Owner Dispute to mediation within thirty (30) days after Termination of Negotiations, the Disputing Party shall be deemed to have waived any claims related to the Owner Dispute and all other parties to the Owner Dispute shall be released and discharged from any and all liability to the Disputing Party on account of the Owner Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to persons who are not a party to the proceedings.

(a) Position Memoranda: Pre-Mediation Conference. Within ten (10) days after the selection of the mediator, each party to the Owner Dispute shall submit a brief memorandum setting forth its position with regard to the issues to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties to the Owner Dispute shall attend unless otherwise agreed. The mediation shall commence within ten (10) days following submittal of the memoranda to the mediator and shall conclude within fifteen (15) days from the commencement of the mediation unless the parties to the Owner Dispute mutually agree to extend the mediation period. The mediation shall be held in Pima County or such other place as may be mutually acceptable to the parties to the Owner Dispute.

(b) Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Owner Dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the Owner Dispute and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Owner Dispute, provided the parties to the Owner Dispute agree to obtain and assume the expenses of obtaining the expert advice as provided below. The mediator does not have the authority to impose a settlement on any party to the Owner Dispute.

(c) Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

(d) Parties Permitted at Sessions. Persons other than the parties to the Owner Dispute may attend mediation sessions only with the permission of all parties to the Owner Dispute and the consent of the mediator. Confidential information disclosed to a

mediator by the parties to the Owner Dispute, or by witnesses in the course of the mediation, shall be kept confidential. There shall be no stenographic record of the mediation process.

(c) Expenses of Mediation. The expenses of witnesses for either side shall be paid by the party producing the witnesses. All other expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof of expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Owner Dispute unless otherwise agreed. Each party to the Owner Dispute shall bear their own attorneys' fees and costs in connection with such mediation.

12.9.3 Final and Binding Arbitration. If the parties cannot resolve the Owner Dispute pursuant to the procedures described in Section 12.9.2, the Disputing Party shall have thirty (30) days following termination of mediation proceedings (as determined by the mediator) to submit the Owner Dispute to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as modified or as otherwise provided in this Section 12.9.3. If the Disputing Party does not submit the Owner Dispute to arbitration within thirty (30) days after termination of mediation proceedings, the Disputing Party shall be deemed to have waived any claims related to the Owner Dispute and all other parties to the Owner Dispute shall be released and discharged from any and all liability to the Disputing Party on account of the Owner Dispute; provided, nothing herein shall release or discharge any party from any liability to persons who are not a party to the proceedings. The parties to the Owner Dispute shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the arbitration proceeding. Subject to the limitations imposed in this Section 12.9.3, the arbitrator shall have the authority to try all issues, whether of fact or law.

(a) Place. The arbitration proceedings shall be heard in the county where the Property is located.

(b) Arbitration. A single arbitrator shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the American Arbitration Association with experience in relevant matters that are the subject of the Owner Dispute. The arbitrator shall not have any relationship to the parties or interest in the Property. The parties to the Owner Dispute shall meet to select the arbitrator within ten (10) days after service of the initial complaint on all defendants named therein.

(c) Commencement and Timing of Proceeding. The arbitrator shall promptly commence the arbitration proceeding at the earliest convenient date in light of all of the facts and circumstances and shall conduct the proceeding without undue delay.

(d) Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

(e) Discovery. The parties to the Owner Dispute shall be entitled to limited discovery only, consisting of the exchange between the parties of the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Owner Dispute, including but

not limited to, destructive or invasive testing; and (vi) trial briefs. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties to the Owner Dispute. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(f) Limitation on Remedies/Prohibition on the Award of Punitive Damages. Notwithstanding contrary provisions of the Commercial Arbitration Rules, the arbitrator in any proceeding shall not have the power to award punitive or consequential damages; however, the arbitrator shall have the power to grant all other legal and equitable remedies and award compensatory damages. The arbitrator's award may be enforced as provided for in the Uniform Arbitration Act, A.R.S. § 12-1501, et seq., or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held.

(g) Motions. The arbitrator shall have the power to hear and dispose of motions, including motions to dismiss, motions for judgment on the pleadings, and summary judgment motions, in the same manner as a trial court judge, except the arbitrator shall also have the power to adjudicate summary issues of fact or law including the availability of remedies, whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(h) Expenses of Arbitration. Each party to the Owner Dispute shall bear all of its own costs incurred prior to and during the arbitration proceedings, including the fees and costs of its attorneys or other representatives, discovery costs, and expenses of witnesses produced by the party. Each party to the Owner Dispute shall share equally all charges rendered by the arbitrator unless otherwise agreed to by the parties.

12.9.4 Statutes of Limitations. Nothing in this Section shall be considered to toll, stay, reduce, or extend any applicable statute of limitations.

12.9.5 Enforcement of Resolution. If the parties to an Owner Dispute resolve the Owner Dispute through negotiation or mediation in accordance with Section 12.9.1 or Section 12.9.2, and any party thereafter fails to abide by the terms of such negotiation or mediation, or if an arbitration award is made and any party to the Owner Dispute thereafter fails to comply with such resolution or award, then the other party to the Owner Dispute may file suit or initiate administrative proceedings to enforce the terms of the negotiation, mediation, or award without the need to again comply with the procedures set forth in this Section. In that event, the party taking action to enforce the terms of the negotiation, mediation, or the award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata), all costs incurred to enforce the terms of the negotiation, mediation or award including, but not limited to, attorneys' fees and court costs.

12.9.6 Amendment of this Article. Notwithstanding any contrary provision contained herein, no provision of Section 12.9 shall be modified, amended or revoked in any way without the express written consent of the Declarant.

12.10 Property Held in Trust. Any and all portions of the Property (and of the Annexable Property) which are now or hereafter held in a subdivision or similar trust or trusts (or

similar means of holding title to property), the beneficiary of which trust(s) is Declarant or a Designated Builder, shall be deemed for all purposes under this Declaration to be owned by Declarant or such Designated Builder and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by Declarant or such Designated Builder. If fee simple title to a Lot is held by a trustee pursuant to a trust agreement, the beneficiary of the trust who is entitled to possession shall be deemed to be the Owner. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by Declarant or a Designated Builder to any such trust (or the trustee thereof) or to Declarant or such Designated Builder by any such trust (or the trustee thereof) shall be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

12.11 Notices to Certain Mortgage Holders, Insurers or Guarantors. The Association shall give timely written notice of any of the following actions, events or occurrences to any holder, insurer or guarantor of a Mortgage who or which, prior to such action, event or occurrence, shall have made written request to the Association for such notice (which written request shall state the name and address of such holder, insurer or guarantor and the Lot number or street address of the Lot to which the applicable Mortgage pertains):

12.11.1 Any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing the applicable Mortgage;

12.11.2 Any delinquency lasting sixty (60) days or more in payment of any Assessments or other charges owed to the Association by the Owner of the Lot securing the applicable Mortgage, or any other breach or default hereunder by the Owner of the Lot securing the applicable Mortgage which is not cured within sixty (60) days after written notice thereof from the Association to such Owner; or

12.11.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

12.12 Amendments Requested by Governmental Agency. Notwithstanding any other provision of this Declaration, Declarant shall have the right to amend all or any part of this Declaration to such extent and with such language as may be requested by the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or other governmental or quasi-governmental agency which issues, guarantees, insures or purchases Mortgages (or securities or other debt instruments backed or secured by Mortgages), or otherwise governs transactions involving Mortgages or instruments evidencing same, or otherwise governs development of the Property or the Annexable Property, as a condition to such agency's approval of this Declaration, the development encompassing the Property or any subdivision constituting a part of the Property. Any such amendment shall be effected by Declarant's Recording an instrument executed by Declarant and appropriately acknowledged, specifying the governmental or quasigovernmental agency requesting such amendment and setting forth the appropriate amendatory language. Recording of such amendment shall constitute conclusive proof of such governmental or quasi-governmental agency's request for such amendment. Such amendment shall be effective, without the consent or approval of any other Person, on and as of the date the same is Recorded, and shall thereupon and thereafter be binding upon any and all Owners or other Persons having any interest in all or

any part of the Property. Except as expressly provided in this Section, neither Declarant nor any other Person(s) shall have the right to amend this Declaration except in accordance with and pursuant to the other provisions and requirements of this Declaration.

12.13 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

12.14 Right to Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant a corporate name which is the same as or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by Declarant, the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other nonprofit corporation formed or incorporated by Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

12.15 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of this Declaration, the Articles, the Bylaws, the Association Rules or the Architectural Committee Rules. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

12.16 Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out, or that any real property now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or

unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold Declarant harmless therefrom.

12.17 Declarant's Rights. Any or all of the special rights and obligations of Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided, further, that no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly Recorded. Nothing in this Declaration shall be construed to require any Declarant, Designated Builder, or any successor to develop any of the Annexable Property in any manner whatsoever. Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sale of Lots shall continue, (i) it shall be expressly permissible for Declarant (and any Designated Builder, to the extent permitted by Declarant) to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units and sales offices, and Declarant (and any Designated Builder, as applicable) shall have an easement for access to such facilities, and (ii) subject to the express grant by Declarant, a Designated Builder may maintain and carry on upon those Lots which are owned by such Designated Builder, such facilities and activities as may be reasonably required, convenient or incidental to the construction or sale of such Lots including, but not limited to, business offices, signs, model units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by Declarant and any clubhouse or community center which may be owned by the Association, as models, sales offices and other purposes related to Declarant's sales activities on the Property and the Annexable Property. Notwithstanding any other provision in this Declaration to the contrary, this Section may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Section shall terminate upon the earlier of: (a) twenty (20) years from the date this Declaration is Recorded; or (b) upon Recording by Declarant of a written statement that all sales activity has ceased.

12.18 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including, but not limited to, this Section) which grants to or confers upon Declarant any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as Declarant or a trustee for the benefit of Declarant owns any portion of the Property, without the express written consent of Declarant.

12.19 Amendments to Articles and Bylaws. Except as otherwise provided in this Declaration, the Articles and Bylaws may only be amended by following the procedures set forth therein.

ARTICLE 13

FHA/VA PROVISIONS

13.1 Approvals During Period of Declarant Control. Notwithstanding any other provision of this Declaration or of any of the other Property Documents to the contrary, during the period: (a) commencing with the earlier of: (i) the date FHA or VA first approves any subdivision in the Property for single family residential loan insurance or guarantee programs offered by FHA or VA; or (ii) the date FHA or VA first insures or guarantees a loan on any Lot within the Property; and (b) ending with the conversion of the Class B membership to Class A membership:

13.1.1 property which is not included within the Annexable Property shall not be annexed to the Property without the prior approval of either FHA or VA (except to the extent such annexation involves only minor adjustments to boundaries of the Property);

13.1.2 neither the Common Area nor any part thereof shall be dedicated without the prior approval of either FHA or VA (except in connection with minor adjustments to the boundaries of any Common Area or any other portion of the Property);

13.1.3 no amendment to this Declaration or to the Articles or Bylaws shall be effective without the prior approval of either FHA or VA (except to make clerical or technical corrections); and

13.1.4 the Association shall not be dissolved or merged or consolidated with any other entity without the prior approval of FHA or VA.

13.2 Obtaining Approvals. As to any action required by this Article 13 to be approved by FHA or VA before becoming effective or before being taken, such action shall be submitted to FHA or VA for approval, and if the agency whose approval is requested fails to disapprove the same, by written notice to the Association, Declarant or other Person requesting such approval, within thirty (30) days after delivery to such agency of the request for approval, the action in question shall be deemed approved by such agency.

13.3 Definitions. For purposes of this Declaration, the term "FHA" means the Federal Housing Administration (or its successor federal agency), and the term "VA" means the Veterans Administration (or its successor federal agency).

IN WITNESS WHEREOF, the undersigned has executed this Declaration of Covenants, Conditions and Restrictions for Santa Rita Ranch III as of the day and year first set forth above.

DECLARANT:

FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, solely in its capacity as Trustee under Trust No. 9316

By: Rachel L. Turnipseed
Name: Rachel L. Turnipseed
Title: Trust Officer

STATE OF ARIZONA)
) ss.
County of Pima)

On this 1 day of April, 2014, before me, personally appeared Rachel L. Turnipseed, who acknowledged himself to be the Trust Officer of First American Title Insurance Company, a California corporation, solely in its capacity as Trustee under Trust No. 9316, and that he, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

A. Wilson
Notary Public

My commission expires:

2-4-18

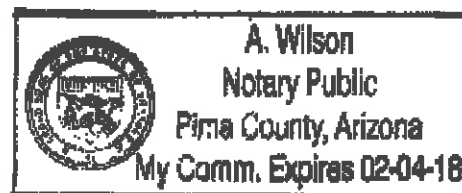


EXHIBIT A

Legal Description of the Property

Santa Rita Ranch III, Lots 1-275 and Common Areas A (Drainage/Recreation/Functional Open Space) and Common Area B (Natural Open Space) according to the plat thereof recorded in the office of the Recorder of Pima County, Arizona, in Sequence No.

20141350560.

EXHIBIT B**ALTERNATIVE DISPUTE RESOLUTION PROVISIONS**

1. **DEFINITIONS.** For purposes of this Exhibit B ("**ADR Provisions**") only: (i) "**Declarant**" means and includes Declarant, any director, officer, partner, shareholder, member, employee, agent, or representative of Declarant, any affiliate of Declarant (other than an affiliated mortgage lender), and any contractor, subcontractor, design professional, engineer, or supplier who provided labor, services or materials to the Project and who is bound or has agreed to be bound to the following or similar dispute notification and resolution procedures; (ii) "**Dispute**" means any and all actions or claims by, between and among any Declarant party on the one hand and any Owner/subsequent Owner and/or Association on the other hand arising out of or in any way relating to the Project, any Lot(s) or improvements in the Project, the Declaration, a purchase and sale contract between Owner and Declarant for the purchase and sale of a Lot ("**Contract**"), liquidated damages issues under a Contract and/or any other agreements or duties or liabilities as between any Declarant party and an Owner/subsequent Owner and/or Association relating to the sale or transfer of the Lot or Common Area, or regarding the use or condition of the Lot and/or Common Area, or the design or construction of or any condition on or affecting the Project and/or any Lot and/or Common Area in the Project, including without limitation construction defects, surveys, soils conditions, grading, specifications, installation of improvements, or disputes which allege strict liability, negligence or breach of implied or express or statutory warranties as to the condition of the Lot, Common Area or other portions of the Project; (iii) "**Owner**" means each Owner (as defined in the Declaration), any individual or entities comprising such Owner, any representative of Owner acting with respect to Owner's rights (including without limitation any class representative or homeowners' association so acting), and any successor or assign of Owner with respect to such Owner's Lot, the Contract, or any other agreements or obligations with respect to Declarant or the Project; and (iv) "**Project**" means the development, construction and marketing of the Property and the Lot and the community of which it is a part. Disputes do not include actions taken by the Association against Declarant to collect delinquent Assessments or any action involving any Common Area completion bonds.
2. **ARBITRATION OF DISPUTES.**
 - (a) **BINDING ARBITRATION.**
 - (b) **WAIVER OF LITIGATION RIGHTS.** THE PARTIES ACKNOWLEDGE AND AGREE THAT BY AGREEING TO BINDING ARBITRATION AS PROVIDED HEREIN: (i) EACH PARTY IS GIVING UP THE RIGHTS SUCH PARTY MIGHT POSSESS TO HAVE A DISPUTE LITIGATED IN A COURT OR JURY TRIAL; (ii) EACH PARTY'S DISCOVERY AND APPEAL RIGHTS WILL BE LIMITED, (iii) EACH PARTY'S AGREEMENT TO THESE ADR PROVISIONS IS VOLUNTARY AND SUCH PARTY UNDERSTANDS ITS PROVISIONS, (iv) IF THE DISPUTE INVOLVES THE LOT AND/OR THE COMMON AREA OWNED OR MANAGED BY OTHERS, INCLUDING THE ASSOCIATION, THE PROCEDURES SET FORTH HEREIN ARE ALSO ACCEPTABLE FOR RESOLVING DISPUTES WITH RESPECT TO SUCH MATTERS

AND EACH PARTY WILL TAKE ALL ACTIONS NECESSARY TO SECURE PARTICIPATION BY SUCH OTHER PARTY IN THE DISPUTE RESOLUTION PROCEDURES SET FORTH HEREIN, AND (v) THE ASSOCIATION AND THE INTEREST OF ALL OWNERS IN THE ASSOCIATION WILL BE BOUND BY THE DISPUTE RESOLUTION PROCEDURES DESCRIBED HEREIN. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE HAD THE OPPORTUNITY TO BE ADVISED BY INDEPENDENT LEGAL COUNSEL IN CONNECTION WITH THESE ADR PROVISIONS AND IN MAKING THESE WAIVERS. THE PARTIES FURTHER ACKNOWLEDGE AND UNDERSTAND THE MEANING AND RAMIFICATIONS OF THESE WAIVERS, AND INTEND THESE WAIVERS BE READ AS BROADLY AS POSSIBLE AND TO EXTEND TO ALL DISPUTES EXCEPT AS OTHERWISE PROVIDED HEREIN. HOWEVER, THESE ADR PROVISIONS SHALL IN NO WAY BE CONSTRUED TO LIMIT THE RIGHT OF ANY PARTY TO BE REPRESENTED BY COUNSEL IN ANY PROCEDURES PURSUANT TO THESE ADR PROVISIONS.

(c) CHOICE OF LAW AND SCOPE OF ARBITRATOR'S AUTHORITY. ALL DISPUTES SHALL BE GOVERNED, INTERPRETED AND ENFORCED ACCORDING TO THE FEDERAL ARBITRATION ACT (9 U.S.C. §§ 1-16), WHICH IS DESIGNED TO ENCOURAGE USE OF ALTERNATIVE METHODS OF DISPUTE RESOLUTION THAT AVOID COSTLY AND POTENTIALLY LENGTHY COURT PROCEEDINGS. INTERPRETATION AND APPLICATION OF THESE PROCEDURES SHALL CONFORM TO FEDERAL COURT RULINGS INTERPRETING AND APPLYING THE FEDERAL ARBITRATION ACT. REFERENCES TO ARIZONA LAW SHALL NOT BE CONSTRUED AS A WAIVER OF ANY RIGHTS OF THE PARTIES UNDER THE FEDERAL ARBITRATION ACT OR THE RIGHT OF THE PARTIES TO HAVE THE PROCEDURES SET FORTH WITHIN THESE ADR PROVISIONS INTERPRETED AND ENFORCED UNDER THE FEDERAL ARBITRATION ACT. HOWEVER, TO THE EXTENT NECESSARY, AND WHENEVER SUCH LAWS ARE NOT IN CONFLICT WITH OTHER PROVISIONS OF THESE ADR PROVISIONS OR THE PROCEDURES OF ANY SELECTED ALTERNATIVE DISPUTE RESOLUTION SERVICE, THE ARBITRATOR SHALL APPLY THE LAWS OF THE STATE OF ARIZONA, AND THE ARBITRATOR'S AWARD MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION. THE ARBITRATOR SHALL HAVE THE AUTHORITY TO TRY AND SHALL TRY ALL ISSUES, WHETHER OF FACT OR LAW, INCLUDING WITHOUT LIMITATION, THE VALIDITY, SCOPE AND ENFORCEABILITY OF THESE ADR PROVISIONS, AND MAY ISSUE ANY REMEDY OR RELIEF THAT THE COURTS OF THE STATE OF ARIZONA COULD ISSUE IF PRESENTED THE SAME CIRCUMSTANCES.

(d) NO RECOVERY OF ATTORNEYS' FEES OR EXPERT WITNESS FEES. TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES WAIVE ANY RIGHT TO RECOVER ATTORNEYS' OR EXPERT WITNESS FEES INCURRED IN ANY DISPUTE.

(e) ARBITRATION FILING FEES AND FEES CHARGED BY ARBITRATION SERVICE. DECLARANT SHALL INITIALLY ADVANCE (OR, UPON SATISFACTORY EVIDENCE, REIMBURSE) THE AMOUNT OF ANY ARBITRATION

INITIATION/FILING FEES IN EXCESS OF THE AMOUNT OF THE FILING FEES FOR A CIVIL LAWSUIT REQUIRED UNDER APPLICABLE LOCAL LAW AT THE TIME THE ARBITRATION/FILING FEES ARE INCURRED. OTHER AND/OR ONGOING FEES AND COSTS OF THE ARBITRATOR SHALL BE DIVIDED EQUALLY BETWEEN THE CLAIMANT(S), ON THE ONE HAND, AND DECLARANT AND ANY OTHER PARTIES TO THE PROCEEDING, ON THE OTHER HAND. IF THAT ANY OF THE FOREGOING PROVISIONS FOR THE PAYMENT OF THE ARBITRATOR'S FEES AND COSTS ARE DETERMINED BY THE ARBITRATOR, OR BY A COURT, TO BE UNENFORCEABLE FOR ANY REASON, THEN SUCH UNENFORCEABLE PROVISIONS SHALL BE DEEMED SEVERED AND DECLARANT SHALL INSTEAD ADVANCE ALL ARBITRATOR FEES AND COSTS ASSOCIATION WITH THE PROCEEDING. IN ANY EVENT, THE ARBITRATOR MAY ULTIMATELY REALLOCATE SUCH FEES AND COSTS (BUT NOT THE ATTORNEYS' AND EXPERT FEES OF THE PARTIES) AMONG ALL PARTIES TO THE PROCEEDING, IN HIS OR HER DISCRETION AS THE INTERESTS OF JUSTICE DICTATE.

3. **SURVIVAL OF PROVISIONS.** If any provision or part of these ADR Provisions is for any reason held to be invalid, unenforceable or contrary to any public policy, law, statute and/or ordinance, then the remainder of these ADR Provisions shall not be affected thereby and shall remain valid and fully enforceable.
4. **WAIVER OF JURY TRIAL.** IF THE DISPUTE RESOLUTION PROCEDURES SET FORTH OR REFERENCED HEREIN ARE DETERMINED TO BE INVALID OR UNENFORCEABLE IN WHOLE OR IN PART, SUCH THAT THE DISPUTE PROCEEDS BY WAY OF CIVIL LITIGATION PROCEEDINGS IN ANY COURT, THE PARTIES NONETHELESS WAIVE ANY AND ALL RIGHTS TO A JURY TRIAL TO THE EXTENT SUCH WAIVER IS NOT EXPRESSLY PROHIBITED BY STATUTE OR CONSTITUTION. THE PARTIES MAKE THESE WAIVERS KNOWINGLY, INTENTIONALLY AND VOLUNTARILY.
5. **DISPUTES TO BE RESOLVED INDEPENDENTLY.** Notwithstanding Paragraph 1(iii) above, Declarant and each Owner agree that it is in the best interest of Declarant and such Owner that the dispute resolution procedures set forth in these ADR Provisions be utilized independently of any actions (including actions brought pursuant to alternative dispute resolution procedures) involving Disputes between Declarant and other Owners. Accordingly, each Owner knowingly waives any right to participate in any form of "class," "joint" or "representative" litigation (including in any "private attorney general capacity") or dispute resolution procedures against Declarant. Each Owner and Declarant make this agreement on the grounds that they wish to assure, in advance, that any Disputes, actions or claims by or between such Owner and Declarant will not be combined with the Disputes, actions or claims by or between Declarant and any other Owner. Each Owner and Declarant include this provision on the additional grounds that: (i) such Owner's Lot is unique from other properties in the Project, and any potential problems it may suffer will not necessarily be common to other properties; (ii) it may provide such Owner increased ability to control any Dispute involving the Lot; (iii) such Owner's interests will not be subordinated to the interests of other parties who might otherwise become involved in these Dispute resolution procedures; (iv) this approach is likely to foster faster resolution of most Disputes that may

arise; (v) it will help to avoid conflicts of interest among such Owner's and Declarant's representatives; and (vi) it is intended to foster better communication between such Owner and Declarant focused on resolving the actual issues that may arise in any Dispute between them. Notwithstanding the foregoing, the restrictions of this Paragraph 5 shall not apply to actions (including actions brought pursuant to alternative dispute resolution procedures) for damages in the amount of \$1,000 or less per action (including actions brought pursuant to alternative dispute resolution procedures); provided however, that such Owner shall still be required to meet any legal requirements for any form of "class," "joint" or "representative" litigation or dispute resolution procedures with respect to such actions.

6. **DISPUTES UNDER FHA/VA WARRANTY.** Notwithstanding the provisions set forth above, this Paragraph 6 shall apply to the extent an Owner is issued a builder's limited warranty approved by U.S. Department of Housing and Urban Development for issuance to certain Federal Housing Administration or Veterans Administration Financed Buyers ("**FHA/VA Warranty**"). With respect to all Disputes arising out of a FHA/VA Warranty ("**FHA/VA Warranty Disputes**"), Declarant and such Owner shall comply with the Dispute resolution procedures and provisions specified in the FHA/VA Warranty. Specifically, the parties agree that the arbitration of FHA/VA Warranty Disputes shall not be mandatory; provided however, that in an action in a court of law, the waiver of jury trial set forth in Paragraph 4 shall remain effective. All other Disputes shall continue to be governed by the provisions set forth above, including, without limitation, the provisions requiring binding arbitration. However, if Owner files an action in a court of law regarding an FHA/VA Dispute while at the same time pursuing arbitration for other Disputes, Declarant may elect to have all Disputes resolved in the court action.
7. **COOPERATION CLAUSE.** The parties to any Dispute shall at all times cooperate so as to permit compliance with the terms of these ADR Provisions and to accomplish their purposes.
8. **CHOICE OF FORUM CLAUSE.** If any party to a Dispute subject to these ADR Provisions seeks review by a court of the enforceability of any of the ADR Provisions set forth or referenced herein (despite the provisions herein making that issue one to be resolved by the arbitrator or general referee), the exclusive jurisdiction and venue for any such review shall be the Federal District Court for the county in which the Project is located.

EXHIBIT C

Legal Description of the Annexable Property



LEGAL DESCRIPTION

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 17 SOUTH, RANGE 15 EAST, GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ONE QUARTER CORNER OF SAID SECTION 24 AS MONUMENTED BY A 2.5 INCH GLO BRASS DISC ON A PIPE;

THENCE SOUTH $01^{\circ}22'35''$ EAST 2640.21 FEET UPON THE EAST LINE OF SAID SOUTHEAST QUARTER OF SECTION SECTION 24 TO THE SOUTHEAST CORNER OF SAID SECTION 24 AS MONUMENTED BY A 3 INCH GLO BRASS DISC ON A PIPE;

THENCE SOUTH $89^{\circ}57'56''$ WEST 1002.77 FEET UPON THE SOUTH LINE OF SAID SOUTHEAST QUARTER TO THE POINT OF BEGINNING;

THENCE NORTH $24^{\circ}38'03''$ WEST 864.13 FEET;

THENCE NORTH $40^{\circ}54'28''$ WEST 311.34 FEET;

THENCE NORTH $30^{\circ}35'12''$ WEST 653.54 FEET;

THENCE NORTH $48^{\circ}25'35''$ WEST 224.96 FEET;

THENCE NORTH $73^{\circ}23'48''$ WEST 389.60 FEET;

THENCE NORTH $89^{\circ}57'58''$ WEST 201.14 FEET TO THE WEST LINE OF SAID SOUTHEAST QUARTER;

THENCE SOUTH $00^{\circ}02'03''$ WEST 1845.10 FEET UPON THE WEST LINE OF SAID SOUTHEAST QUARTER TO THE SOUTH ONE QUARTER CORNER OF SAID SECTION 24 AS MONUMENTED BY A 2.5 INCH GLO BRASS DISC ON A PIPE;

THENCE NORTH $89^{\circ}57'56''$ EAST 707.00 FEET UPON THE SOUTH LINE OF SAID SOUTHEAST QUARTER TO A $\frac{1}{2}$ INCH REBAR WITH IDENTIFICATION TAG, LS 17479;

THENCE NORTH $00^{\circ}02'04''$ WEST 200.00 FEET TO ANOTHER $\frac{1}{2}$ INCH REBAR WITH IDENTIFICATION TAG, LS 17479, ON A LINE BEING 200.00 FEET NORTHERLY OF AND PARALLEL WITH SAID SOUTH LINE OF THE SOUTHEAST QUARTER;

THENCE NORTH $89^{\circ}57'56''$ EAST 200.00 FEET UPON SAID PARALLEL LINE TO ANOTHER $\frac{1}{2}$ INCH REBAR WITH IDENTIFICATION TAG, LS 17479;

THENCE SOUTH $00^{\circ}02'04''$ EAST 200.00 FEET TO ANOTHER $\frac{1}{2}$ INCH REBAR WITH IDENTIFICATION TAG, LS 17479 ON SAID SOUTH LINE OF THE SOUTHEAST QUARTER;

THENCE NORTH $89^{\circ}57'56''$ EAST 733.51 FEET UPON SAID SOUTH LINE TO THE POINT OF BEGINNING.

CONTAINING 2,038,060 SQUARE FEET OR 46.7874 ACRES, MORE OR LESS.

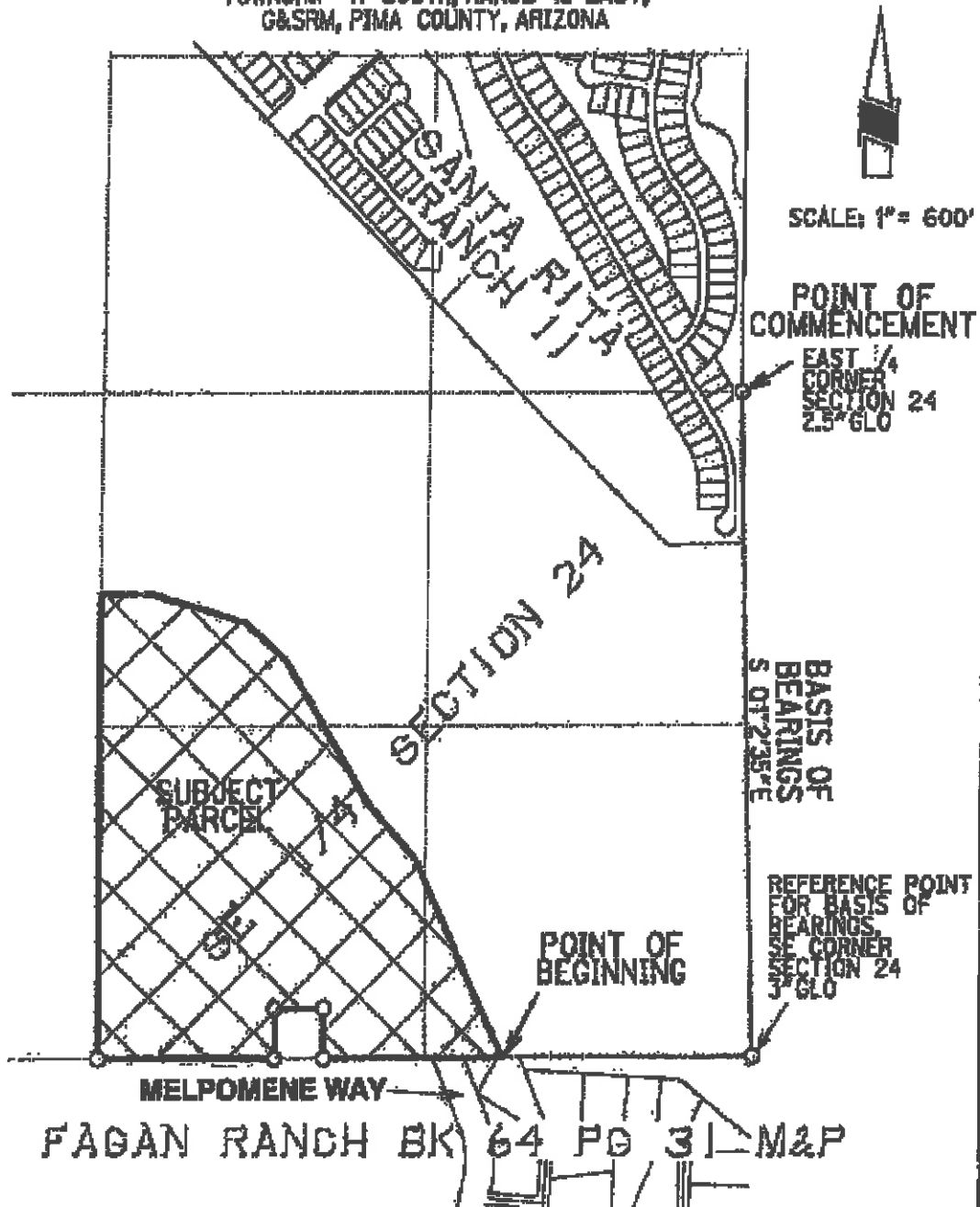
THE BASIS OF BEARINGS FOR THIS LEGAL DESCRIPTION IS THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24 AS MONUMENTED BY SAID 2.5 INCH GLO BRASS DISC AT THE EAST ONE QUARTER CORNER OF SAID SECTION 24 AND BY SAID

3 INCH GLO BRASS DISC AT THE SOUTHEAST CORNER OF SAID SECTION 24; SAID BEARING BEING: SOUTH 01°22'35" EAST.

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EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION WITHIN
A PORTION OF THE EAST 1/2 OF SECTION 24,
TOWNSHIP 17 SOUTH, RANGE 15 EAST,
G&SRM, PIMA COUNTY, ARIZONA



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