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**SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS, AND EASEMENTS
FOR
THE MEADOWS**

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**SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE MEADOWS**

This Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for The Meadows (the “**Declaration**”) is made this 24th day of June, 2014, by CAMINO A LAGO, LLC, a Delaware limited liability company (the “**Declarant**”).

RECITALS

A. Declarant previously executed and recorded that certain Declaration of Covenants, Conditions, Restrictions and Easements for The Meadows dated April 30, 2012 and recorded May 2, 2012 as Instrument No. 20120371558, records of Maricopa County, Arizona (the “**Original Declaration**”).

B. Declarant subsequently amended and restated the Original Declaration in its entirety pursuant to that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for The Meadows dated April, 2013 and recorded April 22, 2013 as Instrument No. 20130364289, records of Maricopa County, Arizona, and re-recorded October 1, 2013 as Instrument No. 20130875537 (the “**First Amended Declaration**”).

C. Pursuant to the provisions of Section 11.3 of the Original Declaration, Declarant wishes to amend and restate the First Amended Declaration in its entirety.

ARTICLE 1

DEFINITIONS

Unless otherwise defined, the following words and phrases when used in this Declaration shall have the meanings set forth in this Article.

1.1 “Acre” means an area of 43,560 square feet of land, with the acreage of any Parcel being rounded to the nearest full acre in size.

1.2 “Additional Property” means the real property described on Exhibit B attached hereto which Declarant has the right to purchase pursuant to the Certificate of Purchase, together with all Improvements located thereon, provided that the Additional Property shall not include any property that is (i) annexed to this Declaration pursuant to the terms of this Declaration or (ii) conveyed to a Party other than a Declarant Party. Solely for purposes of this Declaration, Declarant shall be deemed the Owner of the Additional Property or any portion thereof which remains subject to the Certificate of Purchase except insofar as it relates to defining the Annexable Property (and the Declarant shall not have the right to annex the Annexable Property unless it acquires the same pursuant to the Certificate of Purchase), or determining the amount of the Catch-Up Payments or Remainder Payments as described in Section 4.7 of this Declaration.

Notwithstanding the foregoing, if the Certificate of Purchase expires or otherwise terminates, any of the real property described on Exhibit B not purchased by Declarant or Declarant's designee or assignee shall no longer be included within the definition of "Additional Property."

1.3 "Annexable Property" means the Additional Property as well as any other real property situated within the vicinity of the Project together with all Improvements located thereon which is not yet annexed or made a portion of the Project.

1.4 "Areas of Association Responsibility" means (i) all Common Area; (ii) all real property, and the Improvements situated thereon, located within the boundaries of a Lot which the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration or the terms of another Recorded document executed by the Association; (iii) all real property, and the Improvements situated thereon, within the Project located within dedicated rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or any county or municipality has accepted all responsibility for the maintenance, repair and replacement of such areas; (iv) all real property, and the Improvements situated thereon, designated on a Plat signed or ratified by the Association as an area to be maintained, repaired or replaced by the Association; and (v) all real property, and any Improvements situated thereon, within the Project which the Association has agreed in a Recorded document signed by the Association to maintain, repair or replace.

1.5 "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

1.6 "Assessable Property" means any Lot or Parcel, except a Lot or Parcel or part thereof as may from time to time be Exempt Property.

1.7 "Assessments" means Regular Assessments, Neighborhood Assessments, Special Assessments, Enforcement Assessments and Transfer Assessments, pursuant to ARTICLE 4 of this Declaration.

1.8 "Assessment Lien" means the lien created and imposed by ARTICLE 4 of this Declaration.

1.9 "Assessment Period" means the period set forth in Section 4.9 of this Declaration.

1.10 "Association" means The Meadows Community Master Association, an Arizona nonprofit corporation, or such other Arizona nonprofit corporation to be organized by Declarant to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns.

1.11 "Association Rules" means the rules adopted by the Board pursuant to Section 3.9 of this Declaration, as amended from time to time.

1.12 "Board" means the Board of Directors of the Association.

1.13 “Builder” means any Person, who is engaged in the home building business and has acquired one or more Lots within the Project for the purpose of constructing a Residential Unit and related Improvements thereon, and designated a “Builder” by Declarant pursuant to a Recorded instrument.

1.14 “Bylaws” means the Bylaws of the Association, as amended from time to time.

1.15 “Catch-Up Payment” means the payment described in Section 4.7 of this Declaration.

1.16 “Certificate of Purchase” means Certificate of Purchase No. 53-108549 pursuant to which Declarant has the right to acquire certain real property from the Arizona State Land Department.

1.17 “City” means the City of Peoria, Arizona.

1.18 “Common Area” means all real property, together with all Improvements situated thereon, which the Association at any time owns in fee, in which the Association has easement or license rights, or in which the Association has a leasehold interest for as long as the Association is the owner of the fee, easement or license rights, or leasehold interest, except that Common Area shall not include (i) any Lot which the Association may acquire through foreclosure of the Assessment Lien or any deed in lieu of foreclosure or (ii) easement rights under Section 5.5.

1.19 “Common Expenses” means the actual or estimated expenses incurred, or anticipated to be incurred, by the Association, together with any allocations to reserves.

1.20 “Declarant” means CAMINO A LAGO, LLC, a Delaware limited liability company, and its assignee to whom CAMINO A LAGO, LLC, or its successor, assigns its rights as Declarant hereunder pursuant to a Recorded assignment.

1.21 “Declarant Party” or “Declarant Parties” means collectively Declarant, its parent, affiliates and subsidiaries, their officers, directors and employees, and their builders, general contractors, brokers and agents.

1.22 “Declaration” means this Declaration of Covenants, Conditions, Restrictions, and Easements as amended from time to time.

1.23 “Design Guidelines” means reasonable procedural rules, regulations, restrictions, architectural standards and design guidelines adopted by the Design Review Committee pursuant to Section 6.2 of this Declaration, as amended or supplemented from time to time.

1.24 “Design Review Committee” means the committee provided for in Section 6.1 of this Declaration.

1.25 “Enforcement Assessment” means any assessment levied pursuant to Section 4.8 of this Declaration.

1.26 “Exempt Property” means (i) all real property and Improvements within the Project owned by or dedicated to and accepted by the United States, the State of Arizona, the County of Maricopa, the City, or any political subdivision thereof, so long as such entity or political subdivision is the owner thereof or for so long as said dedication remains effective; (ii) all Common Area; and (iii) all Lots, Parcels or other real property within the Project owned by Declarant, or any wholly-owned subsidiary of Declarant, except for property owned by Declarant or such a subsidiary that is subject to a contract for the conveyance of real property subject to the provisions of A.R.S. §33-741 et seq.

1.27 “First Mortgage” means any mortgage, deed of trust pursuant to A.R.S. § 33-801 et seq. or contract for sale pursuant to the provisions of A.R.S. § 33-741 et seq. on a Lot which has priority over all other mortgages, deeds of trust and contracts for sale on the same Lot.

1.28 “First Mortgagee” means the holder or beneficiary of any First Mortgage.

1.29 “Improvement” means any building, fence, wall or other structure or improvement above or below ground (including, without limitation, any sheds, basketball poles/hoops, patio covers and balconies) or any swimming pool, road, driveway, parking area (paved or unpaved) or any trees, plants, shrubs, grass or other landscaping improvements of every type and kind.

1.30 “Lessee” means the lessee or tenant under a written lease of any Lot, including an assignee of a lease.

1.31 “Limited Common Areas” means any portion of the Common Area designated as such in accordance with the provisions of Section 3.15.2 of this Declaration and reserved for the exclusive use or primary benefit of Lots within a particular Neighborhood or Neighborhoods.

1.32 “Lot” means a portion of the Project intended for independent ownership and use and designated as a lot on a Plat and, where the context indicates or requires, shall include any building, structure or other Improvements situated on the Lot.

1.33 “Maintenance Standard” means the standard of maintenance of Improvements established from time to time by the Board and/or the Design Review Committee in the Design Guidelines, or in the absence of any such standards, the standard of maintenance of Improvements generally prevailing throughout the Project.

1.34 “Member” means any Person who is a member of the Association which holds a “Membership” created pursuant to ARTICLE 3.

1.35 “Mortgage” means any mortgage, deed of trust pursuant to A.R.S. § 33-801 et seq. or contract for sale pursuant to the provisions of A.R.S. § 33-741 et seq. on a Lot, with or without priority over any other mortgages, deeds of trust and contracts for sale on the same Lot.

1.36 “Neighborhood” means any group of Lots, designated as a Neighborhood (whether or not governed by a Neighborhood Association) by Declarant in a Plat, a Neighborhood Declaration or other Recorded instrument, which have common interests or characteristics such as shared common facilities or Limited Common Areas not enjoyed by all

other Lots. Neighborhoods may or may not be receiving special services or benefits and may or may not be charged Neighborhood Assessments as provided herein.

1.37 “Neighborhood Assessment” means any assessment levied pursuant to Section 4.5 of this Declaration.

1.38 “Neighborhood Association” means an Arizona nonprofit corporation, its successors and assigns, established for the purpose of administering and enforcing the provisions of any Neighborhood Declaration establishing a Neighborhood. The Board may approve of an unincorporated Neighborhood Association if the interests of the Members will be served and protected.

1.39 “Neighborhood Declaration” means any declaration of covenants, conditions and restrictions or like instrument recorded after the recording of this Declaration and pertaining to any Neighborhood within the Project, which shall in all cases be consistent with and subordinate to this Declaration.

1.40 “Neighborhood Expenses” means the estimated expenses incurred or to be incurred by the Association with respect to a particular Neighborhood, including expenses for the maintenance of Limited Common Areas and reasonable reserves for repair and replacement of the Improvements thereon, and expenses related to the administration of such Neighborhood.

1.41 “Owner” means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include Persons having an interest in a Lot merely as security for the performance of an obligation or a Lessee. Owner shall include a purchaser under a contract for the conveyance of real property subject to the provisions of A.R.S. § 33-741 et seq. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots subject to a deed of trust Recorded pursuant to A.R.S. § 33-801, et seq., the trustor shall be deemed to be the Owner. In the case of the Lots, the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

1.42 “Parcel” means any parcel of land, and any portion or subparcel thereof, within the Property which is not a Lot or Common Area. Lots shall not be included in the definition of a Parcel and any Parcel shall cease being Parcel upon the Recording of a Plat creating Lots in regard thereto.

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

1.44 “Plat” means any subdivision plat Recorded against all or any part of the Project, and all amendments, supplements and corrections thereto.

1.45 “President” means the duly elected or appointed president of the Association.

1.46 “Property” or “Project” means the real property described on Exhibit A attached to this Declaration, and any portions of the Annexable Property annexed pursuant to this Declaration, together with all Improvements located thereon.

1.47 “Project Documents” means this Declaration, the Articles, the Bylaws, the Association Rules and the Design Guidelines, as they may be amended from time to time.

1.48 “Purchaser” means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot, except for: (i) a Person who purchases a Lot and then leases it to the Declarant for use as a model in connection with the sale or lease of other Lots; or (ii) a Person who, in addition to purchasing a Lot, is assigned any or all of the Declarant’s rights under this Declaration.

1.49 “Recording” means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona, and **“Recorded”** or **“Recordation”** means having been so placed or the act of placing of public record.

1.50 “Reduced Assessments” means any reduced assessments levied pursuant to Section 4.6 of this Declaration.

1.51 “Regular Assessments” means any assessment levied pursuant to Section 4.2 of this Declaration.

1.52 “Remainder Payment” means the portion of the Shortfall remaining after payment of the Catch-Up Payment, as described in Section 4.7 of this Declaration.

1.53 “Resident” means each natural person occupying or residing in a Residential Unit.

1.54 “Residential Unit” means any building, or portion of a building, situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence.

1.55 “Secretary” and “Assistant Secretary” means, respectively, the duly elected or appointed secretary or assistant secretary of the Association.

1.56 “Special Assessment” means any assessment levied pursuant to Section 4.4 of this Declaration.

1.57 “Transfer Assessment” means any assessment levied pursuant to Section 4.15 of this Declaration.

1.58 “Transition Date” means the first to occur of:

(i) the day on which title to the last Lot or Parcel in the Project or the Additional Property owned by Declarant is conveyed to a third party for value, other than as security for the performance of an obligation, or

(ii) the twentieth (20th) anniversary of the date this Declaration is Recorded, or

(iii) such earlier date as Declarant declares to be the Transition Date in a Recorded instrument.

1.59 “Vice President” means the duly elected or appointed vice president of the Association.

1.60 “Visible From Neighboring Property” means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing at ground level on any part of an adjoining Lot, Common Area, or street.

ARTICLE 2

PLAN OF DEVELOPMENT; CERTAIN PROJECT DISCLOSURES

2.1 Property Subject to the Declaration. Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement and desires to provide a flexible 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. Declarant hereby declares that all the Property shall be held, sold, used and conveyed subject to the easements, restrictions, conditions and covenants set forth in this Declaration, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property. Declarant further declares that this Declaration shall be binding upon all Persons having any right, title or interest in the Property or any part thereof, their successors, successors in title, and assigns and shall inure to the benefit of each Owner thereof. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Declaration, each Person, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenant and agree that the Lots and the Membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

2.2 Annexation of Annexable Property.

2.2.1 At any time on or before the date which is fifteen (15) years after the date of the Recording of this Declaration, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Annexable Property without the consent of any other Owner or Person or the Association other than the Owner of the Annexable Property if not Declarant. The annexation of all or any portion of the Annexable Property shall be effected by the Declarant Recording an amendment to this Declaration setting forth the legal description of the Annexable Property being annexed, stating that such portion of the Annexable Property is annexed and subjected to the Declaration and describing any portion of the Annexable Property being annexed which will be Common Area, or Limited Common Area(s).

2.2.2 The Annexable Property may be annexed in separate Parcels or Lots and at different times, or the Annexable Property may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. Annexable Property annexed by the Declarant pursuant to this Section 2.2 need not be contiguous with other property in the Project, and the exercise of the right of annexation as to any Annexable Property shall not bar the further exercise of the right of annexation as to any other Annexable Property. The Declarant makes no assurances that Annexable Property will or will not be annexed.

2.2.3 Unless a later effective date is set forth in the amendment annexing the Annexable Property, the annexation shall become effective upon Recording of the amendment. No portion of the Annexable Property shall be subject to this Declaration unless and until it is annexed in accordance with this Section.

2.3 Withdrawal of Property. At any time on or before the Transition Date, the Declarant shall have the right to withdraw property owned by the Declarant from the Project without the consent of any other Owner, or Person, or the Association other than the Owner of the Annexable Property if not Declarant; provided, however, that (a) property may not be so withdrawn unless at the time of such withdrawal no Residential Units or Common Area recreational facilities have been constructed thereon (unless the withdrawal is for purposes of accomplishing minor adjustments to the boundaries of one or more Lots, any Common Area or another portion of the Project); and (b) property may not be so withdrawn if such withdrawal would deprive Owners of other parts of the Project of access or other easements or rights-of-way necessary to the continued use of their respective parts of the Projects (unless at the same time provision is made for reasonably adequate replacement easements or rights-of-way). The withdrawal of all or any portion of the Project shall be effected by the Declarant Recording a Declaration of Withdrawal setting forth the legal description of the property being withdrawn. Upon the withdrawal of any property from the Project pursuant to this Section, such property shall no longer be subject to any of the covenants, conditions and restrictions set forth in this Declaration.

2.4 Right to Resubdivide and Replat. Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time, without the consent of other Owner, or Person, or the Association, to modify any plans, declarations and Plats for the Project or any part thereof and to resubdivide and replat any Parcel or Parcels or any Lot or Lots or any other part of the Project which such Declarant then owns.

2.5 Designation of Neighborhoods. Declarant shall have the right, by Recordation of a Plat, Neighborhood Declaration or other instrument, to designate a group of Lots considered to have common interests and goals as a "Neighborhood." Notwithstanding the Neighborhood designation, each Owner of a Lot within a Neighborhood shall, subject to and in accordance with the provisions of Section 3.3 of this Declaration, be a Member of the Association.

2.6 Disclaimer of Implied Covenants. Nothing contained in this Declaration and nothing which may be represented to a Purchaser by real estate brokers or sales agents representing the Declarant shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of the Property or the Additional Property.

2.7 Disclaimer of Representations. Declarant makes no representations or warranties whatsoever that: (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (ii) any portion of the Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iii) the use of any portion of the Property subject to this Declaration will not be changed in the future. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, without obtaining the consent of any other Owner, or Person, or the Association, shall have the right to make changes or modifications to the Plat with respect to any portion of the Property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the Property owned by the Declarant or changing the nature or extent of the uses to which the Property may be devoted.

2.8 Assignment of Declarant Rights. If the Certificate of Purchase expires or otherwise terminates and Declarant no longer owns any property within the Project or the Additional Property, Declarant shall execute a Recorded assignment assigning Declarant's rights under this Declaration to the Builder or Builders designated by the written consent or affirmative vote of Builders representing at least two-thirds (2/3) of the total votes held by all Builders and entitled to be cast by Members of the Association.

ARTICLE 3

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS

3.1 Formation of Association. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration.

3.2 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. Until the Transition Date, the directors of the Association shall be appointed by and may be removed by the Declarant. After the Transition Date, directors shall be elected by the Members in accordance with the Articles and Bylaws. Unless the Project Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

3.3 Identity of Members. Membership in the Association shall be limited to the Declarant and the Owners of Lots which are Assessable Property. An Owner of a Lot which is Assessable Property shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to each Lot owned by the Declarant and each Lot which is Assessable Property, and may not be separately assigned, transferred or conveyed.

3.4 Voting. The Association shall have the following two classes of voting Memberships:

Class A. Class A Memberships shall be all Memberships except for the Class B Memberships held by the Declarant. Each Class A Member shall be entitled to one vote for each Lot owned by such Class A Member.

Class B. Class B Memberships shall be all Memberships held by the Declarant. The Declarant shall be entitled to three votes for each Lot owned by the Declarant, and six (6) votes for each Acre of unplatted Property within a Parcel owned by the Declarant (prorated for any partial acre of such unplatted Property). The Class B Memberships shall expire on the Transition Date.

Except as expressly provided herein, no Members other than the Declarant shall have any voting rights until the Transition Date. After the Transition Date, each Member shall have the voting rights assigned to its respective Class of Membership, as described above.

3.5 Voting Procedures. No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. If a Lot is owned by more than one Person and such Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote or votes representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such Member was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast.

3.6 Suspension of Voting Rights. If any Owner fails to pay any Assessments or other amounts due to the Association under the Project Documents within fifteen (15) days after such payment is due or if any Owner violates any other provision of the Project Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner of the violation, the Board of Directors shall have the right to suspend the right to vote for such Owner's Lot until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Project Documents are corrected.

3.7 Transfer of Membership. The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of a Lot, and then only to the transferee of ownership to the

Lot. A transfer of ownership to a Lot may be affected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each Purchaser of a Lot shall notify the Association of such purchase within ten days after becoming the Owner of a Lot.

3.8 Association Rules. The Board may, from time to time, adopt, amend and repeal rules and regulations pertaining to: (i) the management, operation and use of the Areas of Association Responsibility including, but not limited to, any recreational facilities situated upon the Areas of Association Responsibility; (ii) minimum standards for any maintenance of Lots; (iii) the health, safety or welfare of the Owners, Lessees and Residents, or (iv) restrictions on the use of Lots. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail. The Association Rules shall be enforceable in the same manner and to the same extent as the covenants, conditions and restrictions set forth in this Declaration.

3.9 Fines. The Board shall have the power to levy reasonable fines against an Owner for a violation of the Project Documents by the Owner, a Lessee of the Owner or by any Resident of the Owner's Lot, and to impose late charges for payment of such fines if unpaid fifteen (15) or more days after the due date, provided that the late charge shall not exceed the greater of one hundred dollars (\$100.00) or one hundred percent (100%) of the amount of the unpaid fine, but in no event greater than any amount permitted under applicable law. Notwithstanding the foregoing, to the extent any applicable law from time to time (i) provides for any shorter period of time after which fines may or shall become delinquent, such shorter period of time may be established by the Board to apply in lieu of the time period set forth in this Declaration, and (ii) provides for an increased amount to be charged as a late charge for fines, such amount may be modified by the Board to apply in lieu of the late charge set forth in this Declaration.

3.10 Personal Liability. No member of the Board or of any committee of the Association, no officer of the Association, and no manager or other employee of the Association shall be personally liable to any Member, or to any other Person, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the manager, any representative or employee of the Association, or any committee member or officer of the Association; provided, however, the limitations set forth in this Section shall not apply to any Person who has engaged in willful or intentional misconduct.

3.11 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege.

3.12 Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and

transactions with others, including Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall declare a conflict of interest for such contract or transaction in an open meeting of the Board before the Board discusses or takes action thereon, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee that authorizes any contract or transaction described above or grants or denies any approval sought by Declarant, its affiliated companies or any competitor thereof, and may vote at the meeting to authorize or approve any such contract or transaction with like force and effect as if he/she were not so interested.

3.13 Conveyance or Encumbrance of Common Area. Except for dedications to Maricopa County, the City or any other governmental or quasi-governmental authority and transfers to Declarant reasonably required to prepare a Plat for all or any portion of the Project as permitted in this Declaration, the Common Area shall not be mortgaged, transferred, dedicated or encumbered after the Transition Date without the prior written consent or affirmative vote of Owners representing at least two-thirds (2/3) of the total votes entitled to be cast by Members of the Association. The Board shall have the right to change the size, shape or location of the Common Area upon (a) adoption of a resolution by the Board stating that in the Board's opinion the change proposed shall be for the benefit of the Members and Residents and shall not substantially adversely affect them, and (b) the approval of such resolution by Declarant as long as the Declarant owns any property within the Project or the Additional Property.

3.14 Procedure for Change of Use of Common Area. Upon (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Common Area is no longer in the best interests of the Members and Residents, and (b) the approval of such resolution by Declarant as long as the Declarant owns any property within the Project or the Additional Property, the Board shall have the power and right to change the use of such property (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and Improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Members and Residents, as determined by the Board, and (ii) shall be consistent with any deed restrictions, zoning and other municipal regulations restricting or limiting the use of the land.

3.15 Limited Common Areas.

3.15.1 Certain portions of the Common Area may be designated as Limited Common Area from time to time, and reserved for the exclusive use or primary benefit of Lots within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians, private streets, and other portions of the Common Area. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be Neighborhood Expenses allocated to the Neighborhood(s) to which the applicable Limited Common Areas are assigned.

3.15.2 Any Limited Common Area shall initially be designated as such by Declarant in a Plat, a Neighborhood Declaration, or other Recorded instrument. After the Transition Date, a portion of the Common Area may be designated as a Limited Common Area and a Limited Common Area may be re-designated as Common Area upon approval of the Board and the Owners representing not less than a majority of the total votes entitled to be cast by Members of the Association, and not less than a majority of the total votes entitled to be cast by Members in the affected Neighborhood(s). As long as Declarant owns any property within the Project or within the Additional Property, any such designation or re-designation shall also require Declarant's written consent. After such approval and consent (if applicable), the Board shall cause any such designation or re-designation to be Recorded.

3.15.3 Upon approval of the Owners representing not less than a majority of the total votes entitled to be cast by Members in the Neighborhood(s) to which any Limited Common Area is assigned, the Association may permit Owners, Lessees, and Residents of Lots in other portions of the Project to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

ARTICLE 4

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

4.1 Creation of Lien and Personal Obligation of Assessments. Each Owner, other than the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all attorney's fees and other costs incurred by the Association in collecting or attempting to collect delinquent Assessments (regardless of whether or not suit is filed) shall be a charge on the Lot and, to the extent permitted by law, shall be a continuing lien upon the Lot against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

4.2 Regular Assessments.

4.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each Assessment Period, shall assess against each Lot owned by a Class A Member which is Assessable Property a Regular Assessment, which shall be allocated to each Lot in accordance with Section 4.3 below. The total amount to be assessed against such Lots as a Regular Assessment shall be the amount which is reasonably estimated by the Board to produce income to the Association equal to the total budgeted Common Expenses taking into account other sources of funds available to the Association.

4.2.2 The Board shall give notice of the Regular Assessment to each Owner at least 30 days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Regular Assessment established by the Board nor relieve any Owner from its obligation to pay the Regular Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are or will become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Regular Assessment, to the extent permitted by law, for that Assessment Period and the revised Regular Assessment shall commence on the date designated by the Board. Notwithstanding any provision in the Declaration, Bylaws or Association Rules, the Board shall not impose a Regular Assessment in any Assessment Period in excess of that amount permitted by law; however, to the extent that the law shall permit any increase in the Regular Assessment which requires the approval of the majority of Members, such increase shall be implemented only upon approval of the majority of Members.

4.3 Determination of Regular Assessment. The amount of the Regular Assessment for an Assessment Period for each Lot owned by Class A Members shall be calculated by dividing the budget amount for the Assessment Period (which budget amount shall be based on the completed Project) by the total number of lots contemplated for the Project. If a Plat is amended during any Assessment Period, then the Regular Assessment levied for such Assessment Period may be adjusted accordingly at the discretion of the Board.

4.4 Special Assessments. Subject to the approval requirements in this paragraph, the Association may levy against each Lot which is owned by a Class A Member and is Assessable Property a Special Assessment for the purpose of defraying, in whole or in part, unanticipated expenses or expenses in excess of those budgeted and paid as part of the Regular Assessments plus any Catch-Up Payments and Remainder Payments, including, but not limited to, the cost of any construction, reconstruction, repair or replacement of an Improvement upon an Area of Association Responsibility, including fixtures and personal property related thereto; provided that any Special Assessment is approved by (i) Class A Members having more than two-thirds (2/3) of the votes entitled to be cast by Class A Members present in person or by proxy at a meeting duly called for such purpose and (ii) the Declarant so long as the Declarant owns any Lot or property within the Project. Special Assessments shall be levied at a uniform rate per Membership.

4.5 Neighborhood Assessments.

4.5.1 If the Association undertakes, by virtue of its obligations hereunder, or pursuant to a Neighborhood Declaration approved by Declarant, or pursuant to any special contract executed by the Association, the responsibility to maintain any Limited Common Area, including without limitation the responsibility to repair, replace, repave, resurface or operate private streets or private roadways or any open space, recreational or other common facilities therein, or if the Board in its discretion determines that such Limited Common Areas (or Improvements thereon), exclusively or disproportionately benefit the Lots within a particular Neighborhood or Neighborhoods, the Board may assess all (or such appropriate portion as the Board shall determine in its discretion) of the Neighborhood Expenses related to such Limited Common Areas as a Neighborhood Assessment solely against the Lots, which are owned by

Class A Members and are Assessable Property, within the Neighborhood(s) to which such Limited Common Area is assigned.

4.5.2 The amount of the Neighborhood Assessment for an Assessment Period for each Lot owned by Class A Members within a Neighborhood shall be calculated by dividing the budget amount of Neighborhood Expenses for such Neighborhood for the Assessment Period, which budget amount shall be based on the completed Neighborhood by the total number of Lots contemplated for such Neighborhood. If a Plat is amended during any Assessment Period, then the Neighborhood Assessment levied for such Assessment Period may be adjusted accordingly at the discretion of the Board. Such Neighborhood Assessment may also include amounts to establish and fund reserves for the Limited Common Areas and any Improvements thereon, as the Board may deem reasonable and appropriate. In any case where a Neighborhood Association exists, the Board may collect such Neighborhood Assessment directly or may require that the Neighborhood Association collect and transmit Neighborhood Assessments to the Association.

4.5.3 One of the purposes of this Section 4.5 is to establish a mechanism whereby various facilities intended and designed solely or primarily for use by the Owners of Lots within a particular area or subdivision of the Project may be owned and maintained by the Association at the sole and primary expense of such Owners, rather than to require formation of a Neighborhood Association to undertake such ownership and maintenance.

4.6 Reduced Assessments. Notwithstanding anything contained herein to the contrary, any Builder shall pay only twenty-five percent (25%) of the Regular Assessments and Neighborhood Assessments (the “**Reduced Assessments**”) for each Lot owned by the Builder, for as long as the Builder is the Owner of such Lot, provided that the Builder’s right to receive Reduced Assessments for each such Lot shall terminate on the date which is five (5) years after the initial conveyance of the respective Lot to a Builder. After the expiration of such period, each such Lot shall be assessed the full amount of the Regular Assessments and Neighborhood Assessments first arising from and after the expiration of such period, notwithstanding the fact that a Builder is the Owner of the Lot.

4.7 Obligation of Declarant for Shortfall. During any period that Declarant owns the fee simple interest in a Lot (excluding any Lot owned by Declarant that is subject to a contract for the conveyance of real property subject to the provisions of A.R.S. §33-741 et seq.) and is otherwise exempt from paying Regular Assessments and Neighborhood Assessments, Declarant shall be required to pay to the Association such cash funds as may be necessary, when added to all Regular Assessments, or in the case of Neighborhood Expenses, Neighborhood Assessments, being levied to pay costs of operating and administering the Association as they become due as set forth in this Section. For purposes of this Section 4.7, Declarant’s rights to acquire property subject to the Certificate of Purchase shall not be deemed Declarant ownership of a Lot until Declarant has acquired fee simple interest in such property. During any period that a Builder is assessed Reduced Assessments, such Builder shall be required to pay to the Association such cash funds as may be necessary, when added to all Regular Assessments, or in the case of Neighborhood Expenses, Neighborhood Assessments, being levied to pay costs of operating and administering the Association as they become due as set forth in this Section. The payment of any such amounts (the “**Shortfall**”) shall be allocated by the Board from time to time

between Declarant and all Builders who own Lots that are being assessed Reduced Assessments as follows: (i) First, the Shortfall shall be allocated to Declarant, until Declarant has paid an amount which equals the amount that would have been payable by Declarant for the applicable Assessment Period, as of the date the Shortfall is calculated, if the Lots owned in fee simple by Declarant and exempt from Regular Assessments and Neighborhood Assessments had been paying a Reduced Assessment levied in accordance with Section 4.6 of this Declaration (the “**Catch-Up Payment**”), and (ii) Second, after Declarant has paid the Catch-Up Payment, the remaining portion of the Shortfall (the “**Remainder Payment**”) shall be allocated between (A) Lots owned in fee simple by Declarant and exempt from Regular Assessments and Neighborhood Assessments and (B) Builder Lots being assessed Reduced Assessments on a pro rata basis. The pro rata share for Declarant and any Builder being assessed Reduced Assessments, shall be an amount that equals the product of the Remainder Payment multiplied by a fraction, the numerator of which shall be the total number of Lots described in items (A) or (B) above and owned by Declarant or Builder, as applicable, at the time of the calculation of the Remainder Payment, and the denominator shall be the total number of Lots described in items (A) and (B) above at the time of the calculation of the Remainder Payment. The Board may require the payment of any Shortfall by Declarant and such Builders from time to time as the Board deems necessary, but not more frequently than monthly, by giving written notice thereof to Declarant and each Builder of any Lot being assessed a Reduced Assessment. The notice shall state the amount of the then Shortfall and the calculation of Declarant’s and Builder’s share of such Shortfall, determined as described in this Section 4.7. However, notwithstanding anything to the contrary in this Declaration, in no event shall Declarant or any such Builder be obligated to pay or contribute money to the Association (by payment of Catch-Up Payments or Remainder Payments) in excess of the amount of the Regular Assessments and Neighborhood Assessments that would have been payable by Declarant or such Builder for the applicable Assessment Period if the Lots owned by Declarant or such Builder, as of the date the Shortfall is calculated, had been paying the full amount of the Regular Assessment and Neighborhood Assessment that otherwise would have been levied for such Assessment Period. Notwithstanding anything contained herein to the contrary, this Section does not obligate Declarant, or any Builder paying Reduced Assessments, to pay funds for the establishment of replacement and maintenance reserves. In addition, and notwithstanding anything contained herein to the contrary, (i) if Declarant does not own any Lots in fee simple, then Declarant will have no obligation to pay any Shortfall and (ii) if a Builder does not own any Lots that are being assessed Reduced Assessments, then such Builder will have no obligation to pay any Shortfall.

4.8 Enforcement Assessments. The Board may levy Enforcement Assessments against particular Lots for expenses incurred or to be incurred by the Association, to cover attorneys’ fees and costs incurred in bringing the Lot into compliance with the terms of this Declaration, the Design Guidelines, or rules of the Association, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their families, invitees, or guests.

4.9 Assessment Period. The period for which the Regular Assessment and the Neighborhood Assessment, if any, are to be levied (the “**Assessment Period**”) shall be the calendar year, except that the first Assessment Period shall commence upon the conveyance of the first Lot to a Purchaser, and shall terminate on December 31 of such respective year. The Board in its sole discretion from time to time may change the Assessment Period.

4.10 Commencement Date of Assessment Obligation. Each Lot within the Property described in Exhibit "A" to this Declaration and any Lot within the Additional Property annexed pursuant to Section 2.2 of this Declaration shall be subject to assessment upon the conveyance of each such Lot to a Person other than Declarant.

4.11 Rules Regarding Billing and Collection Procedures. Regular Assessments and Neighborhood Assessments, if any, shall be collected on a monthly, quarterly or semi-annual basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to an Owner shall not relieve any Owner of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed until the Owner has been given not less than 30 days written notice prior to such foreclosure that the Assessment or any installation thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period but successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

4.12 Effect of Nonpayment of Assessments; Remedies of the Association.

4.12.1 Any Assessment, or any installment of an Assessment, not paid within fifteen (15) days after the Assessment or the installment of the Assessment first became due (or such longer period of time as required by applicable law) shall be deemed delinquent and shall bear interest from the due date on which such Assessment or installment of the Assessment first became delinquent at the rate of the lesser of eighteen percent (18%) per annum, or the maximum rate permitted by applicable law. In addition, the Board may establish a late fee, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the amount of the unpaid Assessment or installment thereof (but in no event an amount greater than permitted under applicable law), to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within fifteen (15) days after such payment was due. Notwithstanding the foregoing, to the extent applicable law from time to time provides for any shorter period of time after which Assessments or any other amounts payable hereunder may or shall become delinquent, such shorter period of time may be established by the Board to apply in lieu of the time period set forth in this Declaration, and to the extent applicable law from time to time provides for any greater amount of late fee or other amount to be charged to any Owner deemed delinquent in the payment of any Assessment, or any installment of an Assessment, such greater amount may be established by the Board to apply in lieu of the late fee set forth in this Declaration.

4.12.2 The Association shall have a lien on each Lot for: (i) all Assessments levied against the Lot; (ii) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot with respect to such Assessments; (iii) all monetary penalties levied against the Owner of the Lot after the entry of judgment in a civil suit therefor; (iv) all attorneys' fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred

by the Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot; (v) any amounts payable to the Association pursuant to Section 4.8 of this Declaration; and (vi) any other amounts payable to the Association pursuant to the Project Documents to the extent permitted by applicable law. The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is Recorded and the amount claimed to be past due as of the date of the Recording of the Notice, including interest, lien recording fees and reasonable attorneys' fees. Before Recording any Notice of Lien against a Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments and all other amounts due to the Association by such Owner. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the delinquency is not paid within ten days after delivery of the demand, the Association may proceed with Recording a Notice of Lien against the Lot. If the Association records a Notice of Lien, the Association may charge the Owner of the Lot against which the Notice of Lien is Recorded a lien fee in an amount to be set from time to time by the Board.

4.12.3 Unless otherwise provided under applicable law, the Assessment Lien shall have priority over all liens or claims except for: (i) liens and encumbrances Recorded before the Recordation of this Declaration; (ii) tax liens for real property taxes; (iii) assessments in favor of any municipal or other governmental body; and (iv) the lien of any First Mortgage on the Lot. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid Assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person, but any Assessments and charges against the Lot which accrued prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot.

4.12.4 The sale and transfer of any Lot pursuant to a foreclosure, trustee's sale, or any proceeding or conveyance in lieu thereof pertaining to a First Mortgage 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 not be obligated to release the Owner for any portion of Assessments past due until all such delinquent Assessments, interest, lien fees, monetary penalties, reasonable attorneys' fees, court costs, title report fees, collection costs and all other sums payable to the Association by the Owner of the Lot have been paid in full.

4.12.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to: (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the

delinquent Assessments and (ii) bringing an action to foreclose the Assessment Lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

4.13 Evidence of Payment of Assessments. Upon receipt of a written request from a lienholder, Member or Person designated by a Member, to the extent required by law, the Association shall issue, or cause to be issued, within the time period required by applicable law, a statement setting forth the amount of any unpaid Assessment or other fee or charge against the Lot. The Association may impose a reasonable charge for the issuance of such statements, which charge shall be payable at the time the request for any such statement is made. Any such statement, when duly issued as herein provided, shall be conclusive and binding on the Association with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot in question.

4.14 Purposes for which Association's Funds May Be Used. The Association shall use all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) solely for the purpose of (i) discharging and performing the Association's duties and obligations under the Project Documents; (ii) exercising the rights and powers granted to the Association by the Project Documents, and (iii) the common good and benefit of the Project and the Owners, Lessees and Residents, by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners, Lessees and Residents.

4.15 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of any Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

4.16 Assessments Upon Transfer of Lot. Upon the sale or other transfer of a Lot other than pursuant to an Exempt Transfer, the Purchaser shall pay a Transfer Assessment as applicable:

4.16.1 To ensure that the Association shall have adequate funds reserved for repair and replacement of the Improvements within the Common Area, each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a sum to be determined by the Board prior to the conveyance of the first Lot to a Purchaser. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

4.16.2 Any Purchaser acquiring a Lot from a Person other than the Declarant shall pay to the Association or to its managing agent, if directed to do so by the Board, immediately upon becoming the Owner of the Lot, a transfer fee in such amount as is established from time to time by the Board to offset the administrative costs of the Association with respect to the transfer, not to exceed fifty percent (50%) of the Regular Assessment established for the Assessment Period in which the transfer occurs.

4.16.3 Notwithstanding anything in this paragraph to the contrary, no Transfer Assessment shall be levied upon any of the following transfers of title to a Lot (each an “**Exempt Transfer**”):

- (i) to Declarant;
- (ii) to a Builder holding title solely for purposes of development and resale;
- (iii) by a co-Owner to any Person who was a co-Owner immediately prior to such transfer;
- (iv) to the Owner’s estate, surviving spouse, or heirs at law upon the death of the Owner;
- (v) to an entity wholly owned by the Owner or to a family trust created by the Owner for the direct benefit of the Owner and his or her spouse and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the Transfer Assessment shall become due;
- (vi) to a corporation, limited liability company partnership or other entity in which the Owner owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Transfer Assessment in which event a Transfer Assessment shall be payable with respect to such transfer or conveyance;
- (vii) to an institutional lender as security for the performance of an obligation pursuant to a Mortgage or pursuant to a foreclosure sale; or
- (viii) to the Association pursuant to a foreclosure sale and resale.

4.17 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 Areas of Association Responsibility. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a separate bank account (the “**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. Withdrawal of funds from the Association’s reserve account shall require the signatures of either (a) two members of the

Board, or (b) one member of the Board and an officer of the Association who is not also a member of the Board. The Board shall obtain an initial reserve study and then provide updates thereto at least once every five years. The reserve study shall at a minimum include (a) identification of the major components of the Areas of Association Responsibility that 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 30 years, (b) identification of the probable remaining useful life of the identified major components as of the date of the study, (c) 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 (d) 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 study. Provided that the Board acts in good faith in determining the amount to be collected as reserves, the Declarant Parties 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.

ARTICLE 5

EASEMENTS

5.1 Easement for Use of Common Area.

5.1.1 Every Owner, Lessee and Resident shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area which right shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (i) The right of the Association to dedicate, convey, transfer or encumber the Common Area;
- (ii) The right of the Board to change the use of a Common Area;
- (iii) The rights and easements granted to the Declarant in this Declaration, including, without limitation, the rights and easements granted to the Declarant in Sections 5.2, 5.3, and 5.4 of this Declaration;
- (iv) The right of the Association to regulate the use of the Common Area through the Association Rules and to prohibit access to such portions of the Common Area, such as landscaped areas, not intended for use by the Owners, Lessees or Residents;
- (v) The right of Association to reserve certain portions of the Common Area designated as Limited Common Areas for the exclusive use of Owners, Lessees, and Residents within a particular Neighborhood or Neighborhoods; and
- (vi) The right of the Association to suspend the right of an Owner to use the Common Area if such Owner is more than fifteen (15) days delinquent in the payment of Assessments or other amounts due to the Association or if the Owner has violated any other provisions of the Project Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation. Any suspension of an Owner's right to

use the Common Area shall also extend to the Lessees and Residents of the Owner's Lot and their guests and invitees.

5.1.2 If a Lot is leased or rented by the Owner thereof, the Lessee and the members of the Lessee's family residing with such Lessee 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.

5.2 Utility Easement. There is hereby created an easement upon, across, over and under the Common Area for the benefit of the Declarant and its contractors and the utility companies providing utility service to the Project for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Area but no sewers, electrical lines, water lines, or other utility or service lines shall be installed or located on the Common Area except as designed, approved and constructed by the Declarant or as otherwise approved by the Board.

5.3 Declarant's Use for Sales and Leasing Purposes. Declarant shall have the right and an easement to maintain sales or leasing offices, management offices, a design center, model homes and parking areas, for the purpose of accommodating Persons visiting such model homes and sales offices, throughout the Project and to maintain advertising, identification or directional signs on the Common Area or on the Lots owned or leased by Declarant while the Declarant is selling Lots. Declarant reserves the right to (i) place model homes, management offices, sales and leasing offices and parking areas on any Lots owned or leased by Declarant and on any portion of the Common Area in such number, of such size and in such locations as Declarant deems appropriate, and (ii) use any recreational facilities within the Project for management and sales activities. In the event of any conflict or inconsistency between this Section and any other provision of this Declaration, this Section shall control. Declarant's rights under this Section 5.3 can be assigned on an exclusive or non-exclusive basis to any Builder, provided, however, any assignment may be qualified in any manner Declarant deems appropriate in its sole and absolute discretion.

5.4 Declarant's Easements. Declarant shall have the right and an easement on and over the Areas of Association Responsibility to construct all Improvements that the Declarant may deem necessary and to use the Areas of Association Responsibility and any Lots or other property within the Project 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 relating to the Project. The Declarant shall have the right and an easement in, under, upon, over, and through the Areas of Association Responsibility as may be reasonably necessary for the purpose of discharging its obligations or exercising the rights granted to or reserved by the Declarant by this Declaration. In the event of any conflict or inconsistency between this Section and any other provision of this Declaration, this Section shall control. Declarant's rights under this Section 5.4 can be assigned on an exclusive or non-exclusive basis to any Builder, provided, however, any assignment may be qualified in any manner Declarant deems appropriate in its sole and absolute discretion.

5.5 Easement in Favor of Association. The Lots (except for the interior of a Residential Unit or other buildings) are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

5.5.1 For inspection of the Lots in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible;

5.5.2 For inspection, maintenance, repair and replacement of the Areas of Association Responsibility accessible only from such Lots;

5.5.3 For correction of emergency conditions in, under, upon or over one or more Lots;

5.5.4 For the purpose of enabling the Association, the Board, the Design Review Committee or any other committees appointed by the Board to exercise and discharge their respective rights, powers and duties under the Project Documents; and

5.5.5 For inspection of the Lots in order to verify that the provisions of the Project Documents are being complied with by the Owners, their guests, Lessees, invitees and the other Residents and occupants of a Lot.

5.5.6 For the taking of corrective action as authorized under, and in accordance with, the provisions of this Declaration.

5.6 Easement for Unintended Encroachments. To the extent that any Improvement upon a Lot or Common Area encroaches on any other Lot or Common Area as a result of the original construction settling thereon, alteration or restoration authorized by this Declaration, or any other reason other than the intentional encroachment on a Lot or Common Area by an Owner, a valid easement for the encroachment, and for the maintenance thereof, exists to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary.

ARTICLE 6

ARCHITECTURAL CONTROL

6.1 Appointment of Design Review Committee. Subject to Section 6.5, the Association shall have a Design Review Committee consisting of a minimum of three individuals. Until the Transition Date or such earlier date as Declarant elects to delegate the design review powers to the Design Review Committee, members of the Design Review Committee shall be appointed by Declarant, and thereafter shall be appointed by the Board. The Design Review Committee may assess reasonable fees in connection with its review of plans and specifications. The Design Review Committee may delegate its plan review responsibilities, except final review and approval required by the Design Guidelines, to one or more of its members or architectural consultants retained by the Design Review Committee. Upon any delegation of responsibilities, the approval or disapproval of plans and specifications by the member or consultants shall be equivalent to approval or disapproval by the entire Design Review Committee.

6.2 Design Guidelines. Declarant shall establish Design Guidelines, which the Board may, from time to time, in its sole and absolute discretion, amend, repeal or augment. After the Transition Date or such earlier date as Declarant elects to delegate the design review powers to the Design Review Committee, any change in the Design Guidelines will be effective only if it is approved by Declarant (so long as Declarant or any Declarant Party, owns any property within the Project or the Additional Property in fee or beneficially). The Design Guidelines are hereby incorporated herein and shall be deemed to be a part of this Declaration and shall be binding on all Owners and other Persons having any interest in the Property as if expressly set forth herein. A copy of the current Design Guidelines shall at all times be a part of the Association's records.

6.3 Approval and Conformity of Plans. No building, fence, wall or other structure or Improvement of whatever type shall be commenced, erected or maintained upon the Property, nor shall there be any addition to or change to the exterior of any residence or other structure or Improvement upon a Lot or the landscaping, grading or drainage thereof, including, but not limited to, the painting (other than painting with the same color of paint as previously existed) of exterior walls, patio covers and fences, except in compliance with plans and specifications therefor which have been submitted to and approved by the Design Review Committee in accordance with the Design Guidelines as to harmony of external design and location in relation to surrounding structures and topography. It is understood and agreed by each Person having or acquiring an interest in the Property that the Design Review Committee will include aesthetic judgment in its decision-making process and approval of submitted plans will not be required simply because the plans satisfy stated objective requirements.

6.4 Non-Liability for Approval of Plans. Plans and specifications shall be approved by the Design Review Committee as to style, exterior design, appearance and location, and are not approved for engineering design or for compliance with zoning and building ordinances (or other governmental requirements). By approving plans and specifications neither the Design Review Committee, the members thereof, Declarant, any Declarant Party, the Association, any Owner, the President, nor the Board (nor any committee, officer, director, employee or agent of any of the foregoing) assumes any liability or responsibility therefor, or for any defect in any structure constructed from the plans and specifications. Neither the Design Review Committee, any member thereof, Declarant, any Declarant Party, the Association, the President, nor the Board (nor any committee, officer, director, employee or agent of any of the foregoing) shall be liable to any Owner or other Person for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, or (c) the development, or manner of development of any property within the Project. Approval of plans and specifications by the Design Review Committee is not, and shall not be deemed to be, a representation or warranty that the plans or specifications comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes.

6.5 Declarant Review. Each Owner acknowledges that Declarant, as the developer of the Property, has a substantial interest in ensuring that the Improvements within the Property enhance the reputation of Declarant and Related Parties as a community developer and do not impair Declarant's ability to market, sell or lease its property. Notwithstanding anything contained in this Declaration to the contrary, until the Transition Date, Declarant, shall have all

of the rights granted in this Declaration, to the Design Review Committee, and shall exercise all of the powers granted in this Declaration, to the Design Review Committee through individuals appointed by Declarant including, but not limited to, establishment of the Design Guidelines. Until the Transition Date or such earlier time as Declarant delegates all or a portion of its design review powers to the Design Review Committee, the Association shall have no jurisdiction over architectural or design review matters. Upon the expiration or relinquishment of Declarant's rights under this Section, the Association, acting through the Design Review Committee, shall assume jurisdiction over such architectural and design review matters. In exercising its powers under this Section, Declarant shall be acting in its own interest as developer of the Project.

6.6 Reconstruction of Common Area. The reconstruction of any portion of any Areas of Common Responsibility, including, without limitation, any portion of the Common Area, after destruction by casualty or otherwise that is accomplished in substantial compliance with "as built" plans for such Areas of Association Responsibility shall not require compliance with the provisions of this ARTICLE 6 or the Design Guidelines.

ARTICLE 7

USE RESTRICTIONS

7.1 Residential Use. All Residential Units shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Residential Unit, except that an Owner, Lessee or other Resident of a Residential Unit may conduct a business activity within a Residential Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Project; (iii) the business activity does not involve persons coming on to the Lot or the door-to-door solicitation of Owners or other Residents in the Project; and (iv) the business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Residents in the Project, as may be determined from time to time in the sole discretion of the Board. 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 Residents of a provider's Residential Unit 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 or does generate a profit; or (iii) a license is required for such activity. The leasing of one or more Residential Units by the Owner thereof shall not be considered a trade or business within the meaning of this Section. However, any such leasing must comply with the provisions of Section 7.23 herein.

7.2 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. No temporary construction buildings or trailers may be installed or kept on any Lot without the prior written approval of the Design Review Committee. Any such temporary buildings or trailers approved by the Design Review Committee shall be removed immediately after the completion of

construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any Property for a period in excess of 12 months without the prior written approval of the Design Review Committee. The provisions of this Section shall not apply to construction or sales activities of the Declarant or, as authorized by Declarant, of a Builder.

7.3 Nuisances; Construction Activities. No animal waste, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or Common Area, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved in writing by the Design Review Committee. In addition, any construction equipment and building materials stored or kept on any Lot during the construction of Improvements may be kept only in areas approved in writing by the Design Review Committee, which may also require screening of the storage areas. The Design Review Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section shall not apply to construction activities of the Declarant or Builder.

7.4 Diseases and Insects. No Person shall permit any thing or condition to exist upon any Lot or other property which shall induce, breed or harbor infectious plant or animal diseases or noxious insects.

7.5 Antennas. Except as permitted under the Design Guidelines or by applicable laws, no antenna, aerial, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation proposed to be erected, used or maintained outdoors on any portion of the Project, whether attached to a Residential Unit or structure or otherwise, shall be erected or installed without the prior written consent of the Design Review Committee.

7.6 Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

7.7 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are approved by the Design Review Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from Lots and other property and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot or any other portion of the Property.

7.8 Clothes Drying Facilities. No outside clothes lines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot so as to be Visible From Neighboring Property.

7.9 Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Design Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Design Review Committee.

7.10 Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, or pedestrian way from ground level to a height of eight feet.

7.11 Animals. No animal, bird, fowl, poultry, reptile or livestock may be kept on any Lot, except that dogs, cats, parakeets, similar household birds or other animals reasonably determined by the Board to be household pets (not to exceed a reasonable number of such animals) ("**Permitted Pets**") may be kept on a Lot if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All Permitted Pets shall be confined to an Owner's Lot except that a pet may be permitted to leave an Owner's Lot if such pet is at all times kept on a leash not to exceed six feet in length and is not permitted to enter upon any other Lot. No Permitted Pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any Permitted Pet shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner, Lessee or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, (i) an animal shall be deemed a Permitted Pet, (ii) the number of Permitted Pets kept on a Lot constitutes a reasonable number, and (iii) a particular Permitted Pet is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration. Any Owner, Resident or other person who brings or permits a pet to be on the Common Area or any Lot or street shall be responsible for immediately removing any feces deposited by the pet.

7.12 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other Improvements or such machinery or equipment which Declarant or the Association may require for the operation and maintenance of the Project. Lawn and garden equipment may be kept on a Lot provided such equipment is stored so as not to be Visible From Neighboring Property.

7.13 Signs. Except (i) signs required by applicable law or legal proceedings or (ii) signs that may not be prohibited from display pursuant to applicable law or legal proceedings, no signs whatsoever (including, but not limited to, commercial, political, "for sale,"

“for rent” and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot without the prior written approval of the Design Review Committee unless such signs are consistent with provisions set forth in the Design Guidelines.

7.14 Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner other than the Declarant, without the prior written approval of the Design Review Committee. No further covenants, conditions, restrictions or easements shall be Recorded by any Owner, Lessee, or other Person against any part of the Property without the provisions thereof having been first approved in writing by the Board other than covenants, conditions, restrictions or easements Recorded by (i) the Declarant or (ii) a Builder with respect to such Builder’s owned Lots and on terms not inconsistent with this Declaration. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental authority by any Person other than the Declarant unless the application has been approved by the Design Review Committee and the proposed use otherwise complies with this Declaration.

7.15 Vehicles and Parking. Except for vehicle repairs made in emergency situations, no motor vehicle, recreational vehicle, golf cart, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment, automobile, truck, motorcycle, motorbike or other vehicle shall be constructed, reconstructed or repaired upon a Lot, Common Area, or other property in the Project so as to be Visible From Neighboring Property. No automobile, truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, golf cart, boat, boat trailer or other similar equipment, automobile, truck, motorcycle, motorbike or other vehicle may be parked on any Lot, Common Area, or other property in the Project so as to be Visible From Neighboring Property except for: (i) the temporary parking by an Owner or Resident of a motor home, camper or recreational vehicle on the concrete driveway situated on a Lot or on the street in front of the respective Owner or Resident’s Lot for a period of not more than 48 consecutive hours within any consecutive seven day period and not more than four nights in any calendar month, provided that such vehicle is not used for any cooking or sleeping purposes during that time; (ii) the temporary parking by a guest of an Owner or Resident of a motor home, camper, recreational vehicle or boat, boat trailer or similar equipment on the concrete driveway situated on a Lot or on the street in front of the respective Owner or Resident’s Lot for a period of not more than 48 consecutive hours within any consecutive seven day period and not more than six nights in any calendar month, provided that such vehicle is not used for any cooking or sleeping purposes during that time; (iii) temporary construction trailers or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Design Review Committee; (iv) boats, trailers and motor vehicles parked in garages or behind RV gates and not Visible From Neighboring Property so long as such vehicles are in good operating condition and appearance and are not under repair; (v) recreational vehicles parked in rear or side yards of Lots that are 7,200 square feet or more, even if the height of such recreational vehicle exceeds the height of the wall thereby allowing it to be Visible From Neighboring Property, so long as such recreational vehicles (a) are in good operating condition and appearance and are not under repair and (b) comply with any other requirements promulgated by the Board, and (vi) motor vehicles not exceeding nine feet in height and twenty-four feet in length which are not used for commercial purposes and which do not display any commercial name, telephone

number or message of any kind, and which are parked in the garage or on the concrete driveway situated on a Lot, provided that any such vehicle parked on the concrete driveway does not encroach upon any sidewalk or street. Motor vehicles of guests of a Resident may be parked on a street during daytime and evening hours, but over-night parking on streets by guests is prohibited. Except for the temporary parking of motor homes, campers, recreational vehicles or boat, boat trailer or similar equipment and guest parking as set forth in this Section, parking on streets is prohibited. The Board shall have the right and power to adopt rules and regulations governing the parking of motor vehicles on Lots, Common Area or other property in the Project and implementing the provisions of this Section.

7.16 Towing of Vehicles. The Board shall have the right to have any motor vehicle, recreational vehicle, golf cart, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment, automobile, truck, motorcycle, motorbike or other vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of said amounts in the same manner provided for in this Declaration for the collection of Assessments.

7.17 Drainage. No structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the drainage plans on file with the county or municipality in which the Project is located. No Person shall alter the grading of a Lot or alter the natural flow of water over and across a Lot without the prior written approval of the Design Review Committee and any applicable governmental authority.

7.18 Garages and Driveways. Garages situated on Lots shall be used only for the parking of vehicles and shall not be used or converted for living or recreational activities without the prior written approval of the Design Review Committee. Notwithstanding the foregoing, garages may be used for (i) the storage of material so long as the storage of material does not restrict the use of the garage for the parking of motor vehicles, and (ii) workshops and other similar activities and hobbies so long as such activities (a) do not constitute a commercial venture, (b) do not constitute a violation of any municipal health, safety, zoning or other code, (c) do not constitute a violation of the Project Documents, (d) do not interfere with the peaceful enjoyment of the Property by any other Owner, Lessee or Resident, and (e) do not restrict the use of the garage for the parking of motor vehicles. Upon the written request of any Owner, Lessee or Resident, the Design Review Committee shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, the foregoing items (a), (c), (d) and (e) have been violated. Any decision rendered by the Design Review Committee shall be enforceable in the same manner as other restrictions set forth in this Declaration.

7.19 Violation of Law or Insurance. No Owner shall permit anything to be done or kept in or upon a Lot which will result in the cancellation or increase in premium, or reduction in

coverage, of insurance maintained by any Owner or the Association or which would be in violation of any law.

7.20 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot which in any manner will allow light to be directed or reflected unreasonably upon any other Lot or Common Area.

7.21 Window Coverings. No window shall at any time be covered with aluminum foil, bed sheets, newspapers or any other like materials. No reflective materials shall be installed or used on any Improvement without the prior written consent of the Design Review Committee. Permanent window covering shall be installed within ninety (90) days following the transfer of a Lot to a Purchaser, provided that if such transfer is to a Builder, the permanent window covering shall be installed within ninety (90) days after a certificate of occupancy (or equivalent) is issued for the Residential Unit thereon.

7.22 Fire/Building Repair. If any Improvement is destroyed or partially destroyed by fire, act of God or as the result of any other act or thing, the damage to Improvements shall be repaired and reconstructed or the Improvements razed within 12 months after such damage. Notwithstanding the foregoing, if a dangerous condition shall exist because of such damage, it shall immediately be corrected so as to not cause harm to another Person.

7.23 Leasing of Residential Units.

7.23.1 Subject to the terms of this Section, an entire Residential Unit may be leased to a Lessee from time to time by an Owner provided that each of the following conditions is satisfied:

(i) The lease or rental agreement must be in writing and shall be for a term no less than 30 days;

(ii) The lease or rental agreement must contain a provision that the lease or rental agreement is subject to this Declaration and other Project Documents and that any violation of any of the foregoing shall be a default under the lease or rental agreement;

(iii) Before commencement of the lease term or rental agreement, the Owner shall provide the Association with the names of the Lessees and each Person who will reside in the Residential Unit and the address and telephone number of the Owner.

7.23.2 Any Owner that leases or rents such Owner's Residential Unit shall keep the Association informed at all times of the Owner's address and telephone number. Any lease or rental agreement shall be subject to the Project Documents, and any breach of the Project Documents shall constitute a default under the lease or rental agreement, regardless of whether it so provides in the lease or rental agreement. If any Lessee breaches any restriction contained in the Project Documents, the Owner, upon demand by the Association, immediately shall take such actions as may be necessary to correct the breach, including, if necessary, eviction of the Lessee.

7.24 Variances; Diminution. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this ARTICLE 7 if the Board determines in its sole discretion that: (i) a restriction would create an unreasonable hardship or burden on an Owner, Lessee or Resident or a change of circumstances since the Recordation of this Declaration has rendered such restriction obsolete and (ii) the activity permitted under the variance will not have any substantial adverse effect on the Owners, Lessees and Residents of the Project and is consistent with the high quality of life intended for Residents of the Project. The Board shall have the right to condition the granting of a variance as it may determine in its sole discretion, including, without limitation, making a variance temporary or permanent. Moreover, because of the unique facts and circumstances surrounding each variance request, the granting of a variance in one instance or under certain terms and conditions does not mandate the granting of a variance under similar or related circumstances, terms or conditions. If any restriction set forth in this ARTICLE 7 is adjudged or deemed to be invalid or unenforceable as written by reason of any federal, state or local law, ordinance, rule or regulation, then a court or the Board, as applicable, may interpret, construe, rewrite or revise such restriction to the fullest extent allowed by law, so as to make such restriction valid and enforceable. Such modification shall not serve to extinguish any restriction not adjudged or deemed to be unenforceable.

7.25 HVAC and Solar Panels. Except as initially installed by the Declarant or a Builder, no heating, air conditioning, evaporative cooling or solar energy collecting unit or panels shall be placed, constructed or maintained upon any Lot without the prior written approval of the Design Review Committee. Each Owner is responsible to ensure that all foliage (whether originally planted by Declarant, any Builder, Owner or otherwise) or other structures (which were constructed or installed after conveyance of the Lot from Declarant or any Builder to Owner) located on their Lot(s), are maintained and/or constructed in such a manner so as to not materially impair direct and continuous sunlight to any solar panels which were installed by Declarant or any Builder on all other Lots within the Property. If any Owner fails to comply with the provisions of this Section 7.25, the Association shall have the right, but not the obligation, to enter upon such Owner's Lot(s) to trim or remove any foliage or structure which in the Association's reasonable discretion is materially shading solar panels of any other Owner, and the cost of any such actions shall be paid to the Association by the Owner of the non-conforming Lot upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this section shall be paid as an Enforcement Assessment and secured by the Assessment Lien. The Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Enforcement Assessments.

7.26 One Story / 24,000 sq. ft. Lots. Residential Units located on Lots that abut Pinnacle Peak Road or 91st Avenue ("**One Story / 24,000 sq. ft. Lots**") shall be a minimum of 24,000 square feet in lot area and shall not exceed one story in height. For purposes of the one story restriction, lofts shall not be considered a story. Declarant, as the Owner of the One Story / 24,000 sq. ft. Lots, hereby consents to these restrictions on such Lots.

ARTICLE 8

MAINTENANCE, PARTY WALLS AND LANDSCAPING

8.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Areas of Association Responsibility, and all Improvements located thereon, except for any part of the Areas of Association Responsibility which any governmental entity is maintaining or is obligated to maintain. The Board shall be the sole judge as to the appropriate maintenance, repair and replacement of all Areas of Association Responsibility, but all Areas of Association Responsibility, and the Improvements located thereon, shall be maintained in good condition and repair at all times. No Owner, Resident or other Person, other than Declarant, shall construct or install any Improvements on the Common Area or alter, modify or remove any Improvements situated on the Common Area without the approval of the Board. No Owner, Resident or other Person, other than Declarant, shall remove, add to or modify any plants, trees, granite or other Improvements in the part of their Lot which constitutes an Area of Association Responsibility without the prior written approval of the Board. No Owner, Resident or other Person shall obstruct or interfere with the Association in the performance of the Association's maintenance, repair and replacement of the Areas of Association Responsibility, and the Improvements located thereon. The Association shall be responsible for the control, maintenance and payment of ad valorem taxes and liability insurance on the Common Area.

8.2 Lots. Each Owner of a Lot shall be responsible for maintaining, repairing or replacing his Lot, and all buildings, Residential Units, landscaping or other Improvements situated thereon (including, without limitation, any landscaping installed within the street right-of-way contiguous to a Lot), except for any portion of the Lot which is an Area of Association Responsibility. All buildings, Residential Units, landscaping and other Improvements shall at all times be kept in good condition and repair as established by the Maintenance Standard. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated (to the extent necessary to produce healthy plant material), mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be promptly removed and replaced with living foliage of like kind, unless different foliage is approved in writing by the Design Review Committee. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property. All Lots upon which no Residential Units, buildings or other structures, landscaping or Improvements have been constructed shall be maintained in a weed free and attractive manner.

8.3 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of an Area of Association Responsibility, or any Improvement situated thereon, is caused through the willful or negligent act of any Owner, his family, Lessees, guests or invitees, the cost of such maintenance or repairs shall be paid by such Owner to the Association as an Enforcement Assessment and payment of such amounts shall be secured by the Assessment Lien.

8.4 Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to not comply with the Maintenance Standard, or as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding

Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration; or in the event the Owner of any Lot is failing to perform any of his obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within 14 days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association as an Enforcement Assessment and payment of such amounts shall be secured by the Assessment Lien.

8.5 Party Walls.

8.5.1 Each wall or fence which is located on a boundary line between two Lots shall constitute a party wall and, to the extent not inconsistent with this Section 8.5, the general rules of law regarding party walls shall apply.

8.5.2 The Owners of contiguous Lots with a party wall each shall have the right to use the wall provided that such use by one Owner does not interfere with the use and enjoyment of wall by the other Owner.

8.5.3 The adjoining Owners shall each have the right to perform any necessary maintenance, repair or replacement of the wall and the cost of the maintenance, repair or replacement shall be shared equally by the adjoining Owners, except that each Owner shall be solely responsible for painting the side of the wall which faces his Lot and except as otherwise provided for in this Section.

8.5.4 If a party wall is damaged or destroyed through the act of an Owner, his agents, employees or contractors, it shall be the obligation of such Owner to rebuild and repair the party wall without cost to the other Owner or Owners.

8.5.5 In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, Lessees, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then the adjoining Owners, at their joint and equal expense, shall repair or replace the party wall.

8.5.6 The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

8.5.7 In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a party wall shall first obtain the written consent of the adjoining Owners.

8.5.8 If any party wall has been constructed by Declarant which unintentionally creates an encroachment upon a Lot, a valid easement for such encroachment and for the maintenance of the party wall shall and does exist in favor of the Owners of the Lots which share such party wall.

8.6 Maintenance of Walls other than Party Walls.

8.6.1 Walls (other than party walls governed by Section 8.5 or walls covered by Subsections 8.6.2, 8.6.3, and 8.6.4 of this Declaration) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot.

8.6.2 Any wall which is placed on the boundary line between a Lot and an Area of Association Responsibility shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Area of Association Responsibility. If any wall constructed by Declarant which has been placed on the boundary line between a Lot and an Area of Association Responsibility unintentionally creates an encroachment upon a Lot, a valid easement for such encroachment and for the maintenance of the party wall shall and does exist in favor of the Association.

8.6.3 Any wall which is placed on the boundary line between a Lot and public right-of-way, the outside of which was constructed by Declarant in a decorative manner (i.e., patterned and colored block, painted stucco or wrought iron), shall be maintained, repaired and replaced by the Owner of the Lot except that the Association shall be responsible for the repair and replacement of the surface of the wall which faces the public right-of-way.

8.6.4 Any wall which is placed on the boundary line between Common Area and public right-of-way or any other property dedicated to the public shall be maintained, repaired and replaced by the Association.

8.6.5 If the Association deems it necessary to trim, cut or remove vines, plants, trees, bushes, shrubs or other landscaping planted on a Lot in order for the Association to be able to perform its maintenance responsibilities under this Section, the Association shall give notice to the Owner of the applicable Lot identifying the work which must be done in order for the Association to be able to perform its maintenance responsibilities and the date by which such work must be completed. If the Owner does not perform the work identified in the notice within the time period set forth in the notice, then the Association shall have the right to perform the necessary work and charge the Owner for all costs incurred by the Association in the performance of the work. Any such amounts which become payable by an Owner to the Association pursuant to this Subsection shall be paid by the Owner within fifteen (15) days after receipt of a billing, invoice or other demand from the Association for payment of such amount. The Association shall not be liable to the Owner of a Lot or to any other Person for any loss or damage to the landscaping or for any change in appearance of a Lot as a result of any work performed by the Association on a Lot pursuant to this Subsection. The Association shall be liable to the Owner of a Lot for any damage to a wall caused by the Association in the exercise of the Association's rights under this Section 8.6.5.

8.7 Installation of Landscaping. Each Owner shall install front yard landscaping within one hundred eighty (180) days following the later of (i) the transfer of a Lot to a Purchaser, or (ii) the first issuance of a certificate of occupancy for the Residential Unit thereon. Such front yard landscaping shall be installed in accordance with the Design Guidelines, the plans approved for such Lot by the Design Review Committee and any applicable laws. If an

Owner fails to install landscaping in accordance with this Section 8.7 by such date, the Association may, without obligation to do so, install landscaping in accordance with plans adopted by the Association, and all costs incurred in connection therewith shall be an Enforcement Assessment.

ARTICLE 9

INSURANCE

9.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

9.1.1 Commercial general liability insurance in an amount determined by the Board, but not less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

9.1.2 Property insurance on all Areas of Association Responsibility insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Areas of Association Responsibility, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy;

9.1.3 Worker's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

9.1.4 Directors' and officers' liability insurance in an amount not less than \$1,000,000.00 covering the directors and officers of the Association against claims arising out of or in connection with the administration of the Association; and

9.1.5 Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners.

The insurance coverage described in this Section is intended for the benefit of the Association and the Owners as Members thereof, and each Owner is responsible for obtaining the Owner's own coverage relating to the use, ownership or maintenance of the Owner's Lot.

9.2 Policy Provisions. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions to the extent such provisions are available on commercially reasonable terms: (i) that there shall be no subrogation with respect to the Association, its agents, servants and employees, with respect to Owners and members of

their household; (ii) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the Association and any First Mortgagee named in the policy at least ten days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

9.3 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or First Mortgagee. Any insurance obtained pursuant to this Article may not be canceled until ten days after notice of the proposed cancellation has been mailed to the Association.

9.4 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to Section 9.1 of this Declaration shall be included in the budget of the Association and shall be paid by the Association.

9.5 Payment of Insurance Proceeds. With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 9.6 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

9.6 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Areas of Association Responsibility which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners representing at least eighty percent (80%) of the total authorized votes in the Association and the Declarant if it owns any Lots at the time of such casualty vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas of Association Responsibility shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either (i) be retained by the Association as an additional capital reserve, or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Association and the Declarant if it owns any Lots at the time of such vote.

ARTICLE 10

DISPUTE RESOLUTION

10.1 Approval of Litigation.

10.1.1 Required Procedures. The Association shall not initiate or voluntarily participate in any litigation, arbitration, claim to regulatory authorities, or any other binding legal proceeding with respect to any matter affecting or arising from the Property ("**Property Litigation**") except upon compliance with the requirements of this ARTICLE 10.

(i) Before the Association incurs expenses or potential liabilities in connection with Property Litigation including, but not limited to, attorneys' fees, court filing fees and exposure for costs and fees of an adverse party, the Association must hold a meeting of the Members and obtain the approval of Members holding more than 75% of the total votes entitled to be cast by all Members, excluding the vote of any Member who would be a defendant in the proceedings.

(ii) If the Property Litigation arises from an alleged Defect (as defined in Section 10.2.1 below), the Association shall provide all Members with at least the following information about the proposed Property Litigation not later than the time the vote of Members is taken:

- (1) a reasonably detailed description of the alleged Defect;
- (2) a good faith description of any attempts to correct the alleged Defect by the person alleged to be responsible for it, and the opportunities provided to that person to correct the alleged Defect;
- (3) 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 and a resume of the architect or engineer;
- (4) a good faith estimate of the cost to cure the alleged Defect;
- (5) the name and professional background of any attorney retained (or proposed to be retained) by the Association to pursue the claim against arising from the alleged Defect, and a description of the relationship between the attorney and member(s) of the Board or the Association's management company (if any);
- (6) a description of the fee arrangement between the attorney and the Association;
- (7) a good faith estimate of the attorneys' fees and expert fees and costs necessary to pursue the claim;
- (8) a good faith estimate of the time necessary to conclude the action (including possible appeals);

(9) a good faith estimate of the fees and costs the Association may be required to pay to the other party in the event that the Association's claim is unsuccessful; and

(10) an affirmative statement from a majority of the members of the Board that the action is in the best interests of the Association and the Members.

(iii) The costs of any Property Litigation shall be paid by the Association only with monies that are collected by the Owners for that purpose. The Association shall not borrow money, use reserve funds, or use monies collected for other Association obligations.

(iv) Each Owner shall notify prospective purchasers of any Property Litigation initiated by the Board.

(v) In the event that Property Litigation arising from an alleged Defect is successfully pursued, any recovery shall be applied (after payment of applicable attorneys' fees and other litigation-related costs) to curing the alleged Defect or repaying the Association for costs previously incurred in curing the alleged Defect. Any excess funds remaining after curing the alleged Defect shall be retained in the Association's reserve funds.

10.1.2 Exempt Actions. The procedural requirements set forth in Section 10.1 above shall not apply to any proceedings initiated by the Association to (a) collect unpaid Assessments; (b) enforce the use and occupancy restrictions in the Project Documents, the architectural, design and landscape controls and the obligations regarding maintenance of Lots set forth in this Declaration; (c) enforce the Design Guidelines or the Association Rules; or (d) enforce a contract entered into by the Association with vendors providing services or materials to the Association. Property Litigation shall not be construed to mean litigation, arbitration, or other proceedings in which the Association is participating by reason of having been named a defendant.

10.1.3 Non/Litigation Advice. Nothing in this Section 10.1 shall preclude the Board from incurring expenses for legal advice in the normal course of operating the Association to (a) enforce the Project Documents; (b) comply with the statutes or regulations related to the operation of the Association; (c) amend the Project Documents, in accordance with their terms; (d) grant easements or convey Common Area as provided in this Declaration; or (e) perform the obligations of the Association as provided in this Declaration.

10.2 Right to Cure Alleged Defect. If the Association, the Board or any Owner or other Person ("**Defect Claimant**") claims, contends, or alleges that a Defect exists in any improvements within the Property including, but not limited to, the residential structures constructed on the Lots, the Person that constructed the improvement shall have the right to inspect, repair and/or replace the alleged Defect as set forth herein.

10.2.1 Defect Defined. As used in this Declaration, "**Defect**" shall mean failure to construct or install improvements in accordance with approved plans and specifications, in accordance with applicable governmental requirements, in accordance with contractual obligations, in accordance with applicable covenants or aesthetic requirements, in accordance

with standards of good practice in the applicable industry, using acceptable materials or procedures, in breach of applicable governmental, legal or contractual obligations, or otherwise contrary to the expectations of the Defect Claimant.

10.2.2 Notice of Alleged Defect. Within 60 days after discovering any condition that will be alleged to be a Defect, a Defect Claimant shall give written notice of the alleged Defect (“**Notice of Alleged Defect**”) to the Person or Persons believed by the Claimant to be responsible for the alleged Defect. The Notice of Alleged Defect shall include a reasonably detailed description of the alleged Defect and any action the Defect Claimant believes to be necessary to cure the alleged Defect.

10.2.3 Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt of a Notice of Alleged Defect, the Person who received the Notice of Alleged Defect shall have the right, upon reasonable notice to the Defect Claimant and during normal business hours, to enter the affected portion of the Property for the purposes of inspecting and/or conducting testing and, if the Person so chooses in its sole discretion, repairing and/or replacing the alleged Defect. Any agreement in writing for repair, replacement or other curative action shall be enforceable against both parties to the agreement without requiring either party to again go through the notice and other procedures provided for in this Section 10.2 or to go through the negotiation and mediation procedures set forth in Section 10.3.1 below and Section 10.3.2 below. In conducting such an inspection, testing, repair and/or replacement, the Person receiving the Notice of Alleged Defect shall be entitled to full access to the property that is the subject of the claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing the same in a manner deemed appropriate by Declarant and to take any actions it deems reasonable and necessary under the circumstances.

10.2.4 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section 10.2 shall be construed to impose any obligation on any Person to inspect, test, repair, or replace any item or alleged Defect for which the Person is not otherwise obligated under applicable law or other binding legal obligation. The right to enter, inspect, test, repair and/or replace an alleged Defect shall be irrevocable and may not be waived or otherwise terminated with regard to any Person except by a written document executed by that Person.

10.3 Alternative Dispute Resolution. Any dispute, controversy, disagreement or claim of any kind or nature arising in any way from the Property, including, but not limited to, the physical condition, use, appearance, or operation of the Property or any portion of it, or agreements or other legally binding instruments or obligations pertaining to the Property or any portion of it (each, a “**Dispute**”) shall be processed progressively by negotiation, mediation and arbitration in accordance with this Section 10.3, unless specifically exempted, if the Dispute is between or among (a) the Declarant and/or any Builder (or the officers, directors, employees, brokers, agents, consultants, contractors, or subcontractors of either of them), on the one hand, and any Owner or the Association, on the other hand; or (b) the Association and any Owner. This Section will apply to any such Dispute regardless of whether it involves theories based upon contract, tort, statute or other legal theory. No Person bound by this Section 10.3 may commence legal proceedings of any kind including, but not limited to judicial and regulatory complaints, in lieu of complying with the procedures and requirements set forth herein. The procedures shall not apply to Disputes relating to the payment of any type of Assessment,

including, without limitation, the foreclosure of any liens, or to claims by any of the foregoing Persons against third parties not listed above (unless the third party has agreed to comply with the procedures set forth in this Section 10.3).

10.3.1 Negotiation. Any Person wishing to pursue resolution of, or a remedy for, a Dispute (the “**Claimant**”), must give written notice of the Dispute to the Person or Persons believed to be responsible for the circumstances causing the Dispute, or believed to be responsible for remedying those circumstances (in either case, the “**Respondent**”). The notice must set forth in reasonable detail the circumstances alleged to give rise to the Dispute and the remedy or other action sought by the Claimant. The Claimant must thereafter follow the procedures set forth in this Section 10.3.1.

(i) Following delivery of such a notice, the Respondent shall be afforded a reasonable opportunity to meet with or otherwise communicate with the Claimant for a discussion of the circumstances giving rise to the Dispute and possible resolution of the Dispute and an examination of any physical conditions or written instruments giving rise to the Dispute.

(ii) If the Dispute is not resolved to the satisfaction of the Claimant and the Respondent by negotiation within 30 days following delivery of the original notice by the Claimant and the Claimant wishes to pursue the Dispute further, the Claimant shall give notice to the Respondent that mediation pursuant to Section 10.3.2 is required.

(iii) If the Dispute involves an alleged Defect and the procedures set forth in Section 10.2 have been followed, this Section 10.3.1 shall be deemed satisfied and Section 10.3.2 shall become applicable.

(iv) Any written agreement by the Respondent and the Claimant entered into for the purposes of resolving the Dispute shall be enforceable against either party in accordance with the provisions of Section 10.4.

10.3.2 Mediation. The Claimant shall initiate mediation by submitting the Dispute to mediation by the American Arbitration Association (or any successor thereto or any other independent entity providing similar services mutually accepted by the parties) pursuant to the commercial mediation procedures then in effect, as modified by this Section 10.3.2 (unless the parties otherwise agree). No Person shall serve as a mediator in any 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 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.

(i) Within ten (10) days after the selection of the mediator, each party to the Dispute shall be entitled to 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 Dispute shall attend unless otherwise agreed. The mediation shall commence within ten (10) days following the deadline for submittal of memoranda to the mediator and shall conclude within fifteen (15) days from the commencement of the mediation

unless the parties to the Dispute mutually agree to extend the mediation period. The mediation shall be held in Phoenix, Arizona or such other place as may be mutually acceptable to the parties to the Dispute.

(ii) The mediator may conduct the mediation in the manner the mediator believes to be appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the Dispute and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the parties to the Dispute agree to obtain (and assume the expenses of obtaining) the expert advice as provided below. The mediator does not have authority to impose a settlement on any party to the Dispute. Upon termination of the mediation, the mediator shall notify the parties to the Dispute in writing of the date on which the mediation terminated.

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

(iv) Persons other than the parties to the Dispute may attend mediation sessions only with the permission of all parties to the Dispute and the consent of the mediator; provided, however, that consent shall not be required for attendance by representatives of any party's insurer to the extent that participation is required by applicable policies of insurance. There shall be no stenographic record of the mediation process.

(v) 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 expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Dispute unless the parties to the Dispute otherwise agree. Each party to the Dispute shall bear its own attorneys' fees and costs in connection with the mediation.

(vi) Any written agreement by the Respondent and the Claimant entered into through mediation for the purposes of resolving the Dispute shall be enforceable against either party in accordance with Section 10.4.

10.3.3 Final and Binding Arbitration. If the parties cannot resolve their Dispute pursuant to the procedures described in Section 10.3.1 and Section 10.3.2, the Claimant shall have 30 days following termination of mediation proceedings (as determined by the mediator in writing) to submit the 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 10.3. If the Claimant does not submit the Dispute to arbitration within 30 days after termination of mediation proceedings, the Claimant shall be deemed to have waived any claims related to the Dispute, and all other parties to the Dispute shall be released and discharged from any and all liability to the Claimant on account of the Dispute; provided, nothing herein shall release or discharge any party from any liability to Persons who are not a party to the proceedings. An arbitration pursuant to this Section 10.3 shall not be combined with any other arbitration without the consent of all parties to this arbitration.

(i) The parties to the Dispute shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the arbitration proceeding. No Person shall be required to participate in the arbitration proceeding if (i) all parties against whom the Person would have necessary or permissive cross-claims or counterclaims (a “**Necessary Party**”) are not or cannot be joined in the arbitration proceedings, or (ii) the enforcement of this Section 10.3.3 would materially impair insurance coverage for the Person that would have otherwise provided the Person protection with respect to the Dispute.

(ii) If any party to an arbitration determines in good faith that it cannot join a Necessary Party in the arbitration or that its insurance coverage applicable to the Dispute would be materially impaired, the party may elect not to participate in the arbitration and allow any claims against it to be determined by other legal proceedings. If a party makes such an election, it must give written notice of its election to all other parties in the arbitration. Within ten (10) days following receipt of such a notice, any other party to the arbitration that would (or reasonably might) be adversely affected by the absence of the party that elected not to participate may likewise elect not to participate in the arbitration by giving written notice to all other remaining parties. If any party wishes to contest whether a party electing not to participate in the arbitration is entitled to make that election, it shall commence a legal action seeking a judicial determination of the validity of the election and arbitration proceedings will be stayed until that issue is finally determined judicially. Any such judicial proceeding to determine the validity of an election not to participate in arbitration shall deal only with that issue and shall not be used for a determination of the issues being decided in the arbitration.

(iii) The arbitration proceedings shall be held in Phoenix, Arizona, unless otherwise agreed by the parties and the arbitrator.

(iv) A single arbitrator shall be selected. The arbitrator shall have served as a judge of the Arizona Superior Court, the Arizona Court of Appeals, or the Arizona Supreme Court, by appointment of the Governor. The arbitrator shall be neutral and impartial and shall not have any relationship to the parties or interest in the Property. The arbitrator shall not have served as mediator in the Dispute. The parties to the Dispute shall meet to select the arbitrator within ten (10) days after the Dispute is submitted to final and binding arbitration pursuant to Section 10.3.3. If an arbitrator resigns or becomes unwilling or unable to continue to serve as an arbitrator for the subject Dispute, a replacement shall be selected in accordance with this Section 10.3.3.

(v) 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.

(vi) The arbitrator may require one or more pre-hearing conferences.

(vii) The parties to the 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 any property subject to the 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 Dispute. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(viii) 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.

(ix) THE DECISION AND AWARD WILL BE MADE BY THE ARBITRATOR WITHOUT A COURT TRIAL AND WITHOUT A JURY. Each party to the arbitration WAIVES THE RIGHT TO HAVE THE DISPUTE RESOLVED BY A JURY OR BY A COURT and agrees to accept the award of the arbitrator as final. The arbitrator shall decide all issues in the Dispute by strictly applying Arizona law, and this Section 10.3.3. Subject to the limitations imposed in this Section 10.3.3, the arbitrator shall have the authority to try all issues, whether of fact or law. The arbitrator shall render a final decision in writing no later than 60 days following the conclusion of the arbitration proceedings, or such longer period as the parties to the Dispute mutually agree in writing. 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 if not Arizona.

(x) Notwithstanding contrary provisions of the commercial arbitration rules or any other provision of this Section 10.3.3, 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 if applicable.

(xi) Each party to the 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 Dispute shall share equally all charges of the arbitrator unless otherwise agreed to by the parties.

10.4 Waiver. NOTICE: BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE PROJECT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY DISPUTE RESOLVED ACCORDING TO THE PROVISIONS OF THIS ARTICLE 10 AND WAIVES THE RIGHT TO PURSUE ANY DISPUTE IN ANY MANNER OTHER THAN AS PROVIDED IN THIS ARTICLE 10. THE ASSOCIATION, EACH OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS ARTICLE 10, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH DISPUTES TRIED BEFORE A JURY. THE ASSOCIATION, EACH OWNER AND DECLARANT FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A DISPUTE. BY ACCEPTANCE OF A

DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE PROJECT, EACH OWNER HAS VOLUNTARILY ACKNOWLEDGED THAT THE OWNER IS GIVING UP ANY RIGHTS THE OWNER MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A DISPUTE.

10.5 Enforcement of Resolution. If the parties to a Dispute resolve the Dispute through negotiation in accordance with Section 10.3.1, or by mediation in accordance with Section 10.3.2, and any party thereafter fails to abide by the terms of the agreed resolution, or if an arbitration award is made in accordance with Section 10.3.3 and any party to the Dispute thereafter fails to comply with award, then the other party to the Dispute may file suit or initiate administrative proceedings to enforce the agreed or awarded terms without the need to again comply with the procedures set forth in Section 10.3. In that event, the party taking action to enforce the terms of the 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 expenses reasonably incurred to enforce the agreed or awarded terms including, but not limited to, attorneys' fees, witness fees, costs and all litigation-related expenses.

10.6 Confidentiality. All papers, documents, briefs, written communication, testimony transcripts as well as any and all mediation resolutions and arbitration decisions shall be confidential and not disclosed to anyone other than the mediator, arbitrator, the parties to the Dispute, the attorneys of the parties to the Dispute and expert witness (where applicable to their testimony), except to the extent any disclosure is required by applicable laws or order of any court, or except with the prior written consent of all parties to the Dispute, confidential information may be disclosed to third parties. Prior to disclosure, all third parties must agree in writing to keep such information confidential.

10.7 Statutes of Limitations. Nothing in Section 10.3 shall be considered to toll, stay, reduce, or extend any applicable statute of limitations. All statutes of limitation applicable to claims that are subject to mediation and arbitration pursuant to the alternative dispute resolution provisions of Section 10.3 shall apply to the commencement of proceedings pursuant to Section 10.3 and nothing herein shall be construed to mean that any mediator or arbitrator shall have authority to consider Disputes that would otherwise be barred by applicable statutes of limitation.

10.8 Disputes between Owners. In the event of a Dispute between two or more Owners, not covered by the dispute resolution provisions of Section 10.3, the Owners are hereby strongly encouraged (but not required) to employ the dispute resolution procedures set forth above for resolution of the Dispute. The Board of the Association may offer such mediation, conciliation and other services as may be desired by the affected Owners to assist with resolution of the Dispute but shall have no power or authority to make binding decisions regarding the matter in issue between the Owners. The preceding sentence shall in no way be construed as limiting power or authority the Board might otherwise have to enforce and construe the provisions of this Declaration for the Association's own purposes.

10.9 Required Consent of Declarant to Modify. This ARTICLE 10 may not be amended except in accordance with Section 11.3 of this Declaration and with the express written

consent of the Declarant so long as it owns a Lot or other property in the Project or the Additional Property.

ARTICLE 11

GENERAL PROVISIONS

11.1 Enforcement. The Association or any Owner shall have the right to enforce the Project Documents in any manner provided for in the Project Documents or by law or in equity, including, but not limited to, an action to obtain an injunction to compel removal of any Improvements constructed in violation of this Declaration or to otherwise compel compliance with the Project Documents. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Project Documents shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Project Documents in the future. If any lawsuit is filed by the Association or any Owner to enforce the provisions of the Project Documents or in any other manner arising out of the Project Documents or the operations of the Association, the prevailing party in such action shall be entitled to recover from the other party all attorney fees incurred by the prevailing party in the action. In addition to any other rights or remedies available to the Association pursuant to the Project Documents or at law or in equity, the Board shall have the power to levy reasonable monetary penalties against an Owner for a violation of the Project Documents by the Owner, a Lessee of the Owner or by any Resident of the Owner's Lot, provided the Owner is given notice and an opportunity to be heard.

11.2 Method of Termination. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Owners representing ninety percent (90%) or more of the total votes entitled to be cast by Members, of First Mortgagees on Lots the Owners of which represent seventy five percent (75%) or more of the total votes entitled to be cast by Members, and of the Declarant if it owns any Lot or Parcel at the time of such termination. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

11.3 Amendments.

11.3.1 By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, Declarant may amend this Declaration for any purpose, and without the consent or approval of any Owners or Members, or any other Person, provided that Declarant's right to unilaterally amend this Declaration shall be limited to amendments which (a) do not materially increase the financial obligations of the Owners; (b) bring any provision hereof into compliance with applicable laws; (c) enable any reputable title insurance company to issue title insurance coverage on the Lots; (d) satisfy the requirements of any governmental agency; (e) enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots; or (f) correct any error or ambiguity or to further the intent or purposes hereof by expanding upon the existing provisions hereof.

11.3.2 By Owners. Except as provided in Section 11.3.1, and subject provisions of the Declaration requiring Declarant's consent to an amendment, the Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Owners representing seventy-five percent (75%) or more of the total votes entitled to be cast by Members in the Association.

11.3.3 Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the Office of the County Recorder unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

(i) If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

(ii) Notwithstanding any provision of this Declaration to the contrary, no amendment adopted prior to the Transition Date may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. Any amendment during such time as Declarant owns any Lot or other property in the Project shall require the written approval of the Declarant.

(iii) At any time after the Transition Date, any amendment approved pursuant to Subsection 11.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded, and any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant prior to the Transition Date shall be signed by the Declarant and Recorded.

11.4 Rights of First Mortgagees. Any First Mortgagee will, upon written request to the Association, be entitled to: (i) inspect the books and records of the Association during normal business hours; (ii) receive within 90 days following the end of any fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

11.5 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration. In the event of any conflict between this Declaration and the Articles, Bylaws, Association Rules or Design Guidelines, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control. In the event of any conflict between the Bylaws and the Association Rules or Design Guidelines, the Bylaws shall control.

11.6 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

11.7 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

11.8 Notice of Violation. The Association shall have the right to record against a Lot a written notice of a violation with respect to any violation of the Project Documents by the Owner, Lessee or Resident of the Lot. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (i) the name of the Owner, Lessee or Resident violating, or responsible for the violation of, the Project Documents; (ii) the legal description of the Lot against which the notice is being Recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Owner, Lessee or Resident to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner, Lessee and Resident, and 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, and 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 that the violation did not exist. Failure by the Association to Record a notice of violation shall not constitute a waiver of any such violation, constitute any evidence that no violation exists with respect to a particular Lot or constitute a waiver of any right of the Association to enforce the Project Documents.

11.9 Laws, Ordinances and Regulations.

11.9.1 The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Design Review Committee with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation to also comply with all applicable laws, ordinances and regulations.

11.9.2 Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

11.10 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the provisions of this Declaration shall be

binding upon the grantee, Owner or other Person claiming through any instrument and his heirs, executors, administrators, successors and assignees.

11.11 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

11.12 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent of context thereof.

11.13 Limitation on Declarant's Liability. Notwithstanding anything to the contrary in this Declaration, each Owner, by accepting any interest in any portion of the Property and becoming an Owner, acknowledges and agrees that neither Declarant (including, without limitation, any assignee of the interest of Declarant hereunder) nor any affiliate, partner, officer, director or shareholder of Declarant (or any partner or shareholder in any such assignee) shall have any personal liability to the Association, or any Owner, Member or any other Person, arising under, in connection with, or resulting from (including, without limitation, resulting from action or failure to act with respect to) this Declaration or the Association except, in the case of Declarant (or its assignee), to the extent of its interest in the Property and, in the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets or be a lien upon such other assets of the judgment debtor.

11.14 Second Amended and Restated Declaration. This Declaration amends and restates the First Amended Declaration in its entirety. The First Amended Declaration is hereby superseded by this Declaration.

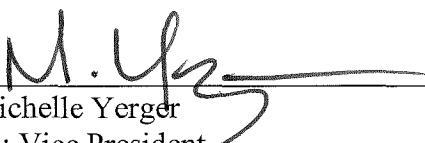
[Signatures appear on following page]

Declarant:

CAMINO A LAGO, LLC, a Delaware limited liability company

By Communities Southwest Management, Inc., an Arizona corporation, its Manager

By: 
Michael Kern
Its: President

By: 
Michelle Yerger
Its: Vice President

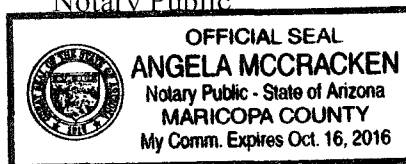
STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 24th day of June, 2014, by Michael Kern, the President of Communities Southwest Management, Inc., an Arizona corporation, the Manager CAMINO A LAGO, LLC, a Delaware limited liability company, on behalf of the company.


Notary Public

My Commission Expires:

10-16-16



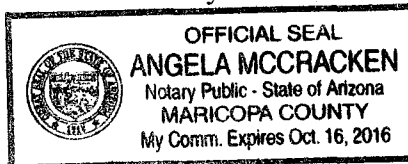
STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 24th day of June, 2014, by Michelle Yerger, the Vice President, of Communities Southwest Management, Inc., an Arizona corporation, the Manager CAMINO A LAGO, LLC, a Delaware limited liability company, on behalf of the company.


Notary Public

My Commission Expires:

10-16-16



**CONSENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR THE MEADOWS**

The undersigned, as the owner of a portion of the Property, hereby consents to the recordation of the Declaration for purposes of subjecting the portion of the Property it owns thereto.

The Meadows Community Master Association, an
Arizona non-profit corporation

By: Angela Carmichael
Its: Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 24th day of June, 2014, by
Angela Carmichael the Vice President of The Meadows
Community Master Association, an Arizona non-profit corporation, on behalf of the corporation.

Angela McCracken
Notary Public

My Commission Expires:

10-16-16



LIST OF EXHIBITS

Exhibit A - Property subject to the Declaration

Exhibit B - Additional Property

EXHIBIT A

TRACTS B, J, K, AND S, INCLUSIVE, AND PARCELS 11A, 11B, 12A, AND 12C, INCLUSIVE, OF THE TAKEDOWN MAP OF THE DEVELOPMENT MASTER PLAN FOR "THE MEADOWS", ACCORDING TO THE PLAT RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 1053 OF MAPS, PAGE 38, AND LOCATED IN SECTIONS 16 AND 17, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTRY, ARIZONA.

Exhibit A

PARCEL DESCRIPTION

THE MEADOWS – PARCEL 4A AND PARCEL 4B

A TRACT OF LAND BEING THOSE PORTIONS OF "PARCEL 4A" AND "PARCEL 4B" OF THAT CERTAIN "TAKEDOWN MAP OF DEVELOPMENT MASTER PLAN FOR THE MEADOWS", RECORDED IN BOOK 1053 OF PLATS, PAGE 38, MARICOPA COUNTY RECORDS, SITUATED IN THE SOUTHEAST QUARTER (SE ¼) OF SECTION 16, TOWNSHIP 4 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 16;

THENCE ALONG THE SOUTH LINE THEREOF AND THE CENTERLINE OF "DEER VALLEY ROAD", SOUTH 89 DEGREES 59 MINUTES 02 SECONDS WEST, 1231.48 FEET;

THENCE LEAVING SAID SOUTH LINE AND SAID CENTERLINE, NORTH 00 DEGREES 06 MINUTES 37 SECONDS WEST, 55.00 FEET TO THE **POINT OF BEGINNING** OF THE HEREIN DESCRIBED PARCEL;

THENCE SOUTH 89 DEGREES 59 MINUTES 02 SECONDS WEST, 1,404.53 FEET;

THENCE SOUTH 89 DEGREES 58 MINUTES 25 SECONDS WEST, 60.00 FEET TO THE WEST BOUNDARY OF SAID "PARCEL 4A";

THENCE ALONG THE WEST BOUNDARY OF SAID "PARCEL 4A" AND "PARCEL 4B" THE FOLLOWING FOUR (4) COURSES:

- 1) NORTH 00 DEGREES 06 MINUTES 37 SECONDS WEST, 2,418.82 FEET TO THE BEGINNING OF A 1,377.18 FOOT RADIUS NON-TANGENT CURVE, CONCAVE TO THE WEST, TO WHICH A RADIAL LINE BEARS NORTH 68 DEGREES 08 MINUTES 29 SECONDS WEST;
- 2) NORTHERLY ALONG SAID 1,377.18 FOOT RADIUS, NON-TANGENT CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 21 DEGREES 58 MINUTES 08 SECONDS FOR AN ARC LENGTH OF 528.05 FEET;
- 3) NORTH 00 DEGREES 06 MINUTES 37 SECONDS WEST, 90.96 FEET;
- 4) NORTH 44 DEGREES 53 MINUTES 23 SECONDS EAST, 42.43 FEET TO THE NORTH BOUNDARY OF SAID "PARCEL 4B"

THENCE ALONG THE NORTH BOUNDARY OF SAID "PARCEL 4B" THE FOLLOWING THREE (3) COURSES;

- 1) THENCE NORTH 89 DEGREES 53 MINUTES 23 SECONDS EAST, 78.05 FEET TO THE BEGINNING OF A 2,707.64 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH
- 2) EASTERLY ALONG SAID 2,707.64 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 27 DEGREES 49 MINUTES 39 SECONDS FOR AN ARC LENGTH OF 1,315.05 FEET TO THE BEGINNING OF A 1,768.68 FOOT RADIUS REVERSE CURVE, CONCAVE TO THE NORTH, TO WHICH A RADIAL LINE BEARS NORTH 27 DEGREES 43 MINUTES 02 SECONDS EAST;
- 3) SOUTHEASTERLY ALONG SAID 1,768.68 FOOT RADIUS REVERSE CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 02 DEGREES 06 MINUTES 21 SECONDS FOR AN ARC LENGTH OF 65.00 FEET TO THE NORTHEAST CORNER OF SAID "PARCEL 4B";

THENCE ALONG THE EAST BOUNDARY OF SAID "PARCEL 4B" AND "PARCEL 4A" THE FOLLOWING TWENTY SEVEN (28) COURSES:

- 1) SOUTH 71 DEGREES 54 MINUTES 27 SECONDS WEST, 43.02 FEET;
- 2) SOUTH 27 DEGREES 43 MINUTES 02 SECONDS WEST, 23.71 FEET TO THE BEGINNING OF A 22.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST;
- 3) SOUTHERLY ALONG SAID 22.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 35 DEGREES 29 MINUTES 00 SECONDS FOR AN ARC LENGTH OF 13.62 FEET TO THE BEGINNING OF A 48.00 FOOT RADIUS REVERSE CURVE, CONCAVE TO THE WEST TO WHICH A RADIAL LINE BEARS SOUTH 82 DEGREES 14 MINUTES 03 SECONDS WEST;
- 4) SOUTHERLY ALONG SAID 48.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 70 DEGREES 57 MINUTES 59 SECONDS FOR AN ARC LENGTH OF 59.45 FEET TO THE BEGINNING OF A 22.00 FOOT RADIUS REVERSE CURVE, CONCAVE TO THE EAST, TO WHICH A RADIAL LINE BEARS SOUTH 26 DEGREES 47 MINUTES 58 SECONDS WEST;
- 5) SOUTHERLY ALONG SAID 22.00 FOOT RADIUS REVERSE CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 35 DEGREES 29 MINUTES 00 SECONDS FOR AN ARC LENGTH OF 13.62 FEET
- 6) SOUTH 27 DEGREES 43 MINUTES 02 SECONDS WEST, 10.00 FEET TO THE BEGINNING OF A 1,965.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST;
- 7) SOUTHWESTERLY ALONG SAID 1,965.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 03 DEGREES 57 MINUTES 13 SECONDS FOR AN ARC LENGTH OF 135.59 FEET TO THE BEGINNING OF A 200.00 FOOT RADIUS REVERSE CURVE, CONCAVE TO THE NORTHWEST TO WHICH A RADIAL LINE BEARS NORTH 66 DEGREES 14 MINUTES 11 SECONDS WEST;
- 8) SOUTHWESTERLY ALONG SAID 200.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 05 DEGREES 00 MINUTES 10 SECONDS FOR AN ARC LENGTH OF 17.46 FEET;
- 9) SOUTH 28 DEGREES 45 MINUTES 59 SECONDS WEST, 65.07 FEET TO THE BEGINNING OF A 200.00 FOOT RADIUS CURVE, CONCAVE TO THE SOUTHEAST;
- 10) SOUTHWESTERLY ALONG SAID 200.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 08 DEGREES 13 MINUTES 21 SECONDS FOR AN ARC LENGTH OF 28.70 FEET TO THE BEGINNING OF A 1,975.00 FOOT RADIUS COMPOUND CURVE, CONCAVE TO

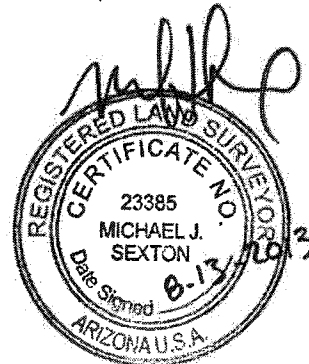
THE SOUTHEAST TO WHICH A RADIAL LINE BEARS SOUTH 69 DEGREES 27 MINUTES 23 SECONDS EAST;

- 11) SOUTHWESTERLY ALONG SAID 1,975.00 FOOT RADIUS COMPOUND CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 05 DEGREES 03 MINUTES 05 SECONDS FOR AN ARC LENGTH OF 174.12 FEET;
- 12) SOUTH 15 DEGREES 29 MINUTES 33 SECONDS WEST, 161.25 FEET;
- 13) SOUTH 29 DEGREES 30 MINUTES 27 SECONDS EAST, 28.28 FEET
- 14) SOUTH 15 DEGREES 29 MINUTES 33 SECONDS WEST, 50.00 FEET
- 15) SOUTH 74 DEGREES 30 MINUTES 27 SECONDS EAST, 82.47 FEET;
- 16) SOUTH 12 DEGREES 37 MINUTES 35 SECONDS WEST, 375.80 FEET;
- 17) SOUTH 06 DEGREES 27 MINUTES 18 SECONDS EAST, 349.13 FEET;
- 18) SOUTH 79 DEGREES 03 MINUTES 07 SECONDS WEST, 46.69 FEET
- 19) SOUTH 10 DEGREES 56 MINUTES 53 SECONDS EAST, 50.00 FEET;
- 20) SOUTH 34 DEGREES 03 MINUTES 07 SECONDS WEST, 28.28 FEET;
- 21) SOUTH 10 DEGREES 56 MINUTES 53 SECONDS EAST, 232.14 FEET TO THE BEGINNING OF A 1,975.00 FOOT RADIUS CURVE, CONCAVE TO THE NORTHEAST;
- 22) SOUTHEASTERLY ALONG SAID 1,975.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 03 DEGREES 14 MINUTES 40 SECONDS FOR AN ARC LENGTH OF 111.83 FEET;
- 23) SOUTH 14 DEGREES 11 MINUTES 33 SECONDS EAST, 474.81 FEET;
- 24) SOUTH 17 DEGREES 08 MINUTES 25" EAST, 101.19 FEET TO THE BEGINNING OF A 200.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST;
- 25) SOUTHERLY ALONG SAID 200.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 11 DEGREES 13 MINUTES 30 SECONDS FOR AN ARC LENGTH OF 39.18 FEET TO THE BEGINNING OF A 635.00 FOOT RADIUS COMPOUND CURVE, CONCAVE TO THE WEST, TO WHICH A RADIAL LINE BEARS SOUTH 84 DEGREES 05 MINUTES 05 SECONDS WEST;
- 26) SOUTHERLY ALONG SAID 635.00 FOOT RADIUS COMPOUND CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 05 DEGREES 53 MINUTES 57 SECONDS FOR AN ARC LENGTH OF 65.38 FEET;
- 27) SOUTH 00 DEGREES 00 MINUTES 58 SECONDS EAST, 140.68 FEET;
- 28) SOUTH 45 DEGREES 00 MINUTES 58 SECONDS EAST, 42.43 FEET, TO THE **POINT OF BEGINNING.**

CONTAINING 3,887,328 SQUARE FEET OR 89.2408 ACRES MORE OR LESS.

MICHAEL J. SEXTON
ARIZONA REGISTERED LAND SURVEYOR
REGISTRATION NO. 23385

CARDNO WRG, INC.
9977 NORTH 90TH STREET, SUITE350
SCOTTSDALE, ARIZONA 85258
PHONE: (602) 977-8000



Expires 6-30-2016

EXHIBIT B

ADDITIONAL PROPERTY COVERED BY CERTIFICATE OF PURCHASE
53-108549

PARCELS 1, 3, 5-9, AND 12B, INCLUSIVE, AND PARCEL 2 EXCLUDING THE SOUTH 8-FEET, AND TRACTS C-I, L-O, R, AND T, INCLUSIVE, OF THE TAKDOWN MAP OF THE DEVELOPMENT MASTER PLAN FOR "THE MEADOWS", ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 1053 OF MAPS, PAGE 38, AND LOCATED IN SECTION 16, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTRY, ARIZONA.

Project Folder OnBase Index Sheet

For use on all Project documents after 06/01/14

Document Type Group	Document Type	Segment	Process	Document Description
☒ Land Project (2006+) ☐ Land Project (Pre-2006)	☐ Aerie ☐ Artesian Ranch ☐ Asante ☐ Avian Meadows ☐ Avian Trails ☐ Carino Villas ☐ Chapman Heights ☐ CMG 900 ☐ Country Place ☐ Deals not done ☒ Meadows, The ☐ Mirabel ☐ Mirielle ☐ Mortensen (Farms) ☐ Santan Crossings ☐ SEP TRIO ☐ Smith ☐ Talaverde ☐ Tortosa ☐ Tramanto ☐ Verrado ☐ Villago	☐ acquisition/due diligence ☐ asset management ☐ construction/development ☒ entitlement ☐ finance ☐ property management ☐ sale	☐ 404 ☐ archeology ☐ architecture ☐ biology ☐ contract maintenance ☐ design review ☐ drainage ☐ engineering ☐ environmental ☐ financial assurance ☐ grading ☐ impact fee ☐ landscaping ☒ legal ☐ loan ☐ paving ☐ prop mgmt ☐ sewer ☐ signage ☐ soils ☐ storm water ☐ streetlights ☐ title ☐ traffic ☐ utilities ☐ walls ☐ warranty ☐ water ☐ zoning	☐ agreement ☐ application ☐ budget/budget revision ☒ ccrs ☐ change order ☐ closing documents ☐ correspondence ☐ deed ☐ design guideline ☐ draw ☐ insurance certificate ☐ job cost ☐ lease documents ☐ lien/lien release/20-day notice ☐ map/plan ☐ permit ☐ plat ☐ proposal ☐ report ☐ schedule ☐ study ☐ survey ☐ tenant improvement docs ☐ title ☐ transmittal
☐ Commercial Project (2006+)	☐ Country Corners 07 - W ☐ Country Corners 19 - N ☐ Country Corners 20 - E			

___ Subject of Document Second Amended and Reinstated CC&R's
 ___ Party to Document Camino a Lago, LLC and The Meadows HOA
 ___ Date of Document 6/25/2014
 ___ Phase _____
 ___ Parcel _____

AC
 (Manager Approval)

Hard Copy use only	
Original to Manager:	☐
Recyle original:	☐
File original:	☐