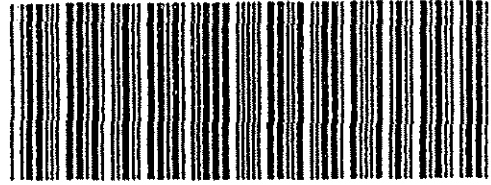


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Phoenix, Arizona 85012-2913
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AMENDED AND RESTATED

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

MIRABEL

TABLE OF CONTENTS

	<u>Page</u>
1. DEFINITIONS	3
2. RIGHTS OF ENJOYMENT	11
2.1 Owners' Right of Enjoyment	11
2.2 Delegation of Use	12
2.3 Waiver of Use	12
3. ASSOCIATION	13
3.1 Purpose of Association	13
3.2 Membership in Association	13
3.3 Suspension of Voting Rights	13
3.4 Pledge of Voting Rights	14
3.5 Assignment of Declarant's Voting Rights	14
3.6 Board of Directors	14
3.7 Board's Determination Binding	14
3.8 Approval of Members	15
3.9 Additional Provisions in Articles and Bylaws	15
3.10 Association Rules	15
3.11 Indemnification	16
3.12 Non-Liability of Officials	16
3.13 Easements	17
3.14 Accounting	17
3.15 Records	17
3.16 Managing Agent	18
3.17 Declarant's Control of Association	18
3.18 Rights of Enforcement	18
3.19 Contracts With Others For Performance of Association's Duties	18
3.20 Changes to Common Areas	19
3.21 Purposes For Which Association's Funds May be Used	19
3.22 Borrowing Power	19
3.23 Association's Rights in Spending Funds From Year to Year	19
3.24 Special Use Fees	20
3.25 Designated Service Providers	20
4. EASEMENTS AND ACCESS CONTROLS	20
4.1 Blanket Easements	20
4.2 Use of Common Areas	20
4.3 Exclusive Use Rights	21
4.4 Perimeter Wall Easement	21
4.5 Declarant Easement	21
4.6 Association Easement	22
4.7 Easements For Drainage	22
4.8 Access Control	22

TABLE OF CONTENTS
(continued)

	<u>Page</u>
4.8.1 Generally	22
4.8.2 Access Through Gates.....	23
4.8.3 Individual Lots	23
4.8.4 Right of Entry.....	23
4.8.5 Liability.....	23
5. GOLF CLUB FACILITIES	24
5.1 General	24
5.2 Ownership of Golf Club Facilities	24
5.3 Assumption of Risk.....	24
6. INSPECTION AND TURNOVER OF COMMON AREAS	25
6.1 Inspection of Common Area Improvements	25
6.2 Conveyance of Common Areas to Association.....	26
6.3 Turnover upon Transition Date	26
7. ASSESSMENTS	28
7.1 Creation of Lien and Personal Obligation.....	28
7.2 Purpose of Assessments	28
7.3 Regular Assessments.....	28
7.4 Special Assessments.....	29
7.5 Uniform Assessment	31
7.6 Exempt Property.....	31
7.7 Date of Commencement of Regular Assessments	31
7.8 Time and Manner of Payment; Late Charges and Interest.....	31
7.9 No Offsets	31
7.10 Homestead Waiver	31
7.11 Reserves	32
7.12 Subordination of Lien.....	32
7.13 Certificate of Payment.....	33
7.14 Enforcement of Lien.....	33
7.15 Pledge of Assessment Rights as Security.....	33
7.16 Exemption of Unsold Lots	33
8. INSURANCE.....	33
8.1 Authority to Purchase.....	33
8.2 Owner's Responsibility	34
8.3 Coverage.....	34
8.4 Required Provisions	35
8.5 Non-Liability of Association/Board/President.....	36
8.6 Premiums.....	37
8.7 Insurance Claims	37
8.8 Benefit	37

TABLE OF CONTENTS
(continued)

	<u>Page</u>
9. DAMAGE AND DESTRUCTION OF COMMON AREAS	37
9.1 Duty of Association.....	37
9.2 Excess Insurance Proceeds.....	37
9.3 Contract for Reconstruction	38
9.4 Insurance Proceeds Trust	38
10. EMINENT DOMAIN	38
10.1 Definition of Taking.....	38
10.2 Representation in Condemnation Proceedings.....	38
10.3 Award for Common Areas	38
11. MAINTENANCE, REPAIRS AND REPLACEMENTS	39
11.1 Maintenance of Lots.....	39
11.1.1 Generally	39
11.1.2 Improper Maintenance and Use of Lots.....	39
11.2 Common Areas and Areas of Common Responsibility	40
11.2.1 Standard of Care.....	40
11.2.2 Board's Determination of Responsibility For Maintenance	40
11.2.3 Contracts For Maintenance	41
11.2.4 Assessment of Certain Costs of Maintenance and Repair of Common Areas and Public Areas	41
11.3 Right of Access	41
12. ARCHITECTURAL AND LANDSCAPE CONTROL	41
12.1 Appointment of Design Review Committee	41
12.2 Design Guidelines	42
12.3 General Provisions	42
12.4 Approval and Conformity of Plans	43
12.5 Non-Liability for Approval of Plans	44
12.6 Inspection and Recording of Approval	44
12.7 Declarant Review	44
12.8 Reconstruction of Common Areas	45
12.9 Additional Powers of the Design Review Committee	45
13. USE AND OCCUPANCY RESTRICTIONS.....	45
13.1 Residential Use.....	45
13.2 Violation of Law or Insurance	46
13.3 Signs	46
13.4 Animals	46
13.5 Nuisances	47
13.6 Boats and Motor Vehicles.....	47

TABLE OF CONTENTS
(continued)

	<u>Page</u>
13.7 Lights.....	47
13.8 Antennas/Cable TV	48
13.9 Garbage	48
13.10 Mining; Wells.....	48
13.11 Safe Condition.....	48
13.12 Fires	48
13.13 Clothes Drying Area.....	48
13.14 No Further Subdivision	49
13.15 No Obstructions to Drainage.....	49
13.16 Use of Lots	49
13.17 Golf Carts	49
13.18 Enforcement	49
13.19 Recycling Programs	49
13.20 Diseases and Insects	50
13.21 Repair of Buildings and Improvements	50
13.22 Utility Service	50
13.23 Health, Safety, and Welfare	50
13.24 Implementation and Variances.....	50
13.25 Neighborhood Declarations.....	50
 14. RIGHTS OF MORTGAGEES	 51
14.1 General Provisions	51
14.2 Liability for Assessments	51
14.3 No Personal Liability	52
14.4 Enforcement After Foreclosure Sale	52
14.5 Exercise of Owner's Rights.....	52
14.6 Subject to Declaration	52
 15. ANNEXATION OF ADDITIONAL PROPERTY	 52
15.1 Development of the Project.....	52
15.2 Supplemental Declarations.....	53
15.3 Annexation Without Approval	53
15.4 Annexation With Approval	53
 16. EXEMPTION OF DECLARANT FROM RESTRICTIONS	 53
17. REMEDIES	54
17.1 General Remedies	54
17.2 Expenses of Enforcement.....	54
17.3 Legal Action.....	55
17.4 Effect on Mortgage.....	55
17.5 Limitation on Declarant's Liability.....	55

TABLE OF CONTENTS
(continued)

		<u>Page</u>
18.	AMENDMENT	55
18.1	Amendment to Declaration	55
18.2	Effect of Amendment	56
18.3	Required Approvals	56
18.4	Declarant's Right to Amend	56
19.	TERM; TERMINATION	57
19.1	Term	57
19.2	Withdrawal by Declarant	57
19.3	Termination	57
20.	GENERAL PROVISIONS	57
20.1	Notices	57
20.2	Captions and Exhibits; Construction	58
20.3	Severability	58
20.4	Rule Against Perpetuities	58
20.5	Mortgage of Lots	58
20.6	Power of Attorney	58
21.	DECLARANT'S DISCLAIMER OF REPRESENTATIONS; NO COVENANTS OR RESTRICTIONS; ZONING AND PLAN	59
21.1	Declarant's Disclaimer of Representations	59
21.2	No Express or Implied Covenants or Restrictions	59
21.3	Zoning and Plan	59
22.	RIGHTS AND OBLIGATIONS	59

**AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MIRABEL**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Restated Declaration") is made and entered into as of the 20th day of February, 2001, by TERRABROOK MIRABEL, L.L.C., a Delaware limited liability company formerly known as TERRABROOK STONEHAVEN, L.L.C. (herein called "Declarant"). This Restated Declaration amends and restates, and entirely replaces and supercedes, that certain "Declaration of Covenants, Conditions and Restrictions for Stonehaven" (the "Original Declaration") recorded on December 21, 2000, as Instrument Number 2000-0975307 in the official records of Maricopa County, Arizona. This Restated Declaration is being recorded to change the name of the "Declarant" and the name of the "Project" set forth in the Original Declaration. Any reference to "Declaration" hereafter shall mean this Restated Declaration, as it may be amended from time to time hereafter.

This Declaration provides for an extensive degree of control by Declarant including, but not limited to, (i) control of the Association, the type and design of Improvements that may be built upon (or otherwise made to) Lots with fines up to \$10,000 for non-compliance, and the use, and limitations upon use, of the Common Areas; (ii) the right to amend this Declaration; and (iii) substantial flexibility in developing the Property. Declarant's control is an integral part of this Declaration and the general scheme of development and operation of the Property. Sections 3.12 and 17.5 contain limitations on the liability of Declarant and its Related Parties, and Section 21 contains a waiver of representations and warranties of Declarant. Each Owner, by accepting title to a Lot, and all other Persons hereafter acquiring any other interest in any of the Property subject to this Declaration, acknowledge, agree to and accept Declarant's control of the Property and the limited liability of Declarant and its Related Parties as provided in this Declaration. Capitalized terms used in this paragraph are defined in this Declaration.

RECITALS

A. Declarant is the record owner of that parcel of real property situated in Maricopa County, Arizona, described on Exhibit "A" attached hereto and by reference made a part hereof (the "Parcel").

B. Declarant desires to submit and subject the Parcel, together with all Buildings, Improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto (all of which comprise a part of the "Property" as hereinafter defined), to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights contained herein.

C. Declarant desires that the Property be developed as part of a master planned community to be known as "Mirabel" containing residential lots, one or more golf courses and related recreational facilities (the "Project").

D. Declarant deems it desirable to establish covenants, conditions and restrictions applicable to the Property and each and every portion thereof, and certain mutually beneficial restrictions and obligations with respect to the proper use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within the Property.

E. It is desirable for the efficient management of the Property to create an owners association and to delegate to it the powers of (i) managing, maintaining and administering the Common Areas and any Areas of Common Responsibility within the Property, (ii) administering and enforcing these covenants, conditions and restrictions and (iii) collecting and disbursing funds pursuant to the assessments and charges hereinafter created and performing other acts provided for in this Declaration or which generally benefit its members, the Property, and the owners of any interests therein.

F. Mirabel Community Association, Inc., a nonprofit corporation, has been, or will be, incorporated under the laws of the State of Arizona for the purpose of exercising the foregoing powers and functions.

G. Declarant intends, but is not obligated, to annex real property to the Property in addition to the Parcel, thereby subjecting the annexed property to the plan of this Declaration, and binding the owners of any interests therein to the covenants, conditions and restrictions contained in this Declaration. Owners of any property annexed to the Property and subjected to the Declaration will automatically become members of the Association as provided herein.

H. Declarant desires and intends that the owners, mortgagees, beneficiaries and trustees under trust deeds, occupants and all other Persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the Property.

DECLARATIONS

NOW, THEREFORE, Declarant, for the purposes above set forth, declares that the Property shall hereafter be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights hereinafter set forth, all of which shall run with the land and be binding upon the Property and all parties having or acquiring any right, title or interest in or to the Property, or any part thereof, and shall inure to the benefit of each owner thereof, the Association and each member of the Association.

1. DEFINITIONS

Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows. Defined terms appear throughout this Declaration with the initial letter of the term capitalized.

1.1 "Annexable Property" means the real property more particularly described on Exhibit "B", attached hereto and by reference made a part hereof, or any other real property located within one-quarter mile of the Property or the real property more particularly described on Exhibit "B".

1.2 "Annexed Property" means any additional real property that is annexed to the Property in accordance with Section 15, thereby becoming a part of the Property and subject to this Declaration.

1.3 "Area of Common Responsibility" means any area that is not owned, leased or otherwise held by the Association (and is therefore not part of the Common Areas) but for which the Association has maintenance, repair, and/or operational responsibility by the terms of this Declaration, any Supplemental Declaration, any Neighborhood Declaration or other applicable real property covenants, by requirements of governmental authorities, or by contract. Any area described in the preceding sentence shall continue to be an Area of Common Responsibility only so long as the Association's responsibility for it continues.

1.4 "Articles" means the Articles of Incorporation of the Association, as they may be amended from time to time.

1.5 "Assessments" shall include the following:

1.5.1 "Regular Assessment" means the amount that is to be paid by each Owner as the Owner's Proportionate Share of the Common Expenses of the Association, as provided in Section 7.3.

1.5.2 "Special Assessment" means the amounts that are to be paid by Owners pursuant to Section 7.4.

1.6 "Association" means Mirabel Community Association, Inc., an Arizona nonprofit corporation, its successors and assigns.

1.7 "Association Rules" means the rules and regulations adopted by the Board pursuant to Section 3.10.

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

1.9 "Building" means a residence or other structure constructed on any portion of the Property.

1.10 "Building Envelope" means the area of a Lot delineating the boundaries within which any Buildings and other Improvements may be located, subject to the Design Guidelines and the approval of the Design Review Committee.

1.11 "Bylaws" means the bylaws of the Association adopted in accordance with the Articles, as the Bylaws may be amended from time to time.

1.12 "City" means the City of Scottsdale, Arizona, a municipal corporation of the State of Arizona.

1.13 "Common Areas" means all real property (and the Improvements thereon) that may from time to time be owned or leased by the Association or otherwise held by the Association for the common use and enjoyment of the Owners. The Common Areas include, but are not limited to, any Private Roads. The Common Areas do not include the Golf Club Facilities or the Areas of Common Responsibility. Any real property, and Improvements thereon, that are described as "common areas" in a Supplemental Declaration, a Neighborhood Declaration or a Plat shall be deemed to be "Common Areas" as that term is defined herein for the common use and enjoyment of the Owners, as may be provided, and shall, for all purposes, be integrated into and deemed to be a part of the Common Areas subject to this Declaration. Common Areas may be abandoned or modified as provided in Section 2.1.6 and Section 3.20.

1.14 "Common Expenses" means the actual and estimated costs incurred by the Association in administering, maintaining and operating the Property, and in owing or leasing any portions thereof, and in otherwise performing its rights and responsibilities including, but not limited to, the following:

(a) The costs of maintenance, management, operation, repair and replacement of the Common Areas, including any Private Roads, any Areas of Common Responsibility, and all other areas in the Property that are managed or maintained by the Association other than those areas being managed or maintained through a Special Assessment;

(b) Unpaid Assessments;

(c) The costs of maintenance by the Association of areas within the right-of-way of public streets in the vicinity of the Property which may be provided for in this Declaration or pursuant to agreements with the City, other governmental agencies or neighboring land owners;

(d) The costs of managing and administering the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(e) The costs of utilities and services (including, but not limited to, water, electricity, gas, sewer, trash pick-up and disposal services) that are provided to the Association or the Common Areas or Areas of Common Responsibility, landscaping maintenance and other services that generally benefit and enhance the value and desirability of the Property and that are provided by the Association;

(f) The costs of insurance maintained by the Association;

(g) Reasonable reserves, as required or permitted herein, including the Reserve for Capital Improvements, for contingencies, replacements and other proper purposes to meet anticipated costs and expenses including, but not limited to, repair and replacement of those Common Areas and Areas of Common Responsibility that must be repaired or replaced on a periodic basis;

(h) The costs that the Board may elect to incur to bond the members of the Board, officers of the Association, any professional managing agent or any other Person handling the funds of the Association;

(i) Taxes paid by the Association;

(j) Amounts paid by the Association for discharge of any lien or encumbrance levied against all or any portion of the Common Areas or the Association's interest in any Areas of Common Responsibility;

(k) Costs incurred by the Design Review Committee, or by Declarant in exercising its rights under Section 12.7;

(l) Costs incurred by any other committees established by the Board or the President;

(m) The costs of any access control systems and patrol or similar services including, but not limited to, those services and facilities described in Section 4.8, other than those that will be charged to individual Lots;

(n) The costs of, or the subsidization of, recreation, cultural, health-related or similar facilities or enterprises available to or for the benefit of all or substantially all Owners; and

(o) Other expenses incurred by the Association for any reason whatsoever in connection with the Common Areas or any Areas of Common Responsibility (excepting reconstruction costs and capital improvements as otherwise provided herein), or the costs of any other item or items designated by, or to be provided or performed by the Association pursuant to, this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

Common Expenses do not include costs of owning, administering, maintaining and operating the Golf Club Facilities. If any common services furnished to the Property are part of services that are provided to or benefit property in addition to the Property (such as, by way of illustration and not limitation, patrol services furnished to the Property and other areas of the Project that are not subject to this Declaration, such as the Golf Club Facilities), Common Expenses shall only include the cost of such services reasonably allocated to the services provided to the Property.

1.15 "Declarant" means Terrabrook Mirabel, L.L.C., a Delaware limited liability company, its successors and assigns, or any Person to whom Declarant's rights hereunder are hereafter assigned in whole or in part by recorded instrument, or any Mortgagee of Declarant that acquires title to or succeeds to the interest of Declarant in any Lot or other portion of the Property by reason of the foreclosure (or conveyance in lieu of foreclosure) or trustee's sale under the Mortgage of said Mortgagee. The term "Declarant," as used herein, shall include not only the named Declarant but also any of the foregoing successors, assigns, assignees of right(s) and Mortgagees. An assignment by recorded instrument of all of Declarant's rights shall vest in the assignee all of Declarant's rights hereunder (including, but not limited to, all of Declarant's

easements, rights of consent or approval and voting rights) on the same terms that they were held by Declarant hereunder. An assignment by recorded instrument of part of Declarant's rights shall vest in the assignee the specific Declarant's right(s) named in the instrument of assignment on the same terms that they were held by Declarant hereunder. Notwithstanding anything to the contrary herein, an assignment of all or any portion of Declarant's rights, or a sharing of those rights with any Designated Builder, shall not deprive the assignor of any protection, indemnity or freedom from liability that would otherwise exist under this Declaration if the assignor had retained all of Declarant's rights hereunder.

1.16 "Declaration" means this instrument, as from time to time amended.

1.17 "Default Rate of Interest" means an annual rate of interest equal to the greater of (i) 18% per annum or (ii) 4% plus the prime rate announced by Bank One, Arizona, NA (and charged to its largest and most creditworthy customers). The Default Rate of Interest shall be adjusted as and when the announced prime rate is adjusted. Therefore, if, during any periods while interest is accruing, the announced prime rate plus 4% per annum is less than 18%, interest shall accrue during those periods at 18% per annum. Notwithstanding anything in this Declaration to the contrary, if, during any periods, the highest lawful rate of interest that may, under applicable law, be paid by the Person required to pay the Default Rate of Interest hereunder, despite the provisions of this Declaration, is less than the rate provided above, the Default Rate of Interest payable by that Person during those periods shall be the highest lawful rate. If Bank One, Arizona, NA should cease doing business or no longer announce its prime rate as described above, the Board may compute interest based upon the announced prime rate of any other bank doing business in Maricopa County, Arizona. If banks should cease announcing prime rates, the Board may elect to use 18% as the Default Rate of Interest, or may specify the rate, in lieu of the prime rate, for purposes of the computation hereunder that the Association would reasonably have to pay to borrow money at the time.

1.18 "Design Guidelines" means the rules, regulations, restrictions, architectural standards and design guidelines from time to time adopted by the Design Review Committee or, prior to the Transition Date, Declarant, pursuant to Section 12.2.

1.19 "Design Review Committee" means the committee provided for in Section 12.

1.20 "Designated Builder" means a Person that constructs or causes the construction of homes on one or more Lots within the Property for sale to Retail Purchasers and that Declarant elects, in its sole and absolute discretion, to name as a "Designated Builder" in a written notice delivered to the Association. In any written notice naming a Designated Builder, Declarant shall specify what rights, privileges, obligations and exemptions of Declarant that particular Designated Builder will have with respect to this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Association Rules and the Design Guidelines. Declarant may revise, alter, supplement or rescind the rights, privileges, obligations

and exemptions previously given to a Designated Builder by delivering written notice to the Association detailing any revisions, alterations, supplements, or rescissions.

1.21 "Golf Club Facilities" means any golf course (a "Golf Course") and related facilities (including, but not limited to, any golf practice facilities, tennis facilities, swimming pool and related recreational and social facilities) constructed within the boundaries of the Project, and all Improvements and appurtenances thereto, including, but not limited to, any maintenance or other Buildings associated therewith. As long as the Golf Club Facilities are not owned by the Association, they shall not constitute a part of the Property nor shall they be Common Areas or Areas of Common Responsibility. It is not contemplated that any Golf Club Facilities will be annexed to the Property and thereby subjected to this Declaration, but Declarant, at its election (with the consent of the Golf Club Owner), may elect to annex all or any portion of any Golf Club Facilities to the Property at any time. Declarant may specify areas that constitute Golf Club Facilities by recorded instrument, but Declarant shall have no obligation to do so. Nothing in this Declaration shall be deemed or construed to constitute a representation by Declarant that any Golf Course or any related facilities will be constructed or, if constructed, that any Golf Course or related facilities will be constructed at any particular time, in any particular manner, or will have any particular characteristics.

1.22 "Golf Club Owner" means Terrabrook Mirabel, L.L.C., a Delaware limited liability company, and its successors and assigns who from time to time own the Golf Club Facilities.

1.23 "Improvements" means all Buildings, parking areas, loading areas, fences, walls, plantings, lighting, poles, driveways, roads, ponds, trails, gates, excavation and all other site work, including, but not limited to, grading, road construction, utility improvements, removal of trees or plantings and any exterior construction or alterations that may not be included in the foregoing, and all subsequent changes to any of the foregoing. The term "Improvements" does not include turf, shrub or tree repair or replacement that does not change the appearance of the subject property or the repair and reconstruction of any Improvement in a manner that does not change the exterior appearance of that Improvement.

1.24 "Lot" means a subdivided lot as shown on a Plat. A "Lot" includes the Buildings and other Improvements constructed thereon.

1.25 "Majority of Members" means the Members holding more than 50% of the total votes entitled to be cast by Members (including, unless otherwise specifically provided herein, Declarant so long as Declarant or any Related Party owns any portion of the Property) with respect to a given matter. Any specified fraction or percentage of the Members means the Members holding that fraction or percentage of the total votes entitled to be cast by Members (including, unless otherwise specifically provided herein, Declarant so long as Declarant or any Related Party owns any portion of the Property) with respect to a given matter. A "Majority of a Quorum of Members" means the Members holding more than 50% of the total votes entitled to

be cast by the Members (including, unless otherwise specifically provided herein, Declarant so long as Declarant or any Related Party owns any portion of the Property) who are present (in person or by proxy) at a meeting at which a quorum of Members (as defined in the Bylaws) is present. Unless otherwise specified, any provision herein requiring the approval of the Members means the approval of a Majority of a Quorum of Members.

1.26 "Member" means every Person who is a member of the Association.

1.27 "Membership" means a membership in the Association but does not in any manner imply or refer to membership rights that may exist by contract with respect to the Golf Club Facilities or other recreational amenities at the Project.

1.28 "Mortgage" means any recorded, filed or otherwise perfected instrument given in good faith and for valuable consideration (which is not a fraudulent conveyance under Arizona law) as security for the performance of an obligation including, but not limited to, a deed of trust, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.29 "Mortgagee" means the holder of a note secured by a Mortgage, including the trustee and beneficiary under any deed of trust.

1.30 "Neighborhood" means any portion of the Property that is designated as a "Neighborhood" by Declarant in an instrument recorded by (or with the consent of) Declarant (including, but not limited to, a Supplemental Declaration or a Neighborhood Declaration).

1.31 "Neighborhood Declaration" is defined in Section 13.25.

1.32 "Occupant" means any Person, other than an Owner, in rightful possession of a Lot, whether an Owner's immediate family member, guest, tenant or other individual.

1.33 "Owner" means the record owner, whether one or more Persons, of fee simple title, whether or not subject to any Mortgage, to any Lot that is a part of the Property, including contract sellers, but excluding those having an interest in a Lot merely as security for the performance of an obligation. If a Lot is subject to a deed of trust pursuant to Arizona law (as amended from time to time), legal title shall be deemed to be in the trustor under the deed of trust. If fee simple title is vested of record in a trustee pursuant to Arizona law (as amended from time to time), legal title shall be deemed to be in the beneficiary.

1.34 "Parcel" means that parcel of real property referred to in the recitals hereof and described in Exhibit "A" hereto.

1.35 "Person" means an individual, corporation, partnership, limited liability company, trustee or other entity capable of holding title to real property, and their respective heirs, successors and assigns.

1.36 "Plat" means any plat of subdivision of the Parcel as first recorded in the official records of Maricopa County, Arizona, and as thereafter from time to time amended or supplemented, together with all subsequent recorded plats of subdivision for any Annexed Property.

1.37 "President" means the duly elected or appointed president of the Association.

1.38 "Private Roads" and "Private Streets" are synonymous and mean any street, roadway or other similar right-of-way within or partly within the Property that has not expressly been dedicated to public use.

1.39 "Project" means the master planned development of the property, as described in the recitals hereof, to be called "Mirabel". The Property is located within the Project. The Project includes the Golf Club Facilities.

1.40 "Property" means the Parcel and any additional real property made subject to this Declaration by annexation pursuant to Section 15, together with all Buildings, Improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. The Property shall not include the Golf Club Facilities or any property other than the Parcel (including, but not limited to the real property more particularly described on Exhibit "B" attached hereto), unless and until the property is annexed hereto pursuant to Section 15.

1.41 "Proportionate Share" means (a) in the case of Special Assessments imposed against the Lots in a Neighborhood pursuant to Section 7.4.5, that fraction wherein the numerator is one and the denominator is the total number of Lots in the applicable Neighborhood, and (b) in all other cases, that fraction wherein the numerator is one and the denominator is the sum of the total number of Lots in the Property.

1.42 "Related Parties" means Declarant's constituent members; the members, partners, shareholders and owners of the Declarant's constituent members and their constituent entities; Declarant's affiliates; the affiliates of Declarant's constituent members; and the officers, directors, members, shareholders, trustees and other principals of all of the foregoing entities, and their respective successors and assigns.

1.43 "Reserve for Capital Improvements" means a reserve established pursuant to Section 7.11 for repair and replacement of capital assets and similar property, and other proper

purposes to meet anticipated costs and expenses including, but not limited to, repairs and replacement of those Common Areas that must be repaired or replaced on a periodic basis.

1.44 "Retail Purchaser" means a Person who purchases a Lot in a retail transaction and shall not include Declarant, any Related Party, any Designated Builder or any other Person who acquires a Lot (i) in a bulk sale transaction, or (ii) by distribution (as distinguished from purchase), or (iii) in any similar transaction.

1.45 "Special Use Fees" means special fees that an Owner, an Occupant, or any other Person is obligated by this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration or the Association Rules to pay to the Association for use of, access to, or for the granting of a right or privilege with respect to, an amenity, facility, or other Improvement including, but not limited to, any Common Area or Area of Common Responsibility. Special Use Fees shall be in addition to any Assessment hereunder.

1.46 "Supplemental Declaration" means a declaration of covenants, conditions and restrictions, or similar instrument, annexing additional real property to the Property and subjecting the Annexed Property to this Declaration as provided in Section 15.

1.47 "Transition Date" means 90 days following the date upon which 95% of the total number of "Permitted Lots" have been conveyed to Retail Purchasers or such earlier date as Declarant turns over control of the Association to the Owners. For purposes of this Section 1.47, the term "Permitted Lots" shall mean the total number of Lots allowed to be developed on the Property and the real property more particularly described on Exhibit "B", pursuant to the zoning of the Property and the real property more particularly described on Exhibit "B", as such zoning may be amended from time to time.

2. RIGHTS OF ENJOYMENT

2.1 Owners' Right of Enjoyment. Every Owner and Occupant shall have a nonexclusive easement for use and enjoyment in and to the Common Areas, subject to all of the easements, covenants, conditions, restrictions and other provisions contained in this Declaration including, but not limited to, the following provisions:

2.1.1 The right of the Association to limit the number of guests of Owners and Occupants and to limit the use of the Common Areas by Persons who are not Owners, but who are in possession of a Lot or own a portion of, or less than the entire ownership interest of, a Lot and to charge admission, membership and other Special Use Fees for the use of any Common Areas when provided for in a Supplemental Declaration with respect to land subject to it, a Neighborhood Declaration with respect to land subject to it or when all or any portion of the costs of ownership should, in the opinion of the Board, be borne (in whole or in substantial part) by users rather than by all Members.

2.1.2 The right of the Association to establish reasonable rules and regulations pertaining to or restricting the use of the Common Areas by Owners, Occupants or other Persons including restricting certain areas to drainage, utility or similar uses.

2.1.3 The right of the Association to borrow money for the purpose of improving, replacing, restoring or expanding the Common Areas or Areas of Common Responsibility or adding new Common Areas and the right to mortgage the Common Areas, provided that the rights of any lender shall be subordinated to the rights of the Owners.

2.1.4 The rights of the Association to suspend the right of an Owner, Occupant and any other Person (including, but not limited to, a member of the family of an Owner or Occupant) to use the Common Areas, or any designated portion thereof, during any time in which any Assessment attributable to the Owner or the Owner's Lot remains unpaid and delinquent, or for a period not to exceed 60 days for any single infraction of the Association Rules or breach of this Declaration, any applicable Supplemental Declaration or any applicable Neighborhood Declaration, and up to one year for any subsequent violation of the same or similar provision of the Association Rules, this Declaration, any applicable Supplemental Declaration or any applicable Neighborhood Declaration, provided that any suspension of any Person's right to use the Common Areas, except for failure to pay Assessments, shall be made only by the Board or a duly appointed committee thereof, after notice and a reasonable opportunity for hearing. Notwithstanding the foregoing, the Association shall not have the right to suspend any Owner's right to use any portion of the Property, including any Private Roads, necessary for the Owner to gain access to the Owner's Lot.

2.1.5 The right of the Association to dedicate or transfer all or any part of, or interest in, the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association provided that these actions otherwise comply with this Declaration.

2.1.6 The right of the Association to change the use, size, shape or location of Common Areas, to exchange Common Areas for other properties that then become Common Areas, and to abandon or otherwise transfer Common Areas, provided that all of these actions otherwise comply with this Declaration.

2.2 Delegation of Use. No Owner may delegate the Owner's right to use and enjoy the Common Areas to any Person, to Occupants of the Owner's Lot, or to the Owner's guests, except as permitted by the Association Rules. An Owner's right of use and enjoyment of the Common Areas shall be appurtenant to and shall pass with title to the Owner's Lot.

2.3 Waiver of Use. No Owner may exempt himself, and no Owner shall be exempt, from personal liability for Assessments, or release any Lot the Owner owns from the liens, charges and other provisions of this Declaration, any applicable Supplemental Declaration, any

applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, by voluntary waiver of, or suspension or restriction of the Owner's right to, the use and enjoyment of the Common Areas, or the abandonment of the Owner's Lot.

3. ASSOCIATION

3.1 Purpose of Association. The Association has been, or will be, incorporated as a nonprofit corporation to serve as the governing body for all of the Owners for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Property, the assessment of expenses, payment of losses, disposition of casualty insurance proceeds, and other matters as provided in this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules and Design Guidelines. The Association shall not be deemed to be conducting a business of any kind and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles and the Bylaws.

3.2 Membership in Association. Except as provided in Sections 3.5 and 3.17, there shall be one Membership in the Association with one Membership vote for each Lot. Each Membership shall be entitled to one vote on each matter to be decided by the Members. If the Owner of a Lot is other than one individual, each individual and entity comprising the Owner shall be considered a Member but the number of Memberships or votes attributable to the Lot shall not be increased by the fact of multiple ownership. In the case of multiple ownership, the Owner shall give the Association written notice identifying the individual who is entitled to cast the Membership vote for the Lot. In the absence of written notice, Assessments shall nevertheless be charged against the Lot and the Owner thereof, but there shall be no right to cast the Membership vote. The individual entitled to cast the Membership vote must be an Owner, or, if the Owner is or includes a Person other than an individual, must be an individual who is (i) a member of the limited liability company, if the Owner is or includes a limited liability company, or (ii) a partner in the partnership, if the Owner is or includes a partnership, or (iii) an officer of the corporation, if the Owner is or includes a corporation, or (iv) a beneficiary of the trust, if the Owner is or includes a trust, or (v) an owner of the entity, if the Owner is or includes a Person other than an individual, a limited liability company, a partnership, a corporation or a trust. The individual, as so specified, shall be the only Person entitled to vote for the Owner of the Lot at Association meetings and elections. An Owner may change the individual who is designated for the Owner's Lot, provided the individual is eligible to cast the Membership vote hereunder. The Board may establish reasonable processing fees and reasonable procedures for changing the designated individual including rules governing the manner and frequency in which designations can be made. An Owner shall remain a member of the Association until the Owner ceases to be an Owner, at which time the Owner's membership in the Association shall automatically cease.

3.3 Suspension of Voting Rights. No Owner shall be entitled to exercise any voting rights as a Member in the Association during any period in which the Owner is delinquent in the payment of any Assessments.

3.4 Pledge of Voting Rights. Notwithstanding the foregoing, in the event that an Owner has granted an irrevocable proxy or otherwise pledged the voting right appurtenant to the Owner's Lot to a Mortgagee as additional security, only the vote of the Mortgagee will be recognized in regard to the special matters if a copy of the proxy or other instrument pledging the vote has been filed with the Association. In the event that more than one irrevocable proxy or pledge has been filed, the Association shall recognize the rights of the first Mortgagee to so file, regardless of the priority of the Mortgages themselves.

3.5 Assignment of Declarant's Voting Rights. If any lender to whom Declarant has assigned, or hereafter assigns, all or substantially all of its rights under this Declaration as security succeeds to the interests of Declarant by virtue of the assignment, the absolute voting rights of Declarant provided for in Section 3.17 shall not be terminated by the assignment, and the lender shall hold Declarant's memberships and voting rights on the same terms as they were held by Declarant pursuant hereto.

3.6 Board of Directors.

3.6.1 The affairs of the Association shall be conducted by the Board as provided herein and in accordance with the Articles and Bylaws. Except for directors appointed by Declarant, each director shall be an individual qualified under Section 3.2 to be designated to cast votes for a Membership (whether or not actually so designated). If a director ceases to meet the foregoing qualifications during the director's term, the director will thereupon cease to be a director and the director's place on the Board shall be deemed vacant. Unless the vote or consent of the Members is expressly required hereunder, any action required or permitted to be taken by the Association, shall be satisfied or taken by the Board. The Board may appoint various committees (which may consist, in whole or in part, of individuals who are not on the Board).

3.6.2 Declarant shall have the absolute power and right to appoint and remove the members of the Board until the Transition Date. After the Transition Date, the Members of the Association shall have the power and right to elect and remove the members of the Board as provided in the Articles and Bylaws. Declarant may (but shall not be required to) relinquish its rights under this Section prior to the Transition Date by recording a notice of relinquishment.

3.7 Board's Determination Binding. Subject to the provisions of Section 16, in the event of any dispute or disagreement between or among any Owners, Members, or any other Persons subject to this Declaration, relating to the Property, or any question of interpretation or application of the provisions of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, then (subject to any judicial decision by a court of competent jurisdiction) the determination thereof by the Board shall be final and binding on each Owner, Member or other Person subject to this Declaration. The Board, at its election, may delegate the resolution of any such dispute or disagreement to the President or a committee appointed by the Board.

3.8 Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration, any Supplemental Declaration, any Neighborhood Declaration the Articles or Bylaws, any provision of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles or Bylaws that requires the vote or written assent of the Members of the Association shall be deemed satisfied by the following:

(a) The vote in person or by proxy of the specified percentage of Members at a meeting duly called and noticed pursuant to the provisions of the Articles or Bylaws dealing with annual or special meetings of the Members.

(b) Written consents signed by the specified percentage of Members as provided in the Articles or Bylaws.

(c) If no percentage of Members is otherwise specified then the vote or written assent of a Majority of a Quorum of Members shall be required.

3.9 Additional Provisions in Articles and Bylaws. The Articles and Bylaws may contain any provision relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents and members not inconsistent with law or this Declaration.

3.10 Association Rules. The Board shall be empowered to adopt, amend or repeal rules and regulations that it deems reasonable and appropriate (the "Association Rules"), binding upon all Persons subject to this Declaration and governing the use and/or occupancy of the Common Areas or any other part of the Property. The Association Rules may establish a system of fines and penalties enforceable as Special Assessments. The Association Rules shall govern all matters pertaining to the purposes of the Association including, but not limited to, the use of the Common Areas and Areas of Common Responsibility; provided, however, that the Association Rules may not discriminate among similarly situated Owners except as expressly provided or permitted herein, or in a Supplemental Declaration with regard to property subject to the Supplemental Declaration, or in a Neighborhood Declaration with regard to property subject to the Neighborhood Declaration, and shall not be inconsistent with this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws or Design Guidelines. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules shall be delivered to each Owner in the same manner established in this Declaration for the delivery of notices. Upon completion of the notice requirements, the Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners, and all other Persons having any interest in, or making any use of, the Property, whether or not actually received thereby. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner or other Person reasonably entitled thereto, upon request. In the event of any conflict between any provision of the Association Rules and any provisions of this

Declaration, any Supplemental Declaration, any Neighborhood Declaration or the Articles, Bylaws or Design Guidelines, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws or Design Guidelines to the extent of the conflict.

3.11 Indemnification. To the fullest extent permitted by law, the Association shall indemnify the following Persons against all expenses and liabilities including, but not limited to, attorneys' fees, witness fees (including expert witness fees), costs and litigation-related expenses reasonably incurred by or imposed upon them in connection with any proceeding to which they may be parties, or in which they may become involved, by reason of their being or having served in those capacities on behalf of the Association (or by reason of having appointed, removed or controlled or failed to control members of the Board or the Design Review Committee), or any settlement of any such proceeding: (i) every director and officer of the Association; (ii) every member of the Design Review Committee and other committees of the Association; (iii) Declarant and all Related Parties (and their respective employees); and (iv) all the employees of the Association. Any agent of the Association may, in the discretion of the Board and subject to the findings described below, also be indemnified by the Association. Any Person described in the first sentence shall be entitled to indemnification whether or not that Person is a director, officer, member of the Design Review Committee or serving in any other specified capacity at the time the expenses are incurred. Notwithstanding anything to the contrary in this Declaration, before any Person is entitled to indemnity pursuant to this Section 3.11, the Board shall determine, in good faith, that the Person to be indemnified did not act, fail to act, or refuse to act with gross negligence or fraudulent or criminal intent in the performance of that Person's duties. These rights of indemnification shall be in addition to and not exclusive of all other rights to which the Persons to be indemnified may be entitled at law or otherwise.

3.12 Non-Liability of Officials. To the fullest extent permitted by law, none of the following Persons shall be liable to any Member, Owner, Occupant, the Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which the following Persons reasonably believed to be within the scope of their respective duties: (i) every director and officer of the Association; (ii) every member of the Design Review Committee and other committees of the Association; (iii) Declarant and all Related Parties (and their respective employees); and (iv) all the employees of the Association. Each Owner, Occupant, and other Person having any interest in the Property or entering upon or using any portion of the Property is deemed to acknowledge and accept the following:

(a) None of the Persons described above in this Section 3.12 shall be liable or responsible for, or in any manner be guarantor or insurer of, the health, safety, or welfare of any Owner, Occupant, or other Person entering upon or making use of any portion of the Property. Each Owner, Occupant, and other Person assumes all risks associated with the use

and enjoyment of the Property including, but not limited to, any recreational facilities upon or within the Property.

(b) None of the Persons described above in this Section 3.12 shall be liable or responsible for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of any utility line, equipment, or substation adjacent to, near, over, or on the Property. Each Owner, Occupant and other Person assumes all risks of personal injury, illness, or other loss or damage arising from the presence or malfunction of any utility line, equipment, or substation adjacent to, near, over, or on the Property.

(c) No provision of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines shall be construed or interpreted as creating a duty by any of the Persons described above in this Section 3.12 to protect or further the health, safety, or welfare of any Person, even if funds of the Association are used for such a purpose.

3.13 Easements. In addition to the other easements granted hereunder, the Association is authorized and empowered to grant permits, licenses, easements and rights-of-way upon, across or under real property owned or controlled by the Association for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private utility purposes, roadways or other purposes as may be reasonably necessary and appropriate for the development, maintenance or preservation of the Common Areas or Areas of Common Reasonability or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Lot resulting from a grant of any of the foregoing rights shall be repaired by the grantee at its expense.

3.14 Accounting. The Association, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally accepted accounting principles, and shall have available for the inspection of all Owners at reasonable times during regular business hours at the principal office of the Association, books or other records specifying in reasonable detail all expenses incurred and funds accumulated from Assessments or otherwise. The Association shall cause the books and records of the Association to be audited on an annual basis by an accounting firm selected by the Board.

3.15 Records. The Association shall, upon reasonable written request and during reasonable business hours, make available for inspection by each Owner, at the Association's office, the books, records and financial statements of the Association together with current copies, as amended from time to time, of this Declaration, any Supplemental Declarations, any Neighborhood Declaration, the Articles, Bylaws, Association Rules and Design Guidelines. Declarant shall be under no obligation to make its own books and records available for inspection by any Owner or other Person.

3.16 Managing Agent. All powers, duties and rights of the Association, the President or the Board, as provided by law and herein, may be delegated to a managing agent under a management agreement; provided, however, that no delegation shall relieve the Association of its obligation to perform any delegated duty. Any agreement for professional management, or any other contract providing for services to the Association, shall not exceed a term of three years, subject to renewal by agreement of the parties for successive one-year periods, and shall further provide for termination by the Association with or without cause and without payment of a termination fee upon 90 days' written notice.

3.17 Declarant's Control of Association. Notwithstanding anything in this Declaration to the contrary, Declarant shall maintain absolute control over the Association, including appointment of the President and the members of the Board, until the Transition Date. In addition, until the Transition Date, Declarant shall have exclusive jurisdiction over architectural and design matters and shall be entitled to exercise the architectural and design review powers reserved to Declarant under this Declaration as provided in Section 12. Until the Transition Date, only Declarant will be entitled to cast any vote with respect to any matter requiring the approval of the Members except referendums of the Members with respect to certain provisions of this Declaration as set forth in Sections 7.3.4, 7.4.3, 7.4.4, 7.15 and 18.4. Declarant voluntarily may (but shall not be required to) permit the Members to assume control of the Association at any time.

3.18 Rights of Enforcement. The Board shall have the exclusive right to enforce the provisions of this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens, or easements provided for in any contract, deed, declaration or other instrument relating to the Property that have been executed pursuant to, or subject to, the provisions of this Declaration, or that otherwise indicate its provisions were intended to be enforced either by the Association or by Declarant for the Association. If, however, the Board fails or refuses to enforce this Declaration or any provision of the instruments listed above for an unreasonable period of time after written request to do so, then an Owner (at the Owner's expense) may enforce them on behalf of the Association by any appropriate legal action, whether at law or in equity. Notwithstanding any provision hereof concerning the rights and powers of the Board, Declarant may pursue whatever rights and remedies might be available to it at law or in equity. Notwithstanding any provision of this Declaration, Declarant shall have no duty to undertake any such enforcement actions and shall not be deemed a guarantor of enforcement.

3.19 Contracts With Others For Performance of Association's Duties. Subject to the restrictions and limitations contained in this Declaration, the Board may enter into contracts and transactions with others, including Declarant, any Related Party and any affiliated Persons, for the performance of the Association's duties and for other purposes consistent with this Declaration. No contract or transaction shall 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 may be employed by or otherwise connected with the other party to the contract or transaction, provided that any relationship of the other party to directors or officers of the Association and members of

any committee is disclosed or known to the other directors or committee members acting upon the contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any director, officer, or committee member with a relationship to, or any other interest in, the other party to the contract (i) may be counted in determining the existence of a quorum at any meeting that authorizes any contract or transaction described above or that grants or denies any approval sought by the other party, and (ii) may vote there to authorize any contract, transaction or approval, as if the director or member had no relationship to the other party to the contract.

3.20 Changes to Common Areas. The Association, through the action of the Board, may sell, exchange, convey, abandon or change the use of any Common Areas, provided the Board has determined that the change is in the best interest of the Property, the Project and the Owners. Prior to the Transition Date, the Board may act to effect a change described in this Section 3.20 without the vote or consent of any Owner or other Person. After the Transition Date, the Board may act to effect a change described in this Section 3.20 only with the consent of Declarant, so long as Declarant or any Related Party owns any portion of the Project.

3.21 Purposes For Which Association's Funds May be Used. The Association, except as otherwise permitted in this Declaration, shall apply all funds and property collected and received by it from any source (including Assessments, fees, loan proceeds, and surplus funds) for the common good and benefit of the Property, the Owners, and Occupants by devoting these funds and property, among other things, to the Common Expenses described in Section 1.14. Notwithstanding these requirements, all funds of the Association shall be deemed to be the sole property of the Association in its corporate capacity, and not trust funds, and the Association shall not be deemed to hold any funds as trustee or in any fiduciary capacity, except as expressly provided in this Declaration. The Association also may expend its funds for any purposes for which any municipality in the State of Arizona may expend its funds under the laws of the State of Arizona or the municipality's charter.

3.22 Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as the Board deems necessary or appropriate.

3.23 Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in that year, regardless of source, unless specifically provided to the contrary in this Declaration. The Association may carry forward as additional working capital or reserves any remaining balances. The Association shall not be obligated to reduce the amount of the Regular Assessments in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year any surplus that the Board, in its discretion, may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

3.24 Special Use Fees. Subject to the provisions of this Declaration including, but not limited to, Section 16, and any applicable provisions of any Supplemental Declaration or Neighborhood Declaration, the Board is authorized to impose, bill for, sue for, collect, administer, and disburse Special Use Fees, and the payment of all Special Use Fees shall be secured by the lien established in Section 7. In establishing or adjusting the amounts of Special Use Fees from time to time, the Board shall have the absolute discretion to establish reasonable classifications among Owners, Occupants, and other Persons.

3.25 Designated Service Providers. The Board shall have the authority to designate exclusive providers of services within the Property when the Board deems it necessary or desirable to do so for reasons of obtaining better rates or terms of service or for other reasons deemed reasonable by the Board. If the Board makes such a designation, the Association may enter into an agreement with the designated service provider, and the cost of services purchased by the Board shall be considered a Common Expense of the Association and shall be included in the Regular Assessments payable by each Owner provided, however, that the Board may allocate such costs between improved and unimproved properties, or among Neighborhoods, as a Special Assessment, in such a manner as the Board deems equitable. Notwithstanding any designation and negotiation with a service provider, each Owner may contract separately with the designated service provider to receive services in excess of those provided to the Property pursuant to the service provider's agreement with the Association, and the cost of the additional services shall be paid separately by the Owner and shall not be an Assessment under this Declaration. Any service provider designated by the Board pursuant to this Section 3.25 shall have an easement over the Common Areas to the extent necessary or convenient for the efficient delivery of the designated service.

4. EASEMENTS AND ACCESS CONTROLS

4.1 Blanket Easements. There is hereby created a blanket easement upon, across, over and under the Property (including all Lots, Common Areas and Areas of Common Responsibility) for ingress and egress, installing, constructing, replacing, repairing, maintaining and operating all utilities including, but not limited to, water, sewer, gas, telephone, electricity, television cable, alarm systems, and communication lines and systems, and in addition thereto for the use of emergency vehicles of all types. By virtue of the easement, it shall be expressly permissible for the providing service provider to erect (including, but not limited to, underground installation) and maintain the necessary facilities, wires, circuits, conduits, cables and related appurtenances, facilities and equipment on the Property. Notwithstanding anything to the contrary contained in this Section, no easements shall be created nor shall any sewers, electrical lines, water lines or other facilities for utilities be installed or relocated except as initially created and approved by Declarant or thereafter created or approved by the Association. This provision shall in no way affect any other recorded easements on the Property.

4.2 Use of Common Areas. Except for the use limitations provided in this Section, in Section 4.3, in any Supplemental Declaration (with respect to any portion of the Property subject to the Supplemental Declaration) and in any Neighborhood Declaration (with respect to any

portion of the Property subject to the Neighborhood Declaration), each Owner shall have the nonexclusive right to use the Common Areas in common with all other Owners as required for the purposes of access and ingress and egress to (and use, occupancy and enjoyment of) any Lot owned by the Owner or other Common Areas available for the use of the Owner. This right to use the Common Areas for purposes of access and ingress and egress shall, subject to the Association Rules, extend to each Owner, Occupant and the agents, servants, tenants, family members and invitees of each Owner. The right to use the Common Areas shall be perpetual and appurtenant to each Lot, but shall be subject to and governed by the provisions of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws and Association Rules and the reasonable limitations and restrictions as are from time to time be contained therein. The Board may limit or restrict the right of Owners and other Persons to use portions of the Common Area which exist for the benefit of the Association, but which by their nature are not intended for access and ingress and egress including, but not limited to drainage, utility or similar easements or rights.

4.3 Exclusive Use Rights. Certain portions of the Common Areas may be reserved by any Supplemental Declaration, any Neighborhood Declaration, any Plat or by the Board, in its reasonable discretion, for the exclusive control, possession and use of the Owner of a Lot or the Owners of more than one but fewer than all Lots. If any portion of the Common Area serves as access to and from two or more Lots, the Owners of the affected Lots shall have joint control, possession and use of the portion of the Common Area that reasonably serves the affected Lots. The exclusive use rights created in this Section 4.3 are subject to the blanket easement, maintenance, and architectural and landscape control provisions contained in this Declaration and to any reasonable rules and regulations with respect to possession, control, use and maintenance as the Board may from time to time promulgate. Easements are hereby created in favor of and running with each Lot having an area described in the first sentence of this Section 4.3, for the exclusive control and use of the applicable portion of the Common Area. Each Owner, by accepting title to a Lot, shall be deemed to have further ratified the easements and rights to exclusive use created by this Section 4.3.

4.4 Perimeter Wall Easement. There is hereby created an affirmative easement in favor of Declarant, each Related Party, the Association, and their employees and agents, upon, over and across each Lot adjacent to the perimeter boundaries of the Property (and each Lot adjacent to the perimeter boundaries of any Neighborhood) for reasonable ingress, egress, installation, replacement, maintenance and repair of any perimeter wall that is located along a perimeter boundary of the Property (or along a perimeter boundary of any Neighborhood).

4.5 Declarant Easement. There is hereby created a nonexclusive easement for ingress and egress over, for the right to go over, under, and across, and for the right to enter and remain upon, all portions of the Property, including, but not limited to, Lots (except the interiors of occupied dwelling units) and Common Areas (including, but not limited to, any Private Streets, and a right of access through any guard gates, key gates or other access control points) for the purpose of enabling Declarant, the Related Parties and their respective employees, agents, invitees, licensees, contractors and guests to exercise Declarant's rights and obligations

hereunder and to engage in activities reasonably related to the development, management, administration, operation, maintenance, advertisement and sale or rental of the portions of the Property and the Project owned by Declarant or any Related Party. The easement created in this Section 4.5 shall be in favor of Declarant and the Related Parties, and appurtenant to portions of the Project owned by Declarant or a Related Party. The rights of access established in this Section 4.5 shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Lot by its Owner and any Occupant. The easement created in this Section 4.5 shall continue until the day upon which neither Declarant nor any Related Party has any interest in any portion of the Project, including the Golf Club Facilities.

4.6 Association Easement. There is hereby created a nonexclusive easement in favor of the Association for ingress and egress over all the Property (except the interiors of occupied dwelling units) for the purpose of enabling the Association and its contractors, employees, representatives, and agents to implement the provisions of this Declaration. The rights of access established in this Section 4.6 shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Lot by its Owner and any Occupant. Every Lot is also hereby subjected to a nonexclusive easement for overspray and runoff of water from any irrigation systems serving the Common Areas or any Areas of Common Responsibility. Under no circumstances will the Association or any officers, directors, employees, or agents of the Association be responsible for any property damage or personal injury resulting from any overspray or from the operation of the irrigation systems serving the Common Areas or Areas of Common Responsibility.

4.7 Easements For Drainage. All Lots and Common Areas are hereby subjected to an easement for drainage of storm water runoff from other portions of the Property; provided, however, that no Person shall be entitled to alter the drainage patterns on any portion of the Property that are set forth on drainage plans approved by the City to increase materially the drainage of storm water onto adjacent portions of the Property or Project (or materially relocate its locations) without the consent of any Owners of the affected property and the Board.

4.8 Access Control. The Association, or its duly delegated representative, may operate an access control system for the Property, any portion of the Property, or any Neighborhood in the Property.

4.8.1 Generally. Any access control (or similar) system may (but is not required to) include all or any of the following: guard gates, key gates and other access control points, both manned and unmanned, at entries to various portions of the Property or individual Neighborhoods; patrol vehicles, patrolmen and patrol supervisors; computer and/or other monitoring equipment; television monitoring devices; burglar and fire alarm devices installed in Buildings located on Common Areas and Areas of Common Responsibility; communications equipment; direct line phones; and such other devices as may be deemed appropriate by the Board. The cost of any services described in this Section 4.8.1 shall be part of the Common Expenses, unless allocated to particular Neighborhoods and collected through a Special Assessment imposed pursuant to Section 7.4.5.

4.8.2 Access Through Gates. Subject to the easements created in Section 4.5 and elsewhere in this Declaration, the Association shall have the right, from time to time, to determine who may have access through guard gates, key gates and other access control points into various portions of the Property or individual Neighborhoods and onto any Private Roads. Declarant reserves the unrestricted right of access through guard gates, key gates and other access control points and the use of any Private Roads for itself and its successors in interest as to any other property in the Project owned by Declarant or a Related Party and for their employees, agents, invitees, licensees, and guests. Subject to applicable restrictions in this Declaration, the Association may, from time to time, make reasonable rules relating to the right of entry through guard gates, key gates and other access control points throughout the Property, but none restricting entry by Owners or Occupants or their tenants and guests or by prospective purchasers of homes or Lots invited by an Owner. Subject to Section 4.5 and Section 5, any gate may be abandoned, or its hours of manned operation reduced to less than 24 hours per day, at the discretion of the Association.

4.8.3 Individual Lots. When appropriate for the efficient administration of the Property or any Neighborhood, including, but not limited to, effective control over access to the Property or any Neighborhood therein, the Association may require that any Owner wishing security or similar services (including, but not limited to, patrol service and fire and burglar alarm protection) for the Owner's Lot (as distinguished from general services under Section 4.8.1) obtain the service from a Person (which may be the Association) selected by the Board to provide such services to all Owners or to all Owners in a particular Neighborhood wishing such services. The Board, however, may not require any Owner to have such services for the Owner's particular Lot. The cost of any such services shall not be a Common Expense or included in the Regular Assessment, but, if provided by or through the Association, will be charged to the Owner requesting the service. The cost of any such services selected by the Board shall be reasonably competitive with the charges for similar services rendered by unaffiliated companies providing similar services on a contract basis to other communities and customers in comparable areas of the City.

4.8.4 Right of Entry. Representatives and agents of the Association including, but not limited to, patrolmen, shall have the right to enter upon all Lots, Common Areas and Areas of Common Responsibility when responding to alarms or when otherwise reasonably deemed necessary for the protection of Persons or property, and neither the Association, nor any representative or agent thereof, shall have any liability to any Person when acting in good faith pursuant to this Section 4.8.4.

4.8.5 Liability. Neither the Association, Declarant, nor any Related Party is or should be considered a guarantor or insurer of security in the Property including, but not limited to, individual Lots. Neither the Association, the members of the Board, Declarant, any Related Party, nor their respective employees shall be liable to any Owner, Occupant, or other Person if any patrol and/or access control system is ineffective to prevent or detect in any case the risk for which it is intended. Moreover, no approval of a security (or similar) system for a Lot by the Design Review Committee or the Board shall constitute a warranty or assurance of any

kind by the Design Review Committee or Board that the system will function as intended and neither the Design Review Committee nor the Board (nor any employee, member or agent of either) shall have any liability by reason of any approval if any security system fails to prevent or detect the risk for which it is intended.

5. GOLF CLUB FACILITIES

5.1 General. The Golf Club Facilities are not Common Areas and are not subject to this Declaration, and no provision of this Declaration gives, or shall be deemed to give, any Owner or Occupant the right to use the Golf Club Facilities. Rights to use the Golf Club Facilities will be granted only to those Persons, and on those terms and conditions, as may be determined from time to time by the Golf Club Owner. By way of example, but not limitation, the Golf Club Owner shall have the right to approve users and determine eligibility for use, to reserve use rights, to transfer any or all of the Golf Club Facilities or operation thereof to anyone and on any terms, to limit availability of use privileges, and to require the payment of a purchase price, a membership contribution, an initiation fee, a membership deposit, dues, and/or use charges. Each Owner and Occupant hereby acknowledges that no right to the use or enjoyment of the Golf Club Facilities arises from ownership or occupancy of a Lot but arises, if at all, only from a membership agreement or other similar agreement with the Golf Club Owner. The Golf Club Owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Golf Club Facilities including, but not limited to, eligibility for and duration of use rights, categories of use, extent of use privileges, and number of users. The Golf Club Owner shall also have the right, in its sole and absolute discretion and without notice, to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents.

5.2 Ownership of Golf Club Facilities. Each Owner and Occupant hereby acknowledges that no representations or warranties have been or are made by Declarant or any other Person with regard to the use of, or the nature or size of improvement to, or the continuing ownership or operation of the Golf Club Facilities. No representation or warranty of Declarant regarding the foregoing matters shall be effective unless in writing and signed by Declarant. It is not contemplated that the Golf Club Facilities will be annexed to the Property and thereby subjected to this Declaration.

5.3 Assumption of Risk. Each Owner and Occupant expressly assumes the risk of noise, personal injury or property damage or any other condition caused by the existence of the Golf Club Facilities or caused by the maintenance and operation of the Golf Club Facilities including, but not limited to: (a) noise from maintenance equipment, (b) noise caused by golfers, (c) use of pesticides, herbicides, fertilizers and effluent, (d) view restrictions caused by maturation of trees and shrubbery, (e) reduction in privacy caused by golf traffic on any Golf Course or the removal or pruning of shrubbery or trees on any Golf Course, (f) design of any Golf Course, and (g) the possibility of golf balls entering the property adjacent or in proximity to the Golf Club Facilities and causing damage to property and injury to Persons. Each Owner and Occupant acknowledges that maintenance of golf courses typically takes place around sunset or

sunrise. Each Owner and Occupant agrees that neither the Association, the Golf Club Owner, Declarant, any Related Party, the designer of any Golf Course, nor any other Person owning or managing any portion of the Golf Club Facilities or supplying equipment, materials or services to any portion of the Golf Club Facilities (nor any of their respective members, partners, shareholders, principals, officers, directors, employees or agents) shall be liable to any Owner or any other Person claiming any loss or damage including, but not limited to, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of an Owner's Lot to the Golf Club Facilities including, but not limited to, any claim arising in whole or in part from the negligence of the Association, the Golf Club Owner, Declarant, any Related Party, the designer of any Golf Course or any other Person owning or managing any portion of the Golf Club Facilities or supplying equipment, materials or services to any portion of the Golf Club Facilities (or any of their respective members, partners, shareholders, principals, officers, directors, employees or agents). Each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, is deemed to agree and covenant not to make any claim or institute any action whatsoever against the Association, the Golf Club Owner, Declarant, any Related Party, the designer of any Golf Course, any other Person owning or managing any portion of the Golf Club Facilities or supplying equipment, materials or services to any portion of the Golf Club Facilities (or any of their respective members, partners, shareholders, principals, officers, directors, employees or agents) arising from or otherwise related to the proximity of an Owner's Lot to the Golf Club Facilities.

6. INSPECTION AND TURNOVER OF COMMON AREAS

6.1 Inspection of Common Area Improvements. Not later than each date upon which Declarant conveys any Common Areas to the Association and as a condition to the conveyance, Declarant shall select experts to inspect any completed Buildings, rights-of-way, sidewalks or other Improvements to those Common Areas to determine whether the Improvements have been constructed in substantial compliance with the plans and specifications, as modified by any change orders, and to inspect for defects in materials and workmanship and for governmental code violations. In addition, upon Declarant's completion of any Building, right-of-way, sidewalk or other Improvement in the Common Areas previously conveyed to the Association (costing in excess of \$10,000), Declarant shall select experts to inspect the completed Improvements to determine whether the Improvements have been constructed in substantial compliance with the plans and specifications, as modified by any change orders, and to inspect for defects in materials and workmanship and for governmental code violations. The Association shall pay the cost of the inspections and the cost shall be a Common Expense. Each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, is deemed to agree to the inspectors selected by Declarant and the inspection process set forth in this Section and to agree to abide by the inspectors' determinations. Declarant shall, at its sole cost and expense, make all repairs to the Improvements which the inspectors deem necessary to cause the Improvements to comply substantially with the plans and specifications, as modified by any change orders, to be free from defects in materials and workmanship and to be in compliance with applicable governmental codes. Except as provided in Section 6.3, Declarant shall have no obligation to make any additional repairs to the Improvements other than the repairs which the inspectors

deem necessary as provided in the preceding sentence. The Association and each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, release Declarant and the Related Parties from any further obligations with respect to repairs to any Common Area Improvements except any repairs required to be made by Declarant pursuant to Section 6.3. At such time as Declarant has completed all repairs required to be made by Declarant under this Section 6.1 and the inspectors selected by Declarant have certified that all required repairs have been completed, the Association shall be deemed to own and to have accepted (and shall have no right to refuse to accept) the Improvements. Thereafter, the Association shall have no right to require Declarant or any of the Related Parties to make any further repairs to the Common Area Improvements (except as provided in Section 6.3) and shall have no right to bring any claim or action against Declarant or any of the Related Parties (or any of their respective employees) relating to the Improvements.

6.2 Conveyance of Common Areas to Association. On or before the Transition Date, Declarant shall convey the Common Areas to the Association by special warranty deed or other appropriate instrument as determined by Declarant, subject to this Declaration and all matters of record. The Association shall accept title to the Common Areas transferred to it by Declarant. All costs and expenses of any conveyance of the Common Area by Declarant to the Association shall be paid by the Association. SUBJECT TO ANY REPAIRS REQUIRED UNDER SECTION 6.3, THE ASSOCIATION SHALL ACCEPT THE COMMON AREAS "AS IS" AND WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW WITH RESPECT THERETO, OR WITH RESPECT TO THE IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS, EXCEPT AS SET FORTH HEREIN. THE ASSOCIATION AND EACH OWNER, BY ACCEPTANCE OF A DEED OR OTHER CONVEYANCE OF AN INTEREST IN A LOT, RELEASE DECLARANT AND THE RELATED PARTIES (AND THEIR RESPECTIVE EMPLOYEES) FROM ANY CLAIMS AND WARRANT THAT NO CLAIM SHALL BE MADE BY THE ASSOCIATION OR ANY OWNER RELATING TO THE CONDITION OR COMPLETENESS OF THE COMMON AREAS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM.

6.3 Turnover upon Transition Date. Prior to the Transition Date, Declarant shall select experts to inspect the Common Areas and Improvements constructed thereon to determine whether the Improvements contain any defects in materials or workmanship and to review and evaluate the level of reserves of the Association to determine whether the Association's reserves for capital improvements are sufficient based on the age and condition of any Improvements to the Common Areas. The Association shall pay the cost of the inspections and the cost shall be a Common Expense. Each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, is deemed to agree to the inspectors selected by Declarant and the inspection process set

forth in this Section and to agree to abide by the inspectors' determinations. Declarant shall, at its sole cost and expense, make all repairs to the Improvements which the inspectors deem necessary to cause the Improvements to be free of defects in materials and workmanship. Nothing in this Section shall require Declarant to make any repairs to the Common Areas or the Improvements thereto necessitated by ordinary wear and tear. Declarant shall also deposit with the Association the amount of funds, if any, determined by the inspectors to be necessary to provide the Association with sufficient reserves for capital improvements. Declarant shall have no obligation to make any additional repairs to the Improvements other than the repairs which the inspectors deem necessary as provided herein or to fund the Association's reserves for capital improvements. The Association and each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, release Declarant and the Related Parties from any further obligations to repair the Common Area Improvements and to fund reserves for capital improvements. At such time as Declarant has completed all repairs required to be made by Declarant to the Common Area Improvements, Declarant has deposited with the Association any funds deemed necessary by the inspectors to provide sufficient reserves as provided herein, and the inspectors selected by Declarant have certified that all required repairs have been completed and all required funds have been deposited, the Association and the Owners shall be deemed to have accepted the condition of the Common Areas and Improvements thereto and the amount of the reserves for capital improvements, and, thereafter, the Owners and the Association shall have no right to require Declarant or any Related Party to make any further repairs to the Improvements to the Common Areas or to contribute to the reserves of the Association and shall have no right to bring any claim or action against Declarant or any Related Party (or their respective employees) relating to the condition of the Common Areas, the Common Area Improvements and the level of the Association's reserves for capital improvements.

7. ASSESSMENTS

7.1 Creation of Lien and Personal Obligation. Each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, and any other sums established and collected from time to time as provided in this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Association Rules and the Design Guidelines. All Assessments shall be established and collected, from time to time, as provided in this Declaration. The Assessments and charges provided for in this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Association Rules and Design Guidelines, together with interest thereon, late charges, attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the Owner's Lot against which the Assessments and charges are made. Each Assessment and charge, together with interest and other costs, shall also be the personal obligation of the Owner to whom the Assessment or charge relates. The personal obligation for delinquent payments shall not pass to an Owner's successor unless expressly assumed by the Owner's successor. If more than one Person owns a Lot, all co-Owners of the Lot shall be jointly and severally liable for all Assessments and charges provided for in this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Association Rules and the Design Guidelines.

7.2 Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners, to enhance the quality of life within the Property, to preserve the value of the Property, to pay the costs of administration of the Association and all other Common Expenses and to otherwise further the interests of the Association. Where a Lot has separate gas, electrical, sewer, cable television or other similar utility service, all costs related to the services (including, but not limited to, service charges, repairs, and maintenance) shall be the personal obligation of the Owner of the Lot and shall not be part of the Common Expenses to be paid through Assessments.

7.3 Regular Assessments.

7.3.1 Except as otherwise specifically provided herein, each Owner shall pay as the Owner's Regular Assessment the Owner's Proportionate Share of the Common Expenses.

7.3.2 Not later than 60 days prior to the beginning of each fiscal year of the Association (starting with the first full fiscal year after the sale of the first Lot to a Retail Purchaser), the Association shall make available for review by each Owner at the Association's office during reasonable times a pro forma operating statement or budget for the upcoming fiscal year, which shall, among other things, estimate the total Common Expenses to be incurred for the fiscal year. The Association shall at that time determine the amount of the Regular Assessment to be paid by each Owner and notify each Owner thereof. Each Owner shall

thereafter pay to the Association the Owner's Regular Assessment at such regular intervals as may be determined by the Board, from time to time. Each installment shall be due and payable on the date set forth in the written notice sent to Owners. The fiscal year of the Association shall be the calendar year, unless otherwise specified in the Articles or Bylaws.

7.3.3 If the Association determines that the total Regular Assessments for the current year are, or will become, inadequate to meet all Common Expenses for whatever reason, including Common Expenses in excess of the estimated Common Expenses used in preparation of the Association's budget for that year, the Association shall then determine the approximate amount of the inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessments to be paid by each Owner for the balance of the year, and the date or dates when due. If the estimated total Regular Assessments for the current year prove to be in excess of the actual Common Expenses, the Association may, at the discretion of the Board, retain the excess as additional working capital or reserves, reduce the amount of the Regular Assessments for the succeeding year, or abate collection of Regular Assessments for a period of time deemed appropriate by the Board. No reduction or abatement of Regular Assessments because of any anticipated surplus may diminish the quantity or quality of services upon which the Common Expenses for the year in question are based.

7.3.4 From one fiscal year to the next, in no event shall the Board increase Regular Assessments payable by Lots by more than the greater of (a) 10% or (b) the increase during the preceding year of the Consumer Price Index for All Urban Consumers - U.S. Cities Average - All Items (the "CPI") published by the United States Department of Labor, Bureau of Labor Statistics (1982-84 = 100), but in no event more than the maximum increase permitted by applicable law, without a vote or written consent by a Majority of a Quorum of Members except Declarant and by Declarant (so long as Declarant owns any Lot within the Property). In the event the Bureau of Labor Statistics shall cease to publish the CPI and such information is not available from any other source, public or private, then a new formula for determining the maximum annual increase without a vote or written consent of the Members shall be adopted by the Board.

7.4 Special Assessments. Subject to the provisions of any applicable Supplemental Declaration or any applicable Neighborhood Declaration, the Association may levy Special Assessments in accordance with the following:

7.4.1 The Association may levy a Special Assessment against a particular Owner and Lot that is subject to Assessment to recover the cost, including overhead and administrative expenses, of providing benefits, items, or services to the Lot (or to its Owner or Occupant) that are not included in the Common Expenses payable as Regular Assessments (including, but not limited to, any charge imposed against Lots pursuant to any agreement with a cable TV provider for cable TV access). Special Assessments under this Section 7.4.1 may be levied in advance and payment of the Special Assessment may be a condition of providing the benefit, item or service.

7.4.2 The Association may levy a Special Assessment against a particular Owner and Lot that is subject to Assessment to cover the cost of bringing a Lot (or its Owner or Occupant) into compliance with the requirements of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules and Design Guidelines including, but not limited to, increased maintenance costs to the Association caused by an Owner's use or treatment of the Owner's Lot. Before any Special Assessment is levied pursuant to this Section 7.4.2, any Owner affected by the Special Assessment shall be given notice and an opportunity to be heard by the Board (or by a committee designated for the purpose by the Board). The term "Special Assessment" shall also include any fines levied or fixed by the Board or the Design Review Committee pursuant to this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Association Rules and the Design Guidelines and attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses, interest and other costs incurred in connection with a Special Assessment.

7.4.3 The Association may levy a Special Assessment against each Owner, for the Proportionate Share of each Lot owned by that Owner, for the purpose of defraying, in whole or in part, the cost of any action or undertaking on behalf of the Association in connection with, or the cost of any construction or replacement of, a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto. Without the vote of a Majority of a Quorum of Members (and, if prior to the Transition Date, the written consent of Declarant), the Association shall not impose a Special Assessment for the purposes described in this Section 7.4.3 in an amount that in any one year exceeds 5% of the estimated annual Common Expenses. All amounts collected as Special Assessments pursuant to this Section 7.4.3 shall be used only for the purposes set forth in this Section 7.4.3.

7.4.4 The Association may levy a Special Assessment against each Owner, for the Proportionate Share of each Lot owned by that Owner, for the purpose of providing any necessary funds for restoration and repair of damaged or destroyed Common Areas or Areas of Common Responsibility in accordance with Section 9. Notwithstanding the foregoing sentence, if the amount available from the proceeds of any insurance policies for restoration and repair, together with any uncommitted or unreserved capital of the Association, is less than 75% of the estimated cost of restoration and repair, the Association may levy a Special Assessment pursuant to this Section 7.4.4, unless two-thirds of the Members, at a special meeting held for that purpose, disapprove the restoration and repair. All amounts collected as Special Assessments pursuant to this Section 7.4.4 shall be used only for the purposes set forth in this Section 7.4.4.

7.4.5 If a Supplemental Declaration or a Neighborhood Declaration recites, or in the exercise of its reasonable judgment the Association determines, that a Neighborhood benefits in a substantial way from a particular feature, characteristic or service and other Lots outside the Neighborhood do not benefit or do not benefit as much from the feature, characteristic, or service, the Association may levy against each Lot within the Neighborhood a Special Assessment to pay for the incremental cost incurred in connection with the feature, characteristic or service including, but not limited to, maintenance, repair and replacement costs.

7.4.6 The Association also may levy Special Assessments for any other charge designated as a Special Assessment in this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines.

7.5 Uniform Assessment. The Regular Assessment and any Special Assessments imposed pursuant to Section 7.4.3 or 7.4.4 shall be uniform for all Lots. Any Special Assessment imposed pursuant to Section 7.4.5 shall be uniform for all Lots in the affected Neighborhood.

7.6 Exempt Property. All properties dedicated to and accepted by, or otherwise owned or acquired by, a public authority shall be exempt from the Assessments created herein.

7.7 Date of Commencement of Regular Assessments. Regular Assessments, as to Lots within the Property subject to Assessment, shall commence on the first day of the month following the date of conveyance of the first Lot to be conveyed to a Retail Purchaser. Regular Assessments for Lots within any Annexed Property, as to Lots within the Annexed Property subject to Assessment, shall commence upon the effective date of the annexation making them Annexed Property.

7.8 Time and Manner of Payment; Late Charges and Interest. The manner and timing of payment of Assessments shall be designated by the Board. The Board may, in its discretion, establish late fees and charge interest (including interest at the Default Rate of Interest) on any Assessment not paid by its due date. The Board may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A Member who is delinquent in payment of Assessments shall also be liable for attorneys' fees, witness fees (including expert witness fees), costs, and other litigation-related expenses incurred by the Association as a result of the delinquency, and if any suit, action or other proceeding is brought to collect any delinquent Assessment or charge, then there shall be added to the amount thereof reasonable attorneys' fees, witness fees (including expert witness fees), costs and other litigation-related expenses, to be fixed by the court and included in any judgment or award rendered thereon.

7.9 No Offsets. All Assessments shall be payable in the amount specified in the Assessment or notice of Assessment and no offsets against the specified amount shall be permitted for any reason including, but not limited to, a claim that (a) the Association, the Board, the President or Declarant is not properly exercising its duties and powers as provided in this Declaration; (b) Assessments for any period exceed Common Expenses; or (c) a Member has made, and elects to make, no use of the Common Areas.

7.10 Homestead Waiver. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration, whether the liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Arizona now in effect, or in effect from time to time hereafter.

7.11 Reserves. Upon Declarant's initial transfer of record title to a Lot to a Retail Purchaser, and/or upon subsequent transfers of record title to the Lot thereafter, Declarant may require the new Owner of the Lot to make a contribution to the capital of the Association in an amount to be determined from time to time by Declarant, but not more than one-sixth of the annual amount of the Regular Assessments for that Lot, to establish reserves of the Association. Notwithstanding the foregoing, Declarant shall have no obligation to collect or contribute to the reserves of the Association. In addition, the Board may, but shall not be required to, annually prepare a reserve budget which shall take into account the number and nature of replaceable assets, the useful life of each asset and the anticipated repair and replacement cost. If the Board establishes a reserve budget, the Board shall establish a required contribution to the Reserve for Capital Improvements, in an amount sufficient to permit the Association to meet its projected needs, as shown on the reserve budget, with respect both to amount and timing of annual Assessments over the period of the budget. Any required contributions to the Reserve for Capital Improvements shall be assessed as a portion of the Regular Assessment on each Lot. Any reserves collected upon the initial sale of a Lot as described above and any additional reserves included in the Common Expenses which are collected as part of the Regular Assessments shall be deposited by the Association in a separate bank account to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association, except to the extent that the Association's regularly employed accountant deems it desirable to do otherwise on the basis of standard accounting principles in similar contexts or the laws, tax or otherwise, of the State of Arizona or the United States relating to nonprofit corporations or homeowners associations. All reserves shall be deemed a contribution to the capital account of the Association by the Members. The responsibility of the Board (whether while controlled by Declarant or the Members) shall be only to provide for an amount of reserves as the Board in good faith deems reasonable, and neither the Board (nor any member thereof), nor Declarant, nor any Related Parties (nor the respective employees of the Declarant and the Related Parties) shall have any liability to any Owner, to the Association, or to any other Person if the reserves prove to be inadequate.

7.12 Subordination of Lien. Any lien that arises against a Lot by reason of the failure or refusal of an Owner to make timely payment of any Assessment shall be subordinate to the lien of a prior recorded Mortgage on the Lot, acquired in good faith and for value, except for the amount of the unpaid Assessment that accrues from and after the date on which a Mortgagee comes into possession of or acquires title to the Lot, whichever occurs first (together with any reasonable attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses, interest and any late charges related thereto). If any lien for unpaid Assessments prior to the date the Mortgagee comes into possession of or acquires title to the Lot has not been extinguished by the process by which the Mortgagee came into possession of or acquired title to the Lot, the Mortgagee shall not be liable for unpaid Assessments arising prior to the foregoing date and, upon written request to the Association by the Mortgagee, the lien shall be released in writing by the Association. Any unpaid Assessments that are extinguished as a lien pursuant to the foregoing sentence shall continue to be the personal obligation of the delinquent Owner and may also be reallocated by the Association among all Members as part of the Common Expenses.

7.13 Certificate of Payment. Any Person acquiring an interest in any Lot shall be entitled to a certificate from the Association setting forth the amount of due but unpaid Assessments relating to the Lot, if any, and that Person shall not be liable for, nor shall any lien attach to the Lot in excess of, the amount set forth in the certificate, except for Assessments that occur or become due after the date thereof and any reasonable attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses, interest and any late charges related to those Assessments.

7.14 Enforcement of Lien. The lien provided for in this Section 7 may be foreclosed by the Board in any manner provided or permitted for the foreclosure of realty mortgages or deeds of trust in the State of Arizona. All of the provisions of this Section 7 relating to the enforcement of the lien provided for herein (including, but not limited to, the subordination provisions in Section 7.12 or the provisions of this Section 7.14) shall apply with equal force in each other instance provided for in this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Association Rules or Design Guidelines wherein it is stated that payment of a particular Assessment, charge or other sum shall be secured by the lien provided for in this Section 7. Nothing in this Section shall be construed as requiring that the Association take any action in any particular instance, and the failure of the Association to take such action at any time shall not constitute a waiver of the right to take action at a later time or in a different instance.

7.15 Pledge of Assessment Rights as Security. The Board shall have the power to pledge the right to exercise the Association's assessment powers and rights provided for in this Declaration as security for any obligation of the Association; provided, however, that any pledge of the Association's assessment powers and rights shall require the prior affirmative vote or written assent of a Majority of a Quorum of Members and, so long as Declarant or any Related Party owns any portion of the Project, Declarant. The Board's power to pledge the Association's assessment powers shall include, but not be limited to, the ability to make an assignment of Assessments that are then payable to, or that will become payable to, the Association; provided the assignment, although presently effective, allows Assessments to continue to be paid to the Association and used by the Association as set forth in this Declaration, unless and until the Association defaults on its obligations secured by the assignment.

7.16 Exemption of Unsold Lots. Notwithstanding anything in this Section 7 to the contrary, prior to the Transition Date, no Assessments shall be levied upon, or payable with respect to, any Lot owned by Declarant or any Related Party until the Lot has been conveyed by Declarant or the Related Party to a non-affiliated purchaser thereof.

8. INSURANCE

8.1 Authority to Purchase. The Association shall purchase and maintain insurance including, but not limited to, the insurance described in Section 8.3. Except as otherwise specifically provided herein, policies shall be on such terms and conditions as the Board shall determine in its discretion. All policies maintained by the Association, and endorsements

thereon, or copies thereof shall be deposited with the Association. The Association shall advise the Owners of the coverage of any policies purchased by the Association in order to permit the Owners to determine which particular items are included within the coverage so that the Owners may insure themselves as they see fit if certain items are not insured by the Association. All of the Association's insurance policies and claims thereunder shall be administered by the Board.

8.2 Owner's Responsibility. Each Owner shall provide insurance on any additions and insurable Improvements to the Owner's Lot in the amount of the full replacement cost of the additions and Improvements. Each Owner also shall be responsible for providing insurance on the Owner's Lot, the furnishings and personal property located on the Owner's Lot, the Owner's personal property stored elsewhere within the Property, the Owner's personal liability to the extent not covered by the public liability insurance obtained by the Association and any other insurance as the Owner desires. No Owner shall maintain any insurance, whether on the Owner's Lot or otherwise, that would limit or reduce the insurance proceeds payable under the casualty insurance maintained by the Association in the event of damage to the Improvements or fixtures on the Common Areas.

8.3 Coverage. The Association shall maintain and pay for policies of insurance as follows:

8.3.1 A blanket property insurance policy covering "risks of direct physical loss" on a "special form" basis (or comparable coverage) covering all of the Common Areas providing, at a minimum, fire and extended coverage, and all other coverage in kinds and amounts customarily acquired or required for projects similar in construction, location and use including, but not limited to, perils normally covered by an "all-risk" policy, in an amount determined by the Board, but in all events an amount sufficient to cover the full replacement cost of any insured Improvements. If "special form" coverage is not generally available at a reasonable cost, then "broad form" coverage may be substituted.

8.3.2 A policy of commercial general liability insurance covering all of the Common Areas and acts for which the Association might be responsible in an amount determined by the Board but not less than \$1,000,000 per occurrence, for personal injury or death and/or property damage. The scope of coverage shall include all other coverage in the kinds and amounts customarily acquired or required for projects similar in construction, location and use including, but not limited to, liability for non-owned and hired automobiles, liability for property of others, liability arising in connection with the operation, maintenance or use of the Common Areas, liability assumed by contract or contractual liability, and liability arising out of any employment contracts of the Association.

8.3.3 The Association shall, at the Board's election, obtain fidelity insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees or other individuals responsible for handling funds belonging to or administered by the Association. If funds of the Association are handled by a management agent, fidelity

insurance coverage shall also be obtained for the officers, employees or agents thereof handling or responsible for Association funds. The fidelity insurance must name the Association as the named insured and shall be written to provide protection in an amount not less than the lesser of (a) one-half times the Association's estimated annual operating expenses and reserves, (b) a sum equal to three months' aggregate Regular Assessments plus reserves, or (c) the estimated maximum amount of funds, including reserves, in the custody of the Association (and its management agent) at any one time. In connection with the coverage, an appropriate endorsement to the policy to cover any individual who serves without compensation shall be added if the policy would not otherwise cover volunteers. Any such coverage must also name the Association as an obligee.

8.3.4 A worker's compensation policy, if necessary to meet the requirements of law.

8.3.5 A policy of "directors and officers" liability insurance, including errors and omissions coverage.

8.3.6 Other insurance, in amounts and on terms, as the Board may determine from time to time to be desirable.

If at any time any of the foregoing types of coverage are not reasonably available, the Association shall maintain the most nearly equivalent coverages that are available.

8.4 Required Provisions. The insurance policies purchased by the Association shall, to the extent reasonable and available, contain the following provisions:

8.4.1 The coverage afforded by the policies purchased by the Association shall not be brought into contribution or proration with any insurance that may be purchased by any Owner or Mortgagee.

8.4.2 The conduct of any one or more Owners shall not constitute grounds for avoiding liability on any of the policies.

8.4.3 There shall be no subrogation with respect to the Association, its agents or employees, Owners or members of their households or families and employees, and each Mortgagee of all or any part of the Property or of any Lot, or the policies should name those Persons as additional insureds. Each policy must also contain a waiver of any defenses based on co-insurance or on invalidity arising from the acts of the insured.

8.4.4 A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of an Owner because of the conduct or negligent acts of the Association and its agents or other Owners.

8.4.5 Any "other insurance" clause shall exclude insurance purchased by Owners or Mortgagees.

8.4.6 Coverage must not be prejudiced by (a) any act or neglect of Owners when the act or neglect is not within the control of the Association or (b) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

8.4.7 Coverage may not be cancelled or substantially modified without at least 30 days' (or a lesser period as the Board may reasonably deem appropriate) prior written notice to the Association.

8.4.8 Any policy of property insurance that gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that the election is not exercisable without the prior written approval of the Board, or when in conflict with the insurance trust provisions contained herein, or any requirement of law.

8.4.9 A recognition of any insurance trust agreement entered into by the Association.

8.4.10 Each hazard insurance policy shall be written by a hazard insurance carrier which has a Best's Key Rating Guide rating of A or better and is assigned a financial size category of IX or larger as established by A. M. Best Company Inc., or if that rating service is discontinued, an equivalent rating by a successor thereto or a similar rating service.

8.4.11 Each insurance carrier must be specifically licensed or authorized by law to transact business within the State of Arizona.

8.4.12 Policies shall not be utilized where, under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be required from the Owners or the Association or loss payments are contingent upon action by the carrier's board of directors, policyholders, or members.

8.5 Non-Liability of Association/Board/President. Notwithstanding the duty of the Association to obtain insurance coverage as stated herein, neither the Association, the President, the members of the Board, Declarant, the Related Parties, nor any of their respective employees

shall be liable to any Owner, Mortgagee or other Person if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for additional insurance coverage and protection as the Owner may desire.

8.6 Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium arising from the use, misuse, occupancy or abandonment of a Lot or its appurtenances, or of the Common Areas, by an Owner may be assessed against that particular Owner.

8.7 Insurance Claims. The Board, acting for the Association, is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Association in this regard and may, at its discretion, appoint an authorized representative, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Association.

8.8 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of, and any proceeds of insurance received by the Association or any insurance trustee shall be held or disposed of in trust for, the Association or the Owners, as their interests may appear.

9. DAMAGE AND DESTRUCTION OF COMMON AREAS

9.1 Duty of Association. In the event of partial or total destruction of all or any portion of the Common Areas or Areas of Common Responsibility, or any Improvements thereon, the Association shall elect either (i) to restore and repair the destroyed area; or (ii) to clear and landscape the destroyed area as promptly as practical pursuant to this Section 9. The proceeds of any casualty insurance maintained pursuant to this Declaration shall be used for whichever purpose is elected by the Association pursuant to the foregoing sentence, subject to the prior rights of Mortgagees whose interest may be protected by said policies.

9.2 Excess Insurance Proceeds. In the event any excess insurance proceeds remain after any damaged or destroyed area is either restored and repaired or cleared and landscaped pursuant to Section 9.1, the Board, in its discretion, may retain those sums in the general funds of the Association or may distribute all or a portion of the excess to the Owners in their Proportionate Shares, subject to the prior rights of Mortgagees whose interests may be protected by the insurance policies carried by the Association. The rights of an Owner or the Mortgagee of a Lot to such a distribution shall be governed by the provisions of the Mortgage encumbering the Lot.

9.3 Contract for Reconstruction. In the event the Association undertakes the repair and restoration of the Common Areas or Areas of Common Responsibility, the Association shall contract with a licensed contractor or contractors who may be required to post a suitable performance or completion bond. The contract with the contractor or contractors shall provide for the payment of a specified sum for completion of the work described therein and shall provide for periodic disbursements of funds, subject to the prior presentation of an architect's, or similar, certificate containing such provisions as may be appropriate in the circumstances and deemed suitable by the Association.

9.4 Insurance Proceeds Trust. Upon receipt by the Association of any insurance proceeds, the Association may cause the insurance proceeds to be paid directly to a bank, savings and loan association, or trust company located in Maricopa County, Arizona, designated by the Association to be a trustee (the "Insurance Trustee"). The insurance proceeds shall be received, held and administered by the Insurance Trustee subject to a trust agreement consistent with the provisions of this Declaration and which shall be entered into between the Insurance Trustee and the Association. Disbursements to contractors performing any repair or reconstruction upon the Property shall be made periodically as the work progresses in a manner consistent with procedures then followed by prudent lending institutions in Maricopa County, Arizona.

10. EMINENT DOMAIN

10.1 Definition of Taking. The term "Taking" as used in this Section 10 shall mean condemnation by eminent domain or sale under threat of condemnation of all or any portion of the Common Areas.

10.2 Representation in Condemnation Proceedings. In the event of a threatened Taking of all or any portion of the Common Areas, the Owners hereby appoint the Association (through individuals designated by the Board) to represent all of the Owners in connection therewith. The Board shall act in its sole and absolute discretion with respect to any awards being made in connection with the Taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action.

10.3 Award for Common Areas. Any awards received by the Association on account of the Taking of Common Areas shall be paid to the Association. The Board may, in its sole and absolute discretion, retain any award in the general funds of the Association or distribute all or any portion thereof to the Owners as their interests may appear. The rights of an Owner and the Mortgagee of the Owner's Lot to any distribution shall be governed by the provisions of the Mortgage encumbering the Lot.

11. MAINTENANCE, REPAIRS AND REPLACEMENTS

11.1 Maintenance of Lots.

11.1.1 Generally. Subject to the Association's obligations with respect to any Areas of Common Responsibility on Lots, each Owner shall furnish and be responsible for, at the Owner's expense, all of the maintenance, repairs and replacements within the Owner's own Lot. Without limiting the generality of the foregoing sentence, each Owner shall keep all shrubs, trees, hedges, grass, and plantings of every kind located on the Owner's Lot (including setback areas and easements) neatly trimmed, shall keep all of those areas properly cultivated and free of trash, weeds, and other unsightly material, and shall maintain in good condition and repair all paved, concrete and other synthetically surfaced areas including, but not limited to, driveways, roadways, and parking areas. Subject to the Association's obligations with respect to any Areas of Common Responsibility on Lots, in the event of damage to or destruction of Buildings on any Lot, the Owner of the Lot shall proceed promptly to repair or reconstruct the Buildings in a manner consistent with the original construction or other plans and specifications approved in accordance with Section 12.4.

11.1.2 Improper Maintenance and Use of Lots. Subject to the provisions of Section 16, if (i) any portion of any Lot is so maintained as to present a public or private nuisance or an unreasonable condition (as determined by the Board) with respect to other Owners or Occupants, or as to detract substantially from the appearance or quality of the surrounding Lots or other areas of the Property or the Project including, but not limited to, excessive growth of unsightly weeds before Buildings and other Improvements are constructed; (ii) any portion of a Lot is being used in a manner that violates this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Association Rules or the Design Guidelines; or (iii) the Owner of any Lot fails to perform any of the Owner's obligations under this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Association Rules or Design Guidelines, then the Board may by resolution make a finding to that effect, specifying the particular condition or conditions that exist, and pursuant thereto give notice to the offending Owner that unless corrective action is taken within a deadline reasonably established by the Board, the Board may cause corrective action to be taken at the Owner's cost. If, at the expiration of the deadline fixed by the Board, the requisite corrective action has not been taken, the Board is authorized and empowered to cause remedial action to be taken. The cost of any remedial action shall become a Special Assessment against the offending Owner and the Owner's Lot and shall be secured by the lien provided for in Section 7. Notwithstanding the foregoing, if the Board believes that immediate action is or may be necessary to avoid a risk of serious physical injuries to individuals or damage to property, the Board shall be entitled, after giving notice to the affected Owner, to take whatever action it may believe to be minimally necessary to guard against or prevent injuries or damage without being required to wait for the period otherwise established by the Board as a deadline for action by the defaulting Owner.

11.2 Common Areas and Areas of Common Responsibility. The Association, or its duly delegated representative, shall maintain and otherwise manage all Common Areas and Areas of Common Responsibility including, but not limited to, any Private Streets, landscaping, walkways, riding paths, parking areas, drives, recreational facilities and the roofs, interiors, and exteriors of the Buildings and other Improvements located upon the Common Areas; provided, however, the Association shall not be responsible for maintaining any Common Areas or Areas of Common Responsibility that are part of Lots unless (i) the Buildings or other Improvements are available for use by all Owners and Occupants or are within easements intended for the general benefit of the Property, and (ii) the Association assumes in writing the responsibility for the maintenance, or the Association's responsibility is set forth in a recorded instrument as provided in this Declaration (such as a Supplemental Declaration or a Neighborhood Declaration).

11.2.1 Standard of Care. The Board shall use a reasonable standard of care in providing for the repair, management, and maintenance of Common Areas and Areas of Common Responsibility so that the Property will reflect a pride of ownership. In the discretion of the Board, the Association may perform any of the following within the Common Areas and Areas of Common Responsibility:

(a) Construct, reconstruct, repair, replace or refinish any Improvement or portion thereof;

(b) Replace injured and diseased trees and other vegetation, and plant trees, shrubs, and ground cover to the extent the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(c) Place and maintain such signs as the Board and Design Review Committee may deem appropriate for the proper identification, use, and regulation of these areas;

(d) Do all such other and further acts that the Board deems necessary or appropriate to preserve and protect these areas and the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Board shall be the sole judge of the appropriate maintenance of all Common Areas and Areas of Common Responsibility.

11.2.2 Board's Determination of Responsibility For Maintenance. If any Supplemental Declaration, Neighborhood Declaration, Plat, deed restriction, or this Declaration permits the Board to determine whether or not Owners of certain Lots will be responsible for maintenance of certain portions of the Common Areas, Areas of Common Responsibility, Private Roads, or public right-of-way areas, the Board shall have the sole and absolute discretion to

determine whether or not it would be in the best interest of the Owners and Occupants of the Property for the Association or an individual Owner to be responsible for this maintenance, considering cost, uniformity of appearance, location, and other factors deemed relevant by the Board.

11.2.3 Contracts For Maintenance. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Section 11.2 and, in order to promote uniformity and harmony of appearance, the Board also may cause the Association to contract to provide maintenance services to Owners of Lots having these responsibilities in exchange for the payment of such fees as the Board and the applicable Owners may agree upon. All fees that the Board and Owners agree upon pursuant to the preceding sentence shall be considered Special Assessments, and shall be levied and collected by the Board pursuant to Section 7.4.

11.2.4 Assessment of Certain Costs of Maintenance and Repair of Common Areas and Public Areas. If the need for maintenance, repair, or replacement of Common Areas, Areas of Common Responsibility or any other areas maintained by the Association is caused through the willful or negligent act of any Owner or Occupant or the family, guests, or invitees of either, the cost of all required maintenance or repairs shall be a Special Assessment against the Owner and the Owner's Lot and shall be secured by the lien provided for in Section 7.

11.3 Right of Access. An authorized representative of the Association, and all contractors, repairmen or other agents employed or engaged by the Association, shall be entitled to reasonable access to each of the Lots as may be required in connection with maintenance, repairs or replacements of or to the Common Areas and Areas of Common Responsibility, or any equipment, facilities or fixtures affecting or serving other Lots and the Common Areas or Areas of Common Responsibility, or to perform any of the Association's duties or responsibilities hereunder.

12. ARCHITECTURAL AND LANDSCAPE CONTROL

12.1 Appointment of Design Review Committee. Subject to Section 12.7, the Association shall have a Design Review Committee consisting of not less than three nor more than five individuals, as specified from time to time by resolution of the Board. After 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 the Board. Individuals appointed to the Design Review Committee need not be Owners. In an effort to provide the expertise desirable for the efficient functioning of the Design Review Committee, it is anticipated, but not required, that one or more members of the Design Review Committee will be design professionals licensed in architecture, landscape architecture or engineering or will satisfy other requirements that may be designated by the Board from time to time.

12.2 Design Guidelines. The Design Review Committee shall establish reasonable procedural rules, regulations, restrictions, architectural standards and design guidelines (the "Design Guidelines"), which the Design Review Committee 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 Related Party, owns any property within the Project). 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. The Design Guidelines may include, among other things, those restrictions and limitations set forth below:

12.2.1 Time limitations for the completion, within specified periods after approval, of the Improvements for which approval is required pursuant to the Design Guidelines.

12.2.2 Designation of a Building Envelope within a Lot, thereby establishing the area where all Improvements shall take place on the Lot.

12.2.3 Conformity of completed Improvements to plans and specifications approved by the Design Review Committee. For purchasers and encumbrancers in good faith and for value, however, unless (a) a notice of non-completion or nonconformance identifying the violating Lot and specifying the reason for the notice, executed by the Design Review Committee, is recorded with the County Recorder of Maricopa County, Arizona, and (b) the notice is given to the Owner of the Lot within one year following the expiration of the time limitation described in Section 12.2.1, or, if later, within one year following completion of the Improvement, or (c) legal proceedings are instituted to enforce compliance or completion within the foregoing one-year period, the completed Improvements shall be deemed to be in compliance with plans and specifications approved by the Design Review Committee and in compliance with the architectural standards of the Association and this Declaration.

12.2.4 Additional limitations and restrictions as the Design Review Committee in its discretion may adopt including, but not limited to, the regulation of all landscaping (including, but not limited to, absolute prohibition of certain types of landscaping, trees and plants), construction, reconstruction, exterior addition, change or alteration to or maintenance of any Building or other Improvement (including, but not limited to, limitations on the nature, kind, shape, height, materials, exterior color, surface texture, and location of any Improvements). Notwithstanding the foregoing, in no event shall any change in the Design Guidelines rescind or invalidate approvals previously given.

12.3 General Provisions.

12.3.1 The Design Review Committee may assess reasonable fees in connection with its review of plans and specifications.

12.3.2 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.

12.3.3 The address of the Design Review Committee shall be the address established for giving notice to the Association, unless otherwise specified in the Design Guidelines. That address shall be the place for the submittal of plans and specifications and the place where the current Design Guidelines shall be kept.

12.3.4 The establishment of the Design Review Committee and the procedures herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain or repair their Lots otherwise specified in this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws and Association Rules.

12.3.5 The Design Review Committee shall approve or disapprove any plans and specifications submitted to it in accordance with the Design Guidelines within any period as may be specified in the Design Guidelines.

12.3.6 The Design Review Committee, in its discretion, from time to time, may waive compliance with the restrictions set forth in this Section 12 or any comparable restrictions set forth in any Supplemental Declaration, any Neighborhood Declaration or the Design Guidelines; provided, however, following the Transition Date, any such waiver shall require the prior written approval of Declarant, so long as Declarant or any Related Party owns property within the Project.

12.4 Approval and Conformity of Plans. No Building or other 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 Building or other Improvement upon a Lot, 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.

12.5 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), and by approving the plans and specifications neither the Design Review Committee, the members thereof, Declarant, any Related 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 Building or other Improvement constructed from the plans and specifications. Neither the Design Review Committee, any member thereof, Declarant, any Related 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, (c) the development, or manner of development of any property within the Project, or (d) the execution and filing of an estoppel certificate pursuant to the Design Guidelines, whether or not the facts therein are correct; provided, however, that the action, with the actual knowledge possessed by the Person executing and filing the estoppel certificate, was taken in good faith. Approval of plans and specifications by the Design Review Committee is not, and shall not be deemed to be, a representation or warranty that said plans or specifications comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes.

12.6 Inspection and Recording of Approval. Any member or authorized consultant of the Design Review Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time enter, without being deemed guilty of trespass, upon any Lot after reasonable notice as provided herein to the Owner in order to inspect Improvements constructed or being constructed on the Lot to ascertain that the Improvements have been or are being built in compliance with the Design Guidelines and this Declaration. The Design Review Committee shall cause an inspection to be undertaken within 30 days of a request therefor from any Owner as to the Owner's Lot, and if the inspection reveals that the Improvements located on the Lot have been completed in compliance with this Section 12, the Design Guidelines, any applicable provisions of an applicable Supplemental Declaration and any applicable provisions of an applicable Neighborhood Declaration, the Design Review Committee shall provide the Owner a notice of approval in recordable form which, when recorded, shall be conclusive evidence of compliance with the provisions of this Section 12 and the Design Guidelines as to the Improvements described in the recorded notice, but as to the described Improvements only.

12.7 Declarant Review. Each Owner acknowledges that Declarant, as the developer of the Property and as an owner of significant portions of the Property and the Project, has a substantial interest in ensuring that the Improvements within the Property enhance Declarant's

reputation 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, any Supplemental Declaration or any Neighborhood Declaration to the Design Review Committee, and shall exercise all of the powers granted in this Declaration, any Supplemental Declaration or any Neighborhood Declaration to the Design Review Committee through individuals appointed by Declarant for such purpose 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. If Declarant delegates all or a portion of its design review powers to the Design Review Committee prior to the Transition Date, Declarant shall give the Association at least 30 days prior written notice of the delegation. Upon the expiration or relinquishment of Declarant's rights under this Section, the Association, acting through the Design Review Committee, shall assume jurisdiction over architectural and design review matters. In exercising its powers under this Section 12.7, Declarant shall be acting in its own interest as developer of the Project.

12.8 Reconstruction of Common Areas. The reconstruction of any Common Areas or Areas of Common Responsibility after destruction by casualty or otherwise that is accomplished in substantial compliance with "as built" plans for the Common Areas or Areas of Common Responsibility, as applicable, shall not require compliance with the provisions of this Section 12 or the Design Guidelines.

12.9 Additional Powers of the Design Review Committee. The Design Review Committee may promulgate as a part of the Design Guidelines additional architectural and landscape standards, rules and regulations as it deems appropriate; provided the standards, rules and regulations are not in conflict with this Declaration or the architectural and landscape standards, rules and regulations promulgated by Declarant in the exercise of its powers under Section 12.7. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE DESIGN REVIEW COMMITTEE MAY FIX A FINE OF UP TO \$10,000 AGAINST ANY OWNER AND ANY LOT SUBJECT TO THIS DECLARATION FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE DESIGN REVIEW COMMITTEE OR FOR FAILURE TO COMPLY WITH ANY APPROVAL OF THE DESIGN REVIEW COMMITTEE AND MAY REQUIRE SECURITY DEPOSITS TO ASSURE COMPLIANCE WITH APPLICABLE REQUIREMENTS.

13. USE AND OCCUPANCY RESTRICTIONS

13.1 Residential Use. Each Lot may be used only for residential purposes and none other. No business or commercial Building may be erected on any Lot and no business or commercial enterprise or other non-residential use may be conducted on any part thereof. No temporary Buildings or trailers may be erected, placed or maintained on any Lot except as expressly permitted by, and in compliance with, the Design Guidelines. Nothing herein contained shall be deemed to limit Declarant's rights as set forth in Section 16. The restriction on

use of any Lot for business or commercial enterprise shall not prohibit an activity if it meets all of the following requirements: (a) is not apparent or detectable by sight, sound or smell from outside the Lot on which it occurs, (b) does not involve individuals coming onto the Lot who do not reside on the Lot or solicitation of residents of the Property by anyone, whether or not a resident, and (c) is consistent with the residential character of the Lot and the Property and not a nuisance, or a hazardous or offensive use, as may be determined in the sole and absolute discretion of the Board. By way of illustration, but not limitation, activities conducted from within a residence solely by telephone, facsimile, or computer, without the use of employees other than those who reside on the Lot, to outside parties off of the Property (or wholly without communication to outside parties) are not considered prohibited but the activity shall be prohibited if it involves or requires visits to the Lot by actual or prospective customers, clients, or patients, or by others (excluding once a day document delivery services such as Federal Express), as a result of business activities by the Owner or Occupant of the Lot. Similarly, the fact that family members or other occupants of a residence are employed in business affairs within the Lot will not make such employment a prohibited business use of the Lot, but visits to the Lot by employees who do not reside there shall be prohibited if the individuals are employed for the business purposes of the Owner or Occupant of the Lot. The scope of the types of activities that are prohibited by this Section may be clarified, supplemented and interpreted by the Board (or by Declarant, prior to the Transition Date) from time to time, as it may choose in its sole and absolute discretion, so long as not materially inconsistent with the terms set forth above.

13.2 Violation of Law or Insurance. No Owner or Occupant shall permit anything to be done or kept in the Owner's Lot or in or upon any Common Areas that will result in the cancellation, increase in premiums or reduction in coverage of insurance maintained by the Association or that would be in violation of any law or other applicable requirement of governmental authorities.

13.3 Signs. No sign of any kind shall be displayed to the public view or from any Lot or any Common Areas without the approval of the Association or the Design Review Committee, except: (a) signs used by Declarant or any Related Party in connection with the development and sale of Lots in the Property; (b) signs required by legal proceedings, or the prohibition of which is precluded by law; (c) signs of an approved size placed in approved locations on a Lot indicating that the Lot is served by security or alarm services; and, (d) signs required for traffic control and regulation of Common Areas. No "For Sale" or "For Rent" sign may be posted on any Lot; provided, however, an Owner may, in accordance with applicable provisions of the Association Rules, be permitted to post or keep on record one "For Sale" or "For Rent" notice in a form approved by the Board in a location specified for that purpose by the Board, rather than on the Owner's Lot.

13.4 Animals. No animals, including horses or other domestic farm animals, fowl or poisonous reptiles of any kind may be kept, bred or maintained in any Lot or in or upon any Common Area, except a reasonable number of commonly accepted household pets in accordance with the Association Rules. No animals shall be kept, bred or raised within the Property for

commercial purposes. In no event shall any domestic pet be allowed to run free away from its owner's Lot without a leash, or conduct itself so as to create a nuisance. No dogs, regardless of whether they are restrained by a leash, shall be allowed on the Golf Club Facilities including, but not limited to, any Golf Course. Owners, Occupants or other Persons shall immediately clean up their animals' waste from the Common Areas and other portions of the Property. All domestic pets must be registered with the Association and must have proof of proper immunization presented with their registration.

13.5 Nuisances. No Owner or Occupant shall permit or suffer anything to be done or kept about or within the Owner's Lot, or on or about the Property, that will obstruct or interfere with the rights of other Owners, Occupants or other individuals holding the right to use and enjoy the Common Areas, or annoy them by unreasonable noises or otherwise. No Owner or Occupant shall commit or permit any nuisance or commit or suffer any illegal act to be committed on or about the Property. Each Owner and Occupant shall comply with the Association Rules, the requirements of all health authorities and other governmental authorities having jurisdiction over the Property. 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, provided they are in compliance with the Design Guidelines and requirements of the Design Review Committee and Board. Lots, Common Areas and Areas of Common Responsibility 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 shall be piled only in such areas as may be approved by the Design Review Committee or Board. In addition, any construction equipment and building materials stored or kept on the Property during construction of Improvements may be kept only in areas approved by the Design Review Committee or Board, which also may require screening of the storage areas. The Board, in its sole and absolute discretion (but subject to the provisions of this Declaration including, but not limited to, Section 16), shall have the right to determine the existence of any unreasonable annoyance or nuisance under this Declaration.

13.6 Boats and Motor Vehicles. Except as specifically permitted by the Association Rules, (a) no boats, trailers, buses, motor homes, campers or other vehicles shall be parked or stored in or upon the Common Areas or upon a Lot except within an enclosed garage or as permitted by the Design Guidelines; (b) no vehicle shall be repaired or rebuilt in any Lot or upon the Common Areas; and, (c) nothing shall be parked on any Private Streets except in parking areas designated by the Board. The Board may remove, or cause to be removed, any unauthorized vehicle at the expense of the owner of the vehicle in any manner consistent with law.

13.7 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 on the Common Areas, the Golf Club Facilities, any other Lot, or any portion of any of the foregoing, except as may be expressly permitted by the Association Rules or the Design Guidelines. No tennis courts may be lighted, except in accordance with the Design Guidelines and any rules and regulations by the Design Review Committee.

13.8 Antennas/Cable TV. The Board may adopt reasonable rules, restrictions and requirements from time to time regulating the placement, appearance, size, operation, and other aspects of any antennas, satellite dishes, and other similar structures and devices allowed for use on Lots, within the constraints of any applicable law. Any such rules, restrictions and requirements shall take into account aesthetic considerations, available technology, cost, feasible alternatives, and the effect (if any) of applicable laws and other requirements of governmental authorities. The Board shall have the authority (but no obligation) to enter into contracts providing for the availability of cable television and related services to the Property, or to such portions as the Board deems appropriate, on such terms as the Board may elect. If the Board elects to enter into such contracts, the costs of any such service shall be a Common Expense payable by those properties to which service is available (whether or not the Owner elects to receive the service), but the Board may allocate the costs of such service between improved and unimproved properties that are subject to Assessment in such proportions as the Board deems equitable.

13.9 Garbage. No garbage or trash shall be kept, maintained or contained in any Lot so as to be visible from another Lot or the Common Areas except on the day of pick up for the minimum period reasonably required and in containers approved by Association Rules or Design Guidelines. No incinerators shall be kept or maintained in any Lot. No refuse pile, garbage or unsightly objects shall be allowed to be placed, accumulated or suffered to remain anywhere on a Lot.

13.10 Mining; Wells. No portion of the Property shall be used in any manner to explore for or remove any water, oil or other hydrocarbons or minerals of any kind or earth substance of any kind.

13.11 Safe Condition. Without limiting any other provision in this Section, but subject to any responsibility of the Association for Areas of Common Responsibility, each Owner shall maintain and keep the Owner's Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity that might interfere with the reasonable enjoyment by other Owners and Occupants of their respective Lots or the Common Areas.

13.12 Fires. Other than barbecues, in properly constructed barbecue pits or grills, and firepits in compliance with the Association Rules and the Design Guidelines, or as otherwise expressly permitted in the Association Rules, no open fires shall be permitted on the Lots nor shall any other similar activity or condition be permitted that would tend to increase the insurance rates for the Common Area, or for other Owners.

13.13 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind. All laundry facilities shall be provided within the Buildings to be constructed on each Lot.

13.14 No Further Subdivision. No Lot shall be divided or subdivided. Notwithstanding the foregoing, Declarant may amend any Plat prior to the date when any Lot within the Plat has been sold by Declarant and may adjust the Lot boundaries on any Plat (even after a Lot within the Plat has been sold) for any Lots not yet sold, provided the adjustment does not materially affect the total number of Lots on the affected Plat.

13.15 No Obstructions to Drainage. No Owner shall erect, construct, maintain, permit or allow any fence or other Improvement or other obstruction that would interrupt the normal drainage of the land or within any area designated on a Plat, or other binding document, as a "drainage easement" or similar designation, except that, with the prior consent of applicable governmental authorities and the Design Review Committee, non-permanent structures, including fences, may be erected in those areas that contain only underground closed conduit storm drainage facilities.

13.16 Use of Lots. An Owner shall be responsible for assuring compliance by any Occupants of the Owner's Lot including, but not limited to, any lessee or other Person who the Owner allows to use the Owner's Lot with all of the provisions of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, all as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines by the lessee or other Person.

13.17 Golf Carts. The use of golf carts and similar vehicles is prohibited on any Private Roads (other than incidentally crossing any Private Roads in the course of play on a Golf Course).

13.18 Enforcement. The Association and its authorized agents may enter any Lot in which a violation of these restrictions exists and may correct the violation at the expense of the Owner of the Lot. Any expenses, and any fines imposed pursuant to this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, shall be a Special Assessment secured by a lien upon the Lot enforceable in accordance with the provisions of Section 7. All remedies described in Section 17 and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, Occupant or other Person of any provision of this Section 13.

13.19 Recycling Programs. The Board may establish a recycling program and recycling center within the Property. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation in the recycling program and any income received by the Association as a result of the recycling efforts shall be used to reduce Common Expenses.

13.20 Diseases and Insects. No Owner shall cause or permit any thing or condition to exist upon the Property that induces, breeds, or harbors infectious plant disease or noxious insects.

13.21 Repair of Buildings and Improvements. No Building or other Improvement on the Property shall be permitted to fall into disrepair, and (subject to any provisions of this Declaration, a Supplemental Declaration or a Neighborhood Declaration expressly imposing maintenance and repair obligations on the Association or other Persons) all Buildings and other Improvements on a Lot shall at all times be kept by the Owner of that Lot in good condition and repair and adequately painted or otherwise finished.

13.22 Utility Service. No lines, wires, or other services for the communication or transmission of electric current or power or electromagnetic impulses, including telephone, television, and radio signals, shall be erected, placed, or maintained anywhere in or upon the Property unless they are contained in conduits or cables installed and maintained underground or concealed in, under, or on Buildings approved by the Design Review Committee. Notwithstanding the foregoing, but subject to any applicable requirements of governmental authorities, the Design Review Committee may authorize the erection of microwave towers and similar structures on Common Areas for centralized reception, transmission, and retransmission of microwave and similar signals. 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 other Improvements approved by the Design Review Committee.

13.23 Health, Safety, and Welfare. If any uses, activities, and facilities are deemed by the Board to be an unreasonable annoyance or a nuisance, or to adversely affect the health, safety, or welfare of Owners or Occupants, the Board may make such rules restricting or regulating their presence on the Property as part of the Association Rules or may direct the Design Review Committee to make rules governing their presence on Lots as part of the Design Guidelines. Any rules promulgated pursuant to this Section 13.23 shall be consistent with the provisions of this Declaration including, but not limited to, Section 16.

13.24 Implementation and Variances. Subject to Section 16, the Board may implement the restrictions set forth in this Section 13, or otherwise restrict and regulate the use and occupancy of the Property and the Lots by reasonable rules and regulations adopted by the Board from time to time that shall be incorporated into the Association Rules. Subject to Section 16, the Board may, in its discretion, modify or waive the restrictions set forth in this Section 13; provided, however, following the Transition Date, any such waiver or variance shall require the prior written approval of Declarant, so long as Declarant or any Related Party owns any property within the Project.

13.25 Neighborhood Declarations. Declarant shall have the right to record "Neighborhood Declarations" against individual Neighborhoods within the Property which may include such complementary additions and modifications of the covenants, conditions and

restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the individual Neighborhoods and as are not materially inconsistent with the plan of this Declaration. Each Neighborhood Declaration shall be executed by Declarant and by the owner of the land subject to it (if the owner is other than Declarant). A Neighborhood Declaration and a Supplemental Declaration may be combined into a single instrument. Among other things, a Neighborhood Declaration may (a) designate Areas of Common Responsibility and Common Areas, (b) reserve or grant easements to such Persons and for such purposes as Declarant may deem appropriate, (c) impose such additional covenants, conditions and restrictions as Declarant may deem appropriate for the land subject to the Neighborhood Declaration, (d) determine Special Assessments applicable to particular Neighborhoods and the allocation of such Special Assessments among the Lots or other properties within that Neighborhood, and (e) provide for Assessments appropriate to the land subject to the Neighborhood Declaration. A Neighborhood Declaration shall not be materially inconsistent with the plan of this Declaration and shall not revoke or modify the covenants established by this Declaration (or by any previous Neighborhood Declaration) with respect to any other portion of the Property.

14. RIGHTS OF MORTGAGEES

14.1 General Provisions. Notwithstanding and prevailing over any other provisions of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules and Design Guidelines, the following provisions shall apply to and benefit each holder of a Mortgage upon a Lot.

14.2 Liability for Assessments. A Mortgagee who comes into possession or becomes record Owner of a mortgaged Lot by virtue of foreclosure of the Mortgage, or through any equivalent proceedings such as, but not limited to, the taking of a deed or assignment in lieu of foreclosure or acquiring title at a trustee's sale under a first deed of trust, and any third-party purchaser at a foreclosure sale or trustee's sale (a "Successor Owner"), will not be liable for the Lot's unpaid dues, charges or Assessments that accrued prior to the time the Successor Owner comes into possession of the Lot or becomes record Owner of the Lot, whichever occurs first. In addition, a Successor Owner shall acquire title free and clear of any lien authorized by or arising out of the provisions of this Declaration that secures the payment of any dues, charges or Assessments accrued prior to the time the Successor Owner either comes into possession of the Lot or becomes record Owner of the Lot. Any unpaid dues, charges or Assessments against the foreclosed Lot shall be deemed to be a Common Expense charged proratably against all of the Owners. Nevertheless, in the event the Owner against whom the original Assessment was made is the purchaser or redemptionor, the lien shall continue in effect and may be enforced by the Board, for the Lot's Assessment that was due prior to the final conclusion of the foreclosure or equivalent proceedings. Further, any unpaid Assessment shall continue to exist as the personal obligation of the defaulting Owner of the Lot, and the Board may use reasonable efforts to collect unpaid Assessments from the Owner even after the Owner is no longer the Owner of the Lot.

14.3 No Personal Liability. A Mortgagee shall not in any case or manner be personally liable for the payment of any Assessment or charge, nor the observance or performance of any covenant, restriction, or rule and regulation of the Association, or any provision of the Articles or Bylaws, or any management agreement, except for those matters that are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as specifically provided in this Section 14.

14.4 Enforcement After Foreclosure Sale. An action to abate the breach of any of these covenants, conditions, restrictions, and reservations may be brought against any purchaser who has acquired title through foreclosure of a Mortgage and the subsequent foreclosure or trustee's sale (or through any equivalent proceedings), and the successors in interest to the purchaser, even though the breach existed prior to the time the purchaser acquired an interest in the Lot.

14.5 Exercise of Owner's Rights. During the pendency of any proceedings to foreclose a Mortgage (including any period of redemption) or from the time a trustee under a deed of trust has given notice of sale pursuant to power of sale conferred under the deed of trust and pursuant to law, the Mortgagee, or a receiver appointed in any such action, may but need not exercise any or all of the rights and privileges of the Owner in default including, but not limited to, the right to vote as a member of the Association in the place and stead of the defaulting Owner.

14.6 Subject to Declaration. At such time as a Mortgagee comes into possession of or becomes record Owner of a Lot, the Mortgagee shall be subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay all Assessments and charges accruing thereafter, in the same manner as any other Owner.

15. ANNEXATION OF ADDITIONAL PROPERTY

Additional real property, including, but not limited to, the Annexable Property, may be annexed to and become subject to this Declaration as hereinafter set forth in this Section 15.

15.1 Development of the Project. Declarant intends to develop the Project sequentially on a phased basis. Declarant may, however, elect not to develop all or any part of the additional real property anticipated to be included within the Project (including, but not limited to, the Annexable Property), to annex and develop property other than the Annexable Property in accordance with this Section 15, to annex the Annexable Property or other real property to this Declaration in increments of any size whatsoever, or to develop more than one such increment at any given time and in any given order. Moreover, Declarant reserves the right to subject all or any portion of the Project (including, but not limited to, the Annexable Property) to the plan of this Declaration or to one or more separate declarations of covenants, conditions and restrictions which subject that property to the jurisdiction and powers of a homeowner association or other entity with powers and obligations similar to the Association and which is not subject to the provisions of this Declaration. Although Declarant shall have the ability to annex additional

property as provided in this Section 15, Declarant shall not be obligated to annex all or any portion of the Annexable Property or any other real property presently contemplated or intended to be included within the Project, and such property shall not become subject to this Declaration except as provided in this Section 15.

15.2 Supplemental Declarations. A Supplemental Declaration shall be a writing in recordable form that annexes additional real property to the plan of this Declaration and that incorporates by reference all of the covenants, conditions, restrictions, easements and other provisions of this Declaration. Supplemental Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexed Property and as are not materially inconsistent with the plan of this Declaration. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with respect to any portions of the Property already subject to this Declaration. The recordation of a Supplemental Declaration shall constitute and effectuate the annexation of the Annexed Property described therein, making the Annexed Property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association. After annexation, the Annexed Property shall be part of the Property for all intents and purposes of this Declaration, and all of the Owners of Lots in the Annexed Property shall automatically be Owners and Members in accordance with Section 3.

15.3 Annexation Without Approval. Declarant shall have the sole right to annex all or any portion of the Annexable Property (in such increments and at such times as Declarant may elect, in its sole and absolute discretion) to this Declaration as provided in this Section 15, without the approval, assent or vote of the Association or its Members, by recordation of a Supplemental Declaration covering the applicable portions of the Annexable Property.

15.4 Annexation With Approval. Declarant shall have the sole right (with the consent of the other owner(s) of the additional property if Declarant does not own the additional property) to annex additional property to this Declaration that is not part of the Annexable Property, with the approval of a Majority of a Quorum of Members, by recordation of a Supplemental Declaration covering the property to be annexed.

16. EXEMPTION OF DECLARANT FROM RESTRICTIONS

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, any Related Party, or their respective employees, agents and subcontractors, or parties designated by them in connection with the construction, completion, sale or leasing of the Lots, Common Areas, the Property or other property owned by Declarant or any Related Party (whether or not annexed to this Declaration). Without limiting the generality of this Section 16 in any way and notwithstanding anything to the contrary in this Declaration, (a) Declarant is expressly exempted from the provisions of this Declaration requiring submittals to or authorizations by the Design Review Committee including, but not limited to, Section 12.4, (b)

Declarant shall have the right to erect, operate and maintain one or more administrative and sales offices on any portion of the Property owned or leased by Declarant or any Related Party (including, but not limited to, Lots), and (c) neither the provisions of Section 12, nor the Design Guidelines, nor any comparable provisions in any Supplemental Declaration or Neighborhood Declaration shall apply to Buildings or other Improvements constructed by Declarant, any Related Parties or their respective agents or employees, and Declarant's Buildings and other Improvements may have an architectural style and present general aesthetics that are quite different from the architectural style and aesthetics elsewhere in the Property or the Project.

17. REMEDIES

17.1 General Remedies. In the event of any default by any Owner, Occupant or other Person under the provisions of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, the Association, and its successors or assigns, and its agents, and Declarant, shall have each and all of the rights and remedies that may be provided for in this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or that may be available at law or equity, and may prosecute any action or other proceedings against the defaulting Owner, Occupant or other Persons for an injunction, whether affirmative or negative, or for enforcement or foreclosure of the lien herein provided and the appointment of a receiver for the Lot, or for damages, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Lot and to rent the Lot and apply the rents received to payment of unpaid Assessments and interest accrued thereon, and to sell the Lot as provided in this Section 17.1, or for any combination of remedies or for any other relief, all without notice and without regard to the value of the Lot or the solvency of the Owner. The proceeds of any such rental or sale shall first be paid to discharge litigation costs including, but not limited to, reasonable attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds after satisfaction of charges and any unpaid Assessments hereunder or any liens shall be paid to the Owner. Upon the confirmation of the sale, the purchasers thereupon shall be entitled to a deed to the Lot and to immediate possession of the Lot, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration.

17.2 Expenses of Enforcement. All expenses, if any, of the Association and Declarant in connection with any action or proceeding described or permitted by this Section 17, including reasonable attorneys' fees, witness fees (including expert witness fees), costs and other litigation-related expenses, and all damages, liquidated or otherwise, together with interest thereon until paid at the Default Rate of Interest, shall be charged to and assessed against the defaulting Owner and shall be a Special Assessment against such Owner, and the Association shall have a lien as provided in Section 7 therefor. In the event of any such default by any Owner, the Association and Declarant, and the manager or managing agent of the Association, if so authorized by the Board, shall have the authority to correct the default and to do whatever may be necessary to correct the default, and all expenses in connection therewith shall be

charged to and assessed against such defaulting Owner as a Special Assessment, which shall constitute a lien against the defaulting Owner's Lot as provided in Section 7. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association and Declarant.

17.3 Legal Action. In addition to any other remedies available under this Section 17, if any Owner (either by the Owner's conduct or by the conduct of any Occupant of the Owner's Lot or family member, guest, invitee or agent) violates any of the provisions of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, as then in effect, the Association and Declarant shall have the power to file an action against the defaulting Owner or Member for a judgment or injunction against the Owner requiring the defaulting Owner to comply with the provisions of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles, Bylaws, Association Rules and Design Guidelines, and granting other appropriate relief, including money damages.

17.4 Effect on Mortgage. Notwithstanding anything to the contrary herein, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien of any Mortgage upon any Lot but, except as herein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

17.5 Limitation on Declarant's Liability. Notwithstanding anything to the contrary in this Declaration, each Owner, by accepting title to any portion of the Property and becoming an Owner, and each other Person acquiring an interest in the Property (including, but not limited to, any Mortgagee), acknowledges and agrees that neither Declarant (including, but not limited to, any assignee of the interest of Declarant hereunder and any member in such assignee) nor any Related Party shall have any personal liability to the Association, or any Owner, Member, Mortgagee or other Person, arising under, in connection with, or resulting from (including, but not limited to, resulting from action or failure to act with respect to) this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Association Rules, the Design Guidelines, the Association, or the Design Review Committee, except to the extent of that Person's interest in the Property, and, in the case of a Related Party (or, in the case of a member in an assignee of the interest of Declarant), that Person's interest in Declarant (or such assignee), and, in the event of a judgment against any of the foregoing Persons, no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon the other assets, of the judgment debtor.

18. AMENDMENT

18.1 Amendment to Declaration. Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire

amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Members. Amendments may be adopted at a meeting of the Members upon the approval thereof of two-thirds of the Members (excluding Declarant) or without any meeting if all Members have been duly notified and if two-thirds of the Members (excluding Declarant) consent in writing to such amendment. In all events, the amendment when adopted shall bear the signature of the President and shall be attested by the secretary, who shall verify that the amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording in the Maricopa County Recorder's office.

18.2 Effect of Amendment. It is specifically covenanted and agreed that any amendment to this Declaration properly adopted will be completely effective to amend any and all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration, unless otherwise specifically provided in the Section being amended or the amendment itself.

18.3 Required Approvals. Notwithstanding the provisions of the foregoing sections of this Section 18:

(a) If this Declaration or any applicable provision of law requires the consent or agreement of all Members and/or all Owners and/or all lienholders and all trustees and/or beneficiaries under trust deeds, or a specified percentage thereof, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to the action shall be approved by all of the Members and/or all Owners and/or all lienholders and trustees and/or beneficiaries under trust deeds, or the specified percentage thereof, as required by this Declaration or by law.

(b) Until the Transition Date, this Declaration may not be amended by the Members pursuant to Section 18.1 without the prior written consent of Declarant, which may be withheld for any reason.

(c) The following provisions of this Declaration may not be amended at any time without the prior written consent of Declarant: Sections 1.1, 1.15, 1.25, 3.11, 3.12, 4.5, 4.8.2, 6, 15.3, 16, 17.5, this 18.3(c), 18.4 and 21.

18.4 Declarant's Right to Amend. Notwithstanding any other provision of this Section 18, until the Transition Date, Declarant reserves the right to amend this Declaration without the approval of the Board or the Members, except as specifically set forth in this Section 18.4. After the conveyance of the first Lot to an Owner, Declarant may not amend the following provisions of this Declaration without the approval of the Members as provided in Section 18.1: Sections 3.2 (to change the number of Memberships attributable to each Lot or to

change the number of votes for each Lot or Membership), Section 7.3.4 (to increase the cap on increases in Regular Assessments), the second sentence of Section 7.4.3 (to increase the amount of the Special Assessment provided for therein that may be collected without a vote of a Majority of a Quorum of Members), and this Section 18.4 (to delete any references to Sections that require the approval of the Members to amend).

19. TERM; TERMINATION

19.1 Term. This Declaration shall be effective upon the date of its recordation and, as amended from time to time, shall continue in full force and effect until January 1, 2090. Thereafter, this Declaration shall continue (as amended from time to time) for consecutive periods of 25 years each, unless there is an affirmative vote, not more than 360 days prior to the date otherwise scheduled for commencement of the next extension of the term of this Declaration, to terminate this Declaration by a vote of at least 90% of the Members at a duly held meeting of the Members, or without any meeting if all Members have been duly notified and if at least 90% of the Members consent in writing to the termination within the 360-day period.

19.2 Withdrawal by Declarant. This Declaration may be terminated by Declarant without the approval or consent of any other Person if the action is taken before any sale to a Retail Purchaser. Any Plat may be withdrawn by Declarant, without the approval or consent of any other Person, if the action is taken before the sale of any real property shown on that Plat to a Retail Purchaser.

19.3 Termination. After the first sale to a Retail Purchaser, this Declaration may be terminated at any time upon a vote in favor of termination by 90% of the Members and with the consent of Declarant (so long as Declarant or a Related Party owns any property within the Project). Declarant may, but shall not be obligated to, release its consent rights by recorded instrument. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the Maricopa County Recorder's office a Certificate of Termination, duly signed by the President or a vice president of the Association and attested by the secretary or an assistant secretary of the Association, with their signatures acknowledged. Thereupon, this Declaration, as of the date of recordation of the Certificate of Termination (or such later date as may be specified in the Certificate of Termination), shall have no further force and effect, and the Association shall be dissolved.

20. GENERAL PROVISIONS

20.1 Notices. Notices provided for in this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, shall be in writing and shall be addressed to the Association at the address specified in the Bylaws. The Association may designate a different address or addresses for notice by giving written notice of change of address to all Owners. All notices to Owners shall be to their respective Lots or to the last address shown on the records of the Association. Notices addressed

as above shall be deemed delivered when mailed by United States mail, or when delivered in person with written acknowledgment of the receipt thereof.

20.2 Captions and Exhibits; Construction. Captions given to various Sections herein, and the Table of Contents for this Declaration, are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various exhibits referred to herein are incorporated as though fully set forth where such reference is made. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property as hereinabove set forth.

20.3 Severability. If any provision of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of this Declaration, any Supplemental Declaration, any Neighborhood Declaration, the Articles, Bylaws, Association Rules or Design Guidelines shall be construed as if such invalid part were never included therein.

20.4 Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then the provision shall continue until 21 years after the death of the survivor of the now living descendants of President William Clinton, United States Senator John McCain and United States Senator Jon Kyl.

20.5 Mortgage of Lots. Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages for the Owner's respective Lot.

20.6 Power of Attorney. Whenever the Association is granted rights, privileges or duties in this Declaration, the Board shall have the authority to act for the Association. Further, unless otherwise specifically restricted by the provisions of this Declaration, wherever the Association is empowered to take any action or do any act including, but not limited to, actions in connection with the Common Areas or sale thereof, which may at any time be deemed to require the act of an Owner, the Owners and each of them hereby constitute and appoint the Association as their attorney-in-fact, as may be appropriate, for the purposes of taking such action or doing such acts including, but not limited to, executing, acknowledging and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest and by the acceptance of a deed for a Lot or by signing a contract for purchase of a Lot or by succeeding in any other manner to the ownership of a Lot, or any interest therein, each Owner and Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

21. DECLARANT'S DISCLAIMER OF REPRESENTATIONS; NO COVENANTS OR RESTRICTIONS; ZONING AND PLAN

21.1 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary in this Declaration, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any land now owned or hereafter acquired by Declarant or any Related Party is or will be subjected to this Declaration, or that any land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if any land is once used for a particular use, the use will continue in effect.

21.2 No Express or Implied Covenants or Restrictions. Nothing in this Declaration shall create, or be deemed to create, any express or implied covenants or restrictions with respect to any real property that has not been subjected to this Declaration.

21.3 Zoning and Plan. Each Owner, by accepting title to a Lot and becoming an Owner, and each other Person, by acquiring any interest in the Property, acknowledges awareness that the development of the Project is likely to extend over many years, and agrees, so long as the Owner owns the Lot, or holds any other interest in the Property, not to protest or otherwise object to (a) zoning or changes in zoning or to uses of, or changes in density of, the property in the Project, or (b) changes in any conceptual or master plan for property in the Project; provided, in either case, the zoning, use, density, or conceptual, development, or plan revision is or would be lawful (including, but not limited to, lawful by special use permit, variance, or the like) and is not inconsistent with what is permitted by this Declaration (as amended from time to time). Notwithstanding anything to the contrary in this Section 21.3, the provisions of this Section 21.3 shall be enforceable only to the extent not in violation of any applicable provision of law.

22. RIGHTS AND OBLIGATIONS

Each grantee of Declarant, by the acceptance of a deed of conveyance, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and the heirs, successors and assigns of the foregoing Persons, accepts the grant, conveyance or agreement subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Further, all impositions and obligations imposed by this Declaration shall be deemed and taken to be covenants running with the land and equitable servitudes, and shall bind any Person having at any time any interest or estate in the Property, and shall inure to the benefit of any such Person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or instrument evidencing or creating such an interest.

[END]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed as of the date set forth above.

TERRABROOK MIRABEL, L.L.C., a Delaware
limited liability company

By: Westerra Management, L.L.C.,
Its authorized representative

By: /s/ Michael Bronska

Its: Assistant Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 20th day of February, 2001, by Michael Bronska, the Assistant Vice President of Westerra Management, L.L.C., the authorized representative of Terrabrook Mirabel, L.L.C., a Delaware limited liability company.

(Seal)

/s/ Patricia A. Rykhus
Notary Public for the State of Arizona
My Commission Expires February 15, 2003

EXHIBIT "A"
Legal Description of Parcel

Parcel No. 1:

Tracts A to J inclusive, per Map of Dedication for STONEHAVEN Drive, 105th place and a portion of Stagecoach Pass Road as recorded under Book 551 of Maps, page 1, records of Maricopa County, Arizona.

Parcel No. 2:

Lots 1 to 19 inclusive and Tracts A to D inclusive, according to Book 551 of Maps, page 18, records of Maricopa County, Arizona.

EXHIBIT "B"
Description of Annexable Property

PARCEL NO.1:

A portion of land lying within the boundaries of the United States Exchange Survey No. 658, Tract B, shown on the plat of record in the office of the Cadastral Surveyor, U.S. Bureau of Land Management, Phoenix, Arizona, being a portion of Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at Corner No. 19 of said Exchange Survey;
THENCE North 23° 02' 30" East 717.23 feet record (North 23° 01' 57" East 628.65 feet and North 23° 02' 20" East a distance of 89.07 feet measured), to a point from which Corner No. 20 of said Survey bears North 23° 02' 30" East 2142.93 feet;
THENCE East 2172.61 feet to a point from which Corner No. 17 of said Survey bears North 35° 53' 05" East 3358.21 feet;
THENCE South 35° 53' 05" West 814.63 feet to Corner No. 18 of said Survey;
THENCE West, along the South line of said Survey, 1975.84 feet to the POINT OF BEGINNING.

PARCEL NO.2:

That portion of Government Lot 8, Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, lying between the Southeasterly right of way line of the Proposed Alignment of Cave Creek-Camp Creek Road, as shown in Book 95 of Maps, pages 45, 46, 47, and 48, records of Maricopa County, and amended by Affidavit of Correction recorded in Docket 3956, page 236, and the Westerly boundary line of United States Exchange Survey 658, Tract B, shown on the plat of record in the office of the Cadastral Surveyor, U.S. Bureau of Land Management, Phoenix, Arizona

PARCEL NO.3:

A portion of land lying within the boundaries of the United States Exchange Survey No. 658, Tract B, shown on the plat of record in the office of the Cadastral Surveyor, U.S. Bureau of Land Management, Phoenix, Arizona, being a portion of Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Parcel No. 3 continued:

COMMENCING at Corner No.20 of said Survey;
THENCE South 23° 02' 18" West (South 23° 02' 20" West measured) 874.92 feet to the POINT OF BEGINNING;
THENCE South 89° 59' 24" East 2518.73 feet record (South 89° 59' 45" West 2518.47 feet measured) to a point from which Corner No. 17 of said Survey bears North 35° 55' 18" East 1919.10 feet;
THENCE South 35° 55' 18" West 693.87 feet to a point from which Corner No. 18 of said Survey bears South 35° 55' 18" West, 1562.25 feet;
THENCE North 89° 59' 33" West 2350.67 feet to a point from which Corner No. 19 of said Survey bears South 23° 02' 18" West, a distance of 1374.89 feet (the following two courses of South 23° 02' 20" West a distance of 745.95 feet and South 23° 01' 57" West a distance of 628.65 feet measured);
THENCE North 23° 02' 18" East (North 23° 02' 20" East measured) 610.75 feet to the POINT OF BEGINNING.

PARCEL NO.4:

A portion of land lying within the boundaries of the United States Exchange Survey No. 658, Tract B, shown on the plat of record in the office of the Cadastral Surveyor, U.S. Bureau of Land Management, Phoenix, Arizona, being a portion of Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at Corner No. 19 of said Survey, thence North 23° 02' 18" East 717.33 feet (North 23° 01' 57" East a distance of 628.65 feet and North 23° 02' 20" East a distance of 89.07 feet measured) to the POINT OF BEGINNING;
THENCE East 2172.61 feet to a point from which Corner No. 18 of said Survey bears South 35° 55' 18" West 815.09 feet;
THENCE North 35° 55' 18" East a distance of 747.16 feet to a point from which Corner No. 17 of said Survey bears North 35° 55' 18" East 2612.97 feet;
THENCE North 89° 59' 33" West 2350.67 feet to a point from which Corner No. 20 of said Survey bears North 23° 02' 18" East a distance of 1485.67 feet;
THENCE South 23° 02' 18" West 657.56 feet (South 23° 02' 20" East a distance of 656.88 feet measured) to the POINT OF BEGINNING;

EXCEPTING any portion lying within the following described parcel:

COMMENCING at Corner No. 19 of said Survey, thence North 23° 02' 18" East 717.33 feet (North 23° 01' 57" East a distance of 628.65 feet and North 23° 02' 20" East a distance of 89.07 feet measured) to the POINT OF BEGINNING;

Parcel No. 4, continued:

THENCE East 2172.61 feet to a point from which Corner No. 18 of said Survey bears South 35° 55' 18" East 815.09 feet;

THENCE North 35° 55' 18" East 275.11 feet to a point from which Corner No. 17 of said Survey bears North 35° 55' 18" East (South 35° 55' 18" East record) a distance of 3085.02 feet;

THENCE North 89° 59' 35" West a distance of 2236.31 feet to a point from which Corner No. 20 of said Survey bears North 23° 02' 18", East a distance of 1901.12 feet;

THENCE South 23° 02' 18" West (South 23° 02' 20" West measured) a distance of 242.11 feet to the POINT OF BEGINNING.

PARCEL NO.5:

i) A parcel of land being a portion of Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and lying with the boundaries of the United States Exchange Survey No. 658 Tract B, as shown on the plat of record in the office of the Cadastral Surveyor, United States Bureau of Land Management, Phoenix, Arizona, more particularly described as follows:

COMMENCING at Corner No. 19 of said Survey, thence North 23° 02' 30" East, 717.23 feet (North 23° 01' 57" East a distance of 628.65 feet and North 23° 02' 20" East a distance of 89.07 feet measured) to the POINT OF BEGINNING;

THENCE East 2172.61 feet to a point from which Corner No. 18 of said Survey bears South 35° 53' 05" West 814.63 feet;

THENCE North 35° 53' 05" East 274.96 feet to a point from which Corner No. 17 of said Survey bears North 35° 53' 05" East a distance of 3083.25 feet;

THENCE West 2339 feet to a point from which Corner No. 20 of said Survey bears North 23° 02' 30" East (North 23° 02' 20" East measured) a distance of 1900.85 feet;

THENCE South 23° 02' 30" West (South 23° 02' 20" West measured) 242.08 feet to the POINT OF BEGINNING.

ii) Government Lot 6, Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the East 20 Acres thereof; and

EXCEPT any portion lying within the following described parcel:

Parcel No. 5 continued:

COMMENCING at the Northeast corner of the North half of the Southeast quarter (also known as Government Lots 6 and 7) of said Section 28;

THENCE South $89^{\circ} 45' 54''$ West, a distance of 659.76 feet (South $89^{\circ} 49' 41''$ West a distance of 659.84 feet measured) to the Northwest corner of the East 20 acres of the Northeast quarter of the Southeast quarter (also known as Government Lot 6) of said Section 28 and the POINT OF BEGINNING;

THENCE South $00^{\circ} 05' 31''$ East along the West line of said East 20 acres, a distance of 513.00 feet; THENCE South $89^{\circ} 53' 53''$ West a distance of 1005.02 feet (South $89^{\circ} 57' 18''$ West a distance of 1005.37 feet measured) to a point on the Easterly line of United States Exchange Survey 658, Tract B, as shown on the plat of record in the office of the Cadastral Surveyor, United States Bureau of Land Management, Phoenix, Arizona, also being the Southeast corner of Rancho Santa Fe Del Oro according to Book 388 of Maps, page 3, records of Maricopa County, Arizona;

THENCE North $35^{\circ} 51' 21''$ East (North $35^{\circ} 57' 07''$ East measured) along said Easterly line a distance of 631.94 feet to a point of intersection with the North line of the North half of the Southeast quarter of said Section 28;

THENCE North $89^{\circ} 45' 54''$ East (North $89^{\circ} 49' 41''$ East measured) a distance of 634.05 feet to the POINT OF BEGINNING.

iii) Government Lots 7 and 11, Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion lying within the following described parcel:

COMMENCING at the Northeast corner of the North half of the Southeast quarter (also known as Government Lots 6 and 7) of said Section 28;

THENCE South $89^{\circ} 45' 54''$ West, a distance of 659.76 feet (South $89^{\circ} 49' 41''$ West a distance of 659.84 feet measured) to the Northwest corner of the East 20 acres of the Northeast quarter of the Southeast quarter (also known as Government Lot 6) of said Section 28 and the POINT OF BEGINNING;

THENCE South $00^{\circ} 05' 31''$ East along the West line of said East 20 acres, a distance of 513.00 feet; THENCE South $89^{\circ} 53' 53''$ West a distance of 1005.02 feet (South $89^{\circ} 57' 18''$ West a distance of 1005.37 feet measured) to a point on the Easterly line of United States Exchange Survey 658, Tract B, as shown on the plat of record in the office of the Cadastral Surveyor, United States Bureau of Land Management, Phoenix, Arizona, also being the Southeast corner of Rancho Santa Fe Del Oro according to Book 388 of Maps, page 3, records of Maricopa County, Arizona;

Parcel 5 iii continued:

THENCE North 35° 51' 21" East (North 35° 57' 07" East measured) along said Easterly line a distance of 631.94 feet to a point of intersection with the North line of the North half of the Southeast quarter of said Section 28;

THENCE North 89° 45' 54" East (North 89° 49' 41" East measured) a distance of 634.05 feet to the POINT OF BEGINNING.

iv) Government Lot 10, Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; and the North half of the Northwest quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion thereof lying within the following described parcel:

BEGINNING at the Northwest corner of said Section 33;

THENCE West a distance of 205.91 feet to the TRUE POINT OF BEGINNING;

THENCE North 00° 01' 38" East, a distance of 192.11 feet (North 00° 03' 19" East a distance of 87.85 and North 00° 03' 19" East a distance of 104.26 feet measured) to a point lying on the centerline of Proposed Alignment Cave Creek-Camp Creek Road, according to Book 95, of Maps, pages 45 through 48, inclusive;

THENCE Northeasterly along a curve concave Northwesterly having a radius of 1432.40 feet, through a central angle of 16° 34' 11" a distance of 414.25 feet (16° 01' 55" a distance of 400.80 feet measured);

THENCE North 67° 48' East a distance of 43.64 feet (North 67° 51' 34" East 57.10 feet measured) to Corner No. 7 of United States Exchange Survey 658, Tract A as shown on the plat of record in the office of the Cadastral Surveyor, United States Bureau of Land Management, Phoenix, Arizona;

THENCE South 47° 13' East a distance of 201.96 feet (South 47° 19' 58" East a distance of 73.82 feet and South 47° 19' 58" East a distance of 123.89 feet measured) to Corner No. 19 of said Survey;

THENCE East along the South line of said Survey, a distance of 1535.99 feet;

THENCE South 00° 01' 38" West, a distance of 302.61 feet;

THENCE South 00° 01' 55" East a distance of 1320.55 feet;

THENCE South 89° 56' 19" West along the South line of the North half of the Northwest quarter of said Section 33, a distance of 1859.12 feet;

THENCE South 89° 54' 00" West a distance of 205.91 feet;

THENCE North 00° 01' 56" West a distance of 1320.66 feet to the TRUE POINT OF BEGINNING.

Parcel No. 5 continued:

v) The West half of the Northwest quarter of the Northeast quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO.6:

i) The West half of the Southeast quarter of the Southeast quarter of Section 28, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

ii) The East half of the Northwest quarter of the Northeast quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

iii) The West half of the East half of the Northeast quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

iv) The Southwest quarter of the Northeast quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

v) The South half of the Northwest quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPT any portion lying within the following described parcel:

BEGINNING at the West Quarter corner of Said Section 33;
THENCE South 89° 54' West a distance of 205.91 feet;
THENCE North 00° 01' 56" West a distance of 1320.29 feet;
THENCE North 89° 54' East a distance of 205.91 feet to a point lying on the West line of said Section 33;
THENCE North 89° 56' 19" East along the North line of the South half of the Northwest quarter of said Section 33 a distance of 2629.66 feet;
THENCE South 00° 01' 56" East a distance of 1320.66 feet;
THENCE South 89° 56' 48" West (South 89° 56' 57" West measured) along the East-West midsection line of said Section 33 a distance of 2629.66 feet to the POINT OF BEGINNING.

vi) The East 9.57 feet of the Northwest quarter of the Northwest quarter of the Southeast quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Parcel No.6 continued:

vii) The Northeast quarter of the Northwest quarter of the Southeast quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

viii) The Northwest quarter of the Northeast quarter of the Southeast quarter of Section 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO.7:

That portion of Sections 28, 29, 32, and 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the Northwest corner of said Section 33;
THENCE West a distance of 205.91 feet to the TRUE POINT OF BEGINNING;
THENCE North 00° 01' 38" East, a distance of 192.11 feet (North 00° 03' 19" East a distance of 87.85 and North 00° 03' 19" East a distance of 104.26 feet measured) to a point lying on the centerline of Proposed Alignment Cave Creek-Camp Creek Road, according to Book 95, of Maps, pages 45 through 48, inclusive;
THENCE Northeasterly along a curve concave Northwesterly having a radius of 1432.40 feet, through a central angle of 16° 34' 11" a distance of 414.25 feet (16° 01' 55" a distance of 400.80 feet measured);
THENCE North 67° 48' East a distance of 43.64 feet (North 67° 51' 34" East 57.10 feet measured) to Corner No. 7 of United States Exchange Survey 658, Tract A as shown on the plat of record in the office of the Cadastral Surveyor, United States Bureau of Land Management, Phoenix, Arizona;
THENCE South 47° 13' East a distance of 201.96 feet (South 47° 19' 58" East a distance of 73.82 feet and South 47° 19' 58" East a distance of 123.89 feet measured) to Corner No. 19 of said Survey;
THENCE East along the South line of said Survey, a distance of 1535.99 feet;
THENCE South 00° 01' 38" West, a distance of 302.61 feet;
THENCE South 00° 01' 56" East a distance of 1320.55 feet;
THENCE South 89° 56' 19" West along the South line of the North half of the Northwest quarter of said Section 33, a distance of 1859.12 feet;
THENCE South 89° 54' 00" West a distance of 205.91 feet;
THENCE North 00° 01' 56" West a distance of 1320.66 feet to the TRUE POINT OF BEGINNING.

PARCEL No.8:

That portion of Sections 32 and 33, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the West Quarter corner of Said Section 33;
THENCE South 89° 54' West a distance of 205.91 feet;
THENCE North 00° 01' 56" West a distance of 1320.29 feet;
THENCE North 89° 54' East a distance of 205.91 feet to a point lying on the West line of said Section 33;
THENCE North 89° 56' 19" East along the North line of the South half of the Northwest quarter of said Section 33 a distance of 2629.66 feet;
THENCE South 00° 01' 56" East a distance of 1320.66 feet;
THENCE South 89° 56' 48" West (South 89° 56' 57" West measured) along the east-West midsection line of said Section 33 a distance of 2629.66 feet to the POINT OF BEGINNING.

PARCEL NO.9:

That portion of Section 32 and 33 Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the West quarter corner of said Section 33;
THENCE North 89° 56' 48" East (North 89° 56' 57" East measured) along the East-West midsection line of said Section 33 a distance of 1297.73 feet (1297.66 feet measured);
THENCE South 00° 02' 04" East a distance of 2637.74 feet (South 00° 02' 28" East a distance of 2637.15 feet measured) to a point lying on the South line of said Section 33;
THENCE South 89° 52' 45" West (South 89° 53' 08" West measured) along the South line of said Section 33 a distance of 1297.73 feet (1297.66 feet measured) to the Southwest corner of said Section 33;
THENCE South 89° 54' 00" West (South 89° 56' 12" West measured) along the South line of said Section 32 a distance of 205.91 feet;
THENCE North 00° 02' 04" West a distance of 2639.27 feet;
THENCE North 89° 54' 00" East a distance of 205.91 feet to the POINT OF BEGINNING.

PARCEL NO. 10:

Government Lots 1, 2, 3, 4, the South half of the North half, and the South half of Section 32, Township 6 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

Parcel No. 10 continued:

EXCEPT the East 205.91 feet thereof; and
EXCEPT any portion thereof lying North of the center line of the Proposed Realignment of Cave Creek-Camp Creek Road, according to Book 95 of Maps, pages 45 through 48 inclusive; and
EXCEPT the South 2387.14 feet of the West 2029.95 feet (2030.54 feet measured) thereof; and

EXCEPTING therefrom any portion lying within the following described parcel:

COMMENCING at the East quarter corner of said Section 32;
THENCE North 00° 05' 06" West (assumed bearing) along the East line of said Section 32, a distance of 189.04 feet;
THENCE South 89° 53' 20" West, parallel to the South line of the East half of said Section 32, 205.91 feet to the POINT OF BEGINNING, also being the Southeast corner of the herein described parcel of land;
THENCE South 89° 53' 20" West (South 89° 56' 22" West measured), parallel to the South line of the East half of said Section 32, 2008.63 feet (2009.37 feet measured) to the Southwest corner of the herein described parcel of land;
THENCE North 00° 05' 06" West (North 00° 00' 10" West, measured) parallel to the East line of said Section 32, 2076.13 feet to a point between Corners 9 and 10, lying on the Southerly boundary line of the United States Exchange Survey No. 658 Tract A, as shown on the plat of record in the office of the Cadastral Surveyor, United States Bureau of Land Management, Phoenix, Arizona;
THENCE North 60° 41' 29" East (North 60° 44' 50" East measured) along said boundary line 562.13 feet to Corner No. 9 of said Survey;
THENCE North 87° 26' 14" East, 641.72 feet (North 87° 30' 39" East 640.47 feet measured) along said boundary line to Corner No. 8 of said Survey;
THENCE North 67° 24' 21" East (North 67° 51' 34" East measured) along said boundary line, 949.52 feet to the Northeast corner of the herein described parcel of land, from which point the closing corner of Sections 28 and 29, of said Township 6 North, Range 5 East, for said Survey bears North 67° 24' 21" East 222.97 feet;
THENCE South 00° 02' 02" East (South 00° 03' 19" West measured) along a line 205.91 feet West of and parallel to the East line of said Section 29, a distance of 289.50 feet to the line between said Sections 29 and 32;
THENCE South 00° 05' 06" East (South 00° 01' 56" East measured) along a line 205.91 feet West of and parallel to the East line of said Section 32, a distance of 2451.41 feet (2451.71 feet measured) to the POINT OF BEGINNING, also being the Southeast corner of the herein described parcel of land.

EXCEPTING therefrom any portion of Parcels No. 1 through 9, inclusive, lying within Cave Creek Road and Stage Coach Pass, according to Book 443 of Maps, page 6, records of Maricopa County, Arizona, and any portion lying with Lone Mountain Parkway, according to Book 536 of Maps, page 28, records of Maricopa County, Arizona and except that property lying in the Plat of Stonehaven Village 2 as recorded in Book 551, page 18, records of Maricopa County, Arizona and except that property lying within the Map of Dedication for Stonehaven Drive, 105th Place and a portion of Stagecoach Pass Road as recorded in Book 551 of Maps, page 1, records of Maricopa County, Arizona.