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**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR
STONE HOUSE**

Dated: May, 2006

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR STONE HOUSE**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS is executed by Lawyers Title Agency of Arizona, L.L.C., an Arizona limited liability company, as Trustee under Trust 18082-T, and not otherwise ("Declarant").

RECITALS

A. Declarant heretofore executed and recorded that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Stone House, recorded Docket 12586, Page 2297, Pima County Records governing certain real property described therein (the "First Restatement").

B. Declarant subsequently recorded that certain Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Stone House, recorded Docket 12782, Page 1209, Pima County Records, expanding the Covered Property to include certain additional real property described therein and amending, restating and superseding in its entirety the First Restatement (the "Second Restatement").

C. Declarant, by execution of this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Stone House (the "Declaration"), does hereby amend, restate and supersede in its entirety the aforementioned First Restatement and Second Restatement.

D. Declarant now, therefore, declares that the Covered Property shall consist of the following described real property:

Lots 1 through 63, and Common Area A (Private Streets) and Common Area B (Open Space) of the subdivision of Pima County known as Stone House, Phase I, recorded Book 59 of Maps and Plats at Page 38 thereof, Pima County Records, and Lots 64 through 88 and 91 through 230 and Common Area A (Private Streets) and Common Area B (Public Utilities and Emergency Access Way) of the subdivision of Pima County known as Stone House, Phase II, recorded Book 61 of Maps and Plats at Page 36 thereof, Pima County Records.

E. This Declaration shall be applicable to the Covered Property, as defined herein, and provides for the discretionary future annexation of real property, as provided herein

F. In the course of development, Declarant may record various Declarations of Annexation, Neighborhood Declarations or other instruments which shall cover certain portions of the Covered Property to be specified therein. This Declaration shall apply to Annexable Property, or portions thereof, only if such property is annexed by recordation of a Declaration of Annexation with respect thereto, in which case the annexed portions shall become a part of the Covered Property.

G. Declarant desires and intends that the Covered Property shall be held, sold and conveyed subject to the provisions of this Declaration, which are for the purpose of protecting the value, desirability, attractiveness and character of the Covered Property and which shall run with all of the property. This Declaration shall be binding on all parties having any right, title or interest in the Covered Property, or any part thereof, and shall inure to the benefit of the aforementioned parties and their successors and assigns.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

As used in this Declaration, the following terms shall have following meanings:

- 1.1 "Additional Covenants" Shall mean the covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements in addition to those provided for in this Declaration, which are provided for in any Neighborhood Declaration or other instrument approved by Declarant or by the Board, including those which may be adopted pursuant to Section 17.1 hereof.
- 1.2 "Agencies" Shall mean the Federal Housing Administration (FHA), Veterans Administration (VA), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), and any other governmental agency or financial institution insuring or guaranteeing residential loans, or purchasing such loans on the secondary market.
- 1.3 "Annexable Property" Shall mean any or all real property within three miles of the Covered Property, which real property may be annexed pursuant to the annexation provisions of Article XV hereof.

- 1.4 "Annual Assessments" Shall mean the annual assessments levied by the Board pursuant to Section 8.2 of this Declaration.
- 1.5 "Architectural and Landscape Review Committee" or "ARC" Shall mean the committee(s) formed pursuant to Article IV of this Declaration.
- 1.6 "Architectural and Landscape Review Guidelines" or "ARC Guidelines" Shall mean the rules and regulations adopted, amended and supplemented by the Declarant and Architectural and Landscape Review Committee pursuant to Section 4.2 of this Declaration.
- 1.7 "Articles" Shall mean the Articles of Incorporation of the Association, as amended or restated from time to time.
- 1.8 "Assessments" Shall mean all Annual Assessments, Neighborhood Assessments, Maintenance Assessments and Special Assessments, and shall include any charges or fines hereunder which are stated to be secured by the Assessment Lien.
- 1.9 "Assessment Lien" Shall mean the charge and continuing servitude and lien against a Lot for payment of Assessments and Special Use Fees as described in Section 8.1 of this Declaration.
- 1.10 "Assessment Period" Shall mean each period for which Assessments are to be levied against a Lot pursuant to this Declaration, as more particularly described in Section 8.3 below.
- 1.11 "Association" Shall mean "Stone House Homeowners Association", an Arizona nonprofit corporation, its successors and assigns.
- 1.12 "Association Rules" Shall mean the rules and regulations adopted by the Association pursuant to Section 6.3 of this Declaration.
- 1.13 "Board" Shall mean the Board of Directors of the Association.
- 1.14 "Bylaws" Shall mean the Bylaws of the Association, as amended or restated from time to time. The Bylaws contain the operational procedures of the Association.

- 1.15 "Common Area"** Shall mean all real property and the improvements or amenities thereon, including all structures, and all easements and licenses, and all personal property and facilities, which shall from time to time be owned, controlled or operated by the Association within the Covered Property (including, but not limited to, areas used for landscaping, flood control, drainage, active or passive recreational areas, if any, open space, walkways, and pedestrian and vehicular ingress and egress), or with respect to which the Association has undertaken administrative, maintenance or other similar responsibilities. To the extent accepted by the Association, Common Area shall include easements for trails established over and across Lots either by plat dedication or by separate instrument.
- 1.16 "Common Expenses"** Shall mean the expenses incurred or to be incurred by the Association, as estimated by the Board, for the benefit of the Members and Owners within the Covered Property, generally, including reasonable reserves, and which are, in the sole and absolute discretion of the Board, determined to be properly chargeable by Assessments to all Owners and Members, as opposed to being allocated solely to certain Lots or Neighborhoods.
- 1.17 "Covered Property"** Shall mean Lots 1 through 88, and Lots 91 through 230, and Common Area A and B of the subdivisions of Pima County known as Stone House, Phase I and Phase II, as shown on the Plats identified herein, and such Annexable Property as may be annexed pursuant to the provisions hereof by recordation of a Declaration of Annexation or Neighborhood Declaration, all subject to the further provisions hereof, including those dealing with withdrawal of land.
- 1.18 "Declarant"** Shall mean Lawyers Title Agency of Arizona, L.L.C., an Arizona limited liability company, as Trustee under Trust 18082-T, and not otherwise and any Declarant Affiliate or assignee of the rights and duties granted or reserved to Declarant herein, which assignment may be in whole or in part.
- 1.19 "Declarant Affiliate"** Shall mean any Person owning any portion of the Covered Property and directly or indirectly controlling, controlled by or under common control with the Declarant or, if a trust, the beneficiary of Declarant, and shall include without limitation, any general or limited partnership, limited

liability company, corporation or trust in which the Declarant or the beneficiary of Declarant (or another Declarant Affiliate) is a general partner, managing member, controlling shareholder, or beneficiary.

1.20 "Declarant Control Period"

Shall mean the earlier of:

1.20.1 the period of time expiring one hundred twenty (120) days after Declarant has conveyed all Lots to persons or entities other than Declarant or a Declarant Affiliate, and neither Declarant nor any Declarant Affiliate owns any portion of the Covered Property;

1.20.2 such date as Declarant relinquishes its rights which may be exercised during the Declarant Control Period; or

1.20.3 December 31, 2025.

1.21 "Declaration of Annexation"

Shall mean a declaration executed by Declarant and declaring that any Annexable Property which may be annexed is made subject to this Declaration and annexed under the purview hereof and made a portion of the Covered Property.

1.22 "Declaration"

Shall mean this Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements, as amended, restated, or supplemented from time to time.

1.23 "Delinquent Amount"

Shall mean any Assessment or Special Use Fee, or installment thereof, or any other sum due hereunder and not paid when due.

1.24 "Developer Owner"

Shall mean a Person in the business of developing real property, and who has acquired one or more Lots in connection with, and in the course of, such business, for the purpose of developing Dwelling Units thereon and who is in writing designated by Declarant as a "Developer Owner."

1.25 "Dwelling Unit"

Shall mean any building, or part thereof situated upon a Lot and intended for use and occupancy as a residence by a Single Family.

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1.26 "Eligible Mortgage Holder"

Shall mean a First Mortgagee who has in writing requested notice of material amendments or actions to be taken pursuant to the provisions hereof granting to such First Mortgagees the right of objection or approval.

1.27 "Event of Foreclosure"

Shall mean the foreclosure, the acceptance of a deed in lieu of foreclosure, or the transfer of title by trustee's deed at a trustee's sale in regard to a mortgage, deed of trust or other encumbrance inferior in priority to an Assessment Lien.

1.28 "First Mortgage"

Shall mean any mortgage or deed of trust on any Lot with the first priority over any other mortgage or deed of trust encumbering such Lot.

1.29 "First Mortgagee"

Shall mean the holder of any First Mortgage.

1.30 "Governing Documents"

Shall mean this Declaration, the Articles of Incorporation and Bylaws of the Association, the Architectural and Landscape Review Guidelines and the Association Rules, as same may from time to time be amended.

1.31 "Government Property"

Shall mean all land and improvements owned by or dedicated to a public or governmental agency or authority for so long as the public or governmental agency or authority is the owner or beneficiary thereof, except for land or improvements, or both, owned and/or operated by a public or governmental agency or authority acting in a proprietary capacity.

1.32 "Improvement"

Shall mean any structure or improvement, including any Dwelling Unit or modification thereof, any patio, outbuilding, pool, wall, path, driveway, excavation, landscaping, fixture, antennae, satellite system, fence, coping, awning, sunshade, flagpole, or other structure or improvement or appurtenance, and including decorative or aesthetic changes, such as color changes or changes to materials.

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1.33 "Limited Common Area"

Shall mean all areas designated by Declarant in a Neighborhood Declaration or on a recorded subdivision plat as an area to be used in common by the Owners or Occupants of some, but not all, of the Owners of Lots within the Covered Property, which areas shall be owned by the Association and maintained, repaired and managed at the expense of the Owners or Occupants of such Lots by imposition of Neighborhood Assessments, or which shall be owned by a Neighborhood Association established and levying assessments against such Lots for ownership, maintenance, repair and management of such areas.

1.34 "Lot"

Shall mean an area of real property designated as a "Lot" on any recorded subdivision plat within the Covered Property.

1.35 "Maintenance Assessments"

Shall mean the Assessments, if any, levied by the Board pursuant to Section 8.6 of this Declaration.

1.36 "Member"

Shall mean any Owner or Person entitled to Membership, including Declarant for so long as Declarant is a Class A or Class B Member.

1.37 "Membership"

Shall mean the rights and duties of Owners, including Declarant so long as Declarant is a Class A or Class B Member, with respect to the Association.

1.38 "Neighborhood"

Shall mean a group of Lots designated by the Board as a Neighborhood, or designated as a Neighborhood in a Neighborhood Declaration executed or approved by Declarant during the period of the Class B Membership, and thereafter by the Board, as having common interests or characteristics such as shared common facilities or Limited Common Area not enjoyed by all other Members, and which may or may not be receiving special services or benefits and which may or may not be charged Neighborhood Assessments as provided herein.

1.39 "Neighborhood Assessment"

Shall mean Assessments levied against a particular group of the Lots, or against Lots in a Neighborhood to pay the budgeted expenses, including reserves, insurance, administration and other costs associated with Limited Common Area of a Neighborhood or group of Lots, or associated with other costs and expenses attributable and allocable to such Lots, as described in Section 8.7,

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including Neighborhood Expenses.

1.40 "Neighborhood Association"

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

1.41 "Neighborhood Declaration"

Shall mean any declaration of covenants, conditions and restrictions or like instrument recorded after the recording of this Declaration and designating a group of Lots as a Neighborhood or pertaining to any Neighborhood within the Covered Property, which shall in all cases be consistent with and subordinate to this Declaration.

1.42 "Neighborhood Expenses"

Shall mean the estimated expenses incurred or to be incurred by the Association with respect to a particular group of Lots or Neighborhood, including expenses for the maintenance of Limited Common Area, special facilities benefiting primarily the Owners of such specific Lots, reasonable reserves for repair and replacement of improvements and facilities, and other costs and expenses including costs of administration.

1.43 "Occupant"

Shall mean any Person, other than an Owner, occupying a Lot, or any portion thereof or building or structure thereon, as a Resident, Tenant, licensee or otherwise, other than on a merely transient basis.

1.44 "Owner"

Shall mean the record holder of legal title to the fee simple interest in any Lot or, in the case of a recorded "contract" (as that term is defined in A.R.S. §33-741(2)), the holder, of record, of the purchaser's or vendee's interest under said contract, but excluding others who hold such title merely as security, such as any trustee under a deed of trust. An Owner shall include any Person who holds record title to a Lot in joint ownership or as an undivided fee interest.

1.45 "Person"

Shall mean a corporation, partnership, limited liability company, joint venture, individual, trust or any other legal entity.

1.46 "Plat"

Shall mean the recorded plat or plats for the Covered Property, and any amendment or resubdivision thereof,

and in the event of successive plats for portions of the Covered Property, the term shall include all such plats unless the context clearly indicates otherwise.

1.47 "Resident"

Shall mean:

1.47.1 each Owner who resides on the Covered Property and the members of the immediate family of each Owner who reside on the Covered Property;

1.47.2 each Tenant who resides on the Covered Property and the members of the immediate family of each Tenant who reside on the Covered property;

1.47.3 such persons as the Board, in its absolute discretion, may authorize, including without limitation, guests of an Owner or Tenant.

1.48 "Single Family"

Shall mean a group of persons related by blood, marriage or legal adoption, or a group of not more than three unrelated persons maintaining a common household. "Single Family" use shall not include any form of detention house, reform school, rooming or boarding house, sanatorium, or any form of group home whether or not providing services to occupants, except that this prohibition shall not apply to group homes or similar living or care arrangements which by state or federal law may not be prohibited by enforcement of private restrictive covenants.

1.49 "Special Assessments"

Shall mean the assessments, if any, levied by the Board pursuant to Section 8.9 of this Declaration.

1.50 "Special Use Fees"

Shall mean any fees charged by the Association for use of the Common Area pursuant to Section 3.1.2 of this Declaration.

1.51 "Tenant"

Shall mean a Person occupying any part of the Covered Property under any type of rental agreement, whether such rental agreement is within the definition set forth in A.R.S. §33-1310(11) or otherwise.

1.52 "Town"

Shall mean the Town of Sahuarita.

1.53 "Visible From Neighboring Property"

Shall mean, with respect to any given object, that such object is or would be reasonably visible to a Person six feet tall, standing at ground level on neighboring property (either Lots or Common Area) six feet back from the

property line of the neighboring property, provided, however, that the Reviewing Authority shall have the right to determine the meaning of the term "Visible From Neighboring Property" as applied on a case by case basis, and the determination of the Reviewing Authority shall be binding in that regard, subject to any appeal rights to the Board.

1.54 "Voting Member"

Shall mean each Class A or Class B Member entitled to cast votes and, where and if applicable, shall mean the representative selected by the Class A Members within a Neighborhood to cast the Class A votes attributable to their Lots (except as otherwise specifically provided in this Declaration and in the Bylaws). The term "Voting Member" shall also refer to: a) alternate Voting Members acting in the absence of the Voting Member; b) any Owners within a Neighborhood authorized personally to cast the votes for their respective Lots pursuant to the provisions hereof; and c) any Owner of a Lot not within a Neighborhood or not represented by an elected Voting Member. With respect to any specific matter or election where a Neighborhood has been established, and for which Declarant has made a determination that votes shall be cast by Class A Members, and not by the elected Voting Member for the Neighborhood in question, such Class A Members shall be deemed Voting Members, but for that meeting or election only.

ARTICLE II

**PROPERTY AND PERSONS BOUND
BY THIS DECLARATION**

2.1 General Declaration

Declarant desires to facilitate development of the Covered Property in accordance with this Declaration which establishes a general plan of development for the planned community known as Stone House. This Declaration provides a flexible and reasonable procedure for the future expansion of the Covered Property and provides for its overall development, administration, maintenance and preservation.

In accordance with the foregoing, as portions of the Covered Property are developed, Declarant, without obligation, may record one or more Additional Covenants, including Neighborhood Declarations or Declarations of

Annexation, designating Common Area and Limited Common Area, and may establish such additional covenants, conditions and restrictions as may be appropriate for the respective portions of the Covered Property. Nothing in this Declaration or in any Additional Covenants, including any Neighborhood Declaration or Declaration of Annexation, shall be construed to prevent or limit Declarant's right to modify the development of the Covered Property, or from dedicating or conveying portions of the Covered Property for uses other than as a Lot or Common Area.

2.2 Owners and Occupants Bound

This Declaration shall be binding upon all Owners and Occupants of the Covered Property and their successors and assigns, whether or not stated in any document or deed transferring any interest in any Lot to or from such Owners or Occupants.

ARTICLE III

**EASEMENTS AND RIGHTS OF ENJOYMENT
IN THE COMMON AREA**

3.1 Easements and Rights of Enjoyment

Each Owner shall have a nonexclusive easement for use and enjoyment in and to the Common Area, which nonexclusive easement shall be appurtenant to and shall pass with the title to each Owner's Lot. All Occupants shall have a nonexclusive, nontransferable temporary license to use and enjoy the Common Area so long as they remain Occupants. The foregoing grants and rights are subject to the following limitations, in addition to all other limitations and reserved powers set forth in this Declaration:

Right to Modify and Change

3.1.1 The rights, duties and obligations of the Association, and the reserved right of Declarant, and of the Association, to modify the use of Common Area, or to convey same free of claims or rights of the Owners or Members;

Special Use Fees

3.1.2 The right of the Association pursuant to this Declaration to charge reasonable Special Use Fees for the use of the Common Area. Any such Special Use Fees shall be set by the Board from time to time, in its sole discretion. Special Use Fees shall be charged only for actual entry upon or utilization of those Common Area selected by the Board to be subject to a Special Use Fee, and shall be intended to collect revenue from the actual

users of such selected Common Area so that all of the costs of operating such selected Common Area are not borne by all of the Owners through Annual Assessments, but rather are borne, at least in part, by the Owners, Occupants and other persons utilizing such selected Common Area;

Suspension of Rights

3.1.3 The right of the Association, after such notice and hearing as may be required by law, to suspend the voting rights and the rights to use and enjoyment of the Common Area (other than the private streets) of any Owner or occupant, as the case may be, for any period during which an Assessment remains delinquent, or for a period not to exceed 60 days for any single infraction of this Declaration, a recorded Neighborhood Declaration, the Association Rules, or the ARC Guidelines (provided such suspension shall not be limited if the infraction remains uncured);

Limitation of Guests

3.1.4 The right of the Association to limit the number of guests of an Owner or Occupant who may use the Common Area; and

***Regulation, Mortgages
and Conveyances;
Power of Association***

3.1.5 The right of the Association to regulate use of the Common Area in accordance with this Declaration, and to mortgage or convey portions of Common Area with the affirmative vote or written consent, with or without a meeting, of Declarant and Owners or Voting Members representing at least two-thirds (2/3rds) of the total votes held by Class A Members.

***Broad Reserved Powers
of Declarant***

Notwithstanding the foregoing, the Association may at any time with the written consent of Declarant convey, and the Declarant may cause the Association to convey, minor, insignificant, or immaterial portions of Common Area (such as those caused by encroachment areas, boundary line discrepancies, survey errors and other such matters), and portions of Common Area determined by Declarant to be more burdensome or costly to own than the concomitant benefit to the Association would warrant, and such conveyance may be made without the consent or vote of any other Person or Member, should Declarant or the Board determine that such conveyance or transfer is in the best interests of the Association or Covered Property. Furthermore, Declarant may at any time resubdivide Common Area into Lots or other Common Area or dedicated land, and may cause the

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Board or Association to execute such instruments as may be necessary to cause such resubdivision or dedication, and no consent or approval shall be required of any other Members nor shall a meeting of Members be required.

Any sale, disposition or resubdivision of the Common Area shall serve to extinguish any interests therein of Owners pursuant to the provisions hereof.

In addition, the Association shall in all cases have the right to convey and dedicate to the public lands and interests such as public roads, streets, drainageways, culverts, parks, sewer facilities and other Common Area, and such action shall not require the approval of any Owners or Members of the Association.

3.2 Delegation of Use

Any Owner or Occupant, in accordance with the Association Rules and this Declaration, may delegate his or her rights of use and enjoyment in the Common Area to the members of his or her family or his or her occupants, employees, customers or guests subject to the limitations set forth herein and in the Association Rules, and in the event of such delegation, including any lease of a Lot, the Owner shall be deemed to have relinquished his or her right of use and enjoyment for the period of such lease or delegation. Without limitation, the Rules may limit the number of guests, prescribe restrictions on certain types of gatherings or events, and impose Special Use Fees for certain gatherings or events.

3.3 Waiver of Use

No Owner shall be exempt from personal liability for Assessments, nor shall any Owner have any right to release a Lot from the liens or charges arising under this Declaration or any Neighborhood Declaration by waiver of the right of use and enjoyment of Common Area or for any other reason, and no Owner shall in any fashion or by any means have a right of set-off of claims against any sum owned to the Association.

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**3.4 Acceptance of Certain
Common Area and Other
Areas**

In the course of development and sale of land within the Covered Property, or within other property annexed hereunder, fee title to land which in the future is to become Common Area, may be held by, or transferred to, Persons acquiring fee title to portions of the Covered Property. Notwithstanding that fee title to such land may be held by Persons other than the Association (or Declarant), such land may, upon acceptance by the Association, become Common Area. If such areas become Common Area of the Association, whether by Neighborhood Declaration, plat or otherwise, all Owners and Occupants shall have the easements, licenses and rights to the use and enjoyment of such Common Area as with respect to the other Common Area generally, unless such lands are Limited Common Areas. Such rights shall be subject in all cases to the provisions of this Declaration and the Association Rules. In the event such areas are to become Common Area, the Association shall accept same only if such land is free of monetary liens or encumbrances affecting such areas.

Notwithstanding the foregoing, Declarant shall have the absolute right to require that the Association accept title to future Common Area and open spaces shown upon any Plat or other instrument pertaining to the Covered Property, whether the Plat or other instrument was recorded prior to or after annexation of the land under the purview hereof as a portion of the Covered Property, and such right of Declarant shall, without limitation, extend to all areas of the Covered Property that Declarant determines are appropriate for Common Area designation or otherwise appropriate for Association control and maintenance.

Future Common Area to be accepted may include, but shall not be limited to, such open spaces, landscaped areas, trails and recreational areas, if any, and other areas or facilities, but no representation or warranty is made as to any such facilities or which shall be offered or included in the Covered Property or within Common Area. Further, the Declarant may at any time in writing elect, in its sole discretion, to convert any Lot or portion thereof to Common Area, and to convey same to the Association, but no commitment or representation of any nature exists in that regard. It is acknowledged that should a future feature, such as a recreational amenity, be included within the Common Area, the Association shall have the right to

increase Assessments by the maximum permitted by law to assure adequate funds, and shall further have the right to impose a Special Assessments during such initial fiscal years as may be necessary due to limitations upon increases in the Annual Assessment.

3.5 Exclusive Use and Benefit Easements

On certain Common Area, particularly where perimeter or similar walls are to be built (including yard walls, landscape walls, subdivision boundary walls and the like), such walls may be constructed within the Common Area at varying distances from the adjacent Lot line in order to avoid monotony of design. Portions of the Common Area may be located on the Lot side of any such dividing wall (each, an "Easement Area"). Each Easement Area will adjoin and be contiguous to a Lot (each, a "Dominant Lot"). The Association may, in its sole discretion, at any time and from time to time, grant to the Owner of a Dominant Lot and record a perpetual exclusive use and benefit easement over the Easement Area abutting that Dominant Lot for the use, benefit and enjoyment of that Owner (each, an "Easement"). Such Easement shall run with the land and be appurtenant to the abutting Dominant Lot and may not be sold, transferred or otherwise conveyed apart therefrom.

The Easements shall be limited to the extent that no structure or improvement of any nature may be placed, maintained or permitted to remain in any Easement Area. The Association shall have no possession or control of the Easement Areas, except that the Association shall have the right of ingress and egress for the sole purpose of any maintenance and repair obligations the Association may have with respect to such dividing wall.

Easements Benefiting Individual Owners

Each Easement Area shall be possessed, controlled, maintained and insured by the Owner of the abutting Dominant Lot and not by the Association. Any separate insurance maintained by the Association is excess and non-contributory. Each Owner of a Dominant Lot shall indemnify, protect, defend and hold harmless the Association for, from and against any and all losses, costs, claims, actions, damages, expenses and liabilities of any kind whatsoever arising from or in connection with the Easement Area abutting that Owner's Dominant Lot.

***Easements Benefiting
the Association***

In addition to the Easement Areas set forth above, to permit a varying or undulating design of perimeter or yard walls visible from certain of the main spine roads within the Covered Property, there shall exist, and there is hereby granted and reserved, a valid, perpetual easement in favor of the Association for the maintenance and repair of landscaping and other improvements which may be installed or built on the street or Common Area side of any such wall built or to be built partly into the area of any adjacent Lot, as determined by the Reviewing Authority at the time of original construction of improvements. The Association shall be solely responsible for maintaining any such Lot area upon which such easements exists. The limit and extent of any such easement shall be determined by the ARC upon approval of designs and plans submitted by Owners.

ARTICLE IV

**ARCHITECTURAL AND LANDSCAPING
RESTRICTIONS AND CONTROL**

**4.1 Control By Declarant of
All Architectural and
Landscaping Matters**

***Reserved Rights of
Declarant***

4.1.1 Broad Reserved Rights of Declarant. Each and every Owner, and all other Persons, by accepting a deed or otherwise having ownership, possession or control over any Lot agrees that Declarant, as the initial entity planning for the development of the Covered Property, and as an initial Owner of all or portions of the Covered Property, has a vital and legitimate interest in seeing the Covered Property developed in a manner consistent with Declarant's wishes and plans, as those plans may from time to time change.

Approval Required

4.1.2 All Development to be Approved. In accordance with the foregoing, and as more specifically set forth below, no development, construction, grading, improvement, landscaping or other work or alteration of any land shall be commenced unless and until Declarant has given its prior written approval of same, which approval may be granted or denied in the sole and absolute discretion of Declarant. Declarant intends to and shall in writing, as more specifically set forth below, delegate certain or all of its rights of review and approval to the ARC, which shall be a committee of the Board, though Declarant may retain certain rights of review and approval and may also delegate certain of its rights of

review and approval to others.

**ARC and ARC
Guidelines**

4.1.3 ARC and ARC Guidelines. Declarant, the ARC, and any designee shall be guided in their functions by the Architectural and Landscape Review Guidelines (the "ARC Guidelines").

Protection of Declarant

4.1.4 Declarant's Interests Protected. In exercising its rights hereunder, including in the review, approval or denial of any application or request, and for so long as Declarant is a Class B Member, or for so long as Declarant owns any portion of the Covered Property, whichever ever period shall last expire, Declarant may act, or cause the ARC to act, in Declarant's interest and as Declarant determines based upon its desires for the Covered Property. Declarant's rights reserved hereunder may in writing be waived, terminated or assigned.

**Delegation of Review
Rights**

4.1.5 Delegation of Rights. Declarant may from time to time, delegate all or a portion of its reserved rights hereunder to either or both of: (i) the ARC as appointed by Declarant or, if applicable, by the Board; or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association, it being acknowledged that certain portions of the Covered Property may be treated differently, and may at Declarant's discretion, be under the control solely of Declarant.

Further, Declarant may, without limitation, elect to assign all responsibility for review and approval of alterations and modifications to construction and landscaping initially installed by an Owner to the ARC, and to retain jurisdiction to review and approve original construction and landscaping activities by Owners with respect to any portion of the Covered Property whatsoever.

Any delegation by Declarant to the ARC or to any other committee shall be in writing specifying the scope of responsibilities delegated and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction

of the foregoing entities shall be limited to such matters as Declarant specifically so delegates.

Reviewing Authority

4.1.6 Reviewing Authority. Declarant may designate one or more Persons to act on its behalf in reviewing applications hereunder, and may assign it rights under this Article (including its rights to review and approve all required submittals or applications, and its right to adopt, amend or revoke the ARC Guidelines).

Any Person or entity, including the ARC, delegated or assigned the power and authority to review and approve applications or submittals, or Declarant until such delegation or assignment has occurred, may, according to the context, be referred to herein as the "Reviewing Authority." After such time as Declarant may have assigned or delegated to the ARC its rights of review and approval hereunder with respect to one or more portions of the Covered Property, reference to the Reviewing Authority shall mean the ARC, except that, as provided above, the Declarant may assign or delegate certain rights and responsibilities hereunder to the ARC and retain others. Upon any assignment or delegation, Declarant shall be fully released of all obligation, right and responsibility with respect to the functions of the Reviewing Authority so delegated or assigned. In any case in which Declarant has retained rights as the Reviewing Authority and has not assigned or delegated rights of review and approval to the ARC, the Association shall nevertheless, with Declarant's approval, have full rights of enforcement of the provisions hereof, and may take legal and other action against any Owner, Person or entity, or their agents, contractors and subcontractors, who may be in violation of the provisions hereof or of the ARC Guidelines, or who may have acted without approval of the Reviewing Authority. Declarant shall have full rights and authority to cause the Association to take such action and to expend Association funds and resources in pursuit thereof, it being acknowledged that the Association and Members are or shall be benefited by such enforcement or other action.

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**4.2 Architectural and
Landscape Review
Guidelines**

Content of Guidelines

4.2.1 Content of ARC Guidelines. The initial ARC Guidelines may be adopted by Declarant or by the ARC with the approval of Declarant and the Board. Subject to the written approval of the contents thereof by the Declarant for so long as Declarant owns any portion of the Covered Property, and thereafter subject to the written approval of the Board, the ARC may adopt, amend, and supplement the ARC Guidelines, which may be different for various portions of the Covered Property. The ARC Guidelines shall interpret, implement and supplement this Declaration, and shall set forth procedures for ARC review and the standards for development within all or various portions of the Covered Property. The ARC Guidelines may include, without limitation, provisions regarding:

- (a) the size or maximum Lot coverage for Single Family Dwelling Units;
- (b) architectural design, with particular regard to the harmony of the design with surrounding structures and topography;
- (c) placement of buildings;
- (d) landscaping design, content and conformity with the natural desert character of the Covered Property;
- (e) requirements concerning exterior color schemes, exterior finishes, and materials, and requirements concerning yard and building ornaments (Visible from Neighboring Property), recreational equipment, exterior lighting and exterior furniture (Visible from Neighboring Property), and other items or improvements Visible From Neighboring Property;
- (f) signage and mailboxes; and
- (g) perimeter and screen wall design and appearance.

***Adoption and Force and
Effect of Rules and ARC
Guidelines***

4.2.2 Force and Effect. The ARC Guidelines shall have the same force and effect as the Association Rules. As provided herein, Declarant shall have full power to adopt, amend and supplement the ARC Guidelines, and its rights shall be paramount to those of the Board, and

any adoption, amendment or supplementation shall require the approval of Declarant or the Board, as applicable.

4.3 Power and Duties
Upon Assignment to ARC

After such time as Declarant shall have assigned its right of review and approval to the ARC, it shall be the duty of the ARC to consider and act upon all proposals or plans submitted to it pursuant to the provisions hereof, to adopt the ARC Guidelines, with the approval of Declarant or the Board, as applicable, to perform any other duties delegated to it by the Board, and to carry out all other duties imposed upon it by this Declaration. The ARC shall have the right from time to time to assign certain of its powers, authority and duties hereunder to one or more Neighborhood Associations.

4.4 Obligation to Obtain
Approval

Mandatory Submittal

4.4.1 Mandatory Submittal of Plans and Specifications. Except as otherwise expressly provided in this Declaration or the ARC Guidelines or any applicable Neighborhood Declaration, without the prior written approval by the Reviewing Authority (Declarant, the ARC, or designee or assignee) of plans and specifications prepared and submitted to such committee in accordance with the provisions of this Declaration and the ARC Guidelines:

- (a) No Improvements, alterations, repairs, excavation, grading, landscaping or other work shall be done which in any way alters the exterior appearance of any property or Improvements thereon from their natural or improved state; and
- (b) No building, fence, exterior wall, pool, roadway, driveway or other structure, improvement or grading shall at any time be commenced, erected, maintained, altered, changed or made on any Lot.

Landscaping

4.4.2 Landscaping. No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon the Covered Property except in compliance with plans and specifications therefor which have been submitted to and approved by the Reviewing Authority in accordance with the ARC Guidelines, and except for replacements of plants previously approved and which remain acceptable in accordance with the then current

ARC Guidelines.

Changes and Deviations

4.4.3 Changes or Deviations. No material changes or deviations in or from the plans and specifications for any work to be done on the Covered Property, once approved by the Reviewing Authority, shall be permitted without approval of the change or deviation by the Reviewing Authority.

Verbal Statements

4.4.4 Verbal Statements. In no event shall Declarant or the ARC be bound by any verbal statements, no single member thereof having the right to bind the committee.

4.5 Organization of Architectural and Landscape Review Committee

The ARC is a committee of the Board, but appointed by Declarant for the periods of time set forth herein, and thereafter by the Board. A member shall not be required to satisfy any particular qualification for membership and may be a member of the Board, an officer of the Association, or an officer, agent or employee of Declarant. The right to appoint and remove all regular and alternate members of the ARC at any time while Declarant is a Member of the Association shall be and is hereby vested solely in the Declarant, unless waived or assigned by Declarant.

4.6 Waiver and Variance

The Reviewing Authority may grant variances and waivers from the requirements of the ARC Guidelines if it believes it is in the best interests of the Covered Property to do so, or if hardship justifies the variance. In addition, the Declarant may at any time grant a variance or waiver. The approval by the Reviewing Authority of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Reviewing Authority, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

4.7 Liability

Neither the Reviewing Authority, Declarant nor the ARC (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

4.7.1 the approval or disapproval of any plans,

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drawings or specifications, whether or not defective;

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

4.7.3 the development of any Lot; or

4.7.4 the execution and filing of any estoppel certificate or statement, whether or not the facts therein are correct, provided, however, that with respect to the liability of a member of the ARC, such member has acted in good faith on the basis of such information as may be possessed by him.

Without in any way limiting the generality of any of the foregoing provisions of this Section, the ARC, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner (other than the Owner applying for consent or approval, whose views the ARC shall be required to hear) with respect to any plans, drawings, specifications, or any other proposal submitted for review.

4.8 Appeal to Board

Any Owner who initially made application to the Reviewing Authority, and who is aggrieved by a decision of the Reviewing Authority, may appeal the decision to the Board in accordance with procedures to be established in the ARC Guidelines. In the event the decision of the Reviewing Authority is overruled by the Board on any issue or question, the prior decision of the Reviewing Authority shall be deemed modified to the extent specified by the Board. There shall be no appeal from a decision of the Declarant acting as the Reviewing Authority, and no appeal from a decision of the ARC may be taken so long as Declarant has the right to appoint the members of the ARC pursuant to the Bylaws or this Declaration.

4.9 Fees

Power to Assess

4.9.1 Power to Assess Fees. The Reviewing Authority, whether it be the Declarant, the Board or whomever else may be vested with authority to review plans, applications and submittals in accordance herewith, may establish a reasonable processing fee to defer the costs of the Reviewing Authority in considering any requests for approvals submitted to the ARC or for appeals to the Board, which fee shall be paid at the time

the request for approval or review is properly submitted.

Refundable and Non-Refundable Fees and Deposits

4.9.2 Refundable and Non-Refundable Fees and Deposits. In addition, the Reviewing Authority may implement: a) refundable and non-refundable fees and deposits for revegetation and restoration of any site, with a portion of a fee being non-refundable should an Owner default in its obligations to restore or revegetate a site when required hereunder or by the Reviewing Authority, or should the Association or Reviewing Authority incur cost as a result thereof; b) refundable and non-refundable fees to assure that all damage or degradation to Common Area, streets and roads caused or to be caused by construction traffic is promptly repaired or otherwise addressed by the Owner responsible therefor, or to enable the Association to accomplish such work, itself, or to establish a fund for future restoration of such areas; and c) such deposits as may be appropriate to assure completion of components of any work that may interrupt or interfere with the use of Common Area or operations of the Association.

4.10 Inspection

The Declarant and any member or authorized consultant of the Reviewing Authority, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot after reasonable notice to the Owner of such Lot in order to inspect the improvements constructed or being constructed on such Lot to ascertain that such improvements have been, or are being, built in compliance with the ARC Guidelines, this Declaration, and any applicable Neighborhood Declaration.

ARTICLE V

PERMITTED USES AND RESTRICTIONS

5.1 Covenants, Conditions, Restrictions, and Easements Governing Use

The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots:

5.1.1 Prohibited Uses. The following uses are prohibited:

- (a) any use which is offensive by reason of odor, fumes, dust, smoke, noise, glare, heat,

sound, vibration, radiation or pollution, or which constitutes a nuisance, or which is hazardous by reason of risk of fire or explosion, or which is otherwise materially injurious to the perceived value of any Lot; and

- (b) any use which is in violation of the laws (after taking into account the application of any validly granted or adopted variance, exception or special use ordinance or regulation) of the United States, the State of Arizona, the Town of Sahuarita, County of Pima or any other governmental entity having jurisdiction over the Covered Property.

Plat Notes

5.1.2 Plat Notes. In addition to the restrictions contained herein, the Covered Property shall be subject to all applicable restrictions and limitations set forth on any recorded plats applicable to the Covered Property.

Duty of Maintenance

5.1.3 Duty of Maintenance. Each Owner shall, at such Owner's sole cost and expense, keep such Owner's Lot, including buildings, Improvements, private drives, easement areas and grounds thereon, in a well-maintained, clean, neat and attractive condition at all times and shall comply in all respects with all governmental health, fire and safety statutes, ordinances, regulations and requirements. Each Owner shall be responsible for the maintenance and repair of all utility lines, including sewer, located within such Owner's Lot, and such maintenance obligation shall include maintenance and repair beyond the Lot boundary to the point of service line connection or junction in the adjacent street, Common Area or easement area.

No Improvement on any Lot shall be permitted to fall into disrepair and each such building and Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished to maintain a first class appearance of the Improvement. In the event any building or Improvement is damaged or destroyed, then, subject to approval in accordance with Article 4, such building or Improvement shall be immediately repaired, rebuilt or demolished by the Owner. If any Owner fails to make the necessary repairs, after

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receiving notice from the Board of the requirement to perform such repairs within the time limits established by the Board, the Board and its agents and representatives are empowered to enter on the Lot and to make the necessary repairs. The cost of these corrective measures shall be charged to the Owner and collected in the same manner as Assessments. Any such entry shall be after reasonable notice of the time and date of entry, and after such hearings and notice as the law may require.

Building Exteriors

5.1.4 Building Exteriors. All colors of materials on the building exteriors and all exterior wall surfaces of any building shall be in accordance with plans and designs approved in accordance with Article 4.

On Site Grading and Drainage

5.1.5 On Site Grading and Drainage. No water shall be drained or discharged from any Lot, or building thereon, except in accordance with approvals of the Reviewing Authority and applicable Town ordinances.

Utility Lines and Connections

5.1.6 Utility Lines and Connections. All utility wires, lines, pipes, conduits, facilities, connections and installations (including, without limitation, electrical, telephone, cable television, water, gas and sanitary sewer) shall be installed and maintained underground or concealed in, under, or on structures approved in writing in advance by the Reviewing Authority. All transformers shall be placed on or below the surface of the Lot. Temporary above-ground power or telephone structures and water lines incident to construction activities shall be permitted but only with the prior written approval of the Reviewing Authority.

Notwithstanding the above, the following permitted uses may be installed and maintained above ground:

- (a) Existing utility installations, for so long as Declarant shall approve; and
- (b) Any future relocation of existing utility installations, for so long as Declarant shall approve, as well as above ground transformers and pedestals for electricity, telephone, cable television, etc., so long as same as approved by the Reviewing

Authority.

No other utility or service equipment or lines may be installed or relocated on any Lot, the Common Area or the Limited Common Area except as approved by the Reviewing Authority

Overhead Encroachment

5.1.7 Overhead Encroachments. No tree, shrub or planting of any kind shall be allowed to overhang or encroach upon any public right-of-way, bicycle path or any other pedestrian way from ground level to a height of eight (8) feet, without the prior written approval of the Reviewing Authority. The Reviewing Authority shall have the right to cause the Association to trim any offending tree, shrub or planting.

Permissible Encroachment

5.1.8 Permissible Encroachments. Each Owner hereby acknowledges and agrees that Dwelling Units, or privately-owned patio walls, improvements and fixtures, once built and completed, and which were initially constructed on the Covered Property in the course of original construction by an Owner may from time to time encroach in minor degree upon the Common Area or other Lots in the Covered Property. Such encroachments caused incidentally and which are minor in scope and degree, such as those caused by good faith survey error, and where removal of improvements would cause gross economic waste, shall be deemed acceptable. Each Owner consents thereto and agrees that title to the land lying within such incidental encroachments is conveyed to the Owner of the Lot upon which the majority of the encroaching structure is built.

Further Subdivision

5.1.9 Restriction on Further Subdivision, Property Restrictions and Rezoning.

- (a) So long as Declarant is a Member of the Association, all subdivision plats, Neighborhood Declarations and Additional Covenants must be submitted to and approved by Declarant before being recorded or approved by the Town, as applicable. Except for property owned by the Declarant, after a subdivision plat has been approved, no Lot, or any portion of a Lot, shall be further subdivided and no portion less than all of the Lot shall be conveyed or

transferred by any Owner without the prior written approval of the Declarant. The combining of a Lot or Common Area with an adjacent Lot or Common Area, where no additional Lot is created, and which is approved by the Reviewing Authority shall not be deemed a resubdivision in accordance with the foregoing requirements.

- (b) No proposed application for rezoning, variance or use permit for any portion of the Covered Property shall be made, filed, submitted to, or recorded with Town or any other governmental authority or agency unless it has first been approved by Declarant so long as Declarant is a Member of the Association.
- (c) Neither subsection (a) nor (b) shall apply to portions of the Covered Property owned by Declarant or to subdivision plats, Neighborhood Declarations or Additional Covenants submitted or proposed by Declarant and pertaining to portions of the Covered Property owned by Declarant. Declarant may at any time, of its own volition, and with no other consent or approval required, resubdivide all or any portion of the Lots or Common Area.
- (d) Declarant may at any time in writing relinquish all or a portion of its approval rights under this Section. After Declarant no longer is a Member of the Association, or after Declarant may have relinquished its rights under this Section, the Board shall succeed to the right to approve of subdivision plats, Neighborhood Declarations or Additional Covenants, unless Declarant has assigned such right to one or more Persons, in which case the Board shall succeed to such rights only after such Persons no longer own any portion of the Covered Property.

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**Maintenance of
Landscaping and
Driveways**

5.1.10 Maintenance of Landscaping and Driveways. Unless otherwise provided in a Neighborhood Declaration, each Owner shall be responsible for the proper maintenance of all landscaping in the following locations:

- (a) on the Owner's Lot (including set back areas), except that in the event the maintenance of any portions of such Owner's Lot is the responsibility of the Association, a utility, or a governmental or similar authority, then only for so long as such entities are not undertaking such responsibility;
- (b) portions of the Common Area adjacent to an Owner's Lot and which are on the Lot's side of any wall erected on the Common Area; and,
- (c) public right-of-way area; between sidewalks and the street curb on the Owner's Lot, or other public or easement areas adjacent to the Owner's Lot, except that in the event the maintenance of such areas is the responsibility of the Association, a utility, or a governmental or similar authority, then only for so long as such entities are not undertaking such responsibility.

As used herein, maintenance shall include but not be limited to keeping the areas neatly trimmed, cultivated and free of trash, weeds and unsightly materials. All lawn areas shall be timely mowed needed to keep an even, well groomed appearance and shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive and free of weeds.

All trees, shrubs, plants and ground covers shall be timely and properly trimmed (including, without limitation, the removal of dead wood therefrom) according to their plant culture and landscape design and shall be watered and fertilized at such times and in such quantities as required to keep them alive and attractive. Any dead tree, shrub, plant or ground cover shall be removed and replaced immediately.

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All bed areas shall be kept free of weeds and cultivated periodically as needed. No area shall be over watered so as to create a risk of damage to nearby structures or improvements. Landscaping may be required to be placed on a Lot within certain time frames established by the Reviewing Authority. Each Owner shall maintain in good condition and repair all paved and concrete areas, including driveways, roadways and parking areas, located on the Owner's Lot.

Any Owner who fails to properly maintain the landscaping upon the Lot shall be given a reasonable period to conduct such maintenance. In the event Owner fails to provide such landscaping maintenance to his/her Lot after receiving notice from the Board to do so, and after such hearing and notice as may be required by law, the Association is empowered to enter upon the Lot, conduct the necessary landscaping maintenance, and charge the cost to the Owner. Such charges shall be collected in the same manner as Maintenance Assessments.

***Nuisances, Dust Control
and Construction
Activities***

5.1.11 Nuisances; Dust Control; Construction Activities. No rubbish or debris of any kind shall be permitted to accumulate upon or adjacent to any Lot so as to create a nuisance or render any such property or activity thereon unsanitary, unsightly or offensive. Each Lot shall be landscaped and maintained in a manner which will minimize the possibility of dust being transmitted into the air and over adjacent properties. Although normal construction activities shall not be considered a nuisance or otherwise prohibited, Lots must be kept in a neat and tidy condition during construction periods. No noxious or offensive activity shall be carried on or permitted on any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to Persons or property in the vicinity of such Lot or which shall interfere with the quiet enjoyment of each of the Owners and Occupants. The Association may, but is not required, to take action to abate what any Owner may consider a nuisance.

**General Parking and
Street Parking
Regulations, etc.**

5.1.12 Vehicles and Parking. As used in this Section: (a) "Motor Vehicle" means a car, van, sport utility vehicle, bus, truck, recreational vehicle, motor home, motorcycle, all terrain vehicle, utility vehicle, pickup truck or other motor vehicle; and (b) "Streets" means the streets

shown on any Plat of the Covered Property.

- (a) No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment or vehicle may be parked, kept or stored on the Common Area. No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment may be parked, kept or stored on any Lot so as to be Visible From Neighboring Property. No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment or vehicle may be parked, kept or stored on the Streets, except that the Board may adopt rules and regulations governing the subject matter and further restricting such parking or establishing limited exceptions thereto, such as for loading and unloading, emergencies, and the like.
- (b) Except as permitted by this Section, no Motor Vehicle may be parked, kept or stored on any Lot or the Common Area. No Motor Vehicles designed or used for carrying merchandise, supplies or equipment for commercial purposes may be parked on the Common Area or on a Lot, except for the temporary parking of the Motor Vehicles of contractors, subcontractors, suppliers or vendors of the Association or the Owners, Lessees or Residents.
- (c) It is also the intent of this Section to require that Motor Vehicles owned or leased by an Owner, Lessee or Resident of the Lot be parked only in the garage, carport, driveway or approved driveway expansion areas situated on the Lot, as constructed in the course of original construction approved by the Reviewing Authority or ARC. Accordingly, Motor Vehicles owned or leased by an Owner, Lessee or Resident of a Lot must be parked in the garage or carport situated on the Lot to the extent space is available in the garage or carport for the parking of such Motor Vehicles. If space is

not available in the garage or carport, then Motor Vehicles owned or leased by an Owner, Lessee or Resident of a Lot may be parked on the driveway constructed as part of the initial construction of Improvements on the Lot. Parking of Motor Vehicles owned or leased by an Owner, Lessee or Resident of a Lot may only be parked on an approved driveway expansion area if space for the parking of such Motor Vehicles is not available either in the garage or carport or in the driveway constructed as part of the initial construction or Improvements on the Lot. The parking of a Motor Vehicle owned or leased by and Owner, Lessee or Resident of a Lot on a driveway expansion area is also subject to such rules and regulations as may be adopted by the Board.

No Motor Vehicle of any kind may be stored on a Lot except in a garage, and no Motor Vehicle of any kind may be stored on the Common Area. For purposes of illustration but not of limitation, a Motor Vehicle shall be deemed stored if it is covered by a car cover, tarp or other material. Motor Vehicles owned by guests of an Owner, Lessee or other Resident may be parked in the driveway on a Lot or, in the case of visits, parties, or events, on the Streets or in designated parking spaces on the Common Area.

Recreational vehicles, motor homes and similar vehicles owned or leased by an Owner, Lessee or Resident may be parked in the driveway on a Lot for the purpose of loading or unloading, subject to such limitations as may be established by the Board.

No Motor Vehicle shall be constructed, reconstructed or repaired on any Lot in such a manner as to be Visible From Neighboring Property, and no inoperable Motor Vehicle may be stored or parked on any Lot in such a manner as to be Visible From Neighboring Property, nor stored or parked on the Streets or any other part of the Common Area. Except for emergency repairs, no Motor Vehicle shall be constructed, reconstructed or repaired on the Streets or any other part of the Common Area.

The Board shall have the right and power to adopt rules and regulations governing and further restricting the parking of Motor Vehicles on Lots or the Streets and implementing the provisions of this Section, and establishing certain exceptions that may in certain cases be warranted. In the event of any conflict or inconsistency between the provisions of this Section and the rules and regulations adopted by the Board, the provisions of this Section shall control.

This Section shall not prohibit the parking of vehicles protected by A.R.S. § 33-1809.

Use of Garages

5.1.13 Use of Garages. No garage doors shall be permitted to remain open except for a temporary purpose (such as during ingress or egress, or when the garage is physically occupied by an Owner or Occupant therein) and no less than two stalls in all garages shall be kept free of obstruction and available for parking of vehicles.

Commercial Vehicles

5.1.14 Commercial Vehicles. No vehicle shall be parked on the Covered Property if the exterior of the vehicle contains or exhibits any signage relating to a commercial enterprise or commercial activity that is visible from the exterior of such vehicle (and the vehicle is not kept in an approved enclosed garage), except such signage that is limited to the exterior driver or passenger door of such vehicle shall be permitted if the vehicle is used by the Owner as regular transportation in commuting to work.

No vehicle shall be permitted to park on a Lot, even if such vehicle otherwise qualifies under the preceding paragraph, or under Section 5.1.12 hereof, if such vehicle fails to comply with the provisions of Section 5.1.12 or is used for a commercial enterprise or activity and such vehicle has ladders, work beds, lights and/or other commercial items attached to or hanging from such vehicle so as to be visible from the exterior of such vehicle (and the vehicle is not kept in an approved enclosed garage).

The foregoing restriction shall not apply to vehicles parked within an enclosed structure approved by the Reviewing Authority, nor to commercial vehicles of contractors and others working on the Covered Property, nor to vehicles of vendors, business invitees and others in

the process of temporarily serving the Covered Property.

***Temporary Occupancy
Prohibited***

5.1.15 Temporary Occupancy and Temporary Buildings; Outside Storage. No trailer, tent, shack, garage, barn or temporary structure of any kind shall be used as a residence, whether temporary or permanent, except that during the construction process, a temporary building or structure may be erected, installed or maintained on a Lot with the prior written approval of the Reviewing Authority, including the approval of the structure's location and appearance. Such temporary structures shall be removed immediately after completion of such construction, and that portion of the Lot from which the same are removed shall be promptly placed in such condition as is otherwise required by this Declaration. Except during construction, no materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be stored on any area outside of a building unless approved in advance in accordance with Article 4. Any permitted outside storage shall be screened by a solid visual barrier so as not to be Visible From Neighboring Property, provided, however, that during construction of improvements on any Lot, necessary construction materials and supplies may be stored on the Lot without the need for a solid visual barrier providing such materials and supplies are kept in neat order considering the construction activities. The Reviewing Authority is authorized to designate the areas and manner in which supplies of building materials and construction equipment shall be stored and the routes construction vehicles may use. All such designations shall be reasonable.

Health and Welfare

5.1.16 Health and Welfare. In the event uses of, activities on, or facilities upon a Lot are deemed by the Board to be a nuisance or to adversely affect the health or welfare of Owners or Occupants, the Board or the Reviewing Authority may make rules restricting or regulating their presence.

Incidental Uses

5.1.17 Incidental Uses. Subject to the provisions of any applicable Neighborhood Declaration, the Board may approve, regulate and restrict incidental uses of property. By way of example and not of limitation, the Board may adopt Rules governing recreational facilities, if any, or other facilities.

Antennae, Dishes, etc.

5.1.18 Antennas and Dishes; Solar Devices. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 47 CFR Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time.

The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder, and to establish reasonable, non-discriminatory restrictions relating to location and safety of antennae structures.

To the extent that reception of an acceptable signal would not be impaired, an antenna permissible pursuant to rules of the Association may only be installed in a side or rear yard location, not Visible From Neighboring Property, or integrated with the Residence and surrounding landscaping to prevent or limit such visibility. Antennae shall be installed in compliance with all applicable laws and regulations.

No solar heating or cooling equipment or other visible solar device may be installed or erected without approval of the Reviewing Authority, which shall give due regard to state law restricting the limitation of such devices.

Clothes Drying

5.1.19 Clothes Drying Facilities. No outside clotheslines or other facilities for drying or airing clothes shall be placed on any Lot without the prior written consent of the Reviewing Authority unless they are not Visible from Neighboring Property.

Mineral Exploration

5.1.20 Mineral Exploration. No Lot shall be used in any manner to explore for, quarry, mine, remove or transport any water, oil or other hydrocarbons, minerals, gravel, gas, earth or any earth substance of any kind, except in each case as Declarant shall specifically approve.

Diseases and Insects

5.1.21 Diseases and Insects. No Owner or Occupant shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant or animal diseases or noxious insects.

Window Treatments

5.1.22 Window Coverings. No visible window covering or reflective covering may be placed, or permitted to remain, on or adjacent to the exterior of any window of any building, structure or other improvement without the prior written approval of the Reviewing Authority;

Lot Coverage

5.1.23 Lot Coverage. The percentage of each Lot which may be covered by buildings (as well as the location of such buildings and other improvements on each Lot) shall be subject to the review and approval of the Reviewing Authority (or the duly constituted review committee of any Neighborhood Association established pursuant to the provisions hereof), as part of the Reviewing Authority's review of plans for proposed improvements on such Lot pursuant to this Declaration, but shall in no event violate Town ordinances and regulations in effect from time to time. This Section shall not apply to Declarant's Lots.

Party Walls

5.1.24 Party Walls. If any portion of the Covered Property is constructed with shared walls or fences located on or immediately adjacent to the common dividing line between Lots ("Party Walls"), the rights and duties of Owners of contiguous Lots which have Party Walls shall be as follows:

- (a) Each Owner shall have the right to use the Party Wall, provided that such use does not interfere with the other Owner's use and enjoyment thereof.
- (b) If a Party Wall is damaged or destroyed through the willful or negligent act of an Owner or the Owner's Occupants, agents, guests or family, the Owner or Occupant as the case may be, shall be obligated to rebuild and repair the Party Wall at the Owner's sole expense. Any dispute over an Owner's liability shall be resolved as provided in Subsection 5.1.24(d) below.

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- (c) In the event any Party Wall is damaged or destroyed other than by the willful or negligent act of an adjoining Owner or the Owner's Occupants, agents, guests or family, or deteriorates from ordinary wear and tear, it shall be the joint obligation of all Owners whose Lots adjoin the damaged or destroyed portion of such Party Wall to immediately rebuild and repair such Party Wall, such expense to be ratably divided among such Owners on the basis of the amount of frontage of their respective Lots on the damaged or destroyed Party Wall.
- (d) In the event of a dispute between Owners with respect to a Party Wall or the sharing of the cost thereof, such Owners shall submit the dispute to the Reviewing Authority; whose decision shall be binding unless appealed to the Board, in which event the Board's decision shall be binding and final.
- (e) Notwithstanding the foregoing and, unless otherwise expressly agreed in writing by the Association, in the case of walls or fences: (a) between Common Area and Lots; or, (b) situated on Common Area within or adjacent to a Lot, the Owners and Occupants of such Lots shall be responsible, at their expense, for all maintenance, repair, painting and replacement thereof.

Single Family Use

5.1.25 Single Family Use. No structure whatsoever, other than one private, Single Family residence per Lot, together with such private garage, guest facilities, recreational and storage facilities which may be approved in advance by the Reviewing Authority in accordance with this Declaration, shall be erected, placed or permitted on any Lot. No mobile home, manufactured home or prefabricated home shall be permitted.

Commercial Restriction

5.1.26 No Commercial Use. No gainful occupation, profession, trade, or other nonresidential use shall be conducted on any Lot except as set forth in this subparagraph. The Declarant may maintain sales offices, construction offices, administrative offices and sales models on the Lots and Common Area within the Covered

Property, as well as associated and ancillary services and facilities in connection therewith, including parking areas, open spaces and walking and recreational areas. Further, an Owner or Occupant may carry on a "Home Occupation" as provided below. A "Home Occupation" as permitted hereby means work within the Dwelling Unit (such as the performance of accounting work, creation of art work, etc.) provided that:

- (a) the existence or operation of the business activity is not apparent from the outside of the Dwelling Unit and no sound or smell from the outside of the Dwelling Unit indicating the conduct of business is detectable;
- (b) the business activity conforms to all zoning requirements for the Lot; and
- (c) the business activity does not involve traffic by persons who do not reside therein, nor regular arrival of employees of the Owner; and
- (d) the business activity is lawful and consistent with the residential character of the neighborhood and does not constitute a nuisance or hazard or offensive use within the Covered Property as determined in the discretion of the Board.

If the Board determines that the Home Occupation violates the provisions hereof, then the Board shall have the authority to require that the Home Occupation in question cease immediately. In no event shall any form of detention house, reform school, rooming or boarding house, sanatorium, or any form of group home whether or not providing services to occupants, be permitted within the Covered Property, except that this prohibition shall not apply to group homes or similar living or care arrangements which by state or federal law may not be prohibited by enforcement of private restrictive covenants.

Leasing

5.1.27 Leasing. The entire (but not less than all) of a Dwelling Unit may be leased to a Single Family Tenant from time to time by the Owner, subject to the provisions of this Declaration, any applicable Neighborhood

Declaration and the Association Rules. Each Owner shall provide to the Association a copy of any written lease agreement for any Lot, and Tenants shall be required in each form of lease to abide by all provisions of this Declaration. Should a tenant fail to so abide, the Association shall have the right to cause the Owner to declare a default under the lease and to take appropriate action, including eviction of the tenant. Leases shall be for a term not less than six (6) months in duration.

Animals

5.1.28 Animals. No animal, livestock, poultry or fowl of any kind other than a reasonable number of generally recognized house pets, shall be maintained on any Lot and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any permitted pet shall be Visible From Neighboring Property. The Board shall have the right by Rule or otherwise to determine what shall constitute a generally recognized house pet, and what a reasonable number of such pets shall, in any instance, constitute.

Notwithstanding the foregoing, no permitted pets may be kept on any Lot which result in an annoyance to other Owners or Occupants in the vicinity. All permitted pets shall be leashed when not on a Lot owned by the pet's owner or on which the pet's owner is a Tenant, guest or invitee. The Board has the right, after notice and the opportunity for a hearing, to require the removal of any pet which the Board, in its sole discretion, has determined is a nuisance. Persons walking pets shall carry a "pooper scooper" (a hand held shovel or other instrument designed for removing animal excrement from the ground) with them at all times and shall remove the pet's excrement from the Covered Property.

Garbage and Trash Regulation

5.1.29 Garbage. No garbage or trash shall be allowed, stored or placed on a Lot except in sanitary, covered containers. In no event shall such containers be Visible From Neighboring Property, except for a reasonable time immediately prior to and after collection. All trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. The Board may also determine to require that the Association or individual Owners shall employ one or more

of a limited number of waste management or pick-up companies to retrieve waste and refuse from the Covered Property or portions thereof. The Board may establish regulations as to the times and duration that waste containers may be visible from Neighboring Property for pick-up, and may determine and regulate the type and appearance of waste containers.

Machinery and Equipment

5.1.30 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, stored or maintained upon any Lot, except:

- (a) during the period of construction, such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a building, appurtenant structures or improvements thereon; or
- (b) that which Declarant or the Association may require for the development, operation and maintenance of the Covered Property or other portions of the Covered Property.

Signs

5.1.31 Signs. No signs of whatever nature may be erected or placed within the Covered Property, except such signs as are permitted by the ARC Guidelines, and further except for those signs approved by the Board or by Declarant. Declarant may approve signs without any other consent or approval. The foregoing restriction shall not apply to signs required by legal proceedings or signs which may be permitted by law, including certain political signs. Further, the Board may enact rules limiting or prohibiting "for sale" for "for lease" signs, and the ARC Guidelines may regulate the nature, number, location, content and design of any sign.

After providing notice to any Owner that a sign is in violation of the Governing Documents, the Association has the right to remove such signs from the Common Areas, the Lot or any other place in the Covered Property and to dispose of such signs. The Association has an easement over any Lot for that express purpose and in exercising its easement rights is not guilty of trespassing.

In addition to the foregoing, Declarant hereby

reserves to itself and its agents and assignees a temporary easement over, upon and across all Common Area for purposes of installing and maintaining signs for the purpose of, among other things, identifying Persons building upon or developing portions of the Covered Property. The easement reserved hereby shall expire and terminate after Dwelling Units have been built upon all Lots, but in no event later than twenty (20) years after the date this Declaration is recorded.

Model Homes

5.1.32 Model Homes. Nothing contained herein or in any applicable Neighborhood Declaration shall prohibit the construction and maintenance of model homes, sales offices, property management offices and parking incidental thereto by persons engaged in the construction, marketing, rental or management of Dwelling Units within the Covered Property, provided, however, that any such models and the manner of operating same shall have in writing been approved by Declarant and such models shall be open only during reasonable hours and shall otherwise be in compliance with the provisions of this Declaration and ordinances of the Town. Except as to sales and related activity by Declarant, including pursuant to Sections 5.1.26 and 5.5, and except as otherwise approved in writing by the Board:

- (a) all model homes and sales offices shall cease to be used as such at any time the owner (or lessee thereof as the case may be) is not actively engaged in the construction or sale of Dwelling Units within the Covered Property (provided that the foregoing portion of this sentence shall not apply to property management offices); and
- (b) no model home, sales office, or property management office shall be used for the sale or rental of residences not located within the Covered Property.

5.2 Variances

The Declarant may, at its sole discretion, grant variances from the restrictions set forth in Article 5 hereof or in any Tract Declaration if Declarant determines:

5.2.1 Either that (a) a particular restriction would create a substantial hardship or burden on an Owner or Occupant and that such hardship is not attributable to the

Owner's or Occupant's acts; (b) a change of circumstances has rendered the particular restriction obsolete; or (c) other circumstances warrant a variance in Declarant's sole and absolute discretion; and

5.2.2 the activity permitted under the requested variance will not have a substantially adverse effect on other Owners and Occupants.

Declarant may assign to the Reviewing Authority its right to grant and approve variances. Such assignment may be subject to terms, conditions, and limitations. Any request made to Declarant or to the Reviewing Authority, shall be made in writing and be accompanied by supporting documentation. Declarant or the Reviewing Authority, if other than Declarant, shall approve or disapprove of requests, in writing, and promptly, as the particular circumstances may warrant. All decisions of the Declarant or the Reviewing Authority shall be final and non-appealable. No variance granted by the Reviewing Authority, if other than Declarant, may be given that reverses or alters a decision made by Declarant unless Declarant shall consent thereto.

**5.3 Additional Restrictions
by Additional Covenants or
Neighborhood Declaration**

Declarant may require prior to the development of any Lot, the imposition of special conditions in Additional Covenants, including a Neighborhood Declaration, in any case where deemed appropriate in the sole and absolute discretion of Declarant, and may require adequate provision for assessments and maintenance of the subject property and improvements and such other provisions as are deemed proper.

No Neighborhood containing Common Area or Limited Common Area may be developed nor shall a Neighborhood Declaration therefor be approved, unless an incorporated owners association is established for the maintenance and repair of common elements, the Common Area or Limited Common Area thereof, except in cases where the Association may elect to accept ownership of same.

5.4 Declarant's Exemption

Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by Declarant or a Declarant Affiliate or their agents during the period of development and construction on the Covered Property of improvements, landscaping or

signs deemed necessary or convenient by Declarant or a Declarant Affiliate, in its sole discretion, to the development or sale of property within the Covered Property. Declarant may assign, in whole or in part, its rights and privileges under this Section, and Declarant may grant, in its sole discretion, any similar rights and privileges to any Developer Owner.

**5.5 Sales Offices,
Administrative Offices, and
Other Facilities**

Notwithstanding any other provision of this Declaration to the contrary, the Declarant and any Declarant Affiliate may maintain sales offices, construction offices, administrative offices and sales models on the Lots and Common Area within the Covered Property, as well as associated and ancillary services and facilities in connection therewith, including parking areas, open spaces and walking and recreational areas.

Without limitation, Lot 63 shown on the Plat is designated initially as a temporary sales and administrative center, and may include, at Declarant's sole option, a community center. Unless the Declarant in its sole discretion elects to convey the said Lot 63 to the Association as Common Area (no such commitment has been made), any use of Lot 63 by the Association or the Members shall be solely permissive, at the discretion of the Declarant, and subject to rules and regulations of the Declarant. The Declarant reserves the right at any time to cease use of said Lot 63 for sales, administrative, community or other such uses, if any, and to sell and convey the Lot for use as a residence, as with any other Lot within the Covered Property.

Declarant shall have the further right to permit one or more Developer Owners to maintain model homes and sales offices on Lots owned or leased by such Developer Owners and to construct and maintain parking areas for the purpose of accommodating persons visiting such model homes and sales offices provided: (a) the plans and specifications for the model homes and sales offices, and related landscaping, have been approved in writing by the Reviewing Authority; (b) the location and design of the parking areas incidental to such model homes and sales offices has been approved in writing by the Reviewing Authority; (c) the opening and closing hours for such model homes and sales offices have been approved in writing by the Reviewing Authority; and (d) the construction, operation and maintenance of such model

homes and sales offices otherwise complies with all provisions of this Declaration. Any home constructed as a model home shall cease to be used as a model home and any sales office shall cease to be used as a sales office at any time the Developer Owner is not actually engaged in the sale of Lots.

A Developer Owner constructing Improvements on any Lot shall keep the Lots in a clean, safe and neat condition free of weeds, trash and debris.

5.6 Savings Clause

The provisions of this Declaration shall be construed to be consistent with law, and should any provision violate law, then applicable law shall govern. Without limitation, no provision hereof shall be construed to prohibit the placement of solar heating or other such devices or antennae on Lots, provided such placement conforms to such lawful requirements hereof or of the ARC Guidelines which do not conflict with law, nor shall the provisions hereof prohibit the placement upon the Covered Property of the American Flag or other flag to the extent expressly protected by state legislation from regulation or restriction by private covenants, nor the parking of public service or emergency vehicles or vehicles of utility providers to the extent expressly protected by law from regulation or restriction by private covenants, in each case subject to the ARC Guidelines and rules and regulations of the Association not in conflict with such laws.

ARTICLE VI

ORGANIZATION OF ASSOCIATION

6.1 General Purpose and Charge

The Association is a nonprofit Arizona corporation charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents. Neither the Articles nor the Bylaws shall be amended or interpreted so as to be inconsistent with this Declaration.

6.2 Board of Directors and Officers

The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. During the Class B Membership, the Board shall consist of at least three (3) directors who shall be Members or individuals designated by a corporate, partnership or other non-individual Member, and a majority or greater

percentage of the directors may be appointed by the Declarant and the Class B Member during the Declarant Control Period, provided that, subject to the limitations set forth below, at least one (1) director shall be elected by the Class A Members after the terms of the initial directors have all expired, as more fully set forth in the Bylaws of the Association. Reference is made to the Bylaws for the manner in which the Class A Members shall elect, and Class B Member(s) shall appoint, Directors of the Association. Further, the Bylaws may provide for the election of one or more directors by the Class A Members only after a minimum number or percentage of Lots has been improved with Dwelling Units and conveyed to other than Developer Owners, Declarant or Declarant affiliates, and may provide for extended terms of office for the initial Board appointed in the Articles of Incorporation of the Association.

The Board may appoint various committees at its sole and absolute discretion, including an advisory committee of Class A Members who may provide non-binding advice to the Board and assist with gradual transition from control by the Class B Members to the Class A Members. The Board may appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area. The Board shall determine the compensation to be paid to the manager.

6.3 Association Rules

By a majority vote of the Board, the Board may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. The Association Rules may restrict and govern the use of the Common Area, provided, however, that the Association Rules shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles, or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of the Covered Property, the Common Area and the Limited Common Area. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth herein, and may be enforced in the same manner as the provisions of this Declaration. A copy of the Association Rules as adopted, or amended, shall be available for inspection at the office of the Association. During the period while the Class B Membership continues to exist,

the Class B Member may disapprove of actions of the Board to adopt, amend or repeal the Rules.

6.4 Personal Liability

No Reviewing Authority, Board member, officer, committee member, employee or representative of the Association, or the Association, shall be personally liable to any Owner, or to any other Person, including the Association, for any damage, loss, costs, fees (including reasonable attorneys' fees), or prejudice suffered or claimed on account of any of their acts, omissions, errors or negligence, provided, however, that the limitations set forth in this Section shall, not apply to any Person who has failed to act in good faith or has engaged in willful or intentional misconduct.

6.5 Neighborhood Associations

In the event any homeowners or similar Neighborhood Association is formed by the Owners (other than Declarant or a Declarant Affiliate) of a group of Lots, such Neighborhood Association's governing documents shall not be effective unless they have been approved in advance by the Declarant during the period that Declarant is a Class A or Class B Member of the Association or, thereafter, by the Board, and they specify that such governing documents, such group of Lots, the Neighborhood Association, and the Neighborhood Association's members are subject and subordinate to this Declaration and the Articles, Bylaws, and Association Rules. Neither Declarant nor the Board shall disapprove any such governing documents unless, in the Board's sole discretion, either:

- (a) they are inconsistent or in conflict with this Declaration, the Articles, the Bylaws, the Association Rules, the ARC Guidelines, any applicable Neighborhood Declaration, or are legally or practicably ineffective to accomplish their intended purposes; or
- (b) they fail to contain the recitation required by the provisions above.

Neighborhood Associations shall have the right to own, operate and maintain Limited Common Area and shall not be required to dedicate same as Common Area hereunder.

6.6 Mergers or Consolidations

The Association shall have the right, power and authority with Declarant's approval so long as Declarant owns any portion of the Covered Property to participate in mergers or consolidations with any other nonprofit corporation whose objectives, methods, and taxable status and format of operation are similar to those of the Association.

ARTICLE VII

MEMBERSHIPS AND VOTING

7.1 Votes of Owners

Every Owner of a Lot, including Declarant, shall automatically be a Member of the Association and shall remain a Member for so long as such ownership continues or, in the case of Declarant, so long as it owns any Lot or retains Class A or Class B Membership. Each Class A Member shall have one (1) vote for each Lot owned. The Class B Member shall have three (3) votes for each Lot owned.

7.2 Membership is Appurtenant to Ownership

Each Owner's Membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot to which the Membership is attributable. There shall be only the Memberships for each Lot as are described herein. Joint ownership or ownership of undivided interests in any Lot as to which a Membership is established pursuant hereto shall not increase the number of Memberships or votes attributable to the Lot. Rather, the votes must be cast together in one unit.

7.3 Declarant

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

7.4 Membership Classes

The Association shall have two classes of Members:

Class A Members

7.4.1 Class A. Class A Members shall be all Owners except Declarant, until the conversion of Declarant's Class B Membership to Class A Membership as provided below. Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have the number of votes provided in Section 7.1.

Class B Members

7.4.2 Class B. The Class B Member shall be the Declarant. The Class B Membership shall terminate and be

converted to a Class A Membership if Declarant in writing relinquishes its Class B Membership while it still owns any Lot within the Covered Property.

Declarant shall have the right to assign its rights and privileges as the Declarant and as the Class B Member in whole or in part. Such assignment may include all special voting and other provisions set forth herein.

Upon termination of the Class B Membership, Declarant shall be a Class A Member entitled to Class A votes for all Lots which it owns, provided that no such conversion shall affect any reserved rights of Declarant as otherwise set forth herein.

7.5 Right to Vote

Class A votes shall only be cast by the elected Voting Member, if one exists, except as stated otherwise in the Governing Documents. Owners of Lots not within a Neighborhood and represented by a single Voting Member are authorized to cast their votes themselves. The Voting Member may cast the votes attributable to a Neighborhood as such Voting Member sees fit. No change in the ownership of a Lot shall be effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof, for example, the recorded deed showing the name of the Owner of such Lot. The vote for each Member must be cast as a single unit, and solely by the Voting Member as and when applicable.

In the event that a Lot for which an Owner may vote is owned by more than one Person and such Owners are unable to agree as to how their vote or votes shall be cast (such as when voting for the representative of a Neighborhood), they shall not be entitled to vote on the matter in question. If any Owner casts a vote or votes representing a certain Lot, the Owner will thereafter be conclusively presumed to be acting with the authority and consent of all other Owners of such Lot unless objection thereto is made to the Board, in writing, at or prior to the time the vote or votes are cast. In the event more than one (1) Person casts or attempts to cast a vote for a particular Lot all such votes shall be deemed void.

7.6 Members' Rights

Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules, and the ARC Guidelines.

**7.7 Voting by
Neighborhood; Special
Services**

Designation

7.7.1 Designation of Neighborhoods. Declarant shall have the right by recordation of a Neighborhood Declaration to designate groups of Lots which shall be considered to have common interests and goals, and which shall be deemed a Neighborhood. Unless otherwise provided in such recorded Neighborhood Declaration, such Neighborhood shall each year, by majority vote of a quorum of Class A Members within such Neighborhood, elect a representative, and in such event, all Class A votes attributable to any such designated Neighborhood shall be cast as a block, and solely by such elected representative who shall be the sole Voting Member.

Class A Members shall not have the right to cast votes other than through the Voting Member for their Neighborhood, if one exists, but a Class A Member may cast votes for Lots owned by such Class A Member and not within a Neighborhood, or located within a Neighborhood for which the first election has yet to be called for election of a Voting Member. Such Owners of Lots not represented by elected Voting Members shall, themselves, unless the context otherwise clearly indicates to the contrary, be deemed Voting Members for purposes hereof. In the event no Neighborhoods are designated or formed, then each Member who is the Owner of a Lot is deemed a "Voting Member."

Voting Member

7.7.2 Election of Voting Member. Where applicable, a meeting may be called for the purpose of electing a Voting Member, or for replacing such Member, and the presence or concurrence, by ballot, proxy, email or otherwise of twenty-five percent (25%) of the Class A Members within such Neighborhood shall constitute a quorum for the conduct of the election. The candidate who receives the greatest number of votes shall be elected as Voting Member and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Member. The Voting Member and the alternate Voting Member shall serve a term of one year and until their successors are elected.

Initial Election

7.7.3 Initial Election. The first election of a Voting Member and alternate Voting Member from each Neighborhood, shall occur within one year after the sale of the first Lot in the Neighborhood to a Person other than a Declarant Affiliate. Thereafter, the Board shall call for an election of Voting Members and alternates on an annual

basis, either by written ballots cast by mail, computer, or at a meeting of the Class A Members within such Neighborhood, as the Board determines. Upon the written request of Class A Members representing at least ten percent (10%) of Class A Members within a Neighborhood, a meeting shall be required for election of the Voting Member.

Special Services

7.7.4 Special Services to a Neighborhood. Any Neighborhood, acting either through a Neighborhood Committee elected as provided in the Bylaws or through a Neighborhood Association, if any, may request that the Association provide a higher level of service than that which the Association generally provides to all Neighborhoods or may request that the Association provide special services for the benefit of Lots in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Lots within a Neighborhood, a request may be made to the Association to provide additional requested services.

The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Lot to all Neighborhoods receiving the same service), shall be assessed against the Lots within such Neighborhood as a Neighborhood Assessment.

7.8 Control by Declarant, and Rights of the Class B Member

Declarant, as the Class B Member has the right to control the Association. Such control shall exist by virtue of the right, at all times during the Declarant Control Period, to appoint a majority of the Directors of the Association, as well as their replacements in the event of death, removal, resignation or otherwise. Additionally, Declarant may amend this Declaration, may amend the Articles and Bylaws of the Association, may appoint the ARC, and may veto amendments proposed to be made by the Class A Members. The Class B Member and Declarant shall have such additional and other rights and powers as are set forth herein or in other Governing Documents, including the right to disapprove of actions of the Board.

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7.9 Transfer of Membership

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

ARTICLE VIII

ASSESSMENTS AND CREATION OF LIEN

8.1 Creation of Assessment Lien: Personal Obligation of Lot Owner

Each Owner by acceptance of a deed therefor (whether or not it should be so expressed in any such deed or other instrument) is deemed to covenant and agree, to pay to the Association the Assessments and Special Use Fees when due. The amount and time for payment of the Special Use Fees and the Assessments shall be determined by the Board pursuant to this Declaration and the Articles and Bylaws. In determining the amount of the Special Use Fees and the Assessments, the Board may give such consideration as it determines appropriate to any surplus funds or other revenue balances held by the Association from prior years and the Board shall be entitled to establish such reasonable reserves for the Association as it deems appropriate.

Assessments, together with interest thereon and late charges and reasonable attorneys' fees, if any, incurred by the Association in connection with the enforcement and collection thereof or in otherwise enforcing this Declaration, shall be a charge and continuing servitude and lien upon the Lot against which such Assessments are made and, in addition, shall be the personal obligation of the Owner of such Lot at the time when such Assessments become due and payable. This provision shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

8.2 Annual Assessments

The Association by and through the Board shall determine and levy the Annual Assessments for the purposes set forth hereinbelow. The Annual Assessments levied by the Association shall be used to accomplish the duties and purposes of the Association within the Covered

Property, to pay the costs of administration of the Association and the maintenance of the Common Area, to establish reasonable reserves, and to otherwise further the interests of the Association as the Board deems appropriate. The Annual Assessments shall take into account the Common Expenses of the Association and distinguish such expenses from Neighborhood Expenses.

Subject to the limitations hereof, the Board may, during an Assessment Period, revise the amount of the Annual Assessment in order to meet expenses which exceed the amounts previously budgeted by the Association and collect such increased Annual Assessment in accordance with the provisions hereof.

The Common Expenses shall include all cost and expense incurred or to be incurred by the Association pursuant to that certain "Easement and Maintenance Agreement" by and between the Association, Declarant, Quail Creek Country Club Property Owners Association, Robson Ranch Quail Creek, LLC, a Delaware limited liability company, et al, recorded in the office of the Pima County Recorder and setting forth among other things the duty of the Association to contribute toward the cost of maintenance and repair of roadways, landscaped areas and related improvements. All Owners shall comply with all terms and provisions of the said Easement and Maintenance Agreement.

8.3 Annual Assessment Period

Except as otherwise provided herein below, the Assessment Period shall be the calendar year. The Board may, in its sole discretion, from time to time, change the Assessment Period. The initial Assessment Period shall commence upon conveyance of the first Lot from Declarant or any Declarant Affiliate to an Owner, and shall terminate on December 31 of the same year. The Annual Assessments shall be prorated for the initial Assessment Period.

If any installment permitted for the payment of Assessments is not paid when due, the Board may accelerate the entire Annual Assessment or other Assessment. Late fees and interest may be added to the Delinquent Amount of any Assessment, as provided herein, and become a part thereof, and may continue to accrue interest thereon, all to the extent permitted by law. Delinquent payments shall, to the extent permitted by law,

apply first to the principal amount of any delinquent Assessments, then to accrued interest, and then to late fees and other sums due. The Owner shall also be liable for attorneys fees and legal costs, including litigation related expenses and expert witness fees, if any. Attorneys fees and costs incurred shall to the extent permitted by law, be deemed a part of the delinquent Assessment, and shall be secured by the lien therefor.

**8.4 Association's Rights in
Spending Funds from
Year to Year**

The Association shall not be obligated to spend in any year all monies received by it in such year, and the Board may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year. The Association shall be under no obligation to refund any surplus balance, but may do so, or may transfer surpluses to the reserve account or other account at the Board's discretion.

8.5 Rate of Assessment

The amount of the Annual Assessments, Maintenance Assessments, Neighborhood Assessments, and Special Assessments shall be established by the Board, in its sole discretion. In establishing its budget and creating its plan for Assessments each year, the Board shall establish an Annual Assessment per Lot payable by the Owner of each Lot.

**8.6 Maintenance
Assessments**

The Association may assess Maintenance Assessments against a Lot in the event the need for maintenance or repair of areas maintained by the Association is caused through:

8.6.1 The willful or negligent act or omission of any Owner (or of any other person for whom such Owner is legally responsible under applicable state law); or

8.6.2 the maintenance of a Lot by an Owner, or failure to maintain, so as to present a nuisance, or to substantially detract from or negatively affect the appearance or quality of any neighboring Lot or other area; or

8.6.3 the maintenance of a Lot by an Owner, or failure to maintain, so as to violate this Declaration or any applicable Neighborhood Declaration; or

8.6.4 any use of, or activity on, any Lot that causes

maintenance or repair costs incurred or to be incurred by the Association with respect to Common Area to be substantially greater than those costs which would typically be incurred in relation to such Common Area, whether such use or activity is of a continuing nature or an isolated event.

In any such case, the Board may, depending upon the circumstances, give notice to the Owner of such Lot that unless specified corrective action is taken within a specified time period, the Association, at such Owner's cost, may take whatever action is appropriate to compel compliance including, without limitation, appropriate legal action.

If at the expiration of the specified time period the requisite corrective action has not been taken by the Owner, at the Owner's sole cost, the Board is authorized and empowered, subject to such notice and hearing as may be required by law, at its sole discretion, to cause corrective action to be taken or to commence appropriate legal action and the cost thereof, including court costs and attorneys, fees, shall be charged to the Owner as a Maintenance Assessment.

The Maintenance Assessment shall be added to and become a part of the Assessments to which the offending Owner and the Owner's Lot is subject, shall be secured by the Assessment Lien, and shall be due fifteen (15) days after written demand or notice by the Board.

In no case may any form of Maintenance Assessment be levied or charged with respect to Lots owned by Declarant.

This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

8.7 Neighborhood Assessments

Where the Association has undertaken, by virtue of its obligations hereunder, or pursuant to a Neighborhood Declaration approved by Declarant, or pursuant to any special contract executed by the Association, the responsibility to maintain, repair, replace, repave, resurface or operate private streets or private roadways or any open space, recreational facilities, if any, or other common facilities or any guard gates, or any Limited Common Area, the Board, if in its discretion determines that such private streets or private roadways (or appurtenant equipment and

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facilities) or open space, recreational or other common facilities or guard gates, exclusively or disproportionately benefit the Owners of certain groups of Lots, may assess all (or such appropriate portion as the Board shall determine in its discretion) of the cost of such maintenance, repair, replacement, repaving, resurfacing, operation, and, if applicable, ownership, solely against the Lots within such subdivision or area within the Covered Property (and the respective Owners thereof) as a Neighborhood Assessment.

A Neighborhood Assessment shall be assessed uniformly against each of the Lots within such area and shall be secured by the lien for Assessments as described herein. Such additional Neighborhood Assessment may also include amounts to establish and fund reserves as the Board may deem reasonable and appropriate. In any case where a Neighborhood Association exists, the Board may require that the Neighborhood Association collect and transmit Neighborhood Assessments to the Association.

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

A Neighborhood Assessment pursuant to this Section shall be secured by the Assessment Lien on each Owner's Lot or Lots affected, and shall be due and payable by such Owners to the Association fifteen (15) days after such dates or times as are determined by the Board.

8.8 Fines and Penalties.

If any Owner, his or her family, or any licensee, invitee, tenant or lessee violates the provisions hereof, or any provision of any of the ARC Guidelines or other rules of the Association, the Board after providing the Owner with notice of the violation and an opportunity for a hearing as required by law, may levy a fine upon the Owner, may suspend the violator's right to use the recreational components of the Common Area and may charge such Owner all costs incurred by the Association in connection with enforcement or other action taken by the Association,

including attorneys fees and costs incurred. Such violation shall also be grounds for the Association, should it wish, to suspend the said rights of the Owner and its family members, guests and invitees.

The Board may establish a procedure for conducting hearings and imposing penalties. Any fines imposed against the Owner which are not paid within fifteen (15) days of notice of the due date, may be charged to the Owner of the Lot in question, and may be collected as provided by law.

In no event shall any fine be imposed for a default or violation of the Governing Documents, other than a failure to pay Assessments, without first affording the Owner notice and an opportunity for hearing.

This Section shall be subject to such limitations as are imposed by law, including A.R.S. § 33-1807.

8.9 Special Assessments

In addition to the Annual Assessments, the Board may levy a Special Assessment a) for the purpose of constructing improvements to Common Area; b) correcting an inadequacy in the Association's accounts; c) defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement owned by the Association; or d) defraying other extraordinary expenses or paying other expenses the Board may deem appropriate, including increased expenses encountered by the Association in connection with new or expanded Common Area amenities or features, including such amenities or features within annexed land. The Board may also levy a Special Assessment against the Lots within any Neighborhood if such Special Assessment is for Neighborhood Expenses. The Board shall specify the effective date of any Special Assessment and may provide that the Special Assessment is payable in installments. Special Assessments shall be approved by the Class B Member and either the written consent of, or vote at any annual or special meeting of, Voting Members representing a majority of all votes allocable to Lots. In the case of Neighborhood Expenses, a Special Assessment may be approved by the vote or written consent of Owners representing a majority of the total votes allocated to Lots which will be subject to such Special Assessment. The Board may in any case, however, impose and assess a Special Assessment as to all Lots, or Lots within a

Neighborhood, without any vote or consent of Members whatsoever if the purpose is to pay the increased costs and expenses of the Association due to increased costs of insurance or taxes, or due to necessary capital improvements, or which are incurred in connection with annexed land or new Common Areas, amenities or features, and the Class B Member shall have the right to cause the Board to make and levy such Special Assessments.

**8.10 Billing and
Collection Procedures**

The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments and Special Use Fees, which procedures may include delegating to the applicable Neighborhood Association the authority and obligation of billing and collecting some or all of the Assessments and Special Use Fees. The failure of the Association to send a bill to an Owner shall not relieve such Owner of the Owner's liability for an Assessment or Special Use Fee. It shall be the responsibility of the Owner to inform the Association in writing of a change of address. The Association shall be under no duty to refund any payments received by the Association even if the ownership of a Lot changes during an Assessment Period. Any successor Owner shall be given credit for any non-refunded prepayments made by a prior Owner.

**8.11 Collection Costs
and Interest on
Delinquent Amounts**

Any Delinquent Amount shall have added thereto a late charge of the greater of fifteen dollars (\$15.00) or ten percent (10%) of the Delinquent Amount if such Delinquent Amount is not paid within fifteen (15) days after the due date. Any Delinquent Amount shall bear interest from its due date until paid at a rate equal to the greater of twelve percent (12%) per annum, the then prevailing interest rate on loans insured by FHA or VA, or such rate as is determined from time to time by the Board. The Owner shall be liable for all costs, including but not limited to attorneys, fees and collection agency fees, which may be incurred by the Association in collecting any Delinquent Amount, and such amounts, to the extent permitted by law, shall be deemed a part of the Assessment Lien.

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8.12 Working Capital Fund

To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment and services, each purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of a Lot a sum equal to twenty-five percent (25%) of the then-current Annual Assessment applicable to such Lot (the "Working Capital Fund Contribution").

A Working Capital Fund Contribution shall continue to be payable upon each subsequent sale of a Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under this Declaration and the Articles and Bylaws. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as advance payment of any Assessments levied by the Association pursuant to this Declaration.

8.13 Declarant's Exemption

Anything in this Declaration to the contrary notwithstanding, neither the Declarant nor any Declarant Affiliate shall be liable for, nor shall they be required to pay, Assessments of any nature for Lots owned by them. Nor shall Declarant or a Declarant Affiliate be liable for the payment of any Assessments for any Lot that, having been previously sold to a purchaser, has been deeded back to the Declarant by foreclosure or deed in lieu of foreclosure.

Declarant and each Declarant Affiliate shall, however, pay during the Declarant Control Period the actual shortfall or deficiency, if any, in necessary ordinary operating revenue to pay current ordinary expenses for the operation and maintenance of the Association and Common Area (i.e., only for actual budget deficits), but only up to the full Annual Assessment for each such Lot actually owned by Declarant or Declarant Affiliate in the Covered Property. A shortfall or deficiency shall exist if current ordinary and budgeted expenses of the Association are greater than the revenues of the Association from all sources for the Assessment Period in question; provided, however, that neither Declarant nor a Declarant Affiliate shall be liable for any shortfall or deficiency created by any decrease in the amounts of the Annual Assessments from those charged during any prior year, which decrease was not approved by Declarant, nor for any shortfall or deficiency incurred after expiration of the Declarant Control Period. Declarant and any Declarant Affiliate may at any time at their sole discretion elect to cease paying the

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shortfall or deficiency, if any, and to pay instead up to the full Annual Assessment for each Lot owned by Declarant or by Declarant Affiliate. Declarant's and Declarant Affiliate's obligation to contribute toward a deficiency as provided herein is supported by a lien on Declarant's Lots and the Lots of each Declarant Affiliate.

In the event of deficiencies, as aforesaid, Declarant and each Declarant Affiliate shall share the burden of payment of the deficiency by paying their ratable share of same, up to the full amount of the Annual Assessment for each Lot owned by them. Further, should Declarant assign its rights to the exemption from Assessments as provided herein, whether such assignment be in whole or in part, then the assignee shall, in the case of any deficiency as described above (and meeting the conditions set forth above), be liable for its ratable share of same, up to the full amount of the Annual Assessment for each Lot owned by them, and not more.

In no event shall Declarant or any Declarant Affiliate be required to contribute to any deficiency after termination of the Declarant Control Period or after Declarant or such Declarant Affiliate shall have elected to cease paying the deficiency and to pay Annual Assessments, instead.

Nothing in this Section, nor in this Declaration, shall in any way limit the right or ability of the Board, whether or not during the Declarant Control Period, to increase Assessments, to levy Special Assessments, nor to take other action necessary to assure that revenues of the Association, including reserves, are maintained at proper levels as determined by the Board in its reasonable discretion.

8.14 Savings Clause

Notwithstanding the provisions of this Article, or any other provision of this Declaration, the extent of any lien of the Association shall be subject to such provisions as are established at law or in equity, including such limitations as are established and imposed by A.R.S. § 33-1807.

FOOTNOTES

ARTICLE IX

RECREATIONAL IN LIEU FEE

9.1 Recreational Amenity in Lieu Fee

Each Owner acknowledges and agrees to pay in full to the Town, at the time of issuance of building permits for a Dwelling Unit upon a Lot Owned by such Owner, a fee equal to twelve hundred dollars (\$1200.00) (the "Recreational In Lieu Fee").

9.2 Agreement and Obligation for Payment by all Owners; No Amendment

The Recreational In Lieu Fee is a fee paid to the Town in relation to community and other recreation needs, and each Owner, by acceptance of title to any Lot or by application for a building permit for any Dwelling Unit agrees irrevocably to pay, and to be solely responsible to pay, such Recreational In Lieu Fee to the Town.

The provisions of this Article are for the benefit of the Town and Declarant, and the provisions of this Article shall at no time be amended, altered or deleted without the written consent of Declarant, and any such attempted action without Declarant's written consent shall be void and of no force or effect. No waiver of Declarant rights or Class B Membership rights shall be deemed a release of the obligations of the Owners hereunder.

ARTICLE X

ENFORCEMENT OF THE ASSESSMENT LIEN

10.1 Association Remedies to Enforce Assessments

If any Owner fails to pay any Assessments or Special Use Fees when due, the Association may (and each Owner hereby authorizes the Association to) enforce the payment thereof and the Assessment Lien by taking any and all action available at law or in equity, including:

10.1.1 Bringing an action against the Owner to recover judgment against the Owner who is personally liable for the Assessments or Special Use Fees; and,

10.1.2 Foreclosing the Assessment Lien against the appropriate Lot in accordance with then prevailing Arizona law, including such limitations as are established by A.R.S. §33-1801 et seq. Though not required, the Association may record notice of its lien, and all costs of preparation of such notice, recording and releasing same, including attorneys

fees and costs, shall be paid by the delinquent Owner, with all expense thereof being a part of the lien of the Assessment.

10.2 Subordination of Assessment Lien

The Assessment Lien shall have priority from the date of recording of this Declaration, and shall be superior to all charges, liens or encumbrances which hereafter are or may be imposed on any Lot, except as provided by law. Without limitation, the Assessment lien is junior to:

10.2.1 The lien of any First Mortgage encumbering a Lot; and

10.2.2 the lien for taxes or other governmental assessments which are deemed superior hereto by applicable law.

Sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, the sale or transfer of any Lot pursuant to any First Mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the Assessment Lien as to payments which became due prior to such sale or transfer. No other sale or transfer shall relieve a Lot, or the Owner thereof, for liability from any Assessment theretofore becoming due nor from the Assessment Lien arising in regard thereto. No Event of Foreclosure shall relieve the Owner whose interest was foreclosed from liability for Assessments payable through the date of such Event of Foreclosure.

In addition, no Event of Foreclosure shall impair the Assessment Lien, except that a First Mortgagee obtaining an interest in a Lot through an Event of Foreclosure shall take title subject only to such Assessments as shall accrue subsequent to the date the Person acquires its interest.

This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1801 et seq.

ARTICLE XI

MAINTENANCE

11.1 Common Area and Public Rights-of-Way

Association Duty

11.1.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall maintain and otherwise manage Common Area. Common Area to be maintained by the Association may be identified on recorded subdivision plats approved by Declarant, or in

a Neighborhood Declaration or in deeds from Declarant, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect thereto. A Neighborhood Declaration or a separate instrument approved by Declarant may limit the Association's responsibilities with respect to certain Common Area.

Rights of Way

11.1.2 Rights of Way. The Association may also in its discretion elect to maintain landscaping and similar improvements within public rights of way located within the Covered Property to the extent the Association wishes to augment or enhance the degree of repair and maintenance provided by any governmental entity with respect to such public rights of way.

11.2 Standard of Care

The Association shall use a reasonable standard of care in providing for the repair, management and maintenance of the Common Area so that the Covered Property will reflect a high degree of pride of ownership. The Board shall be the sole judge as to the appropriate level of maintenance of all Common Area.

ARTICLE XII

RIGHTS AND POWERS OF ASSOCIATION

12.1 Rights, Powers and Duties of the Association

In addition to the rights and powers of the Association set forth in the Governing Documents, the Association shall have such rights and powers and duties as may be reasonably necessary in order to effect all the objectives and purposes of the Association as set forth herein. A copy of the Governing Documents shall be available for inspection at the office of the Association during reasonable business hours. To the extent development may be governed by that the Development Agreement, the Association shall in performing its duties and functions comply with the specific terms thereof that pertain to the Association.

12.2 Provisions of the Specific Plan

Notwithstanding anything contained in this Declaration to the contrary, development of the Covered Property is intended to conform to the applicable requirements of that certain Quail Creek Specific Plan and applicable amendments thereto (the "Specific Plan"), as such Specific Plan may from time to time be further amended. All Owners, by acceptance of a deed to any portion of the Covered Property, are deemed to be fully

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advised as to the content of the Specific Plan. No representation is made with respect to the content of the Specific Plan, and Declarant reserves the right fully to seek any and all amendments thereto as it may deem proper, and amendments shall not be deemed in violation of the provisions hereof.

12.3 Rules and Regulations

In addition to the right to adopt, amend and repeal rules and regulations (the "Rules") on the matters expressly mentioned elsewhere in this Declaration, the Association, acting through the Board, shall have the right to adopt, amend and repeal rules and regulations, as a part of the Rules, with respect to all other aspects of the Association's rights, activities and duties, provided such rules and regulations are not inconsistent with the provisions of the Governing Documents. Upon adoption, the Association's Rules shall be enforceable in the same manner as this Declaration and shall have the same force and effect as if they were set forth in and were a part of this Declaration.

12.4 Association's Rights of Enforcement

The Association shall have the right, but not the obligation, to enforce the provisions of this Declaration and all Additional Covenants that shall have been executed pursuant to or subject to the provisions of this Declaration. If the Association shall fail or refuse to enforce the provisions of this Declaration or the Additional Covenants after receipt of written request to enforce from any Owner, then any Owner shall have the right and authority, but not the obligation, to enforce the provisions of this Declaration.

12.5 Enforcement Methods and Means

The Association, after affording such notice and opportunity for a hearing, or to be heard, as may be required by law, may enforce the provisions hereof at law or in equity, including, but not limited to:

12.5.1 Imposing reasonable monetary penalties, which penalties shall be the obligation and liability of the offending Owner to pay, with each Owner being further liable for the acts of his or her guests, invitees and Tenants or residents.

12.5.2 Suspending an Owner's right to vote after notice and opportunity to be heard.

12.5.3 Suspending any services provided by the Association to an Owner or the Owner's property if the Owner is more than 15 days delinquent in paying any

Assessment or other charge owed to the Association.

12.5.4 Exercising self-help or taking action to abate any violation of the provisions hereof.

12.5.5 Requiring an Owner at the Owner's expense to remove any offending condition, structure or improvement on the Owner's property, and further requiring the said Owner to restore his or her property to the condition in which it previously existed, without such action being a trespass.

12.5.6 Without liability to the Association or to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Declaration from continuing to perform and further activities on the Covered Property.

12.5.7 Towing vehicles which are parked in violation of the provisions hereof.

12.5.8 Filing suit at law or in equity to enjoin a violation of the provisions hereof, or to recover fines or Assessments or such other relief as may be appropriate.

The Board may weigh financial and other factors, such as possible defenses, legal merit and other factors, in determining whether to pursue legal action, and the Board's discretion in such matters shall be final. The rights and remedies of the Association are cumulative, and the Association may pursue any or all remedies without waiver, and any failure by the Association to take legal action shall not limit or waive the right of any Owner to pursue proper action, nor the right of the Association to pursue action at a future time should it so desire.

**12.6 Contracts with
Others; Bulk Service
Agreements**

Subject to the restrictions and limitations contained herein, the Articles, the Bylaws, and the laws of the State of Arizona, the Association may enter into contracts with others, including Declarant and Declarant Affiliates, and such contracts shall not be invalidated by the fact that one or more directors or officers of the Association are employed by or otherwise affiliated with Declarant or Declarant Affiliates, provided, however, that the fact of such interest shall be previously disclosed or made known to the other members of the Board acting upon such contract or

transaction and, provided further, that the transaction or contract is fair and reasonable. Notwithstanding the foregoing, any contract entered into by the Association shall be for a term not exceeding the maximum term permitted by law.

The Association may, without limitation, provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense or may be funded as otherwise determined by the Board in accordance with this Declaration. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board shall be permitted to modify or cancel existing services or facilities, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to what services and facilities, if any, will be provided by the Association. If all Lots within the Covered Property are to be served by a particular bulk service agreement, the Board shall have the option either to (a) include the Association's costs under such bulk service agreement in the budget for each applicable fiscal year and thereby include such costs in the Assessments for each such applicable year, or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such bulk service agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board but no more often than monthly). If not all Lots within the Covered Property will be served by a particular bulk service agreement, the Board shall include the Association's costs under such bulk service agreement in a Neighborhood Assessment assessed solely against the Lots served for each applicable fiscal year.

12.7 Limited Common Area

12.7.1 Purpose. Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or

Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, if any, landscaped medians and cul-de-sacs, and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Limited Common Areas are assigned.

Designation. Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Lots and/or Neighborhoods, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 15.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Board and the vote of Voting Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 15.1, any such assignment or reassignment shall also require Declarant's written consent.

12.7.2 Use by Others. Upon approval of a majority of Owners of Lots within the Neighborhood to which any Limited Common Area is assigned, the Association may permit Owners of Units in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

**12.8 Change of Use or
Conveyance of Common
Area**

The Declarant and the Association shall have broad rights to convey Common Area as set forth in Section 3.1 above, all without consent of Members or Owners, as provided therein. In addition, and without limitation, Common Area may be conveyed or the use thereof

changed as follows:

12.8.1 Resolution of Board. The Association, upon adoption of a resolution by the Board stating that the then current use of a specified part of the Common Area is no longer in the best interests of the Owners and Occupants, and upon the approval of such resolution by Voting Members representing at least two-thirds (2/3rds) of the votes allocable to Lots within the Covered Property, and Declarant so long as Declarant is a Member of the Association, the Board shall have the power and right to convey or change the use of Common Area (and in connection therewith to take whatever actions are required to accommodate the new use), provided that in the case of a change of use such new use:

- (a) also shall be for the common benefit of the Owners and Occupants; and
- (b) shall be consistent with this Declaration, any recorded Neighborhood Declaration and zoning regulations.

The foregoing provisions do not apply to minor or insignificant changes conveyances or changes in use, such as, but not limited to, adjustments of fence lines or boundary walls, expansions or relocations of private streets, and the like, and such matters may be approved by the Board, with the approval of the Class B Member.

The Class B Member shall have the right to disapprove any such decision by the Association, as provided in the Bylaws.

12.8.2 Dedications. The Association shall have the right to dedicate or transfer all or any part of the Common Area to any public authority, utility or public service corporation as provided in Section 3.1 above. In addition, the Association may make such dedications, provided that:

- (a) the Board in its sole discretion determines that such a transfer or dedication does not have a material and substantial adverse effect on the enjoyment of the remaining Common Area by the Owners and Occupants; and
- (b) such transfer shall be approved by Class B

Member so long as such Membership exists.

12.8.3 Resubdivisions. Declarant shall at any time have the right to cause the Association or the Board to resubdivide Common Area, and may do so without the consent or approval of any other Member, and without a vote or meeting of Members.

ARTICLE XIII

EMINENT DOMAIN AND INSURANCE INVOLVING THE COMMON AREA

13.1 Eminent Domain

In the event of a threatened taking of all or any portion of the Common Area, the owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with the taking. The Board shall act, in its sole discretion, with respect to any awards made or to be 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.

Any awards received on account of the taking shall be paid to the Association. In the event of a total taking, the Board may, in its sole discretion, retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Owners, and all holders of liens and encumbrances, as their interest may appear of record.

The term "taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation.

13.2 Authority to Purchase Insurance

The Association shall as a Common Expense purchase and maintain such property damage and liability insurance upon the Common Area and such other insurance as the Board, in its absolute discretion, may determine. The Association shall be the named insured in all policies providing such insurance. Without limitation, the Association may consider all forms of insurance and endorsements thereto, including replacement value coverage, floodplain coverage, fidelity protection, workers compensation coverage for employees, if any, and all forms of accident, personal injury and property damage insurance, including, if appropriate, waivers of subrogation and non-contribution endorsements. Neither the Association nor the Board, nor any member of the Board or

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officer or agent of the Association, shall be liable to any Person for failure of the Association to secure and maintain any such insurance coverage where such insurance coverage is not available in the State of Arizona at a reasonable cost and on other reasonable terms and conditions.

Notwithstanding the foregoing, the Association shall obtain and maintain at all times, at the Association's expense, directors' and officers, liability insurance covering all officers and directors of the Association as well as all regular and alternate members of the ARC, the Declarant, and, to the extent such insurance is reasonably available, and at the Board's discretion, any property manager under contract with the Association, all in amounts and on terms adequate to permit the Association to indemnify such persons pursuant to the provisions hereof and pursuant to the provisions of the Articles and Bylaws. Neither the Association nor any Board member nor Declarant shall be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of such insurance is not adequate.

13.3 Individual Responsibility

It shall be the responsibility of each Owner or Occupant to provide insurance for real or personal property or interests owned or held by such Owners within the Covered Property, including, but not limited to, homeowners insurance, hazard, fire and casualty insurance, liability insurance, and property damage insurance covering all additions and Improvements to Lots, furnishings and personal property therein, and personal liability.

Each Owner and Occupant shall also provide such other insurance which is not carried by the Association as such Person desires. No Person shall maintain any insurance which would limit or reduce in any manner the insurance proceeds payable under the insurance maintained by the Association in the event of damage to the improvements or fixtures on the Common Area. Neither the Association nor any Board member nor Declarant shall be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of such insurance is not adequate.

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13.4 Insurance Claims

The Association is hereby irrevocably appointed and authorized by the Owners to adjust all claims arising under insurance policies purchased by the Association covering Common Area and improvements thereon, property or interests of the Association, liability of the Association, and other such insurance.

Each Owner shall 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 committee, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Association.

Any Owner who causes any damage or destruction of any areas for which the Association maintains insurance, is responsible for the payment of any deductible portion of the insurance, which will become a Maintenance Assessment against the Owner and the Lot.

ARTICLE XIV

DISPUTE RESOLUTION

14.1 Approval of Association Action

14.1.1 Except as provided in this Article, the Association may not commence a legal proceeding or an action within the purview of Section 14.1.2 without the approval of at least two-thirds (2/3rds) of the Class A votes of the Voting Members eligible to vote. This Article shall not apply, however, to (i) actions brought by the Association to enforce governing documents (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it.

14.1.2 Prior to the Association or any Member commencing any proceeding to which Declarant, any Declarant Affiliate, or beneficiary thereof, is a party, including but not limited to an alleged defect of any improvement, Declarant and each Declarant Affiliate shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or

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redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

**14.2 Alternative Method
for Resolving Disputes**

Declarant, its beneficiaries, members, partners, officers, directors employees and agents; the Association, its officers, directors and committee members; all Persons subject to this Declaration, including all Owners and Members of the Association, its officers, directors employees and agents; and any Person not otherwise subject to this Declaration but who agrees to submit to this Article (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 14.3 (singularly, "Claim," and collectively, "Claims") to the procedures set forth in Section 14.4.

14.3 Claims

Unless specifically exempted below, all claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including but not limited to, claims (a) arising out of or relating to the interpretation, application or enforcement of this Declaration, or to the Articles or Bylaws ("Governing Documents") or the rights, obligations and duties of any Bound Party under the Governing Documents; (b) relating to the design or construction of improvements; or (c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party, shall be subject to the provisions of 14.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of 14.4:

- (a) any suit by the Association against any Bound Party to enforce the provisions hereof pertaining to assessments, fines or charges;
- (b) any suit by the Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the

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Association's ability to act under and enforce the provisions hereof;

- (c) any suit between or among Owners, which does not include Declarant, Declarant Affiliate, their beneficiaries, members, partners, officers, directors, employees or agents, or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and
- (d) any suit in which any indispensable party is not a Bound Party.

With the consent of all parties hereto, any of the above identified in this Section may be submitted to the alternative dispute resolution procedures set forth herein.

14.4 Mandatory Procedures

14.4.1 Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and the Respondent referred to herein being individually, as a "Party" or, collectively, as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (a) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (c) the proposed remedy; and
- (d) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

14.4.2 Negotiation.

- (a) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

- (b) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), the Claim shall be pursued by the Claimant in arbitration.

Arbitration Required

14.4.3 Binding Arbitration.

Upon Termination of Negotiations, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Such claims shall not be decided by or in a court of law. Arbitration shall take place in Pima County, Arizona. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds \$250,000, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

14.5 Conflicts

In the event that a separate binding arbitration agreement exists by and between an Owner and any person whom is not a Bound Party ("Third Party"), or in the event an Owner is bound by a separate lawful and enforceable agreement to arbitrate disputes, then in the event of a conflict between such separate agreement and the provisions hereof, the separate agreement shall control in disputes between such Owners and Third Party, but neither the Association, Declarant, nor any Bound Party other than such Owner and Third Party who are parties to or bound by such separate agreement shall be subject to the terms of such separate agreement, whether or not in conflict, unless they agree to be bound thereby.

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**14.6 Amendment of
Article; Severability**

Without the express prior written consent of Declarant, this Article may not be amended for a period of twenty years from the effective date of this Declaration. The provisions of this Article shall be deemed severable, and should any portion be declared unenforceable by any court of competent jurisdiction, the remaining provisions shall be unaffected.

ARTICLE XV

ANNEXATION AND DE-ANNEXATION

**15.1 Annexation of
Property**

Declarant may, in its sole discretion, at any time and from time to time up to the date which is twenty-five (25) years after the date this Declaration is recorded, annex to the Covered Property any Annexable Property. Annexable Property shall mean and include any and all property within three (3) miles of the Covered Property. To effect such annexation, a Declaration of Annexation covering the property (or the applicable portion or portions thereof) shall be executed and recorded by Declarant.

The recordation of such Declaration of Annexation shall constitute and effectuate the annexation of the Annexable Property sought to be annexed as of the date of recordation or such later date, if any, as may be set forth in such Declaration of Annexation, making such Annexable Property, and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association. In addition to the foregoing, and notwithstanding any decision not to annex the Annexable Property or any portion thereof, Declarant may grant easements for ingress, egress, utilities, and other purposes for the benefit of Annexable Property, all on terms deemed by Declarant to be reasonable, and easements shall be deemed reserved over and across all streets and roads in favor of any land not annexed.

**15.2 Declarations of
Annexation**

The annexations authorized under this Article shall be made by recording a Declaration of Annexation, which instrument may contain additional or, at Declarant's discretion, different covenants, conditions, restrictions, easements or other terms. The portions of the Annexable Property annexed in accordance with this Article shall thereupon become fully a part of the Covered Property, with each lot shown upon any subdivision plat thereof being deemed a "Lot" hereunder, and with the Association to accept any and all Common Area shown upon any such

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15.3 Annexation by Owners

To effect such annexation, a Declaration of Annexation covering the proposed property shall be executed by the President or Vice-President of the Association and attested to by the Secretary of the Association, and executed by the owner of the property to be annexed. The recordation of such Declaration of Annexation shall constitute and effectuate the annexation of the property described therein, making such property and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association. Unless otherwise approved in writing by Declarant, any Declaration of Annexation approved pursuant to this Section 15.3 shall be consistent with this Declaration and not in conflict therewith.

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15.4 De-Annexation of Covered Property

Declarant may, in its sole discretion, at any time and from time to time up to the date which is twenty-five (25) years after the date this Declaration is recorded, de-annex or withdraw from the Covered Property any portion or portions thereof (subject to the written consent of the owner of the portion or portions to be de-annexed or withdrawn, if other than Declarant).

To effect such de-annexation or withdrawal, Declarant shall execute and record a Declaration of De-Annexation setting forth the legal description of the portion or portions of the Covered Property to be de-annexed or withdrawn, and such Declaration shall be executed by the Declarant and the Owner of the land to be withdrawn. The land to be withdrawn may include any portion of the Covered Property, including Lots and Common Area. Recording such Declaration of De-Annexation shall constitute and effectuate the de-annexation and withdrawal of the applicable portion or portions of the Covered Property described therein, and such property and the Owners and Occupants thereof shall no longer be subject to this Declaration or the jurisdiction of the Association. Notwithstanding the preceding sentence, except as otherwise provided in the applicable Declaration of De-Annexation, de-annexation or withdrawal of any portion or portions of the Covered Property will not be effective until the owner of the property to be de-annexed or withdrawn has paid all unpaid Assessments applicable to such property (unless exempt), prorated to the date of de-annexation or withdrawal.

It is specifically understood that this right of de-annexation or withdrawal may be exercised in Declarant's sole and absolute discretion, and that once de-annexed or withdrawn, none of the provisions hereof shall apply to or encumber the land. Further, the Class B Member may cause the Association to grant and convey such easements as may be necessary to benefit such land de-annexed or withdrawn, including easements for ingress, egress, and utilities, all on terms, if any, deemed by them to be proper.

**15.5 Protection of
Declarant.**

The provisions of this Article may not be amended without the written approval of Declarant.

ARTICLE XVI

TERM; AMENDMENTS; TERMINATION

**16.1 Term; Method of
Termination**

This Declaration shall be effective upon its recordation and, as amended from time to time, shall continue in full force and effect unless and until there is an affirmative vote to terminate this Declaration by the then Owners casting ninety percent (90%) of the total votes entitled to be cast by the entire Membership. Upon the recording of a Certificate of Termination executed by the President and Secretary of the Association confirming such vote, this Declaration shall have no further force and effect and the Association thereupon shall be dissolved in accordance with the terms of its Articles and Bylaws and the laws of the State of Arizona. No such termination shall be effective unless approved in writing by Declarant so long as Declarant owns any portion of the Covered Property.

16.2 Amendments

***Broad Power of
Declarant***

16.2.1 By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until such time as seventy-five percent (75%) of the total number of Dwelling Units which are permitted to be built both within the Covered Property, as such percentage is determined by Declarant in its sole discretion, have had certificates of occupancy (or the equivalent approval) issued and have been conveyed to Persons other than Declarant or a Declarant Affiliate (the "Primary Declarant Amendment Period"), Declarant may, so long as Declarant owns any land from within the Covered Property, amend this Declaration for any purpose, and without the consent or approval of any Owners or Members, or any other Person. After the Primary Declarant Amendment Period, Declarant may still, of its own volition, and without the consent or approval of any Owners or Members, or any other Person, amend this Declaration for the following purposes: (a) to bring any provision hereof into compliance with applicable law; (b) to satisfy the requirements of any Agency; or (c) to correct any error or ambiguity; or (d) to further the intent or purposes hereof by expanding upon the existing provisions hereof.

Any amendment during such time as Declarant is a Class B Member or a Class A Member of the

Association shall require the written approval of the Declarant. Further, so long as Declarant owns any land from within the Covered Property, Declarant may, without any other consent or approval, amend this Declaration to clarify the application of the provisions hereof to any land which may be annexed, or for any other reasonable purpose in connection with any land which may be annexed.

Power of Association

16.2.2 By the Association. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners, including Declarant, who in the aggregate own at least two-thirds (2/3) of the Lots within the Covered Property, and Declarant's consent as well so long as Declarant owns any portion of the Covered Property.

***Neighborhood
Declarations***

16.2.3 Amendment of Neighborhood Declarations. A Neighborhood Declaration may be amended as provided in such Neighborhood Declaration, but only with the consent of Declarant so long as Declarant owns a single Lot or portion of the Covered Property. Thereafter, a Neighborhood Declaration may be amended as provided therein, and with the approval of the Board.

**16.3 Mortgagee
Protection; Termination of
Association;
Condemnation Proceeds
etc.**

16.3.1 Termination of Association. Any actions to terminate this Declaration for reasons other than substantial destruction or condemnation of the Covered Property shall require, in addition to the approval of Declarant so long as Declarant owns any portion of the Covered Property, and in addition to such approval as is required by law, the approval of Eligible Mortgage Holders whose First Mortgages encumber Lots whose Owners represent at least sixty-seven percent (67%) of the total Class A votes in the Association.

16.3.2 Condemnation or Insurance Proceeds. No Owner, or any other party, shall have priority over any rights of any First Mortgagee pursuant to its mortgage or deed of trust in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

16.3.3 Payment of Charges by First Mortgagees. First Mortgagees may jointly or singly pay taxes or other charges that are in default and that may or have become

charges against any Common Area, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for Common Area in the case of lapse of a policy. First Mortgagees making such payments are due immediate reimbursement from the Association.

16.3.4 Right of Inspection of Records. Any Owner, First Mortgagee, or Eligible Mortgage Holder shall be entitled to: (a) inspect current copies of the Governing Documents, and the books, records, and financial statements of the Association during normal business hours; and (b) receive, upon written request therefor, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party.

ARTICLE XVII

MISCELLANEOUS

17.1 Additional Covenants

In furtherance of the orderly sale and development of the Covered Property, and of the protection and enhancement of the value of the Covered Property, Declarant shall have the right, power and authority (but not the obligation), where in Declarant's discretion the circumstances so warrant, to execute prior to, with or after the sale of any portion of the Covered Property by any purchaser, a supplement to this Declaration adding additional covenants or restrictions, qualifying or limiting the application of this Declaration to such land, or entirely excepting such land from the coverage hereof any from all of the restrictions, limitations or other provisions included herein.

Such additional covenants or restrictions may be referred to herein as the "Additional Covenants." No such Additional Covenants shall exempt any such land or the respective owners thereof from the obligations to pay Assessments hereunder or from the Assessment Lien in regard thereto or deprive such land or its Owner of membership and voting rights otherwise established by this Declaration, except that Declarant at all time shall have the right record a Declaration of De-Annexation with respect to any land.

Such Additional Covenants shall be recorded and shall be binding upon Declarant, the Association, the ARC

and each Owner and Occupant. Declarant shall deliver a true and complete copy of any such Additional Covenants to the Association within a reasonable time after recordation thereof. After conveyance of a Lot to an Owner thereof, de-annexation of such land or the imposition of Additional Covenants thereon shall require the consent of such Owner.

17.2 View Impairment

Neither the Declarant, nor the Association nor any Developer Owner guarantees or represents that any view or passage of light and air over and across any portion of the Covered Property, including any Lot, from adjacent Lots or Common Area will be preserved without impairment. Neither the Declarant, nor the Association nor any Developer Owner shall have the obligation to prune or thin trees or other landscaping except as required by the ARC or ARC Guidelines. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Any view which exists at any point in time for a Lot may be impaired or obstructed by further construction, including, without limitation, by construction of improvements (including without limitation, landscaping) by Declarant, any Developer Owner or by any third person (including, without limitation, other Owners and Occupants) and by the natural growth of landscaping. No third party, including, without limitation, any broker or salesperson, has any right to bind Declarant, the Association or any Developer Owner with respect to the preservation of any view from any Lot or any view of a Lot from any other property.

17.3 Assumption of Risk

Neither the Association, the members of the Board, the officers of the Association, the management company of the Association, nor the Declarant nor any Developer Owner, shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or Occupant of any Lot or any tenant, guest or invitee of any Owner or Occupant or for any property of any such persons. Each Owner and Occupant of a Lot and each tenant, guest, and invitee of any Owner or Occupant shall assume all risks associated with the use and enjoyment of the Covered Property, including all Common Area.

Neither the Association, the members of the Board, the officers of the Association, the Association's management company nor the Declarant nor any Developer Owner shall be liable or responsible for any personal injury,

illness, or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Covered Property. Each Owner and Occupant of a Lot and each tenant, guest, and invitee of any Owner or Occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence or malfunction of utility lines or utility sub-stations and further acknowledges that neither the Association, the members of the Board, the officers of the Association, the Association's management company nor the Declarant nor any Developer Owner have made any representations or warranties, nor has any Owner or Occupant, or any tenant, guest, or invitee of any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

No provision hereof, or of the articles of incorporation or bylaws of the Association, or of the ARC Guidelines, shall be interpreted as creating a duty of the Association, the members of the Board, the officers of the Association, the management company of the Association or the Declarant or any Developer Owner to protect or further the health, safety, or welfare of any Person, even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Covered Property (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands, and causes of action against the Association, the Board, the Association's management company, and the Declarant and all Developer Owners, their directors, officers, committee and board members, employees, agents, contractors, subcontractors, successors, and assigns arising from or connected with any matter for which the liability has been disclaimed.

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17.4 Enforcement Rights

Each Owner (including Declarant, so long as Declarant is an Owner) shall have the right and authority, but not the obligation, to enforce the provisions of this Declaration.

17.5 Interpretation of the Covenants

Except for judicial construction and as hereinafter provided, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration, including without limitation, the land use restrictions in Article V hereof and in any Neighborhood Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by this Declaration.

17.6 Severability

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

17.7 Change of Circumstances

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

17.8 Declarant's Disclaimer of Representations

Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Stone House can or will be carried out, or that any real property now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect.

No provision or content of any development plan showing or applicable to the Covered Property shall be deemed a representation that any facility, land or feature shall be included either in the Covered Property or the Common Area.

While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold Declarant harmless therefrom.

17.9 Successors and Assigns

Any reference in this Declaration to Declarant shall include any successors or assignees of all or a specified portion of Declarant's rights and powers hereunder. Any such assignment shall be evidenced by a recorded instrument executed by Declarant and its successor or assignee whereby such rights and powers (or any specified portion thereof) are specifically assigned.

17.10 Notices

If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or any resolution of the Board to be given to any Owner or resident then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within Pima County. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

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IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed on the date set forth on page one of this Declaration.

DECLARANT:

Lawyers Title Agency of Arizona, L.L.C., an
Arizona limited liability company, as Trustee
under Trust 18082-T, and not otherwise

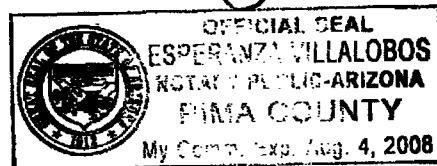
By: [Signature]
Name: Joyce M. Torda
Title: Trust Officer

STATE OF ARIZONA)
)ss.
COUNTY OF PIMA)

The foregoing instrument was acknowledged before me this 24 day of May, 2006, by Joyce M. Torda, the Trust Officer of Lawyers Title Agency of Arizona, L.L.C., an Arizona limited liability company, as Trustee under Trust 18082-T, and not otherwise.

[Signature]
Notary Public

My commission expires:



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BENEFICIARY APPROVAL

Approved:

**Stonehouse Development, Inc. an
Arizona corporation, beneficiary**

By: 

When Recorded Return To:

Snell & Wilmer L.L.P.
1500 Norwest Tower
One South Church Avenue
Tucson, Arizona 85701-1612

For Recorder's Use

DECLARATION OF EASEMENT AND COVENANTS RUNNING WITH THE LAND

This Declaration is made this ____ day of May, 2006, by LAWYERS TITLE AGENCY OF ARIZONA, LLC, an Arizona limited liability company, as Trustee under Trust No. 18082-T and not otherwise ("Declarant").

RECITALS

A. Declarant is the owner of Lot 42 and Lot 43 of Stone House Phase 1, a subdivision of Pima County, recorded in Book 59, Page 38 of Maps and Plats, Pima County Records.

B. Declarant desires to establish and declare hereby a mutual reciprocal easement in favor of Lot 42 and Lot 43 over those portions of Lot 42 and Lot 43 more particularly described on Exhibit A attached hereto (the "Property"), for the purpose of pedestrian and vehicular ingress, egress and underground utilities, in, over, and under the Property, subject to the terms and conditions set forth herein.

C. All improvements within the easement hereby established shall be subject to the approval of Stone House Homeowners Association (the "Association"). Any approvals or action required herein of the Association may be granted or taken, in the Association's sole discretion, by either the Board of Directors or the Architectural and Landscape Review Committee (the "ARC") consistent with the Association's governing documents.

NOW THEREFORE, Declarant hereby declares as follows:

1. Creation of Easement. Declarant does hereby reserve, grant and declare a perpetual, nonexclusive reciprocal easement over the Property in favor of the owners of Lot 42 and Lot 43, and their guests, invitees, heirs, successors and assigns, appurtenant to Lot 42 and Lot 43, and every part thereof, for the purpose of pedestrian and vehicular ingress, egress, underground utilities and landscaping, in, over, and under the Property (the "Easement"). That portion of the Property which the owners of both Lot 42 and Lot 43 shall make joint use of shall be referred to as the "Joint Use Portion," and that portion of the Property which only one owner shall make use of shall be referred to as a "Single Use Portion" or "Single Use Portions," all as more specifically shown in Exhibit B attached hereto. Notwithstanding the foregoing, each owner shall have an easement and right of ingress and egress over and across the Single Use Portion of the land of the other owner if for any reason, including damage by flooding or otherwise, physical access over and across the Single Use Portion on such owner's lot should be

1000-11 000000

temporarily obstructed or impeded. The Easement may be used for utilities only if installed underground, if permitted by the Association, and only if the owner proposing to install such utilities shall fully repair and restore the surface improvements to substantially the same condition as existed prior to disturbance. The Association may require a bond to assure proper completion of work within the Easement.

2. Developer Improved Property. Stonehouse Development, Inc., an Arizona corporation ("Developer"), shall construct within that portion of the Property shown as the Joint Use Portion in said Exhibit B, initial improvements, including driveway surfacing and all underground utilities (the "Developer Improvements"). The limit of the Developer Improvements is shown on said Exhibit B, and comprises primarily the Single Use Portions of the Easement, extending from Rustic Ridge Place to a point approximately fifteen (15) feet beyond the point at which the two Single Use Portions converge. The Developer Improvements do not extend to, nor do they include, any culverts or drainage improvements related to the wash or drainage within Lot 42 or Lot 43, or within the Property, nor any permit, license or other right of entry to modify or cross the wash. The location of the Developer Improvements and materials used to construct the Developer Improvements shall be at the sole discretion of Developer.

3. Extension of Driveway and Utilities; Location. The owners of Lots 42 and Lot 43 shall be solely responsible to extend and construct the driveway beyond the Developer Improvements to service the Lots. Such extension shall be on and within the Property, and all work and improvement must first be submitted to and approved in writing by the Association or its ARC. It is understood that the Easement is intended to service both Lots to the exclusion of other access unless the Association or its ARC otherwise approves. The Association or its ARC may require that when driveway and related improvements are extended beyond the Developer Improvements, such improvements be made to both Lots.

Extension of the driveway and installation of all underground utilities from the terminus of the Developer Improvements extending over the remaining portion of the Property, including the extension of the driveway over the wash located within Lot 42 or Lot 43, or within the Property, and all necessary permits, licenses, improvements, drainage culverts, drainage improvements, paving, driveway utility improvements, retaining walls, curbing, or other improvements to provide access and utilities to the Lots (collectively the "Joint Use Costs") shall be sole the obligation of the owners of the Lots as further set forth herein. The Joint Use Costs shall be shared equally by the owners of Lot 42 and Lot 43 with respect to all Joint Use Portions thereof in accordance herewith.

4. Cost of Extension of Driveway and Utilities. The owner of Lot 42 or Lot 43 first desiring to construct and install a driveway extension on the Property, including any necessary paving, driveways, utility improvements, walls, curbing, drainage culverts or other drainage improvements to extend the driveway over the wash, and including any underground utilities (collectively, the "Owner Easement Improvements"), shall do so at its sole cost and expense, and shall improve the entirety of the Joint Use Portion except for such portion or portions already improved. The owner of the other Lot, as applicable, shall upon issuance of a building permit for construction of improvements on the Lot, or upon first making use of the Easement, reimburse the owner first making such improvements fifty percent (50%) of the

reasonable cost of the Owner Easement Improvements. Such cost shall be deemed to include all reasonable Joint Use Costs.

The first owner shall, as a condition to the right of reimbursement, submit an invoice with supporting documentation of all Joint Use Costs incurred for the Owner Easement Improvements pertaining to the Joint Use Portion of the Easement. Reimbursement by the second owner shall be free of interest and shall be based on invoices and supporting information evidencing the first owner's cost. The invoice shall be due and payable within sixty (60) days of the second owner's receipt thereof, but not sooner than such time as the second owner has received a building permit or commenced use of the Easement. The obligation for payment shall be unconditional, and limited only by the requirement that expenses incurred by the first owner, and for which reimbursement is requested, be reasonable and necessary.

By way of example, if the owner of Lot 42 should install a driveway from the Developer Improvements over remaining areas of the Property accompanying both of Lots 42 and Lot 43, and benefiting both Lots 42 and 43 for the full extent of such improvements, and should the owner of Lot 43 obtain a building permit for construction of improvements or elect to make use of the Owner Easement Improvements, the owner of Lot 43 would be required to reimburse the owner of Lot 42 fifty percent (50%) of the Joint Use Costs, without interest.

The first owner of Lot 42 or Lot 43 other than Declarant to improve the Easement and to install any utilities thereunder shall be required to extend utilities for that portion of the Easement improved by such owner, or such length as will provide reasonable access and service to the other Lot. By way of example, should the owner of one Lot improve an aggregate concrete driveway within the Easement, and should such owner install underground electric utilities in the easement, the electric utilities shall extend for the full length of the improved driveway surface, such that the other owner may, if necessary, extend from that point. If the owner of either Lot, after initial improvement, installs utilities not previously existing within the Easement, then the owner of the other Lot shall reimburse the owner making such improvements for fifty percent (50%) of the cost thereof, provided the additional utilities offer service to the other Lot not previously existing.

The obligations herein set forth shall run with the land and be binding personally upon each owner, and no sale or conveyance of a Lot shall relieve an owner for liability already incurred hereunder. All owners of the Lots shall be deemed to have constructive notice of the obligations herein set forth.

5. Repair and Maintenance.

a. Joint Use Portion. The cost of repair and maintenance of the Joint Use Portion, and any improvements located thereon, shall be shared equally by the owners of Lot 42 and Lot 43, and the owners shall also share equally the cost of repair and maintenance of that portion of the Property lying between the two Single Use Portions shown in Exhibit B (the "Median Area"). All improvements shall be kept in a good and clean condition, with patching of pavement, resurfacing, sweeping and removing trash and debris, maintaining any drainage system and repairing and maintaining any outdoor lighting systems, landscaping or other improvements.

b. Single Use Portion. The cost of all repair and maintenance of the Single Use Portions, if any, and any improvements located thereon, shall be borne by the owner of the Lot upon which such Single Use Portion exists, except for the Median Area as provided above.

6. Cooperation by Owners. The owners will reasonably cooperate with respect to any maintenance and repair of the Joint Use Portion. If circumstances require immediate or emergency maintenance and repair so to avoid further loss or damage, either owner may perform such maintenance or repair, and any such work properly performed may be the subject of an invoice from one owner to the other, and all sums due shall be paid within sixty (60) days of receipt of such invoice.

Should an owner desire to perform maintenance and repair on the Joint Use Portion for which the other owner will be liable for a portion of the cost, the owner shall, except for emergencies as provided herein, provide reasonable written notice of the desired work, and the owners shall jointly contract for the work or agree among themselves as to who may contract for the work. Any such maintenance and repair work properly performed may be the subject of an invoice from the owner to the other owner and all sums due shall be paid within sixty (60) days of receipt of such invoice.

7. Prior Approval. No improvements, alterations, repairs, excavations, grading, landscaping or other work which in any way alters the exterior appearance of the Property from its natural or improved state shall be made or done without the prior approval of the Association or its ARC, except the Developer Improvements, which Developer Improvements may be constructed or installed by Developer without any further approval or consent.

8. Damage or Destruction.

a. By Fire or Other Casualty. If any portion of the Joint Use Portion or Median Area is destroyed or damaged by fire or other casualty, the parties shall share in the cost of restoration.

b. By Act of Owner. Notwithstanding any other provision herein, in the event any portion of the Property, or any improvement located thereon, is damaged or destroyed by a willful or grossly negligent act of an owner of Lot 42 or Lot 43, or any of such owner's tenants, employees, guests, invitees, licensees, agents or member of his family, such party shall bear the whole cost of repairing all damage resulting from such act.

9. Barriers. Each party shall have the right to use the Property for any purpose not inconsistent with the rights granted herein, but shall not have the right to place or construct on the Property any fence, wall, or other barrier or structure of any kind on the Property which would prevent, obstruct or impair the passage of pedestrian and vehicular traffic over and across the Property. Parking of vehicles upon the Property is prohibited.

10. Running of Benefits and Burdens; No Merger. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. The Easement created

herein, or any portion thereof, shall not be extinguished by operation of the doctrine of merger by reason of ownership of the servient and dominant estates created herein by the same person or entity.

11. Attorneys' Fees. In the event of any action to enforce the provisions of this instrument, the prevailing party shall be entitled to receive its reasonable costs and attorneys' fees.

12. Termination of Liability. Whenever the transfer of ownership of all or any part of the Property, Lot 42 or Lot 43 shall take place, the transferor shall not be liable for the breach, subsequent to such transfer, of any of the covenants contained herein, but shall remain liable for sums previously due.

13. Construction. This instrument shall be construed in accordance with the laws of the State of Arizona.

14. Amendments. This Declaration may be amended only by recording, in the office of the Recorder of Pima County, Arizona, an instrument in writing reciting such revocation or amendment, bearing the acknowledged signatures of the owners of Lot 42 and Lot 43.

DATED the day and year first above written.

DECLARANT:

LAWYERS TITLE AGENCY OF ARIZONA,
LLC, an Arizona limited liability company, as
Trustee under Trust No. 18082-T

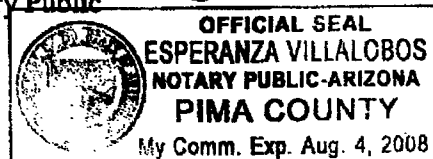
By: [Signature]
Name: JOSE L. MENDOZA
Title: TRUST OFFICER

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this 24 day of May, 2006, by [Signature], the Trust Officer of Lawyers Title Agency of Arizona, LLC, an Arizona limited liability company, as Trustee under Trust No. 18082-T and not otherwise.

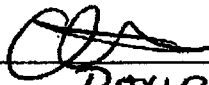
My Commission Expires:

[Signature]
Notary Public



BENEFICIARY APPROVAL/DEVELOPER:

Stonehouse Development, Inc., an Arizona corporation, sole beneficiary (2200 E. River Road, Suite 115, Tucson, Arizona, 85718)

By: 
Name: DAVID GOLDSTEIN
Title: PRES.

11-11-00

EXHIBIT A

The Property

(See attached legal description and map.)

100-11-00000



March 14, 2006
AS #04047 (Diamond Ventures)

**LEGAL DESCRIPTION
FOR AN INGRESS AND EGRESS EASEMENT
ON LOTS 42 AND 43**

An easement for ingress and egress 24.00 feet in width over all those portions of Lot 42 and Lot 43, Stone House Phase I, as recorded in Book 59 of Maps and Plats at Page 38, Records of Pima County, Arizona, the centerline of said easement more particularly described as follows:

BEGINNING at the most northerly corner common to said Lots 42 and 43;

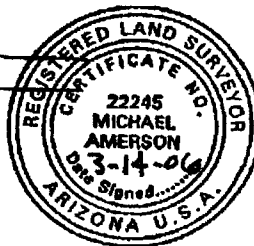
THENCE S 30°46'05" W along the common boundary between said Lot 42 and Lot 43, a distance of 52.92 feet;

THENCE continuing along said common boundary, S 19°27'16" W, 47.55 feet;

THENCE continuing along said common boundary, S 34°27'16" W, 196.78 feet to the terminus of said easement.

Prepared by:
AMERSON SURVEYING, INC.


MICHAEL K. AMERSON, R.L.S.



150011 00000



44

43

41

24.00' WIDE
INGRESS-EGRESS
EASEMENT

42



INGRESS-EGRESS EASEMENT TO SERVE LOTS 42 & 43,
STONE HOUSE PHASE I LOTS 1-63, CA "A", "B", &
EMERGENCY ACCESS AND PUE, RECORDED IN BOOK 59
M&P AT PAGE 38, RECORDS OF PIMA COUNTY, ARIZONA

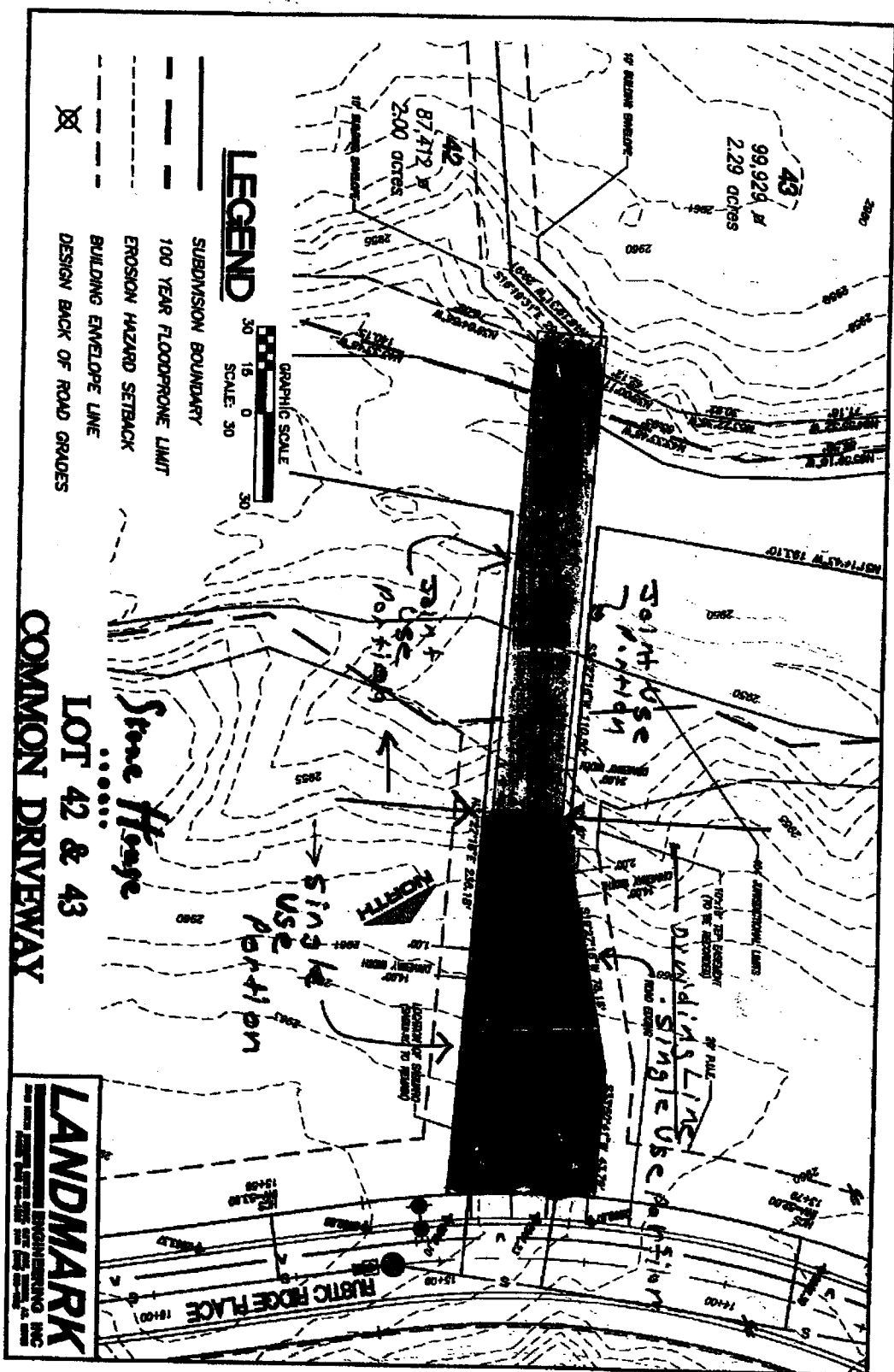
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EXHIBIT B

The Developer Improved Property
(See attached legal description and map.)

369977.3

1000-11 000000




**ACTION OF
DECLARANT APPOINTING ARCHITECTURAL AND LANDSCAPE
REVIEW COMMITTEE**

The Declarant, pursuant to the Amended and Restated Declaration of Covenants, Conditions, Restrictions, And Easements for Stone House, does hereby confirm the appointment of the following persons as the Architectural and Landscape Review Committee, with the power to approve plans and specifications for Dwelling Units, and with Declarant retaining the right at any time to change or revoke such appointments:

- | | |
|-------------------|----------------------------------|
| 1. Jerry Young | 4. Priscilla Storm |
| 2. Terry Sininski | 5. Mark Weinberg |
| 3. Bob Iannarino | 6. Bob Kolt (Alternative Member) |

Stonehouse Development, Inc. an Arizona corporation, beneficiary of Declarant, Lawyers Title Agency of Arizona, L.L.C., an Arizona limited liability company, as Trustee under Trust 18082-T

By: 
Its: Pres.



LETTER OF TRANSMITTAL

Diamond
Ventures Inc.

2200 E River Rd Suite 115
Tucson, Az 85718
(502) 577-0200
FAX (520) 299-5602

To: Tammy Censky
Platinum Management
310 S. Williams Blvd, #106
Tucson, AZ 85731

Jerry Young
Architectural Visions
P.O. Box 32018
Tucson, AZ 85751

Date: June 9, 2006

Job No.: _____

Project Name/Description: Stone House II – CC&R's
Recorded Assurance Agreement

We Are Sending You:

- ☐ Plans/Prints
☐ Specifications
☐ Report(s)
☐ Other _____

Delivery By:

- ☐ Our Messenger
☒ Mail
☐ Express-it
☐ Federal Express
☐ Other _____

Quantity	Date	Description
2 pages	06-09-06	Missing from doc sent to you 6-7-06.

For Your:

- | | | |
|----------------------------------------------|-------------------------------------------|------------------------------------|
| <input type="checkbox"/> Information/Request | <input type="checkbox"/> Review & Comment | <input type="checkbox"/> Signature |
| <input type="checkbox"/> Review & Return | <input type="checkbox"/> Approval | <input type="checkbox"/> File |

Remarks/Response:

Copies To: Bob Iannarino
Debbie Harper

(all 4 sets are correct now.)

From Paula Cirelli for Pattie Blair



It all begins with the land...

Pattie Blair

From: Pattie Blair
Sent: Friday, June 09, 2006 2:13 PM
To: 'rranshaw@woodpatel.com'
Subject: CC&R's and Assurance Agreemtn - Stone House

Rachel:

I have been filling in for Pattie Blair through her medical leave. I wanted to try to resolve this matter today as she will be back on Monday and I didn't want to leave her in the middle of something. I understand that you have left for the day now. So Pattie will have to pick up the pieces that this e-mail will hopefully explain.

I printed the CC&R's and the Assurance Agreement for Stone House from your attachments from June 5th e-mail.

Copies to Bob Iannarino, Debbie Harper, Tammy Censky @ Platinum Management, and Jerry Young @ Architectural Visions.

Tammy called and thought it was kind of funny the 1st doc ends in #00564 and the next starts with #00646. Is something missing between or not?

If you let Pattie know, she can then respond to Tammy (623-2324).

Thank You,

Paula Cirelli
for Pattie Blair
Diamond Ventures
577-0200

*Pattie - this is the only
loose end for you. Should
be self explanatory.*

*Welcome back & hope you don't
have to push yourself too hard!*

Paula

6/9/2006



LETTER OF TRANSMITTAL

Diamond
Ventures Inc.

To: Tammy – Platinum Mngt.
Jerry Young – Architectural Visions

Date: June 7, 2006
Job No.: _____

2200 E River Rd Suite 115
Tucson, Az 85718
(502) 577-0200
FAX (520) 299-5602

Project Name/Description: Stone House II – CC&R's
Recorded Assurance Agreement

We Are Sending You:

- ☐ Plans/Prints
☐ Specifications
☐ Report(s)
☐ Other _____

Delivery By:

- ☐ Our Messenger
☐ Mail
☐ Express-it
☐ Federal Express
☐ Other _____

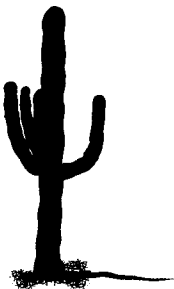
Quantity	Date	Description
1 set each	06-07-06	

For Your:

- | | | |
|----------------------------------------------|-------------------------------------------|------------------------------------|
| <input type="checkbox"/> Information/Request | <input type="checkbox"/> Review & Comment | <input type="checkbox"/> Signature |
| <input type="checkbox"/> Review & Return | <input type="checkbox"/> Approval | <input type="checkbox"/> File |

Remarks/Response:

Copies To: Bob Iannarino
Debbie Harper



It all begins with the land...

Tammy - 623-2324
~~email~~ TRANS
Jerry - 748-2773
~~to Linda~~
gap 564 - 646

Pattie Blair

From: Rachel Ranshaw [rranshaw@WoodPatel.com]
Sent: Monday, June 05, 2006 9:51 AM
To: Pattie Blair
Subject: Stone House II
Attachments: 012811000464.tiff; 012811000646.tiff

CC BE
DHarpur
Platinum Mgt - Tanny
Jerry Young

Pattie,

Attached are the recorded CC&R's and Assurances. I found out this morning that somehow I got the wrong recording information for the Final Plat. I had Bk 61 Pg 36 and it's actually Bk 61 Pg 35. The assurances have the correct information on them but the CC&R has the wrong Pg #. Once I receive the originals from the Recorders office I will send them over to you...I'm not sure how major of an issue this will end up being, if you have to record them again just for that I'm not sure....I apologize for that it was a very crazy day (I found out at 9 I had to go to the Title company to get their signature on the CC&R's and I had to meet the Town at the Recorders at 10:30) and confusing trip to the recorders, it was my first time doing that and the person the Town sent it was her first time.

<<012811000464.tiff>> <<012811000646.tiff>>

If you need any further information please feel free to contact me.

Rachel Ranshaw
Project Coordinator

Wood, Patel & Associates, Inc.
Mission: Client Service™
1430 East Ft. Lowell Road, Suite 200
Tucson, Arizona 85719
Phone: (520) 325-7333
Fax: (520) 320-0157
Email: RRanshaw@woodpatel.com
Website: www.woodpatel.com

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6/5/2006