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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR VIA SONORA

MARICOPA COUNTY, ARIZONA

TABLE OF CONTENTS

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR VIA SONORA

This Declaration of Covenants, Conditions, Restrictions and Easements for Via Sonora is made this 1st day of October, 2007, by WM Development, Inc., an Arizona corporation (***"Declarant"***).

RECITALS

A. Declarant is the owner of that certain parcel of real property situated in Maricopa County, Arizona, more particularly described on ***Exhibit A*** attached hereto and incorporated herein by this reference (the ***"Project"***). The Project also includes all Improvements (as defined below) and all easements, rights and privileges appurtenant thereto.

B. Declarant desires to create a planned residential community which will include common facilities for the benefit of the community.

C. Declarant desires to submit and subject the Project, including any real property subsequently annexed thereto pursuant to Article 2 of this Declaration, together with all Improvements and all easements, rights, appurtenances and privileges belonging to or in any way pertaining thereto, to the covenants, conditions and restrictions herein set forth.

D. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners and Residents of the Project and every part thereof, certain easements and rights in, over and upon the Project and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof.

E. Declarant desires and intends that the Owners and all other Persons acquiring any interest in the Project, including, without limitation, First Mortgagees, shall at all times enjoy the benefits of, and shall hold their interests subject to, the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which shall run with the land and be binding upon the Project and all Persons having or acquiring any right, title or interest in or to the Project, or any part thereof, and shall inure to the benefit of each holder of an interest therein, and all of which are declared to be in furtherance of a plan to promote and protect the Project and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Project.

DECLARATIONS

NOW, THEREFORE, Declarant, for the purposes set forth above, declares as follows:

ARTICLE 1 DEFINITIONS

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

1.1 "Annexable Property" means any real property located in Maricopa County, Arizona, located north of the Project and south of Southern Avenue within a one-mile radius of the Project boundaries, including without limitation, the real property described on ***Exhibit B,*** attached hereto and incorporated herein by this reference, if Declarant acquires fee title thereto, together with all buildings and other Improvements located thereon and all easements, rights and privileges appurtenant thereto. The Annexable Property shall be annexed to the Project and subjected to this Declaration in accordance with the procedures set forth in Section 2.3 below.

1.1 "Annual Assessment" means the assessments levied against each Lot, and the Owner thereof, pursuant to Section 6.2 of this Declaration.

1.2 "Architectural Committee" means any committee of the Association as may be created as a separate committee of the Board pursuant to the provisions of Section 5.10 of this Declaration. If so created, the Architectural Committee shall exercise the duties of the Board under Section 3.1 of this Declaration and other similar duties or obligations as may be delegated to said Committee. ***"Committee"*** means any other committee of the Board established pursuant to the provisions of said Section 5.10.

1.3 "Architectural Rules" means any rules, guidelines, standards and procedures adopted by the Architectural Committee or the Board pursuant to Section 5.10 of this Declaration, as amended or supplemented from time to time.

1.4 "Area(s) of Association Responsibility" means (i) all Common Area; (ii) all land, and the Improvements situated thereon, located within the boundaries of a Lot which the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration or the terms of another Recorded document executed by the Association, including, without limitation, sidewalks; and (iii) all real property, and the Improvements situated thereon, within the Project located within dedicated rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or any county or municipality has accepted all responsibility for the maintenance, repair and replacement of such areas.

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

1.6 ***"Assessment"*** means an Annual Assessment, Special Assessment, Enforcement Assessment, or any other charge properly levied against a Lot by the Association pursuant to this Declaration or Arizona law, including, without limitation, late charges, interest, monetary penalties for infractions of the Project Documents, and Collection Costs incurred in the collection of Assessments and enforcement of the Project Documents and the like.

1.7 ***"Assessment Lien"*** means the lien created and imposed by Article 6 of this Declaration and granted to the Association by §33-1807 to secure payment of Annual and Special Assessments levied by the Association and other charges owed to the Association by an Owner, including certain types of Enforcement Assessments and Collection Costs.

1.8 ***"Assessment Period"*** means the period set forth in Section 6.7 of this Declaration.

1.9 ***"Association"*** means the Arizona nonprofit corporation to be organized by Declarant to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns. Declarant intends to incorporate the Association under the name "Via Sonora Homeowners Association," but if such name is not available, Declarant reserves the right to incorporate the Association under such other name as the Declarant deems appropriate. All references to the Association, acting by and through its Board, in this Declaration shall also mean and refer to any professional management company or managing agent to the extent any duties of the Board may be so delegated to such agent, and as the context may so require (the ***"Managing Agent"***). The Association shall Record such contact notice information as is required by A.R.S. §33-1807(J) regarding the Managing Agent or any other relevant contacts in the event the Project is self-managed.

1.10 ***"Association Rules"*** means any rules adopted by the Board pursuant to Section 5.3 of this Declaration, as amended from time to time.

1.11 ***"Board"*** or ***"Board"*** means the Board of Directors of the Association.

1.12 ***"Bylaws"*** means the Bylaws of the Association, as amended from time to time.

1.13 ***"City"*** means the City of Phoenix, Arizona.

1.14 ***"Collection Costs"*** means all costs, fees, charges and expenditures (including, without limitation, attorneys' fees, court costs, filing fees, lien fees, demand letter fees, Recording fees, title report fees, and fees and costs charged by any collection agent), monetary penalties, late charges, or interest incurred or lawfully charged by the Association in collecting and/or enforcing payment of Assessments or other charges payable to the Association or incurred by the Association in enforcing the Project Documents, without regard to whether a law suit is filed or legal action otherwise undertaken by or on behalf of the Association.

1.15 ***"Common Area"*** means (i) ***Tracts A through Y,*** inclusive, according to the Plat, including the recreational Improvements thereon; and (ii) all land, together with all Improvements situated thereon, including any portion of Annexable Property that may become part of the Common Area, which the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest. Improvements on the Common Area include, but are not limited to, a clubhouse, pool, spa and related recreational amenities, retention areas, streetlights leased from Salt River Project, parking, perimeter walls, cluster mailboxes, and permanent signage. In the event Declarant elects to annex the Annexable Property to this Project, the Common Area within the Annexable Property and subjected to this Declaration will include additional amenities as further described in any Declaration of Annexation.

1.16 ***"Common Expense(s)"*** means expenditures made by or financial liabilities incurred by the Association, together with required allocations to reserves.

1.17 ***"Declarant"*** means ***WM Development, Inc., an Arizona corporation,*** and any Person to whom it may expressly assign any or all of its rights under this Declaration by an instrument Recorded with the County Recorder of Maricopa County, Arizona. Without limiting the foregoing, Creative Communities of Arizona, Inc. or any other Person who may enter into a binding Recorded option agreement to buy all or substantially all of the Lots from WM Development, Inc. shall automatically be considered the Declarant under this Declaration for as long as such option remains in effect.

1.18 ***"Declaration"*** means this ***Declaration of Covenants, Conditions, Restrictions and Easements for Via Sonora***, as amended from time to time.

1.19 ***"Enforcement Assessment"*** means an Assessment levied pursuant to Section 6.6 of this Declaration.

1.20 ***"First Mortgage"*** means any mortgage or deed of trust on a Lot which has priority over all other mortgages and deeds of trust on the same Lot.

1.21 ***"First Mortgagee"*** means the holder or beneficiary of any First Mortgage.

1.22 ***"Improvement"*** means any building, fence, gate, sidewalk, wall, equipment, swimming pool, spa, road, driveway, parking area (paved or unpaved), cluster mailboxes, permanent signage, statuary, fountain, artistic work or ornamentation of any kind, lighting fixtures, basketball poles/hoops, play structures, patio covers and balconies, and trees, plants, shrubs, grass or other landscaping of every type and kind and any other structure of any type, kind or nature. For purposes of Section 3.1, "Improvement" shall not include swing sets without play platforms or other recreational equipment or structures placed within Private Yards which do not exceed a height of eight (8) feet from ground level and are placed a minimum of two (2) feet away from all Boundary Walls between neighboring Lots.

1.23 ***"Invitee"*** means any person whose temporary or periodic presence within the Project, including within any Residential Dwelling, has been solicited, approved by or arranged for by an Owner, Lessee, or Resident, including without limitation, his guests, employees, licensees, business invitees, contractors and agents.

1.24 ***"Lessee"*** means the lessee or tenant under a lease, oral or written, of any Residential Dwelling on a Lot, including an assignee of a lease.

1.25 ***"Lot"*** means a portion of the Project intended for independent ownership and use and designated as a lot on the Plat and, where the context indicates or requires, shall include any Residential Dwelling or other Improvements situated on the Lot.

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

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

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

1.29 ***"Plat"*** means the ***Final Plat for Rogers Ranch Parcel 15*** Recorded on April 12, 2006 in Book 829 of Maps, page 20, records of Maricopa County, Arizona, or any plat of the Annexable Property, if any portion thereof is added to the Project, and all amendments, supplements and corrections thereto.

1.30 ***"Project"*** means the real property described on ***Exhibit A*** attached to this Declaration and all real property subsequently annexed by the Declarant pursuant to Section 2.3 of the Declaration, if any, together with all Improvements located thereon and all easements, rights and privileges appurtenant thereto.

1.31 ***"Project Documents"*** means this Declaration, the Articles, the Bylaws, and the Association Rules and Architectural Rules, if any.

1.32 ***"Purchaser"*** means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot, except for: (i) a Person who purchases a Lot and then leases it to the Declarant for use as a model home or (ii) a Person who, in addition to purchasing a Lot, is assigned any or all of the Declarant's rights under this Declaration.

1.33 ***"Recording"*** means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona and ***"Recorded"*** means having been so placed of record.

1.34 ***"Resident"*** means each individual occupying or residing in any Residential Dwelling, including, without limitation, an Owner's or Lessee's family members and other members of their household residing with them on a regular basis.

1.35 ***"Residential Dwelling"*** means any building, or portion of a building, situated on a Lot and designed and intended for independent ownership and for use and occupancy as a Single Family residence. Declarant intends to construct one Residential Dwelling on each Lot, provided, however, that certain Residential Dwellings may be constructed as stand-alone Single Family structures and others may be separated by firewalls and appear otherwise visually connected to one or more adjacent Single Family structures as part of one integrated building.

1.36 ***"Single Family"*** means a group maintaining a common household in a Residential Dwelling consisting of one or more persons each related to the other by blood, marriage or legal adoption or such a group that includes a maximum of three (3) persons who are unrelated to each other by blood, marriage or legal adoption.

1.37 ***"Special Assessment"*** means any assessment levied and assessed pursuant to Section 6.5 of this Declaration.

1.38 ***"Visible from Neighboring Property"*** means, with respect to any given object, that such object is or would be visible to a person six feet tall standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed; provided, however, that an object shall not be considered as being Visible From Neighboring Property if the object is visible only through a wrought iron fence and would not be Visible From Neighboring Property if the wrought iron fence were a solid fence.

1.39 ***"Yard"*** means the portion of the Lot devoted to Improvements other than the Residential Dwelling. ***"Private Yard"*** means that portion of a Yard which is enclosed or shielded from view by walls, fences, hedges or the like so that it is not generally Visible from Neighboring Property. ***"Public Yard"*** means that portion of a Yard which is generally Visible from Neighboring Property, whether or not it is located in front of, beside, or behind the Residential Dwelling.

ARTICLE 2 PROJECT PLAN

2.1 Project General Plan; Binding Effect. This Declaration is being Recorded to establish a general plan for the development, sale, lease and use of the Project in order to protect and enhance the value and desirability of the Project. The Declarant declares that the Project shall be held, sold, and conveyed subject to this Declaration. By acceptance of a deed or by acquiring an interest in any portion of the Project, each Person, binds himself, his heirs, personal representatives, successors, transferees and assigns, and all Residents of his Lot, to all of the provisions, restrictions, covenants, conditions, and Rules now or hereafter imposed by this Declaration, without regard to whether the Declaration is referenced in the instrument of conveyance or encumbrance. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the Project and hereby evidences his interest that all restrictions, conditions and covenants contained in this Declaration shall run with the land and be binding on all subsequent and future Owners and their Lessees, transferees and assigns. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant hereby covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

2.2 Disclaimer of Representations. Declarant makes no representations or warranties whatsoever that: (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (ii) any portion of the Project will be committed to or developed for a particular use or for any use, except that all such uses shall be consistent with the development of the Project for Single Family residential purposes; (iii) the use of any portion of the Project will not be changed in the future; or (iv) that any portion of the Annexable Property will be added to the Project at any particular time.

2.3 Right of Annexation.

2.3.1 Declarant hereby expressly reserves the right, without obligation, until ten (10) years from the date of Recording of this Declaration, to annex and subject to this Declaration, without the consent of any Owner or First Mortgagee, all or any portion of the Annexable Property at such time as Declarant is or becomes the fee title holder thereto. The annexation of all or any portion of the Annexable Property shall be accomplished by the Declarant Recording with the County Recorder of Maricopa County, Arizona, a Declaration of Annexation stating, without limitation: (i) the legal description of the Annexable Property being annexed; (ii) a description of any portion of the Annexable Property which will be Common Area, if any; and (iii) describing any additional restrictions, easements, covenants, or obligations that pertain to the Annexable Property and all Purchasers of Lots therein.

2.3.2 Any portion of the Annexable Property annexed pursuant to this Section 2.3 shall not become irrevocably annexed to the Project and subjected to this Declaration until the date on which the first Lot within the annexed portion of the Annexable Property is conveyed to a Purchaser. If any Declaration of Annexation Recorded pursuant to this Section 2.3 divides the portion of the Annexable Property being annexed into separate phases, then each phase of the Annexable Property being annexed shall not become irrevocably annexed until the date on which the first Lot within such Phase is conveyed to a Purchaser.

2.3.3 Declarant shall have the right to amend any Declaration of Annexation Recorded pursuant to this Section 2.3 to change the description of phases within the Annexable Property being annexed except that the Declarant may not withdraw any portion of the Annexable Property which has already become irrevocably annexed to the Project.

2.3.4 At any time prior to the date which is ten (10) years after the Recording of this Declaration, the Declarant may either annex any portion of the Annexable Property not then subjected to the Declaration pursuant to a Declaration of Annexation or withdraw from the Project any part of the Annexable Property which has not then been irrevocably annexed to the Project pursuant to the provisions of this Section 2.3. Any such withdrawal of Annexable Property from the Project shall be accomplished by the Recording with the County Recorder of Maricopa County, Arizona, within said ten (10) years of a Declaration of Withdrawal describing the portion of the Annexable Property being withdrawn. Upon the Recordation of any such Declaration of Withdrawal, that portion of the Annexable Property described therein shall no longer be a part of the Project or subject to this Declaration.

2.3.5 The voting rights of the Owners of Lots annexed pursuant to this Section 2.3 shall be effective as of the date the Declaration of Annexation is Recorded. The Owners' obligations to pay Assessments shall commence as provided in Section 6.21 of this Declaration.

2.3.6 The Annexable Property may be added as a whole at one time or in one or more portions at different times, or it may never be added, and there are no limitations upon the order of addition or the boundaries thereof. The Annexable Property annexed into the Project need not be contiguous and the exercise of the right as to any portion of the Annexable Property shall not bar the further exercise of the right of annexation as to any other portions of the Annexable Property.

2.3.7 There are no limitations on the locations or dimensions of Improvements to be located on the Annexable Property. No assurances are made as to what, if any, further Improvements will be made by Declarant on any portion of the Annexable Property.

2.3.8 Any Improvements placed, constructed, replaced or reconstructed on the Annexable Property annexed into the Project will be compatible with other Residential Dwellings in the Project as to quality of construction and materials. Without limiting the foregoing, Declarant expressly reserves the right to construct Residential Dwellings with differing elevations types in the Annexable Property including elevations with multiple stories,

and to construct differing product type, including houses typically referred to as "alley" loaded homes.

2.3.9 Declarant makes no assurances as to the exact number of Lots which may be added to the Project by annexation of all or any portion of the Annexable Property, except that the maximum number of Lots that may be platted in the Annexable Property and subjected to this Declaration shall not exceed two hundred seventy one (271).

2.3.10 All Common Area Improvements to be constructed on any portion of the Annexable Property (including planned additional recreational facilities) will be commensurate with the increased size of the Project and shall be substantially completed prior to the time at which such portion of the Annexable Property is irrevocably annexed in accordance with this Section 2.3 or acceptable irrevocable assurances therefor shall have been deposited with the appropriate governmental agencies regulating such completion.

2.3.11 All taxes and other assessments relating to all or any portion of the Annexable Property annexed into the Project covering any period prior to the time when such portion of the Annexable Property is irrevocably annexed in accordance with Section 2.3 of this Declaration shall be the responsibility of Declarant.

ARTICLE 3 USE RESTRICTIONS

3.1 Architectural Control.

3.1.1 All references to "Board" in this Section 3.1 and elsewhere in this Declaration referring to matters of architectural control and design approval shall mean and refer to the Architectural Committee if one is designated by the Board pursuant to Section 5.10 below.

3.1.2 No excavation or grading work shall be performed on any Lot without the prior written approval of the Board, except as is reasonably necessary for Private Yard landscaping. All such excavation and grading, whether for landscaping or any other purpose, shall be consistent at all times with the drainage plans on file with the City and good engineering practices.

3.1.3 No construction, installation, addition, alteration, repair, change or other work which in any way alters the exterior appearance of any part of a Lot and/or any Improvements located thereon from its/their appearance on the date the City first issues a certificate of occupancy for the Residential Dwelling on the Lot or which in any way may impair the structural integrity of an adjoining Residential Dwelling (a ***"Modification"***), shall be made or done without the prior written approval of the Board. Any Owner desiring approval of the Board for such Modification shall submit to the Board a written request for approval specifying in detail the nature and extent of the Modification which the Owner desires to perform. Any Owner desiring approval of the Board for such Modification shall submit to the Board a written request for approval specifying in detail the nature and extent of the Modification which the

Owner desires to perform. Any Owner requesting the approval of the Board shall also submit to the Board any additional information, plans and specifications which the Board may request. No request for approval of a Modification shall be deemed complete until the Owner requesting the approval has received a written notice (the ***"Architectural Submission Notice"***) from the Board stating that all supporting information, plans and specifications requested or required by the Board, have been submitted to the Board and all fees required, if any, pursuant to Section 3.1.7 of the Declaration have been paid. In the event that the Board fails to approve or disapprove an application for Modification approval within sixty (60) days after the Board has given the Owner its Architectural Submission Notice, Board approval of the requested Modification will not be required and this Section 3.1 will have been deemed to have been complied with by the Owner who had requested approval of such Modification. The approval by the Board of any Modification pursuant to this Section 3.1 shall not be deemed a waiver of the Board's right to withhold approval of any similar Modification subsequently submitted for approval.

3.1.4 The Board may disapprove plans and specifications for any Modification which must be submitted to the Board for approval pursuant to this Section 3.1 if the Board determines, in its sole and absolute discretion, that the proposed Modification: (i) would violate any provision of this Declaration; (ii) does not comply with any Architectural Rule; (iii) is not in harmony with existing Improvements in the Project or with Improvements previously approved by the Board but not yet constructed; (iv) is not aesthetically acceptable; (v) would be detrimental to or adversely affect the appearance of the Project; or (vi) is not otherwise in accord with the general plan of development for the Project. The Board may disapprove a proposed Modification even though the plans and specifications may be in substantial compliance with this Declaration and any Architectural Rules if the Board, in its sole and absolute discretion, determines that the proposed Modification, or some aspect or portion thereof, is undesirable or unattractive. Decisions of the Board may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are necessarily subjective in nature and that the decision of the Board shall be final on all matters submitted to it pursuant to this Article 3. Notwithstanding the foregoing, if a "disapproval" determination is made by an Architectural Committee appointed by the Board, pursuant to Section 5.10 of this Declaration, the Owner may appeal the decision to the Board in accordance with Architectural Rules adopted by the Board, and, in such event, the Modification may be approved if a resolution is unanimously adopted by the Board within sixty (60) days after the appeal is taken to the Board. If the Board or any Committee disapproves plans for a Modification within sixty (60) days after the Architectural Submission Notice or any appeal, as applicable, the ruling body shall specify the reasons for such disapproval and advise the Owner, where feasible, of any corrections or changes that may be made to allow the submission to be approved.

3.1.5 Upon receipt of approval from the Board for any Modification, the Owner who had requested such approval shall proceed to perform or cause to be performed the Modification approved by the Board as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Board.

3.1.6 Any change, deletion or addition to the plans and specifications approved by the Board for the Modification must be approved in writing by the Board.

3.1.7 The Board shall have the right to charge a fee for the services of any professional consultant or expert retained by the Board to review a request for approval of any Modification pursuant to this Section 3.1, which fee shall be payable at the time the application for approval is submitted to the Board.

3.1.8 All Improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be removed from other locations and placed on any Lot as part of the original construction of Improvements or as part of any Modification.

3.1.9 Only a Lot Owner may request approval of a Modification. Notwithstanding anything to the contrary contained in this Article 3 or elsewhere in this Declaration, the provisions of this Section 3.1 do not apply to, and approval of the Board shall not be required for, any Modification made by, or on behalf of, Declarant.

3.1.10 The approval required of the Board pursuant to this Section 3.1 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation. Before commencing any Modification and, after receiving Board approval, the Owner shall provide the Board with a copy of any applicable permits required by law for the Modification.

3.1.11 The approval by the Board of any Modification pursuant to this Section 3.1 shall not be deemed a warranty or representation by the Board as to the quality of such Modification or that such Modification conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

3.1.12 The Board may condition its approval of plans and specifications upon the agreement of the Owner submitting such plans and specifications to: (i) commence and complete the Modification within reasonable time frames established by the Board; (ii) obtain and maintain comprehensive general liability insurance; and (iii) furnish to the Association a bond or other security acceptable to the Board in an amount to be determined by the Board. The bond or other security shall be in an amount reasonably sufficient to: (I) assure the completion of the proposed Modifications or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Modifications, and (II) repair any damage which might be caused to an Area of Association Responsibility as a result of such work. Any such bond shall be released or security shall be fully refundable to the Owner upon: (a) the completion of the Modifications in accordance with the plans and specifications approved by the Board; and (b) the Owner's written request to the Board, provided that there is no damage caused to an Area of Association Responsibility by the Owner or its agents or contractors.

3.1.13 If the plans and specifications pertain to a Modification which is within an Area of Association Responsibility so that the Association is responsible for maintenance,

repair and replacement of such Modification, the Board may condition its approval of the plans and specifications for the proposed Modification on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Modification.

3.1.14 No submittal to the Board pursuant to this Article 3 or elsewhere in this Declaration shall be deemed to have been received by the Board unless a receipt for the submittal (setting forth in detail the matters included therein) has been personally signed for by a member of the Board or date stamped or signed for by the Managing Agent. It is the submitting Owner's responsibility to ensure that the Board or the Managing Agent has received and signed for the applicable submittal and that the Board has approved or failed to disapprove the submittal within the applicable time period before proceeding with any Modification.

3.2 Temporary Occupancy and Temporary Structures. No trailer, basement of an incomplete building, tent, shack, garage, and no temporary buildings or structures of any kind shall be used at any time as a Residential Dwelling, either temporarily or permanently. Temporary structures used during the construction of Improvements or Modifications approved by the Board shall be removed immediately after the completion of construction.

3.3 Nuisances; Construction Activities/Maintenance of Improvements. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or any other portion of the Project and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any portion of the Project or activity thereon, unsanitary, unsightly, offensive or detrimental to any other portion of the Project or the Owners or Residents. No nuisance shall be permitted to exist or operate upon any Lot or any other portion of the Project so as to be offensive or detrimental to any other portion of the Project or to its Owners or Residents. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except ordinary and customary security devices used exclusively for security purposes, shall be located, used or placed on any Lot or any other portion of the Project. Normal construction activities and parking in connection with the building of Improvements or Modifications on a Lot or other portion of the Project shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and all other portions of the Project shall be kept in a neat and tidy condition during construction periods and trash and debris shall not be permitted to accumulate. The Board, in its sole discretion, shall have the right to determine the existence of any such nuisance. The provisions of this Section 3.3 shall not apply to construction activities of Declarant. No Improvement on any Lot shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted, or otherwise finished. In the event any Improvement is damaged or destroyed, then subject to the approvals required in Section 3.1 above, such Improvement shall be immediately repaired or rebuilt or shall be demolished. Any Improvement not so maintained as provided herein and in Article 7 below shall be declared a nuisance and shall afford the Association and the Owners the remedies set forth in this Declaration.

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

3.5 Antennas. Subject to the provisions of Section 3.15 regarding the protected class of satellite dishes under the FCC Rules, no antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation including, without limitation, satellite or microwave dishes, shall be erected, used, or maintained on any Lot without the prior written approval of the Board who may limit or restrict the placement of such antennas or other devices absent appropriate screening and architectural conformity.

3.6 Mineral Exploration. No Lot or other portion of the Project shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind, except for grading and excavation work and the removal of fill material including, but without limitation, gravel, rock and sand, in connection with the construction of Residential Dwellings or other Improvements or Modifications.

3.7 Environmental Restrictions/Noise Abatement.

3.7.1 All Owners and Residents in the Project shall be responsible for complying with all federal and state environmental and health laws and for causing their Invitees to so comply. Without limiting the foregoing, no Person may dispose of, transport, or store "hazardous materials" on a Lot or on the Common Area other than small amounts of ordinary household non-combustible cleaning agents maintained by a Resident on his Lot or ordinary amounts of gasoline maintained to run lawn mowers and other gas powered Lot maintenance equipment. In no event may any Person dispose of any hazardous materials, including without limitation, motor oil, hydrocarbons, or other petroleum products, in or down a dry well within or adjacent to the Project.

3.7.2 Declarant has caused the Residential Dwellings to be built in accordance with applicable building codes and, in all cases, the design and construction of the Residential Dwellings meet or exceed such building code standards, including acoustics. Notwithstanding the foregoing, each Purchaser hereby acknowledge by his acceptance of a deed to a Lot or by otherwise acquiring title to a Lot, that in any Residential Dwelling that adjoins another Residential Dwelling at the Lot line or is separated by a firewall, sound and/or reverberation or impact noises may be audible between Residential Dwellings, including sound from musical instruments or electronic equipment. The Board may, from time to time, adopt Rules to reduce the level of noise emissions from Residential Dwellings. The use of stereo equipment, televisions and musical instruments shall be subject to and used in accordance with such Rules and any City noise reduction or abatement ordinance.

3.8 Trash and Recycling Collection. No Person shall place or keep garbage, trash or recylable materials on the Public Yard of a Lot except in covered canisters or barrels supplied by the City or otherwise designated by the Board. All rubbish, trash, garbage and recyclable materials shall be regularly removed from Lots and other portions of the Project to prevent odors and the attraction of vermin or other pests. In no event shall such containers be maintained at the collection point on a Public Yard of a Lot or at any location Visible From

Neighboring Property except to make the same available for collection in accordance with City ordinances and then only for the shortest time reasonably necessary to effect such collection, not exceeding twelve (12) hours before or after collection. The Association shall have the right to impose monetary fines as provided in the Project Documents for violation of this section. No indoor or outdoor incinerators shall be kept or maintained on any Lot or other portion of the Project.

3.9 ***Clothes Drying Facilities.*** No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on the Public Yard of a Lot or other portion of the Project (including Private Yards) so as to be Visible from Neighboring Property.

3.10 ***Utility Service.*** Subject to the further provisions of Sections 3.15 below, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot or other portion of the Project unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on Improvements or Modifications constructed by Declarant and/or approved by the Board. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Improvements or Modifications by Declarant and/or approved by the Board.

3.11 ***Overhead Encroachments.*** No tree, shrub, or planting of any kind on any Lot or other portion of the Project shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet.

3.12 ***Residential Use/Leasing Restrictions.***

3.12.1 Subject to the provisions of any applicable federal or state Fair Housing Acts, all Residential Dwellings shall be used, improved and devoted exclusively to residential use by a Single Family. Subject to such Fair Housing Acts, no trade or business may be conducted on any Lot or in or from any Residential Dwelling, except that an Owner or other Resident of a Residential Dwelling may conduct a business activity within a Residential Dwelling so long as: (i) the existence or operation of the business activity is not readily apparent or detectable by sight, sound or smell from outside the Residential Dwelling; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Project; (iii) the business activity only results in occasional or minimal time duration visits or contact with non-Residents coming onto the Lot and does not involve the door-to-door solicitation of Residents; (iv) the trade or business conducted by the Owner or Resident does not require more than one (1) employee working in or from such Residential Dwelling unless such additional employees are also lawful Residents of the Residential Dwelling; (v) the volume of vehicular or pedestrian traffic generated by such trade or business does not result in traffic congestion or parking violations; (vi) the trade or business does not use flammable liquids or hazardous materials in quantities not customary for residential use; and (vii) the business activity is consistent with the residential character of the Project, does not attract Invitees during evening or non-standard local

business hours and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Residents in the Project, as may be determined from time to time in the sole discretion of the Board. The terms "business" and "trade" as used in this Section 3.12 shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity.

3.12.2 The leasing of a Residential Dwelling by the Owner thereof shall not be considered a trade or business within the meaning of this Section 3.12 and the Owner of a Lot shall have the right to lease his Lot and the Residential Dwelling thereon, provided that: (i) the lease is in writing; (ii) all Residents occupying the Residential Dwelling under the Lease, including the Lessee, are specifically made subject to the covenants, conditions, restrictions, easements, limitations and uses contained in this Declaration, the Bylaws and any Association Rules; (iii) the lease shall be for a term or have a duration of at least six (6) months; and (iv) the Owner shall be obligated to provide the Association with the following information prior to the commencement of the Lease: (I) the commencement date and termination date of the lease and the names of each Lessee or other Resident who will be occupying the Residential Dwelling and Lot during the term of the lease; (II) the contact address and telephone number of the Owner while the Lease is in effect, if different than the information then currently on file with the Association; and (III) the contact telephone number of the Lessee. Home exchange programs and foreign student exchange programs shall not be construed as leasing as long as there is no or nominal consideration passing between the parties to such transaction and the Residents otherwise abide by the Project Documents. For purposes of Section 6.15 below, a lease shall be deemed a "transfer" and subject to the Transfer Fee, which shall be paid concurrently with the delivery of the lease to the Association as provided above by the Member entering into the Lease as "landlord" or "lessor" thereunder. Nothing contained in this Section 3.12 or elsewhere in this Declaration, if otherwise permitted under applicable law, shall preclude the Association from bringing an action to evict a Lessee for material violations of this Declaration after notice and an opportunity to cure has been afforded to the Unit Owner and the Lessee.

3.13 <u>Animals</u>. No animals, bird, fowl, poultry, reptile or livestock may be kept on a Lot temporarily or permanently, except for a reasonable number of dogs, cats, common domestic birds such as parakeets, cockatiels and parrots, or similar household pets kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No more than two (2) adult dogs may occupy any Lot regardless of size or weight. All dogs, cats or other household pets permitted to be kept on the Lots under this Section 3.13 shall be confined to their owners' Lots in which they are residing or visiting, except that dogs, cats or other pets capable of being walked on a leash may be permitted to leave their Lot without being confined if such animals are kept at all times on a leash not to exceed six feet (6') in length or are otherwise under a Resident's control and are not permitted to enter upon any other Lot. It shall be the responsibility of the Residents of the Lot to immediately remove any droppings from pets residing or visiting their Lot. No household pet permitted on a Lot under this Section 3.13 shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or

confinement of any permitted household pet shall be maintained so as to be Visible from Neighboring Property. The Board of Directors shall have the right to determine whether, for the purposes of this Section 3.13, a particular animal constitutes a generally recognized household pet pursuant to this Section 3.13, whether such animal is a nuisance or making an unreasonable amount of noise or whether the number of pets on any Lot or in any Residential Dwelling is reasonable. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration. The right of Residents to maintain a reasonable number of house pets pursuant to this section is expressly subject to the right of the Board to prospectively adopt Rules further restricting the size, number and type of dogs or other pets which may be maintained or kept on the Lots. In that event, those pets that do not satisfy the newly adopted Rules and are then living with Residents on Lots shall be deemed to be in compliance with the newly adopted Rules for as long as such pets continue living with Residents on Lots and such pets otherwise are in compliance with this Section 3.13 and are not a nuisance.

3.14 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, or any other portion of the Project, except: (i) such machinery or equipment used in connection with the initial construction of an Improvement or Modification; (ii) such machinery that is used solely within the interior of a Residential Dwelling (including an enclosed garage) and does not emit noise of a decibel level that would pose a nuisance to adjacent Lots; (iii) ordinary and customary machinery or equipment used in the regular or routine maintenance of a Residential Dwelling or Lot such as a lawn mower; or (iv) such machinery or equipment which Declarant or the Association may require for the improvement, operation and maintenance of the Project.

3.15 Roof Structures and Equipment. No solar units or panels, heating, air-conditioning or ventilation equipment, or any other equipment or structures shall be located or installed on any roof of a Residential Dwelling or other Improvement on a Lot except as expressly permitted herein or except as initially installed by Declarant. The Board shall grant a variance for roof-top or other solar panels or other solar equipment Visible from Neighboring Property if attractively screened in accordance with standards established by the Board, further subject to applicable federal or state energy conservation laws governing the installation of solar equipment on Residential Dwellings. In addition, the Association may not prohibit or unduly or unreasonably restrict the placement of satellite dishes and antennas of the types covered by the Federal Communications Commission rules promulgated pursuant to the Telecommunications Act of 1996, as amended from time to time. However, nothing shall preclude the Association from adopting reasonable safety and/or architectural aesthetics Rules which do not impede the Owner's ability to obtain solar power or to obtain adequate reception from a protected class of satellite dishes or antennas within the scope of the FCC Rules. Without limiting the foregoing, all satellite dishes or antennas within the scope of the FCC Rules shall be ground-mounted and placed in the Private Yard of a Lot unless, as a result of such placement, the Owner is not able to obtain a satisfactory signal as defined in the FCC Rules.

3.16 Window Treatments. Each Purchaser shall cause all windows within his Residential Dwelling to be covered with appropriate window treatments within ninety (90) days after first occupancy by a Resident. No reflective materials, including but not limited to, aluminum foil, reflective screens or glass, mirrors or similar-type items shall be installed or

placed on the outside or inside of any windows. The exterior of all drapes, curtains or other window coverings shall be white, off-white, beige or natural wood-tone in color or such other colors as permitted by the Board.

3.17 Signs/Flagpoles; Flag Display.

3.17.1 No emblem, logo, sign or billboard of any kind whatsoever (including, but not limited to, commercial, "for sale," "for rent" and similar signs) which are Visible from Neighboring Property shall be erected or maintained on any Lot except: (i) signs required by legal proceedings or by applicable law; (ii) certain "political signs" as described in Section 3.17.2 below; (iii) certain flagpoles and flags as described in Section 3.17.3 below; (iv) professionally lettered Residential Dwelling identification signs not exceeding 6 x 12 inches in size; (v) one standard size realty company "for sale" sign and rider as provided in A.R.S. §33-1808); (vi) Project identification signs and other marketing signs installed by Declarant or the Association; (vii) one small alarm company sign located near the front door of a Residential Dwelling; and (viii) such other signs as are originally installed by Declarant and/or approved by the Board. "For lease" signs are expressly prohibited in this Project at any time.

3.17.2 The foregoing limitation on signs shall not preclude the placement of a "political sign" on a Lot as defined in A.R.S. §33-1808; provided, further however, that there may not be more than one political sign on a Lot at any one time, the dimensions of such sign shall not exceed 24 inches by 24 inches, and the political sign may not be displayed on the Lot more than forty-five (45) days prior to or seven (7) days after the election proceeding to which it applies. If the applicable political sign ordinance of the City, as amended from time to time, is at any time less restrictive than the limitations contained in this Section 3.17, then the restrictions of the City ordinance on political signs shall apply in lieu of this Section 3.17 and this Section 3.17 shall be deemed automatically amended as necessary to comply with such City ordinance.

3.17.3 As further provided in A.R.S. §33-1808, a Member may display a flag allowed by A.R.S. §33-1808 on his Lot consistent with the provisions of that statute. The Association shall adopt reasonable Rules regarding the display of the such flag, including regulating the size and location of flagpoles, as long as such Rules do not result in the prohibition of the installation of the flagpole or unduly limit displaying such flag. In no event may a flagpole be installed on a Lot until the height and location of the pole and the flag to be display thereon have been approved by the Board.

3.18 Restriction on Subdivision, Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller Lots or parcels or divided into "time share" intervals as that term is defined in A.R.S. §32-2197, as amended from time to time, and no portion less than all of any such Lot shall be conveyed or transferred by an Owner other than Declarant to another Owner, without the prior written consent of the Board. No further covenants, conditions, restrictions or easements shall be recorded by any Person other than Declarant or the Board without the provisions thereof having first been approved by the Board. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental

authority by any Person other than Declarant or the Board, unless the application has been approved by the Board and the proposed use otherwise complies with this Declaration.

3.19 Commercial Vehicle Restrictions/Family Vehicles Defined/Public and Municipal Service Type Vehicle Exemptions.

3.19.1 No truck (other than a Family Vehicle truck as defined below), mobile home, bus, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle (hereinafter ***"Commercial Vehicles"***) may be parked, maintained, constructed, reconstructed or repaired on any Lot or Common Area (including driveways or Public Yards of Lots and any Common Area streets) so as to be Visible from Neighboring Property without the prior written approval of the Board, except for: (i) the temporary parking of any Commercial Vehicle on a Lot or street for loading and unloading for a period of not more than twenty-four (24) consecutive hours; (ii) temporary construction trailers or facilities maintained during, and used exclusively in connection with, the construction of any Improvement by the Declarant or any Improvement approved by the Board; and (iii) Commercial Vehicles parked completely within enclosed Residential Dwelling garages. A ***"Family Vehicle"*** means any domestic or foreign car, station wagon, sport wagon, pick-up truck of less than one (1) ton capacity with camper shells not exceeding seven (7) feet in height measured from ground level, mini-van, jeep, sport utility vehicle, motorcycle and similar non-commercial and non-recreational vehicles that are used by a Resident for family and domestic purposes and which are used on a regular and recurring basis for basic transportation. The Board may, acting in good faith, designate a Commercial Vehicle as a Family Vehicle, if, prior to use, the Resident petitions the Board to classify the same as a Family Vehicle and the parking of such Vehicle on a Lot will not adversely affect the Project or the Residents. Family Vehicles and Commercial Vehicles are collectively referred to in this Article 3 as ***"Vehicles."***

3.19.2 Notwithstanding anything in this Article 3 or elsewhere in this Declaration to the contrary, the Association may not prohibit a Resident employed by a public service corporation, public safety agency, or municipal utility from parking a Vehicle on Tract A (Common Area private drive) or Public Yard driveway of a Lot if the Resident and the Vehicle otherwise meet the conditions of, and/or comply with, the provisions of A.R.S. §33-1809.

3.20 Further Vehicle Restrictions and Invitee Parking.

3.20.1 Except for emergency Vehicle repairs, no Vehicle (whether operable or inoperable) or other equipment shall be stored, constructed, reconstructed or repaired on a Lot or any other portion of the Project except within the enclosed garage of a Residential Dwelling. Without limiting the foregoing, a Vehicle or other equipment shall be deemed to be stored and/or inoperable if it is covered by a car cover, tarp or other material, has a flat tire that is not immediately replaced, and/or is not driven or moved under its own power on a weekly basis by a Resident of the Lot.

3.20.2 Subject to the further additional restrictions and exemptions of Section 3.19 regarding Commercial Vehicle parking and Section 3.20.1 regarding stored or inoperable

Vehicles: no Vehicle shall be parked on the Public Yard of any Lot, except for the driveway or attached garage and no Vehicle shall be parked on any Common Area street or private road in the Project; provided, however, that Vehicles of Invitees may temporarily park on the main private roads in the Project (Tract S) for a period not to exceed forty-eight (48) hours during any seven day period. There shall be no parking on Common Area except as expressly permitted in this Section 3.20.2 regarding temporary Invitee parking.

3.20.3 Designated parking stalls or spaces located on Common Area Tracts, if any are so provided by Declarant or the Association, shall be available for temporary use by Residents and their Invitees; provided, however, that the Board shall have the right to assign such parking spaces to the exclusive use of a Lot.

3.20.4 The use of motorized mopeds, skateboards, go-peds, mini-bikes, scooters, miniature motorcycles or pocket bikes, and similar type devices of transportation that are not permitted to be driven or operated on City streets and/or on highways are expressly prohibited within this Project.

3.21 Towing of Vehicles/Other Enforcement. The Board shall have the right to have any Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents and this Article 3 towed away or to restrict its movement by attaching a "boot" device to the wheel of the Vehicle at the sole cost and expense of the owner of the Vehicle. If the owner of a towed or "booted" Vehicle is not a Lot Owner and the Association directly incurs any expense because such towing or booting charges were not collected from the Vehicle owner for any reason, the Association may seek reimbursement for such expenses from the Lot Owner whose Resident or Invitee improperly parked the towed or booted Vehicle. Any expense incurred by the Association in connection with the towing or booting of any Vehicle shall be paid to the Association upon demand to the Lot Owner as an Enforcement Assessment pursuant to Section 6.6 below. In addition to levying an Enforcement Assessment for towing charges incurred by the Association and enforcing the Assessment in any manner permitted by law, the Board may pursue all other remedies set forth in Section 9.3 below, including, without limitation: (i) imposing monetary fines against Lot Owners (and/or their Residents) who are causing recurrent violations of the Vehicle parking restrictions of this Declaration in accordance with Rules adopted by the Association for the imposition of monetary fines; (ii) suspending the voting rights of or Association services to an Owner whose Lot and/or the Residents and Invitees thereon are in violation of the parking restrictions of this Declaration; (iii) filing a civil suit against an Owner and/or Resident to enjoin actions or behavior relating to the parking of Vehicles violative of this Declaration; and (iv) Recording a Notice of Violation against a Lot pursuant to Section 11.8 below in the case of continuing Vehicle or parking violations pertaining to that Lot. The Association shall not be liable for any damage to Vehicles towed pursuant to this Section 3.21.

3.22 Lighting. Except as initially installed by Declarant, no spotlights, flood lights or other high intensity lighting shall be placed or utilized on any Lot which will allow light to be directed or reflected in any manner on the Common Area or onto another Lot. All lighting

or illumination sources shall be hooded or shielded to the extent required by City light pollution, glare reduction and energy conservation standards.

3.23 Drainage. No Residential Dwelling or other Improvement or Modification thereto shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in the Project as originally developed by Declarant including through any drainage easements set forth on the Plat, or for any Lot as shown on the drainage plans on file with the City. The Association may not make material elevation or topography changes to the Common Area in any manner that may reduce the drainage capabilities of the Common Area or any drainage or retention facilities installed by Declarant in the Project without first consulting with a licensed engineer in the appropriate engineering disciplines and without the consent of the City and of Declarant, while Declarant owns any Lots

3.24 Garages/Garage Sales. Garages shall be used only for the parking of Vehicles and shall not be used or converted for living or recreational activities without the prior written approval of the Board. Garage doors shall be kept closed at all times when the garage is not in use. All Family Vehicles shall be parked in the garage unless the garage is already then occupied by the maximum capacity of Vehicles and in no event may an Owner or Resident use the garage for storage in such a manner that would block or impede the parking of any Vehicle. Because the Project is a gated community, garage sales or any similar type of sales or organized activities that would require the invitation to the Project of the public at large are not allowed within the Project, except that the Board may coordinate a cooperative garage sale or other organized activity for participation by all the Residents on a periodic basis.

3.25 Basketball Goals; Backboards. No basketball goal, pole, or backboard shall be attached to a roof and/or installed in a Public Yard of a Residential Dwelling. Except when in use, portable basketball goals, hoops or courts shall be stored in the garage or in a manner that is not Visible From Neighboring Property.

3.26 Planting and Landscaping. Except for: (i) such planting and landscaping as is installed by Declarant in accordance with the initial construction of Residential Dwellings on a Lot or (ii) Private Yard plantings and landscaping, no planting or landscaping shall be done and no fences, hedges or walls shall be erected or maintained on any Lot without the prior written approval of the Board. The Association shall maintain Public Yard landscaping as provided in Article 7 below and shall have an easement to maintain and operate the irrigation/sprinkler system under the driveway and Public Yard areas as provided in Section 4.2 below.

3.27 Gated Community. The Declarant shall install and the Association shall maintain and operate an entry or privacy gate at the entrance to the Project from Baseline Road and an exit gate. Neither the Declarant nor the Association, the Board, any architectural or other committee of the Board, or any member, director, officer, shareholder, employee, or agent thereof, makes any representation to any Owner, Resident or any other Person as to the security afforded by the existence of such gates or as to the ease of entry to the Project by fire, police or other emergency personnel, and, Declarant reserves the right to require the privacy gates to

remain open during daylight hours or during any evening marketing events sponsored by or for Declarant at any time while Declarant owns and is marketing Lots in the Project. All Owners and Residents and their Invitees assume the risk of harm, damage or injury to person or property of any kind from trespassers and agree that no claim or cause of action shall be maintained against Declarant, the Association, the Board, any Architectural or other Committee of the Board, or any member, director, officer, shareholder, employee, or agent thereof as a result of any harm resulting to an Owner, Resident or other Person from a trespass through or around the gated areas, entry to the Project by unauthorized persons through the open Common Area and multi-use trail corridors, or any delay in entering the Project by emergency personnel.

3.28 Variances. The Board, may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 if the Board determines in its discretion that: (i) a restriction would create an unreasonable hardship or burden on an Owner or Resident or a change of circumstances since the Recording of this Declaration has rendered such restriction obsolete and (ii) the activity permitted under the variance will not have any substantial adverse effect on the Owners or Residents of the Project. Such variances must be evidenced in writing and must be signed by a unanimous vote of the Board. If such variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the specific matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, and only for so long as the special circumstances warranting the variance exist, nor shall it affect in any way the Owner's and/or Resident's obligation to comply with all governmental laws and regulations affecting the use of his Lot. The Board shall have the right to condition the granting of a variance as it may determine in the Board's sole discretion, including, without limitation, making a variance temporary or permanent; or requiring the removal or replacement of a non-permanent or semi-permanent structure upon the sale or other conveyance of a Lot. Moreover, because of the unique facts and circumstances surrounding each variance request, the granting of a variance in one instance or under certain circumstances, terms and conditions does not mandate the granting of a variance under similar or related circumstances, terms or conditions if the experiences of the Association and the Project as a whole or the differences in circumstances (however slight) of a variance request from a previously approved variance lead the Board, in good faith, to disapprove a variance request in such instance. In no event, may the Board grant any variance that would create or cause the Association to be in violation of any City ordinance or development stipulation or in violation of any insurance policy limitation or restriction issued in favor of the Association and its Members.

3.29 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 3 or elsewhere 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 the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Declarant harmless therefrom.

ARTICLE 4 EASEMENTS

4.1 Owners' Easements of Enjoyment in Common Area.

4.1.1 Subject to the rights and easements granted to the Declarant in Section 4.3 and Section 4.4 of this Declaration, every Owner, and any Resident, shall have a right and easement of enjoyment in and to the Common Area (including, but not limited to, the right to use any private streets which are part of the Common Area for ingress and egress to the Owner's Lot), which right shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

(i) The right of the Association to dedicate, convey, transfer, mortgage or encumber the Common Area as provided in Section 5.11 of this Declaration;

(ii) The right of the Association to regulate the use of the Common Area through Association Rules and to charge reasonable admission or other fees for the use of any recreational facilities situated on the Common Area and to prohibit access to such portions of the Common Area, such as landscaped areas, not intended for use by the Owner or Residents;

(iii) The right of the Association to suspend the right of an Owner and any Resident of the Owner's Residential Dwelling to use the Common Area (other than the right of an Owner and such Resident to use Tracts S, W, X, and Y (private drives) for ingress or egress to the Owner's Lot) if such Owner is more than fifteen (15) days' delinquent in the payment of Assessments or other amounts due to the Association or if the Owner or Resident has violated any provision of the Project Documents and has failed to cure such violation within thirty (30) days after the Association notifies the Owner of the violation. Any such suspension shall not exceed sixty (60) days for any infraction of the Project Documents other than the failure to pay Assessments, which suspension shall continue until the delinquent Assessment and all other late fees, interest and other charges in conjunction therewith shall be paid;

(iv) An easement for ingress and egress over the Common Area private streets (Tracts S, W, X and Y) for public utility, U.S. mail delivery and collection, refuse collection and emergency access vehicles for purposes of providing such services as may be required by law or contracted for by the Association on behalf of the Owners; and

(v) The right of Declarant to regulate the hours of operation of the privacy gates at the entry/exits to the Project on Tracts W, X and Y pursuant to Section 3.27 above.

4.1.2 Only current Residents and Invitees accompanied by the Resident shall have the right to use the Common Area for recreational purposes.

4.1.3 Declarant shall convey the Common Area free and clear of all liens and monetary encumbrances to the Association no later than the date which is the first to occur of: (i) the date the last Lot in the Project is conveyed to a Purchaser; (ii) the date that is seven (7) years

after the Recording of this Declaration; and (iii) the date that is within a commercially reasonable period after all Improvements for the Common Area designed by Declarant and approved by the City have been substantially completed. If the Common Area Improvements are not complete at the time of the conveyance, Declarant shall have satisfied and provided all financial assurances for completion thereof as required by the applicable Arizona subdivision laws under Title 32 of the Arizona Revised Statutes and the rules of the Arizona Department of Real Estate.

4.2 Utility Easement/Association Easement for Irrigation Lines over Public Yard/Private Yard Easement for Irrigation Lines.

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

4.2.2 The Association shall also have an easement under and across the concrete driveways of each Lot's Public Yard to maintain irrigation lines and sprinkler system to water and maintain the Public Yard landscaping as installed by Declarant or thereafter modified.

4.2.3 The Private Yards on Lots 1 through 16, inclusive, and Tract A are subject to a Private Irrigation Easement Recorded at Instrument No. 2007-1023374 in the Official Records of the Maricopa County, Arizona Recorder for irrigation lines proximately located within the northernmost 7.5 feet thereof as further described in the Easement. The irrigation lines within the Easement serve private users and connect such private users to the privately owned Well Site adjacent to Tract A. Such private users having the beneficial right to use the Well Site shall have the right, at reasonable times and only with prior notice, to maintain, repair and replace the irrigation lines in the Private Yards and/or on Tract A, at their expense, unless such need for maintenance, repair or replacement was caused by the applicable Lot Owner or the Association. Neither the Lot Owners of said Lots 1 through 16, nor the Association, shall construct, erect, install or maintain any permanent structure over said Easement area.

4.3 Declarant's Use for Sales and Leasing Purposes. Declarant shall have the right and an easement to maintain sales and leasing offices, management offices and model homes and to maintain one or more advertising, identification or directional signs throughout the Project (including on any Common Area Tract) except on Lots sold to Purchasers. In connection therewith, Declarant shall also have the sole right and easement to operate the privacy gates in the Project and to use any clubhouse and adjoining parking areas constructed by Declarant on Common Area Tract C for its sales and marketing purposes and to control and regulate their hours of operation. In addition, Declarant reserves the right to: (i) place sales trailers, model homes, parking facilities, management offices and sales and leasing offices on any Lots owned by Declarant or on any portion of the Common Area in such number, of such size and in such

locations as Declarant deems appropriate; (ii) to retain all personal property and equipment used in the sales, management, or development of the Project that has not been represented as property of the Association and to remove all such goods and Improvements used in marketing, whether or not they have become fixtures; and (iii) reserve parking spaces on the Common Area not otherwise assigned to Owners or Residents, for use by prospective Purchasers, Declarant's employees, agents and others engaged in sales, leasing, maintenance, construction or management activities. All of the foregoing rights, reservations and easements in this Section 4.3 in favor of Declarant or elsewhere in this Declaration shall apply for as long as Declarant is marketing Lots for sale, is building upon Lots in the Project, or owns any Lot in the Project. In the event of any conflict or inconsistency between this Section 4.3 and any other provisions of this Declaration, this Section 4.3 shall control.

4.4 Declarant's Easements. Declarant shall have the right and an easement on or over the Areas of Association Responsibility to construct all Improvements or Modifications the Declarant may deem necessary and to use the Areas of Association Responsibility and any Lots and other property owned by Declarant for construction related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project. Irrespective of whether Declarant at any time is an Owner of Lots, Declarant shall have the right and an easement upon, over, and through the Areas of Association Responsibility as may be reasonably necessary for the purpose of discharging its obligations or exercising the rights granted to or reserved by the Declarant in this Declaration, including, without limitation, warranty work. In the event of any conflict or inconsistency between this Section 4.4 and any other provisions of this Declaration, this Section 4.4 shall control.

4.5 Easements in Favor of Association. The Lots are hereby made subject to easements in favor of the Association and its directors, officers, agents, employees and independent contractors for: (i) inspection of the Lots (but not the interior of Residential Dwellings) in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible and compliance by Owners and Residents with the Project Documents; (ii) inspection, maintenance, repair and replacement of the Areas of Association Responsibility accessible only from such Lots; (iii) correction of emergency conditions on one or more Lots; and (iv) the purpose of enabling the Association, the Board, the Architectural Committee or any other committees appointed by the Board, to exercise and discharge their respective rights, powers and duties under the Project Documents.

4.6 Easements for Encroachments. Declarant intends to construct certain Residential Dwellings and certain Boundary Walls on the boundary line between Lots and an easement in perpetuity is hereby granted for the purpose of accommodating minor encroachments due to engineering errors, errors in original construction, settlement or shifting of Improvements or any similar cause for as long as such encroaching structures shall exist; (or for their reconstruction in the event of damage or destruction as further provided in this Declaration). Notwithstanding the foregoing, in no event shall such easement exist for willful misconduct by any Owner or intentional encroachments (other than those caused by or at the direction of Declarant in the initial construction of the Project), and provided, further that Declarant may remove and/or relocate any Boundary Wall or other encroachments onto Lots

owned by Declarant at Declarant's sole expense (unless such encroachment(s) were caused by the willful misconduct of an adjacent Owner or Resident; in which case the relocation shall be at the expense of the encroaching Owner). Each Owner understands and accepts that certain roof overhangs, eaves, window trim and casings may overhang onto their Lot or onto the Common Area due to Declarant's placement of a Residential Dwelling on or in proximity to a boundary line of another Lot or the Common Area and an easement in perpetuity is granted for such encroachment of overhanging structures.

ARTICLE 5 THE ASSOCIATION

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

5.2 ***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. Unless the Project Documents specifically require the vote or written consent of the Members, such as in the case of Section 10.23 below, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

5.3 ***Association Rules.*** The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal Rules pertaining to: (i) the management, operation, and use of the Areas of Association Responsibility including, but not limited to, any recreational facilities situated upon the Areas of Association Responsibility; (ii) minimum standards for maintenance of Lots; or (iii) the health, safety and welfare of the Owners and Residents. Unless and until such Rules are adopted and published to the Members, no Person may use the recreational Common Areas after 10 p.m. Phoenix, Arizona time. This period may be further limited or expanded by Association Rule without the need to amend this Declaration.

5.4 ***Personal Liability.*** No member of the Board or of any Committee of the Association, no officer of the Association, and no Managing Agent, representative or employee of the Association shall be personally liable to any Member, or to any other Person, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, a Managing Agent, any representative or employee of the Association, or any Committee, Committee member or officer of the Association; provided, however, the limitations set forth in this Section 5.4 shall not apply to any Person who has failed to act in good faith or has engaged in willful or intentional misconduct.

5.5 ***Implied Rights.*** The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege, including, without limitation, the right to employ a managing agent or other independent contractor to perform all

of the duties and responsibilities of the Association and the Board, subject to Section 5.13 hereof, the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.

5.6 Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership and the voting rights described below are appurtenant to, and inseparable from, ownership of the Lot.

5.7 Classes of Membership and Voting Rights. The Association shall have the following two classes of voting membership:

5.7.1 Class A. Class A Members are all of the Owners of Lots, with the exception of Declarant until the termination of the Class B membership. Each Class A member shall be entitled to one (1) vote for each Lot owned. Upon the termination of the Class B membership, Declarant shall be a Class A Member with one vote for each Lot owned by Declarant but only for so long as Declarant owns any Lots.

5.7.2 Class B.

(i) The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot owned (including the votes attributable to the Annexable Property as provided in Section 5.7.2(ii) below). The Class B membership shall cease and be converted to Class A membership on the earlier of: (i) the date on which the votes entitled to be cast by the Class A Members equals or exceeds the votes entitled to be cast by the Class B Member; (ii) the date which is ten (10) years after the Recording of this Declaration; (iii) the date which is five (5) years after the Declarant has conveyed the last Lot in the Project as initially established and a minimum of five (5) years have lapsed since the date Declarant has annexed any portion of the Annexable Property to the Project pursuant to Section 2.3 above; (iii) when Declarant notifies the Association in writing that it relinquishes its Class B membership. If any Person to whom Declarant has assigned, or hereafter assigns, all or substantially all of its rights under this Declaration as security for an obligation succeeds to the interests of Declarant by virtue of the assignment, Class B membership shall not be terminated and the Person so succeeding to Declarant's interest shall hold Class B membership on the same terms as they were held by Declarant.

(ii) Solely for purposes of determining the conversion of Declarant's Class B Memberships to Class A Memberships in accordance with this Section 5.7.2, in addition to such votes as Declarant may have as the Owner of Lots in the Project, Declarant shall be deemed to have eight hundred thirteen votes attributed to the Annexable Property being the total achieved by multiplying three times the number two hundred seventy-one (271), being the total maximum anticipated number of Lots in the Annexable Property. At such time as Declarant records the

Declaration of Annexation, then the number shall be adjusted using the actual number of Lots so annexed and less any Lots subsequently sold to Purchasers.

5.8 Voting Procedures. No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each Lot must be cast as a unit and fractional votes shall not be allowed. In the event that a Lot is owned by more than one Person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Class A Member for a particular Lot, none of the votes cast for that Lot shall be counted and all of the votes so cast for that Lot shall be deemed void.

5.9 Transfer of Membership. The rights and obligations of any Member other than Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the membership appurtenant to said Lot to the new Owner thereof. Each Purchaser or other Person who becomes an Owner of a Lot shall notify the Association within ten (10) days after he becomes an Owner. A transfer of ownership of a Lot may be subject to a Transfer Fee pursuant to the provisions of Section 6.15 below.

5.10 Architectural Control. The Board may establish an Architectural Committee to perform the architectural design review and related functions of the Board set forth in this Declaration. If established, the Architectural Committee shall be a committee of the Board and shall consist of such number of regular members and alternate members as may be provided for in the Bylaws. The Board, and/or Architectural Committee, if any, may promulgate Architectural Rules to be followed in rendering its decisions. Such Rules may include, without limitation, provisions regarding: (i) architectural design, with particular regard to the harmony of the design with the surrounding structures and topography; (ii) requirements concerning exterior Improvements; and (iii) signage. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. The Board may establish such other Committees as the Board may determine in its sole discretion and may establish Association Rules governing such Committee, including the number of Board members and alternate members as shall serve on such Committee and the function and delegated duties of such Committee.

5.11 Conveyance or Encumbrance of Common Area. Subject to the further provisions of Article 11 below regarding First Mortgagee rights, the Common Area shall not be mortgaged, conveyed, transferred, dedicated or encumbered without the prior written consent or affirmative vote of the Class B Member while Declarant holds Class B membership, and the

affirmative vote or written consent of the Owners representing at least two-thirds (2/3) of the votes entitled to be cast by Class A Members (including Declarant, if Declarant is then a Class A Member). Without limiting the foregoing, no portion of the Common Area providing ingress and egress to any Lots may be mortgaged, conveyed, transferred, dedicated or encumbered without the prior written consent or affirmative vote of the Owners of the affected Lots and all First Mortgagees whose First Mortgages encumber those Lots.

5.12 Suspension of Voting Rights. If any Owner fails to pay any Assessments or any other amounts due to the Association under the Project Documents within fifteen (15) days after such payment is due or if any Owner, or any Lessee or Resident of his Lot, or their respective Invitees, violate any other provisions of the Project Documents and such violation is not cured within thirty (30) days after the Association notifies the Owner of the violation, the Board shall have the right to suspend such Owner's right to vote. Any such suspension for failure to pay Assessments or for any infraction of the Project Documents shall continue until such time as all payments, including all delinquent Assessments, late charges, interest and attorneys' fees, are brought current and until the infractions or violations of the Project Documents are cured, as applicable.

5.13 Association Contracts.

5.13.1 While Class B Membership exists, any agreement for professional management of the Project executed by Declarant, or any member, agent or representative of Declarant or any agreement providing for services of, or lease or other contract with, the Declarant and/or its affiliates, may not exceed three (3) years. Any such agreements, contracts or leases must also provide for termination by either party without cause and without payment of a termination fee upon ninety (90) days' or less written notice.

5.13.2 The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more bulk service agreements with service providers for such duration, at such rate(s) and on such other terms and conditions as the Board deems appropriate, including cable and satellite television and communications services, utility services, pest control, and monitoring or security services as may be in the best interests of the Project. The cost of any such service agreements shall be a Common Expense and included within the budget for the Annual Assessment.

5.13.3 Declarant may enter into, or cause the Board on behalf of the Association to enter into, a street light lease with Salt River Project (SRP) governing the operation, maintenance and expense of street lights on or adjacent to any Common Area Tract on terms reasonably consistent with street light lease agreements for subdivisions of a similar size and/or type.

ARTICLE 6 ASSESSMENTS

6.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it, hereby covenants and agrees, and all other Owners, by becoming the Owner of a Lot, are deemed to covenant and agree to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, Collection Costs, and all other fees, costs and charges permitted under the Project Documents, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made to the fullest extent permitted by A.R.S. §33-1807 and/or applicable law, and, to the extent that the Assessment Lien provisions of this Declaration are or may be broader and more expansive than Arizona statutory law, the provisions of this Declaration shall govern and control except to the extent Arizona statutory law expressly supersedes or a court having jurisdiction over the Project otherwise determines in a binding published opinion. Each such Assessment shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

6.2 Annual Assessments.

6.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each Assessment Period, shall assess an Annual Assessment against each Lot against each Lot that is initially part of this Project and any Lot within the Annexable Property that is irrevocably committed to the Project and subjected to this Declaration (other than Lots owned by Declarant).

6.2.2 The Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligations to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Annual Assessment for that Assessment Period (except as expressly limited in Section 6.2.3 below and by Arizona law) and the revised Annual Assessment for that Assessment Period shall commence on the date designated by the Board.

6.2.3 The Association may not impose an Annual Assessment for any Assessment Period that is more than twenty percent (20%) greater than the Annual Assessment established for the most recent Assessment Period prior to the current Assessment Period without the approval of a majority of the Members of the Association or, if less, the number of Members or votes as may be required to approve such an Assessment increase by Arizona's Planned Communities statutes, A.R.S. §33-1801 et seq., as amended from time to time.

6.3 Rate of Assessment. The Owners of all Lots (other than those Lots owned by Declarant) shall each pay an equal amount of each Annual or Special Assessment. Declarant shall not be obligated to pay any Assessment for Lots owned by Declarant; provided, further, however, that Declarant shall be obligated to pay any shortfall in the operating expenses of the Association on a monthly basis as provided in Section 6.4 below.

6.4 Obligation of Declarant for Deficiencies. Declarant shall pay and contribute to the Association on a monthly basis, or at such other times as may be reasonably requested by the Board, such funds as may be necessary (when added to the Assessments levied and collected by the Association) to pay all Common Expenses of the Association as they become due. Declarant's obligation to fund any shortfall in Association revenues under this Section 6.4 shall automatically cease if Declarant elects at any time to pay Annual Assessments for all Lots then owned by Declarant at the same rate charged to the other Lot Owners. Such election may be made either by Declarant's giving written notice to the Association, or, without the necessity of giving such notice, by Declarant's paying the Association each month a sum equivalent to the amount of the monthly installment of the Annual Assessment that would be assessable to each such Declarant Lot if the Lot were owned by a non-Declarant Owner.

6.5 Special Assessments. In any Assessment Period, the Association may levy a Special Assessment against each Lot which is then subject to Assessment, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Improvement on the Common Area or in an Area of Association Responsibility, including fixtures and personal property related thereto. Any Special Assessment must have the assent of Declarant, while Declarant owns any Lots, and the consent of Members holding two-thirds (2/3) of the votes entitled to be cast by Members (other than Declarant) who are voting in person, by proxy (if permitted by applicable law), or by absentee or written ballot at a meeting duly called for this purpose or the consent of Members evidenced by written agreement of Members holding two-thirds (2/3) of the votes in the Association pursuant to A.R.S. §10-3704. Notwithstanding the foregoing, Special Assessments made pursuant to Section 8.7 below shall only require the consent of the Board and fifty percent (50%) of the total allocated votes in the Membership.

6.6 Enforcement Assessments. The Association may assess against a Lot an Enforcement Assessment any of the following expenses: (i) any Collection Costs incurred by the Association in attempting to collect Assessments or other amounts payable to the Association by the Owner of the Lot; (ii) any Collection Costs, including attorneys' fees (whether or not a law suit is filed), incurred by the Association with respect to any violation of the Project Documents by the Owner, his Lessee or any other Resident of his Lot and their respective Invitees; (iii) any monetary penalties levied against the Owner for infractions of the Project Documents in accordance with procedures set forth in the Bylaws or Association Rules; or (iv) late charges and any other amounts (other than Annual Assessments or Special Assessments) which become due and payable to the Association by the Owner, his Lessee or any other Resident of his Lot pursuant to the Project Documents. For purposes of this Section 6.6, the Association shall be deemed to automatically have assessed any late charges and delinquent interest charges accruing against a specific Lot for non-payment of Assessments as provided for in this Declaration and/or adopted by Association Rule as an Enforcement Assessment without

the requirement of a hearing or a formal Board resolution or assessment against the applicable Lot. To the extent any Enforcement Assessment is not secured by an Assessment Lien as may be provided by applicable Arizona law consistent with the provisions of Section 6.1 above, the Association may seek a civil judgment for the amounts so assessed against the applicable Owner or Lot. If the Association is a prevailing party in such a civil action, the Association may record the judgment lien against the Lot in the amount so awarded by the applicable court; provided, further, however, in no event may the Association bring an action to foreclose such civil judgment against the Lot so encumbered thereby, but such civil judgment shall be paid no later than at such time as a conveyance of the encumbered Lot occurs as further provided in A.R.S. §33-1807.

6.7 Assessment Period. The period for which the Annual Assessment is to be levied shall be the calendar year, except that the first Assessment Period, and the obligation of the Owners to pay an Annual Assessment shall commence upon the conveyance of the first Lot to a Purchaser and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

6.8 Commencement Date of Assessment Obligation. All Lots shall be subject to assessment upon the conveyance of the first Lot to a Purchaser except as provided in Section 6.21 below with respect to any Lots annexed into the Project pursuant to Section 2.3 above; and provided, further, however, that nothing contained in this Section 6.8 shall obligate Declarant to pay Assessments for Lots except as otherwise provided in Section 6.4 and Section 6.5 above.

6.9 Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on a monthly basis or such other basis as may be selected by the Board (but no less frequently than quarterly). Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt Rules setting forth procedures for levying Assessments and for the billing and collection thereof provided that the procedures are not inconsistent with the provisions of this Declaration, the Articles or Bylaws. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration or the Project Documents, but, to the extent those Assessments or charges are secured by the Assessment Lien, the Assessment Lien therefor shall not be foreclosed until the Member has been given not less than thirty (30) days' written notice prior to initiation of such foreclosure action that the Assessment or any installment thereof is due and of the amount owing. Any notice given pursuant to a Member pursuant to Section 6.10.2 below shall suffice if given at least thirty (30) days before commencement of a civil foreclosure action. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period, but successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

6.10 Effect of Nonpayment of Assessments; Association Remedies.

6.10.1 Any Assessment, or any installment of an Assessment, not paid within fifteen (15) days after the Assessment or any installment thereof first became due shall be deemed delinquent as of the original due date for the missed Assessment and shall bear interest

from the date such payment was due at the rate of at the rate of eighteen percent (18%) per annum. In addition to or in lieu of delinquent interest, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment or installment thereof or any other charges payable to the Association pursuant to the Project Documents. In said event, the late charge shall automatically attach to the Assessment within fifteen (15) days after such Assessment was first due in an amount not to exceed the limitations of A.R.S. §33-1803, as amended from time to time.

6.10.2 To the fullest extent permitted by this Declaration and applicable law, the Association shall have a lien on each Lot for: (i) all Annual and Special Assessments levied against the Lot; (ii) late charges accruing on Annual and Special Assessments; (iii) all other reasonable Collection Costs and other fees and charges due to the Association, including, without limitation, monetary penalties and fines. The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is Recorded. If the Association or the Managing Agent Records a Notice of Lien, the Association may charge the Owner of the Lot against which the Notice of Lien is Recorded a lien fee in an amount to be set from time to time by the Board.

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

6.10.4 Except as may be otherwise provided by Arizona law or in this Declaration, the Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, including, without limitation, late charges, reasonable attorneys' fees and costs, and any other sums lawfully secured by the Assessment Lien have been paid in full.

6.10.5 Subject to the applicable limitations of Arizona law, including, without limitation, A.R.S. §33-1807(A), regarding the amount and duration of a delinquency, the Association shall have the right, at its option, to enforce collection of any delinquent charges and all other sums due to the Association in any manner allowed by law, including, but not limited to: (i) bringing an action at law against the Owner personally obligated to pay the delinquent charges and such action may be brought without waiving the Assessment Lien to the extent the Assessment Lien secures such charges or (ii) bringing an action to foreclose the Assessment Lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

6.11 Evidence of Payment of Assessments. Upon receipt of a written request by a Member or other Person, and within a reasonable period of time thereafter (but not to exceed fifteen (15) days or such earlier time period as may be established under A.R.S. §33-1807 from time to time), the Association shall issue to such Member or other Person a written certificate stating that all Assessments, interest, late charges, lien fees, fines, penalties, and other fees and costs have been paid with respect to any specified Lot as of the date of such certificate, or if all Assessments or other charges have not been paid, the amount of such Assessments or other charges due and payable as of such date. The Association or the Managing Agent may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against the Association, every Owner, and the bona fide Purchaser or Person acquiring the Lot in question, and any First Mortgagee thereof, if the statement is requested by an escrow agency that is licensed pursuant to Title 6, Chapter 7. The Association shall also deliver such information and statements to prospective Purchasers as may be reasonably requested by a Member who intends to convey that Lot or as the Association is required to provide to such prospective Purchasers for purposes of complying with A.R.S. §33-1806, as amended from time to time. The Association may charge a reasonable fee for such services as determined by the Board from time to time.

6.12 Purposes for which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including Assessments, fees, loan proceeds, surplus funds and property from any other source) for the common good and benefit of the Project and the Owners and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, Improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among the Residents, maintenance of landscaping in Areas of Association Responsibility, recreation, insurance, communication, education, transportation, health, utilities, public services, safety and indemnification of officers and directors of the Association. The Association may also expend its funds for any purpose for which a nonprofit corporation may expend funds under the laws of the State of Arizona.

6.13 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments (including any Special Assessments) and other sums received by during any Assessment Period nor shall the Association shall be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year. The Association may carry forward from year to year such surplus as the Board, in its discretion, may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes and/or the Board may deposit any such surplus funds in the Association's Reserve Account.

6.14 Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser of a Lot from the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth (1/6th) of the current Annual Assessment for the Lot. Funds paid to the Association pursuant to this Section 6.14 may be used by the Association for payment of operating expenses or any other purpose permitted under the Project Documents. Payments made pursuant to this Section 6.14 shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

6.15 Transfer Fee.

6.15.1 Except as expressly provided in Section 6.15.2 below, (i) each Purchaser, immediately upon becoming the Owner of a Lot, and (ii) each Member, immediately upon leasing his Lot to a Lessee pursuant to Section 3.12.2 above, shall pay to the Association a transfer fee (***"Transfer Fee"***) in such amount as is established from time to time by the Board to compensate the Association for the administrative costs incurred resulting from the transfer of the Lot. The Transfer Fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail or deliver pursuant to A.R.S. §33-1806(A), and, therefore, the Transfer Fee shall be in addition to the fee which the Association or the Managing Agent is entitled to charge pursuant to A.R.S. §33-1806(C).

6.15.2 No Transfer Fee shall be payable with respect to: (a) any transaction in which the Person acquiring title to a Lot is a Purchaser of that Lot from Declarant unless otherwise expressly permitted by Declarant; (b) the transfer or conveyance of a Unit by devise or intestate succession; (c) a transfer or conveyance of a Lot to a family trust, family limited partnership or other Person for bona fide estate planning purposes; (d) a transfer or conveyance of a Unit to a corporation, partnership or other entity in which the grantor owns a majority interest; (e) the conveyance of a Lot by a trustee's deed following a trustee's sale under a deed of trust; (f) a conveyance of a Lot as a result of the foreclosure of a realty mortgage or the forfeiture or foreclosure of a purchaser's interest under a Recorded contract for the conveyance of real property subject to A.R.S. §33-741 et seq.; (g) the conveyance of a Lot to a mortgagee pursuant to a deed in lieu of foreclosure executed by the mortgagor Owner; and (h) the conveyance by an Owner of a Lot who acquired title by trustee's deed, foreclosure of a realty mortgage, forfeiture or foreclosure of a Recorded contract pursuant to A.R.S. §33-741 et seq., or deed in lieu of foreclosure to a Purchaser. If the Board determines, in its sole discretion, that a material purpose of a transfer or conveyance was to avoid payment of the Transfer Fee (or any other fee due that would otherwise be due to the Association) or to avoid the Transfer Restriction set forth in this Section 6.15, the Board may choose to charge such a Transfer Fee despite an apparent exemption or to give notice that the proposed Transfer is void or in violation of this Section 6.15 and to pursue all remedies available to the Association to enforce such Transfer Restrictions.

6.16 No Offsets. All Assessments and Collection Costs and other fees and charges payable to the Association shall be payable in accordance with the provision of the Project Documents, and no offsets against such Assessments, Collection Costs, or other fees and charges

shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Project Documents.

6.17 No Exemption of Owners. No Owner of a Lot may exempt himself from liability for Assessments levied against his Lot or for other amounts which he may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area facilities or by abandonment of his Lot.

6.18 Reserve Contributions/Reserves.

6.18.1 Except as provided in Section 6.18.2 below, each Purchaser shall pay to the Association, immediately upon becoming the Owner of a Unit, a contribution (the ***"Reserve Contribution"***) to the reserves to be established pursuant to Section 6.18.3 below. The amount of the initial Reserve Contribution shall be set by the Board prior to the conveyance of the first Lot to a Purchaser. The amount of the initial Reserve Contribution shall be based upon the recommendations contained in any professionally prepared reserve study obtained by the Board as to the amount of reserves required for the Project after taking into consideration the amount of Reserves then held by the Board in a segregated account. The Board of Directors may, from time to time, increase or decrease the amount of the Reserve Contribution, but the amount of the Reserve Contribution may not be increased by the Board by more than twenty percent (20%) during any Assessment Period without the approval of the Members holding more than fifty percent (50%) of the votes in the Association. Reserve Contributions are non-refundable and are shall not be considered as an advance payment of the Annual Assessment.

6.18.2 No Reserve Contribution shall be payable with respect to any transfer of a Lot exempt from the Transfer Fee pursuant to Section 6.15.2 above.

6.18.3 The Annual Assessments shall include a reasonable amount for reserves as determined by the Board of Directors for the future periodic maintenance, repair or replacement of all or a portion of the Common Area and other Areas of Association Responsibility and Improvements thereon, or any other reasonable purpose as determined by the Board of Directors. In addition to funding through Annual Assessments, the reserves may also be funded and supplemented from remaining balances of unused Special Assessments, from Reserve Contributions and from any other additional revenues of the Association designated by the Board. All amounts collected as reserves, whether pursuant to this Section 6.18 or otherwise, shall be deposited by the Board of Directors in a separate bank account (the ***"Reserve Account"***) commencing no later than the expiration or termination of Class B Membership. All funds in the Reserve Account shall be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with other Association funds. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board of Directors shall not expend funds from the Reserve Account for any other purpose other than those purposes for which they are collected. Withdrawal of funds from the Reserve Account shall require the signatures of two members of the Board of Directors or one member of the Board and an officer of the Association who is not also a Board member. After the termination or expiration of Class B Membership, the Board of Directors shall periodically

obtain a reserve study in accordance with good management practice and shall present such findings to the Members no later than the next annual meeting of the Members. The reserve study shall at a minimum include: (i) identification of the major components of the Common Area having a remaining useful life of less than thirty (30) years as of the date of the study and their estimated probable remaining useful life; (ii) an estimate of the cost of maintenance, repair, replacement, restoration of such Common Area during and at the end of their useful life; (iii) an estimate of the annual contribution to the Reserve Account necessary to defray such costs, after subtracting the funds in the Reserve Account as of the date of the study. The Board of Directors shall modify the budget in accordance with the findings of the reserve study.

6.18.4 Unless the Association is exempt from federal or state income taxes, all reserves shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulation of the Internal Revenue Service that will prevent such funds from being taxed as income of the Association.

6.19 Notice and Quorum for any Action Under Sections 6.2 or 6.5. Written notice of any meeting called for the purpose of obtaining the consent of the Members for any action for which the consent of Members is required under Sections 6.2 or 6.5 of this Declaration shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members voting in person, by proxy (if allowed by applicable law), or by written or absentee ballots, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required meeting at the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting without the quorum requirements reverting back to the original level.

6.20 Unallocated Taxes. In the event that any taxes are assessed against the Common Area or the personal property of the Association rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article 6, and, if necessary, a Special Assessment may be levied on a pro rata basis to each of the Lots.

6.21 Assessments on Lots Subsequently Annexed. The Annual Assessment for Lots annexed by the Declarant pursuant to Section 2.3 of this Declaration shall commence on the first day of the first month following the month in which any annexed portion or phase of the Annexable Property becomes irrevocably committed to the Project in accordance with said Section 2.3, and no Assessments may be levied against any such Lot until such time.

ARTICLE 7 MAINTENANCE

7.1 Maintenance of Areas of Association Responsibility. The Association, or its duly designated representatives, without any approval of the Owners or First Mortgagees being

required, shall undertake all of the following for the benefit of the Project and its Owners and Residents:

7.1.1 Maintain, reconstruct, repair, replace, or refinish in first class condition in accordance with the standards of the Project and community as a whole any Improvements on the Common Area or in an Area of Association Responsibility (including the Project recreational facilities consisting of, without limitation, a pool, spa, and clubhouse facilities building) to the extent that such work is not being done by a governmental entity, if any, responsible for such maintenance or upkeep.

7.1.2 Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway and parking area and maintain any sidewalk area regardless of whether located on the Lots or the Common Area.

7.1.3 Maintain the multi-use trail on Tract B to the extent not maintained by the City and subject to Section 3.23 above, maintain and repair all drainage and retention facilities in the Common Area as originally installed by Declarant.

7.1.4 Maintain and replace and replace all landscaping and plantings in the Common Area and in public rights-of-way (including, without limitation, along 47th Avenue) and public utility easement areas to the extent the Board deems reasonably necessary for the conservation of water and soil, to replace damaged or injured trees, and for aesthetic purposes; provided, however, that the Board shall not vary the landscape plan installed by the Declarant and approved by the City without the prior written approval of the City.

7.1.5 Replace and maintain all landscaping and other Improvements as originally installed by Declarant on the Public Yards of Lots in accordance with the standards for Common Area landscape maintenance set forth in Section 7.1.4 above.

7.1.6 Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof.

7.1.7 Maintain and repair all street lighting and light poles installed by Declarant and/or rented from Salt River Project on Tract S, except to the extent maintained by the applicable utility.

7.1.8 Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and other Areas of Association Responsibility and the appearance thereof, in accordance with the Project Documents.

7.1.9 The City is not responsible for and will not accept maintenance of any private utilities, streets, facilities, and landscaped areas within this Project.

7.2 Maintenance of Lots by Owners.

7.2.1 Each Owner of a Lot shall be responsible for maintaining, repairing or replacing his Lot, and/or all Improvements thereon, as applicable, including his Residential Dwelling and driveway, except for any Areas of Association Responsibility established in accordance with this Declaration. All such Improvements shall be kept in good condition and repair. No yard equipment, wood piles or storage areas may be maintained so as to be Visible from Neighboring Property. Any Lots without Residential Dwellings thereon shall be maintained in a weed free manner.

7.2.2 Owners shall be responsible for maintenance of the roofs and exteriors of their Residential Dwellings and repairing all damage thereto regardless of whether due to age, weathering, ordinary wear and tear, acts of God, or willful or accidental damage. Such maintenance shall include periodic painting of the Residential Dwelling exterior in accordance with the color scheme established by the Board from time to time. No Owner, Resident or other Person may paint the exterior surfaces of any Residential Dwelling or make any Modifications to the exterior color scheme of any Residential Dwelling without the prior written approval of the Board. The type of paint to be used in painting the exterior surfaces of the Residential Dwellings and the timing and frequency of such painting of exterior surfaces shall be in the sole discretion of the Board and in accordance with the Association Rules. All paint colors used shall be approved in advance by the Board in accordance with Article 3 above.

7.3 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance, repair or replacement of Common Area or other Area of Association Responsibility is caused through the willful or negligent act of any Owner or Resident of a Lot, or their Invitees or animals for whom the Owner or Resident is legally responsible under Arizona law, the Association shall cause the maintenance, repairs or replacement to be performed and the cost of such work shall be paid by the Owner of the Lot to the Association upon demand as an Enforcement Assessment to the extent the Owner is liable under Arizona law.

7.4 Improper Maintenance and Use of Lots. In the event any portion of a Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in any manner which violates the Project Documents, or in the event an Owner or any Resident of any Owner's Lot is failing to perform any obligations under the Project Documents, the Board may make a finding to that effect. The Board shall specify the particular condition or conditions which exist, and pursuant thereto, give notice of such findings to the offending Owner that unless corrective action is taken within thirty (30) days, the Board may cause such action to be taken at said Owner's expense. If, at the expiration of said thirty (30) day period, the requisite action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand as an Enforcement Assessment regardless of whether such costs were caused by the Owner directly or any other Resident of the Lot.

7.5 Boundary Walls. Each wall or fence which is located between two Lots shall constitute a boundary wall and, to the extent not inconsistent with this Section 7.5, the general rules of law regarding boundary or "party" walls shall apply. The Owners or Residents of contiguous Lots who share a boundary wall shall both equally have the right to use such wall provided that such use by one Owner or Resident does not interfere with the use and enjoyment of the same by the other Owner or Resident. In the event that any boundary wall is damaged or destroyed through the act of an Owner or Resident of a Lot, or their Invitees or animals, it shall be the obligation of the Lot Owner to rebuild and repair the boundary wall without cost to the other Owner of the adjoining Lot sharing the boundary wall. In the event any such boundary wall is damaged or destroyed by some other cause (including ordinary wear and tear and deterioration through lapse of time), then, in such event, both adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly existed at their joint and equal expense. The right of an Owner to contribution from any other Owner under this Section 7.5 shall be appurtenant to the land and shall pass to such Owner's successors in title. In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a boundary wall shall first obtain the written consent of the adjoining Owners and the Board. In the event any boundary wall encroaches upon a Lot, pursuant to the provisions of Section 4.6, a valid easement for such encroachment and for the maintenance of the boundary wall shall and does exist in favor of the Owners of the Lots which share the boundary wall. To the extent necessary for an Owner to construct Improvements in the Private Yard of his Lot, an Owner may remove all or part of a boundary wall, provided the Owner gives reasonable notice to the adjoining Owners and Residents that all or part of the boundary wall will be removed and the Owner desiring to temporarily remove a portion of the wall makes appropriate arrangements (including the erection of a temporary fence or barrier) or pays appropriate compensation for the protection of children and pets on the adjoining Lot. Any Owner removing all or part of a boundary wall pursuant to this Section 7.5 shall rebuild and restore the boundary wall to its prior condition at such Owner's sole cost and expense within a reasonable time after entry through the boundary wall is no longer necessary in connection with the construction of Improvements.

7.6 Maintenance of Walls Other than Boundary Walls. Walls or fences (other than boundary walls as described in Section 7.5 above) located on a Lot shall be maintained, repaired and replaced by an Owner of the Lot. Any wall which is placed on the boundary line between a Lot and the Common Area shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Common Area. In the event any such wall encroaches upon the Common Area or a Lot, an easement for such encroachment shall exist in favor of the Association or the Owner as the case may be, pursuant to Section 4.6 above. Any wall which is placed on the boundary line between a Lot and public right-of-way (including all Project perimeter walls) shall be maintained, repaired and replaced by the Association, except that the Owner of the Lot shall be responsible for the repair, painting and stuccoing or retexturing of the surface of the wall which faces the Private Yard or interior of the Lot and is Not Visible from Neighboring Property. To the extent necessary for an Owner to construct Improvements in the Private Yard of his Lot, an Owner may remove all or part of a wall separating his Lot from

Common Area or public right-of-way with the prior written consent of the Board and the City, as applicable. Such approval may be conditioned on the erection of a temporary fence or barrier.

7.7 ***Payment of Utility Charges.*** Each Residential Dwelling shall be separately metered for water, sewer, electrical and cable TV service, and all charges for such service to the Residential Dwellings shall be the sole obligation and responsibility of the Owner of each Lot. All bills for water, sewer and electrical service to the Common Area shall be billed to the Association, and the Association shall be responsible for the payment of such charges as a Common Expense to be included in the budget of the Association.

ARTICLE 8 INSURANCE

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

8.1.1 Commercial General Liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than $1,000,000 for any single occurrence and $2,000,000 general aggregate. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of Areas of Association Responsibility.

8.1.2 Property insurance for all Areas of Association Responsibility insuring against all risk of direct physical loss, in an amount equal to the maximum insurable replacement value of the Areas of Association Responsibility, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy. If the Common Area or other Areas of Association Responsibility are located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, the Association shall also maintain a "blanket" policy of flood insurance on those areas. Such policy shall be in form and amount as determined by the Board, but, in any event, shall always satisfy the requirements of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, as amended from time to time.

8.1.3 Workmen's compensation insurance to the extent necessary to meet the requirements of Arizona law.

8.1.4 Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association, the Board, or the Owners and Residents or as is required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, including, without limitation, directors' and officers' errors and omissions coverage and fidelity coverage against dishonest acts by directors, managing agents, officers, trustees,

employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association. The fidelity insurance shall name the Association as the insured and shall provide coverage in an amount not less than one and one-half times the Association's estimated annual operating expenses and reserves.

8.2 Contents of Policies. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there will be no subrogation with respect to the Association, its agents, servant, and employees, with respect to Owners and Residents; (ii) no act or omission by any Owner or Resident, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or Residents, their First Mortgagees, or other mortgagees or beneficiaries; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) a statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify all First Mortgagees named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

8.3 Limitation of Liability. Neither the Declarant nor the Association, or any member, director, officer, shareholder, employee, or agent thereof, shall be liable to any Owner or Resident or any other Person if any risk or hazard is not covered by insurance or the amount thereof is inadequate. Without limiting the foregoing, each Owner shall be responsible for obtaining insurance for his own benefit and at his own expense insuring his Lot and Residential Dwelling and the Improvements thereon against loss and providing personal liability coverage to the extent such insurance is not obtained by the Association. Each Owner is responsible for ascertaining the Association's coverage and for procuring such additional coverage as such Owner deems necessary. First Mortgagees may pay overdue premiums and may secure new insurance coverage upon the lapse of any policy with respect to any insurance required to be maintained by the Association or any Owner under this Declaration, and any First Mortgagee making such expenditure shall be entitled to immediate reimbursement from the Association or Owner on whose behalf the expenditure was made.

8.4 Certificates of Insurance. An insurer that has issued an insurance policy under this Article 8 shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner, First Mortgagee or other mortgagee or beneficiary of a deed of trust; provided, however, that if the insurer charges a fee to the Association for the issuance of such a certificate or memorandum, any reasonable fee so charged shall be paid to the Association by the requesting party in advance.. Any insurance obtained pursuant to this Article 8 may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each First Mortgagee or other mortgagee or beneficiary of a deed of trust to whom certificates of insurance have been issued.

8.5 Payment of Premiums/Deductibles/Annual Review. Premiums for all insurance obtained by the Association pursuant to this Article and all deductibles thereunder

shall be Common Expenses and shall be paid for by the Association; provided, however, the Association may assess to an Owner any deductible amount expended as a result of the negligence, misuse or neglect for which such Owner is legally responsible under this Declaration and Arizona law as further provided in Section 6.6 and Section 7.3 above. The Board of Directors may select deductibles in reasonable amounts applicable to the insurance coverage maintained by the Association pursuant to Section 8.1 above to reduce the payments payable for such insurance. The Board shall determine annually whether the amounts and types of insurance the Association has obtained provide adequate coverage in light of increased construction costs, inflation, the custom in the area in which the Project is located, or any other factor which leads to a reasonable determination that additional policies or coverage amounts are necessary or desirable to protect the interest of the Owners, First Mortgagees and/or the Association.

8.6 Payment of Insurance Proceeds. With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article 8, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 8.7 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

8.7 Repair and Replacement of Damaged or Destroyed Property.

8.7.1 Any portion of an Area of Association Responsibility which is damaged or destroyed shall be repaired or replaced promptly by the Association unless: (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners representing at least eighty percent (80%) of the total authorized votes in the Association elect not to rebuild by vote or proxy cast at a duly held meeting or by written agreement. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association and the Association may levy a Special Assessment on all Lot Owners as provided in Section 6.5 above for purposes of obtaining sufficient funds to complete restoration of any such damaged areas of the Project. If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas shall be used to restore the damaged Areas to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either: (i) be retained by the Association as in the Association's Reserve Accounts or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Owners representing more than fifty percent (50%) of the votes in the Association.

8.7.2 Subject to other provisions of this Declaration, in the event of damage to or destruction of any part of a Residential Dwelling or Lot, the Owner of each Lot shall reconstruct the same as soon as reasonably practicable and substantially in accordance with the plans and specifications therefor or shall remove all debris from the Lot such that the Lot does not have an unsightly appearance or otherwise constitute a nuisance. Each Owner shall have an easement of reasonable access into any adjacent Lot for purposes of repair or reconstruction of his Residential Dwelling as provided in this Section 8.7.

ARTICLE 9 ENFORCEMENT

9.1 General Right of Enforcement. Subject to the further provisions of Article 10 below, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of the Project Documents. Failure by the Association or by any Owner to enforce any covenant or restriction contained in the Project Documents shall in no event be deemed a waiver of the right to do so thereafter.

9.2 Items of Construction/Equitable Relief. As provided in Section 9.3 below, Declarant, the Association, and/or any Owner shall have the right to use summary abatement or similar means to enforce the restrictions set forth in this Declaration, provided, however, a judicial decree authorizing such action must be obtained before any items of construction or any Modification can be altered or demolished by any Person other than the Owner or other Person who caused the Modification to be made.

9.3 Enforcement by Association. The Association may enforce the Project Documents in any manner provided for in the Project Documents or by law or in equity, including, but not limited to:

9.3.1 imposing reasonable monetary penalties after notice and hearing as provided in the Bylaws. An Owner shall be responsible for payment of any fine levied or imposed against an Owner as a result of the actions or omissions of the Owner, his Lessee or Resident or their respective Invitees;

9.3.2 suspending an Owner's right to vote for violations of any provision of these Project Documents as further provided in Section 5.12 above; suspending a Unit Owner's right to vote for as long as the Unit Owner, his Lessees, or their respective Invitees, are in violation of any provision of these Condominium Documents;

9.3.3 suspending any Person's right to use any facilities within the Common Area, as further provided in Section 4.1 above, provided, however, that nothing shall authorize the Board to limit ingress or egress to or from a Lot;

9.3.4 suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than fifteen (15) days' delinquent in paying any Assessment or other charge owed to the Association;

9.3.5 exercising self-help or taking action to abate any violation of the Project Documents, including tenant or Lessee eviction as provided in Section 3.12 above or to remove any structure of Improvement further subject to any limitations of Arizona law and the provisions of Section 9.2 of this Declaration;

9.3.6 without liability to any Person, prohibiting any Invitee of an Owner, Lessee or other Resident who fails to comply with the terms and provisions of the Project Documents from continuing or performing any further activities within the Project;

9.3.7 towing Vehicles and/or restricting their movement through "booting" if those Vehicles are parked in violation of this Declaration or the Rules as further provided in Section 3.21 of this Declaration;

9.3.8 filing a suit at law or in equity to enjoin a violation of the Project Documents, to compel compliance with the Project Documents, to recover Assessments, monetary penalties, Collection Costs or damages or to obtain such other relief (including a civil monetary judgment) to which the Association may be entitled, including the remedies provided for in Section 6.10 of this Declaration, subject to any applicable limitations of Arizona's Planned Communities statutes (A.R.S. §33-1801 et seq.) on the enforcement of Association remedies;

9.3.9 Recording a Notice of Violation by any Owner of any restriction or provision of the Project Documents as further provided in Section 11.8 of this Declaration; and

9.3.10 Recording an Assessment Lien against a Lot as provided in Section 6.10.2 of this Declaration and Arizona's Planned Communities statutes, A.R.S. §33-1801 et seq.

9.4 Limited Enforcement Obligation. The Association shall not be obligated to take any enforcement action if the Board determines, in its sole discretion, that, because of the strength of the Association's possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association.

ARTICLE 10 CONSTRUCTION DEFECT AND GENERAL DECLARANT PARTY CLAIMS AND DISPUTE RESOLUTION PROCEDURES

10.1 Dispute Notification and Resolution Procedure. All actions or claims (i) by the Association or (ii) by one or more Owner(s) against any Declarant, or their general contractors, brokers, agents, employees or representatives (collectively, the ***"Declarant Parties"***), relating to or arising out of the Project, including but not limited to, (a) this Declaration or construction of or any condition on or affecting the Project including, but not limited to, construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (including, but not limited to, the Residential Dwellings), (b) the operations and financial records of the Association, or (c) disputes which allege negligence or other tortious conduct, breach of contract or breach of implied or express warranties as to the condition or operation of the Project or any Improvements therein (collectively, ***"Dispute(s)"***) shall be subject to the provisions of this Article 10. Declarant and each Owner acknowledge that the provisions set forth in this Article 10 shall be binding upon current and future Owners and the Association, whether acting for itself or on behalf of any Owner(s).

10.2 ***Notice.*** Any Person (including the Association) with a Dispute claim shall notify the Declarant Parties in writing of the claim, which writing shall describe the nature of the claim and any proposed remedy (the ***"Claim Notice"***).

10.3 ***Right to Inspect and Right to Corrective Action.*** If the Dispute relates to an alleged construction defect, the Declarant Parties and the claimant shall meet at a mutually acceptable place within the Project to discuss the claim within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days. At such meeting or at such other mutually agreeable time, the Declarant Parties and their representatives shall have full access to the property that is the subject of the claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing of the same in a manner deemed appropriate by the Declarant Parties (provided Declarant shall repair or replace any property damaged or destroyed during such inspection or testing), which rights shall continue until such time as the Dispute is resolved as provided in this Article 10. The parties shall negotiate in good faith in an attempt to resolve the claim. If the Declarant Parties elect to take any corrective action, the Declarant Parties and their representatives and agents shall be provided full access as necessary to the Project and the property which is the subject of the Claim Notice to take and complete corrective action.

10.4 ***No Additional Obligations; Irrevocability and Waiver of Right.*** Nothing set forth in this Article 10 shall be construed to impose any obligation on any Declarant Party to inspect, test, repair or replace any item of the Project for which such Declarant Party is not otherwise obligated under applicable law or any limited warranty provided by such Declarant Party in connection with the sale of the Lot or the Residential Dwellings and other Improvements constructed thereon. The right of the Declarant Parties to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form executed and Recorded by Declarant.

10.5 ***Mediation.*** If the parties to the Dispute cannot resolve the Claim pursuant to the procedures described in Section 10.3 above, the matter shall be submitted to mediation pursuant to the mediation procedures adopted by the American Arbitration Association (except as such procedures are modified by the provisions of this Article 10) or any successor thereto or to any other entity offering mediation services that is acceptable to the parties. No person shall serve as a mediator in any dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. No litigation or other action shall be commenced against any Declarant Party without complying with the procedures described in this Section 10.5.

10.6 ***Position Memoranda; Pre-Mediation Conference.*** Within ten (10) days of the selection of the mediator, each party shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved. The mediator shall have the right to schedule a pre- mediation conference and all parties shall attend unless otherwise agreed. The mediation shall be commenced within ten (10) days following the submittal of the memoranda and shall be concluded within fifteen (15) days from the commencement of the mediation unless the parties mutually agree to extend the mediation period. The mediation shall be held in the

County of Declarant's place of business, Maricopa County, Arizona, or such other place as is mutually acceptable to the parties.

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

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

10.9 Parties Permitted at Sessions. Persons other than the parties, the authorized representatives of such parties (including their attorneys), and the mediator may attend mediation sessions only with the permission of both parties or by witnesses in the course of the mediator while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

10.10 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise. Each party to the mediation shall bear its own attorney's fees and costs in connection with such mediation.

10.11 Arbitration. Should mediation pursuant to Section 10.5 above not be successful in resolving any Dispute which is the subject of a Claim Notice, such Dispute shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association as modified or as otherwise provided in this Article 10. The parties shall cooperate in good faith to attempt to cause all necessary and appropriate parties to be included in the arbitration proceeding. Subject to the limitations imposed in this Article 10, the arbitrator shall have the authority to try all issues, whether of fact or law.

10.12 Place. The arbitration proceedings shall be heard in the County of Declarant's place of business, Maricopa County, Arizona, or such other location as is mutually acceptable to the parties.

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

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

10.15 Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

10.16 Discovery. The parties shall be entitled only to limited discovery, consisting of the exchange between the parties of only the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Dispute, including but not limited to, destructive or invasive testing; and (vi) trial briefs. The parties shall also be entitled to conduct further tests and inspections as provided in Section 10.3 above. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

10.17 Limitation on Remedies/Prohibition on the Award of Punitive Damages. The arbitrator shall not have the power to award punitive or consequential damages. As further provided below, the right to punitive and consequential damages is waived by the parties. The arbitrator shall have the power to grant all other legal and equitable remedies and award compensatory damages in the proceeding.

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

10.19 Arbitration Award. The arbitrator's award may be enforced as provided for in the Uniform Arbitration Act, A.R.S. §12-1501, et seq., or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held.

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

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

10.21 Statutes of Limitation. Nothing contained in this Article 10 shall be considered to toll, stay, reduce or extend any applicable statute of limitations.

10.22 Required Consent of Declarant to Modify. Neither this Section 10.22 nor Section 10.23 below may be amended except in accordance with Section 11.2 of this Declaration **and** with the express written consent of the Declarant without regard to whether Declarant then owns any Lots or Parcels in the Project.

10.23 Required Consent of Owners for Legal Action. Notwithstanding anything to the contrary contained in this Declaration, any action or Claim instituted by the Association against any one or more Declarant Parties, relating to or arising out of the Project, this Declaration or any other Project Documents, the use or condition of the Project or the design or construction of or any condition on or affecting the Project, including, but not limited to, construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (including, but not limited to, Residential Dwellings) or disputes which allege negligence or other tortious conduct, breach of contract or breach of implied or express warranties as to the condition of the Project or any Improvements thereon, and for which the claimed or alleged damages or the current economic value of other available remedies would exceed $25,000 in the aggregate shall have first been approved by Owners representing seventy-five (75%) of the votes in the Association (other than votes allocated to Lots owned by Declarant or any other Owner who would be a defendant in such proceedings) who are voting in person, by proxy (if permitted by applicable law) or by absentee or written ballot cast at a meeting duly called for such purpose. The provisions of A.R.S. §10-3704 allowing for a written agreement of the Members without a meeting shall not supersede the requirements of this Section 10.23 requiring a meeting of the Association Members and the obtaining of the requisite consents thereat to authorize the commencement of litigation by the Association or in the name of the Association. The foregoing restriction shall not apply to: (i) actions to enforce the collection of Assessments (including Collection Costs) or an Assessment Lien; (ii) actions to challenge ad valorem taxation or condemnation proceedings; (iii) actions to defend claims filed against the Association or to assert mandatory counterclaims therein; (iv) actions to enforce any specific covenant hereunder; or (v) or claims brought by an Owner in his individual capacity concerning his Lot and Improvements located solely within his Lot; provided, further that each Owner shall be bound by the mandatory arbitration provisions set forth herein and in any contract of purchase. In the event of any conflict between the arbitration provisions of this Article 10 and any applicable contract of purchase, the arbitration provisions of the contract of purchase, if any, shall prevail. Otherwise, all provisions of this Article 10 shall be binding upon the Owner. The Association must finance any legal proceeding with monies that are specifically collected for same and may not borrow money or use reserve funds or other monies that are collected for specific Association obligations other than legal fees.

10.24 Notice to Owners. Prior to obtaining the consent of the Owners in accordance with Section 10.23 above, the Association must provide written notice to all Owners within the Project affected by the Dispute, which notice shall (at a minimum) include (1) a description of the nature of any action or claim (the ***"Claim"***), (2) a description of the attempts of the Declarant Party or Parties to correct such Claim and the opportunities provided to such Declarant Party or Parties to correct such Claim, (3) a certification from an engineer licensed in the State of Arizona that such Claim is valid along with a description of the scope of work necessary to cure such Claim and a resume of such engineer, if the Claim relates to an alleged construction or engineering defect (4) the estimated cost to repair such Claim, (5) the name and professional background of the attorney proposed to be retained by the Association, as applicable, to pursue the Claim against such Declarant Party or Parties and a description of the relationship between such attorney and member(s) of the Board of Directors (if any), (6) a description of the fee arrangements between such attorney and the Association, as applicable, (7) the estimated attorneys' fees and expert fees and costs necessary to pursue the Claim against the Declarant Party or Parties and the source of the funds which will be used to pay such fees and expenses, (8) the estimated time necessary to conclude the action against the Declarant Party or Parties, and (9) an affirmative statement from the Board of Directors that the action is in the best interest of the Association and its Members. In the event the Association recovers any funds from a Declarant Party (or any other Person) to repair a Claim, any excess funds remaining after repair of such Claim shall be paid into the reserve funds of the Association.

10.25 Notification to Prospective Purchasers. In the event that the Association commences any action or Claim or has notified the appropriate Owners that it has delivered a Claim Notice of a Dispute to any of the Declarant Parties, all affected Owners must notify prospective purchasers of a Residential Dwelling from them of the existence of such action, Claim or Claim Notice of a Dispute and must provide such prospective purchasers with a copy of the notice received from the Association, in accordance with Section 10.24 above or any other notice so received from the Association.

10.26 Arizona Statutory Compliance. In the event a court of competent jurisdiction invalidates all or part of this Article 10 regarding the resolution of Disputes and Claims relating to alleged construction defects and litigation unfortunately becomes necessary, the Declarant Parties, the Association, and all Owners shall be bound by the applicable Arizona construction defect statute presently codified at A.R.S. §12-1361 et seq. and A.R.S. §33-2001 et seq.

ARTICLE 11 GENERAL AND MORTGAGEE PROVISIONS

11.1 Term; Method of Termination. This Declaration shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is Recorded. After which time, this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time during the initial term of this Declaration or any extension or renewal term, if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing ninety percent

(90%) or more of the votes in each class of membership and by the holders of First Mortgages on Lots, the Owners of which have seventy-five percent (75%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be Recorded with the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon, this Declaration shall have no further force or effect and the Association shall be dissolved pursuant to the provisions set forth in the Articles.

11.2 Amendments.

11.2.1 Except for amendments made pursuant to Section 11.2.2 of this Declaration, and subject to the further limitations of Sections 11.2.3, 11.2.4 and 11.2.6, this Declaration may be amended at any time during the initial term of this Declaration or any renewal or extension term, without regard to whether such amendments are of uniform effect as to the Owners or the Lots, by the written approval or the affirmative vote, or any combination thereof, of Owners of not less than sixty-seven percent (67%) of the Lots, with one vote per Lot.

11.2.2 Declarant, so long as Declarant owns any Lot, may unilaterally amend this Declaration or the Plat to: (i) correct any error or inconsistency in the Declaration; (ii) conform this Declaration or the Plat to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, any federal, state or local governmental agency or quasi-governmental agency whose approval of the Project is required by law or requested by the Declarant; or (iii) alter the size of and boundaries between any Lots (including an increase or reduction of the total number of Lots) so long as: (I) all such altered Lots are owned by Declarant, (II) all First Mortgagees then encumbering the Lots to be altered consent in writing, (III) such alterations do not modify or change the size or the boundaries of any other Lot or materially modify the size or boundaries of the Common Area; (IV) such alterations do not result in the removal or abandonment of any recreational facilities shown on the Improvement plans on file with the City; and (V) such alterations do not materially increase the share of Common Expenses payable by Owners.

11.2.3 So long as the Declarant owns any Lot, any amendment to this Declaration must be approved in writing by the Declarant. Article 10 of this Declaration may not be amended without the consent of Declarant at any time during the initial term of this Declaration; Declarant's interest being deemed coupled with an interest, without regard to whether Declarant owns any Lot at that time; provided, further, however, that if Declarant is deemed by any court of applicable jurisdiction not to have such an interest, then, in no event may Article 10 of this Declaration be amended without the consent of one hundred percent (100%) of the then Owners of Lots.

11.2.4 An amendment to this Declaration may require the prior written approval of the Veterans Administration or the Federal Housing Administration as further provided in Section 11.16 below.

11.2.5 So long as Declarant owns the requisite number of Lots under this Section 11.2 to effect an amendment hereunder, any amendment to this Declaration shall be signed by Declarant and Recorded in the records of the County Recorder of Maricopa County, Arizona. At any time Declarant does not own the requisite number of Lots, any amendment made pursuant to Section 11.2.1 shall be signed by the President or Vice President of the Association and shall be Recorded with the County Recorder of Maricopa County, Arizona, and shall certify that the amendment has been approved by the Board as well as by the requisite number of Owners, if any, as may be required by this Section 11.2. Unless a later effective date is specified in the amendment, any amendment to this Declaration shall be effective upon the Recording of the instrument.

11.2.6 All amendments to Section 7.1 of this Declaration or otherwise affecting or amending any provisions related to landscaping maintenance, or which have been required by the City in its stipulations for development of the Project, shall be approved in advance by the City and the consent of an authorized representative of the City shall appear on any such amendment so Recorded.

11.3 Certain Mortgagee Rights.

11.3.1 Any First Mortgagee will, upon written request identifying the name and address of the First Mortgagee for any Lot and the Lot number or address, shall be entitled to receive timely written notice of: (i) all meetings of the Members and be permitted to designate a representative to attend all such meetings; (ii) any condemnation loss or any casualty loss which affects a material portion of the Project or the Lot subject to the First Mortgage; (iii) any delinquency in the payment of Assessments or other charges owed or any other default in the performance of obligations under the Project Documents by the Owner of the Lot subject to the First Mortgage which remains uncured for a period of sixty (60) days; and (iv) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

11.3.2 No Lot shall be partitioned or subdivided without the prior written approval of the First Mortgagee of any such Lot subject to a First Mortgage.

11.3.3 Unless at least two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned by the First Mortgagee in the Project) or the Owners (other than Declarant) of at least two-thirds (2/3) of the Lots have given their prior written approval, the Association shall not be entitled to:

(i) seek to abandon, partition, subdivide, sell or transfer the Common Area owned, directly or indirectly, by the Association. The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this Section 11.3.3.

(ii) change the method of determining the obligations, Assessments, dues or other charges which may be levied against any Owner.

(iii) change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the Lots or the maintenance of Common Area.

(iv) fail to maintain fire and extended insurance coverage on a current replacement cost basis for the Common Area in an amount of at least one hundred percent (100%) of insurable value.

(v) use hazard insurance proceeds for losses to Project Improvements other than for the repair, replacement or reconstruction of such Project Improvements.

11.3.4 No provision of this Declaration gives or shall be construed as giving any Owner or other Person priority over any rights of a First Mortgagee of a Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Area.

11.3.5 Any First Mortgagee who receives a written request from the Board to respond to or consent to any action requiring the consent of the First Mortgagee shall be deemed to have approved such action if the Association has not received a negative response from such First Mortgagee within thirty (30) days of the date of the Association's request.

11.3.6 No breach of any of the covenants, conditions and restrictions contained in this Declaration, and no enforcement of any lien provisions herein shall render invalid the lien of any First Mortgage, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure, trustee's sale or otherwise.

11.3.7 All amenities pertaining to the Project and located thereon (such as parking, recreation and service areas) are a part of the Project and shall be covered by and subject to a First Mortgage on a Lot to the same extent as is the Common Area.

11.3.8 An action to abate the breach of any of these covenants, conditions and restrictions may be brought against the First Mortgagee or other Person who has acquired title through foreclosure of a First Mortgage and subsequent sheriff's sale (or through any equivalent proceedings) and the successor in interest to said First Mortgagee or other Person, if the breach continues to exist after the time said First Mortgagee or other Person acquires an interest in such Lot.

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

defaulting Owner, irrespective of whether the Member's voting rights have been suspended for nonpayment of Assessments.

11.3.10 Notwithstanding anything contained herein to the contrary, at such time as the First Mortgagee shall become record Owner of a Lot, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration, including, but not limited to, the obligations to pay all Assessments and charges accruing thereafter in the same manner as any other Owner.

11.3.11 The right of any Owner to sell, transfer or otherwise convey his Lot shall not be subject to any right of first refusal or any similar restriction in favor of the Association and no such right of first refusal or similar restriction shall be hereinafter imposed by amendment of this Section 11.3.11 without the prior written consent of all First Mortgagees of record at the time the requested amendment is proposed.

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

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

11.6 Rule Against Perpetuities. If any interest, privilege, covenant or right created by this Declaration shall be unlawful, void or voidable for violation of the Rule against Perpetuities or any related rule, then such interest, privilege, covenant or right shall continue until twenty-one (21) years after the death of the last survivor of the now living descendants of the President of the United States in office on the date this Declaration is Recorded.

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

11.8 Notice of Violation. The Association shall have the right, but not the obligation, to record a written notice of a violation (***"Notice of Violation"***) by any Owner, his Lessees, or their respective Invitees, or other Residents of a Lot, of any restriction or provision of the Project Documents, subject to compliance with A.R.S. §33-1242(B), if applicable. The Notice of Violation shall be executed by an officer of the Association and shall contain substantially the following information: (i) the name of the Owner or Resident violating, or

responsible for the violation of, the Project Documents; (ii) the legal description of the Lot against which the notice is being Recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being Recorded by the Association pursuant to this Declaration; (v) a statement of the specific steps which must be taken by the Owner or Resident to cure the violation. Recordation of a Notice of Violation shall serve as notice to the Owner and Resident, and any subsequent Purchaser or other Person who may acquire the Lot, that there is such a violation; provided, further, however, that such Notice of Violation shall not constitute an Assessment Lien unless otherwise expressly permitted by this Declaration or the provisions of Arizona's Planned Communities statutes or other applicable law. If, after the recordation of such Notice, it is determined by the Association that the violation referred to in the Notice does not exist or that the violation referred to in the Notice has been cured, the Association shall record a ***"Notice of Compliance"*** upon written request of the Owner of the Lot to which the Notice of Violation pertains. The Notice of Compliance shall state the legal description of the Lot against which the Notice of Violation was Recorded, and the Recording data of the Notice of Violation, and shall state that the violation referred to in the Notice of Violation has been cured or is no longer applicable to the Lot. Failure by the Association to record a Notice of Violation shall not constitute a waiver of any such violation, constitute any evidence that no violation exists with respect to a particular Lot or constitute a waiver of any right of the Association to enforce the Project Documents.

11.9 Laws, Ordinances and Regulations. The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Architectural Committee, as applicable, with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations. Compliance with this Declaration shall not relieve an Owner or any other Person from the obligation to also comply with all applicable laws, ordinances and regulations. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

11.10 Right to Inspect Documents; Association Financial Statements.

11.10.1 The Association shall make current copies of the Project Documents and the books, records and financial statements of the Association available to Owners, mortgagees, and insurers or guarantors of First Mortgagees and all other Persons designated by the Owner as the Owner's representative in accordance with A.R.S. §33-1805(A). The Association may withhold Association records from disclosure only in compliance with and to the limited extent permitted by the provisions of A.R.S. §§33-1805(B) and (C). ***"Available"*** means available for inspection within ten (10) business days after written request or as soon thereafter as is consistent with applicable law. Copying costs to be paid by the requesting party to the Association shall not exceed the maximum allowable charge permitted by A.R.S. §33-1805(A). All inspections shall take place during normal business hours or under other reasonable circumstances.

11.10.2 In accordance with A.R.S. §33-1810, the Association shall obtain at least annually an audit, review or compilation of the Association's finances to be completed within one hundred eighty (180) days after the end of the Association's fiscal year. Without limiting the foregoing, any First Mortgagee or any holder or insurer of any First Mortgage shall be entitled to receive, upon written request, an audited financial statement for the immediately preceding fiscal year from a certified public account or other acceptable financial statement preparer. Such audit shall be at the expense of the requesting party if an audited financial statement has not previously been prepared in accordance with A.R.S. §33-1810. The audited financial statement shall be furnished within a reasonable time following receipt by the Association of the request and the payment of the cost of the audit to the preparer of the statement.

11.11 Condemnation.

11.11.1 Common Area. Upon receipt of notice of intention or notice of proceedings whereby all or any part of the Common Area or other Area of Association Responsibility is to be taken by any governmental body by exercise of the power of condemnation or eminent domain, all Owners shall be immediately notified by the Association thereof. The Association shall represent the Owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of any part of the Common Area or other Area of Association Responsibility, and every Owner appoints the Association as his attorney-in-fact for this purpose. The entire award made as compensation for such taking, including, but not limited to, any amount awarded as severance damages or the entire amount received and paid in anticipation and settlement for such taking, after deducting therefrom, in each case, reasonable and necessary costs and expenses, including, but not limited to, attorneys' fees, appraisers' fees and court costs (which net amount shall hereinafter be referred to as the ***"Award"***), shall be paid to the Association as trustee for the use and benefit of the Owners and their First Mortgagees as their interests may appear. The Association shall, as soon as and to the extent it is practicable, cause the Award to be utilized for the purpose of repairing and restoring the Project, including, if the Association deems it necessary or desirable, the replacement of any Improvements so taken or conveyed.

11.11.2 Lots. In the event of any taking of any Lot in the Project by eminent domain, the Owner of such Lot shall be entitled to receive the award for such taking, and after acceptance thereof he and all of his mortgagees shall be divested of all interest in the Project if such Owner shall vacate his Lot as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Project or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking. In the event of a taking by eminent domain of more than one Lot at the same time, the Association shall participate in the negotiations and shall propose the method of division of the proceeds of condemnation where Lots are not valued separately by the condemning authority or by the court. In the event any Owner disagrees with the proposed allocation, he may have the matter submitted to arbitration under the rules of the American Arbitration Association.

11.12 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other portion of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration, but, regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the Owner or other Person claiming through any deed or other instrument and his heirs, executors, administrators, successors and assignees.

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

11.14 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent of context hereof. The use of the term ***"Section"*** in this Declaration shall also mean all subsections grouped under that Section unless the context otherwise requires.

11.15 Notices. If notice of any action or proposed action by the Board or any committee thereof or of any meeting is required by applicable law, this Declaration or resolution of the Board, to be given to any Owner or Resident, then, unless otherwise specified in the Project Documents, or unless otherwise required by applicable Arizona law or by resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published in any newspaper of general circulation within Maricopa County, Arizona. This Section 11.15 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.

11.16 FHA/VA Approval. If this Declaration has been approved by the Federal Housing Administration or the Veterans Administration in connection with loan programs made available by HUD/FHA or VA and so long as there is Class B membership in the Association, the following actions shall require the prior written approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties (other than the Annexable Property), dedication, mortgaging or conveyance of Common Area, and amendment of this Declaration.

11.17 No Absolute Liability. No provision of the Project Documents shall be interpreted or construed as imposing on Owners absolute liability for damage to the Common Area or the Lots. Owners shall only be responsible for damage to the Common Area or Lots caused by the negligence or intentional acts of the Owners or Residents of the Lots or their Invitees or pets.

11.18 References to VA and FHA. In various places throughout the Project Documents, references are made to the Department of Veterans Affairs (***"VA"***) and the Federal Housing Administration (***"FHA"***) and, in particular, to various consents or approvals required of either or both of such agencies. Such references are included so as to cause the Project

Documents to meet certain requirements of such agencies should Declarant, in its discretion, request approval of the Project by either or both of those agencies. Unless and until FHA or VA have approved the Project as acceptable for insured or guaranteed loans and at any time during which such approval, once given, has been revoked, withdrawn, canceled or suspended and there are no outstanding mortgages or deeds of trust Recorded against a Lot to secure payment of an insured or guaranteed loan by either of such agencies, all references herein to required approvals of consents of such agencies shall be deemed null and void and of no force and effect.

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

11.20 Attorneys' Fees. In the event Declarant, the Association or any Owner employs an attorney or attorneys: (i) to enforce an Assessment Lien; (ii) to collect any other amounts due from an Owner; (iii) to enforce compliance with or recover damages for any violation or noncompliance with the Project Documents; or (iv) in any other manner arising out of the Project Documents or the operations of the Association, the prevailing party shall be entitled to recover its Collection Costs (including reasonable attorneys' fees) incurred in the action.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand to be effective as of the date first set forth above.

DECLARANT:

WM DEVELOPMENT, INC.,
an Arizona corporation

By _____
Wayne S. Funk, Its President

By _____
Mark J. Funk, Its Secretary

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

On this ____ day of October, 2007, before me, the undersigned notary public, in and for said county and state, personally appeared WAYNE S. FUNK and MARK J. FUNK, the President and Secretary, respectively, of WM DEVELOPMENT, INC., an Arizona corporation, personally known (or proved) to me to be the persons whose names are subscribed to the above instrument and who acknowledged that they executed the above instrument for and on behalf of the corporation, in his capacity as an officer thereof.

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

NOTARY PUBLIC

My Commission Expires:
7 Apr 2011

LYNNETTE STEWART
Notary Public - Arizona
MARICOPA COUNTY
My Commission Expires
APRIL 7, 2011

EXHIBIT A

Lots 1 through 120, inclusive, and Common Area Tracts A through Y, inclusive, according to the Final Plat For ROGERS RANCH PARCEL 15, Recorded on April 12, 2006 in Book 829 of Maps, page 20, in the Official Records of the Maricopa County, Arizona Recorder.

EXHIBIT B

Partial Description of Annexable Property

Parcel 1:

The East 66 feet of the West half of the West half of Lot Sixty-Six (66), MARICOPA GARDEN FARMS, according to the Plat of record in the Office of the Maricopa County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 38;

Also known as MCR Assessor's Parcel No. 104-78-007A.

Parcel 2:

The East 132 feet of Lot Sixty-Five (65), MARICOPA GARDEN FARMS, according to the Plat of record in the Office of the Maricopa County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 38;

Also known as MCR Assessor's Parcel No. 104-78-001.

Parcel 3:

The West 66 feet of the West half of the West half of Lot Sixty-Six (66), MARICOPA GARDEN FARMS, according to the Plat of record in the Office of the Maricopa County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 38;

Also known as MCR Assessor's Parcel No. 104-78-008.

Parcel 4:

The North 250 feet of the West half of the West half of Lot Sixty-Six (66), MARICOPA GARDEN FARMS, according to the Plat of record in the Office of the Maricopa County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 38;

EXCEPT the East 66 feet; and

EXCEPT the West 66 feet.

Also known as MCR Assessor's Parcel No. 104-78-004A.

Parcel 5:

The West half of the West half of Lot Sixty-Six (66), MARICOPA GARDEN FARMS, according to the Plat of record in the Office of the Maricopa County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 38;

EXCEPT the East 66 feet;

EXCEPT the West 66 feet; and

EXCEPT the North 250 feet.

Also known as MCR Assessor's Parcel No. 104-78-004B.

Parcel 6:

The East half of the East half of the West half of Lot Sixty-Six (66), MARICOPA GARDEN FARMS, according to the Plat of record in the Office of the Maricopa County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 38;

Also known as MCR Assessor's Parcel No. 104-78-005C.

Parcel 7:

The West half of the East half of the West half of Lot Sixty-Six (66), MARICOPA GARDEN FARMS, according to the Plat of record in the Office of the Maricopa County Recorder of Maricopa County, Arizona in Book 11 of Maps, page 38;

Also known as MCR Assessor's Parcel No. 104-78-005D.

RATIFICATION OF DECLARATION AND PLAT

THIS RATIFICATION OF DECLARATION AND PLAT is made and entered into to be effective as of the 15th day of October, 2007, by National Bank of Arizona, a national banking association (**"Lender"**), the beneficiary of a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing recorded on December 23, 2005 at Instrument No. 2005-1941196 and re-recorded on December 27, 2005 at Instrument No. 2005-1945315, Official Records of Maricopa County, Arizona and other security documents (collectively, the **"Loan Documents"**) concerning certain real property affected by the Declaration (defined below). The undersigned hereby acknowledges that it has reviewed, read and/or approved the Declaration of Covenants, Conditions, Restrictions and Easements for Via Sonora to which this Ratification is attached and the Plat thereof recorded in Book 829 of Maps, page 20, in the Official Records of the Maricopa County, Arizona Recorder. Lender agrees that the Loan Documents shall be subject and subordinate to the Declaration and the Plat, provided, however, that the Lender's execution of this Ratification shall not be deemed a waiver or relinquishment of the Lender's rights and remedies under the Loan Documents.

IN WITNESS WHEREOF, the Lender has executed this Ratification to be effective as of the date first set forth above.

National Bank of Arizona,
a national banking association

By _____
Its _____

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

On this 15th day of October, 2007, before me, the undersigned notary public in and for said county and state, personally appeared Lawrence Goad, who acknowledged him/herself to be the Vice President of National Bank of Arizona, a national banking association and that s/he as such Vice President being authorized so to do, executed the foregoing instrument on behalf of the national banking association for the purposes therein contained.

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

_____
NOTARY PUBLIC

My commission expires:
4/29/08

MELISSA L. LAFAVE
NOTARY PUBLIC -- ARIZONA
MARICOPA COUNTY
My Commission Expires
April 29, 2008

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
20131061561 12/16/2013 01:49
ELECTRONIC RECORDING

DEC162013A-4-1-1--
Yorkm

When Recorded, Return To:

Marc D. Blonstein, Esq.
Berens, Kozub, Kloberdanz & Blonstein, PLC
7047 E. Greenway Parkway, Suite 140
Scottsdale, Arizona 85254

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR VIA SONORA

This First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Via Sonora (the **"First Amendment"**) is made this 5th day of ~~November~~ December, 2013, by **Richmond American Homes of Arizona, Inc.**, a Delaware corporation (the **"Successor Declarant"**) and Jesus Alexandra Ballardo, Shanik Womack, and F. Gregory Lynn, III and Bonnie Lee Lynn (collectively, the "**Non-Declarant Owners**").

RECITALS:

(A) WM Development, Inc., an Arizona corporation ("**Declarant**"), caused a Declaration of Covenants, Conditions, Restrictions and Easements for Via Sonora to be recorded on October 16, 2007 at Instrument No. 2007-1126430 in the Official Records of the Maricopa County, Arizona Recorder (the "**Declaration**").

(B) Pursuant to that certain Assignment of Declarant's Rights, recorded on April 24, 2013 at Instrument No. 20130372853 in the Official Records of the Maricopa County, Arizona Recorder, Successor Declarant now has the Declarant's Rights, and together with the Non-Declarant Owners, are the owners of 100% of the real property subject to the Declaration and may amend the Declaration pursuant to Section 11 thereof.

(C) Capitalized terms used in this First Amendment without definition shall have the meanings given to such terms in the Declaration.

NOW, THEREFORE, the Successor Declarant hereby declares and amends the Declaration as follows:

1. Section 7.1.5 shall be deleted in its entirety.

2. Section 7.2.1 shall be amended to provide that each Owner shall maintain, the landscaping located on the Public Yards of Lots in accordance with the standards set forth herein.

3. Except as expressly modified in this First Amendment, the Declaration shall remain in full force and effect.

Successor Declarant and the Non-Declarant Owners have executed this First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Via Sonora on the day and year first set forth above.

SUCCESSOR DECLARANT:

RICHMOND AMERICAN HOMES OF ARIZONA, INC., a Delaware corporation

By: _____

Name: MICHAEL LANATA

Its: ASSISTANT VICE PRESIDENT

STATE OF ARIZONA)
) ss
County of Maricopa)

Acknowledged before me this 10TH day of December 2013, by Michael Lanata on behalf of RICHMOND AMERICAN HOMES OF ARIZONA, INC., a Delaware corporation.

_____
Notary Public

My commission expires: 9-17-2016

LUZ A. RODRIGUEZ
Notary Public - Arizona
Maricopa County
Expires on 09/17/2016

OFFICIAL SEAL
V. LYNNETT GALLAGHER
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires March 8, 2016

OFFICIAL SEAL
V. LYNNETT GALLAGHER
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires March 8, 2016

OFFICIAL SEAL
V. LYNNETT GALLAGHER
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires March 8, 2016

NON-DECLARANT OWNERS:

By: Alexandra Ballardo
Name: Alexandra Ballardo
Its: Owner, Lot 62

By: Shanik Womack
Name: Shanik Womack
Its: Owner, Lot 63

By: Bonnie Lee Lynn
Name: Bonnie Lee Lynn
Its: Owner, Lot 64

STATE OF ARIZONA)
) ss
County of Maricopa)

Acknowledged before me this 5th day of ~~November~~ December 2013, by Alexandra Ballardo on behalf of Lot 62.

V. Lynnett Gallagher
Notary Public

My commission expires:
March 8, 2016

STATE OF ARIZONA)
) ss
County of Maricopa)

Acknowledged before me this 5th day of ~~Novembe~~r December, 2013, by Shanik Womack on behalf of Lot 63.

V. Lynnett Gallagher
Notary Public

My commission expires:
March 8, 2016

STATE OF ARIZONA)
) ss
County of Maricopa)

Acknowledged before me this 5th day of December, 2013, by Gregory & Bonnie Lee Lynn on behalf of Lot 64.

V. Lynnett Gallagher
Notary Public

My commission expires:
March 8, 2016