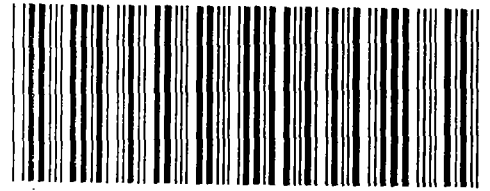


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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS**

FOR

MESQUITE GROVE ESTATES

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
MESQUITE GROVE ESTATES**

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EXHIBITS

Exhibit A	Property Legal Description
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DECLARATION OF COVENANTS, CONDITIONS,

RESTRICTIONS AND EASEMENTS

FOR

MESQUITE GROVE ESTATES

This Declaration of Covenants, Conditions, Restrictions and Easements for Mesquite Grove Estates (the "Declaration") is made this 28th day of August, 2000, by William Lyon Homes, Inc., a California corporation (the "Declarant").

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 "Annual Assessment" means the assessments levied against each Lot pursuant to Section 6.2 of this Declaration.

1.2 "Architectural Committee" means the committee of the Association to be created pursuant to Section 5.10 of this Declaration.

1.3 "Areas of Association Responsibility" means (i) all Common Area; (ii) all real property, and the Improvements situated thereon, located within the boundaries of a Lot which the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration, the terms of the Plat or the terms of another Recorded document executed or ratified by the Association; 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.

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

1.5 "Assessment" means an Annual Assessment or a Special Assessment.

1.6 "Assessment Lien" means the lien created and imposed by Article 6 of this Declaration.

1.7 "Assessment Period" means the period set forth in Section 6.6 of this Declaration.

1.8 "Association" means The Mesquite Grove Estates Homeowners Association, an Arizona nonprofit corporation, which has been organized by Declarant to own and maintain the Common Area and to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns.

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

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

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

1.12 "Common Area" or "Common Areas" means Tracts A, B, C, D, E, F, G, H, I and J, as identified on the Plat as well as all real property, together with all Improvements situated thereon, 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, except that Common Area shall not include any Lot which the Association may acquire through foreclosure of the Assessment Lien or any deed in lieu of foreclosure.

1.13 "Common Expenses" means the actual or estimated expenses incurred, or anticipated to be incurred, by the Association in connection with the Project, together with any allocations to reserves.

1.14 "Declarant" means William Lyon Homes, Inc., a California corporation, its successors, and any Person to whom it may expressly assign any or all of its rights under this Declaration by a Recorded instrument.

1.15 "Declarant Party" or "Declarant Parties" means collectively Declarant, its members and the members thereof, their officers, directors and employees, and their builders, general contractors, brokers and agents.

1.16 "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements, as amended from time to time.

1.17 "Design Guidelines" means the rules and guidelines adopted by the Architectural Committee pursuant to Section 5.10 of this Declaration, as amended or supplemented from time to time.

1.18 "Developer" means William Lyon Homes, Inc., a California corporation, its successors and any Person to whom it has expressly assigned any or all of its rights under this Declaration by a Recorded instrument.

1.19 "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.

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

1.21 "Improvement" means any building, fence, wall, mailbox, play equipment, or other structure or any septic system, swimming pool, road, driveway, parking area or any trees, plants, shrubs, grass or other landscaping improvements of every type and kind.

1.22 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot including an assignee of a lease.

1.23 "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 building, structure or other Improvements situated on the Lot.

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

1.25 "Member" means any Person who is a Member of the Association which holds a "Membership" created pursuant to Article 5.

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

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

1.28 "Plat" means the plat of Mesquite Grove Estates Recorded in Book 553 of Maps and Plats, page 47, and all amendments, supplements and corrections thereto.

1.29 "Property" or "Project" means the real property described on Exhibit A attached to this Declaration together with all Improvements located thereon.

1.30 "Project Documents" means this Declaration, the Articles, the Bylaws, the Plat, the Association Rules and the Design Guidelines.

1.31 "Purchaser" means any Person, other than the Declarant and the Developer, 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 Developer for use as a model in connection with the sale or lease of other Lots; or (ii) a Person who, in addition to purchasing a Lot, is assigned any or all of the Developer's rights under this Declaration.

1.32 "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 public record.

1.33 "Resident" means each natural person occupying or residing in a Residential Unit.

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

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

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

ARTICLE 2

PLAN OF DEVELOPMENT

2.1 Property Subject to the Declaration. Declarant is the owner of fee title to the Property and intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement and desires to provide a flexible and reasonable procedure for the overall development of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property. Declarant hereby declares that all the Property shall be held, sold, used and conveyed subject to the easements, restrictions, conditions and covenants set forth in this Declaration, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property. Declarant further declares that this Declaration shall be binding upon all Persons having any right, title or interest in the Property or any part thereof, their successors and assigns and shall inure to the benefit of each Owner thereof. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and

any amendments thereof. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenant and agree that the Lots and the Membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

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

2.3 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 of this Declaration is Recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iii) the use of any Property subject to this Declaration will not be changed in the future.

2.4 Restriction on Liability of the Association and the Declarant Parties; Release.

2.4.1 The Declarant intends to construct gated entrances leading into the Project from Riggs Road and Wood Drive in order to limit access and to provide some privacy for the Owners and Residents; **however, there are no guarantees that gated entrances will provide security and safety to Owners, Lessees, Residents and their families, invitees and licensees.** Furthermore, each Owner, Lessee and Resident, for themselves and their families, invitees and licensees, acknowledge that the gated entrances may restrict or delay entry into the Project by the police, fire department, ambulances and other emergency vehicles or personnel. Each Owner, Lessee and Resident, for itself and its families, invitees and licensees, agrees to assume the risk that the gated entrances will restrict or delay entry to the Project by emergency vehicles and personnel. Neither the Declarant Parties, the Association nor any director, officer, agent or employee of the Association shall be liable to any Owner, Resident, Lessee or its family, invitees or licensees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of the gated entrances.

2.4.2 Each Owner, Resident and Lessee hereby releases the Declarant Parties and the Association from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (including, without limitation, strict liability) related to or arising in connection with any nuisance, inconvenience, disturbance, injury or damage resulting from activities or occurrences described in this Section 2.4.

2.5 Views Not Guaranteed. Although certain Lots in the Project currently may have particular views, no express or implied rights or easements exist for views or for the passage of light and air to any Lot. Neither Declarant nor Association makes any representation or warranty whatsoever, express or implied, concerning the view which any Lot will have whether as of the date this Declaration is Recorded or thereafter. Any view which currently exists for a Lot may be impaired or obstructed by further construction within or outside the Project, including, without limitation, by construction of Improvements (including landscaping) by Declarant, construction by third parties and by the natural growth of landscaping. No third party, including, without limitation, any broker or salesperson, has any right to bind Declarant or the Association with respect to the preservation of any view from any Lot or any view of a Lot from any other property.

ARTICLE 3

USE RESTRICTIONS

3.1 Architectural Control.

3.1.1 No excavation or grading work shall be performed on any Lot without the prior written approval of the Architectural Committee.

3.1.2 No Improvement which would be Visible From Neighboring Property (including, without limitation, landscaping in rear yards which may grow to be Visible From Neighboring Property) and no swimming pool shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee. No addition, alteration, repair, change or other work which in any way alters (i) a swimming pool or (ii) the exterior appearance, including but without limitation, the exterior color scheme, of any part of a Lot, or any Improvements located thereon, which are or may become Visible From Neighboring Property, from their appearance on the date this Declaration is Recorded shall be made or done without the prior written approval of the Architectural Committee. Any Owner desiring approval of the Architectural Committee for the construction, installation, addition, alteration, repair, change or replacement of a swimming pool or any Improvement which is, will become or would be Visible From Neighboring Property shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within thirty (30) days after the application, together with any fee payable pursuant to Subsection 3.1.6 of this Declaration and all supporting information, plans and specifications

requested by the Architectural Committee, have been submitted to the Architectural Committee, approval will not be required and this Section will be deemed to have been complied with by the Owner who had requested approval of such plans. The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

3.1.3 In reviewing plans and specifications for any construction, installation, addition, alteration, repair, change or other work which must be approved by the Architectural Committee, the Architectural Committee, among other things, may consider the quality of workmanship and design, harmony of external design with existing structures and location in relation to surrounding structures, topography and finish grade elevation. The Architectural Committee may disapprove plans and specifications for any construction, installation, addition, alteration, repair, change or other work which must be approved by the Architectural Committee pursuant to this Section 3.1 if the Architectural Committee determines, in its sole and absolute discretion, that: (i) the proposed construction, installation, addition, alteration, repair, change or other work would violate any provision of this Declaration; (ii) the proposed construction, installation, addition, alteration, repair, change or other work does not comply with any Design Guideline; (iii) the proposed construction, installation, addition, alteration, repair, change or other work is not in harmony with existing Improvements in the Project or with Improvements previously approved by the Architectural Committee but not yet constructed; (iv) the proposed construction, installation, addition, alteration, repair, change or other work is not aesthetically acceptable; (v) the proposed construction, installation, addition, alteration, repair, change or other work would be detrimental to or adversely affect another Owner or the appearance of the Project; or (vi) the proposed construction, installation, addition, alteration, repair, change or other work is otherwise not in accord with the general plan of development for the Project.

3.1.4 Upon receipt of approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Architectural Committee 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 Architectural Committee.

3.1.5 Any change, deletion or addition to the plans and specifications approved by the Architectural Committee must be approved in writing by the Architectural Committee.

3.1.6 The Architectural Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section 3.1, which fee shall be payable at the time the application for approval is submitted to the Architectural Committee.

3.1.7 All Improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot.

3.1.8 The provisions of this Section do not apply to, and approval of the Architectural Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvements made by, or on behalf of, the Declarant or Developer.

3.1.9 The approval required of the Architectural Committee 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.

3.1.10 The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section 3.1 shall not be deemed a warranty or representation by the Architectural Committee as to the quality of such construction, installation, addition, alteration, repair, change or other work or that such construction, installation, addition, alteration, repair, change or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

3.1.11 The Architectural Committee may condition its approval of plans and specifications upon the agreement by the Owner (other than Declarant and Developer, who shall not be subject to the provisions of this Subsection 3.1.11) submitting such plans and specifications to furnish to the Association a bond or other security acceptable to the Architectural Committee in an amount determined by the Architectural Committee to be reasonably sufficient to: (i) assure the completion of the proposed Improvements or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (ii) to repair any damage which might be caused to any 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 Improvements in accordance with the plans and specifications approved by the Architectural Committee; and (b) the Owner's written request to the Architectural Committee, provided that there is no damage caused to any Area of Association Responsibility by the Owner or its agents or contractors.

3.1.12 If the plans and specifications pertain to an Improvement which is within an Area of Association Responsibility so that the Association is responsible for the maintenance, repair and replacement of such Improvement, the Architectural Committee may condition its approval of the plans and specifications for the proposed construction, installation, addition, alteration, repair, change or other work with respect to the Improvement on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Improvement.

3.2 Temporary Occupancy and Temporary Buildings. No trailer, basement or other portion of any incomplete building, tent, shack, garage or barn, and no

temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. No temporary construction buildings or trailers may be installed or kept on any Lot without the prior written approval of the Architectural Committee. Any such temporary buildings or trailers approved by the Architectural Committee shall be removed immediately after the completion of construction.

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

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

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

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

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

The Board shall have the right to subscribe to a trash service for the use and benefit of the Association and all Owners and Residents, with any costs to be Common Expenses or billed separately to the Owners or Residents, and to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection. No outdoor incinerators shall be kept or maintained on any Lot.

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

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

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

3.11 Residential Use. All Residential Units shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Residential Unit, except that an Owner or other Resident of a Residential Unit may conduct a business activity within a Residential Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Project; (iii) the business activity does not involve persons coming on to the Lot or the door-to-door solicitation of Owners or other Residents in the Project; and (iv) the business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Residents in the Project, as may be determined from time to time in the sole discretion of the Board. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the Residents of a provider's Residential Unit and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity. The leasing of a Residential Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

3.12 Animals. No animals of any kind shall be raised, bred, or kept, except that a reasonable number of generally recognized house or yard pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. No animal shall be allowed to

become a nuisance. A "reasonable number" as used in this Section shall ordinarily mean no more than two (2) pets per household; provided, however, that the Board may determine, in its sole and absolute discretion, whether a particular animal is a generally recognized house or yard pet or a nuisance, or whether the number of animals is reasonable.

3.13 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other Improvements or such machinery or equipment which Developer or the Association may require for the operation and maintenance of the Project.

3.14 Signs. Except signs required by legal proceedings, no signs whatsoever (including, but not limited to, commercial, political, "for rent" and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot without the prior written approval of the Architectural Committee; provided, however, that in the course of selling a Residential Unit, one sign not to exceed five (5) square feet in size shall be permitted in the front yard area of the Lot without Architectural Committee approval.

3.15 Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant or the Developer, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner other than the Declarant or the Developer, without the prior written approval of the Architectural Committee. No further covenants, conditions, restrictions or easements shall be Recorded by any Owner, Lessee, or other Person other than the Declarant or the Developer against any part of the Property without the provisions thereof having been first approved in writing by the Architectural Committee. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental authority by any Person other than the Declarant or the Developer unless the application has been approved by the Architectural Committee and the proposed use otherwise complies with this Declaration.

3.16 Vehicles and Parking. Any and all motor vehicles not prohibited by the provisions hereof shall be stored in a garage so as to conceal the same from view from adjoining Lots or from the street or public way, except that vehicles (other than recreational vehicles, commercial vehicles, motorhomes, campers, trailers, boats and similar vehicles, as provided below) may be parked upon the driveway surfaces of each Lot when there are more cars on a Lot than the number of garages constructed thereon. Parking and/or storing of recreational vehicles, commercial vehicles, motorhomes, campers, trailers, boats and similar vehicles is prohibited on all portions of the Property unless such vehicles are not Visible From Neighboring Property or are otherwise permitted pursuant to the Design Guidelines. Such vehicles may be parked on the parking area of an Owner's Lot for purposes of loading or unloading, but may only be Visible From Neighboring Property for short periods of time. The use or occupancy of a recreational vehicle, motorhome, van, camper, trailer, or boat as living quarters on either a temporary or permanent basis is strictly prohibited on any portion of the Property. At no time shall there be any outside storage of motor vehicles in stages of construction, reconstruction, modification or

rebuilding of parts of motor vehicles such as frames, bodies, engines or other parts or accessories. Parking on streets is prohibited.

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

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

3.19 Garages and Driveways. Garages situated on Lots shall be used only for the parking of vehicles and shall not be used or converted for living or recreational activities without the prior written approval of the Architectural Committee. Garages may be used for storage of non-hazardous materials, so long as the storage does not restrict the use of the garage for the parking of motor vehicles. No garage door shall remain open except when necessary for access to and from the garage.

3.20 Roof Air Conditioners and Solar Panels. No air conditioning units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residential Unit or other building on a Lot. No solar panels mounted, installed or maintained on the roof of any Residential Unit or other building on a Lot may be Visible From Neighboring Property, except as may be permitted by the Design Guidelines.

3.21 Basketball Goals and Backboards. No basketball hoop, goal or backboard, whether permanent or portable, shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee.

3.22 Playground Equipment. No jungle gyms, swing sets or similar playground equipment which would be Visible From Neighboring Property shall be erected or installed on any Lot without the prior written approval of the Architectural Committee.

3.23 Restriction on Gates. No Owner shall install a gate on any portion of a Lot in order to obtain direct access from such Lot to a Common Area.

3.24 Leasing of Residential Units. An entire Residential Unit may be leased to a Lessee from time to time by an Owner. The lease between an Owner and a Lessee shall contain a provision that the Lessee has received and agrees to be bound by the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by the Project Documents. Any lease agreement shall be for a period of not less than thirty (30) days, and a copy thereof shall be delivered to the Association.

3.25 Variances. The Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 if the Architectural Committee determines in its discretion that (i) a restriction would create an unreasonable hardship or burden on an Owner, Lessee or Resident or a change of circumstances since the Recordation of this Declaration has rendered such restriction obsolete and (ii) that the activity permitted under the variance will not have any substantial adverse effect on the Owners, Lessees and Residents of the Project and is consistent with the high quality of life intended for Residents of the Project. If any restriction set forth in this Article 3 is adjudged or deemed to be invalid or unenforceable as written by reason of any federal, state or local law, ordinance, rule or regulation, then a court or the Board, as applicable, may interpret, construe, rewrite or revise such restriction to the fullest extent allowed by law, so as to make such restriction valid and enforceable. Such modification shall not serve to extinguish any restriction not adjudged or deemed to be unenforceable.

ARTICLE 4

EASEMENTS

4.1 Easement for Use of Common Area.

4.1.1 Every Owner, Lessee and Resident shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area (including, but not limited to, the right to use any streets that may be part of the Common Area for ingress and egress to the Owner's Lot) which right shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

(i) The rights and easements granted to the Declarant and the Developer in this Declaration, including, without limitation, the rights and easements granted to the Declarant and the Developer in Sections 4.3 and 4.4 of this Declaration.

(ii) The right of the Association to regulate the use of the Common Area through the Association Rules and to prohibit access to such portions of the Common Area, such as landscaped areas, not intended for use by the Owners, Lessees or Residents.

(iii) The right of the Association to suspend the right of an Owner to use the Common Area (other than the right of an Owner and such Owner's family, tenants and guests to use any streets that are part of the Common Area for ingress and 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 has violated any other provisions of the Project Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation. Any suspension of an Owner's right to use the Common Area shall also extend to the Lessees and Residents of the Owner's Lot and their guests and invitees.

(iv) If a Lot is leased or rented by the Owner thereof, the Lessee and the members of the Lessee's family residing with such Lessee shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area (other than the right of the Owner to use any streets that are part of the Common Area for ingress and egress to the Owner's Lot) until the termination or expiration of such lease.

4.2 Utility Easement. As stated on the Plat, there is created a utility easement upon, across, over and under the Common Area for the benefit of Declarant, Developer and the City of Chandler. No sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Area except as initially designed, approved and constructed by the Developer or as approved by the Board.

4.3 Declarant's and Developer's Use for Sales and Leasing Purposes. Declarant and Developer shall have the right and an easement to maintain sales or leasing offices, management offices, models and parking areas, for the purpose of accommodating Persons visiting such model homes and sales offices, throughout the Project and to maintain one or more advertising, identification or directional signs on the Common Area or on the Lots owned or leased by Declarant or Developer while the Declarant or Developer is selling Lots. Declarant and Developer reserve the right to place models, management offices, sales and leasing offices and parking lots on any Lots owned or leased by Declarant or Developer and on any portion of the Common Area in such number, of such size and in such locations as Declarant or Developer deems appropriate. In the event of any conflict or inconsistency between this Section and any other provision of this Declaration, this Section shall control.

4.4 Declarant's and Developer's Easements. Declarant and Developer shall have the right and an easement on and over the Areas of Association Responsibility to construct all Improvements the Declarant or Developer may deem necessary and to use the Areas of Association Responsibility and any Lots or other property within the Project owned by Declarant or Developer for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project. The Declarant and Developer 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 or the Developer by this Declaration, including, without limitation, the reasonable use of any Area of Association Responsibility for marketing purposes. In the event of any conflict or inconsistency between this Section and any other provision of this Declaration, this Section shall control.

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

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

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

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

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

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

4.6 Easement for Unintended Encroachments. To the extent that any Improvement upon a Lot or Common Area encroaches on any other Lot or Common Area as a result of the original construction, or of any shifting or settling, or alteration or restoration authorized by this Declaration or any other reason other than the intentional encroachment on a Lot or Common Area by an Owner, a valid easement for the encroachment, and for the maintenance thereof, exists.

ARTICLE 5

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS; DISSOLUTION

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

5.2 Board of Directors and Officers. The affairs of the Association are 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, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board shall have the power to levy reasonable fines against an Owner for a violation of the Project Documents by the Owner, a Lessee of the Owner or by any Resident of the Owner's Lot, and to impose late charges for payment of such fines if unpaid fifteen (15) or more days after the due date, provided that the late charge shall not exceed the greater of fifteen dollars (\$15.00) or ten percent (10%) of the amount of the unpaid

fine, or such greater amount as permitted under applicable law. Notwithstanding the foregoing, to the extent applicable law from time to time (i) provides for any shorter period of time after which fines may or shall become delinquent, such shorter period of time may be set by the Board to apply in lieu of the time period set forth in this Declaration, and (ii) provides for an increased amount to be charged as a late charge for fines, such amount may be modified by the Board to apply in lieu of the late charge set forth in this Declaration.

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

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

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 of the Association until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease.

5.7 Classes of Members and Voting Rights.

(i) **Class A.** Class A Members are all Owners of Lots, with the exception of the Developer 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, the Developer shall be a Class A Member so long as the Developer owns any Lot.

(ii) **Class B.** The Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the earliest 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 votes of the Class B Member; (ii) the date which is seven (7) years after the Recording of this Declaration; or (iii) when the Developer notifies the Association in writing that it relinquishes its Class B Membership.

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 or votes for each such 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 or entity 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 or votes 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.

5.9 Transfer of Membership. The rights and obligations of any Member (“Membership”) other than the Developer or 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 of a Lot shall notify the Association of such purchase within ten (10) days after becoming the Owner of a Lot.

5.10 Architectural Committee. The Association shall have an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. The Architectural Committee shall consist of such number of regular members and alternate members as may be provided for in the Bylaws. So long as the Developer is a Member of the Association, the Developer shall have the sole right to appoint and remove the members of the Architectural Committee. At such time as the Developer no longer is a Member of the Association, the members of the Architectural Committee shall be appointed by the Board. The Developer may at any time voluntarily surrender its right to appoint and remove the members of the Architectural Committee, and in that event the Developer may require, for so long as the Developer is a Member of the Association, that specified actions of the Architectural Committee, as described in a Recorded instrument executed by the be approved by the Developer before they become effective. The Architectural Committee may adopt, amend and repeal architectural guidelines, standards and procedures to be used in rendering its decisions. Such guidelines, standards and procedures may include, without limitation, provisions regarding: (i) the size of Residential Units; (ii) architectural design, with particular regard to the harmony of the design with the surrounding structures and topography; (iii) placement of Residential Units and other

buildings; (iv) landscaping design, content and conformance with the character of the Property and permitted and prohibited plants; (v) requirements concerning exterior color schemes, exterior finishes and materials; (vi) signage; and (vii) perimeter and screen wall design and appearance. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. The Design Guidelines may contain general provisions which are applicable to all of the Project as well as provisions which vary from one portion of the Project to another depending upon the location, unique characteristics and intended use thereof. The Architectural Committee may establish one or more subcommittees consisting of one or more members of the Architectural Committee and may delegate to such subcommittee or subcommittees the authority and power of the Architectural Committee to approve or disapprove the construction, installation or alteration of Improvements within a specified portion of the Project.

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

5.12 Dissolution. Subject to the terms of this Section 5.12, the Association may be dissolved by the affirmative vote or written consent, or any combination thereof, of the Members representing not less than ninety percent (90%) of the authorized votes in each class of membership and by the holders of First Mortgages, the Owners of which have seventy-five percent (75) or more of the votes in the Association. As a condition to the dissolution of the Association, other than incident to a merger or consolidation, the rights and obligations of the Association, including without limitation the maintenance obligations of the Association, must be either (a) assigned to and assumed by an appropriate public agency, to be exercised and performed in the manner required pursuant to the Declaration, or (b) in the event that such assignment and assumption is refused, such rights and obligations shall be assigned to and assumed by any nonprofit corporation, association, trust or other organization to be devoted to purposes similar to those for which this Association was created. So long as the Declarant owns any Lot, any dissolution of the Association must be approved in writing by the Declarant.

ARTICLE 6

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. The Declarant and Developer, for each Lot owned by the Declarant and the Developer, hereby covenant and agree, and each Owner, other than the Developer or the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including

but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

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 against each Lot an Annual Assessment, which shall be allocated to each Lot in accordance with Section 6.3 below. The total amount to be assessed against the Lots as an Annual Assessment shall be the amount which is reasonably estimated by the Board to produce income to the Association equal to the total budgeted Common Expenses taking into account other sources of funds available to the Association.

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 obligation 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, to the extent permitted by law, for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board.

6.2.3 The maximum Annual Assessment for each fiscal year of the Association shall be as follows:

(i) Until January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum Annual Assessment for each Lot shall be One Thousand Two Hundred Dollars (\$1,200.00).

(ii) From and after January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the Board may, without a vote of the Members, increase the maximum Annual Assessment during each fiscal year of the Association by the greater of (a) 5% of the maximum Annual Assessment for the immediately preceding fiscal year or (b) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) U. S. City Average (1982-84=100), issued by the United States Department

of Labor, Bureau of Labor Statistics (the "Consumer Price Index"), which amount shall be computed in the last month of each fiscal year in accordance with the following formula:

X = Consumer Price Index for September of the calendar year immediately preceding the year in which the Annual Assessments commenced.

Y = Consumer Price Index for September of the year immediately preceding the calendar year for which the maximum Annual Assessment is to be determined.

$\frac{Y-X}{X}$ multiplied by the maximum Annual Assessment for the then current fiscal year equals the amount by which the maximum Annual Assessment may be increased.

In the event the Consumer Price Index ceases to be published, then the index which shall be used for computing the increase in the maximum Annual Assessment permitted under this Subsection shall be the substitute recommended by the United States government for the Consumer Price Index or, in the event no such successor index is recommended by the United States government, the index selected by the Board.

(iii) From and after January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum Annual Assessment may be increased by an amount greater than the maximum increase allowed pursuant to (ii) above, only by a vote of Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

6.3 Rate of Assessment. The amount of the Annual Assessment for each Lot other than Lots owned by the Declarant and Developer shall be the amount obtained by dividing the total budget of the Association for the Assessment Period for which the Annual Assessment is being levied by the total number of Lots subject to the Assessment at the time the Annual Assessment is levied by the Board. The Annual Assessment for Lots owned by the Declarant and Developer shall be an amount equal to twenty-five percent (25%) of the Annual Assessment levied against Lots owned by Persons other than the Declarant and Developer. If a Lot ceases to qualify for the twenty-five percent (25%) rate of assessment during the period to which an Annual Assessment is attributable, the Annual Assessment shall be prorated between the applicable rates on the basis of the number of days in the Assessment Period that the Lot qualified for each rate.

6.4 Obligation of Developer for Deficiencies. So long as there is a Class B membership in the Association, Developer shall pay and contribute to the Association, within thirty (30) days after the end of each fiscal year of the Association, or at such other times as may be requested by the Board, such funds as may be necessary, when added to the Annual Assessments levied by the Association, to pay all Common Expenses of the Association as they become due. In the event that more than one Developer owns Lots, the payment of any such deficiency shall be divided between each Developer on a prorata basis according to the number of Lots owned by each Developer as of the date the request for such deficiency payment is made by the Board.

6.5 Special Assessments. The Association may levy against each Lot a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Improvement upon an Area of Association Responsibility, including fixtures and personal property related thereto, provided that any Special Assessment is approved by Members having more than two-thirds (2/3) of the votes in each Class of Membership entitled to be cast by Members present in person or by proxy at a meeting duly called for such purpose.

6.6 Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period, and the obligation of the Owners to pay Assessments, 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.

6.7 Commencement Date of Assessment Obligation. All Lots described in Exhibit "A" to this Declaration shall be subject to assessment upon the conveyance of the first Lot to a Purchaser.

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

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

6.9.1 Any Assessment or any installment of an Assessment not paid within fifteen (15) days after the Assessment or the installment of the Assessment first became due (or such longer period of time as required by applicable law) shall be deemed delinquent and shall bear interest from the date on which such Assessment or installment of the Assessment became due at the rate of twelve percent (12%) per annum or the prevailing VA/FHA interest rate for new home loans, whichever is higher. In addition, the Board may establish a late fee, not to exceed the greater of fifteen dollars (\$15.00) or ten percent (10%) of the amount of the unpaid Assessment or installment thereof (but in no event an amount greater than permitted under applicable law), to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within fifteen (15) days after such payment was due. Notwithstanding the foregoing, to the extent applicable law from time to time provides for any shorter period of time after which Assessments or any other amounts payable hereunder may or shall become delinquent, such shorter period of time may be set by the Board to apply in lieu of the time period set forth in this Declaration, and to the extent applicable law from time to time provides for any greater amount of late fee or other amount to be charged to any Owner deemed delinquent in the payment of any Assessment, or any installment of an Assessment, such greater amount may be set by the Board to apply in lieu of the late fee set forth in this Declaration.

6.9.2 The Association shall have a lien on each Lot for: (i) all Assessments levied against the Lot; (ii) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot; (iii) all monetary penalties levied against the Owner of the Lot; (iv) all attorney fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot; (v) any amounts payable to the Association pursuant to Section 7.3 or 7.4 of this Declaration; and (vi) any other amounts payable to the Association pursuant to the Project Documents. The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, Record a Notice of Lien setting forth the name of the delinquent owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is Recorded and the amount claimed to be past due as of the date of the Recording of the Notice, including interest, lien Recording fees and reasonable attorneys' fees. Before Recording any Notice of Lien against a Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments and all other amounts due to the Association by such Owner. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the delinquency is not paid within ten (10) days after delivery of the demand, the Association may proceed with Recording a Notice of Lien against the Lot. If the Association Records a Notice of Lien, the Association may charge the Owner of the Lot against which the Notice of Lien is Recorded a lien fee in an amount to be set from time to time by the Board.

6.9.3 Unless otherwise provided by Arizona law, the Assessment Lien shall have priority over all liens or claims except for: (i) liens and encumbrances Recorded before

the Recordation of this Declaration; (ii) tax liens for real property taxes; (iii) assessments in favor of any municipal or other governmental body; and (iv) the lien of any First Mortgage on the Lot, or as otherwise provided from time to time under applicable law. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid Assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person. 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. Notwithstanding anything to the contrary herein contained, in no event shall any First Mortgagee be required to collect any Assessments, and the failure of an Owner to pay Assessments when due shall not constitute a default under an insured First Mortgage.

6.9.4 The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien fees, monetary penalties, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Owner of the Lot have been paid in full. In no event shall the release of past due Assessments release the lien of this Declaration as to all other Assessments to become due hereunder.

6.9.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to: (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments and (ii) bringing an action to foreclose the Assessment Lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

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

6.11 Purposes for which Association's Funds May Be Used. The Association shall use all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) solely for the purpose of (i) discharging and performing the Association's duties and obligations under the Project Documents; (ii) exercising the rights and powers granted to the Association by the Project Documents, and (iii) the common good and benefit of the Project and the Owners, Lessees and Residents, by devoting said funds and property, among

other things, to the acquisition, construction, alteration, maintenance, provision and operation, 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, Lessees and Residents. Notwithstanding any other provision of this Declaration to the contrary, so long as there is a Class B Membership in the Association, funds of the Association may not be used for the initial construction of Improvements on the Common Area.

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

6.13 Working Capital Fund. To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser (other than a Developer) of a Lot from the Declarant or a Developer shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-third (1/3rd) of the then current Annual Assessment attributable to the Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Project Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

6.14 Transfer Fee. Each Purchaser (other than a Developer) of a Lot shall pay to the Association, or to its managing agent, if directed to do so by the Board, immediately upon becoming the Owner of the Lot, a transfer fee in such amount as is established from time to time by the Board.

ARTICLE 7

MAINTENANCE

7.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Areas of Association Responsibility, and all Improvements located thereon, except for any part of the Areas of Association Responsibility which any governmental entity is maintaining or is obligated to maintain. The Board shall be the sole judge as to the appropriate maintenance, repair and replacement of all Areas of Association Responsibility, but all Areas of Association Responsibility, and the Improvements located thereon, shall be maintained in good condition and repair at all times. No Owner, Resident or other Person shall construct or install any Improvements on the Common Area or alter, modify or remove any Improvements situated on the Common Area without the approval of the Board. No Owner, Resident or other person shall remove, add to or modify any plants, trees, granite or other landscaping Improvements in the part

of their Lot which constitutes an Area of Association Responsibility without the prior written approval of the Board. No Owner, Resident or other Person shall obstruct or interfere with the Association in the performance of the Association's maintenance, repair and replacement of the Areas of Association Responsibility, and the Improvements located thereon. The Association shall be responsible for the control, maintenance and payment of ad valorem taxes and liability insurance on the Common Area.

7.2 Ability of City of Chandler to Maintain and Assess Lots.

7.2.1 If the Association fails to maintain any of the Areas of Association Responsibility in a manner reasonably satisfactory to the City of Chandler (the "City"), the City may advise the Association in writing (by delivery of such notice to the principal place of business of the Association or to the Association's statutory agent and by delivery of such notice to each of the Owners) of such failure and the action specifically requested by the City to rectify that failure. If the Association fails, within thirty (30) days (or such longer period as may be reasonably necessary to cure such failure) after its receipt of such notice from the City, the City shall have the right, but shall not be obligated, to perform the required maintenance, and the City is hereby granted the right to enter the Common Area to perform such maintenance.

7.2.2 The Association shall be liable to the City for the reasonable maintenance costs incurred by the City pursuant to this Section (the "City Expenses"), together with interest at the legal rate and reasonable attorneys' fees. Each Owner of a Lot shall be liable to the City for the amount obtained by dividing the City Expenses by the total number of Lots. If the Association does not pay the City Expenses to the City within thirty (30) days after written demand to the Association, the City may record a Notice of Claim of Lien against each of the Lots to secure the payment of each Lot Owner's share of the City Expenses. A copy of any Notice of Claim of Lien recorded by the City must be mailed to the Owner of the Lot liened.

7.2.3 The City shall have the right, at its option, to enforce collection of any amounts owed to the City under this Section in any manner allowed by law, including, without limitation, bringing an action against one or more of the Owners to pay such Owner's share of the City Expenses or bringing an action to foreclose its lien against any or all of the Lots in the manner provided by law for the foreclosure of a realty mortgage. The City shall have the power to bid at any foreclosure sale and to purchase the Lots so sold.

7.2.4 If the Association is then no longer in existence, this Section shall be read as if references to the Association instead refer to the Owners. Notwithstanding any provision of this Declaration to the contrary, this Section cannot be amended in a manner that will reduce the City's rights or increase its obligations without obtaining the City's consent in recordable written form.

7.3 Lots. Each Owner of a Lot shall be responsible for maintaining, repairing or replacing his Lot and the Residential Unit and all other buildings, landscaping or other Improvements situated thereon and any landscaping situated between the boundary of such Lot and the pavement of a public street (except for any portion of the Lot which is an Area of Association Responsibility). All buildings, Residential Units, landscaping and other

Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be promptly removed and replaced with living foliage of like kind, unless different foliage is approved in writing by the Architectural Committee. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property. All Lots upon which no Residential Units, buildings or other structures, landscaping or Improvements have been constructed shall be maintained in a weed free and attractive manner.

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

7.5 Improper Maintenance and Use of Lots. In the event any portion of any 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 a manner which violates this Declaration; or in the event the Owner of any Lot is failing to perform any of his obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

7.6 Boundary Walls.

7.6.1 Each wall or fence which is located between two Lots shall constitute a boundary wall and, to the extent not inconsistent with this Section 7.6, the general rules of law regarding boundary walls shall apply;

7.6.2 The Owners of contiguous Lots who have a boundary wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

7.6.3 The adjoining Owners shall each have the right to perform any necessary maintenance, repair or replacement of the wall and the cost of such maintenance, repair or replacement shall be shared equally by the adjoining Owners except as otherwise provided in this Section; provided, however, that if an Owner elects to paint the side of the wall which faces his Lot, the Owner shall be solely responsible for the cost thereof;

7.6.4 In the event any such boundary wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense;

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

7.6.6 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;

7.6.7 In the event any boundary wall encroaches upon a Lot, 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 such boundary wall.

7.7 Maintenance of Walls Other Than Boundary Walls.

7.7.1 Walls (other than boundary walls) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot.

7.7.2 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. If any such wall or portion thereof is wrought iron, the Association shall be responsible for the repair and maintenance of all sides of such wrought iron surface. 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 of the Lot, as the case may be.

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

7.8 **Installation of Landscaping.** At such time as the Developer deems appropriate, but in any event within ninety (90) days of the date on which title to a Lot is transferred to an Owner, the Developer shall install trees, plants and/or such other landscaping Improvements (together with any sprinkler system or drip irrigation system sufficient to adequately water the trees, plants and other landscaping Improvement) as desired by such Developer in its sole discretion on (i) that part of such Lot which is between the street adjacent to such Lot and the exterior walls of the Residential Unit situated on such Lot, except for any side or back yard of the Lot which is enclosed by a wall or fence and (ii) any public right-of-way areas (other than sidewalks or bicycle paths) lying between the front or side boundaries of such Lot and any adjacent street. Each Owner shall be solely responsible for the maintenance and

repair of such landscaping Improvements and for the installation of any additional trees, plants and/or other landscaping Improvements on the other portions of such Owner's Lot.

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 per occurrence with a \$2,000,000 aggregate. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

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

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

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

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

8.1.6 The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; (iv) a "severability of interest"

endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee 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.

8.2 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under a deed of trust to whom certificates of insurance have been issued.

8.3 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to Section 8.1 of this Declaration shall be included in the budget of the Association and shall be paid by the Association.

8.4 Payment of Insurance Proceeds. With respect to any loss to any Common Area covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 8.5 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

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

ARTICLE 9

GENERAL PROVISIONS

9.1 Enforcement. The Association or any Owner shall have the right to enforce the Project Documents in any manner provided for in the Project Documents or by law or

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

9.2 Termination. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Owners representing ninety percent (90%) or more of the votes in each class of Membership and by the holders of First Mortgages, 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 a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

9.3 Amendments.

9.3.1 Except as provided in Section 7.2 and except for amendments made pursuant to Subsections 9.3.2 or 9.3.5 of this Declaration, the Declaration may only be amended at any time by the written approval or the affirmative vote, or any combination thereof, of Owners of not less than two-thirds (2/3) of the total votes in the Association.

9.3.2 The Declarant, so long as the Declarant owns any Lot, and thereafter, the Board, may amend this Declaration, without obtaining the approval or consent of any Owner or First Mortgagee, in order to conform this Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project or the Project Documents is required by law or requested by the Declarant or the Board.

9.3.3 So long as the Declarant owns any Lot, any amendment to this Declaration must be approved in writing by the Declarant.

9.3.4 So long as there is a Class B Membership in the Association, any amendment to this Declaration must have the prior written approval of the Veterans Administration or the Federal Housing Administration.

9.3.5 The Declarant, so long as the Declarant is a Member of the Association, and thereafter, the Board, may amend this Declaration without the consent of any other Owner to correct any error or inconsistency in the Declaration.

9.3.6 So long as the Declarant holds more than two-thirds (2/3) of the votes in the Association, any amendment to this Declaration shall be signed by Declarant and Recorded. At any time the Declarant does not hold at least two-thirds (2/3) of the votes in the Association, any amendment approved pursuant to Subsection 9.3.1 of this Declaration or by the Board pursuant to Subsection 9.3.2 or 9.3.5 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded, and any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Subsection 9.3.2 or 9.3.5 of this Declaration shall be signed by the Declarant and Recorded. Unless a later effective date is provided for in the amendment, any amendment to this Declaration shall be effective upon the Recording of the amendment.

9.4 Rights of First Mortgagees.

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

9.4.2 In addition to the other restrictions set forth in this Declaration, no Lot shall be partitioned or subdivided without the prior written approval of the holder of any First Mortgage on such Lot.

9.4.3 Unless at least two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned) or Owners (other than the sponsor, developer or builder) 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 for the benefit of the Lots. 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 Subsection;

(ii) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

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

(iv) Fail to maintain fire and extended coverage insurance on Common Area on current replacement cost basis in an amount of at least 100 percent of insurable value;

(v) Use hazard insurance proceeds for losses to any Common Area, for other than the repair, replacement or reconstruction of such Common Area.

9.4.4 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 the distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Area.

9.4.5 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.

9.4.6 In the event of any conflict or inconsistency between the provisions of this Section and any other provision of the Project Documents, the provisions of this Section shall prevail; provided, however, that in the event of any conflict or inconsistency between the provisions of this Section and any other provisions of the Project Documents with respect to the number or percentage of Owners or First Mortgagees that must consent to (i) an amendment of the Declaration, Articles or Bylaws, (ii) a termination of the Project, or (iii) certain actions of the Association as specified in Subsection 9.4.3 of this Declaration, the provision requiring the consent of the greatest number or percentage of Owners or First Mortgagees shall prevail; provided, however, that the Developer, so long as the Declarant or Developer owns any Lot, and thereafter, the Board, without the consent of any Owner or First Mortgagee being required, shall have the right to amend this Declaration, the Articles or the Bylaws in order to conform this Declaration, the Articles or the Bylaws to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project, the Plat or the Project Documents is required or requested by the Declarant, the Developer or the Board.

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

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

9.7 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the rule against perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (i) those which would be used in determining the validity of the challenged interest, plus (ii) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

9.8 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.

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

9.10 Laws, Ordinances and Regulations.

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

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

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

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

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


9.14 FHA/VA Approval. So long as there is a 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, dedication of Common Areas to an entity other than the Association, any amendment to this Declaration.

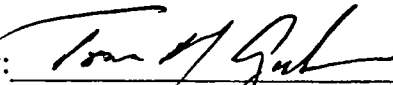
9.15 No Absolute Liability. No provision of the Project Documents shall be interpreted or construed as imposing on Owners absolute liability for damage to the Common Area. Owners shall only be responsible for damage to the Common Area caused by the Owners' negligence or intentional acts.

9.16 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 or Developer request approval of the Project by either or both of those agencies. However, Declarant or Developer shall have no obligation to request approval of the Project by either or both of such agencies. Unless and until the VA or the FHA has 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 or consents of such agencies shall be deemed null and void and of no force and effect.

DEVELOPER:

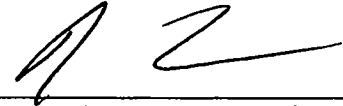
WILLIAM LYON HOMES, INC., a California corporation

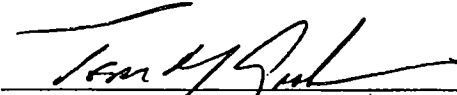
By: 
Its: Sr. Vice President

By: 
Its: Vice President

DECLARANT:

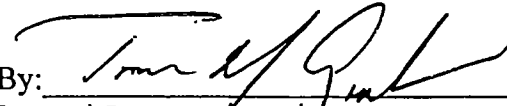
WILLIAM LYON HOMES, INC., a California corporation

By: 
Its: Sr. Vice President

By: 
Its: Vice President

ASSOCIATION:

MESQUITE GROVE ESTATES HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation

By: 
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 28th day of August, 2000 by
W. Thomas Hickcox, the Sr. Vice President of
William Lyon Homes, Inc., a California corporation, on behalf of the corporation.

Nan R. Greig
Notary Public

My Commission Expires:

10-4-2000



STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 28th day of August, 2000 by
Thomas M. Graham, the Vice President of
William Lyon Homes, Inc., a California corporation, on behalf of the corporation.

Nan R. Greig
Notary Public

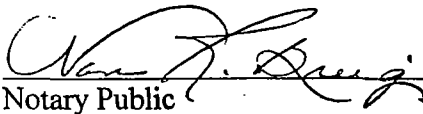
My Commission Expires:

10-4-2000



STATE OF ARIZONA)
) ss.
County of Maricopa)

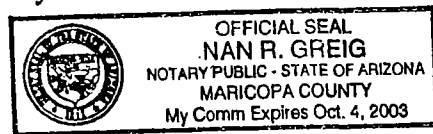
Acknowledged before me this 28th day of August, 2000 by
W. Thomas Hickcox, the Sr. Vice President of
William Lyon Homes, Inc., a California corporation, on behalf of the corporation.



Notary Public


My Commission Expires:

10-4-2003



STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 28th day of August, 2000 by
Thomas M. Graham, the Vice President of
William Lyon Homes, Inc., a California corporation, on behalf of the corporation.



Notary Public

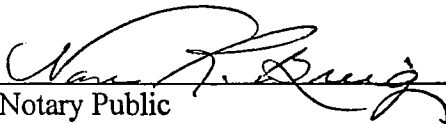
My Commission Expires:

10-4-2003



STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 28th day of August, 2000 by
Thomas M. Graham, the President of
Mesquite Grove Estates Homeowners Association, an Arizona nonprofit corporation, on behalf of
the corporation.



Notary Public

My Commission Expires:

10-4-2003



EXHIBIT A

PROPERTY LEGAL DESCRIPTION

Lots 1 through 205, inclusive, and Common Area Tracts A, B, C, D, E, F, G, H, I and J of MESQUITE GROVE ESTATES, according to the plat recorded in Book 553 of Maps and Plats, Page 47, records of the Maricopa County Recorder's Office, Maricopa County, Arizona.