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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COBBLESTONE FARMS**

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

COBBLESTONE FARMS

This Declaration of Covenants, Conditions, and Restrictions for Cobblestone Farms (the "Declaration") is made this 26th day of June, 2003, by Fulton Homes Corporation, an Arizona corporation, an Arizona corporation (the "Declarant").

INTRODUCTION

A. Cobblestone Farms is a planned development located in Pinal County, Arizona. The Declarant is the owner of fee title to the real property described on Exhibit A attached to this Declaration (the "Initial Covered Property").

B. The Declarant desires to reserve to the Declarant the right to expand the real property subject to this Declaration by annexing and subjecting to this Declaration all or any part of the Additional Property.

C. By executing and recording this Declaration with the County Recorder of Pinal County, Arizona, the Declarant intends to impose upon the Community mutually beneficial covenants, conditions, restrictions and easements to establish a flexible and reasonable procedure for the overall development, administration, maintenance, use and preservation of the Community. The Declarant intends for this Declaration to create equitable servitudes and covenants appurtenant to and running with the Community and which will be binding upon all future Owners of all or any portion of the Community and any other Person acquiring any right, title or interest in or to all of any portion of the Community.

D. The Declarant desires to provide for the creation of a nonprofit corporation under the laws of the State of Arizona to administer and maintain, repair and replace the Areas of Association Responsibility and to provide for the levying and collecting of Assessments and other charges by the Association for the purpose, among other things, of paying all costs and expenses incurred or to be incurred by the Association in connection with the maintenance, repair and replacement and administration of the Areas of Association Responsibility and the enforcement of the covenants, conditions and restrictions contained in this Declaration. The Association also may provide community services benefiting all or a portion of the Community, promote compliance with the Community Documents through education and communications programs and develop and implement programs and services to encourage interaction and a sense of community among Owners and Residents of the Community.

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 "Additional Property" means any real property (other than the Initial Covered Property) within Section 15, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona, together with all improvements located thereon.

1.2 "Areas of Association Responsibility" means: (a) all Common Area; (b) all land, and the Improvements situated thereon, located within the boundaries of a Lot or a public right-of-way which the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration, a Supplemental Declaration or other Recorded document executed by the Declarant or the Association; and (c) all land or right-of-way easements which are dedicated to the public, the County or any other governmental body or agency, but which the County or other governmental body or agency requires to be maintained by the Association.

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

1.4 "Assessable Lot" means a Lot which is not Exempt Property.

1.5 "Assessment" means a Regular Assessment, Special Assessment, Enforcement Assessment, Benefited Property Assessment, Cable Television Assessment and Solid Waste Disposal Assessment.

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

1.7 "Assessment Period" means the period set forth in Section 6.8.

1.8 "Association" means Cobblestone Farms Homeowners Association, an Arizona nonprofit corporation, and its successors and assigns.

1.9 "Association Expenses" means the actual and estimated expenses incurred or anticipated to be incurred by or on behalf of the Association including any allocations to reserves determined by the Board to be necessary and appropriate, and all other financial liabilities of the Association.

1.10 "Association Rules" means the rules adopted by the Board pursuant to Section 5.6.

1.11 "Benefited Property Assessment" means an assessment levied against less than all of the Lots pursuant to Section 6.5.

1.12 "Benefited Property Assessment Area" means a portion of the Community designated in a Supplemental Declaration as an area containing Limited Common Area or as an area in which the Association will provide Special Services.

1.13 "Benefited Property Expenses" means the actual or estimated expenses, including allocations to reserves, incurred or anticipated to be incurred by the Association for the maintenance, repair and replacement of Limited Common Areas or to provide Special Services to the Owners, Lessees and Residents in a Benefited Property Assessment Area.

1.14 "Builder" means any Owner (other than the Declarant) engaged in the business of constructing residential dwelling units for the purpose of resale or lease in the ordinary course of such Person's business and designated as a "Builder" by the Declarant in a Supplemental Declaration or in a written notice to the Board.

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

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

1.17 "Cable Television Assessment" means an assessment levied pursuant to Section 6.6.

1.18 "Collection Costs" means all costs, fees, charges and expenditures including, without limitation, attorneys' fees (whether or not a legal action is filed), court costs, filing fees and recording fees incurred by the Association in collecting and/or enforcing payment of Assessments, monetary penalties, late fees, demand fees, interest or other amounts payable to the Association pursuant to this Declaration.

1.19 "Common Area" means: (i) each and every "Tract" shown on any Plat, and (ii) all land, 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 the Association acquires by the foreclosure of the Assessment Lien or by any deed in lieu of foreclosure.

1.20 "Community" means the real property described on Exhibit A attached to this Declaration, together with all Improvements located thereon, and any part of the Additional Property, and all Improvements situated thereon, which is annexed and subjected to this Declaration pursuant to Section 2.2.

1.21 "Community Documents" means, collectively, this Declaration, the Articles, the Bylaws, the Association Rules and the Design Guidelines.

1.22 "County" means Pinal County, Arizona.

1.23 "Design Guidelines" means the procedures, standards and guidelines adopted by the Design Review Committee pursuant to Section 3.1, as amended or supplemented from time to time.

1.24 "Declarant" means Fulton Homes Corporation, an Arizona corporation, and any Person to whom it may expressly assign any or all of its rights under this Declaration by a Recorded instrument.

1.25 "Declarant Control Period" means the period commencing upon the Recording of this Declaration and ending on the date that the Class B membership in the Association terminates pursuant to Section 5.5.

1.26 "Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Cobblestone Farms, as amended from time to time.

1.27 "Design Review Committee" means the Design Review Committee established pursuant to Section 3.1.

1.28 "Eligible Votes" means the total votes in the Association, except for any votes allocated to Owners whose voting rights have been suspended by the Association.

1.29 "Enforcement Assessment" means an assessment levied pursuant to Section 6.4.

1.30 "Exempt Property" means: (a) all Lots owned by the Declarant or a Builder; (b) all land and improvements owned by or dedicated to the County or other public or governmental agency or authority for so long as the public or governmental authority agency or authority is the owner thereof; (c) any unmanned utility substations which provide utility services to any portion of Community; or (d) any Lot owned by a school district and used as a school.

1.31 "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.

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

1.33 "Improved Lot" means a Lot on which is situated a completed Residence. For purposes of this Section, a Residence shall be deemed completed when a Certificate of Occupancy or similar permit has been issued for the Residence by the County.

1.34 "Improvement" means: (a) a Residence or other building; (b) a fence or wall; (c) a swimming pool, tennis court, basketball goal, backboard or apparatus or playground equipment; (d) a road, driveway or parking area; (e) a tree, plant, shrub, grass or other landscaping improvement of any type and kind; (f) a statuary, fountain, artistic work, craft work, figurine or ornamentation of any type or kind; and (g) any other structure of any type, kind or nature.

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

1.36 "Limited Common Area" means real property, and the Improvements situated thereon, which are part of the Common Area and which are designated in a Supplemental Declaration as being for the sole or primary benefit of the Owners, Lessees and Residents of a particular part of Community. Limited Common Areas may include, without limitation, private streets, access gates, guardhouses, drainage or retention areas or landscape medians.

1.37 "Lot" means a parcel of land within Community, whether improved or unimproved, intended for independent ownership and use and designated as a "lot" on a Plat and any Residence, building, structure or other Improvements situated thereon.

1.38 "Maintenance" means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

1.39 "Maintenance Standard" means the standard of Maintenance of Improvements situated on Lots established from time to time by the Board or, in the absence of any standard established by the Board, the standard of Maintenance of Improvements situated on Lots generally prevailing throughout the Community.

1.40 "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. In the case of a Lot subject to a Recorded option, the optionor shall be deemed to be the Owner. Owner shall include a purchaser under a Recorded 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 pursuant to Arizona Revised Statutes, Section 33-801, *et seq.*, the Trustor shall be deemed to be the Owner. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

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

1.42 "Plat" means, individually and collectively those certain plats more specifically set out on the attached Exhibit B.

1.43 "Purchaser" means any Person (other than the Declarant) who becomes the Owner of a Lot, except for: (a) a Person who purchases a Lot and then leases it to the Declarant

for use as a model in connection with the sale or lease of other Lots; or (b) a Person who, in addition to purchasing a Lot, is assigned any or all of the rights of the Declarant under this Declaration.

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

1.45 "Residence" 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.

1.46 "Resident" means each natural person occupying or residing in a Residence.

1.47 "Solid Waste Disposal Assessment" means an assessment levied pursuant to Section 6.7.

1.48 "Special Assessment" means any assessment levied and assessed pursuant to Section 6.3.

1.49 "Special Services" means services designated in a Supplemental Declaration as being for the sole or primary benefit of the Owners, Lessees and Residents of a particular part of Community. Special Services may include, without limitation, guard services (including the maintenance of guard gates or guardhouses) and landscape maintenance services for landscaping situated on Lots.

1.50 "Supplemental Declaration" means a Supplemental Declaration executed by the Declarant and Recorded pursuant to Section 2.3.

1.51 "Visible From Neighboring Property" means, with respect to any given Improvement, that such Improvement is or would be visible to a natural person six feet tall, standing at ground level on any part of any Lot, Common Area or any public street within or adjacent to the Community.

ARTICLE 2

PROPERTY AND PERSONS BOUND BY DECLARATION; ESTABLISHMENT OF GENERAL PLAN OF DEVELOPMENT

2.1 Purpose and Binding Effect.

Declarant intends by this Declaration to impose upon the Community covenants, conditions, restrictions and easements to create a general plan of development for Community and to provide a flexible and reasonable procedure for the administration, maintenance, preservation, use and enjoyment of the Community. The Declarant declares that all of the

Community 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, desirability and appearance of the Community. Declarant further declares that all of easements, restrictions, conditions and covenants in this Declaration shall run with the Community and shall be binding upon and inure to the benefit of the Declarant and all Owners, Lessees and Residents and all other Persons having or acquiring any right, title or interest in the Community or any part thereof, their heirs, successors, successors in title and assigns. Each Person who acquires any right, title or interest in the Property, or any part thereof, agrees to abide by all of the provisions of the Community Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association.

2.2 Annexation of Additional Property.

So long as the Declarant owns any Lot or any part of the Additional Property, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Additional Property. The annexation of all or any portion of the Additional Property shall be effected by the Declarant Recording a Declaration of Annexation setting forth the legal description of the Additional Property being annexed and stating that such portion of the Additional Property is annexed and subjected to this Declaration. If the portion of the Additional Property being annexed is not owned by the Declarant, the Declaration of Annexation must be signed by the Owner of fee title to the portion of the Additional Property being annexed.

The Additional Property may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. The property annexed by the Declarant pursuant to this Section need not be contiguous with other property already subject to this Declaration, and the exercise of the right of annexation as to any portion of the Additional Property shall not bar the further exercise of the right of annexation as to any other portion of the Additional Property. The Declarant makes no assurances as to which, if any, part of the Additional Property will be annexed.

After the Declarant no longer owns any Lot or any part of the Additional Property, the Association may annex and subject all or any part of the Additional Property to this Declaration by executing and Recording a Declaration of Annexation containing the information required for a Declaration of Annexation Recorded by the Declarant pursuant to this Section, provided the annexation is approved by Owners holding at least two-thirds (2/3) of the Eligible Votes and the Declaration of Annexation is signed by the owners of fee title to the portion of the Additional Property being annexed.

2.3 Supplemental Declarations.

The Declarant shall have the right to record one or more Supplemental Declarations for various parts of the Community. If the property covered by the Supplemental Declaration is not owned by the Declarant, then the Supplemental Declaration must also be signed by the owners of fee title to the property covered by the Supplemental Declaration. A Supplemental Declaration may designate Common Areas or other Areas of Association Responsibility and impose such

covenants, conditions, restrictions and easements as the Declarant deems appropriate for the property to be covered by the Supplemental Declaration. A Supplemental Declaration may also designate Limited Common Areas, and Special Services. If a Supplemental Declaration designates any Limited Common Areas or Special Services, the Supplemental Declaration shall also designate the Benefited Property Assessment Areas containing Lots which will be subject to a Benefited Property Assessment. A Supplemental Declaration may only be amended by a written instrument executed by: (a) the Owners representing more than sixty-seven percent (67%) of the votes in the Association held by the Owners of all of the Lots subject to the Supplemental Declaration; (b) the Association; and (c) the Declarant so long as the Declarant owns any Lot or any part of the Additional Property. If an amendment to a Supplemental Declaration adds, deletes or changes any Limited Common Areas or Special Services or any Benefited Property Assessment Area, then such amendment must also be approved by at least two-thirds (2/3) of the votes held by Owners of Lots within such Benefited Property Assessment Area or by such greater percentage of votes as may be required by the Supplemental Declaration, and, if the proposed amendment will convert any Limited Common Areas to Common Areas maintained by the Association without a Benefited Property Assessment, by the Class A Members holding more than fifty-percent (50%) of the votes allocated to Lots owned by the Class A Members and located outside of the area formerly subject to the Benefited Property Assessment. Any amendment to a Supplemental Declaration approved in accordance with this Section shall be executed by the Association and shall be effective only upon the Recording of the Supplemental Declaration.

2.4 Withdrawal of Property.

The Declarant shall have the right to withdraw property from the Community and this Declaration without the consent of any other Owner or Person. The withdrawal of all or any portion of the Community and this Declaration shall be effected by the Declarant Recording a Declaration of Withdrawal setting forth the legal description of the property being withdrawn. If the Declarant does not own the property to be withdrawn, then the Declaration of Withdrawal must be signed by the owners of fee title to the property to be withdrawn. Upon the withdrawal of any property from the Community pursuant to this Section, such property shall no longer be subject to any of the covenants, conditions and restrictions set forth in the Community Documents.

2.5 Disclaimer of Representations and Implied Covenants.

The Declarant makes no representation or warranty that the Community will be developed in accordance with the zoning and development plan for the Community as it exists as of the Recording of this Declaration. Each Owner, Lessee, Resident and other Person acquiring any Lot or other property in the Community acknowledges that the zoning and development plan may be amended from time to time by the County. The Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Community Documents or as to the compliance of any provision of the Community Documents with public laws, ordinances, or regulations applicable to the Community. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen shall be deemed to create any implied covenants, servitudes or restrictions

with respect to the use of any property subject to this Declaration or any part of the Additional Property.

2.6 Development Plan.

Notwithstanding any other provision of this Declaration to the contrary, the Declarant, with the approval of the County but without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to the zoning and development plan with respect to any property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the property owned by such Declarant or changing the nature or extent of the uses to which the property may be devoted.

2.7 Further Subdivision, Property Restrictions, Rezoning and Timeshares.

Without the prior written approval of the Declarant and the Association, no Owner (other than the Declarant or a Builder) shall do any of the following: (a) further subdivide a Lot or separate a Lot into smaller lots or parcels; (b) convey or transfer less than all of a Lot; (c) replat a Lot or combine a Lot with other Lots; (d) record covenants, conditions, restrictions or easements against any Lot; (e) file any application for zoning, rezoning, variances or use permits pertaining to any Lot with the County or any municipality having jurisdiction; or (f) subject or use a Lot for any timesharing, cooperative, weekly, monthly or any other type of revolving or periodic occupancy by multiple owners, cooperators, licensees or timesharing participants.

2.8 Farming and Agricultural Uses.

The Community is located in proximity to existing cattle feeding/dairy facilities and other farming and agricultural operations with potential activity 24 hours per day, seven days per week in perpetuity. As a result, residents of the Community may be exposed to nuisances associated with cattle feeding/dairy facilities and other farming and agricultural operations in the immediate and surrounding area, including but not limited to, noise, odors, dust, grazing of animals, flies, pollen, chaff from harvesting, insects, pesticide spray applications and farm equipment operators. Declarant makes no representations or warranties whatsoever with regard to the cattle feeding/dairy facilities or other farming and agricultural operations. The Community is subject to a Recorded Agricultural Spray Easement in favor of all adjacent farm owners and/or operators.

2.9 Additional Disclosures.

The Community is adjacent to land owned by the State of Arizona and land owned by the Gila River Indian Community which may be developed for any possible land use in the future. The Declarant makes no representations or warranties with respect to whether or when such land may be developed or with respect to what use may be made of such land in the future.

2.10 Obligation to Construct Common Area Improvements.

Any Builder that owns real property identified or designated on a Plat or any Supplemental Declaration as real property which is to be Common Area or to be an Area of Association Responsibility shall be responsible for installing and constructing improvements on

such real property in accordance with plans and specifications for such real property approved by the County and by the Design Review Committee. The construction and installation of improvements on any such real property shall be constructed in a good and workmanlike manner and in accordance with applicable industry standards. The construction and installation of improvements on any such real property shall be completed within such time period as may be specified by the Design Review Committee. Upon completion of the construction and installation of Improvements on any real property designated as Common Area in accordance with the plans for such Improvements approved by the Design Review Committee, the Owner of such real property shall convey fee title to the real property to the Association. The Association shall accept the conveyance of such real property so long as all the following conditions are met: (a) the Owner provides the Association, at the Owner's expense, with a standard coverage owner's policy of title insurance in an amount reasonably acceptable to the Association issued by a title insurance company authorized to transact such business in the State of Arizona, insuring that the Association is the Owner of fee title to the property subject to any such liens and other matters as may be approved by the Association; (b) the Owner agrees to replace any landscaping that does not survive for a period of ninety (90) days following the conveyance; and (c) all third party warranties applicable to the improvements constructed or installed on the real property are assigned to the Association.

ARTICLE 3

ARCHITECTURAL CONTROL

3.1 Design Review Committee.

A Design Review Committee shall be appointed as provided in this Section to exercise the powers and perform the obligations of the Design Review Committee under the Community Documents. So long as the Declarant owns any Lot or any part of the Additional Property, the Declarant shall have the sole right to determine the number of members on the Design Review Committee and to appoint and remove the members of the Design Review Committee. After the Declarant no longer owns any Lot or any part of the Additional Property, the Board shall determine the number of members on the Design Review Committee, and the members of the Design Review Committee shall be appointed and may be removed by the Board. The Declarant may at any time voluntarily surrender its right to appoint and remove the members of the Design Review Committee, and in that event the Declarant may require, for so long as the Declarant owns any Lot or any part of the Additional Property, that specified actions of the Design Review Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

The Design Review Committee may adopt, amend and repeal architectural and design standards for any Construction or Modification, procedures for the submission and consideration of plans and specifications for any Construction or Modification and rules and regulations governing construction activities. The Design Guidelines may include, without limitation, provisions regarding: (a) the size and height of Residences, buildings or other Improvements; (b) architectural style or design; (c) placement of Residences and other buildings including

establishing building envelopes; (d) landscaping design, content and conformance with the character of Community and permitted and prohibited plants; (e) requirements concerning exterior color schemes, exterior finishes and materials; (f) signage; (g) perimeter and screen wall design and appearance; (h) time periods for commencement and completion of any approved Construction or Modification; and (i) rules and regulations governing construction activities; and (j) standards and procedures for submissions and approval of plans. After the Declarant no longer owns any Lot or any part of the Additional Property, any repeal or amendment of the Design Guidelines must be approved by the Board. Any approval by the Design Review Committee of standard plans for use by a Builder shall apply to all Lots on which such Builder desires to use such plans and shall not be subject to subsequent rescission or modification without the Builder's consent.

3.2 Approval Required.

As used in this Article 3, "Construction" means any devegetation, excavation or grading work or the construction, erection or installation of an Improvement on a Lot and "Modification" means any addition, alteration, repair, change or other work which in any way alters the exterior appearance of any Improvement located on a Lot. No Construction or Modification shall be made or done without the prior written approval of the Design Review Committee; provided, however, that the provisions of this Article do not apply to, and approval of the Design Review Committee shall not be required for, the Construction or Modification of any Improvements or any other work made by, or on behalf of the Declarant.

The Design Review Committee may exempt certain Construction or Modification from the application and approval requirements of this Article 3, provided such Construction or Modification is undertaken in strict compliance with the requirements of such exemption. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild an Improvement in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of a Residence or other building without approval so long as such activity does not affect the exterior appearance of the Residence or building.

Any Owner desiring approval of the Design Review Committee for any Construction or Modification shall submit to the Design Review Committee a written request for approval specifying in detail the nature and extent of the Construction or Modification which the Owner desires to perform. The request for approval must be accompanied by plans or specifications showing the nature, kind, color, shape, height, materials and location of the Improvements and such other information as may be required by the Design Guidelines. Any Owner requesting the approval of the Design Review Committee shall also submit to the Design Review Committee any additional information, plans and specifications which the Design Review Committee may request.

In the event that the Design Review Committee fails to approve or disapprove an application for approval within forty-five (45) days after the complete application, together with any fee payable pursuant to Section 3.7 and all supporting information, plans and specifications requested by the Design Review Committee, have been submitted to the Design Review Committee, approval will not be required, and this Section will be deemed to have been

complied with by the Owner who requested approval of such plans. The approval by the Design Review Committee of any Construction or Modification shall not be deemed a waiver of the Design Review Committee's right to withhold approval of any Construction or Modification subsequently submitted for approval.

The Design Review Committee may establish one or more subcommittees consisting of one or more members of the Design Review Committee and may delegate to such subcommittee or subcommittees the authority and power of the Design Review Committee to approve or disapprove any Construction or Modification within a specified portion of the Community. Any delegation by the Design Review Committee of its authority or power under this Article 3 shall be subject to such conditions and limitations as may be imposed by the Design Review Committee and may be revoked at any time by the Design Review Committee by written notice to the Person to whom the power or authority had been delegated.

3.3 Review of Plans.

In reviewing plans and specifications for any Construction or Modification, the Design Review Committee may consider any and all factors which the Design Review Committee, in its sole and absolute discretion, determines to be relevant including, but not limited to: (a) the harmony of the proposed Improvements with existing Improvements in the Community or with Improvements previously approved by the Design Review Committee but not yet constructed; (b) the location of the proposed Improvements in relation to existing topography, finished grade elevations, roads, Common Area and other structures; (c) the exterior design, finish materials and color of the proposed Improvements; and (d) compliance of the proposed Improvements with this Declaration and the Design Guidelines. The Design Review Committee may disapprove plans and specifications for any Construction or Modification even though the plans and specifications may be in substantial compliance with this Declaration and the Design Guidelines if the Design Review Committee, in its reasonable discretion, determines that the proposed Construction or Modification, or some aspect or portion thereof, is undesirable or unattractive.

Decisions of the Design Review Committee may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and attractiveness of certain Improvements. Each Owner agrees that the decision of the Design Review Committee shall be final on all matters submitted to it pursuant to this Declaration, subject to an appeal of the decision to the Board as provided in this Section.

The approval required of the Design Review Committee pursuant to this Article 3 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.

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

After the Declarant no longer has the right to appoint the Design Review Committee, any Owner aggrieved by a decision of the Design Review Committee may appeal the Design Review

Committee's decision to the Board. Any appeal to the Board shall be made in accordance with such procedures as may be adopted by the Board.

3.4 Variances.

The Design Review Committee may grant variances from compliance with any provision of the Design Guidelines in circumstances where the design meets the intent of the provision sought to be varied and where granting of the variance would enhance design innovation and excellence, or when circumstances such as topography, natural obstructions, economic or procedural hardship, or aesthetic or environmental considerations so require, and the Design Review Committee determines, in its sole discretion, that the objective of the particular requirement can still be achieved. No variance approved by the Design Review Committee shall be effective until the variance is set forth in a written document signed by or on behalf of the Design Review Committee. No variance shall amend or modify any provision of this Declaration or prevent the Design Review Committee from denying a variance in other circumstances. For purpose of this Section, the inability to obtain approval of any governmental agency, the issuance of any license or permit, or comply with the terms of any financing shall not constitute an economic or procedural hardship.

3.5 Construction of Improvements.

Upon receipt of approval from the Design Review Committee for any Construction or Modification, the Owner who had requested such approval shall proceed with the Construction or Modification approved by the Design Review Committee as soon as practicable and within such time as may be prescribed by the Design Review Committee. After commencement of the approved construction or modification, the Owner shall diligently pursue such Construction or Modification so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Design Review Committee.

3.6 No Changes Without Approval.

Any Construction or Modification approved by the Design Review Committee must be done or performed in accordance with the plans and specifications approved by the Design Review Committee. No change, deletion or addition to the plans and specifications approved by the Design Review Committee may be made without the prior written approval of the Design Review Committee.

3.7 Review Fee.

The Design Review Committee shall have the right to charge the a fee for reviewing requests for approval of any Construction or Modification, which fee shall be payable by the Owner at the time the application for approval is submitted to the Design Review Committee. The fee charged by the Design Review Committee may include the actual or estimated fees or costs incurred or anticipated to be incurred by the Design Review Committee in processing the application and in consulting with, or having the application reviewed by, architects, engineers or other professionals. The Design Review Committee may retain architects, engineers or other persons as deemed necessary to review applications.

3.8 No Warranty; Limitation of Liability.

The approval by the Design Review Committee of any Construction or Modification shall not be deemed a warranty or representation by the Design Review Committee as to the quality of such Construction or Modification or that such Construction or Modification conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation. The Design Review Committee shall not be liable or bear any responsibility for (a) ensuring the structural integrity, quality, soundness or workmanship of any Construction or Modification approved by the Design Review Committee, (b) ensuring compliance with building codes or other governmental requirements or (c) ensuring that all Improvements are of comparable quality, value, size or similar design.

3.9 Improvements to Areas of Association Responsibility.

If plans and specifications submitted to the Design Review Committee 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 Design Review Committee may condition its approval of the plans and specifications for the proposed Construction or Modification on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Improvement.

3.10 Compliance Deposit.

The Design Review Committee shall have the right, on a case-by-case basis and in its sole discretion, to condition the approval by the Design Review Committee of plans submitted by an Owner, upon the receipt by Design Review Committee of a deposit (the "Compliance Deposit") to secure the performance of the Owner's obligations under Section 7.7 to clean up and/or remove equipment, building materials, dirt, debris and similar materials, and to protect from damage and repair any damage to improvements sustained, in connection with construction activities by or for the benefit of Owner and to ensure that the Construction or Modification will be made in accordance with the plans and specifications approved by the Design Review Committee. The Security Deposit shall be in such amount as may reasonably be determined by the Design Review Committee. The Design Review Committee may apply the Compliance Deposit toward payment of (a) any costs incurred by the Design Review Committee or the Association with respect to any construction cleanup or removal required and/or the repair or replacement of any damaged or destroyed improvements, the cost for which the Owner is responsible under Section 7.8; (b) any costs incurred by the Association or the Design Review Committee in connection with the inspection of the Construction or Modification to ascertain whether the Construction or Modification is being made in accordance with the approved plans; and (c) any attorney fees, court costs and other costs (including, but not limited to, costs incurred to correct the violation) incurred by the Association in connection with any violation of the Community Documents related directly or indirectly with the Construction or Modification. Following receipt by the Design Review Committee of a written request from an Owner delivered subsequent to the completion of the Construction or Modification, and following confirmation by the Design Review Committee that any necessary cleanup work or damages

attributable to the Owner or any employee, agent, contractor or subcontractor acting on behalf of or pursuant to a contract with an Owner (an "Owner's Agent") has been properly performed, repaired or replaced, as applicable, that all costs attributable to the Owner in connection therewith have been paid in full and that the Construction or Modification was made in accordance with the plans and specifications approved by the Design Review Committee, the Design Review Committee shall return to such Owner the unapplied portion of the Owner's Compliance Deposit. The liability of an Owner to promptly cleanup such Owner's Lot and any surrounding area of the Community and to repair or replace any improvements damaged or destroyed by an Owner or the Owner's Agent shall not be limited to the amount of such Owner's Compliance Deposit, and in no event shall the posting of a Compliance Deposit limit or prejudice the right of the Design Review Committee or the Association to pursue any available legal remedies against the Owner or any of Owner's Agents causing the need for cleanup or causing the damage or destruction.

ARTICLE 4

EASEMENTS AND DEVELOPMENT RIGHTS

4.1 Easements for Use of Common Area.

Every Owner, Lessee and Resident and their guests shall have a right and easement of enjoyment in and to the Common Area, which right shall be appurtenant to and shall pass with the title to every Lot, subject to:

(a) The right of the Association, subject to Section 5.10, to dedicate, convey, transfer, lease or encumber the Common Area; provided, however, that if access to a Lot is over any part of the Common Area, any conveyance, lease or encumbrance of such Common Area shall be subject to an easement for ingress and egress in favor of the Owner, Lessees and Residents of the Lot and their guests and invitees.

(b) The right of the Board to adopt rules, regulations or policies regulating the use of the Common Area including rules, regulations and policies limiting the number of guests who may use the Common Area and restricting or prohibiting access to such portions of the Common Area (such as landscaped areas) not intended for use by the Owners, Lessees or Residents.

(c) The right of the Association to suspend the right of an Owner and such Owner's family, tenants and guests to use the Common Area (other than the right of an Owner and such Owner's family, tenants and guests to use any streets which are part of the Common Area for ingress or egress to the Owner's Lot)

if such Owner is more than fifteen (15) days delinquent in the payment of Assessments or other amounts due to the Association or if the Owner has violated any other provisions of the Community Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation.

(d) The rights and easements reserved by or granted to the Declarant by the Community Documents.

(e) The right of the Association to rent or lease any portion of the Common Area on a short-term basis to an Owner or Resident for the exclusive use of such Owner or Residents and their guests and invitees.

(f) The right of the Association to charge reasonable admission or other fees for the use of any recreational facility or amenity situated on the Common Area.

(g) The right of the Association to permit the use of any recreational facility or amenity situated on the Common Area by Persons other than Owners or Residents and their guests upon payment of such fees as may be established by the Board.

(h) The rights and easements, if any, reserved or granted to the Declarant, a Builder any other Person in the deed conveying the Common Area to the Association.

The right of easement and enjoyment of the Common Area may not be transferred or assigned except upon the conveyance or transfer of the Lot to which such right is appurtenant.

Notwithstanding any other provision of this Section to the contrary, the right to use and enjoy any Limited Common Area shall only extend to the Owners and Residents designated in the Supplemental Declaration establishing such Limited Common Area as the Owners and Residents solely or permanently benefited by the Limited Common Area.

4.2 Utility and Development Easements.

A non-exclusive, perpetual blanket easement is hereby granted over, under and through the Common Area and any public utility easements shown on any Plat executed by a Declarant or approved by the Declarant or the Association for the purpose of: (a) installing, constructing, operating, maintaining, repairing or replacing equipment used to provide to any portion of Community or adjacent land any utilities (including, without limitation, water, sewer, drainage, gas, electric, telephone, digital and other data transmission service and television service), whether public or private; and (b) ingress and egress to install, construct, operate, maintain, repair and replace such equipment. Such easement is hereby granted to any Person providing such utilities or installing, constructing, maintaining, repairing or replacing equipment related

thereto. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed or relocated only where permitted by the Declarant, where contemplated on any site plan approved by the Declarant or where approved by resolution of the Board. Equipment used to provide or meter such utilities or services may be installed above ground during periods of construction if approved by the Declarant. The Person providing a service or installing a utility pursuant to this easement shall install, construct, maintain, repair or replace the equipment used to provide or meter the utility as promptly and expeditiously as possible, and shall restore the surface of the land and the surrounding vegetation and improvements to their original condition as soon as possible.

4.3 Rights and Easements to Facilitate Development.

The Declarant hereby reserves to itself and its successors and assigns a non-exclusive blanket easement over and through the Community for all purposes reasonably related to the development and completion of Improvements in Community, including without limitation: (a) easements for the temporary storage of supplies of building materials and equipment necessary to complete Improvements; and (b) easements for the construction, installation and Maintenance of such Improvements as the Declarant determines, in its reasonable discretion, to be necessary or desirable.

The Declarant hereby reserves to itself, its successors and assigns the right to: (a) use any Lots owned or leased by the Declarant, any other Lot with written consent of the Owner thereof, or any portion of the Common Area as models, management offices, sales offices, a visitors' center, construction offices, customer service offices or sales office or model home parking areas; and (b) install and maintain on the Common Area, any Lot owned or leased by the Declarant or any other Lot with the consent of the Owner thereof, such marketing or promotional flags and flag poles and such marketing, promotional, identification, direction or other signs which the Declarant deems necessary for the development, sale or lease of Lots in the Community. The Declarant shall have the right to grant and reserve easements, rights-of-way and licenses over and through the Common Area for the purposes set forth in this Section or for any other purpose necessary or desirable for the orderly development of Community. The Declarant may make any dedications and grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Common Area.

Any and all conveyances made to the Association or any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements and rights granted or reserved to the Declarant in this Declaration shall not terminate or merge and shall continue to run with the land, notwithstanding the common law doctrine of merger and the common ownership of all of the Community by the Declarant. Upon written request of the Declarant, the Association and each Owner shall from time to time sign, acknowledge and deliver to the Declarant such further assurances of these reservations of rights and easements as may be requested.

In the event of any conflict or inconsistency between this Section and any other provision of the Community Documents, this Section shall prevail.

4.4 Easement for Maintenance and Enforcement.

The Association and its directors, officers, agents, contractors and employees, the Design Review Committee and any other Persons authorized by the Board are hereby granted the right of access over and through any Lots (excluding the interior or any Residence) for: (a) the exercise and discharge of their respective powers and responsibilities under the Community Documents; (b) making inspections in order to verify that all Improvements on the Lot have been constructed in accordance with the plans and specifications for such Improvements approved by the Design Review Committee and that all Improvements are being properly maintained as required by the Community Documents; (c) correcting any condition originating in a Lot or in any Common Area threatening another Lot or the Common Area; (d) performing installations or Maintenance of utilities, landscaping or other Improvements located on Areas of Association Responsibility situated within the boundaries of the Lots; or (e) correcting any condition which violates the Community Documents.

4.5 Easements for Encroachments.

If any Improvements on any Lot or portion of the Common Area now or hereafter encroach on any other property by reason of: (a) the original construction thereof; (b) deviations within normal construction tolerances in the Maintenance of any Improvement; or (c) the settling or shifting of any land or Improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists. The Owner of the encroaching Improvement shall also have an easement for the limited purpose of Maintenance of the encroaching Improvement. This easement does not relieve any Owner or any other Person from liability for such Owner's or other Person's gross negligence or willful misconduct.

4.6 Rights of Builders.

Notwithstanding any other provision of this Declaration to the contrary, a Builder shall have the right to maintain model homes and sales offices on Lots owned or leased by the Builder and to construct and maintain parking areas for the purpose of accommodating persons visiting such model homes and sales offices provided: (a) the plans and specifications for the model homes and sales offices, and related landscaping, have been approved in writing by the Design Review Committee; (b) the location and design of the parking areas incidental to such model homes and sales offices has been approved in writing by the Design Review Committee; (c) the opening and closing hours for such model homes and sales offices have been approved in writing by the Design Review Committee; and (d) the construction, operation and maintenance of such model homes and sales offices otherwise complies with all provisions of this Declaration. Any home constructed as a model home shall cease to be used as a model home and any sales office shall cease to be used as a sales office at any time the Builder is not actually engaged in the construction and sale of Lots. Notwithstanding any other provision of this Declaration to the contrary, a Builder may store supplies of brick, block, lumber and other building materials on a Lot owned or leased by a Builder during the course of construction of Improvements on Lots provided such materials are kept in areas approved in writing by the Design Review Committee and such materials are kept and stored in compliance with the Design Guidelines. Normal construction activities of the Builder in connection with the construction of Improvements shall

not be considered a nuisance or otherwise prohibited by this Declaration. A Builder constructing Improvements on Lots shall keep the Lots in a clean, safe and neat condition free of weeds, trash and debris throughout the construction process. No approval or consent by the Design Review Committee under this Section 4.6 shall be unreasonably withheld or delayed and any request for approval by a Builder in writing that is not denied within thirty days following submission shall be deemed approved.

ARTICLE 5

THE ASSOCIATION

5.1 Formation and Powers of the Association.

The Association shall be an Arizona nonprofit corporation. The Association shall have all of the common law and statutory powers conferred upon nonprofit corporations under Arizona law and all powers necessary or desirable: (a) to perform the Association's duties and obligations under the Community Documents or imposed by law; (b) to exercise the rights and powers of the Association set forth in the Community Documents; and (c) to foster and promote the common good and general welfare of the Community, the Owners, Residents and Lessees, and the surrounding community. The Association may exercise any right or privilege given to the Association expressly by the Community 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 Community Documents or reasonably necessary to effectuate any such right or privilege. The Association shall be managed by a Board of Directors. Until the termination of the Declarant Control Period, the Declarant shall have the right to appoint and remove the members of the Board. After the termination of the Declarant Control Period, the members of the Board shall be elected by the Owners in accordance with the Articles and Bylaws.

The Association may create profit or nonprofit subsidiaries which may be tax-exempt organizations and delegate to such subsidiaries portions of the powers and authority of the Association under the Community Documents. The Association may engage in activities to benefit persons other than Owners, Lessees and Residents and may operate, manage and maintain property not owned by the Association (including, without limitation, property dedicated to public use) if the Association determines in its discretion that such action confers some benefit upon Community.

5.2 Authorized Community Activities, Services and Programs.

The Association may organize, fund and administer community-building activities, services and programs as the Association deems necessary, desirable or appropriate. Examples of such activities, services and programs include, but are not limited to, the following:

- (a) Operation and management of the Areas of Association Responsibility;
- (b) Primary and adult education programs;

- (c) Recreation and social programs;
- (d) Activities designed to promote compliance with the Community Documents through education and communication;
- (e) Public relations activities on behalf of the Community;
- (f) Cultural, arts, environmental and wellness programs;
- (g) Community service activities for the benefit of Owners, Lessees or Residents of the Community and the surrounding community;
- (h) Community internet and intranet sites;
- (i) Charter clubs and other volunteer organizations and activities;
- (j) Other services, activities and programs which enhance the sense of community in the Community.

Nothing in this Section shall be construed as a representation by the Declarant or the Association as to what, if any, activities, services and programs will be provided by the Association. In addition, the Association may modify or cancel existing activities, services and programs in its discretion. Nonuse of any activities, services or programs offered by the Association shall not exempt any Owner from the obligation to pay Assessments.

5.3 Relationship with Other Entities.

The Association may enter into cooperative agreements and expend funds for facilities, services and activities which benefit the Community and the surrounding area. The Association may provide, or provide for, such services and facilities for all of the Owners, Lessees and Residents and their Lots, and the Association is authorized to enter into and terminate contracts or agreements with other entities, including the Declarant or its affiliate, to provide such services and facilities. The Association may charge use or service fees for any such services and facilities provided, but may also include all or a portion of the cost thereof in the Association's budget as an Association Expense and assess it as part of the Regular Assessment if the services and facilities are provided to all Lots or may also include all or a portion of the cost thereof in a Benefited Property Assessment if the services and facilities are provided to less than all of the Lots. In any contracts or agreements with third parties for the provision of services within Community, the Association may assign to the service provider the right to bill Owners directly and to pursue all legal or equitable remedies otherwise available to the Association for the collection of such bills.

5.4 Identity of Members.

The members of the Association shall be Owners of the Lots. All Owners of Lots shall be mandatory members of the Association. 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.

5.5 Classes of Members and Voting Rights.

The Association shall have the following two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant until the termination of the Class B membership, of Lots. Each Class A member shall be entitled to one (1) vote for each Lot owned by such Member.

Class B. The Class B members shall be the Declarant and the Builders. The Declarant and each Builder shall be entitled to three (3) votes for each Lot owned by the Declarant or the Builder. The Class B membership shall cease and be converted to Class A membership when the votes held by Class A members exceed the votes held by the Class B members. The Declarant or any Builder may voluntarily relinquish its Class B membership at any time by giving written notice thereof to the Association.

5.6 The Association Rules.

The Board may adopt, amend and repeal rules and regulations pertaining to: (a) 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; and (b) minimum standards for the Maintenance 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.

5.7 Personal Liability.

No director, officer, employee or agent of the Association or the Design Review Committee or of any committee of the Association or the Design Review Committee, and no other Person acting on behalf of the Association or the Design Review Committee shall be personally liable to any Person for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence in the discharge of such Person's duties and responsibilities under the Community Documents provided such Person acted in good faith.

5.8 Conveyance, Lease or Encumbrance of Common Area.

The Association may dedicate parts of the Common Area to the County or any public agency, authority or utility for such purposes and subject to such conditions as the Board may determine to be in the best interests of the Community. The Association may convey portions of the Common Area for the purpose of adjusting the boundary lines between the Common Area, Limited Common Area and adjoining Lots or dedicated rights-of-way. The Association may grant permits, licenses and easements on, over, under and through the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Community. The Association may lease all or any part of the Common Area for such purposes and on such terms and conditions as the Board determines to be necessary or desirable; provided, however, that any lease entered in to after the termination of the Declarant Control Period must be approved by Owners entitled to cast more than fifty percent (50%) of the Eligible Votes. Except as otherwise expressly provided in this Declaration, the Common Area shall not be mortgaged or conveyed without the prior written consent or affirmative vote of Members holding at least two-thirds (2/3) of the Eligible Votes and by the Declarant so long as the Declarant owns any Lot or any part of the Additional Property.

ARTICLE 6

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments.

Each Owner, by becoming the Owner of a Lot, is deemed to covenant and agree to pay to the Association all Assessments, Collection Costs and all other fees and costs which may become payable by the Owner to the Association under the Community Documents. All Assessments shall be established and collected as provided in this Declaration. Each Assessment, together with all interest thereon, 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. No Owner shall be exempt from liability for Assessments because of such Owner's non-use of the Common Area, abandonment of such Owner's Lot or other circumstance. The obligation to pay Assessments is a separate and independent obligation on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association, the Board or the Design Review Committee to take some action or perform some function required of them.

6.2 Regular Assessments.

At least thirty (30) days prior to the commencement of each Assessment Period, the Board shall prepare and adopt a budget (the "Budget") of the estimated Association Expenses for the next Assessment Period, including any contribution to be made to a reserve fund. The Budget shall also reflect the sources and estimated amount of funds required to pay such

Association Expenses, which sources may include any surplus to be applied from prior years, any income expected from sources other than Assessments and the amount to be generated through Assessments against the Lots. The Budget shall separately reflect any Benefited Property Expenses.

Concurrently with the adoption of the Budget, the Board shall determine the amount of the Regular Assessment for each Assessable Lot. The Regular Assessment shall be levied at a uniform amount for each Assessable Lot. The amount of increase, if any, in the Regular Assessment from one Assessment Period to the next Assessment Period shall be subject to such limitations as may be imposed by Arizona law.

The Board shall give notice of the Regular 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 Regular Assessment established by the Board nor relieve any Owner from its obligation to pay the Regular Assessment. If the Board fails to adopt a Budget for any Assessment Period, then until and unless such Budget is adopted and a Regular Assessment is levied by the Board for such Assessment Period, the amount of the Regular Assessment for the immediately preceding Assessment Period shall remain in effect.

If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will, become inadequate to meet all Association Expenses for any reason, including, without limitation, nonpayment of Assessment, the Board may amend the Budget and increase the Regular Assessment for that Assessment Period and the revised Regular Assessment shall commence on the date designated by the Board.

6.3 Special Assessments.

The Association may levy against each Assessable Lot a Special Assessment for the purpose of (a) obtaining funds to pay the cost of any construction, reconstruction, repair or replacement of an Improvement upon the Common Area (including fixtures and personal property related thereto), or (b) to pay unbudgeted expenses or expenses in excess of the amount budgeted. The Special Assessment shall be levied at a uniform amount for each Assessable Lot.

6.4 Enforcement Assessment.

The Association may impose against an Owner as an Enforcement Assessment the following expenses: (a) any Collection Costs incurred by the Association in attempting to collect Assessments or other amounts payable to the Association by the Owner; and (b) any monetary penalties levied against the Owner. The Enforcement Assessment shall be automatically imposed against an Owner at such time as the Collection Cost or other amounts are incurred by the Association or, in the case of a monetary penalty, the date the monetary penalty is imposed on the Owner by the Board.

6.5 Benefited Property Assessments.

All Association Expenses pertaining to the Maintenance of Limited Common Areas or pertaining to the providing of Special Services shall be shown separately in the budget adopted

by the Board. The Association Expenses pertaining to the Maintenance of a Limited Common Area or to the providing of Special Services shall be assessed solely against the Lots within the Benefited Property Assessment Area as established by the Supplemental Declaration designating the Benefited Property Assessment Area. No Association Expenses pertaining to the Maintenance of Limited Common Area or pertaining to providing Special Services shall be used in computing the Regular Assessments to be levied pursuant to Section 6.2. Unless otherwise provided for in the applicable Supplemental Declaration, Benefited Property Assessments shall be levied against the Assessable Lots within the Benefited Property Assessment Area at a uniform amount per Lot. If the Board determines during any Assessment Period that any Benefited Property Assessment is, or will, become inadequate to pay all Association Expenses to be paid by the Benefited Property Assessment for any reason, including, without limitation, nonpayment of Benefited Property Assessments by Owners, the Board may increase the Benefited Property Assessment for that Assessment Period and the revised Benefited Property Assessment shall commence on the date designated by the Board.

6.6 Cable Television Assessment.

The Association shall have the right, but not the obligation, to enter into an agreement (the "Cable Television Agreement") with a provider of cable television services (the "Cable Provider") to provide cable television services to each Improved Lot. The Cable Television Agreement may require the Association to pay a fee (the "Service Fee") to the Cable Provider for each Improved Lot whether or not the Owner or Lessee of the Lot subscribes to or elects to receive cable television service. If the Association enters into a Cable Television Agreement, then beginning upon the transfer of an Improved Lot to an Owner other than the Declarant and continuing so long as the Cable Television Agreement is in effect, the Association shall levy against each Improved Lot a Cable Television Assessment in an amount equal to the Service Fee payable to the Cable Provider with respect to such Lot. Unless otherwise specified by the Board, the Cable Television Assessment shall be payable in equal monthly installments. Each Person who purchases or otherwise becomes the Owner of an Improved Lot shall pay to the Association, concurrently with becoming the Owner of the Lot, an amount equal to two monthly installments of the Cable Television Assessment payable with respect to such Lot, which amount shall be held by the Association to ensure that the Association has sufficient funds to pay all Service Fees payable to the Cable Provider under the Cable Television Agreement. Notwithstanding anything contained herein to the contrary, the Cable Television Assessment shall be separate from and in addition to the Regular Assessment. The Cable Television Assessment shall be subject to increase sufficient to cover any and all charges by the Cable Provider.

6.7 Solid Waste Disposal Assessment.

The Association shall have the right, but not the obligation, to enter into an agreement (the "Solid Waste Disposal Agreement") with a solid waste disposal company (the "Solid Waste Disposal Company") for the collection of garbage, trash, recyclable materials and other solid waste from Improved Lots. If the Association enters into a Solid Waste Disposal Agreement, then the Association may impose against each Improved Lot a Solid Waste Disposal Assessment to cover any fees or costs incurred by the Association in connection with the collection and disposal of solid waste within the Community. Unless otherwise specified by the Board, the Solid Waste Disposal Assessment shall be payable in equal monthly installments. Each Person

who purchases or otherwise becomes the Owner of an Improved Lot shall pay to the Association, concurrently with becoming the Owner of the Lot, an amount equal to two monthly installments of the Solid Waste Disposal Assessment payable with respect to such Lot, which amount shall be held by the Association to ensure that the Association has sufficient funds to pay all fees payable to Solid Waste Disposal Company. Notwithstanding anything contained herein to the contrary, the Solid Waste Disposal Assessment shall be separate from and in addition to the Regular Assessment. The Solid Waste Assessment shall be subject to increase in amounts sufficient to cover any and all charges by the Solid Waste Disposal Company. If the Association does not enter into a Solid Waste Disposal Agreement, then each Owner shall be responsible for contracting directly with a solid waste disposal company for the collection of garbage, trash, recyclable materials and other solid waste from the Owner's Lot. In order to limit the traffic and noise involved in the collection of solid waste in the Community, the Board shall have the power to prescribe the day or days of the week that solid waste may be collected in the Community.

6.8 Obligation of Declarant and Builders for Deficiencies.

The Declarant and the Builders shall pay and contribute to the Association such funds as may be necessary, when added to the Assessments levied by the Association, to pay all Common Expenses of the Association as they become due. The payment of any such amounts shall be allocated between the Declarant and the Builders on a pro rata basis according to the number of Lots owned by the Declarant and each Builder as of the date the payment is requested by the Board. The Board may require the payment of such funds by the Declarant and the Builders from time to time as the Board deems necessary by giving written notice thereof to the Declarant and the Builders. Each such notice shall state the total amount of funds required and the calculation of the pro rata share of such funds to be paid by the Declarant and each Builder. In no event shall the Declarant or a Builder be obligated to contribute funds to the Association in excess of the amount of Assessments that would have been payable by the Declarant or the Builder if the Lots owned by the Declarant or the Builder had been assessed as Assessable Lots.

6.9 Assessment Period.

The period for which the Regular Assessment and Benefited Property Assessments shall be levied shall be the calendar year, except that the first Assessment Period shall commence on the first day of the first month after the conveyance of the first Lot to a Purchaser or such later date as may be selected by the Board of Directors and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

6.10 Rules Regarding Billing and Collection Procedures.

Regular Assessments and Benefited Property Assessments shall be collected on a monthly basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to an Owner shall not relieve any Owner of such Owner's liability for any Assessment or charge under this Declaration. 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.

6.11 Effect of Nonpayment of Assessments; Remedies of Association.

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 shall bear interest from the due date at the rate of interest set from time to time by the Board. In addition, the Board may establish a late fee 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.

The Association shall have a lien on each Lot for: (a) all Assessments levied against the Lot or the Owners thereof together with interest thereon as provided in this Section; (b) all monetary penalties imposed on the Owner of the Lot; (c) any amounts payable to the Association pursuant to Section 7.3 or Section 7.4; and (d) any other amounts payable to the Association pursuant to the Community 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, together with interest, late charges and reasonable attorneys' fees, if any, and all other amounts secured by the Assessment Lien. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the amounts specified in the demand are 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 established from time to time by the Board.

The Assessment Lien shall have priority over all liens or claims except for: (a) liens and encumbrances Recorded before the Recording of this Declaration; (b) liens for real estate taxes and other governmental assessments and charges; and (c) the lien of any First Mortgage or seller's interest in a first contract for sale recorded prior to the Assessment Lien. 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 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. The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments and all other sums payable to the Association by the Owner of the Lot have been paid in full.

The Association shall have the right, at its option, to enforce collection of any delinquent Assessments and any other sums due to the Association in any manner allowed by law including, but not limited to: (a) 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; or (b) 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 in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

6.12 Purposes for which Association's Funds May Be Used.

The Association may 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) for the purpose of: (a) discharging and performing the Association's duties and obligations under the Community Documents or applicable law; (b) exercising the rights and powers granted to the Association by the Community Documents or applicable law; (c) providing for promotion activities and services the Board deems appropriate, necessary or desirable to foster or promote the common good and general welfare of the Community and the Owners, Lessees and Residents; (d) contracting for services (including, without limitation, cable television) to be provided to Owners, Lessees and Residents; and (e) taking such other action as the Association deems necessary, appropriate or desirable for the management and administration of the Association or for the benefit of the Association or of the Community.

6.13 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 Regular 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 financial security of the Association and the accomplishment of its purposes.

6.14 Contribution to Reserves.

Except as otherwise provided in this Section, each Person (other than a Builder) who purchases or otherwise purchases or otherwise becomes the Owner of a Lot shall pay to the Association, immediately upon becoming the Owner of the Lot, a contribution (the "Reserve Contribution") to the reserves to be established pursuant to Section 6.14. The amount of the initial Reserve Contribution shall be set by the Board of Directors prior to the conveyance of the first Lot to a Purchaser other than a Builder. The Board of Directors may from time to time thereafter increase or decrease the amount of the Reserve Contribution, but the amount of the Reserve Contribution may not be increased by the Board of Directors by more than twenty percent (20%) during any twelve month period without the approval of Members holding more than fifty percent (50%) of the Eligible Votes. The Reserve Contribution shall be deemed a contribution to the capital of the Association.

No Reserve Contribution shall be payable with respect to: (a) the transfer or conveyance of a Lot by the Declarant; (b) the transfer or conveyance of a Lot by devise or intestate succession; (c) a transfer or conveyance of a Lot to a family trust, family limited partnership or other Person for bona fide estate planning purposes; (d) a transfer or conveyance of a Lot to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Reserve Contribution; or (e) the transfer or conveyance of a Lot as a result of a trustee's sale under a deed of trust, the foreclosure of a realty mortgage or the forfeiture or foreclosure of a purchaser's interest under a recorded contract for the conveyance of real property subject to A.R.S. 33-741, et seq.

6.15 Reserves.

The Board shall establish reserves for the future periodic maintenance, repair or replacement of the major components of the Areas of the Association Responsibility. The reserves may be funded from Regular Assessments, the Reserve Contributions paid pursuant to Section 6.13 or any other revenue of the Association. All amounts designated as reserves shall be deposited by the Board of Directors in a separate bank account (the "Reserve Account") to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. To assist the Board in determining the appropriate amount of reserves, the Board shall obtain a reserve study at least once every three years, which study shall at a minimum include (a) identification of the major components of the Community which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years; (b) identification of the probable remaining useful life of the identified major components as of the date of the study; (c) an estimate of the cost of repair, replacement, restoration, or maintenance of the identified major components during and at the end of their useful life; (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the identified major components during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

6.16 Transfer Fee.

Each Purchaser (other than a Builder) of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board to compensate the Association for the administrative cost resulting from the transfer of a Lot. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail or deliver to a purchaser under A.R.S. § 33-1806A and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806C.

6.17 Special Builder Obligations.

As used in this Section, the term "Builder" means an Owner of two or more Lots which is in the business of constructing homes and which intends to construct homes for resale on the Lots it owns. In addition to the Assessments, each Builder shall pay a deferred "infrastructure charge" of \$1,950.00 for each home that the Builder constructs within the community. All such

infrastructure charges shall be paid at the time a building permit is obtained for the construction of a home on a Lot and shall be payable to Phoenix Capital Partners, L.L.C., an Arizona limited liability company. Such monetary obligations shall be deemed to be assessments hereunder and subject to the same remedies and means of enforcement as any other Assessment.

6.18 Initial Capital Contribution.

Each Purchaser of a Lot from the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth (1/6th) of the then current Regular Assessment for an Assessable 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 Community 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. Payments made pursuant to this Section shall be deemed a contribution to the capital of the Association.

ARTICLE 7

MAINTENANCE

7.1 Areas of Association Responsibility.

The Association shall be responsible for the management, operation and Maintenance of all 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 of all Areas of Association Responsibility, but the 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 Areas of Association Responsibility or alter, modify or remove any Improvements situated on the Areas of Association Responsibility without the approval of the Board. No Owner, Resident or other Person shall obstruct or interfere with the Association in the performance of the Association's management, operation or Maintenance of the Areas of Association Responsibility, and the Improvements located thereon.

7.2 Lots.

Each Owner of a Lot shall be responsible for the Maintenance of his Lot, and all buildings, Residences, landscaping or other Improvements situated thereon, except for any portion of the Lot, or any Improvement situated thereon, which is an Area of Association Responsibility. All buildings, Residences, 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 Design Review Committee. No yard equipment, wood piles or storage areas may

be maintained so as to be Visible From Neighboring Property or streets. All Lots upon which no Residences, buildings or other structures, landscaping or Improvements have been constructed shall be maintained in a weed free and attractive manner.

As part of the initial construction of each Residence, one or more coach lights will be installed on the front exterior of the garage. The coach lights will be connected to a photocell which automatically will turn the lights on at dusk and off at dawn. No Owner, Lessee, Resident or other Person shall disconnected the coach lights from the photocell. Each Owner, Lessee and Resident shall maintain the coach lights and photocell in good operating condition at all times.

7.3 Assessment of Certain Costs of Maintenance and Repair.

In the event that the need for Maintenance of an Area of Association Responsibility is caused through the willful or negligent act of any Owner, his family, tenants, guests or invitees, the cost of such Maintenance shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

7.4 Improper Maintenance and Use of Lots .

In the event (a) 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 Community, (b) any portion of a Lot is being used in a manner which violates this Declaration, or (c) the Owner of any Lot is failing to perform any of its obligations under the Community Documents, the Board may give notice to the offending Owner of the corrective action that must be taken and the date by which the corrective action must be completed. If the required corrective action is not completed by the completion date established by the Board, 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.

7.5 Boundary Walls.

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

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

Except as otherwise provided in this Section, the Owners of contiguous Lots who share a boundary wall shall each pay one-half (1/2) of the cost of any maintenance, repair or replacement of the boundary wall. Either of such Owners may perform any necessary repair, maintenance or replacement of the boundary wall and in such event, such Owner shall be entitled to reimbursement from the other Owner for one-half (1/2) of such cost.

In the event that any boundary wall is damaged or destroyed through the negligence or willful act of an Owner, his agents, tenants, licensees, guests or family, it shall be the obligation of such Owner to rebuild and repair the boundary wall without cost to the other Owner or Owners who share the boundary wall.

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. 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.

In the event any boundary wall encroaches upon a Lot less than one foot, 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 for so long as the boundary wall exists.

7.6 Maintenance of Walls other than Boundary Walls.

Walls (other than boundary walls) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot. Any wall which is placed on the boundary line between a Lot and an Area of Association Responsibility shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the surface of the wall which faces the Area of Association Responsibility. In the event any such wall encroaches upon the Area of Association Responsibility, an easement for such encroachment shall exist in favor of the Association or the Owner of the Lot, as the case may be, for so long as the wall exists. Any wall which is placed on the boundary line between a Lot and public right-of-way shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and replacement of the surface of the wall which faces the Lot.

7.7 Installation of Landscaping.

Within one hundred twenty (120) days after the date on which a Lot is first conveyed to an Owner, landscaping must be installed and substantially completed in the front and back yards of the Lot. All landscaping in the front yard and all landscaping in any portion of the back yard which is Visible From Neighboring Property must comply with the Design Guidelines and must be approved by the Design Review Committee, and any alterations or modifications made to the landscaping of a Lot as originally installed must be approved in advance by the Design Review Committee. If any Owner does not install and complete approved landscaping within the one hundred twenty (120) day period, the Association, after giving the Owner thirty (30) days written notice to cure any such default, shall have the right to cause the necessary landscaping to be installed, and in such event, the Owner shall pay the Association, upon demand, all costs incurred by the Association in connection with the installation of the landscaping, together with interest thereon at the rate of fifteen percent (15%) per annum.

7.8 Construction Activities.

Normal construction activities and parking in connection with the construction of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration. 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 shall be piled only in such areas as may be approved by the Design Review Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the Design Review Committee. The Design Review Committee may also require screening of said storage areas. Each Owner shall be obligated to: (a) keep such Owner's Lot, as well as surrounding areas of the Community, including, without limitation, all pedestrian and road rights-of-way and drives, reasonably clean and clear of equipment, building materials, dirt, debris and similar materials in connection with or related to construction activities by or for the benefit of such Owner; and (b) make reasonable efforts to protect from damage, and in any event to promptly repair or rebuild, any buildings, structures, landscaping or other improvements (including without limitation any improvements that are, or are intended to be, Common Area, Neighborhood Common Area, Areas of Association Responsibility or owned and/or maintained by the County or any political subdivision or utility provider, e.g., pavement, curbs, sidewalks, landscaping, drainage facilities, hydrants, grade stakes, surveyor markers, etc.) that are damaged or destroyed through the act of any Owner or an Owner's Agent (as defined in Section 3.10) in connection with or related to construction activities by or for the benefit of such Owner, whether or not such act is negligent or otherwise culpable.

ARTICLE 8

USE AND OCCUPANCY RESTRICTIONS

8.1 Residential Use.

All Lots 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 Residence, except that the Owner, Lessee or other Resident of a Residence may conduct a business activity within the Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activity is a legal activity and conforms to all applicable zoning ordinances or requirements for the Project; (c) the business activity does not involve persons coming to the Lot to purchase goods or services or the door-to-door solicitation of Owners, Lessees or Residents in the Project; (d) the use of the Residence for trade or business in no way destroys or is incompatible with the residential character of the Residence or the surrounding neighborhood; (e) the trade or business is conducted only inside the Residence, and does not involve the viewing, purchasing or taking delivery of goods or merchandise at, to, from or in any Residence; (f) the trade or business is conducted by a Resident or Residents of the Residence with no employee working in or from such Residence who is not a Resident thereof; (g) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or be in excess of what is customary in a

residential neighborhood; (h) the trade or business does not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (i) the use of the Residence for a trade or business does not violate any other provision of the Community Documents.

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 provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity. The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

8.2 Nuisances.

No rubbish or debris of any kind shall be placed or permitted to accumulate on 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 Residents of such other property. No condition 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 Residents. 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. 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. 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, gas, earth or any earth substance of any kind.

8.3 Animals.

No animal, bird, fowl, poultry, reptile or livestock may be kept on any Lot, except that a reasonable number of dogs, cats or small birds or animals which are commonly accepted household pets may be kept on a Lot if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. The Board shall have the authority to determine (a) whether a particular animal or bird is permitted to be kept on a Lot pursuant to this Section and (b) what is a reasonable number of dogs, cats or small birds or animals which are commonly accepted household pets for any particular Lot, and the Board's determination shall be final. All dogs, cats, birds or animals permitted under this Section shall be confined to an Owner's Lot, except that a dog may be permitted to leave an Owner's Lot if such dog is at all times kept on a leash not to exceed six feet (6') in length and is not permitted to enter upon any other Lot. Any person bringing a dog onto the Common Area shall immediately remove any feces deposited on the Common Area by the dog. The Board may restrict the portions of the Common Area on which dogs are permitted.

No dog, cat, bird or animal permitted to be kept on a Lot pursuant to this Section shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any dog, cat, bird or animal permitted to be kept on a Lot pursuant to this Section shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner, Lessee or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular dog, cat, bird or animal permitted to be kept on a Lot pursuant to this Section is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration.

The Board may adopt rules and regulations further restricting and governing animals within Community, which rules may include, without limitation rules providing for the removal from Community of a domestic pet which has bitten or attacked a person or other animal, has a propensity to attack persons or other animals or otherwise constitutes a threat to the safety of persons or other animals in the Property or which because of incessant barking or other behavior constitutes an unreasonable annoyance or nuisance to Owners and Occupants.

8.4 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 residential use of property or machinery or equipment necessary for the construction of a Residence, building, structure, or other Improvement on the Lot.

8.5 Vehicles and Parking.

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

No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment or vehicle may be parked, kept or stored on the Common Area. No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment may be parked, kept or stored on any Lot so as to be Visible From Neighboring Property.

Except as permitted by this Section, no Motor Vehicle may be parked, kept or stored on any Lot or the Common Area. No Motor Vehicles designed or used for carrying merchandise, supplies or equipment for commercial purposes may be parked on the Common Area or on a Lot, except for the temporary parking of the Motor Vehicles of contractors, subcontractors, suppliers or vendors of the Association or the Owners, Lessees or Residents.

It is the intent of this Section to limit parking on the Streets. No Motor Vehicle owned or leased by an Owner, Lessee or Resident of a Lot may be parked on the Streets if space for the parking of the Motor Vehicle is available in any of the following areas: (a) the garage or carport situated on the Lot of the Owner, Lessee or Resident; (b) the driveway on the Lot constructed as

part of the initial construction of Improvements on the Lot by the Declarant; or (c) a driveway expansion constructed on the Lot with the approval of the Design Review Committee.

It is also the intent of this Section to limit the parking of Motor Vehicles owned or leased by an Owner, Lessee or Resident of the Lot in the driveway and in any driveway expansion situated on the Lot. Accordingly, Motor Vehicles owned or leased by an Owner, Lessee or Resident of a Lot must be parked in the garage or carport situated on the Lot to the extent space is available in the garage or carport for the parking of such Motor Vehicles. If space is not available in the garage or carport, then Motor Vehicles owned or leased by an Owner, Lessee or Resident of a Lot may be parked on the driveway constructed as part of the initial construction of Improvements on the Lot by the Declarant. Parking of Motor Vehicles owned or leased by an Owner, Lessee or Resident of a Lot may only be parked on a driveway expansion constructed with the approval of the Design Review Committee if space for the parking of such Motor Vehicles is not available either in the garage or carport or in the driveway constructed as part of the initial construction or Improvements on the Lot by the Declarant. The parking of a Motor Vehicle owned or leased by an Owner, Lessee or Resident of a Lot on a driveway expansion is also subject to such rules and regulations as may be adopted by the Board.

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

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

No Motor Vehicle shall be constructed, reconstructed or repaired on any Lot in such a manner as to be Visible From Neighboring Property, and no inoperable Motor Vehicle may be stored or parked on any Lot in such a manner as to be Visible From Neighboring Property. Except for emergency repairs, no Motor Vehicle shall be constructed, reconstructed or repaired on the Streets or any other part of the Common Area. No inoperable Motor Vehicle may be stored or parked on the Streets or any other part of the Common Area.

The Board shall have the right and power to adopt rules and regulations governing and further restricting the parking of Motor Vehicles on Lots or the Streets and implementing the provisions of this Section. In the event of any conflict or inconsistency between the provisions of this Section and the rules and regulations adopted by the Board of Directors, the provisions of this Section shall control.

8.6 Garages and Carports.

No garage or carport shall be converted to living spaces or altered or used for purposes which would prevent the use of the garage or carport for the parking of the number of vehicles for which it was designed, except that the Declarant may use a garage in one or more model homes for a sales office and/or a construction office. The interior of all garages and carports

shall be maintained and kept in a neat, clean and sightly condition, free of debris or unsightly objects. Garage doors shall be kept closed except when the opening of the door is necessary to permit ingress or egress.

8.7 Rooftop HVAC Equipment Prohibited.

No heating, ventilating, air conditioning or evaporative cooling units or equipment related thereto may be mounted, installed or maintained on the roof of any Residence or other building so as to be Visible From Neighboring Property.

8.8 Basketball Goals and Backboards.

No portable basketball goals or backboards may be kept on any Lot. No permanent basketball goals or backboards may be attached to a Residence or other building. Permanent basketball goals or backboards may be installed on free standing poles provided they are installed, kept and used in accordance with the Association Rules which may govern the location, design, material, color and hours of use.

8.9 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 Design Review Committee.

8.10 Rental of Lots.

No Owner may lease less than his entire Lot and the Residence situated thereon. All leases must be in writing and must provide that the terms of the lease are subject in all respect to the provisions of the Community Documents and that any violation of this Declaration or the Association Rules by the lessee or the other occupants shall be a default under the lease.

At least ten (10) days before commencement of the lease term, the Owner shall provide the Association with the following information: (a) the commencement date and expiration date of the lease term; (b) the names of each of the Lessees and each other person who will reside in the Residence during the lease term; (c) the address and telephone number at which the Owner can be contacted by the Association during the lease term; and (d) the name, address and telephone number of a person other than the Owner whom the Association can contact in the event of an emergency involving the Lot. Any Owner who leases his Lot and the Residence situated thereon must provide the Lessee with copies of this Declaration, the Design Guidelines and the Association Rules.

Any lease of a Lot or Residence situated thereon must be for an initial term of at least one (1) month. The Owner shall be liable for any violation of this Declaration, the Design Guidelines or the Association Rules by the Lessees or other persons residing in the Residence and their guests or invitees and, in the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct any such violations;

provided, however, that the Owner shall not be liable for any damage to the Common Area or the Lots caused by the Lessees or other persons residing in the Residence or by their guests or invitees.

8.11 Screening Materials.

All screening materials, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the original construction of such Improvements by a Declarant or as approved by the Design Review Committee pursuant to Article 3.

8.12 Lights.

Except as initially installed by the Declarant, no spotlights, floodlights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other property except as approved by the Design Review Committee. As part of the initial construction of each Residence, at least one coach light wired to a photocell allowing the lights to illuminate from dusk to dawn must be installed on the front exterior of the garage. The coach lights shall be maintained by the Lot Owner in accordance with the provisions of Section 7.2.

8.13 Window Cover Materials.

All window coverings facing the street must show white or beige colors unless otherwise approved in writing by the Design Review Committee. No reflective materials (including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar items), newspapers or sheets, bedding or similar items shall be installed or placed upon the outside or inside of any windows of a Residence without the prior written approval of the Board. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Residence shall be constructed or installed without the prior written consent of the Board.

8.14 Trash Containers and Collection.

No garbage or trash shall be placed or kept on any Lot except in covered containers of a type, size and style which are approved by the Design Review Committee. In no event shall such containers on a Lot 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 shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

8.15 Temporary Occupancy and Temporary Buildings.

No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Design Review Committee shall be removed

immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Design Review Committee.

8.16 Antennas.

To the extent permitted by applicable law, the installation of antennas, satellite dishes or other devices for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be subject to the prior written approval of the Design Review Committee. Therefore, no antenna, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed, installed, erected, used or maintained on any Lot without the prior written approval of the Design Review Committee unless applicable law prohibits the Design Review Committee from requiring such approval. Even if applicable law prohibits the Design Review Committee from requiring prior approval for the installation of certain antennas, any such antennas must still be installed in accordance with the Design Guidelines.

8.17 Utility Service.

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

8.18 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 without the prior written approval of the Design Review Committee.

8.19 Signs.

No signs whatsoever may be erected, posted or displayed on any Lot in a location that is Visible From Neighboring Property without the prior written approval of the Design Review Committee, except for signs constructed or erected by the Declarant or by the Association.

8.20 Drainage.

No Residence, 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 Community, or any part thereof, or for any Lot as shown on the drainage plans on file with the County.

ARTICLE 9

DISPUTE RESOLUTION

9.1 Defined Terms. As used in this Article 9, the following terms shall the meaning set forth below:

(a) **"Alleged Defect"** means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Common Area or any Lot.

(b) **"Bound Parties"** means: (i) the Declarant; (ii) any Builder; (iii) all Owners, Lessees and Resident; and (iv) any contractor or subcontractor, architect, engineer, consultant or other Person who performs or furnishes the design, specifications, surveying, planning, supervision, testing, construction or observation of construction of the Common Area or the Lots and who agrees in writing to be bound by the provisions of this Article 9.

(c) **"Claim"** means: (i) any claim or cause of action arising out of or related in any way to the planning, design, engineering, grading, construction or development of the Common Areas, the Lots or any other part of the Community, including, without limitation, any claim or cause of action that the Common Area, the Lots are defective or that the Declarant or a Builder or their agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof; or (ii) any claim or cause of action against the Declarant or a Builder or any employee, agent, director, member or officer of Declarant or a Builder arising out of or in any way related to the development of the Community or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty.

9.2 Agreement to Resolve Certain Disputes Without Litigation. All Bound Parties agree that all Claims shall be resolved exclusively in accordance with the dispute resolution procedures set forth in this Article 9.

9.3 Notice of Claim.

Any Bound Party having or alleging to have a Claim (a "Claimant") against any other Bound Party (a "Respondent") shall notify each Respondent in writing of the Claim (the "Claim

Notice"), stating plainly and concisely: (a) the nature of Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; and (c) what Claimant wants Respondent to do or not do to resolve the Claim. If the Claimant is the Association, the Association must provide written notice to all Members prior to initiation of any legal action, cause of action, proceeding, reference or arbitration against the Declarant or a Builder which notice shall (at a minimum) include: (a) a description of the Claim; (b) a description of the attempts of Declarant or a Builder to correct such Alleged Defect and the opportunities provided to Declarant or a Builder to correct such Alleged Defect; (c) the estimated cost to repair such Alleged Defect; (d) the name and professional background of the attorney retained by the Association to pursue the claim against Declarant or a Builder and a description of the relationship between such attorney and member(s) of the Board (if any); (e) a description of the fee arrangement between such attorney and the Association; (f) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against Declarant or a Builder and the source of the funds which will be used to pay such fees and expenses; (g) the estimated time necessary to conclude the action against the Declarant or a Builder; and (h) an affirmative statement from the Board that the action is in the best interests of the Association and its Members. If the Alleged Defect is alleged to be the result of an act or omission of a person licensed by the State of Arizona under Title 20 or Title 32 of the Arizona Revised Statutes (a "Licensed Professional"), then the notice from the Association must be accompanied by an affidavit from a Licensed Professional in the same discipline as the Licensed Professional alleged to be responsible for the Alleged Defect. The affidavit must contain the information required to be contained in a preliminary expert opinion affidavit submitted pursuant to Section 12-2602B of the Arizona Revised Statutes.

9.4 Mediation.

If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be agreed upon by the Parties ("Termination of Negotiations"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation under the auspices of an American Arbitration Association ("AAA") or such other independent mediator or mediation service selected by mutual agreement of the Claimant and the Respondent. If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

9.5 Binding Arbitration.

In the event a Claim is not resolved by Mediation, the Claimant shall have fifteen (15) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be

relieved of any and all liability to Claimant arising out of the Claim. If the Claimant submits the Claim to binding arbitration in accordance with this Section, the arbitration shall be conducted in accordance with the following:

(a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the AAA Commercial Arbitration Rules or such other AAA rules as may be applicable to the arbitration (the "AAA Rules").

(b) **Arbitration Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, *et seq.* In the event of a conflict between the AAA Rules and this Section 9.5, the provisions of this Section 9.5 shall govern.

(c) **Appointment of Arbitrator.** The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection (c) is referred to in this Section 9.5 as the "Arbitrator".

(d) **Qualifications of Arbitrator.** The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.

(e) **Disclosure.** Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection (c) above.

(f) **Compensation.** The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate, unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(g) **Preliminary Hearing.** Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the Parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA

Rules, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the Parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

(h) **Management of the Arbitration.** The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(i) **Confidentiality.** All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) **Hearings.** Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) **Final Award.** The Arbitrator shall promptly (within sixty (60) days of the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made; provided, however, that such damages may be deemed by the Arbitrator to be direct damages in an award reimbursing payments made by a party therefor to a third party. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

9.6 Right to Enter, Inspect, Repair and/or Replace.

Within a reasonable time after the receipt by the Declarant or a Builder of a Claim Notice, the Declarant or the Builder shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Area or any Lot, including any Residence constructed thereon, and/or any Improvements for the purposes of inspecting and/or conducting testing to determine the validity of the Claim and, if deemed necessary by the Declarant or the Builder, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, Declarant or a Builder shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

Nothing set forth in this Section shall be construed to impose any obligation on the Declarant or a Builder to inspect, test, repair, or replace any item or Alleged Defect for which the Declarant or a Builder is not otherwise obligated under applicable law or any limited warranty provided by the Declarant or a Builder in connection with the sale of the Lots and/or the Improvements constructed thereon. The right of the Declarant or a Builder to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and Recorded by the Declarant or a Builder. In no event shall any statutes of limitations be tolled during the period in which the Declarant or a Builder conducts any inspection or testing of any Alleged Defects.

9.7 Use of Funds.

Any judgment, award or settlement received by a Claimant in connection with a Claim involving an Alleged Defect shall first be used to correct and or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. Any excess funds remaining after repair of such Alleged Defect shall be paid into the Association's reserve fund.

9.8 Approval of Litigation.

The Association shall not deliver a Claim Notice to any Bound Party, commence any legal action or arbitration proceeding against any Bound Party or incur any expenses (including, without limitation, attorneys' fees) in connection with any Claim without the written approval of Owners entitled to cast more than seventy-five percent (75%) of the total votes in the Association, excluding the votes of any Owner who would be a defendant in such proceedings. The Association must pay for any such legal action or arbitration proceeding with monies that are specifically collected for such purposes and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal action or arbitration proceeding involving a Claim, all Owners must notify prospective purchasers of such legal action or arbitration proceeding and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 9.3.

ARTICLE 10

INSURANCE

10.1 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:

(a) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. 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 Community 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;

(b) 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.

(c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

(d) Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners;

(e) 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. The premiums for any insurance obtained by the Association pursuant to this Section 10.1 shall be included in the budget of the Association and shall be paid by the Association.

10.2 Certificates of Insurance.

An insurer that has issued an insurance policy under this Article 10 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 10 may not be cancelled 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.

10.3 Payment of Insurance Proceeds.

With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article 10, 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 10.4, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

10.4 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 repair or replacement would be illegal under any state or local health or safety statute or ordinance. 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.

ARTICLE 11

GENERAL PROVISIONS

11.1 Enforcement.

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

(a) imposing reasonable monetary fines after notice and an opportunity to be heard by the Board is given to the Owner or other violator. An Owner shall be responsible for payment of any fine levied or imposed against a Lessee or Resident of the Owner's Lot or by any guest or invitee of the Owner or any Lessee or Resident;

(b) suspending an Owner's right to vote;

(c) suspending any Person's right to use any recreational facilities situated on the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

(d) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner fails to pay any Assessment or other charge owed to the Association within fifteen (15) days after demand for payment is made;

(e) exercising self-help or taking action to abate any violation of the Community Documents;

(f) requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Lot in violation of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) without liability to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration or the Design Guidelines from continuing or performing any further activities in the Community;

(h) towing vehicles which are parked on Common Area in violation of this Declaration or the Association Rules;

(i) filing a suit at law or in equity to enjoin a violation of the Community Documents, to compel compliance with the Community Documents, to recover fines or money damages or to obtain such other relief as to which the Association may be entitled;

(j) record a written notice of a violation by any Owner, Lessee or Resident of any restriction or other provision of the Community Documents. 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 Community 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; and (iv) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and Resident, and any subsequent purchaser of the Lot, that there is such a violation. 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 Community Documents.

The Association may, but shall not be obligated to, take any enforcement action if the Board determines, in its sole discretion, that because of the strength of any possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association. All rights and remedies of the Association under the Community Documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy.

Each Owner, the Association and the Declarant shall have the right to enforce this Declaration in any manner available at law or in equity. The failure of the Association, the Declarant or an Owner to take enforcement action with respect to a violation of the Community Documents shall not constitute or be deemed a waiver of the right of the Association, the Declarant or any Owner to enforce the Community Documents in the future. If any lawsuit is filed by the Association, the Declarant or any Owner to enforce the provisions of the Community Documents or in any other manner arising out of the Community 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.

11.2 Duration; Termination.

This Declaration, as it may be amended pursuant to Section 11.3, shall run with the land and bind the Community and be in full force and effect in perpetuity unless terminated as provided in this Section. This Declaration may be terminated at any time if such termination is approved by (a) the Declarant so long as the Declarant owns one or more Lots or any part of the Additional Property, and (b) by the Owners holding ninety percent (90%) or more of the Eligible Votes. 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. Following the Recording of a Certificate of Termination, this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

11.3 Amendments.

Except as otherwise provided in this Section 11.3, this Declaration may be amended at any time by the affirmative vote or written consent of Owners holding not less than two-thirds (2/3) of the Eligible Votes. So long as the Declarant owns one or more Lots or any part of the Additional Property, any amendment to this Declaration must be approved in writing by the Declarant. No amendment to Article 9 or this Section 11.3 shall be effective unless the amendment is signed by the Declarant even if the Declarant owns any Lot or any part of the Additional Property at the time of the amendment. Until June 30, 2013, no amendment to Section 6.6 (Cable Television Assessment), Section 6.17 (Special Builder Obligations), or this Section 11.3 shall be effective unless the amendment is signed by Western Holdings, LLC, an Arizona limited liability company.

Any amendment approved by the Owners pursuant to this Section shall be signed by the President or Vice President of the Association and shall be 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.

Any challenge to an amendment to this Declaration for the reason that the amendment was not adopted by the required number of Owners or was not adopted in accordance with the procedures set forth in this Section must be made within one (1) year after the Recording of the amendment, except that any amendment provision requiring the signature of Western Holdings, LLC, shall not be subject to such one (1) year time limitation.

11.4 Interpretation.

Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of the Community Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board'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 the 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, the Bylaws shall control. Except for judicial construction, the Design Review Committee shall have the exclusive right to construe and interpret the Design Guidelines. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Design Review Committee's construction or interpretation of the Design Guidelines shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration.

11.5 Severability.

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

11.6 Change of Circumstances.

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

11.7 Laws, Ordinances and Regulations.

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

11.8 References to this Declaration in Deeds.

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

11.9 Gender and Number.

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

11.10 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. Unless otherwise specified, all references in this Declaration to Articles or Sections are to Articles and Section of this Declaration.

11.11 Notices.

All notices, demands, statements or other communications required to be given or served under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally, sent by Federal Express or other overnight delivery service or sent by United States mail, postage prepaid, as follows: (a) if to an Owner, at the address which the Owner files with the Secretary of the Association for the purpose of notice or, if no such address is designated, at the address of the Lot of such Owner or; (b) if to the Association or the Design Review Committee, at the principal place of business of the Association as shown on the records of the Arizona Corporation Commission or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section. Notice given by personal delivery or overnight delivery service shall be deemed to have been received by the Person to whom the notice was addressed when the notice is actually received. A notice given by United States mail shall be deemed to have been received by the Person to whom the notice was addressed on the earlier of the date the notice is actually received or three days after the notice is mailed. If a Lot is owned by more than one Person, notice to one of the Owners shall constitute notice to all Owners of the same Lot.

FULTON HOMES CORPORATION, an
Arizona corporation

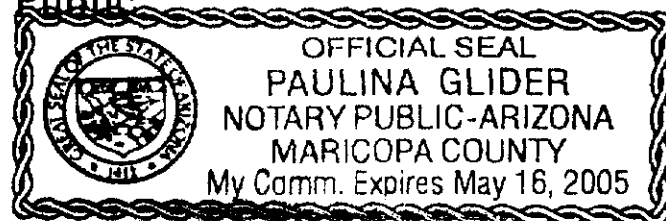
By: *Norm Nicholls*

Its: PRESIDENT

State of Arizona)
) ss.
County of Maricopa)

Acknowledged before me this 24th day of July, 2003, by NORM NICHOLLS,
the PRESIDENT of Fulton Homes Corporation, an Arizona corporation, on behalf
of the corporation.

Paulina Glider
Notary Public



My Commission Expires:
May 16, 2005

APPROVAL

This Declaration is hereby approved by Western Holdings, L.L.C., an Arizona limited liability company, as Beneficiary in that certain Deed of Trust and Assignment of Rents, dated June 26, 2003, and recorded June 27, 2003, as Instrument No. 2003- 43143, Official Records of Pinal County, Arizona (the "Deed of Trust"), for the purpose of subordinating the Deed of Trust to the Declaration.

WESTERN HOLDINGS, L.L.C.,
an Arizona limited liability company

By: 
Lawrence S. Braund
Administrative Agent

State of Arizona)
) ss.
County of Maricopa)

Acknowledged before me this 17 day of July, 2003, by Lawrence S. Braund, as Administrative Agent of Western Holdings, L.L.C., an Arizona limited liability company, on behalf of the company.



Notary Public

My Commission Expires:

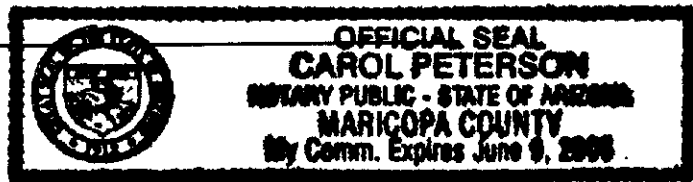


EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Tracts "A", "C", "D", "E", "F", "G", "I", "J", "K", "L", "M", "N", "O", "P", "Q", "R", and "T" as shown on the Final Plat for Cobblestone Farms as recorded in Cabinet D, Slide 153, Dated June 25, 2003, Fee No. 2003-042228, in the records of Pinal County, Arizona

Parcel I located in Cobblestone Farms as shown on the Final Plat for Parcel "I" as recorded in Cabinet D, Slide 154, Dated June 25, 2003, Fee No. 2003-042229, in the records of Pinal County, Arizona

Parcel II located in Cobblestone Farms as shown on the Final Plat for Parcel "II" as recorded in Cabinet D, Slide 155, Dated June 25, 2003, Fee No. 2003-042230, in the records of Pinal County, Arizona

Parcel III located in Cobblestone Farms as shown on the Final Plat for Parcel "III" as recorded in Cabinet D, Slide 156, Dated June 25, 2003, Fee No. 2003-042231, in the records of Pinal County, Arizona

Parcel IV located in Cobblestone Farms as shown on the Final Plat for Parcel "IV" as recorded in Cabinet D, Slide 157, Dated June 25, 2003, Fee No. 2003-042232, in the records of Pinal County, Arizona

Parcel V located in Cobblestone Farms as shown on the Final Plat for Parcel "V" as recorded in Cabinet D, Slide 158, Dated June 25, 2003, Fee No. 2003-042233, in the records of Pinal County, Arizona

Parcel VI located in Cobblestone Farms as shown on the Final Plat for Parcel "VI" as recorded in Cabinet D, Slide 159, Dated June 25, 2003, Fee No. 2003-042234, in the records of Pinal County, Arizona

Parcel VII located in Cobblestone Farms as shown on the Final Plat for Parcel "VII" as recorded in Cabinet D, Slide 160, Dated June 25, 2003, Fee No. 2003-042235, in the records of Pinal County, Arizona

Parcel VIII located in Cobblestone Farms as shown on the Final Plat for Parcel "VIII" as recorded in Cabinet D, Slide 161, Dated June 25, 2003, Fee No. 2003-042236, in the records of Pinal County, Arizona

**EXHIBIT B
PLATS**

Tracts "A", "C", "D", "E", "F", "G", "I", "J", "K", "L", "M", "N", "O", "P", "Q", "R", and "T" as shown on the Final Plat for Cobblestone Farms as recorded in Cabinet D, Slide 153, Dated June 25, 2003, Fee No. 2003-042228, in the records of Pinal County, Arizona

Final Plat for Parcel "I" as recorded in Cabinet D, Slide 154, Dated June 25, 2003, Fee No. 2003-042229, in the records of Pinal County, Arizona

Final Plat for Parcel "II" as recorded in Cabinet D, Slide 155, Dated June 25, 2003, Fee No. 2003-042230, in the records of Pinal County, Arizona

Final Plat for Parcel "III" as recorded in Cabinet D, Slide 156, Dated June 25, 2003, Fee No. 2003-042231, in the records of Pinal County, Arizona

Final Plat for Parcel "IV" as recorded in Cabinet D, Slide 157, Dated June 25, 2003, Fee No. 2003-042232, in the records of Pinal County, Arizona

Final Plat for Parcel "V" as recorded in Cabinet D, Slide 158, Dated June 25, 2003, Fee No. 2003-042233, in the records of Pinal County, Arizona

Final Plat for Parcel "VI" as recorded in Cabinet D, Slide 159, Dated June 25, 2003, Fee No. 2003-042234, in the records of Pinal County, Arizona

Final Plat for Parcel "VII" as recorded in Cabinet D, Slide 160, Dated June 25, 2003, Fee No. 2003-042235, in the records of Pinal County, Arizona

Final Plat for Parcel "VIII" as recorded in Cabinet D, Slide 161, Dated June 25, 2003, Fee No. 2003-042236, in the records of Pinal County, Arizona