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This Third Restated Declaration of Covenants, Conditions and Restrictions for Troon North, originally recorded on June 2, 2021 at Instrument No. 2021-0608516, is being re-recorded to correct scrivener's errors in the document (specifically, to include the Attachments, which were not included in the original recording)

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**THIRD RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TROON NORTH**

**THIRD RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR TROON NORTH**

THIS THIRD RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this _____ day of _____, 2021, by TROON NORTH ASSOCIATION, an Arizona non-profit corporation (the "**Association**").

RECITALS

A. The Association desires by this THIRD RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "**Restated CC&Rs**"), to amend that certain Declaration of Covenants, Conditions and Restrictions for Troon North (formerly known as Pinnacle Peak Village North) dated March 3, 1985, and recorded March 25, 1985, as Instrument No. 85-128823, official records of the Maricopa County, Arizona Recorder ("**M.C.R.**"), as supplemented by the First Supplemental Declaration of Covenants, Conditions and Restrictions for Troon North (f/k/a Pinnacle Peak Village North) dated September 3, 1985, and recorded September 9, 1985, as Instrument No. 85-425470, M.C.R., and as amended by the First Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North (f/k/a Pinnacle Peak Village North) dated September 19, 1986, and recorded January 14, 1987, as Instrument No. 87-023350, M.C.R., by Second Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated December 20, 1990, and recorded March 21, 1991, as Instrument No. 91-116347, M.C.R., by Third Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated May 1, 1992, and recorded July 7, 1992, as Instrument No. 92-0371749, M.C.R., by Fourth Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated January 1, 1993, and recorded May 18, 1993, as Instrument No. 93-0307880, M.C.R., by Fifth Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated December 13, 1994, and recorded December 22, 1994 as Instrument No. 94-0888304, M.C.R., and by Sixth Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated November 12, 1998, and recorded November 24, 1998, as Instrument No. 98-1059771, M.C.R., by the Seventh Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated January 1, 2000 and recorded February 29, 2000 as Instrument No. 2000-0146695 M.C.R., by the Eighth

Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated July 25, 2000 and recorded on July 28, 2000 as Instrument No. 2000-0574863 M.C.R., by the Ninth Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated November 22, 2000 and recorded November 28, 2000 as Instrument No. 2000-0907323 M.C.R., by the Tenth Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated December 22, 2000 and recorded December 26, 2000 as Instrument No. 2000-0983759 M.C.R., by the Eleventh Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North dated March 14, 2001 and recorded March 22, 2001 as Instrument No. 2001-0223299 M.C.R.; by the Twelfth Amendment to Declaration of Covenants, Conditions and Restrictions for Troon North, dated July 19, 2001, and recorded August 27, 2001 as Instrument No. 2001-0785461; and by the Restates Declaration of Covenants, Conditions and Restrictions for Troon North, dated 10 May 2006 and recorded 31 May 2006 as Instrument No. 2006-0733055 M.C.R. (collectively, the “**Declaration**”).

B. Article 11, Section 11.02 of the Declaration, provides for the amendment of the Declaration prior to the Turnover Date (as defined therein) by the majority vote of the Board of Directors of the Association (the “**Board**”) at a meeting of the Board duly called pursuant to the Articles and Bylaws of the Association, for the adoption of the Amendment.

C. It is the intent of the Association that these Third Restated CC&Rs integrate all prior amendments into the Declaration, as well as amend and supplement various provisions of the Declaration, as set forth hereinbelow.

D. To that end, the Association deems it desirable to restate and establish covenants, conditions and restrictions upon the Property which will constitute a general scheme; for the government of Troon North and for the use, occupancy and enjoyment of the Property, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within Troon North.

E. In order to preserve the value, desirability and attractiveness of the Property, Troon North Association has been created, which will have the responsibility to maintain and administer the Common areas, to administer and enforce the Declaration, to collect and disburse funds as provided in this Declaration, and to perform such other acts as set forth in this Declaration as shall generally benefit the Property.

NOW, THEREFORE, it is declared and agreed that the Property shall be held, sold and conveyed subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, conditions, charges and liens which are for the purpose of protecting the value and desirability of the Property and which shall run with the Property, inure to the benefit of, and be binding on all Owners and Occupants and all other parties having any right, title or interest in, or otherwise coming upon, using, or enjoying, the Property or any portion thereof, their heirs, personal representatives, administrators, executors, successors and assigns.

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ARTICLE 1

DEFINITIONS

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

1.01 “Architectural Review Committee” means the committee described in Article 8 of this Declaration.

1.02 “Articles” means the Articles of Incorporation of the Association, as they may be amended from time to time.

1.03 “Assessment” means either a Regular Assessment or a Special Assessment as described in Article 7 of this Declaration.

1.04 “Assessment Lien” means the lien described in Section 7.02 of this Declaration.

1.05 “Association” means the Arizona non-profit corporation known as Troon North Association, and organized by Declarant to administer and enforce this Declaration and to exercise the rights, powers and duties of the Association as set forth in this Declaration and such corporation’s successors and assigns.

1.06 “Association Rules” means the rules adopted by the Board pursuant to Section 5.04 of this Declaration.

1.07 “Board” means the Board of Directors of the Association.

1.08 “Buffer Area(s)” means the portion of public or private right-of-way dedication located between the boundary of a Lot or Parcel and the paved area of the right-of-way.

1.09 “Bylaws” means Bylaws of the Association, as they may be amended from time to time.

1.10 “Common Area(s)” means any portion of the Property designated as Common Area pursuant to Section 3.01 of this Declaration.

1.11 “Declarant” means PPVN Developers Limited Partnership, an Arizona limited partnership, and any successor or assign of Declarant’s rights and powers hereunder to which such rights and powers have been assigned by a recorded instrument.

1.12 “Declaration” means the Declaration of Covenants, Conditions and Restrictions for Troon North, as amended or supplemented from time to time.

1.13 "Default Rate" means an annual rate of interest equal to the prime rate of J.P. Morgan Chase Manhattan, a national banking association, Phoenix, Arizona, from time to time while interest is accruing (with interest being adjusted as when the prime rate is adjusted) plus four (4) percentage points, but never less than eighteen percent (18%) per annum. Notwithstanding any other provision in this Declaration to the contrary, if, during any period, the highest lawful rate of interest which may be paid by the person required to pay the Default Rate is less than the Default Rate, the interest payable by such person during said periods shall be the highest lawful rate. If J.P. Morgan Chase Manhattan should cease doing business or no longer announces its prime rate as described above, the Board may elect to use 18% as the Default Rate or may specify the rate, in lieu of said prime rate, for purposes of computing the Default Rate, which the Association would reasonably have to pay to borrow money at the time.

1.14 "Golf Course Property" means that real property described on Exhibit "A" hereto, as the same may be adjusted from time to time in connection with development of the Property.

1.15 "Improvement(s)" means each and every change, alteration, or addition of any kind whatsoever to any portion of the Property, including but not limited to, any excavation, grading, fill work, building, walkway, driveway, road, parking area, wall, fence, swimming pool, utility installation, drainage facility, stair, patio, courtyard, pole, sign, or landscaping and any and all components of any of the foregoing (including but not limited to, exterior paint, texture, color and finish scheme) and any and all modifications or alterations of or additions to any of the foregoing.

1.16 "Lot" means any area of real property within the Property designated as a lot on any subdivision plan and limited by a Tract Declaration to single-family residential use.

1.17 "NDC" means Nelson Development Company, an Arizona Corporation.

1.18 "Neighborhood Association" means an owners' association, including but not limited to a nonprofit corporation or an unincorporated association of owners, established by or with the approval of the Board having jurisdiction over any neighborhood and/or subdivision within Troon North, but subordinate to, the Association.

1.19 "Occupant" means the family, tenants, guests, employees, invitees, licensees, and agents of any Owner.

1.20 "Owner" means the record holder of legal title to the fee simple interest in any Lot or Parcel, including Declarant and including a purchaser of a Lot or Parcel who holds equitable title to the Lot or Parcel pursuant to a recorded contract of sale, but excluding others (including trustees under deeds of trust) who hold title merely as security for performance of an obligation or the seller under a recorded contract of sale. An Owner shall include each person who holds title to a Lot or Parcel in joint tenancy,

tenancy in common, as community property, or in any other form of joint ownership. An Owner shall also include any homeowners' property association, trust, partnership, corporation, or similar organization owning any portion of the Property, including the Association.

1.21 "Parcel" means any lot, tract or parcel within the Property other than a Lot. If a horizontal property regime establishing a condominium is recorded with respect to a Parcel, then following the recordation, each separate condominium unit shall be deemed to be a separate Parcel and any common areas within the horizontal property regime which are separately owned by a property owner's association or like organization shall also be considered a separate Parcel. Single-family residences in townhouse developments where the residence shares a common or party wall shall each be considered as separate Parcels and any common areas within the townhouse development which are separately owned by a property owner's association or like association shall also be considered a separate Parcel.

1.22 "Property" means the real property described on Exhibit "B" to this Declaration, and as depicted on Exhibit "C" to this Declaration. The term "property" also includes any real property subsequently annexed in the manner described in Article 12 of this Declaration.

1.23 "Restricted Common Area(s)" means any portion of the Common Area which constitutes an easement over a Lot or Parcel and which lies inside a wall surrounding the perimeter of the Property which is located on the Common Area, said Restricted Common Area being utilized by the Association for purposes of maintaining the interior side of such walls.

1.24 "Subdivision" means those platted neighborhoods ("subdivisions") within the Property, described on Exhibit "D" hereto.

1.25 "Tract Declaration" means a declaration recorded pursuant to Section 2.01 of this Declaration.

1.26 "Turnover Date" means the earlier of'

- (a) December 31, 2014; or
- (b) The date Declarant shall elect to transfer control of the Association to the Owners, by notice to the owners, three (3) months in advance of the Turnover Date, in writing, with the Declarant having the right to extend the Turnover Date to occur up to six (6) months after such notice if, in the sole discretion of Declarant, it is determined that such an extension would tend to result in a more orderly Turnover.

ARTICLE 2**LAND USE CLASSIFICATIONS**

2.01 Land Use Classifications. From time to time, as portions of the Property are readied for development, additional declarations (a "Tract Declaration") as to portions of the Property may be recorded restricting the use of the portion of the Property covered by the Tract Declaration to the specific uses specified in the Tract Declaration, such as single-family residential, multi-family residential, commercial, office, resort or golf course. A Tract Declaration may also impose restrictions and conditions on the Property covered by the Declaration in addition to those contained in this Declaration; however, this Declaration shall continue to apply to the Property covered by a Tract Declaration. Declarant shall have the unrestricted and absolute right, without the consent of any other Owner, to record Tract Declarations as to portions of the Property owned by Declarant. As to a portion of the Property not owned by Declarant, Declarant and the owner of such portion of the Property shall have the unrestricted and absolute right, without the consent of any other Owner, jointly to record a Tract Declaration as to such portion of the Property; however, any instrument recorded pursuant to this sentence shall be considered a declaration recorded pursuant to Section 4.22 of this Declaration and not a Tract Declaration unless the instrument specifically recites that it is intended to constitute a Tract Declaration. Any such Tract Declarations shall be construed as a supplement to this Declaration and fully a part of this Declaration for all purposes to the same extent as if the provisions of the Tract Declaration were set forth in this Declaration. Each Tract Declaration shall be directly enforceable by the Association.

2.02 Amendments to Tract Declarations. Prior to the Turnover Date and except as otherwise provided in this Section 2.02, Declarant shall have the unrestricted and absolute right, without the consent of any other Owner, to amend a Tract Declaration from time to time or to revoke a Tract Declaration as to all or any of the property subject to the Tract Declaration. However, if any of the property subject to the Tract Declaration is not owned by Declarant, Declarant shall not have the right to amend or revoke the Tract Declaration as to that property without the prior written consent to such amendment or revocation from Owners holding at least fifty-one percent (51%) of the voting power with respect to the property subject to that Tract Declaration which is not owned by the Declarant. After the Turnover Date, the provisions of Article 11 shall apply and amendments to Tract Declarations shall be treated the same as amendments to any other provision of this Declaration and revocations of Tract Declarations shall be treated the same as a revocation of the Declaration.

2.03 Master Plan. Except as provided in this Section 2.03, Declarant shall have the unrestricted and absolute right, without the consent of any other Owner, to modify or amend the existing Troon North Master Plan and to dedicate portions of the Property to appropriate governmental entities for use as roadways, streets, greenbelts, drainage facilities, parks, open space, conservation areas or other similar uses. If a

modification or an amendment to the existing Troon North Master Plan, pertaining to a specific portion of the Property no longer owned by the Declarant, the prior written consent to such amendment or modification shall be required from Owners holding at least fifty-one percent (51%) of the voting power with respect to such portion of the Property.

ARTICLE 3

EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON

AREAS AND BUFFER AREAS

3.01 Common Areas. From time to time, Declarant may designate as Common Areas portions of the Property or rights therein (such as easements), such designation to be accomplished by the conveyance of the portion of the Property so designated to the Association or by the recordation of an easement or other appropriate document in favor of the Association with respect to such portion of the Property, or right therein. However, if the portion of the Property, or right therein, designated is not then owned by the Declarant, the prior written consent of the Owner upon such terms and conditions as such Owner may require, shall be required. If such consent is not obtained, then the property or right therein shall not be Common Area. Notwithstanding the foregoing, Declarant shall not designate any Common Area for roadway purposes unless there has been constructed hereon, at no cost to the Association, a road complying with the requirements and standards of the City of Scottsdale.

3.02 Easements of Enjoyment. Every Owner and Occupant shall have a right and non-exclusive easement of enjoyment in and to the Common Areas, other than Restricted Common Areas, which shall be appurtenant to and shall pass with the title to every Lot and Parcel, subject to the following provisions of this Article. The Owner and Occupants of a Lot or Parcel, a portion of which is Restricted Common Area, shall have an exclusive right (subject, however, to the paramount right of the Association to come upon the Restricted Common Area, from time to time, to maintain the perimeter wall) to use and enjoy the Restricted Common Area where not designated as Common Area, subject, however, to all of the provisions of this Declaration applicable to Lots and Parcels generally, and this exclusive right shall be appurtenant to and pass with the title to the affected Lot or Parcel.

3.03 Association Rights with Respect to Common Areas. In addition to any other rights specifically granted in this Declaration to the Association with respect to Common Areas, the Association shall have the right to:

- (a) Levy assessments for the maintenance of the Common Areas any pay expenses incurred in connection with the Common Areas;
- (b) Dedicated, grant easements over, or transfer all or any part of the Common Areas to any public agency, authority, or utility so long as the transferee agrees to permit the Common Areas transferred to be used for substantially the same purposes as existed prior to the

transfer.

- (c) Exchange portions of the Common Areas with Declarant or other Owners for other portions of the Property. Following any such exchange, the Common Area conveyed to Declarant or the other Owner shall no longer be Common Area and portion of the Property conveyed to the Association shall be Common Area; and
- (d) Regulate the use of the Common Areas through Association Rules and prohibit access to those Common Areas, such as landscaped areas, not intended for use by Owners or Occupants, or various categories of either group.

3.04 Buffer Areas. Except to the extent a Buffer Area constitutes Common Area, in which case the provision of this Declaration pertaining to Common Areas shall control, each Owner and Occupant of a Lot or Parcel, shall have a non-exclusive easement to use and enjoy any Buffer Area adjoining the Lot or Parcel owned by the Owner. No Improvements, other than landscaping or driveways which the Owner of the Buffer Area has approved, shall be made to any Buffer Area by any Owner or Occupant.

ARTICLE 4

USE RESTRICTIONS

4.01 Construction Activities. Normal and reasonable construction activities and parking in connection with an Improvement to a Lot or Parcel, as determined by the Architectural Review Committee, shall not be considered a nuisance or otherwise prohibited by this Declaration. Contractors, agents or suppliers shall not, in the course of construction, use any roads within the Property which Declarant or the Board designates as off-limits for construction vehicles. In addition, any construction equipment and building materials stored or kept on any Lot or Parcel during construction of Improvements may be kept only in areas approved by and screened in accordance with the requirements of the Architectural Review Committee. All construction refuse shall be contained on the Lot or Parcel where the construction is in progress, in an appropriate refuse container. For Parcels B (Boulder Crest Estates Unit III at Troon North aka "Talus"), C (Parcel "C" at Troon North aka "Talus"), G (Boulder Crest at Troon North, Unit I), Candlewood Estates at Troon North Units 1 through 6, and Pinnacle Canyon, a commercial trash container (minimum 20 yards) must be located on the job site for the duration of construction. This container must be emptied when necessary. Trash violators will be required to enclose the construction area with a chain link fence. In addition to the commercial trash container a portable toilet will be required on each lot and located in an Architectural Review Committee approved location. All construction work shall be carried forward diligently from commencement until completion so that the Lot or Parcel shall not remain in a partly finished condition any longer than reasonably necessary for the completion of the construction work. No construction trailers or similar facilities shall be permitted in connection with construction on Lots, unless approved by the Architectural Review

Committee. Construction trailers shall be permitted on Parcels in connection with construction activities on such Parcels, but only upon approval by the Architectural Review Committee as to the placement on the Parcel, number of trailers permitted, and exterior appearance of the trailers (including any signs or advertising material located on any trailer). Any trailers or similar facilities approved for use during construction shall be removed immediately following the completion of the construction.

4.02 Compliance with Laws. All uses, activities and improvements on any Lot or Parcel shall conform to and be done in compliance with all applicable governmental laws, rules and regulations, including, but not limited to, building and safety codes, zoning regulations, the requirements set forth in the Master Plan for Troon North (including stipulations and development standards), and the City of Scottsdale Hillside Ordinance and Native Plant Ordinance, as those ordinances may be amended from time to time. All Improvements shall be made by licensed contractors, or by those not required to be licensed, pursuant to an applicable exemption set forth in the provisions of A.R.S. § 32-1101 et seq.

4.03 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Parcel except for (i) machinery or equipment which is usual and customary in connection with the construction (but only during the period of construction) use, or maintenance of an Improvement, (ii) machinery or equipment which Declarant or the Association may require for the operation and maintenance of the Property or the performance of their respective duties under this Declaration, or (iii) machinery or equipment which is usual or customary in connection with the activities conducted on a Lot or Parcel (provided that such activities do not otherwise violate the provisions of this Declaration or any applicable Tract Declaration).

4.04 Exterior Appliances and Equipment. Following completion of an Improvement, any and all exterior appliances and equipment of every kind or nature shall be architecturally concealed from view, in accordance with plans approved by the Architectural Review Committee. For Parcels B (Boulder Crest Estates Unit III at Troon North aka ("Talus"), C (Parcel "C" at Troon North aka "Talus"), G (Boulder Crest at Troon North, Unit I), Candlewood Estates at Troon North Units 1 through 6, and Pinnacle Canyon, all mechanical equipment must be completely screened from street, golf course and adjacent lot views. Permanent screening must be provided, landscaping is not acceptable. No roof-mounted equipment, including air conditioning equipment, shall be permitted on any residence constructed on a Lot. No roof-mounted equipment, other than air conditioners integrated into the overall design of the building, shall be permitted on any multi-family apartment, townhouse or residential condominium building constructed on a Parcel. However, if strict compliance with this Section would prevent a solar energy device from being functional or would otherwise effectively prohibit the installation or use of a solar energy device within the meaning of Arizona Revised Statutes, Section 36-1109, as amended, then compliance with the requirements of this Section, as to solar energy device, shall be required only to the extent reasonably consistent with the installation and use of the device. Notwithstanding the foregoing, roof-mounted

equipment shall be permitted on any resort building constructed on the real property described in Exhibit "E" attached hereto as adjusted from time to time (the "Resort Property"); provided such equipment is concealed from view and/or integrated into the building in accordance with plans and specifications approved by the Architectural Review Committee.

4.05 Signs. Other than a specifically permitted by Arizona statutes, no signs whatsoever (including, but not limited to, commercial, political and similar signs) shall be erected or maintained on any Lot or Parcel, except:

- (a) Signs required by legal proceedings.
- (b) One (1) lighted identification sign for each individual residence, provided the sign and the location for the sign has received the prior written approval of the Architectural Review Committee;
- (c) Such other signs (including, but not limited to, construction job identification signs builders signs, subdivision identification signs, "for sale" signs, "for lease" signs and temporary "tent" signs) which have been approved in advance and in writing by the Architectural Review Committee as to the size, colors, design, message content, number and location.

4.06 Lighting. Exterior lights will be allowed on any Lot or Parcel only to the extent, as determined by the Architectural Review Committee, that they do not interfere or compete with night-time views of the desert, surrounding mountains and the valley below. For Parcels B (Boulder Crest Estates Unit III at Troon North aka "Talus"), C (Parcel "C" at Troon North aka "Talus"), G (Boulder Crest at Troon North, Unit I) and Pinnacle Canyon, a lighted address pylon must be constructed on each lot. The address must be illuminated from sunset until sunrise. The materials, colors, textures and style must be similar to the constructed home.

4.07 Storage Tanks. All fuel tanks, water tanks, or similar storage facilities shall be installed or constructed underground, unless such underground installation or construction is prohibited by applicable law.

4.08 Height Restrictions.

- (a) The maximum permitted height for any single-family residential Improvement within the Property, excluding any chimneys, shall be the maximum height permitted by the zoning laws of the City of Scottsdale and any other applicable governmental laws or regulations, with the height being measured from the highest pre-construction natural grade occurring within the perimeter of the improvement to the highest projection of the Improvement; however if such an improvement is constructed on a sloping Lot, the visible portion of the improvement may extend a maximum of ten (10) feet below the highest preconstruction natural grade within the perimeter of the improvement.

For Parcels B (Boulder Crest Estates Unit iii at Troon North aka "Talus"), C (Parcel "C" at Troon North aka "Talus"), G (Boulder Crest at Troon North, Unit I) and Pinnacle Canyon, the maximum building height is twenty (20) feet, measured from the highest pre-constructed natural grade within the construction footprint to the highest ridge or parapet. An additional four (4) feet maybe subject to approval provided it does not exceed thirty percent (30%) of the total square footage including garage but excluding porches or patios. For Candlewood Estates at Troon North Units 1 through 6, the maximum building height is twenty-six (26) feet, measured from the highest pre-constructed natural grade within the construction footprint to the highest ridge or parapet.

(b) The maximum permitted height for residential apartment, condominium or townhouse improvement or any commercial, office or resort Improvement within the Property, excluding any chimneys shall be the maximum height permitted by the zoning laws of the City of Scottsdale and any other applicable governmental laws or regulations, with the height being measured from the highest pre-construction natural grade occurring within the perimeter or the improvement to the highest projection of the Improvement; however, if such an improvement is constructed on a sloping Parcel, the visible portion of the improvement may extend to a maximum of five (5) feet below the highest pre-construction natural grade within the perimeter of the Improvement.

(c) Chimneys may be constructed on single-family residences or other building, provided no chimney exceeds the maximum height for chimneys permitted by the zoning laws of the City of Scottsdale and any other governmental laws or regulations.

(d) No improvement having more than two (2) stories shall be permitted on Property. This provision shall not apply to any Improvement constructed on the Resort Property, provided that the height limitations set forth above in Section 4.08(b) are otherwise satisfied.

(e) Vegetation elements of landscaping shall not be subject to the height restrictions on Improvements set forth in this Section 4.08.

(f) Notwithstanding the foregoing, the Architectural Review Committee shall be entitled to further reasonable restrict the height of any structure so as to ensure harmony and compatibility with existing structures on the Property.

4.09 Parking. No vehicles or equipment including, without limitation, cars, pickup trucks motor cycles, mobile homes, travel trailers, recreational vehicles, tent trailers, trailers, campers, detached camper shells, boats and boat trailers, shall be parked or maintained on any public or private street within the Property except for such periods of time as shall be reasonably necessary to load or unload, and except as otherwise provided in this section. If an Owner desires to use its driveway and/or streets within the Property for parking for any reason,

an Owner must seek prior written approval from the Board, which maybe granted or withheld in the Board's sole discretion, to park vehicles on the streets and/or driveways within the Property, unless the Board has adopted rules regulating parking within the Property in accordance with the provisions of Section 5.04 of this Declaration, in which case the Owner shall comply with those rules and regulations. All vehicles and related equipment shall be kept either (i) in enclosed garages on Lots, (ii) appropriately screened from view of neighboring properties and approved by the Architectural Review Committee, or (iii) within parking areas approved by the Association with respect to Parcels. This Section shall not apply to parking of temporary construction trailers in locations approved by the Architectural Review Committee in accordance with Section 4.01 above. Notwithstanding the foregoing, upon the presentation by a Neighborhood Association, or by an Owner if no Neighborhood Association has been established for the subject subdivision, of a petition containing the signatures of the Owners of not less than sixty-seven percent (67%) of the Lots within that subdivision, requesting a modification to the aforementioned parking restrictions for that subdivision, the Troon North Association may, but shall not be obligated to, take the matter under advisement and render a decision as to the granting, or denial, of the requested modification, subject to Guidelines adopted by the Board of Directors of the Troon North Association, which shall contain rules not less restrictive than applicable City of Scottsdale requirements. The decision of the Troon North Association with regard to the requested modification shall be final and binding.

4.10 Garage Doors. Garage doors shall be maintained in a closed position during all reasonable times. On all lots in excess of eighteen thousand square feet, a minimum of two (2) and a maximum of three (3) garage doors, either joined or separate, each a maximum of eight (8) feet high shall be constructed thereon, except that if the area of the lot is 65,000 square feet or more, the Architectural Committee may in its sole discretion permit more than three (3) garage doors on such lot. For Parcels B (Boulder Crest Estates Unit III at Troon North aka "Talus"), C (Parcel "C" at Troon North aka "Talus"), G (Boulder Crest at Troon North, Unit I) and Pinnacle Canyon, a minimum of three (3) separate garage doors all on separate planes are required to be constructed on each lot, each with a maximum size of nine (9) feet high by twelve (12) feet wide. Also, all garage door exteriors must be constructed of a wood material, or flush metal with a wood grain pattern, and painted to match the home exterior. Carports and parking canopies shall not be permitted on Lots but shall be permitted elsewhere within the Property. All carports and parking canopies shall be architecturally integrated into the primary building to which they are ancillary and shall be appropriately screened from view, as determined by the Architectural Review Committee.

4.11 Animals. No animal, other than dogs, cats and other animals which are customarily considered to be "household pets", shall be maintained on any Lot or Parcel except as otherwise provided in a Tract Declaration. For the purposes of this Paragraph 4.11, "Household Pets" shall not include "Livestock" as that term is defined in A.R.S. §3-1201. No more than four (4) animals shall be permitted to be maintained on the exterior of any residence on any Lot or Parcel and then only if they are kept, bred or raised solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise or to become a nuisance. The Board shall have the right, in its sole and absolute discretion, to determine what is an unreasonable amount of noise or whether the particular animal is a nuisance;

and the determination of the Board shall be final and conclusive. Structures for the care, housing or confinement of animals shall be maintained so as to be screened from view of neighboring properties.

4.12 Antennas, Flag Poles, Play Structures and Basketball Hoops. No antenna, satellite dish, or other device for the transmission or reception of television, radio, or any other form of electromagnetic radiation shall be erected, used or maintained on any Lot or Parcel unless it is appropriately screened from view and complies with the Architectural Standards and Procedures promulgated by the Architectural Review Committee, consistent with the regulations of the Federal Communications Commission (the "FCC"). No flag poles over twenty (20) feet high shall be erected, used or maintained on any Lot or Parcel. Permanent basketball hoops with clear or an approved color backboard are allowed. However, all portable basketball hoop structures must be stored from street or adjacent lot view when not in use. Play structures may only be erected, placed or maintained on any Lot or Parcel if they are within a fenced yard and screened from view of neighboring properties, and within required setbacks. With regard to the use of satellite dishes and antennas, in order to avoid any "post-installation" issues that may arise due to improper screening, as determined by the Architectural Review Committee, an Owner may submit an application for review of a proposed satellite dish or antenna to the Architectural Review Committee, and such application shall be reviewed, and a response provided to the Owner, within five (5) business days following the submittal of the application. Notwithstanding the foregoing, prior to the erection of any flag pole, basketball hoop (and ancillary structures), or play structure, such items must be approved, in writing, by the Architectural Review Committee.

4.13 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot or Parcel unless they are erected, placed and maintained exclusively within a fenced yard or otherwise screened from view of neighboring properties.

4.14 Model Homes. The provisions of this Declaration and of any Tract Declaration which may prohibit nonresidential use of Lots or Parcels and which regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction or marketing of residential dwellings within the Property or parking incidental to the visiting of such model homes, so long as the location of such model homes and parking areas is approved in advance by the Architectural Review Committee, the opening and closing are approved by the Board, and the construction, operation and maintenance of such model homes otherwise comply with all of the provisions of this Declaration. Any homes constructed as model homes shall cease to be used as model homes at any time when the owner thereof is not actively engaged in the construction and sale of residential dwellings within the Property, and no home shall be used as a model home for the sale of homes not located within the Property.

4.15 Greenhouses. Greenhouses shall be permitted within the Property provided they are appropriately screened from view of neighboring properties and approved by the Architectural Review Committee.

4.16 Maintenance of Landscaping. Each owner of a Lot or Parcel shall keep that Lot or Parcel and any Buffer Area adjoining the Lot or Parcel (to the extent the Buffer Area either is not Common Area or is Restricted Common Area) clean and free of trash, rubbish, debris, weeds, dead or decaying vegetation (including compost piles), other unsightly material, and any plant or other vegetation which the Architectural Review Committee determines, for aesthetic or health reasons, should not be permitted within the Property. Each Owner of a Lot or Parcel shall maintain all landscaping on the Lot or Parcel and any Buffer Area adjoining the Lot or Parcel (to the extent the Buffer Area either is not Common Area or is Restricted Common Area) in good condition and repair, neatly trimmed, properly cultivated, and in an attractive and viable condition, free of trash, rubbish, debris, weeds, dead or decaying vegetation (including compost piles), or other unsightly material.

4.17 Repair of improvements. No Improvement on any Lot or Parcel shall be permitted to fall into disrepair, and each Improvement shall, at all times, be kept in good condition and repair and adequately painted or otherwise finished. If any Improvement is damaged or destroyed, such Improvement shall be immediately repaired or rebuilt (after the approvals required by this Declaration have been obtained) or shall be demolished.

4.18 Nuisances and Offensive Activities. No use or activity shall be undertaken or permitted on any Lot or Parcel which constitutes an annoyance to surrounding Owners or Occupants or a public or private nuisance or which would render any Lot or Parcel (or activity thereon) unsanitary, unsightly, unsafe, offensive or detrimental to any other property in the vicinity of the Lot or Parcel or to the Owner or Occupants of such other property.

4.19 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Parcel, except in covered containers which are appropriately screened from the view of neighboring properties, unless necessary to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. The Architectural Review Committee may also, in its discretion and at its option, designate the location on a Lot or Parcel where such containers shall be stored between collection times in order to protect adjacent properties from noise or odors emitting from the use of such containers. No rubbish, trash, garbage or debris of any kind shall be burned within the Property. No outdoor incinerators shall be kept or maintained on any Lot or Parcel.

4.20 Disease and Insects. No Owner shall permit anything or condition to exist upon any Lot or Parcel which shall induce, breed or harbor infectious plant diseases or noxious insects.

4.21 Health, Safety and Welfare. If additional uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or Occupants or the quality of attractiveness of Troon North, the Board may make rules restricting or regulating such uses, activities and facilities. Such rules, when adopted in the manner provided in Section 5.04 of this Declaration, shall be

effective as Association Rules.

4.22 Restriction on Further Subdivision, Property Restrictions. No Lot shall be split, subdivided or separated into smaller lots or parcels, and no Owner of a Lot shall sell or lease less than all of the Lot. No subdivision plat or horizontal property regime shall be recorded, modified or revoked with respect to a Parcel and no further covenants, conditions or restrictions (other than Tract Declarations and Master Plans permitted by Article 2 of this Declaration, and development plans/plats for Parcels M, N, O and Q) shall be recorded, modified or revoked by any Owner or other person with respect to any Parcel unless the Board has first approved the plan, horizontal property regime, or the proposed covenants, conditions or restrictions (or revocation or modification thereof), such approval to be evidenced by the Association's signature on the final, recorded plat (or revocation or modification thereof) or recorded instrument imposing, modifying, or revoking the covenants, conditions or restrictions (or revocation or modification thereof) recorded in violation of this Section shall be absolutely null and void. The Board's review shall be for the purpose of assuring, in the sole and absolute discretion of the Board, that the plat, horizontal property regime, or covenants, conditions and restrictions (or revocation or modification thereof) are consistent and compatible with the overall plan of development within the Property. However, in no event shall the approval of the Board of any plat, horizontal property regime, or covenant, condition or restriction (or revocation or modification thereof) be deemed an abandonment or waiver of any provision of this Declaration or of any Tract Declaration. The provisions of this Declaration shall be and remain superior to any such plat, horizontal property regime, or covenant, condition or restriction.

4.23 Formation of Associations. Each Subdivision, or group of Subdivisions, shall have its own Neighborhood Association which shall be established by the Declarant prior to the Turnover Date, or established by the then-current Owner of the subdivision, concurrent with its development, if such Subdivision has not been platted prior to the Turnover Date. Each such Neighborhood Association shall have the rights and duties commensurate with its governing documents, as adopted by the Declarant (or as adopted by its then-current Owner concurrent with the applicable platting process) and as amended from time to time in accordance with such governing documents. No other homeowner's association, property owner's association or similar organization shall be formed with respect to any portion of the property until the organizational documents (including the articles of incorporation and bylaws) have been reviewed and approved by the Board to assure that there are no material conflicts between the new association's organizational documents and the organizational documents of the Association or any Neighborhood Association. Any and all modifications to such organizational documents shall also require the prior approval of the Board. If, on the Turnover Date, a statutory agent has not been appointed for any Neighborhood Association, Troon North Association shall be named as the statutory agent for such Neighborhood Association(s). In such event, upon receipt, as statutory agent, of any documents, correspondence, etc., on behalf of such Neighborhood Association(s), Troon North Association shall use its best efforts to ensure that such items are transmitted to the appropriate Neighborhood Association(s) and/or its/their members. Furthermore, as the statutory agent of such Neighborhood Association(s), Troon North Association shall ensure the timely filing of all annual reports as may be required by the Arizona Corporation Commission, so as to ensure the continued corporate existence of such

Neighborhood Association(s).

4.24 Temporary Occupancy. No trailer, vehicle, , mobile home, basement of any incomplete building, tent, shack, garage, barn, or temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent, without prior written approval by the Board.

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

4.26 No Obstructions to Drainage. No Improvement shall be constructed, and no action shall be taken, on any Lot or Parcel, by any Owner that will interfere with the drainage of storm water and result in a condition which varies from the drainage plan for such Lot or Parcel which has been approved by the City of Scottsdale and as submitted to, and made a record of, the Architectural Review Committee. No Improvement shall be permitted which would interrupt the normal drainage of the land nor shall any Improvement be permitted within any area designated on a recorded document as a "drainage easement"; provided, however, with the prior consent of the City of Scottsdale and the Architectural Review Committee , non-permanent structures, including fences, may be erected over underground closed conduit storm drainage facilities.

4.27 Utility Service. All gas, gas, electric, power, telephone, water, sewer, cable television and other utility or service lines and all other lines, pipes, cables or conduits of every kind or character (whether now existing or hereafter invented or used) shall be placed and kept underground, except to the extent, if any, such underground placement may be prohibited by law or, by the nature of the service to be rendered, such underground placement prevents the lines from being functional. However, the foregoing restriction shall not prohibit service pedestals and above ground switch cabinets and transformers, where required. This restriction shall also not prohibit temporary power or telephone structures approved by the Architectural Review Committee and which are incident to the construction of Improvements.

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

4.29 Nonresidential Use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any Lot or on any Parcel which is developed with a residential unit, and no person shall enter upon such a Lot or Parcel for the purpose of engaging in such uses or for the purpose of receiving products or services arising out of such usage. Nothing contained in this Section 4.29 or any other portion of this Declaration shall be construed to prohibit the use of any residential unit by any stockholder, partner, officer, employee, guest or invitee of any corporate, partnership or similar type entity Owner so long as such residential unit is not used as a place from which to conduct a gainful occupation, profession, business or trade, and such individuals are

members of a single housekeeping unit. Notwithstanding the foregoing, an Owners may conduct a business activity within a dwelling unit so long as: (i) the existence of operation of the business activity is no apparent or detectable by sight, sound or smell from the outside of the dwelling unit; (ii) the business activity conforms to all applicable zoning ordinances; (iii) the business activity does not involve person coming onto the Lot or the door-to-door solicitation of other Owners; and, (iv) the business activity is consistent with the residential character of Troon North and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other Owners or their guest.

4.30 Single-Family Occupancy; Household Composition; Tenants.

Without interfering with the freedom of occupants of dwelling units to determine the composition of their households, the Association shall, nonetheless, have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each dwelling unit on the basis of size and facilities of the dwelling unit and its fair-share use of the Common Areas. In accordance therewith, each residential dwelling unit constructed on the Property may be occupied only by a single family. Any dwelling unit may be rented to a single-family tenant from time to time by the Owner, subject to the Association Rules and provided that the term of such rental is not less than thirty (30) consecutive days, or for such period as required by applicable statute and/or ordinance, whichever is greater. The Owner of each dwelling unit shall, at or prior to execution of any lease, furnish to the tenant a copy of the Declaration, the Articles and Bylaws and the Association Rules and obtain a receipt for such items executed by the tenant. The receipt obtained by the Owner shall be delivered to the Association on or before one week after the lessee or tenant is entitled to occupancy of the dwelling unit. Nothing contained in this Section 4.30 or any other portion of this Declaration shall be construed to prohibit ownership by a corporation, partnership, limited liability company or similar type entity Owner, provided that such entity ownership is for tax-planning or estate planning purposes, and not for the purpose of evading or avoiding the restrictions set forth in this Declaration, and provided that prior to acquiring an ownership interest in any dwelling unit, each such corporation, partnership, limited liability company and/or similar type of entity shall submit to the Association, for its review, a copy of the entity's organizational and governing documents (e.g., Articles of Incorporation, Bylaws, Articles of Organization, Operating Agreement, Partnership Agreement), as well as a statement as to the reason why the entity is being used to acquire the ownership interest in such dwelling unit and the intended use of the dwelling unit by such entity. Furthermore, nothing contained in this Section 4.30 or any other portion of this Declaration shall be construed to prohibit the use of any residential unit by any stockholder, partner, officer, employee, guest or invitee of any corporate, partnership, limited liability company or similar type entity Owner so long as such residential unit is not used as a place from which to conduct a gainful occupation, profession, business or trade, or any activity related thereto, or any type of use precluded by this Declaration, and such individuals are members of a single housekeeping unit. Notwithstanding the nature of any entity that may be an Owner, it is the intent of this Declaration that each dwelling unit be occupied and utilized for residential purposes only by a single household, except with the express consent of the Board, or as otherwise provided in a Supplemental Declaration. Notwithstanding the foregoing, an Owner may conduct a business activity within a dwelling unit, subject

to the conditions set forth in Section 4.29 above.

4.31 Variances. The Board may at its sole option and in extenuating circumstances, grant variances from the restrictions set forth in Article 4 of this Declaration if the Board determines, in its sole discretion:

- (a) That eight (i) enforcement of a particular restriction would create a substantial hardship or burden on an Owner or Occupant, or (ii) a change of circumstance since the recordation of this Declaration has rendered such restriction obsolete; and
- (b) That the activity permitted under the variance will not have any substantial adverse effect on the Owners and Occupants with the Troon North and is consistent with the high quality of life intended for the residents of Troon North.

4.32 Square Footage. For Parcels B (Boulder Crest Estates Unit III at Troon North aka "Talus"), C (Parcel "C" at Troon North aka "Talus"), G (Boulder Crest at Troon North, Unit I), Candlewood Estates at Troon North Units 1 through 6, and Pinnacle Canyon, only one (1) residence shall be permitted on a Lot, and the residence shall have a ground floor area of at least two thousand eight hundred (2800) square feet, including the walls, but excluding open porches, patios, pergolas, attached garages and other similar extensions or projections.

4.33 Timeshares. No Lot or Parcel (except a Lot or Parcel zoned R4R-Resort Parcel, R-5, C-2, or C-3), or any portion thereof, shall be used or marketed as a "Timeshare". For the purposes hereof a "Timeshare" means any arrangement, plan or similar device, whether by membership agreement, sale, lease, deed, license, right-to-use agreement, fractional interest agreement, or by any other means, in which an individual and/or entity receives the right in perpetuity, for life, or for a term of years, or other increment of time, to the recurrent, use or occupancy of a Lot, Parcel, Unit or Segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been, or will be, divided, regardless of the number of occupancy periods into which the project has been, or will be, divided. A "Timeshare" also includes: a "Time-Share Estate", which means a right of occupancy in a Lot or Parcel which is coupled with an estate in the real property; a "Time-Share Use", which means a right of occupancy in a Lot or Parcel that is not coupled with an estate in real property; and, any co-tenancy or analogous arrangement; and, any similar fractional use scheme.

ARTICLE 5

ASSOCIATION

5.01 Formation of Association. The Association shall be a non-profit Arizona Corporation, to be known as Troon North Association. Declarant has the exclusive right to incorporate the Association. The Association shall have only the powers

and duties described by this Declaration. Neither the Articles nor Bylaws shall be amended or otherwise changed or interpreted, for any reason, so as to be inconsistent with this Declaration. If there is any inconsistency, the provision of this Declaration shall control over the inconsistent provision of the Articles or Bylaws.

5.02 Powers and Duties. Subject to the restrictions and limitations contained in this Declaration, in conducting business, the Association shall have the powers and duties that can be exercised by a nonprofit corporation under the Arizona Nonprofit Corporation Act including, without limitation, the following:

- (a) The Association may enter into contracts and transactions with others, including Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more of the directors or officers of the Association or members of any committee is employed by or otherwise connected with Declarant or its affiliates or others with whom the Associations contracts, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies or any competitor thereof and may vote thereat to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.
- (b) Effective on the first renewal date following the Turnover Date, the Association shall maintain at least \$10,000,000.00 (combined limits) of insurance, \$5,000,000.00 per claim, against liability incurred as a result of death or injury to persons or damage to property on the Common Areas. The Association may also maintain such other insurance as the Board determines is prudent under the circumstances. Until the Turnover Date the type and amount all insurance coverage shall be at the Declarant's discretion.
- (c) The Association may improve the Common Areas (subject to the limitations in Section 3.01 above), and shall manage and maintain the Common Areas at a high standard of care, reflecting the first-class nature of Troon North. To that end, and to the extent reasonably practicable (as determined by the Board), and in an effort to ensure that the amounts charged to the Association are fair, the Board will solicit three (3) competitive bids for the performance of all work. The individual or entity chosen to perform such work shall be chosen based upon an assessment of the competence of said individual or entity combined with the proposed charges for

such work.

- (d) The Association shall have the right to levy and collect assessments and expend funds as provided in Article 7 of this Declaration.
- (e) The Association shall have the right to do such other things as are expressly authorized in this Declaration for the Association, the Board, or any committee of either to perform, as well as such things as are reasonably necessary or proper for, or incidental to, the exercise of such express powers and duties.
- (f) The Association shall have the right to accept properties, Improvements, rights and interests that may be conveyed, leased, assigned or transferred to the Association.
- (g) The Association shall have the right to sue and be sued.
- (h) The Association shall perform the functions and discharge the obligations delegated to or imposed upon the Association, the Board, or any committee of either.

5.03 Board of Directors and Officers. Prior to the Turnover Date, the affairs of the Association shall be conducted by a Board of Directors of three (3) members and such officers as the Board may elect or appoint in accordance with the Articles and Bylaws. After the Turnover Date, the affairs of the Association shall be conducted by a Board of Directors of at least five (5) but not more than nine (9) members and such officers as the Board may elect or appoint in accordance with the Articles and Bylaws. Unless a specific provision of this Declaration expressly permits or requires the members of the Association to take action, all actions and business of the Association shall be conducted exclusively by the Board and the Association officers, employees, committees, managers and agents appointed or elected by and acting under the direction of the Board, and actions taken by the Board, the officers, employees, committees, managers and agents shall not be subject to review by the members. Prior to the Turnover Date, all members of the Board shall be appointed by Declarant and such appointees need not be Owners. For the initial Board serving immediately after the Turnover Date, all members of the Board shall be Owners and shall be appointed by Declarant, as follows: the Declarant shall appoint a subdivision advisory board which shall, from time to time, consult with the then-current Board. On or before the Turnover Date, the subdivision advisory board shall elect, from amongst its members, those Owners who will serve as the initial Board to serve from and after the Turnover Date until the expiration of their respective terms, or the date of the first annual meeting following the Turnover Date, whichever is later. The Board shall then appoint such elected Owners to the initial post-Turnover Date Board. In order to facilitate continuity and the orderly transition from Board to Board, Board members appointed to the initial Board serving immediately after the Turnover Date shall serve staggered terms, as follows: a majority of the Board members appointed shall serve two (2) year terms, and a minority of the Board members appointed shall serve one (1) year terms. From and after the first annual meeting occurring after the Turnover Date, Board members shall

be elected by the members of the Association, using cumulative voting, and each Board member shall be an Owner or an officer, director, shareholder, beneficiary, or trustee of, or partner in, an Owner. At all such post-Turnover Date elections, all Board members shall be elected to two (2) year terms. All such terms shall expire at the Association's annual meeting held during the final year of the respective term. The Board may also appoint various committees and may appoint a manager who shall be responsible for the day-to-day operation of the Association, subject to the direction of the Board. The Board shall determine the compensation to be paid to the manager. The Board may also hire such employees as may be needed to carry out the Association's duties and may also retain the services of professional advisers, such as engineers, architects, accountants, and attorneys, to advise the Board with respect to the business of the Association. In order to preclude the possibility that the Board be comprised of multiple individuals representing a single lot, only one (1) representative per lot may serve on the Board at any given time. Furthermore, in order to assure that the Board is comprised of Owners residing in as many subdivisions as possible, no more than two (2) Owners from any single subdivision may serve on the Board at any given time.

5.04 Association Rules. By majority vote of the Board, the Association, from time to time, may adopt, amend and repeal rules and regulations to be known as the Association Rules. Provided that the Association Rules are not more limiting or restrictive than this Declaration, the Association Rules may restrict and govern the use of any Lot, Parcel, or Common Area by any Owner or Occupant, and shall set forth the sequence and enforcement standards that will be followed by the Association with regard to non-compliance and/or violation of any of the provisions of the Rules and this Declaration; however, the Association Rules shall not discriminate among Owners or Occupants similarly situated nor shall the Association Rules be inconsistent with this Declaration, the Articles or Bylaws. Within five (5) business days following adoption, amendment or repeal of an Association Rule, the Board shall make available, either at the Association's regular place of business, or by electronic means, a copy of the adopted or amended Association Rule or a notice of repeal, if an Association Rule has been repealed, and each Owner shall be responsible for checking with the Association from time to time as to the existence of any change in the Association Rules. An Association Rule or an amendment to an Association Rule shall be effective fifteen (15) days following the Board action adopting or amending the Association Rule, unless the Board specifically finds that an earlier effective date is necessary, due to emergency circumstances, in which case the earlier date designated by the Board shall be the effective date. Actions repealing Association Rules shall be effective on the date the Board takes action to repeal the Association Rule. All actions of the Board in adopting, amending, or repealing Association Rules shall become effective as provided above, regardless of whether notice of the action has been actually received by the Owners. Once the Association Rules become effective, they shall have the same force and effect as if they were set forth in and were a part of this Declaration, subject, however to the right of the Board to amend or repeal Association Rules as provided in this section.

5.05 Personal Liability. No member of the Board or any committee of the Association, no officer of the Association, and no manager or other employee of the Association shall be personally liable to any Owner, or to any other person, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act,

omission, error, or negligence of the Association, the Board, the manager, any representative or employee of the Association, or any committee member or officer of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has engaged in willful or intentional misconduct. The corporation shall be entitled to indemnify its members, directors, officers, employees, and agents to the full extent permitted by law.

5.06 Subdivision Advisory Committee. Recognizing that all Troon North subdivisions will not, at all times, have a representative serving on the Board, and so as to permit all Troon North subdivisions to have input with regard to matters before the Board, the Board shall appoint a Subdivision Advisory Committee which shall be comprised of one (1) Owner from each of the Troon North subdivisions. The Subdivision Advisory Committee shall advise the Board on various matters, at the Board's request. The Subdivision Advisory Committee members shall be appointed by the Board from a list of individuals provided to the Board by the subdivisions. If any subdivision fails to provide the name of a representative to serve on the Subdivision Advisory Committee prior to the date upon which the Board appoints the members of the Committee, the Board may appoint a representative from such subdivision.

5.07 Priority of Master Documents. The provision of any Neighborhood Association Declaration are subject and subordinate to the provisions of this Declaration, the Articles and Bylaws of the Troon North Association, and any rules, regulations or policies adopted by the Troon North Association and its duly appointed committees. To the extent that the provisions of any Neighborhood Association Declaration are inconsistent with or in derogation of any of the foregoing, unless otherwise set forth herein this Declaration the more restrictive provision shall control. If an Owner violates any of the provisions of a Neighborhood Association Declaration, which violation is also a violation of this Declaration, and the Neighborhood Association fails to restrain or enforce the violation for an unreasonable period of time after written request to do so by the Troon North Association, such violation may be restrained or enforced by the Troon North Association as provided in this Declaration.

ARTICLE 6

MEMBERSHIP AND VOTING

6.01 Membership. Every Owner, Every Owner, including Declarant, shall be a member of the Association. An Owner shall remain a member of the Association until such time as he ceases to be an Owner, at which time his membership in the Association shall automatically cease. Ownership of a Lot or Parcel shall be the sole qualification and criterion for membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Parcel. A membership in the Association shall not be transferred, pledged or alienated in any way except on the sale of such Lot or Parcel and then only to the purchaser, or by intestate succession, testamentary disposition, trustee's sale, foreclosure of mortgage of record, or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event an Owner fails

or refuses to transfer the membership registered in his name to the purchaser of such a Lot or Parcel, the Association shall have the right to record the transfer upon the books of the Association and thereupon the old membership outstanding in the name of the seller shall be null and void as though the same had been surrendered. Each Owner shall be entitled to one membership in the Association with the number of votes determined in the manner described in Section 6.02 of this Declaration. If a Lot or Parcel is owned by a Corporation, Partnership, or similar type entity or by two or more persons in joint tenancy, tenancy in common or as community property or other form of joint ownership, the membership as to such Lot or Parcel shall nevertheless be a single membership, and the Owner or joint Owners shall designate to the Association, in writing, the person who shall have the power to vote the Membership. In the absence of such a designation, and until such a designation is made, the Board shall make the designation. If the Board fails to make such designation, any authorized representative of a Lot's or Parcel's Owner(s) shall have the power to vote the membership attributable to such Lot or Parcel. In such event, if conflicting votes are cast on behalf of any one membership, none of the votes so cast will be counted. No certificates of membership shall be issued, and memberships shall be evidenced by the official list of Owners kept by the secretary of the Association.

6.02 Number of Votes. Each Owner shall have the following number of votes in the Association, which such Owner may exercise in the manner and at the times specified in this Declaration:

- (a) One (1) vote for each Lot owned by the Owner.
- (b) One (1) vote for each acre, or fraction thereof, in each Parcel owned by the Owner. However, if townhouse units or an apartment, commercial or office building or resort is constructed on a Parcel and unless the provisions of Section 6.02(c) below apply, then, upon the issuance of a certificate of occupancy or other evidence of substantial completion of the building and thereafter until such time, if ever, that the building no longer exists, the votes with respect to that Parcel shall be determined as follows:
 - (i) One (1) vote for each townhouse unit;
 - (ii) One-half (1/2) vote for each apartment unit;
 - (iii) One (1) vote for each 3,000 square fee, or fraction thereof, of commercial or office space in a commercial or office building;
 - (iv) One-third (1/3) vote for each resort unit.
- (c) If a horizontal property regime establishing a condominium has been recorded with respect to the Parcel, then upon issuance of a certificate of occupancy or other evidence of substantial

completion of the condominium building and thereafter until such time, if ever, that the building no longer exists, the votes with respect to that Parcel shall be determined as follows:

- (i) One (1) vote for each residential condominium unit;
 - (ii) One (1) vote for each 3,00 square fee of fraction thereof, of space in a commercial or office condominium unit.
- (d) Notwithstanding the foregoing, the Owner(s) of the Golf Course Property shall only be entitled to vote on matters which may result in the alteration of their rights and/or obligations under this Declaration.

6.03 Fractional Votes. Except as provided in Section 6.02(b) above, fractional votes shall not be allowed. However, if an Owner holds more than one vote, the votes need not be cast as a unit.

6.04 Suspension of Voting Rights. No Owner shall be entitled to exercise any voting rights in the Association during any period in which the Owner is delinquent in the payment of any Assessment.

ARTICLE 7

ASSESSMENTS

7.01 Purposes. The Association shall apply all funds collected and received by it for the common good and benefit of the Property and the Owners, and in a non-discriminatory manner, by devoting those funds solely to the payment of the expenses of the Association incurred in carrying out its powers and duties as specifically enumerated in this Declaration. Without limiting the generality of the foregoing provision, no funds of the Association shall be used to carry on propaganda or otherwise to attempt to influence legislation and the Association shall make no gift, donation or contribution to any organization engaged in such activities.

7.02 Creation of Lien; Personal Obligation. Each Owner by acceptance of the deed or other instrument making such person an Owner (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association any Assessments established from time to time as provided in this Declaration. All Assessments, together with the interest at the default rate from the due date until paid, costs and reasonable attorney's fees of the Association incurred in connection with enforcement and collection of any Assessment or in otherwise enforcing this declaration to be secured by an Assessment Lien, shall be a charge on, and shall be a continuing servitude and lien upon, the Lot or Parcel against which such Assessment is made (an "Assessment Lien"). Each Assessment, together with interest at the Default Rate, costs and reasonable attorney's fees as described above, shall also be the personal obligation of the person who

was the Owner of the Lot or Parcel on the date that the Assessment, or any installment thereof, becomes due. The personal obligation for Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them; however, an Assessment Lien with respect to any Assessment shall continue as a charge and lien on the Lot or Parcel in the hands of the subsequent owner.

7.03 Regular Assessments. In order to provide funds to enable the Association to carry out its powers and duties pursuant to this Declaration, including the establishment of appropriate and reasonable reserves, at least thirty (30) days prior to the beginning of each calendar year, commencing with the first full year after the year in which this Declaration is recorded, the Board shall estimate the total expenses of the Association for the upcoming year and shall assess against each Lot and Parcel a Regular Assessment. The Regular Assessment for each Lot or Parcel shall be based on the ratio of votes to which the Lot or Parcel is entitled to the total number of votes in the Association as of January 1st of the year for which the Regular Assessment is made. Written notice of the annual Regular Assessments shall be sent to each Owner. During the year, the Board may revise the amount of the Regular Assessments in order to meet expenses which exceed the amounts anticipated by the Association and collect such increased Assessments.

Anything in this Section 7.03 to the contrary notwithstanding, during the five (5) year period beginning with January 1, 1991 and ending December 31, 1995, the Regular Assessments charged to a Lot by the Association shall not exceed the following amounts:

- | | | |
|-----|--|-------------------|
| (a) | January 1, 1991 through
December 31, 1991 | \$20.00 per moth |
| (b) | January 1, 1992 through
December 31, 1992 | \$25.00 per month |
| (c) | January 1, 1993 through
December 31, 1993 | \$30.00 per month |
| (d) | January 1, 1994 through
December 31, 1994 | \$35.00 per month |
| (e) | January 1, 1995 through
December 31, 1995 | \$40.00 per month |

Unless otherwise agreed to by a majority of the Owners in Troon North, following the end of the five (5) year period referred to above, the Regular Assessments shall increase no more than five percent (5%) per year or the percentage increase in the Consumer Price Index for all Urban Consumers (or comparable index if such index is not available), whichever is greater. Furthermore, anything in this Section 7.03 to the contrary, notwithstanding, the Regular Assessment for the Golf Course Property shall be an amount equal to one-half (1/2) of the Regular Assessments charged to a Lot as set forth above times the number of acres, or fraction thereof, constituting the Golf Course Property. **Notwithstanding**

any provision of Article 11, pertaining to Amendments to the Declaration, this immediately foregoing limitation related to the Golf Course Property's responsibility for Regular Assessments, may only be amended in accordance with Article 11, subject to the express written consent of the then-current owner of the Golf Course Property.

7.04 Special Assessments.

- (a) If the need for maintenance or repair in any Common Area is caused through the willful or negligent act of any Owner, his family, guests, invitees, or any person or Occupant using the Common Area with the permission of the Owner, the costs of such maintenance or repairs shall constitute a Special Assessment against such Owner and against each Lot and Parcel owned by such Owner and shall be secured by an Assessment Lien against each Lot and Parcel of the Owner. If any portion of any Lot or Parcel is maintained so as to present a public or private nuisance or to substantially detract from the appearance or quality of the surrounding Lots and Parcels or other areas of the Property or if any portion of the Lot or Parcel is being used in a manner which violates this Declaration or a Tract Declaration or if the Owner or Occupant of any Lot or Parcel is failing to perform any of its obligations under this Declaration or any Tract Declaration or to abide by any of the provisions of this Declaration or any Tract Declaration, the Board may, by resolution, make a finding to such effect. The resolution of the Board shall specify the particular condition or conditions which exist. The Board shall have the right to: (i) record a "Notice of Noncompliance"; and/or (ii) cause corrective action to be taken at the Owner's costs and expense (and the Owner hereby grants to the Board and any party acting pursuant to the Board's directions the right to enter onto the Lot or Parcel for the purpose of performing such corrective action); and/or (iii) commence proceedings in accordance with Article 16 herein to compel compliance with this Declaration or the Tract Declaration. All costs of any proceeding commenced by the Board, including, court costs and attorneys' fees, and all fees, charges, late charges, fines and monetary penalties charged pursuant to this Declaration, any Tract Declaration, the Articles, the Bylaws, the Association Rules and any applicable law shall bear interest from the date incurred or charged until paid at the Default Rate and shall be a Special Assessment against the offending Owner and against each Lot and Parcel owned by the Owner and shall be secured by an Assessment Lien against each Lot and Parcel of the Owner, subject to limitations imposed by applicable Arizona law
- (b) If the Association undertakes to provide materials or services which benefit primarily an individual Lot or Lots, the Board shall have the

right to allocate the costs of such material or services solely to the Owners of such included Lot(s) as Special Assessments which shall be in addition to Regular Assessments.

- (c) The Board shall also have the right and power to provide for the construction of additional recreational and other common facilities, and/or the alteration, demolition or removal of existing recreational and other common facilities and to provide for the payment thereof by Special Assessments to the extent not otherwise funded by reserves and/or Regular Assessments. Following the Turnover Date, any major alteration, demolition, removal, construction or improvement approved by the Board, and to be funded by such a Special Assessment, shall also require ratification and approval by the affirmative vote of Owners holding at least sixty-seven (67%) of the total voting power in the Association.
- (d) The Board shall also have the right to impose a transfer fee in a reasonable amount to reimburse the Association for costs incurred with regard to any Owner's transfer of any Lot, to provide for funding of reserves and for other costs that would otherwise be funded by a Special Assessment against the Lot. To the extent the transfer fee includes an amount which exceeds the Association's costs incurred with regard to the transfer of the Lot, such fee shall not apply to conveyances to affiliated entities, pursuant to Section 4.30 above, or to conveyances resulting from foreclosures or trustees' sales, provided such conveyances are not undertaken for the purpose of evading the transfer fee.

7.05 Procedures Regarding Billing and Collections. Assessments shall be paid in monthly, quarterly or annual installments, as determined by the Board and specified on the Notice of Regular Assessments sent to each Owner. The board may adopt supplemental rules and regulations setting forth procedures for the purpose of making, billing for and collecting the Assessments provided for in this Declaration, provided that the procedures are not inconsistent with the provisions of the Declaration.

7.06 Refunds; Offsets. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot or Parcel changes during a year. Successor Owners of Lots and Parcels shall be given credit for prepayments, on a prorated basis, made by prior Owners. No offset against an Assessment shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties or responsibilities under this Declaration. No Owner may exempt himself from liability for any Assessment by waiver of the use or enjoyment of the Common Areas or by abandonment of his Lot or Parcel, or any Improvement thereon.

7.07 Collection Costs and Interest on Delinquent Assessments. Any Assessment or installment thereof which is not paid when due shall be deemed delinquent (the "Delinquency Date"). If any such Assessment is not paid within thirty (30) days after

the Delinquency Date, a late charge of Fifteen Dollars (\$15.00) , or such other amount as the Board shall from time to time determine, shall be levied and the Assessment shall bear interest from the date of delinquency until paid at the Default Rate. The Association may, at its option, commence proceedings in accordance with Article 16 herein against the Member personally obligated to pay the same and/or foreclose the Assessment Lien against the Member's Lot in accordance with the then prevailing law of the State of Arizona relating to the foreclosure of liens upon real property. If proceeding(s) is/are commenced, there shall be added to the amount of such Assessment, the late charge, interest, expenses incurred in connection with collection of the debt secured by the Assessment Lien, all attorneys fees and costs relating to such action, and if a judgment is obtained, such judgment shall include all such amounts. Each Member vests in the Association, or its agents, the right and power to bring all actions at law or equity against such Member for the collection of such delinquent Assessments. At any foreclosure sale of a Lot authorized pursuant to the then prevailing laws of the State of Arizona, the Association, through its duly authorized agents, shall have the power to bid at the sale, using Association funds or funds borrowed for such purpose, and to acquire and hold, lease, mortgage and convey the same. The Board may also record a Notice of Delinquent Assessment against any Lot or Parcel as to which an Assessment is delinquent and may charge a reasonable fee to reimburse the Association's cost in recording such Notice and otherwise processing the delinquency, and that fee be treated as a collection cost of the Association, secured by the Assessment Lien.

7.08 Evidence of Payment of Assessments. Upon receipt of a written request by an Owner or any other person, the Association, within a reasonable period of time after receiving the request, shall issue to such Owner or other person a written certificate stating (a) that all Assessments (including interest, costs and attorneys' fees, if any, incurred in connection with the Assessment) have been paid with respect to any specified Lot or Parcel as of the date of such certificate, or (b) if all Assessments have not been paid, the amount of such Assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates and that charge must be paid at the time the request for any such certificate is made.

7.09 Property Exempted from Assessments. Property owned by the Association and/or owned by a Neighborhood Association, shall be exempt from any Assessments pursuant to this Declaration, during such time as it is owned by the Association or the respective Neighborhood Association.

7.10 Association Remedies. Subject to the Dispute Resolution provisions of this Declaration, if any Owner fails to pay the Assessments or installments when due, then, in addition to any other rights and remedies contained in this Declaration or otherwise available at law or in equity, the Association may enforce the payment of the Assessments and/or the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies set forth below or any other remedy, the Association does not prejudice or waive its right to exercise the other remedy or any other right or remedy):

- (a) Bring an action at law and recover judgment against the Owner

personally obligated to pay the Assessment; and/or

- (b) Foreclose the Assessment Lien against the Lot or Parcel in accordance with the then prevailing Arizona Law relating to the foreclosures of realty mortgages (including the right to recover any deficiency).

7.11 Subordination of Assessment Lien to First Mortgage or Deed of Trust; Priority of Assessment Lien. The Assessment Lien shall be subordinate to any first mortgage or deed of trust on the affected Lot or Parcel. The Assessment Lien shall also be subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the priority of any Assessment Lien relates back to the date of recordation of this Declaration and each Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon any Lot or Parcel. Sale or transfer of any Lot or Parcel shall not affect the Assessment Lien unless the sale or transfer is pursuant to foreclosure of a first mortgage or first deed of trust or pursuant to any trustee's sale or any proceeding in lieu thereof. In that case, the purchaser at the mortgage foreclosure or deed of trust sale or any grantee taking by deed in lieu of foreclosure shall take the Lot or Parcel free of the Assessment Lien for all Assessments that have accrued up to the date of the issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure. Such purchaser or grantee, however, shall be liable for all Assessments and associated Assessment Liens accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure.

7.12 Surplus Funds. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Assessments, fees or otherwise), 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 surpluses as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes

7.13 Financial Reports. Not later than ninety (90) days after the commencement of each fiscal year, or thirty (30) days following the date upon which the Association's tax returns for the previous fiscal year have been filed, whichever is later, the Association shall make available to Owners for inspection, either at the Association's regular place of business, or by electronic means, a copy of the previous year's financial statements and the current year's budget. In addition thereto, the Association shall have performed by an independent auditor/certified public accountant, an annual financial audit, review or compilation of the Association. The audit, review or compilation shall be completed no later than one hundred eighty (180) days after the end of the Association's fiscal year and shall be made available upon request to the Owners within thirty (30) days after its completion.

7.14 Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or make available to each Owner an assessment notice or financial reports shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments

on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

ARTICLE 8

ARCHITECTURAL REVIEW COMMITTEE

8.01 Approval of Plans. Approval of Plans. No improvement portion of the Property unless and until detailed plans and specifications (including site plans) showing the proposed nature; location; identity, type, and quality of proposed materials; size; area; height; color; shape; and design of the proposed Improvements, as well as any other matters required by this Declaration or by the architectural standards described in Section 8.04 below, have first been approved by the Architectural Review Committee and, if applicable, by an architectural review committee of the subdivision (the "ARC Subcommittee") in which the proposed Improvements are to be erected. The Architectural Review Committee and the ARC Subcommittee, if any, may consider the location of conditions such as unstable slopes subject to boulder rolling, rockfalls or landslides, bedrock areas, slopes of fifteen percent (15%) or greater and shallow, rocky mountain soils subject to severe erosion in reviewing plans for proposed Improvements. **Notwithstanding the foregoing, the then-current owner of the Golf Course Property shall be entitled, subject only to City of Scottsdale approval, to transfer Natural Area Open Space ("NAOS") credits to lots within the Property.**

8.02 Establishment. The Architectural Review Committee shall be a committee of the Association, which shall consist of three (3) members appointed by the Board. The members of the Architectural Review Committee need not be architects and do not need to possess any special qualifications. Prior to the Turnover Date, members need not be Owners. From and after the Turnover Date, members must be Owners. Architectural Review Committee members shall serve for a term of one (1) year and may be reappointed. The Architectural Review Committee, with the advice and consent of the Board, may engage such professional services as are reasonably necessary to facilitate the Committee's discharge of its duties.

8.03 Meetings. The Architectural Review Committee shall hold regular meetings. A quorum for such meetings shall consist of a majority of the committee members, and the affirmative vote of a majority of such members shall be necessary for any decision of the Architectural Review Committee. The Architectural Review Committee shall keep and maintain a record all actions taken at its meetings. The Architectural Review Committee may take action without a meeting by means of written consents signed by a majority of the then-current members of the Architectural Review Committee.

8.04 Architectural Standards and Committee Procedures. The Architectural Review Committee and the ARC Subcommittee, if any, shall promulgate written

architectural standards and Architectural Review Committee/ARC Subcommittee procedures to be followed by Owners in preparing and submitting plans and specifications and to be used by the Architectural Review Committee in reviewing plans and specifications for proposed Improvements, in rendering its decisions and otherwise performing its functions under this Declaration. The standards and procedures adopted from time to time by the Architectural Review Committee must be approved by the Board prior to their implementation and once approved by the Board in the manner described in Section 5.04 of this Declaration, shall be effective as Association Rules. Within ten (10) business days following the adoption of any such procedures by the ARC Subcommittee, the ARC Subcommittee shall provide a copy of such procedures to the Architectural Review Committee. Any procedures adopted by the Architectural Review Committee and/or the ARC Subcommittee must include, but not be limited to, a provision which requires the Architectural Review Committee to refer all plan and specification submissions which may be subject to an ARC Subcommittee review, to the board of directors having jurisdiction over such Subcommittee within five (5) business days following the Architectural Review Committee's receipt thereof; and, a provision which requires the ARC Subcommittee to provide the Architectural Review Committee with its input not later than fifteen (15) business days following its receipt of the subject plans and specifications; and a provision which deems there to be no comment from the ARC Subcommittee if the Subcommittee fails to respond within such fifteen (15) business day period; and, a provision which states that in the event of a conflict between the Architectural Review Committee and the ARC Subcommittee on any matter involving approval or denial issues, the more restrictive requirement will prevail. Subject to the provisions of Section 8.05 of this Declaration, the collective decision of the Architectural Review Committee and the ARC Subcommittee, if any, shall be final on all matters submitted to it pursuant to this Declaration. Architectural standards and Architectural Review Committee and ARC Subcommittee procedures shall not be inconsistent with the terms of this Declaration and if there are any inconsistencies, the provisions of this Declaration shall control.

8.05 Appeal to Board. Any Owner or Occupant dissatisfied by a decision of the Architectural Review Committee may appeal the decision to the Board in accordance with procedures established by the Board. If the decision of the Architectural Review Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Review Committee shall be deemed modified to the extent specified by the Board.

8.06 Fee. The Board may establish a reasonable processing fee to defray the costs of the Architectural Review Committee in considering requests for approvals submitted to it. The appropriate fee shall be paid at the time the request for approval is submitted.

8.07 Compensation; Delegation. Unless authorized by the Board, the members of the Architectural Review Committee shall not receive any compensation for services rendered. All members shall be entitled to reimbursement from Association funds for reasonable expenses incurred by them in connection with the performance of

any Architectural Review Committee function or duty. Professional consultants retained by the Architectural Review Committee shall be paid such compensation as the Architectural Review Committee determines. The Architectural Review Committee may delegate its plan review responsibilities, except final plan approval, to one or more of its members or to architectural consultants retained by the Committee.

8.08 Non-Liability. Neither the Association, the Board members, Declarant, nor any member of the Architectural Review Committee shall be liable for damages to anyone submitting plans to them for approval or to any Owner or other person by reason of mistake in judgment, negligence or nonfeasance arising out or in connection with the approval or disapproval or failure to approve any plans submitted to the Architectural Review Committee and each Owner or other person submitting plans agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Architectural Review Committee, any member thereof, the Association, the Board members, or Declarant to recover damages. Approval by the Architectural Review Committee, any member thereof, the Board or Declarant shall not be deemed to be a representation or warranty that the Owner's plans or specifications or the actual construction of an Improvement complies with the applicable governmental ordinances or regulations, including, but not limited to, zoning ordinances and local building codes. It shall be the sole responsibility of the Owner or other person submitting plans to the Architectural Review Committee or performing any construction to comply with all such ordinances, regulations, and codes.

ARTICLE 9

ENFORCEMENT

9.01 Rights of Enforcement. Declarant, any Owner and the Association each shall have the right to enforce the provisions of this Declaration. In addition, the Association and Declarant shall each have the right to enforce the provisions of any other instrument which, by its terms, indicates that the provisions of such instrument were intended to be enforced by the Association or by Declarant. For the purposes of this Declaration, Enforcement shall include, without limitation, the right to proceed against any person, persons or entity, violating, or attempting, or threatening to violate any provision(s) of this Declaration, or other instrument which, by its terms, indicates that the provisions of such instrument were intended to be enforced by the Association or by Declarant, whether or not such violation, or attempted or threatened violation, results from an isolated act or event, or is continuing, occasional, completed, or, suspended, temporarily or otherwise. Enforcement shall be undertaken in accordance with the provisions of Article 16 herein.

9.02 Enforcement of Declaration by Neighborhood Association. This Declaration may be enforced by any Neighborhood Association, provided that the Neighborhood Association's board has first tendered, in writing, enforcement of this

Declaration to the Association, and the Troon North Association Board has failed to commence, or advise of its intent to commence, enforcement within thirty (30) days following the tender of enforcement. Neighborhood Associations shall have the right, but not the duty to enforce this Declaration. Any such enforcement undertaken by a Neighborhood Association shall be undertaken in accordance with Article 16 of this Declaration by proceeding against any person, persons, or entity violating, or attempting, or threatening to violate any provision of this Declaration. In order to preclude the potential of the imposition of duplicate penalties by both the Neighborhood Association and the Troon North Association for a violation of this Declaration, the imposition of penalties by the Neighborhood Association shall be coordinated with the Troon North Association. To that end, if, after a hearing, the Neighborhood Association intends to impose a penalty, the Neighborhood Association shall notify the Troon North Association, in writing, to advise it as to the Neighborhood Association's intent. If, within ten (10) business days' following the date of the written notice The Troon North Association does not object, the Neighborhood Association shall be entitled to impose the penalty. Notwithstanding the foregoing, if, at any time, it is determined that a duplicate penalty has been imposed (i.e., penalties imposed by both the Neighborhood Association and the Troon North Association for the same violation, regardless of the amount of each penalty), the penalty imposed by the Neighborhood Association shall be rescinded and any amounts paid by the violator to the Neighborhood Association shall be refunded to the violator within sixty (60) days, unless another course of action is mutually agreed upon, in writing, by the Neighborhood Association and the Troon North Association within such sixty (60) day period.

9.03 Waiver of Abandonment. The waiver of, or failure to enforce any breach or violation, or threatened or attempted breach of violation, of any provision of this Declaration shall not be deemed to be a waiver or abandonment of such provision, or a waiver of the right to enforce such breach or any subsequent breach or violation of such provision. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce this Declaration) had knowledge of the breach or violation.

ARTICLE 10

EASEMENTS AND ACCESS RIGHTS

10.01 Easements. The following easements over the Property are hereby reserved over all Lots and Parcels of the Property:

- (a) **Utility and Drainage Easements.** Easements in favor of Declarant and the appropriate public utilities for the installation and maintenance of electric, telephone, cable television, water, gas, and sewer or similar lines, pipes and facilities, as may be required or appropriate to service any Lot or Parcel or as may otherwise be required by law.

- (b) Construction and Maintenance Easements. Easement in favor of Declarant for the purpose of construction, repairing and maintaining all Improvements upon the Common Areas.
- (c) Maintenance and Repair of Common Areas. Easements in favor of the Association for the purpose of maintaining and repairing Improvements on the Common Areas that are located within the boundaries of Lots or Parcels.

The foregoing easements, other than the Easements referenced in Section 10.01 (c), shall terminate, as to Lots, at the time of recordation of a subdivision plat creating the Lots, to the extent such easements are not expressly set forth on the subdivision plat or in another recorded instrument approved and signed by the Owner of the Lots.

10.02 Access. During reasonable hours and upon reasonable notice to the Owner or other Occupant of a Lot or Parcel, Declarant, any member of the Architectural Review Committee, any member of the Board, or an authorized representative of either, shall have the right to enter upon and inspect any Lot or Parcel, and the Improvements thereon, except for the interior portions of any completed residence or business space, for the purpose of determining whether or not the provisions of this Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

ARTICLE 11

TERM; AMENDMENTS; TERMINATION

11.01 Term; Method of Termination. This Declaration shall be effective upon the date of recordation and, as amended from time to time, shall continue in full force and effect for the term of fifty (50) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners holding at least ninety percent (90%) of the total voting power in the Association at an election held for such purpose within six (6) months prior to the expiration of the initial fifty (50) year term or any ten (10) year extension period. Anything in the foregoing to the contrary notwithstanding, no vote to terminate this Declaration shall be effective unless and until the written consent to such termination has been obtained from the holders of recorded first mortgages or deeds of trust on sixty-seven percent (67%) of the Lots and Parcels upon which there are such recorded first mortgages and deeds of trust. If the necessary votes and consents are obtained, the Board shall cause to be recorded a Certificate of Termination, duly signed and acknowledged by the president or vice-president and attested by the secretary or assistant secretary of the Association, with their signatures acknowledge. Thereupon, this Declaration shall have no further force

and effect, and the Association shall be dissolved.

11.02 Amendments. Prior to the Turnover Date, the Declaration may be amended by majority vote of the Board at a meeting of the Board duly called pursuant to the Articles and Bylaws for the adoption of the amendment. After the Turnover Date, the Declaration may be amended by the affirmative vote of Owners holding at least sixty-seven (67%) of the total voting power in the Association at a meeting of the Association duly called pursuant to the Articles and Bylaws for the adoption of the amendment. The Declaration may be amended by recording a comprehensive Restated Declaration of Covenants, Conditions and Restrictions for Troon North, pursuant to the following requirements: So as to ensure that the Declaration and all amendments thereto are included in a single document, each amendment hereafter the date of this Restated Declaration shall be adopted and recorded as a comprehensive Restated Declaration which shall set forth the entire Declaration, as amended, with the new amendment(s) included in the then-current Restated Declaration highlighted in **bold typeface.** Commencing with the adoption and recordation of the first amendment to this Restated Declaration, such document shall be entitled, "Second Restated Declaration of Covenants, Conditions and Restrictions for Troon North", and each subsequent Restated Declaration shall include reference to its appropriate sequencing, i.e., Third, Fourth, Fifth, etc., as is appropriate. Such Restated Declaration shall be duly signed and acknowledged by the Declarant, or president or vice-president and attested to by the secretary or assistant secretary of the Association, as is appropriate.

11.03 Tract Declarations. Amendments to and revocations of Tract Declarations shall be subject to the provisions of Section 2.02 of this Declaration.

11.04 Parcel "N" Amendments. The Declaration may not be further amended with respect to Parcel "N" without the express written consent of the owner or owners of Parcel "N".

11.05 Adoption of Additional Parcel "N" Restrictions. The owner or owners of Parcel "N" may, without the consent of the Declarant or the Association, adopt covenants, conditions and restrictions for Parcel "N", provided that such covenants, conditions and restrictions do not conflict with the Declaration, as it applies to Parcel "N".

11.06 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.

ARTICLE 12

ANNEXATION OF ADDITIONAL PROPERTY

12.01 Annexation. Prior to the Turnover Date, Declarant may, without the approval, assent or vote of any other Owner, annex other unimproved real property located in the general vicinity of the Property to the property covered by this Declaration. After the Turnover Date, unimproved real property located in the general vicinity of the Property may be annexed to the Property with the assent, approval or affirmative vote of Owners holding at least sixty-seven percent (67%) of the total voting power in the Association.

12.02 Supplementary Declaration. The annexations authorized under the foregoing Section 12.01 shall be made by recording a supplemental declaration of covenants, conditions and restrictions, or similar instrument, with respect to the annexed property. The recordation of said supplemental declarations shall constitute and effectuate the annexation of the annexed property, making the annexed property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter the annexed property shall be part of the Property and all of the Owners of Lots and Parcels in the annexed property shall automatically be members of the Association.

ARTICLE 13

EXEMPTIONS

13.01 Government Property Exemption. All land and improvements owned by or dedicated to and accepted by the United States, the State of Arizona, Maricopa County, the City of Scottsdale, or any other subdivision thereof, shall be exempt from the provisions of this Declaration so long as such ownership and/or dedication remains in effect.

13.02 Parcel "N" Exemption. Parcel "N", as described on Exhibit "F" attached hereto, is hereby exempt from the following provisions of the Declaration: all of Article 2, all of Article 3, all of Article 4, all of Article 5, and all of Article 8. The foregoing provisions of the Declaration shall not apply to Parcel "N".

13.03 Parcels "M", "O" Exemptions. Provided Parcels "M", "O" and "Q", as described on Exhibits "G", "H", and "I" respectively, are not zoned for residential use, such Parcels are hereby exempt from the following provisions of the Declaration: all of Article 2, all of Article 3, all of Article 4, all of Article 5, and all of Article 8. The foregoing provisions of the Declaration shall not apply to Parcels "M", "O", and "Q", unless said Parcels are zoned, at any time, for residential use.

13.04 Parcel "W" Exemptions. Due to the unique characteristics of Parcel "W", as described on Exhibit "J" attached hereto, the following provisions of this Declaration shall be applied to Parcel "W", as follows: (a) when applied to Parcel "W", all references to the Hillside Ordinance in this Declaration, and the Architectural

Standards and Procedures, shall instead be deemed to refer to the City of Scottsdale's Environmentally Sensitive Lands II Ordinance (the "ESLIIO"); (b) variances under Section 4.31 of this Declaration shall be liberally granted with regard to Parcel "W"; and, (c) Parcel "W" shall be exempt from certain provisions of the Architectural Standards and Procedures, as amended from time to time, and subject to certain other restrictions, in accordance with that certain Supplemental Declaration of Covenants, Conditions and Restrictions for Troon North, dated 8 January 2004, and recorded as Document No. 2004-0020921, Records of Maricopa County, Arizona.

ARTICLE 14

MISCELLANEOUS

14.01 Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions of this Declaration shall be final, conclusive and binding as to all persons and property benefitted or bound by the provisions of this Declaration. Notwithstanding anything to the contrary in the Declaration, in any circumstance in which the review or approval of the Board or the Architectural Review Committee is required, the Board or the Architectural Review Committee, as the case may be, shall not unreasonably withhold or delay its review or approval.

14.02 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 of this Declaration, and such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable.

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

14.04 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.

14.05 Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, Declarant makes absolutely no warranties, representations or agreements whatsoever that the plans presently envisioned for the

development of Troon North, in whole or in part, can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (if any) use, or that if such land is once used for a particular use, such use will continue in effect.

14.06 Limitations on the Declarant's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed that Declarant shall have no personal liability to the Association, or to any Owner, Occupant or other person, arising under, in connection with, or resulting from this Declaration. Furthermore, any use made, or action undertaken, by Declarant on or before the Turnover Date which is contrary to the provisions of this Declaration shall be deemed to be a grandfathered and vested right of Declarant from and after the Turnover Date and not subject to any enforcement action or proceeding.

14.07 Reference to Covenants in Deeds; Binding Effect. Deeds to and instruments affecting any Lot or Parcel or any part of the Property may contain the provisions of this Declaration 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 run with and burden the Property and each portion thereof and be binding upon each Owner and Occupant and all other parties having any right, title, or interest in, or otherwise coming upon, using, or enjoying the Property, their heirs, personal representatives, executors, administrators, successors and assigns.

14.08 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.

14.09 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 deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

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

14.11 Restriction of Property for Use as a Golf Course. For a period of not less than thirty (30) years following 20 December 1990, the Golf Course Property shall be restricted for use as an 36-hole golf course and related activities; provided, however, Declarant reserves the right to conduct tournaments or other promotional events on the Golf Course Property and construct on and use portions of the Golf Course Property for roadways

(either public or private), maintenance facilities or such other improvements as are deemed reasonably necessary by Declarant in connection with the development of the Property. If a membership program or concept is initiated with respect to the Golf Course Property, any available memberships shall first be offered to Owners on the same terms and conditions as such memberships will be offered to the general public and Owners shall have not less than thirty (30) days in which to purchase such available memberships prior to such memberships being offered to the general public.

14.12 Amenity Use Agreement. On 11 May, 1994, an Amenity Use Agreement was entered into by and between Troon North Golf Company and Diamond Land Investments, L.C., which, among other things, may entitle the Owners of real property within the Resort Property to certain preferential rights as to a percentage of the tee times available for the Golf Course Property. The Amenity Use Agreement shall be deemed incorporated in this Declaration by reference. The Declarant, the Association and any Owner, and their respective successors and assigns, shall be subject to, and shall not interfere with, the terms, conditions and rights granted in the Amenity Use Agreement.

14.13 Golf Course Activities. Every Lot, Parcel and the Common Area and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Lots, Parcels, or common property of a neighborhood and/or subdivision and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a neighborhood/subdivision, or the exterior portions of a Lot to retrieve errant golf balls; provided, however, if any Lot or Parcel is fenced or walled, the golfer shall seek the Owner's permission before entry. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant; the Association or its Members (in their capacity as such), the Board, officers of the Association, the management company of the Association; the owner(s) of the Golf Course, or its successors, successors-in-title to the Golf Course, or assigns; any successor Declarant; or any builder or contractor (in their capacities as such).

ARTICLE 15

PARCEL "N" / "ADDITIONAL PROPERTY" RESTRICTIONS

15.01 Restrictions. Parcel "N" shall be held, transferred, sold conveyed, leased, occupied and used subject to the following covenants, conditions and restrictions. Such provisions shall apply only to Parcel "N" and shall not effect any other parcel of the Property.

15.02 Definitions.

- (a) "Retail Parcel" shall refer to Parcel N of Troon North, as more particularly described on Exhibit "F" hereto.
- (b) "Site Plan" shall refer to the Site Plan for Phase One approved January 21, 2000 by the Design Review Board for the City of Scottsdale.

- (c) "Tenant" shall refer to any person, business, corporation, partnership or any other entity or group, leasing building space or land in the Retail Parcel

15.03 Location. There shall be no changes in the general location of the building envelopes from that shown on the Site Plan.

15.04 Use. The buildings shall be used for commercial purposes of the type usually found in a retail shopping center, provided that no buildings shall be used, in whole or in part, for a bowling alley, skating rink, pool hall, billiard room, game parlor, health or aerobic spa in excess of 9,000 square feet, adult entertainment or book store, or dance hall. No Tenant shall allow any excess noise, obnoxious odor or unruly behavior by its employees, invitees, guests, customers or agents, at any time.

15.05 Parking. The parking areas on the Retail Parcel, as designated on the Site Plan, shall be for the exclusive use of the Parcel "N" Declarant, Tenants and any guests, employees, invitees, customers and agents of the Parcel "N" Declarant or Tenants. The designation of specially identified and restricted parking shall be at the sole discretion of the Parcel "N" Declarant and any restricted or designated parking shall be properly marked by the Parcel "N" Declarant or its agent. In any event, all open and accessible driveway areas of the Retail Parcel shall be available to all Tenants, their guests, customers, invitees, employees and agents. The Parcel "N" Declarant reserves the right to assign specifically assigned areas for employee parking and partial reserved valet parking.

15.06 Outside Sales/Display/Use. In any area of the Retail Parcel, there shall be no outside sales, displays, temporary signage, solicitation, distribution of products or promotional items or materials or vending, without the written permission of the Parcel "N" Declarant. No private or restricted use of any of the common area of the Retail Parcel shall be allowed without the written permission of the Parcel "N" Declarant, which permission shall be at the sole discretion of the Parcel "N" Declarant. The Parcel "N" Declarant and the Parcel "N" Declarant only shall be allowed to install any holiday decorations or lighting.

15.07 Effect. These These general covenants, conditions and restrictions shall remain in full force and effect for a period of sixty (60) years from 25 July 2000. Thereafter, these general covenants, conditions and restrictions shall be automatically renewed annually unless and until terminated by a recorded instrument, signed and acknowledged by the then Parcel "N" Declarant.

15.08 Invalidation. Invalidation of any one or more of these general covenants, conditions and restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

15.09 Amendment. Any of the general covenants, conditions and restrictions imposed by this instrument may at any time or times be amended by a recorded instrument, signed and acknowledged by the Parcel "N" Declarant and the current Manager

or Administrator of the Troon North Association.

15.10 Design Criteria. Any architectural matters, relating to design, color palate, signage, size of buildings, site layout, use, tenants and hours of operations, shall be determined by the final approval of the Design Review Board of the City of Scottsdale, under the then approved guidelines and criteria established by the City of Scottsdale. Any matters outside those guidelines or approvals shall be subject only to the sole and separate approval of the then Parcel "N" Declarant.

ARTICLE 16

DISPUTE RESOLUTION

16.01 Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons and entities subject to this Declaration (including Owners, their family members and tenants, and Neighborhood Associations), and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "**Bound Parties**") agree to encourage the amicable resolution of disputes involving the Property (including all Lots and Parcels), the Declaration, the Articles of Incorporation, the Bylaws, the Association Rules, the Architectural Review Committee Standards and Procedures, any document promulgated pursuant to the foregoing documents, the Declaration of Covenants, Conditions and Restrictions of any Neighborhood Association, any Neighborhood Association Articles of Incorporation, Bylaws, Rules, Regulations, Guidelines, Standards, and any document promulgated pursuant thereto (collectively, the "Governing Documents"), without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances, controversies, disagreements or disputes collectively described in this Section ("**Claims**") shall be resolved using alternative dispute resolution procedures in lieu of filing suit in any court.

16.02 Claims. Unless specifically exempted in this Article 16, all Claims arising out of or relating to: (i) the interpretation, application or enforcement of the Governing Documents; or, (ii) the failure of the Declarant, the Association or the Board to properly conduct elections, give adequate notice of meetings, properly conduct meetings, allow inspection of books and records, or establish adequate reserve funds; or (iii) the authority of the Association or the Board to take or not take any action under the Governing Documents; or (iv) the performance or non-performance by any Bound Parties of any of the respective obligations or responsibilities under the Governing Documents to or on behalf of any other Bound Parties; or (v) the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of Improvements on the Property shall be subject to the provisions of Section 16.03.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 16.03:

- (a) **other than a proceeding to perfect a lien for reasonable**

monetary penalties, or a proceeding to collect delinquent assessments, any action or suit by the Association to foreclose any lien in favor of the Association, **if permitted by applicable law,** or to determine the priority of any lien for assessments as **such lien relates to other liens or encumbrances in favor of individuals and/or entities who are not Bound Parties;**

- (b) any suit by the Association solely to obtain a temporary restraining order (or emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce, under Section 16.03, the provisions of Article 4 (Use Restrictions) and Articles 8 (Architectural Review Committee);
- (c) any action taken arising out of any separate written contract between Owners, between Declarant and any Owner, or between Declarant and any Builder that would constitute a cause of action under the laws of the State of Arizona in the absence of the Governing Documents;
- (d) any claim, grievance, controversy, disagreement or dispute that primarily involves (i) title to any Lot, Parcel or Common Area, (ii) the interpretation or enforcement of any express or implied warranty made in connection with the sale of a Lot or Parcel; and, (iii) the eviction of a tenant from a Lot or Parcel;
- (e) any action taken arising out of any separate written contract between Owners, between Declarant and any Owner, or between Declarant and any Builder that would constitute a cause of action under the laws of the State of Arizona in the absence of the Governing Documents;
- (f) any suit in which any indispensable party is not a Bound Party; and
- (g) any suit as to which any applicable statute of limitations would expire within 30 days of giving the Notice required by Section 16.03(a) unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

16.03 Mandatory Procedures.

- (a) Notice/Commencement of Mediation. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing and provide a copy to the Mediator/Arbitrator (as defined below), and to the Board (the "Notice"), stating plainly and concisely:
 - (i) the nature of the Claim, including the date, time, location,

persons involved and Respondent's role in the Claims;

- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
 - (iii) Claimant's proposed remedy; and
 - (iv) Proposing at least three dates and times for an initial conciliation meeting of the Parties to discuss early resolution of the Claim.
- (b) The Parties shall use their best efforts to meet in person to discuss the Claims as part of the conciliation meeting set forth above in Section 16.03(a)(iv).
 - (c) If the conciliation process is not successful in resolving the Claim, the Parties agree to mediate the claim with a mutually agreeable mediator before a Claim is filed in a court of competent jurisdiction or administrative agency with jurisdiction
 - (d) In no event shall any Claim be asserted after the date when institution of legal or equitable proceedings based upon such Claim would be barred by the applicable statute of limitations.

IN WITNESS WHEREOF, the Association has executed this Declaration as of the day and year first above written.

The "ASSOCIATION"

TROON NORTH ASSOCIATION, an
Arizona nonprofit corporation

By: Harold Nedy
Its President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 1 day of June, 2021, by Harold Nidetz, the President of TROON NORTH ASSOCIATION, an Arizona nonprofit corporation, on behalf of the corporation.

Ryan Udell

Notary Public

My commission expires:
12-29-24



