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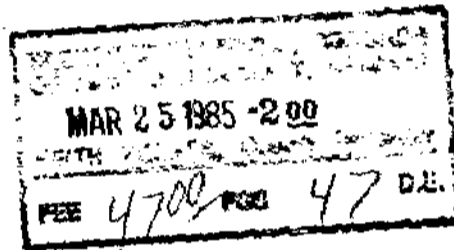
SECURITY TITLE AGENCY

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When recorded mail to:
Pinnacle Peak Land Co.
8787 E. Pinnacle Peak Rd.
Scottsdale, AZ 85255



DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PINNACLE PEAK VILLAGE NORTH

85 128823

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PINNACLE PEAK VILLAGE NORTH

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 3 day of March, 1985, by NELSON DEVELOPMENT COMPANY, an Arizona corporation ("NDC") and IPINA INVESTMENTS N.V., a Netherlands Antilles corporation formed in Curacao ("Ipina").

RECITALS:

A. NDC and Ipina are the owners of real property located in Scottsdale, Maricopa County, Arizona, and legally described on Exhibit A to this Declaration (the "Property"). Ipina owns that portion of the Property which is described on Exhibit B to this Declaration (the "Ipina Property").

B. NDC intends, without obligation, in conjunction with others, including Ipina, its successors and assigns, to develop the Property, in stages, as a first-class planned community to be called Pinnacle Peak Village North.

C. ^{Unofficial Document} NDC and Ipina deem it desirable to establish covenants, conditions and restrictions upon the Property which will constitute a general scheme for the government of Pinnacle Peak Village 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 Pinnacle Peak Village North.

D. In order to preserve the value, desirability and attractiveness of the Property, NDC intends to create a corporation, to be known as the Pinnacle Peak Village North Association, which shall 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 and as shall generally benefit the Property.

NOW, THEREFORE, NDC and Ipina hereby declare and agree 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:

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 to be 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 that portion of a 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 the Bylaws of the Association, as they may be amended from time to time.

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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 NDC 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. Ipina has joined in this Declaration for the sole purpose of subjecting the Ipina Property to this Declaration; however, Ipina shall not be considered a Declarant and shall not be entitled to exercise any of the rights and powers delegated to the Declarant pursuant to this Declaration.

1.12 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for Pinnacle Peak Village 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 The Valley National Bank of Arizona, a national banking association, Phoenix, Arizona, from time to time while interest is accruing (with interest being adjusted as and when the prime rate is adjusted) plus four (4) percentage points, Unofficial Document 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 The Valley National Bank of Arizona 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 "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.

1.15 "Ipina" means Ipina Investments N.V., a Netherlands Antilles corporation formed in Curacao.

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1.16 "Ipina Property" means the real property described on Exhibit B to this Declaration.

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

1.18 "NDC" means Nelson Development Company, an Arizona corporation.

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 ^{Unofficial Document} Owner shall include each person who holds title to a Lot or Parcel in joint tenancy, tenancy in common, as community property, or in other form of joint ownership. An Owner shall also include any homeowners' or property owners' association, trust, 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 residences share 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 owners' association or like association shall also be considered a separate Parcel.

1.22 "Property" means the real property described on Exhibit A 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 perim-

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

1.25 "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 in writing.

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 4.23 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.

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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 total Association voting power with respect to the property subject to that Tract Declaration which is not owned by 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 ^{Unofficial Document} of any other Owner, to modify or amend the existing Pinnacle Peak Village 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 Pinnacle Peak Village North Master Plan would materially alter that Master Plan as it relates to a portion of the Property no longer owned by Declarant, the prior written consent to such amendment or modification shall be required from Owners holding at least fifty-one percent (51%) of the total Association 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 Declarant, the

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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 thereon, 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 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 easement (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 on such Lot or Parcel as if such Restricted Common Area Unofficial Document not designated as Common Area, subject, however, to all of the provisions of this Declaration applicable to Lots and Parcels generally, and this exclusive easement 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 and pay expenses incurred in connection with the Common Areas;
- (b) Dedicate, 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

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Common Area and the 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

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USE RESTRICTIONS

4.01 Construction Activities. Normal and reasonable construction activities and parking in connection with an Improvement on 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. 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. 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 placement on the Parcel, number of trailers permitted, and

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exterior appearance of the trailer (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 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 Pinnacle Peak Village 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.

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 ^{Unofficial Document} 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. 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 33-439, as amended, then compliance with the requirements of this Section, as to a solar energy device, shall be required only to the extent reasonably consistent with the installation and use of the device.

4.05 Signs. 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; or
- (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 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 the night-time views of the desert, surrounding mountains and the valley below. Lighted entry pylons at the entrance to each driveway Unofficial Document including lighted identification of the address, shall be required of each Owner as part of any Improvement to the Lot or Parcel. The entry pylons must be illuminated from sunset to sunrise.

4.07 Storage Tanks. All fuel tanks, water tanks, or similar storage facilities shall be installed or constructed underground.

4.08 Height Restrictions.

- (a) The maximum permitted height for any single-family residential Improvement within the Property, excluding any chimneys, is twenty (20) feet, 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

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constructed on a sloping Lot, the visible portion of the Improvement may extend a maximum of ten (10) feet below the highest pre-construction natural grade within the perimeter of the Improvement.

- (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 is thirty (30) feet, 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 Parcel, the visible portion of the Improvement may extend 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 buildings, Unofficial Document and no chimney is more than two (2) feet higher than the highest point of the roof of the residence or building.
- (d) No Improvement having more than two (2) stories shall be permitted on the Property.
- (e) Vegetation elements of landscaping shall not be subject to the height restrictions on Improvements set forth in this Section 4.08.

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. An Owner may seek prior written approval from the Board to park vehicles

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on the streets within the Property during special events such as social gatherings, 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. However, 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.

4.10 Garage Doors. Garage doors shall be maintained in a closed position during all reasonable times. No plastic or metal garage doors shall be permitted. A minimum of two (2) and a maximum of three (3) garage doors, either joined or separate, each of a maximum size eight (8) feet high by twelve (12) feet wide, shall be constructed on each Lot, except that if the area of the Lot is 65,000 square feet or more, the Architectural Committee may permit more than three (3) garage doors in garages on those Lots. 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 ^{Unofficial Document} view, as determined by the Architectural Review Committee.

4.11 Animals. No animal, other than dogs or cats, shall be maintained on any Lot or Parcel except as otherwise provided in a Tract Declaration. Not more than four (4) animals shall be permitted 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 a 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. 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 approved by the Architectural Review Committee. No flag

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poles over fifteen (15) feet high shall be erected, used or maintained on any Lot or Parcel.

4.13 Clothes Drying Facilities. Outside clothes-lines 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 are 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 hours 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 Unofficial Document 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 Owners or Occupants of such other property. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot or Parcel.

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 view of neighboring properties Unofficial Document 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 Diseases and Insects. No Owner shall permit any thing 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 or attractiveness of Pinnacle Peak Village North, the Board may make rules restricting or regulating such uses, activities and facilities. Such rules, when adopted in the manner provided in

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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 permitted by Article 2 of this Declaration) shall be recorded, modified or revoked by any Owner or other person with respect to any Parcel unless the Board has first approved the plat, 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 the horizontal property regime. Any plat, horizontal property regime, or covenants, conditions or restrictions (or revocation or modification thereof) recorded in violation of this Section shall be absolutely ^{Unofficial Document} 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 and any applicable Tract Declaration shall be and remain superior to any such plat, horizontal property regime, or covenant, condition or restriction.

4.23 Formation of Associations. No homeowners' association, property owners' 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. Any and all modifications to such articles or bylaws shall also require the prior approval of the Board.

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

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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 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, 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 ^{Unofficial Document} 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.

4.30 Single-Family Occupancy; Tenants. 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. 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.

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 either (i) enforcement of a particular restriction would create a substantial hardship or burden on an Owner or Occupant, or (ii) a change of circumstances 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 within Pinnacle Peak Village North and is consistent with the high quality of life intended for residents of Pinnacle Peak Villa (Unofficial Document).

ARTICLE 5

ASSOCIATION

5.01 Formation of Association. The Association shall be a non-profit Arizona corporation, to be known as Pinnacle Peak Village North Association. Declarant has the exclusive right to incorporate the Association. The Association shall have only the powers and duties prescribed 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 an inconsistency, the provisions of this Declaration shall control over the inconsistent provisions of the Articles or Bylaws.

5.02 Powers and Duties. Subject to the restrictions and limitations contained in this Declaration, in

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conducting its business, the Association shall have the same powers and duties as a private person under the laws of the State of Arizona 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 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 Association 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) The Association shall maintain at least \$1,000,000 (combined limits) of insurance 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.
- (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 Pinnacle Peak Village North.

- (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 Unofficial Document 1.
- (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. The affairs of the Association shall be conducted by a Board of Directors of at least three (3) but not more than five (5) 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. The initial Board shall be appointed by Declarant. Board members shall serve a term of one (1) year and may be appointed or elected to successive terms. Prior to the Turnover Date, all members of the

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Board shall be appointed by Declarant and such appointees need not be Owners. 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. The Board may also appoint various committees and may appoint a manager who shall be responsible for the day-to-day operation of the Master 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.

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. Among other things, the Association Rules may restrict and govern the use of any Common Area by any Owner or Occupant; 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) days following adoption, amendment or repeal of an Association Rule, the Board shall send each Owner a copy of the adopted or amended Association Rule or a notice of repeal, if an Association Rule has been repealed. 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 is given to or 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 of any committee of the Association, no officer of the Association, and no manager or other employee of the Association shall be personally liable to any Owner, or to any other person, including the Association, for any damage, loss or

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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.

ARTICLE 6

MEMBERSHIP AND VOTING

6.01 Membership. 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 Unofficial Document 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 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 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 joint Owners 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. No certificates of membership shall be issued, and memberships shall be evidenced by an official list of Owners kept by the secretary of the Association.

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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 feet, 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 a 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:

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- (i) One (1) vote for each residential condominium unit;
- (ii) One (1) vote for each 3,000 square feet, or fraction thereof, of space in a commercial or office condominium unit.

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 by devoting those funds solely to 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 interest at the Default Rate from the due date until paid, costs and reasonable attorneys' fees of the Association incurred in connection with enforcement and collection of any Assessment or in otherwise enforcing this Declaration, and any other costs or expenses stated in 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 each such Assessment is made (an "Assessment Lien"). Each Assessment, together with interest at the Default Rate, costs and reasonable attorneys' fees as

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described above, shall also be the personal obligation of the person who was the Owner of the Lot or Parcel on January 1st of a given year, with respect to the Regular Assessment for that year or, with respect to any other Assessment, on the date such Assessment was levied by the Board. 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 or 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.

7.04 Special Assessments. If the need for maintenance or repair of any Common Area is caused through the willful or negligent act of any Owner, his family, guests, invitees, or any other person or Occupant using the Common Area with the permission of the Owner, the cost 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 a 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, and notice shall be given to

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the Owner of the subject Lot or Parcel that unless corrective action is taken within fourteen (14) days of receipt of the notice, the Board may cause such action to be taken at the Owner's cost or the Board may commence appropriate legal action, whether at law or in equity, to compel compliance with this Declaration or the Tract Declaration. If, at the expiration of the 14-day notice, the requisite corrective action has not been taken, the Board shall have the right to cause corrective action to be taken and/or to commence appropriate legal action and all costs thereof, including court costs and attorneys' fees, shall bear interest from the date incurred 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.

7.05 Procedures Regarding Billing and Collections. Assessments shall be paid in monthly, quarterly, or annual installments, as determined by the Board and specified in 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 ^{Unofficial Document} payments received by it even though the ownership of a Lot or Parcel changes during a year. Successor Owners of Lots or 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 instalment thereof which is not paid when due shall be deemed delinquent and shall bear interest from the due date until paid at the Default Rate, and the Owner shall be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting the delinquent amount. 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 for the Association's cost in recording such Notice and otherwise processing the

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delinquency, and that fee shall 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 attorney's 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 shall be exempt from any Assessments pursuant to this Declaration, during such time as it is owned by the Association.

7.10 Association Remedies. 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 ^{Unofficial Document} 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 foreclosure 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

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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 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 ^{Unofficial Document} 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.

ARTICLE 8

ARCHITECTURAL REVIEW COMMITTEE

8.01 Approval of Plans. No Improvement shall be commenced, erected or maintained within any 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. The Architectural Review Committee 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

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shallow, rocky mountain soils subject to severe erosion in reviewing plans for proposed improvements.

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, Owners, or Occupants and do not need to possess any special qualifications. Architectural Review Committee members shall serve for a term of one (1) year and may be reappointed.

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 of all actions taken at its meetings.

8.04 Architectural Standards and Committee Procedures. The Architectural Review Committee shall promulgate written architectural standards and Architectural Review Committee 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. Subject to the provisions of Section 8.05 of this Declaration, the decision of the Architectural Review Committee shall be final on all matters submitted to it pursuant to this Declaration. Architectural standards and Architectural Review Committee 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 to be 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.

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8.06 Fee. The Board may establish reasonable processing fees to defray the costs of the Architectural Review Committee in considering any 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 ^{Unofficial Document} liable in 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 of 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 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

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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. Enforcement shall be by suit at law or in equity (for damages or injunctive relief); however, nothing contained in this Declaration shall be construed as indicating that damages are an adequate remedy. Additionally, the Association shall have the further enforcement rights, powers, and remedies set forth in this Declaration.

ARTICLE 10

EASEMENTS AND ACCESS RIGHTS

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

- (a) Utility and Drainage Easements. Easements in ^{Unofficial Document} favor of Declarant and the appropriate public utilities for the installation and maintenance of electric, telephone, cable television, water, gas, and sanitary sewer or similar lines, pipes and facilities, and for drainage 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. Easements in favor of Declarant for the purpose of construction, repairing and maintaining all Improvements upon the Common Areas.

The foregoing easements 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 a 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 seventy-five percent (75%) of the Lots and Parcels Unofficial Document 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 acknowledged. 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 seventy-five percent (75%) 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. This Declaration may be amended by recording a Certificate of Amendment, duly signed and acknowledged by the president or vice president and attested by the secretary or assistant secretary of the Association.

11.03 Tract Declarations. Amendments to and revocations of Tract Declarations shall be subject to the provisions of Section 2.02 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 seventy-five percent (75%) of the total voting power in the Association.

12.02 Supplementary Declarations. 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 Unofficial Document property and all of the Owners of Lots or Parcels in the annexed property shall automatically be members of the Association.

ARTICLE 13

EXEMPTION

13.01 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 subdivision thereof, shall be exempt from the provisions of this Declaration so long as such ownership and/or dedication remains in effect.

ARTICLE 14

MISCELLANEOUS

14.01 Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall

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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 benefited or bound by the provisions of this Declaration.

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 ^{Unofficial Document} 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 Pinnacle Peak Village 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 (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

14.06 Limitation 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,

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arising under, in connection with, or resulting from this Declaration.

14.07 References 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 Unofficial Document 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 to be 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 of 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.

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IN WITNESS WHEREOF, NDC and Ipina have executed this Declaration as of the day and year first above written.

NELSON DEVELOPMENT COMPANY,
an Arizona corporation

By *Jerry Nelson*
Its _____

IPINA INVESTMENTS, N.V.,
a Netherlands Antilles corporation
formed in Curacao

By *[Signature]*
Its Attorney-in-fact

Official Legalization

Seen for legalization of the foregoing signature recognized in our presence by

Unofficial Document
Mr. Hans Ulrich RINDERKNECHT, born 1920, Swiss citizen
of Zurich, residing 8640 Rapperswil, Zürcherstrasse 77,
-who is personally known to us-

Zurich, this 27th day of February 1985
B-Nr. 2186/k1
Fr. 3.--



Notariat Zürich (Altstadt)

[Signature]

Notar Stellvertreter

CONSENT

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The Valley National Bank of Arizona, a national banking association, as Beneficiary of that certain Construction Deed of Trust and Security Agreement, recorded August 9, 1984, as Instrument 84 349462, records of Maricopa County, Arizona, hereby consents to the foregoing Declaration and covenants and agrees that its interest in the Deed of Trust described above and in the Trust Estate, as that term is defined in the Deed of Trust, is subject and subordinate to the Declaration, except to the extent specifically provided in Section 7.11 of the Declaration. However, nothing contained in the foregoing Declaration shall be construed as in any way modifying or amending any document evidencing or securing the indebtedness secured by the Deed of Trust described above.

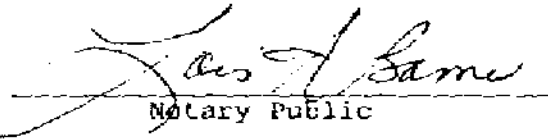
DATED: 2/22/85

THE VALLEY NATIONAL BANK OF ARIZONA,
a national Unofficial Document banking association

By Its Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 22nd day of February, 1985, by G. W. OLSON, the VICE PRESIDENT of THE VALLEY NATIONAL BANK OF ARIZONA, a national banking association, on behalf of the association.


Notary Public

My commission expires:

My Commission Expires July 31, 1987

11GRN0054

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EXHIBIT A (Page 1 of 4)Parcel No. 1:

The North half of the Northeast quarter of Section 28, Township 5 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT all minerals as reserved in the Patent recorded in Docket 304, page 447, records of Maricopa County, Arizona

Parcel No. 2:

That part of Section 28, Township 5 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the Southeast corner of said Section 28;
 thence South 89 degrees 55 minutes 53 seconds West along the South line of the Southeast quarter of said Section 28, a distance of 2,581.63 feet;
 thence North 25 degrees 50 minutes 00 seconds West, a distance of 157.13 feet;
 thence North 20 degrees 31 minutes 12 seconds East, a distance of 933.00 feet;
 thence North 11 degrees 54 minutes 10 seconds East, a distance of 3,009.76 feet to the South line of the North half of the Northeast quarter of said Section 28;
 thence North 89 degrees 50 minutes 02 seconds East along the South line of the North half of the Northeast quarter of said Section 28, a distance of 1,699.18 feet to the Southeast corner of the North half of the Northeast quarter of said Section 28;
 thence South 00 degrees 01 minutes 54 seconds East along the East line of the Northeast quarter of said Section 28, a distance of 1,319.44 feet to the East quarter corner of said Section 28;
 thence South 00 degrees 03 minutes 06 seconds East along the East line of the Southeast quarter of said Section 28, a distance of 2,638.70 feet to the Southeast corner of said Section 28 and the POINT OF BEGINNING;

EXCEPT from the Southwest quarter of the Northeast quarter and the Southeast quarter of the Southwest quarter of said Section 28 all coal and other minerals as reserved in the Patent recorded in Book 366 of Deeds, page 95, records of Maricopa County, Arizona; and also

EXCEPT all minerals in the balance of said land as reserved in the Patent recorded in Docket 304, page 447, records of Maricopa County, Arizona

Parcel No. 3:

That part of Section 30, Township 5 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County,

EXHIBIT A (Page 2 of 4)

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Parcel No. 3: (cont'd)

Arizona, described as follows:

BEGINNING at the North quarter corner of said Section 30;
 thence North 89 degrees 54 minutes 30 seconds East along the
 North line of the Northeast quarter of said Section 30, a
 distance of 781.11 feet to the intersection of the North
 line of the Northeast quarter of said Section 30 and the
 Northwest line of that 300 foot electric transmission
 line easement recorded in Docket 4275, page 111, records
 of Maricopa County, Arizona;

thence continuing North 89 degrees 54 minutes 30 seconds
 East along the North line of the Northeast quarter of
 said Section 30, a distance of 173.93 feet;

thence South 30 degrees 19 minutes 03 seconds West along a
 line 150 feet Southeasterly of and parallel to the
 Northwest line of said 300 foot electric transmission
 line easement, a distance of 1,896.03 feet to the West
 line of the Northeast quarter of said Section 30;

thence North 00 degrees 04 minutes 21 seconds East along the
 West line of the Northeast quarter of said Section 30, a
 distance of 297.80 feet to the intersection of the West
 line of the Northeast quarter of said Section 30 and the
 Northwest line of said 300 foot electric transmission
 line easement;

thence continuing North 00 degrees 04 minutes 21 seconds
 East along the West line of the Northeast quarter of said
 Section 30, a distance of 1,337.41 feet to the North
 quarter corner of said Section 30 and the POINT OF
 BEGINNING;

EXCEPT all minerals as reserved in the Patent recorded in
 Docket 304, page 447, records of Maricopa County, Arizona

Parcel No. 4:

That part of Section 33, Township 5 North, Range 5 East of the
 Gila and Salt River Base and Meridian, Maricopa County,
 Arizona, described as follows:

BEGINNING at the East quarter corner of said Section 33;
 thence North 85 degrees 58 minutes 42 seconds West along the
 South line of the Northeast quarter of said Section 33, a
 distance of 2,638.86 feet to the center of said Section
 33;

thence North 00 degrees 01 minutes 38 seconds West along the
 East line of the Southeast quarter of the Northwest
 quarter of said Section 33, a distance of 1,318.81 feet
 to the Northeast corner of the Southeast quarter of the
 Northwest quarter of said Section 33;

thence North 89 degrees 58 minutes 51 seconds West along the
 North line of the Southeast quarter of the Northwest
 quarter of said Section 33, a distance of 1,319.10 feet

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EXHIBIT A (Page 3 of 4)Parcel No. 4: (cont'd)

to the Northwest corner of the Southeast quarter of the Northwest quarter of said Section 33;

thence South 00 degrees 00 minutes 04 seconds West along the West line of the Southeast quarter of the Northwest quarter of said Section 33, a distance of 453.75 feet to the Northeast corner of the North 330 feet of the East 330 feet of the South 865 feet of the Southwest quarter of the Northwest quarter of said Section 33;

thence North 89 degrees 58 minutes 42 seconds West along the North line of the North 330 feet of the East 330 feet of the South 865 feet of the Southwest quarter of the Northwest quarter of said Section 33, a distance of 330 feet to the Northwest corner of the North 330 feet of the East 330 feet of the South 865 feet of the Southwest quarter of the Northwest quarter of said Section 33;

thence South 00 degrees 00 minutes 04 seconds West along the West line of the North 330 feet of the East 330 feet of the South 865 feet of the Southwest quarter of the Northwest quarter of said ^{Unofficial Document} Section 33, a distance of 330 feet to the Southwest corner of the North 330 feet of the East 330 feet of the South 865 feet of the Southwest quarter of the Northwest quarter of said Section 33;

thence South 89 degrees 58 minutes 42 seconds East along the South line of the North 330 feet of the East 330 feet of the South 865 feet of the Southwest quarter of the Northwest quarter of said Section 33, a distance of 330 feet to the Southeast corner of the North 330 feet of the East 330 feet of the South 865 feet of the Southwest quarter of the Northwest quarter of said Section 33;

thence South 00 degrees 00 minutes 04 seconds West along the West line of the Southeast quarter of the Northwest quarter of said Section 33, a distance of 535 feet to the Southwest corner of the Southeast quarter of the Northwest quarter of said Section 33;

thence North 89 degrees 58 minutes 42 seconds West along the South line of the Northwest quarter of said Section 33, a distance of 1,319.75 feet to the West quarter corner of said Section 33;

thence North 00 degrees 01 minutes 47 seconds East along the West line of the Northwest quarter of said Section 33, a distance of 2,637.38 feet to the Northwest corner of said Section 33;

thence South 80 degrees 08 minutes 59 seconds East, a distance of 2,986.30 feet;

thence North 25 degrees 50 minutes 00 seconds West, a distance of 566.82 feet to the North line of the Northeast quarter of said Section 33;

thence North 89 degrees 55 minutes 53 seconds East along the North line of the Northeast quarter of said Section 33, a distance of 2,581.63 feet to the Northeast corner

EXHIBIT A (Page 4 of 4)

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Parcel No. 4: (cont'd)

of said Section 33;

thence South 00 degrees 00 minutes 08 seconds East along the East line of the Northeast quarter of said Section 33, a distance of 2,641.78 feet to the East quarter corner of said Section 33 and the POINT OF BEGINNING;

EXCEPT all minerals in the North half of the North half, the Southwest quarter of the Northwest quarter, and the East half of the Southeast quarter of the Northeast quarter of said Section 33 as reserved in the Patent recorded in Docket 304, page 447, records of Maricopa County, Arizona

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EXHIBIT B

85-128823

Parcel No. 1:

The North half of the Northwest quarter of Section 28, Township 5 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT all minerals as reserved in the Patent recorded in Docket 304, page 447, records of Maricopa County, Arizona

Parcel No. 2:

The North half of the Northeast quarter of Section 29, Township 5 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT all minerals as reserved in the Patent recorded in Docket 304, page 447, records of Maricopa County, Arizona

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