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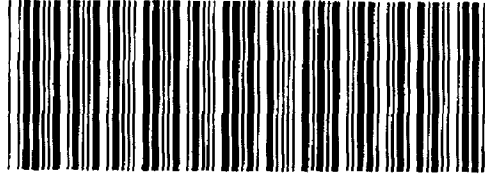
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

HIDDEN HILLS OF SCOTTSDALE

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
HIDDEN HILLS OF SCOTTSDALE**

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

HIDDEN HILLS OF SCOTTSDALE

This Declaration of Covenants, Conditions, and Restrictions for Hidden Hills of Scottsdale is made this 29th day of September, 1999, by HIDDEN HILLS OF SCOTTSDALE, L.C., an Arizona limited liability company.

ARTICLE 1

DEFINITIONS

1.1 "Additional Property" means: (a) the real property, together with all Improvements located thereon, described on Exhibit B; and (b) any other real property, together with the Improvements located thereon, located not more than two miles from property described on Exhibit A or Exhibit B.

1.2 "Annual Assessments" means the Assessments levied pursuant to Section 6.2.

1.3 "Architectural Committee" means the committee established pursuant to Section 5.11.

1.4 "Architectural Committee Rules" means the rules and guidelines adopted by the Architectural Committee pursuant to Section 5.11, as amended or supplemented from time to time.

1.5 "Articles" means the articles of incorporation of the Association, as amended from time to time.

1.6 "Assessable Property" means each Lot or Parcel, except for Exempt Property.

1.7 "Assessment" means an Annual Assessment, Parcel Assessment or Special Assessment.

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

1.9 "Assessment Period" means the period set forth in Section 6.6.

1.10 "Association" means Hidden Hills of Scottsdale Community Association, an Arizona nonprofit corporation, and its successors and assigns.

1.11 "Association Land" means all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest, easement or license for as long as the Association is the owner of the fee or holds such leasehold interest, easement or license.

1.12 "Association Rules" means the rules adopted by the Board pursuant to Section 5.3, as amended from time to time.

1.13 "Board" means the board of directors of the Association.

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

1.15 "Common Area" means: (a) all Association Land; (b) all land, and the Improvements situated thereon, within the Project which the Declarant indicates on a Recorded subdivision plat, Tract Declaration or other Recorded instrument is to be conveyed to the Association for the benefit and use of the members; (c) all land, and the Improvements situated thereon, which is situated within the boundaries of a Lot or parcel and which is designated on a Recorded subdivision plat Recorded by the Declarant or approved by the Declarant or the Association as land which is to be improved, maintained, repaired and replaced by the Association; (d) all land, and the Improvements situated thereon, within or adjacent to the Project which the Declarant indicates on a Recorded subdivision plat, Tract Declaration or other Recorded instrument is to be used for landscaping, drainage or water retention or flood control for the benefit of the Project or the general public; (e) all real property, and the Improvements situated thereon, within or adjacent to the Project located within dedicated easements of way with respect to which the City of Scottsdale has not accepted responsibility for the maintenance thereof, but only until such time as the City of Scottsdale has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas to be maintained, repaired and replaced by the Association pursuant to this clause (e) have been expressly approved by either the Declarant or the Board; and (f) all land, and the Improvements situated thereon, which is designated in a Tract Declaration or a Recorded instrument to this Declaration as Parcel Assessment Area.

1.16 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.17 "Declarant" means Hidden Hills of Scottsdale, L.C., an Arizona limited liability company, its successors and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.18 "Declarant Affiliate" means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or its Declarant Affiliate) is a general partner, managing member or controlling shareholder.

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

1.20 "Developer" means any Person (other than the Declarant) who is in the business of developing, selling or leasing real property and who acquires one or more Lots or Parcels in connection with, and in the course of, such business, for the purpose of developing, selling or leasing such Lots or Parcels.

1.21 "Development Plan" means the Development Plan for the Project and other property owned by the Declarant, as amended by the Declarant from time to time.

1.22 "Exempt Property" means: (a) all land and improvements owned by, or dedicated to and accepted by, the United States, the State of Arizona, Maricopa County or the City of Scottsdale, or any political subdivision of any of them, for as long as such entity or political subdivision is the owner thereof or for as long as such dedication remains effective; (b) all Association Land; and (c) all Neighborhood Common Area.

1.23 "First Mortgage" means a Mortgage Recorded against a Lot or Parcel which has priority over all other Mortgages Recorded against that Lot or Parcel.

1.24 "Improvement" means: (a) any Residential Unit, building, fence or wall; (b) any swimming pool, tennis court, basketball court, road, driveway, parking area or satellite dish; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; (d) any statuary, fountain, artistic work, craft objects, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot or Parcel); and (e) any other structure of any kind or nature.

1.25 "Land Use Classification" means the classification established by a Tract Declaration which designates the type of Improvements which may be constructed on a Lot or Parcel and the purposes for which such Lot or Parcel, and the Improvements situated thereon, may be utilized.

1.26 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot or Parcel (or part thereof), including an assignee of the lessee's or tenant's interest under a lease.

1.27 "Lot" means a portion of the Project intended for independent ownership and residential use and designated as a lot on any Neighborhood Plat and, where the context indicates or requires, shall include any Residential Unit, building, structure or other Improvements situated on the Lot.

1.28 "Maximum Membership Assessment" shall have the meaning given such term in Section 6.3.1(b).

1.29 "Member" means any Person who is a Member of the Association as provided in Section 5.7.

1.30 "Membership" means a membership in the Association.

1.31 "Membership Assessment" shall have the meaning given such term in Section 6.3.1(a).

1.32 "Mortgage" means a deed of trust or a mortgage Recorded against a Lot or Parcel.

1.33 "Mortgagee" means a beneficiary under a deed of trust, or a mortgagee under a mortgage, Recorded against a Lot or Parcel, and "First Mortgagee" means such a beneficiary or mortgagee under a First Mortgage.

1.34 "Natural Open Space" means any approved revegetated area and any area of undisturbed natural desert with no man-made improvements.

1.35 "Neighborhood Association" means any homeowners association or similar association formed or organized pursuant to any Neighborhood Declaration.

1.36 "Neighborhood Common Area" means all real property, and all Improvements located thereon, owned or leased by a Neighborhood Association for the common use and benefit of the members of the Neighborhood Association.

1.37 "Neighborhood Declaration" means any declaration of covenants, conditions and restrictions or similar instrument, other than this Declaration or a Tract Declaration, Recorded against any part of the Project.

1.38 "Neighborhood Plat" means any subdivision plat Recorded against any portion of the Project with the intent of, or which has the effect of, subdividing such portion into Lots (together with any related Common Area, Neighborhood Common Area and public rights-of-way), together with all amendments, supplements and corrections to such plat.

1.39 "Occupant" means any Person other than an Owner who occupies or is in possession of a Lot or Parcel, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and shall include, without limitation, a Resident).

1.40 "Owner" means the Person or Persons who individually or collectively own fee title to a Lot or Parcel (as evidenced by a Recorded instrument), provided that: (a) the Declarant (and not the fee title

holder) shall be deemed to be the "Owner" of each Lot or Parcel with respect to which fee title is held by a Declarant Affiliate or by a trustee (other than the trustee of a deed of trust) for the benefit of the Declarant or a Declarant Affiliate; (b) in the event that, and for so long as, the Declarant or a Declarant Affiliate has, pursuant to a written agreement, an existing right or option to acquire any one or more Lots or Parcels (other than by exercise of a right of first refusal or right of first offer), the Declarant shall also be deemed to be the "Owner" of each Lot or Parcel with respect to which the Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes, the owner of the trustor's interest under the deed of trust shall be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to Lots or Parcels "owned by" a Person, such phrase shall be deemed to refer to Lots or Parcels of which that Person is the Owner, as determined pursuant to this Section.

1.41 "Parcel" means each area of real property in the Project, and all Improvements situated thereon, shown as a separate parcel of land on the Development Plan, provided, however, that in the event a Parcel is split in any manner into portions under separate ownership (other than by subdivision of the Parcel by Recordation of a subdivision plat into Lots, each of which constitutes or may have constructed thereon only one Residential Unit), each portion under separate ownership shall thereafter constitute a separate Parcel. If two or more contiguous parcels of land are owned by the same Person, they shall be considered one Parcel for purposes of this Declaration. A Parcel shall cease to be a Parcel when it has been fully subdivided into Lots (together with Common Area and Neighborhood Common Area, if any). If a portion of a Parcel is subdivided into Lots (and Common Area and Neighborhood Common Area, if any), the subdivided portion shall cease to be a Parcel, but each remaining unsubdivided portion shall be a Parcel if it otherwise meets the requirements of the definition set forth in this Section.

1.42 "Parcel Assessment" means an Assessment levied against fewer than all of the Lots and Parcels in the Project pursuant to Section 6.4.

1.43 "Parcel Assessment Area" means any part of the Project designated in a Tract Declaration (or other Recorded instrument approved by the Declarant, and by the Owner of the property subject thereto, if other than the Declarant) as an area which is to be operated, maintained, repaired and replaced by the Association but which is for the sole or primary benefit of the Owners of fewer than all of the Lots and Parcels in the Project.

1.44 "Period of Declarant Control" means the period commencing on the date of the Recording of this Declaration and ending on the earlier of: (a) one hundred twenty (120) days after the number of votes entitled to be cast by Owners other than the Declarant exceeds the number of votes entitled to be cast by the Declarant; (b) December 31, 2019; or (c) the date the Declarant Records a written instrument terminating the Period of Declarant Control.

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

1.46 "Project" or "Property" means the real property described on Exhibit A, together with all Improvements located thereon, and all real property, together with all Improvements located thereon, which is annexed and subjected to this Declaration pursuant to Section 2.3, but excluding any real property, together with all Improvements thereon, which is withdrawn pursuant to Section 2.4.

1.47 "Project Documents" means this Declaration, all Tract Declarations, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules.

1.48 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot or Parcel, except for: (a) a Person who purchases a Lot or Parcel and then

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

1.49 "Record," "Recording," "Recorded" and "Recordation" means placing or having placed an instrument of public record in the official records of Maricopa County, Arizona.

1.50 "Resident" means each individual who resides in any Residential Unit.

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

1.52 "Special Assessment" means any Assessment levied pursuant to Section 6.5.

1.53 "Special Use Fees" means any fees charged by the Association for use of Common Areas pursuant to Section 4.1.1(f).

1.54 "Tract Declaration" means a declaration Recorded pursuant to Section 2.2.

1.55 "Visible From Neighboring Property" means, with respect to an object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of neighboring property, except where the object is visible solely through a wrought iron fence and would not be visible if the wrought iron fence were a solid fence.

End of Article 1

ARTICLE 2

PLAN OF DEVELOPMENT

2.1 Property Initially Subject to the Declaration. This Declaration is being Recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. All of the property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, Purchasers, assignees, Lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

2.2 Tract Declarations. The Declarant reserves the right, but not the obligation, to Record one or more Tract Declarations with respect to Lots and Parcels within the Project (and with respect to portions of the Additional Property, in connection with, or subsequent to, the annexation and subjection of such portions to this Declaration pursuant to Section 2.3). A Tract Declaration must be executed by the Declarant and by the Owner of the Parcel or Lots subject to such Tract Declaration, if other than the Declarant. A Tract Declaration may (without limitation): (a) designate Common Area, Neighborhood Common Area and Parcel Assessment Area; (b) establish the Land Use Classification for property subject thereto; (c) reserve or grant easements to such Persons and for such purposes as the Declarant may deem appropriate; (d) impose such additional covenants, conditions and restrictions as the Declarant may deem appropriate for the property subject to the Tract Declaration; and (e) annex and subject the property covered thereby to this Declaration (subject to the provisions of Section 2.3). If a Tract Declaration designates any Parcel Assessment Area, the Tract Declaration shall also designate the Lots and Parcels which solely or primarily benefit from the Parcel Assessment Area and which shall be subject to Parcel Assessment pursuant to Section 6.4. Except as otherwise expressly provided in the Tract Declaration itself, a Tract Declaration may only be amended by a written instrument executed by all of the following: (i) Owners holding at least sixty-seven percent (67%) of the votes in the Association held by the Owners of all of the Lots and Parcels subject to that Tract Declaration; (ii) the Association; and (iii) the Declarant so long as the Declarant owns any Lot or Parcel in the Project.

2.3 Annexation of Additional Property.

2.3.1 At any time on or before December 31, 2019, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Additional Property without the consent of any other Owner or Person (other than the Person who owns the property to be annexed, if other than the Declarant). The annexation of all or any portion of the Additional Property shall be effected by the Declarant Recording a written instrument (which may be, but shall not be required to be, a Tract Declaration) setting forth the legal description of the Additional Property being annexed and stating that such portion of the Additional Property is annexed and subjected to the Declaration.

2.3.2 The Additional Property may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. Property annexed by the Declarant pursuant to this Section 2.3 need not be contiguous with other property in the Project, and the exercise of the right of annexation as to any portion of the Additional

Property shall not bar the further exercise of the right of annexation as to any other portion of the Additional Property. The Declarant makes no assurances as to which, if any, part of the Additional Property will be annexed.

2.4 Withdrawal of Property. At any time on or before December 31, 2019, the Declarant shall have the right to withdraw property from the Project without the consent of any other Owner or Person (other than the Owner of such property, if other than the Declarant), except as otherwise expressly provided in the Tract Declaration with respect to such property. The withdrawal of all or any portion of the Project shall be effected by the Declarant Recording a written instrument setting forth the legal description of the property being withdrawn. Upon the withdrawal of any property from the Project pursuant to this Section, such property shall no longer be subject to any of the covenants, conditions and restrictions set forth in this Declaration.

2.5 Disclaimer of Representations. The Declarant makes no representations or warranties whatsoever that: (a) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (b) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (c) any property not now subject to this Declaration will be subjected to the provisions hereof; or (d) the use of any property subject to this Declaration will not be changed in the future. In addition, if any guardhouses, guard gates, security gates or other security facilities or devices are constructed within the Project, the Declarant makes no representations or warranties that a guard service will be provided or, if guard service is provided, that it will be provided during any particular hours or be continued in the future, or that such guardhouses, guard gates, security gates or other security facilities or devices will be provided, operated or maintained at any time. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen representing the Declarant or any Developer shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration or of any part of the Additional Property.

2.6 Restriction on Liability of the Association and the Declarant. Guardhouses, guard gates or security gates may be constructed within or adjacent to the Project in order to limit access and to provide more privacy for the Owners and Occupants. Each Owner and Occupant, and their families, guests and invitees, acknowledge that any such guardhouse, guard gate or security gate may restrict or delay entry into, or access within, the Project by police, fire department, ambulances and other emergency vehicles or personnel. Each Owner and Occupant and their families, guests and invitees agree to assume the risk that any such guardhouse, guard gate or security gate will restrict or delay entry into, or access within, the Project by police, fire department, ambulances or other emergency vehicles or personnel. Neither the Declarant, the Association nor any director, officer, agent or employee of the Declarant or the Association shall be liable to any Owner or Occupant or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of any such guardhouse, guard gate or security gate.

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

End of Article 2

ARTICLE 3**LAND USE CLASSIFICATIONS, PERMITTED USES
AND RESTRICTIONS**

3.1 Land Use Classifications. The purposes for which property within the Project may be used shall be determined by the Land Use Classification of the property as established by a Tract Declaration covering the property. The Land Use Classifications for property in the Project shall be: (a) Residential Use; (b) Recreational Use; (c) Educational or Religious Use; (d) Common Area; (e) Natural Open Space Use; (f) Neighborhood Common Area; and (g) such other residential or related uses as may be set forth in any Tract Declaration. Such Land Use Classifications shall not, however, be deemed mutually exclusive; for example, but without limiting the generality of the foregoing, property designated as having a Land Use Classification of Residential Use may also have portions or components thereof which are for recreational uses or which are Common Area, Neighborhood Common Area or Natural Open Space. In the event of any conflict or inconsistency between the Land Use Classification for a Lot or Parcel as established by a Tract Declaration and statements or notations on any Neighborhood Plat or on the Development Plan with respect to the uses which may be made of property within the Project, the provision of the Tract Declaration for the Lot or Parcel shall prevail. Each Tract Declaration shall be construed as a supplement to this Declaration and shall be enforceable as if all of the provisions of the Tract Declaration were set forth in this Declaration. A Tract Declaration may define and specify the permitted and prohibited uses of, and may impose further covenants, conditions, restrictions and easements on, the property subject to the Tract Declaration.

3.2 Architectural Control

3.2.1 All Improvements constructed within the Project shall be of new construction, and no buildings or other structures shall be removed from other locations to the Project (except for construction trailers or similar facilities approved in advance by the Architectural Committee).

3.2.2 No devegetation, excavation or grading work shall be performed within the Project without the prior written approval of the Architectural Committee.

3.2.3 No Improvement shall be constructed or installed within the Project without the prior written approval of the Architectural Committee.

3.2.4 No addition, alteration, repair, change or other work which in any way alters the exterior appearance (including but without limitation, the exterior color scheme) of any property within the Project, or any Improvements located thereon, shall be made or done without the prior written approval of the Architectural Committee, nor shall any Lot be split, divided or further subdivided in any manner, or combined with any other Lot for building purposes, without the prior written approval of the Architectural Committee.

3.2.5 Any Owner or other Person desiring approval of the Architectural Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his, her or its Lot, Parcel or other portion of the Project, or any Improvements located thereon, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other Person desires to perform. Any Owner or other Person requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may reasonably request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within thirty (30) days after the application, together with all supporting information, plans and specifications required by the Architectural Committee Rules or reasonably requested by the Architectural Committee, have been submitted to it, approval will not be required

and this Section will be deemed to have been complied with by the Owner or other Person who submitted such application for approval.

3.2.6 The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change, replacement or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

3.2.7 Upon receipt of approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

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

3.2.9 The Architectural Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Section, which fee shall be payable at the time the application for approval is submitted to the Architectural Committee. Such fee, if established and charged by the Architectural Committee, shall be set at such reasonable level as the Architectural Committee may estimate will be necessary to defray the reasonable costs and expenses of the Architectural Committee in reviewing and evaluating any such request or application, and may include, if the Architectural Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Architectural Committee by a licensed architect, a registered engineer and/or a landscape architect.

3.2.10 The provisions of this Section 3.2 do not apply to, and approval of the Architectural Committee shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant or any Declarant Affiliate.

3.2.11 The approval required of the Architectural Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other Recorded instrument. The Architectural Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Architectural Committee of evidence satisfactory to the Architectural Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Architectural Committee shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Architectural Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity.

3.2.12 If any construction, installation, alteration, addition, repair, change, replacement or other work (collectively, "Work") is done or performed on any Lot in violation of this Section 3.2, any other provision of this Declaration, the Architectural Committee Rules, any of the other Project Documents or any approval or other decision of the Architectural Committee (referred to herein as a "Violation"), the Board, the Declarant or the Architectural Committee (as applicable, the "Requesting Party") may give written notice thereof to the Owner of such Lot. That Owner shall, promptly after such notice is given and in all events within any time period specified in such notice by the Requesting Party, cure or correct the Violation in such manner as may be required by the Requesting Party (which may include, without limitation, requiring that the applicable Lot or Improvement be restored to its condition as it existed prior to commencement of the Work constituting the Violation). If the Owner fails or refuses so to cure or correct the violation or, having commenced such cure or

correction, fails or refuses to diligently pursue the same or fails or refuses to complete the same within any time period specified by the Requesting Party, the Association, the Declarant or the Architectural Committee (themselves and/or through their designees), shall have the right to enter upon that Lot and take any and all steps as they deem necessary or appropriate to cure or correct such Violation, and all costs and expenses thereof, together with interest thereon from the date expended until fully repaid at the rate of 18% per annum, shall be the personal obligation of the Owner of such Lot and shall be secured by the Assessment Lien against that Lot.

3.2.13 All approvals given or granted by the Architectural Committee pursuant to this Section 3.2 shall be deemed conditioned upon completion of the approved Work and of all Work previously approved for the same Lot, unless otherwise specifically agreed in writing by the Architectural Committee. If, after an approval is given or granted by the Architectural Committee, the approved Work is not commenced by the commencement date (if any) specified in the Architectural Committee's approval, or (if no commencement date is so specified) within a reasonable period after such approval is given, the Architectural Committee may, in its sole discretion, revoke and withdraw such approval. If, after an approval is given or granted by the Architectural Committee and the approved Work is commenced, the approved Work is not pursued diligently to completion or is not completed by the completion date (if any) specified in the Architectural Committee's approval, or (if no completion date is so specified) within a reasonable period after such approval was given and the Work was commenced, the same shall be deemed a Violation and the Association, the Declarant and the Architectural Committee shall have the rights and remedies available with respect thereto under Section 3.2.12 above.

3.2.14 For purposes of this Declaration, the Architectural Committee Rules and the other Project Documents, all acts by any contractor, subcontractor, agent, employee or invitee of an Owner shall be deemed to be an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration, the Architectural Committee Rules and the other Project Documents may be excluded from the Property. In such event, neither Declarant, the Association, nor the Architectural Committee, nor their respective officers, directors, members, partners, representatives or agents, shall be held liable to any Person for exercising the rights granted by this Section 3.2.14.

3.2.15 The Association shall be primarily responsible for enforcement of this Section 3.2. If, however, in the discretion of the Declarant, the Association fails to take appropriate enforcement action, as authorized herein, within a reasonable time period, the Declarant, for so long as it owns any property within the Property or the Additional Property, may, but shall not be obligated to, exercise enforcement rights in the same manner as set forth above. In addition to the foregoing, the Association, the Architectural Committee, and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section 3.2 and any decisions of a Requesting Party. If the Association, the Architectural Committee or the Declarant prevail, they shall be entitled to recover all costs including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

3.3 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Architectural Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Architectural Committee.

3.4 Maintenance of Landscaping. Each Owner of a Lot or Parcel shall properly maintain and keep neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material all shrubs, trees, hedges, grass and plantings of every kind (collectively, "Landscaping") located on: (a) his, her or its Lot or Parcel; (b) any public right-of-way or easement area which abuts or adjoins the Owner's Lot or Parcel and which

is located between the boundary line of his Lot or Parcel and the paved area of any street, curb, sidewalk, bike-path or similar area (unless otherwise directed by the Board); (c) any non-street public right-of-way or easement area adjacent to his Lot or Parcel (unless otherwise directed by the Board); and (d) portions of Common Area adjacent to the Owner's Lot or Parcel which lie on that Lot's or Parcel's side of a wall erected on the Common Area; provided, however, that such Owner shall not be responsible for maintenance of any area over which: (i) the Association assumes the responsibility in writing; (ii) the Association has been given such responsibility by a Tract Declaration; or (iii) the City of Scottsdale, Maricopa County or any other municipality or other governmental agency or entity having jurisdiction over such property assumes responsibility, for so long as the City of Scottsdale, Maricopa County or such other municipality or other governmental agency or entity assumes or has responsibility. For purposes of this Section 3.4, proper maintenance of Landscaping shall include, without limitation, removal and replacement of dead Landscaping, subject to the Architectural Committee Rules.

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

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

3.7 Repair of Building. No Residential Unit, building, structure or other Improvement on any Lot, Parcel or other property shall be permitted to fall into disrepair and each such Residential Unit, building, structure and other Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Residential Unit, building, structure or other Improvement is damaged or destroyed, then, subject to the approvals required by Section 3.2, such Residential Unit, building, structure or other Improvement shall be immediately repaired or rebuilt or shall be demolished.

3.8 Antennas, Poles, Towers and Dishes. The Architectural Committee may regulate, to the extent permitted under applicable federal, state and local law, any radio, shortwave, microwave, satellite or other antenna, pole, aerial, tower, dish or other device for the transmission or reception of television or radio signals or any other force of electromagnetic radiation proposed to be installed, used or maintained outdoors on any portion of the Property, whether attached to a Residential Unit or other structure, or otherwise. To the extent permitted by applicable law, the prior approval of the Architectural Committee may be required for the installation, use or maintenance of any such antenna, pole, aerial, tower, dish or other device, which approval the Architectural Committee may condition upon the satisfaction of certain conditions including, but not limited to, the size, placement, height, means of installation and screening thereof.

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

substance of any kind, except for the drilling, operation and maintenance of any testing, inspection or other water wells approved by the Declarant.

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

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

3.12 Utility Service. Except as may otherwise be required by applicable utility providers (subject to compliance with applicable requirements of the City of Scottsdale), no lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot, Parcel or other property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures for emergency purposes or incident to the construction of buildings or structures approved by the Architectural Committee. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body, provided that reasonable efforts shall be made to avoid placing any such meter, panel or other equipment on the outside front wall of a residence or other building facing the street running directly in front of such residence.

3.13 Overhead Encroachments. No tree, shrub or planting of any kind on any Lot, Parcel or other property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, bicycle path or pedestrian way from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

3.14 Health, Safety and Welfare. In the event additional uses, activities or facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Lessees and Occupants, the Board may make rules restricting or regulating their presence in the Project as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots, Parcels or other property as part of the Architectural Committee Rules.

3.15 Model Homes. Any provisions of this Declaration, Tract Declarations or Neighborhood Declarations which prohibit non-residential use of Lots and certain Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes or other model Residential Units of any kind (including, without limitation, any used in whole or in part as sales offices) (collectively, "Models") by Persons engaged in the construction of Residential Units in the Project, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. The Architectural Committee may also permit Lots and other areas to be used for parking in connection with the showing of Models. Any homes or other structures constructed as Models shall cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Residential Units in the Project, and no home or other structure shall be used as a Model for the sale of homes or other structures not located in the Project. This Section shall not apply to model apartment units in an apartment building or apartment complex on a Parcel for which such use is permitted by the Tract Declaration

included with respect to that Parcel. Neither the provisions of this Section nor the provisions of any other section of this Declaration or of any Tract Declaration or Neighborhood Declaration shall restrict or prohibit the right of the Declarant or a Declarant Affiliate to construct, operate and maintain Models in the Project.

3.16 Incidental Uses. The Architectural Committee may approve uses of property within a Land Use Classification which are incidental to the full enjoyment of the Owners and Occupants of the property within the Land Use Classification. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Architectural Committee may wish to impose, in its sole discretion, for the benefit of the Project as a whole.

3.17 Residential Use and Trades or Businesses. All Lots and Residential Units shall be used, owned and devoted exclusively to residential use. No trade or business may be conducted on any Lot or Parcel or from any Residential Unit, except that an Owner or other Resident may conduct a business activity in a Residential Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit; (b) the business activity conforms to all applicable zoning regulations or requirements; (c) the business activity does not involve the door-to-door solicitation of Owners or other Residents in the Project; (d) the use of the Residential Unit for trade or business shall in no way destroy or be incompatible with the residential character of the Residential Unit or the surrounding neighborhood; (e) the trade or business shall be conducted only inside the Residential Unit, and shall not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any Residential Unit; (f) the trade or business shall be conducted by a Resident or Residents of the Residential Unit with no more than one (1) employee working in or from such Residential Unit who is not a Resident thereof; (g) no more than twenty percent (20%) of the total floor area of the Residential Unit shall be used for trade or business; (h) the Residential Unit used for trade or business shall not be used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not, in the judgment of the Board, result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business shall not utilize or store flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business shall not utilize large vehicles not customary to a residential use. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Residential Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

3.18 Animals. No animal, livestock, poultry or fowl of any kind, other than a reasonable number of generally recognized house pets, shall be maintained on or in any Lot or Parcel and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any pet shall be Visible From Neighboring Property. Notwithstanding the foregoing, no pets may be kept on or in any Lot or Parcel which, in the opinion of the Board, result in an annoyance to other Owners or Occupants in the vicinity. All pets shall be kept in a fenced yard, or leashed when not on property owned by the pet's owner or on which the pet's owner is a Resident or guest, and persons walking any pet shall promptly and properly remove and dispose of the pet's waste.

3.19 Machinery and Equipment. No machinery or equipment of any kind shall be placed, stored or maintained upon or adjacent to any Lot or Parcel, except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures or other Improvements; and (b) that which Declarant or the Association may own or require for the development, operation and maintenance of the Project.

3.20 Signs. No signs whatsoever (including, but not limited to commercial, political, "for sale", "for rent" and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot or Parcel except:

3.20.1 Signs required by legal proceedings.

3.20.2 Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Committee.

3.20.3 Signs of Developers approved from time to time by the Architectural Committee as to number, size, color, design, message content, location and type.

3.20.4 Such construction job identification signs and subdivision identification signs which are in conformance with the requirements of Maricopa County or any municipality having jurisdiction over the property and which have been approved in writing by the Architectural Committee as to number, size, color, design, message content and location.

3.20.5 Temporary "Open House" signs indicating that a Residential Unit is available for inspection by interested parties, but such signs may only be erected or maintained during the hours of 10:00 A.M. through 6:00 P.M. on Saturdays, Sundays, legal holidays or other days designated by the Architectural Committee.

3.20.6 Temporary "for sale" signs, which shall be subject to any limitations as to such signs adopted by the Architectural Committee, and which shall not be allowed to remain on a Lot or Parcel for more than a total of ninety (90) days during any 365-day period.

3.20.7 Such other signs as may be permitted from time to time by the Architectural Committee on a case-by-case basis or more generally by the terms of the Architectural Committee Rules.

3.21 Required Approvals for Further Property Restrictions.

3.21.1 All proposed site plans and subdivision plats for any Lot or Parcel, or any portion thereof, must be approved in writing by the Architectural Committee prior to Recordation thereof or commencement of construction on the applicable Lot or Parcel. No Lot, or portion thereof, shall be further subdivided, and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Architectural Committee, provided that nothing in this Section 3.21.1 shall be deemed to prohibit sales by the Declarant or a Developer of Lots into which a Parcel is divided, so long as the plat(s) and other items required to be approved pursuant to this Section 3.21 have been so approved.

3.21.2 No Neighborhood Declaration or further covenants, conditions, restrictions or easements shall be Recorded against any Lot or Parcel, or portion thereof, without the prior written approval of the Architectural Committee.

3.21.3 No applications for rezoning, variances or use permits, or for waivers of or modifications to existing variances, use permits, zoning stipulations or similar restrictions, shall be filed with any governmental authority or agency without the prior written approval of the Architectural Committee, and then only if such proposed zoning, variance or use, or waiver or modification, is in compliance with this Declaration, any applicable Tract Declaration, any applicable Neighborhood Declaration and the Development Plan.

3.21.4 No subdivision plat, Neighborhood Declaration, easement, declaration of further covenants, conditions, restrictions or easements or other instrument which is to be Recorded and which is required

by this Section 3.21 to be approved by the Architectural Committee shall be effective unless the required approval is evidenced on such instrument by the signature of an authorized representative of the Architectural Committee.

3.21.5 No site plan, subdivision plat, Neighborhood Declaration or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits shall be submitted to the City of Scottsdale or any other governmental authority or agency unless the same has first been approved in writing by the Architectural Committee as provided in this Section 3.21; further, no changes or modifications shall be made in any such documents, instruments or applications once the same have been approved by the Architectural Committee hereunder (whether requested by the City of Scottsdale or otherwise) unless such changes or modifications have first been approved by the Architectural Committee in writing.

3.21.6 Notwithstanding the foregoing, neither the Declarant nor any Declarant Affiliate shall be required to seek or obtain any of the approvals or consents otherwise required under this Section 3.21 as to any Lot or Parcel, or any portion of either, of which Declarant or a Declarant Affiliate is the Owner.

3.22 Vehicles.

3.22.1 In general, all Vehicles (as defined below) must be parked, kept or stored only within a fully-enclosed garage approved by the Architectural Committee pursuant to Section 3.2, on paved driveways on a Lot approved by the Architectural Committee pursuant to Section 3.2, or on paved, marked parking spaces (if any) located on Common Area (but in such latter case subject to such rules and regulations with respect thereto as the Board may adopt from time to time, which may include, without limitation, limiting parking thereon to guests of Owners or Residents and limiting the frequency and duration of parking thereon). No Vehicle shall be parked on any street or roadway in the Project. No Vehicle which: (a) exceeds seven (7) feet in height; or (b) exceeds eighteen (18) feet in length shall be parked, kept or stored anywhere within the Project other than in a fully-enclosed garage. Further, no Vehicle shall be parked, kept or stored anywhere within the Project other than in a fully-enclosed garage if that Vehicle displays any commercial message or advertising of any type, except for not more than two signs or placards, whether permanently or temporarily attached, displaying a business or commercial name, telephone number and/or other commercial message (but no such sign or placard shall exceed twenty-four (24) inches in length or fifteen (15) inches in height, nor shall such signs or placards be placed contiguous, or nearly contiguous, to one another to give the impression that they form a single sign or placard exceeding the foregoing sign limitations).

3.22.2 For purposes of this Section, the term "Vehicles" includes passenger cars, trucks, sport utility vehicles and vans of all sizes, motorcycles, motorbikes, all-terrain vehicles, off-road vehicles, motor scooters, mopeds, motorhomes, recreational vehicles, trailers, travel trailers, tent trailers, camper shells, detached campers, boats, boat trailers, or other similar machinery or equipment, whether motorized or not, whether wheeled or not and whether or not in operating condition. Further, without limiting the generality of the term, a Vehicle shall be deemed "stored" if it is covered by a car cover, tarpaulin or other covering.

3.22.3 Notwithstanding anything in Section 3.22.1 to the contrary: (a) passenger cars, vans, sport utility vehicles or trucks having a capacity of ¾-ton or less may be parked from time to time for a period of not more than twenty-four (24) hours on a street or roadway within the Project to accommodate visitors or guests of the Owner or Resident of a Lot (provided that the Board may adopt rules or regulations relating to the number or frequency of guest or visitor vehicle parking, if it determines, in its discretion, that such rules or regulations are necessary); (b) service, repair or delivery vehicles may be parked on a street or roadway within the Project, but only for the period reasonably required to effect the needed service, repair or delivery; (c) a temporary construction trailer may be placed and maintained on a Lot in connection with construction of Improvements on that Lot (or on adjacent property owned by that Lot's Owner), but only if that temporary construction trailer, its location on the Lot and the period during which it will be permitted to remain on the Lot are approved in writing by the Architectural Committee; (d) construction vehicles (including, without limitation, vehicles of construction workers) may be parked on a Lot, or in other areas approved in writing by the Architectural Committee, in connection with the construction of Improvements on that Lot (or on adjacent property owned by that Lot's Owner), but only during the construction of

such Improvements; and (e) motorcycles, motorbikes, all-terrain vehicles, off-road vehicles, motor scooters, mopeds and similar vehicles must be parked, kept and stored only within a fully-enclosed garage.

3.22.4 Except for emergency repairs, no Vehicle shall be repaired, serviced, constructed or reconstructed in the Project except within a fully-enclosed garage.

3.22.5 No unlicensed Vehicle shall be operated within the Project, nor shall any unlicensed driver operate any Vehicle within the Project.

3.22.6 The Board shall have the right to have any Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner or Resident, any amounts payable to the Association shall be secured by the Assessment Lien against the Owner's or Resident's Lot, and the Association may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments.

3.23 Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and slightly condition. Garages shall be used only for parking vehicles and storage, and shall not be used or converted for living, recreational or other activities or purposes. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

3.24 Drainage. No Residential Unit, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot or Parcel as shown on the drainage plans on file with the county or municipality in which the Project is located.

3.25 Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residential Unit or other building so as to be Visible From Neighboring Property.

3.26 Solar Collecting Panels or Devices. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans therefor by the Architectural Committee, solar collecting panels and devices may be placed, constructed or maintained upon any Lot within the Property so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Committee may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property). Notwithstanding any other provision of this Declaration to the contrary, the Declarant (during the Period of Declarant Control) or the Board (after the expiration or termination of the Period of Declarant Control) shall have the right, without the consent or approval of any Owner or other Person, to amend this Section (which amendment may, without limitation, impose additional or different restrictions on solar collecting panels and devices) as the Declarant or the Board (as applicable) deems appropriate in the event that, after the date this Declaration is Recorded, Section 33-439 of the Arizona Revised Statutes (or any successor thereto) is amended, repealed or replaced.

3.27 Basketball Goals or Play Structures. No basketball goal, backboard or similar structure or device, and no swingsets or other play structures, shall be placed or constructed on any Lot without the prior approval of the Architectural Committee (including, without limitation, approval as to appearance and location).

3.28 Tanks. No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot or Parcel unless such tanks are buried underground. Nothing herein shall be deemed to prohibit use or storage upon any Lot or Parcel of an aboveground propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace or spa or "hot tub," so long as any such tank either: (a) has a capacity of ten (10) gallons or less; or (b) is completely stored, used and/or screened, in accordance with the Architectural Committee Rules or as otherwise approved by the Architectural Committee, so as not to be Visible From Neighboring Property.

3.29 Exterior Lighting. Exterior lighting shall be permitted on a Lot or Parcel so long as: (a) such lighting is indirect, so that the source of such lighting is not Visible From Neighboring Property; (b) such lighting is limited to that which is reasonably necessary for the safety and convenience of the Occupants of such Lot or Parcel; and (c) such lighting conforms to such other requirements as may be imposed by the Architectural Committee. Notwithstanding the foregoing, but subject to reasonable regulation by the Architectural Committee, Owners or Occupants of Lots or Parcels may display temporary holiday lighting during the Christmas season, provided that no such lighting shall be permitted for a period in excess of forty-five (45) days.

3.30 Flagpoles. No flagpoles or similar devices shall be installed, used or maintained on any Lot or Parcel except as otherwise provided in this Declaration except that the Architectural Committee may adopt a rule or regulation permitting an Owner or Occupant to install and maintain a flagpole upon the Owner's or Occupant's Lot or Parcel, provided that the location and size of such flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by the Architectural Committee and may, if so provided in such rule or regulation, be made subject to the prior approval thereof by the Architectural Committee. Nothing in this Section shall be deemed to prohibit the Declarant from installing and maintaining, or permitting Declarant Affiliates or Developers to install and maintain, flagpoles on, at or adjacent to model homes within the Project.

3.31 Change of Use of Common Area. Upon: (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Common Area is no longer in the best interests of the Owners; and (b) the approval of such resolution by Members casting more than fifty percent (50%) of the votes entitled to be cast by Members who are present in person or by proxy at a meeting duly called for such purpose and who are entitled to use such Common Area under the terms of this Declaration or any Tract Declaration, the Board shall have the power and right to change the use thereof (and in connection therewith, to construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use shall be consistent with any zoning regulations restricting or limiting the use of the Common Area. This Section 3.26 shall not apply to, or be deemed to limit in any way, the right and power of the Association pursuant to Section 4.1.1(a) to grant easements over, under or through portions of the Common Area, or to dedicate portions of the Common Area, to public, or to public or private utility companies, municipalities or other governmental agencies or entities, in connection with, or at the time of development of property within or adjacent to the Project, where required or requested by any municipality or other governmental agency or entity, or any public, quasi-public or private utility company.

3.32 Declarant's Exemption. Nothing contained in this Declaration or in any Tract Declaration or Neighborhood Declaration shall be construed to prevent the construction, installation or maintenance by the Declarant, any Declarant Affiliate or any agents, employees or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property.

3.33 Variances. The Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 or in any Tract Declaration if the Architectural Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or Occupant or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Owners and Occupants and is consistent with the high quality of life intended for residents of the Project.

End of Article 3

ARTICLE 4

EASEMENTS

4.1 Owners' Easements of Enjoyment.

4.1.1 Subject to the rights and easements granted to the Declarant in Section 4.4, each Owner, and each Occupant of such Owner's Lot or Parcel, shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area, which right and easement shall be appurtenant to and shall pass with the title to each Lot and Parcel, subject to the provisions of this Declaration including, without limitation, the following:

(a) Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Area shall be effective unless approved by Owners representing two-thirds (2/3) of the votes in each class of Members. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association shall have the right, without the consent of the Owners or any other Person (except Declarant, whose consent shall be required so long as Declarant owns any part of the Property or of the Additional Property), to dedicate portions of the Common Area to the public, or grant easements over, under or through portions of the Common Area to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by the City of Scottsdale or any municipal or other governmental agency or entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property or of portions of the Additional Property.

(b) The Association shall have the right to regulate the use of the Common Area through the Association Rules (which may include, without limitation, the adoption and implementation of a reservation system for such portions of the Common Area, or Improvements or amenities thereon, as the Board deems appropriate) and to prohibit access to such portions of the Common Area, such as landscaped right-of-ways, not intended for use by the Owners, Lessees or other Occupants.

(c) If a Recorded Tract Declaration designates a portion of the Common Area as a Parcel Assessment Area, then only the Owners and Occupants of those Lots and Parcels which are assessed a Parcel Assessment for such Parcel Assessment Area shall have the right to use such Parcel Assessment Area.

(d) The Declarant and the Association shall each have the right to grant easements or licenses to Developers or other Persons for the construction of Improvements on the Common Area, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the streets and roads in the Project to Persons who are not Members of the Association.

(e) The Declarant and the Association shall each have the right to convey certain portions of the Common Area to Owners of adjoining Lots or Parcels in connection with the correction or adjustment of any boundary between Common Area and any one or more adjoining Lots or Parcels; provided, however, that neither the Association nor the Declarant shall have the right to transfer or convey any portion of the Common Area upon which is situated any recreational facility unless approved by a vote of the Members pursuant to Section 4.1.1(a).

(f) The Association shall have the right to charge Special Use Fees for the use of the Common Area. The Special Use Fees, if any, shall be set by the Board from time to time, in its discretion. Special Use Fees shall be charged only for actual entry upon or use of those portions of the Common Area, if any, selected by the Board to be subject to a Special Use Fee, and shall be imposed only where the Board deems it

appropriate to collect revenue from the actual users of such selected portions of the Common Area so that all of the costs of operating such selected portions of the Common Area are not borne by all of the Owners through Annual Assessments, but rather are borne, at least in part, by the Owners, Occupants and other Persons using such selected portions of the Common Area.

(g) The Association shall have the right to suspend the rights of any Owner or Occupant to use and enjoy recreational facilities on the Common Area: (1) for any period during which an Assessment remains delinquent; (2) for a period not to exceed 60 days for any infraction of the Project Documents; or (3) for successive 60-day periods if any such infraction is not corrected during any preceding suspension period.

4.1.2 If a Lot or Parcel is leased or rented by its Owner, the Occupants of such Lot or Parcel shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot or Parcel shall have no right to use the Common Area until the termination or expiration of such lease.

4.1.3 The Board shall have the right to limit the number of guests and invitees who may use the recreational facilities located on the Common Area at any one time and may restrict the use of the recreational facilities by guests and invitees to certain specified times.

4.2 Utility Easement. There is hereby created an easement upon, across, over and under the Common Area, Lots, Parcels and other property for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary equipment on the Common Area, Lots, Parcels and other property but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Area, Lots, Parcels and other property except as initially designed, approved and/or constructed by the Declarant or as approved by the Board (and, in the case of a Lot or Parcel, by the Owner of such Lot or Parcel). If any utility company requests that a more specific easement be granted in its favor in substitution for the blanket easement hereby established with respect to the Common Area, the Association shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

4.3 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Area. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of the Lots and Parcels and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over the Common Area and all private streets, private roadways, private driveways and private parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel.

4.4 Declarant's Use and Easements.

4.4.1 The Declarant shall have the right and an easement (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area and Neighborhood Common Area with respect to the sales of Lots, Parcels or other property in the Project or within any of the Additional Property. The Declarant reserves the right (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to place models, management offices and sales and leasing offices on any Lots, Parcels or other property owned by the

Declarant (or by such Developer(s), as applicable) and on any portion of the Common Area and Neighborhood Common Area in such number, of such size and in such locations as the Declarant deems appropriate.

4.4.2 So long as the Declarant is marketing Lots, Parcels or other portions of the Property or the Additional Property, the Declarant shall have the right to restrict the use of the parking spaces on the Common Area. Such right shall include reserving such spaces for use by prospective Purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

4.4.3 The Declarant shall have the right and an easement on and over the Common Area to construct all Improvements the Declarant may deem necessary and to use the Common Area and any Lots, Parcels and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project and property adjacent to the Project.

4.4.4 The Declarant shall have the right and an easement upon, over and through the Common Area and Neighborhood Common Area as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

4.5 Easement in Favor of Association. The Lots, Parcels and Neighborhood Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.5.1 For inspection during reasonable hours of the Lots, Parcels and Neighborhood Common Area in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.5.2 For inspection, maintenance, repair and replacement of portions of the Common Area accessible only from such Lots, Parcels or Neighborhood Common Area;

4.5.3 For correction of emergency conditions on one or more Lots, Parcels or Neighborhood Common Area or on portions of the Common Area accessible only from such Lots, Parcels or Neighborhood Common Area;

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

4.5.5 For inspection during reasonable hours of the Lots, Parcels and Neighborhood Common Area in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents.

End of Article 4

ARTICLE 5**THE ASSOCIATION; ORGANIZATION; MEMBERSHIP
AND VOTING RIGHTS**

5.1 Formation of Association. The Association shall be a nonprofit Arizona corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, the Bylaws and this Declaration. In the event of any conflict or inconsistency between this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, this Declaration shall control.

5.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area; the Board shall determine the compensation to be paid to any such manager.

5.3 Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (a) the management, operation and use of the Common Area including, but not limited to, any recreational facilities situated upon the Common Area; (b) traffic and parking restrictions including speed limits on private streets within the Project; (c) minimum standards for any maintenance of Common Areas, Lots and Parcels within the Project; or (d) any other subject within the jurisdiction of the Association. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

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

5.5 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege.

5.6 Neighborhood Declarations and Associations. No Neighborhood Declaration (nor any amendment to any such declaration) shall be Recorded by any Person other than the Declarant (and, if Recorded, such Neighborhood Declaration or amendment shall not be effective) unless it has been expressly approved, in a written, Recorded instrument (which may be attached to or part of such Neighborhood Declaration or amendment) by: (a) the Declarant, so long as the Declarant owns any Lot or Parcel in the Project; or (b) the Board, if at the time the Declarant no longer owns any Lot or Parcel in the Project. Likewise, no articles of incorporation, bylaws or similar formative or governing documents (or any amendment thereto) of a Neighborhood Association formed by any Person other than Declarant shall be filed or effective unless they have been expressly approved in writing by: (a) the Declarant, so long as the Declarant owns any Lot or Parcel in the Project; or (b) the Board, if at the time the Declarant no longer owns any Lot or Parcel in the Project.

5.7 Membership in the Association. Every Owner of a Lot or Parcel which is Assessable Property shall be a Member of the Association, and the Declarant shall be a Member of the Association so long as it owns any part of the Project or of the Additional Property (unless and until the Declarant expressly relinquishes its status as a Member). Each such Owner shall have the following number of Memberships in the Association:

5.7.1 An Owner shall have one (1) Membership for each Lot owned by that Owner.

5.7.2 Where an Owner owns a Parcel subject to a Tract Declaration which (a) is attributable only to that Parcel, and (b) assigns a specific number of Memberships to such Parcel, such Owner shall have, with respect to that Parcel, the number of Memberships so assigned.

5.7.3 Where an Owner owns a Parcel subject to a Tract Declaration which applies to the Assessable Property in addition to that Parcel, and which assigns a specific aggregate number of Memberships to all property subject to that Tract Declaration (the "Total Tract Memberships"), then, unless the Tract Declaration specifically provides otherwise (and unless and until that Parcel is subdivided into Lots), the number of Memberships attributable to that Parcel shall be determined as follows:

(a) if the other Assessable Property covered by that Tract Declaration consists only of Lots, the number of Memberships attributable to that Parcel shall equal the Total Tract Memberships less the total number of such Lots;

(b) if the other Assessable Property consists only of one or more other Parcels, the number of Memberships attributable to each of the Parcels subject to the Tract Declaration shall be determined by allocating the Total Tract Memberships among such Parcels proportionately based on their relative sizes (measured in net acres), as reasonably determined and allocated by Declarant; and

(c) if the other Assessable Property consists of Lots and one or more other parcels, the number of Lots shall first be subtracted from the Total Tract Memberships, and the remaining number of Memberships shall be allocated among all Parcels subject to the Tract Declaration in the manner provided in paragraph (b) above.

5.7.4 In the case of a Parcel with respect to which no Tract Declaration has yet been recorded, the Owner of the Parcel shall have one Membership for each Residential Unit permitted on such Parcel under then-current zoning. Total Memberships attributable to a Parcel with respect to which no Tract Declaration has yet been Recorded shall, upon Recordation of a Tract Declaration, be adjusted and re-determined in accordance with the provisions of this Section 5.7. Further, as to any Parcel which is subdivided into Lots, upon such subdivision the Memberships attributable to such Lots shall be adjusted and re-determined in accordance with Section 5.7.1 (and, as to any portion of such Parcel which is not subdivided and therefore itself constitutes a parcel, the total Memberships attributable to such "new" Parcel shall be adjusted and re-determined in accordance with this Section 5.7).

5.7.5 If, at any time when the Declarant is a Member of the Association but would have more than one (1) Membership pursuant to Sections 5.7.1, 5.7.2, 5.7.3 or 5.7.4, the Declarant shall nevertheless be deemed to have one (1) Membership, provided, however, that the number of votes held by the Declarant shall be determined pursuant to Section 5.8.

5.8 Votes in the Association.

5.8.1 Each Owner other than the Declarant shall be entitled to one (1) vote for each Membership held by such Owner.

5.8.2 Until the expiration or termination of the Period of Declarant Control, the Declarant shall be entitled to the number of votes equal to five hundred fifty (550) minus the total number of outstanding votes held at the time by Owners other than the Declarant or a Declarant Affiliate. After the expiration or termination of the Period of Declarant Control, the Declarant shall have one (1) vote for each Membership held by the Declarant.

5.8.3 Until the expiration or termination of the Period of Declarant Control: (a) the Association shall be deemed to have two classes of Members, Class A and Class B; (b) the Declarant shall be the Class B Member, and all votes held by the Declarant shall be Class B votes; (c) all Owners other than Declarant shall be Class A Members, and all votes held by such Owners shall be Class A votes. Following expiration or termination of the Period of Declarant Control, the Association shall be deemed to have a single class of Members and votes. Notwithstanding the foregoing, however, except as otherwise expressly provided in this Declaration or in any of the other Project Documents, any issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting, regardless whether such votes are otherwise deemed to be Class A votes or Class B votes.

5.9 Voting Procedures. A change in the ownership of a Lot or Parcel shall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded; the Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof. The vote for each such Lot or Parcel must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot or Parcel is owned by more than one Person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot or Parcel, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Lot or Parcel unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote or votes for a particular Lot or Parcel, the vote or votes for that Lot or Parcel shall be deemed void and shall not be counted.

5.10 Transfer of Membership. The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot or Parcel, and then only to the transferee of ownership of the Lot or Parcel. A transfer of ownership of a Lot or Parcel may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot or Parcel shall operate to transfer the Membership appurtenant to said Lot or Parcel to the new Owner thereof. Each Purchaser of a Lot or Parcel shall notify the Association of his, her or its purchase of a Lot or Parcel. The Association may require the Purchaser of a Lot or Parcel to pay to the Association a transfer fee in an amount to be set by the Board, and the transfer fee shall be secured by the Assessment Lien.

5.11 Architectural Committee.

5.11.1 The Association shall have an Architectural Committee to perform the functions assigned to it as set forth in this Declaration. So long as the Declarant owns any Lot, Parcel or other property within the Project, or any portion of the Additional Property, the Architectural Committee shall consist of three (3) regular members and one (1) alternate member, each of whom shall be appointed by, and serve at the pleasure of, the Declarant. At such time as the Declarant no longer owns any Lot, Parcel or other property within the Project, or any portion of the Additional Property, the Architectural Committee shall consist of such number of regular and alternate members as the Board may deem appropriate from time to time (but in no event less than three (3) nor more than seven (7) regular members, nor less than one (1) nor more than three (3) alternate members), each of whom shall be appointed by, and serve at the pleasure of, the Board. The Declarant may at any time voluntarily surrender in writing its right, as the Declarant, to appoint and remove the members of the Architectural Committee pursuant to this Section 5.11.1, and in that event the Declarant may require, for so long as the Declarant owns any Lot, Parcel or other property within the Project, or any portion of the Additional

Property, that specified actions of the Architectural Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. At any time when no one is serving on the Architectural Committee, whether due to death, resignation, removal or failure of the Declarant or the Board, as applicable, to appoint members to the Architectural Committee, the rights, powers, obligations and duties of the Architectural Committee shall be held and exercised by: (a) Declarant, so long as Declarant has the right pursuant to Section 5.11.1 to appoint the members of the Architectural Committee; and (b) thereafter, the Board.

5.11.2 The Architectural Committee shall promulgate architectural design guidelines and standards (including, but not limited to, color palettes and plant materials) to be used in rendering its decisions. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. As provided in Section 3.2.9, the Architectural Committee may establish a reasonable fee to defer the costs of considering any requests for approvals submitted to the Architectural Committee, which fee shall be paid at the time the request for approval is submitted.

End of Article 5

ARTICLE 6

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot and Parcel, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot or Parcel, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot or Parcel and shall be a continuing lien upon the Lot or Parcel against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of each Person who was an Owner of the Lot or Parcel at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessment or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

6.2 Annual Assessment.

6.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each Assessment Period beginning with the fiscal year ending December 31, 2000, shall assess an Annual Assessment against each Lot and Parcel which is Assessable Property.

6.2.2 Beginning with the 2001 Assessment Period, the Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give prior notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board (provided, however, that the total Annual Assessment for such Assessment Period shall not exceed the maximum amount determined pursuant to Section 6.3).

6.3 Rate of Assessment.

6.3.1 The amount of the Annual Assessment against each Lot or Parcel shall be determined as follows:

(a) The term "Membership Assessment" shall mean, for each fiscal year, the amount equal to the total budget of the Association (except for any Common Expenses to be assessed as a Parcel Assessment under Section 6.4) for the applicable Assessment Period divided by the total number of Memberships in the Association (subject to Section 6.3.1(b) below).

(b) Except for Lots and Parcels subject to assessment pursuant to paragraphs (c) and (d) of this Section 6.3.1 and except for Lots and Parcels owned by the Declarant which are exempt from assessment under paragraph (e) of this Subsection 6.3.1, each Lot and Parcel shall be assessed an Annual Assessment in an amount equal to the number of Memberships attributable to such Lot or Parcel pursuant to Section 5.7 of this Declaration multiplied by the Membership

Assessment. Notwithstanding any provision of this Declaration to the contrary, beginning with the fiscal year ending December 31, 2000, the Membership Assessment provided for herein shall not in any fiscal year of the Association exceed the Maximum Membership Assessment, as determined in accordance with this paragraph (b). For the fiscal year ending December 31, 2000, the Maximum Membership Assessment shall be One Thousand Eighty Dollars (\$1,080.00). Hereinafter, unless a greater increase is approved by the affirmative vote of two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members called for such purpose, the Maximum Membership Assessment for any fiscal year (the "New Year") shall be equal to the Maximum Membership Assessment for the immediately preceding fiscal year (the "Prior Year") increased at a rate equal to the greater of: (i) the percentage increase in the CPI from the Base Month to the Index Month (as each of those terms is defined below); or (ii) ten percent (10%). Nothing herein shall obligate the Board to establish, in any fiscal year, a budget which results in Membership Assessments, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Membership Assessment for such fiscal year, and the failure by the Board not to establish a budget which would result in the Membership Assessment, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Membership Assessment for any fiscal year shall not prevent the Board from establishing a budget for subsequent fiscal years such that the Membership Assessment for such subsequent fiscal year, as calculated pursuant to paragraph (a) above, is in the full amount of the Maximum Membership Assessment for such subsequent fiscal year (as determined in accordance with this paragraph (b)). For purposes hereof: (x) the term "CPI" means the Consumer Price Index -- All Urban Consumers -- All Items (1982-1984 Average = 100 Base) published by the Bureau of Labor Statistics of the U.S. Department of Labor (or its successor governmental agency), or, if such index is no longer published by said Bureau or successor agency, in the index most similar in composition to such index; (y) the term "Index Month" means the month of July immediately prior to the beginning of the New Year; and (z) the term "Base Month" means the month of July immediately prior to the beginning of the Prior Year; provided, however, that if the Board changes the Assessment Period pursuant to Section 6.6, the Board shall have the right to change the calendar month used for purposes of clauses (y) and (z) (so long as the same calendar month in successive years is used for the clauses).

(c) Each Lot shall be assessed an Annual Assessment of twenty-five percent (25%) of the Membership Assessment until the earliest of: (i) the completion of a Residential Unit on the Lot; (ii) six (6) months from the commencement of construction of a Residential Unit on the Lot; or (iii) four (4) years from the date of the Recording of the Tract Declaration applicable to the Lot (or to the Parcel from which the Lot was created). Thereafter the Annual Assessment for the Lot shall be an amount equal to the Membership Assessment. This subparagraph (c) shall not apply to Lots or Parcels owned by the Declarant or by any Declarant Affiliate.

(d) A Parcel having a Land Use Classification of Residential Use shall be assessed an Annual Assessment of twenty-five percent (25%) of the amount equal to the number of Memberships attributable to such Parcel under Section 5.7 of this Declaration multiplied by the Membership Assessment until three (3) years from the date of the Recording of the Tract Declaration for the Parcel. Thereafter, the Parcel shall be assessed an Annual Assessment equal to the number of Memberships attributable to such Parcel under Section 5.7 of this Declaration multiplied by the Membership Assessment. This subparagraph (d) shall not apply to Lots or Parcels owned by the Declarant or by any Declarant Affiliate.

(e) Notwithstanding any other provision of this Declaration to the contrary, Annual Assessments levied against Lots and Parcels owned by the Declarant or by a Declarant Affiliate shall be in an amount equal to twenty-five percent (25%) of the Annual Assessments

which would have been assessed against such Lots and Parcels had they been owned by Owners other than Declarant, a Declarant Affiliate or a Developer.

6.3.2 For purposes of this Section, construction of a Residential Unit or other building shall be deemed to commence on the earlier of: (a) the date on which the excavation of the foundation footings is completed; or (b) the date on which a building permit for the Residential Unit or other building is issued by the City of Scottsdale. For purposes of this Section, a Residential Unit or other building shall be deemed completed when the building is ready for occupancy. The Owner of a Lot shall promptly notify the Association in writing after completion of the Residential Unit on that Lot (which notice shall include the date of completion of such Residential Unit), determined as provided in the preceding sentence. If an Owner fails to give the Association the written notice required by the preceding sentence, the Board shall have the right, at its option and in its sole discretion, to determine the date of completion of the applicable Residential Lot.

6.3.3 If the rate of assessment for any Lot or Parcel changes during any Assessment Period pursuant to the provisions of Section 6.3.1, the Annual Assessment attributable to such Lot or Parcel shall be prorated between the applicable rates upon the basis of the number of days in the Assessment Period that the Lot or Parcel was assessed under each rate.

6.4 Parcel Assessments. All Common Expenses of the Association pertaining to the operation, maintenance, repair and replacement of Parcel Assessment Area shall be shown separately in the budget adopted by the Board. The Common Expenses pertaining to the operation, maintenance, repair and replacement of a Parcel Assessment Area (which Common Expenses shall for purposes of this Section 6.4 include, without limitation: [a] any contributions to reserves for maintenance, replacement and repairs and for contingencies; [b] any additional insurance premiums charged to the Association because of the type or nature of the Parcel Assessment Area; and [c] any costs, losses, damages, liabilities or expenses, including without limitation attorneys' fees and court costs, suffered or incurred by the Association by reason of its ownership, operation, maintenance, replacement or repair of the Parcel Assessment Area [to the extent they exceed the amount of any insurance proceeds received by the Association or any proceeds recovered by the Association from other parties, as reasonably determined by the Board]) shall be assessed solely against the Lots and Parcels which are benefited by the Parcel Assessment Area as established by the Tract Declaration designating the Parcel Assessment Area. No Common Expenses pertaining to the operation, maintenance, repair or replacement of a Parcel Assessment Area shall be used in computing the Annual Assessments to be levied pursuant to Sections 6.2 and 6.3. Unless otherwise provided for in the applicable Tract Declaration, Parcel Assessments shall be levied against the Lots and Parcels benefited by the Parcel Assessment Area at a uniform rate per Membership. If the Board determines during any Assessment Period that Parcel Assessments with respect to any Parcel Assessment Area are, or will, become inadequate to meet all Common Expenses pertaining to that Parcel Assessment Area for any reason, including, without limitation, nonpayment of Parcel Assessments by Members, the Board may increase the Parcel Assessment for that Assessment Period and the revised Parcel Assessment shall commence on the date designated by the Board.

6.5 Special Assessments. The Association may levy against each Lot and Parcel which is Assessable Property, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Improvements upon the Common Area, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

6.6 Assessment Period. The period for which the Annual Assessments and Parcel Assessments are to be levied (the "Assessment Period") shall be the calendar year. The Board in its sole discretion from time to time may change the Assessment Period.

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

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

6.8.1 Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

6.8.2 The Association shall have a lien on each Lot and Parcel for all Assessments levied against the Lot or Parcel and for all other fees and charges payable to the Association by the Owner of the Lot or Parcel pursuant to this Declaration. Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, Record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot or Parcel against which the notice of lien is Recorded and the amount claimed to be past due as of the date of the Recording of the notice, including interest, lien recording fees and reasonable attorneys' fees.

6.8.3 The Assessment Lien shall have priority over all liens or claims except for (a) tax liens for real property taxes; (b) assessments in favor of any municipal or other governmental body; and (c) the lien of any First Mortgage. Regardless whether the Assessment Lien has, or is deemed to have, priority over liens securing assessments levied pursuant to a Neighborhood Declaration, foreclosure of the Assessment Lien with respect to a Lot or Parcel shall not impair, extinguish or otherwise affect such other assessment liens or relieve or release any obligations for such other assessments secured by such Lot or Parcel.

6.8.4 The Association shall not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Owner of the Lot or Parcel have been paid in full.

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

6.9 Evidence of Payment of Assessments. Upon receipt of a written request by a Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Member or

other Person a written certificate stating: (a) that all Assessments, interest and other fees and charges 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, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot or Parcel in question.

6.10 Purposes for Which Association's Funds May be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Members and Occupants, maintenance of landscaping on Common Area and public right-of-way and drainage areas within the Project, construction, operation and maintenance of recreational and other facilities on Common Area, operation, maintenance, replacement and repair of Parcel Assessment Area and Improvements thereon, recreation, insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety, indemnification of officers, directors and committee members of the Association, employment of professional managers, and hiring professional consultants such as architects, engineers, attorneys and accountants.

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

6.12 Transfer Fee. Each Purchaser of a Lot or Parcel shall pay to the Association immediately upon becoming the Owner of the Lot or Parcel a transfer fee in such amount (if any) as may be established from time to time by the Board.

6.13 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 6.5 hereof; or (b) approving any increase in the Maximum Membership Assessment greater than that permitted by Section 6.3.1(b), shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Membership Assessment, a quorum shall consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

End of Article 6

ARTICLE 7

MAINTENANCE

7.1 Common Area and Public Right of Way.

7.1.1 The Association, or its duly delegated representative, shall manage, maintain, repair and replace: (a) the Common Area and all Improvements located thereon (subject to Section 7.1.3); (b) the side facing a street or portion of the Common Area of any boundary or perimeter wall situated along major public or private streets within or adjacent to the Property; and (c) other areas designated on one or more Neighborhood Plats or Tract Declarations recorded by, or bearing the written approval of, Declarant (or, after the termination of the Class B membership, the Association) as being the responsibility of the Association. Notwithstanding the foregoing, the Association shall not be obligated to maintain areas which any governmental entity or any utility company is maintaining or is obligated to maintain.

7.1.2 The Board shall be the sole judge as to the appropriate maintenance of all Common Area and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

7.1.3 In the event any subdivision plat, Tract Declaration, deed restriction or this Declaration permits the Board to determine whether or not Owners of certain Lots of Parcels will be responsible for maintenance of certain Common Area or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners of Lots and Parcels having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

7.2 Lots and Parcels. Each Owner of a Lot or Parcel shall be responsible for maintaining, repairing or replacing his, her or its Lot or Parcel, and all buildings, Residential Units, landscaping or other Improvements situated thereon, except for any portion of the Lot or Parcel which is Common Area (unless otherwise required by the Board pursuant to Section 7.1.3). All buildings, Residential Units, landscaping and other Improvements shall at all times be kept in good condition and repair. Landscaping shall be maintained as required by Section 3.4. All Lots and Parcels upon which no Residential Units or other Improvements have been constructed shall be maintained in a weed free and attractive manner.

7.3 Installation of Landscaping. The Owner of a Lot shall install (if not already installed) grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements): (a) in the front yard of the Lot and in any side or back yard of the Lot which is not fully enclosed by a solid fence or wall at least six (6) feet high, not later than one hundred twenty (120) days after the date on which title to the Lot is first conveyed to a Purchaser (as evidenced by Recordation of a deed); and (b) in any side or back yard of the Lot which is fully enclosed by a solid fence or wall at least six (6) feet high, not later than one hundred eighty (180) days after the date on which title to the Lot is first conveyed to a Purchaser (as evidenced by Recordation of a deed). All landscaping must be installed in accordance with plans approved in writing by the Architectural Committee. If landscaping and an irrigation system are not installed on a Lot in the manner and by the applicable dates provided for in this Section, the Association shall have the right, but not the obligation, to enter upon such Lot to install such landscaping improvements as the Association deems appropriate (together with an irrigation system sufficient to adequately water the same), and the cost of any such installation shall be paid to the Association by the Owner of the Lot, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this Section shall be secured by the Assessment Lien, and the Association may enforce collection of

such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

7.4 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Area or any other area maintained by the Association is caused through the willful or negligent act of any Member, his family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Member and the Member's Lot or Parcel is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot or Parcel pursuant to this Section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

7.5 Improper Maintenance and Use of Lots and Parcels. In the event any portion of any Lot or Parcel is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots and Parcels or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot or Parcel is being used in a manner which violates this Declaration or any Tract Declaration or Neighborhood Declaration applicable thereto, or in the event the Owner of any Lot or Parcel is failing to perform any of its obligations under the Project Documents or any Tract Declaration or Neighborhood Declaration applicable thereto, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot or Parcel is subject and shall be secured by the Assessment Lien.

7.6 Improper Maintenance of Neighborhood Common Area. If any Neighborhood Common Area is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots and Parcels or other areas of the Project which are substantially affected thereby or related thereto, or if any portion of the Neighborhood Common Area is being used in a manner which violates this Declaration, any Tract Declaration or any Neighborhood Declaration applicable thereto or if the Neighborhood Common Area is not maintained in the manner required by this Declaration, or any Tract Declaration or Neighborhood Declaration applicable thereto, the Board may make a finding to such effect specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the Neighborhood Association responsible for the maintenance of such Neighborhood Common Area that unless corrective action is taken within fourteen (14) days the Board may cause such action to be taken at the Neighborhood Association's expense. If at the expiration of such 14-day period, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be payable to the Association by the Neighborhood Association within ten (10) days after demand therefor is made by the Association.

7.7 Common Walls. The rights and duties of Owners of Lots or Parcels (and the Association) with respect to common walls shall be as follows:

7.7.1 The Owners of contiguous Lots or Parcels which have a common wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

7.7.2 In the event that any common wall is damaged or destroyed through the act of an Owner (or of his, her or its agents, tenants, invitees, licensees, guests or family members), it shall be the obligation of such Owner to rebuild and repair the common wall without cost to the other Owner or Owners;

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

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

7.7.5 In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to construct, modify, make additions to or rebuild a common wall shall first obtain the written consent of each other Owner whose Lot or Parcel adjoins such common wall or any portion thereof;

7.7.6 In the event any common wall encroaches upon a Lot, a Parcel or the Common Area, a valid easement for such encroachment and for the maintenance of the common wall shall and does exist in favor of the Owners of the Lots or Parcels which share such common wall (and the Association, if applicable); and

7.7.7 In the event of any dispute between two or more Owners of contiguous Lots or Parcels regarding a common wall or walls, such dispute shall be submitted to the Board for resolution, and the decision of the Board as to any such dispute shall be final and binding.

7.7.8 Walls (other than common walls) located on a Lot or Parcel shall be maintained, repaired and replaced by the Owner of the Lot or Parcel.

7.7.9 Any wall which is placed on or adjacent to the boundary line between a Lot or Parcel and the Common Area shall be maintained, repaired and replaced by the Owner of the Lot or Parcel, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Common Area. If any such wall or portion thereof is wrought iron, the Owner of each such Lot or Parcel shall be responsible, at such Owner's expense for the repair and maintenance of that portion of such wrought iron fence or wall as lies on or adjacent to such Owner's Lot or Parcel, all in accordance with such rules, regulations and standards as the Architectural Committee may adopt from time to time (which may include, without limitation, requirements and standards as to frequency of painting and paint color). If an Owner fails to perform the maintenance and repair of any such wrought iron fence or wall as required by this Section 7.7.9 then, in addition to any other rights or remedies the Association may have under the Project Documents, the Association shall have the right to perform such maintenance and repair, and to charge the cost thereof to such Owner (which cost shall be the personal obligation of such Owner and shall also be secured by the Assessment Lien against such Owner's Lot or Parcel). As used in this Section 7.7, maintenance and repair include, without limitation, painting in accordance with such rules, regulations and standards as the Architectural Committee may adopt from time to time.

7.8 Maintenance of Natural Open Spaces. All property designated as Natural Open Space, whether by a Tract Declaration or by applicable zoning or other laws or ordinances, shall be maintained by the Owner thereof in a natural, undisturbed condition (after any initial approved revegetation), and the Owner thereof shall promptly remove any litter, waste or debris as may be dumped, left or deposited thereon, and shall otherwise protect and preserve the same and maintain the same in compliance with any and all applicable laws or ordinances, and with any applicable provisions of the Architectural Committee Rules.

End of Article 7

ARTICLE 8**INSURANCE**

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

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

8.1.2 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area and other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

8.1.3 Workmen's compensation insurance to the extent necessary to meet the requirements of applicable law;

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

8.1.5 Each insurance policy purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(a) The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;

(b) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or adversely affect recovery on the policy;

(c) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners, Occupants or Mortgagees;

(d) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of the negligent acts of the Association or other Owners or Occupants;

(e) Statement naming the Association as the insured;

(f) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

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

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

8.4 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 8.5, the proceeds shall be disbursed for the repair or restoration of the damage to the Common Area.

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

End of Article 8

ARTICLE 9**GENERAL PROVISIONS**

9.1 Enforcement. The Association or any Owner shall have the right to enforce the Project Documents.

9.2 Term; Method of Termination. Unless terminated in accordance with this Section, this Declaration shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is Recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Members holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to applicable law.

9.3 Amendments.

9.3.1 Except for amendments made pursuant to Sections 9.3.2 or 9.3.3 of this Declaration, this Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Members holding not less than sixty-seven percent (67%) of the votes in the Association.

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

9.3.3 So long as the Declarant is entitled to cast at least sixty-seven percent (67%) of the votes in the Association, the Declarant may amend this Declaration without the consent or approval of any other Owner or other Person.

9.3.4 So long as the Declarant or any Declarant Affiliate owns any Lot, Parcel or other portion of the Property, or any portion of the Additional Property, no amendment to this Declaration shall be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendments).

9.3.5 Any amendment approved pursuant to Section 9.3.1 of this Declaration or by the Board pursuant to Section 9.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Sections 9.3.2 or 9.3.3 of this Declaration shall be executed by the Declarant and shall be Recorded.

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

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

9.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

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

9.8 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations are not inconsistent with the provisions of the other Project Documents.

9.9 Laws, Ordinances and Regulations.

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

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

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

9.11 Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders shall include each of the other genders, words in the singular shall include the plural, and words in the plural shall include the singular.

9.12 Captions and Title; Section References; Exhibits. 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 meaning or intent thereof. References in this Declaration to numbered Articles, Sections or Subsections, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

9.13 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, the Project Documents or resolution of the Board to be given to any

Owner, Lessee or Resident then, unless otherwise specified in the Project Documents or in the resolution of the Board, or unless otherwise required by law, such notice requirement shall be deemed satisfied if notice of such action, proposed action or meeting is published once in any newspaper in general circulation within Maricopa County. 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.

9.14 Indemnification. The Association shall indemnify each and every officer and director of the Association, each and every member of the Architectural Committee, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, former members of the Architectural Committee, and former members of committees appointed by the Board) (collectively, "Association Officials" and individually an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, except for his or her own individual willful misfeasance, malfeasance, misconduct or bad faith. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be a Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 9.14 or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

9.15 No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Area, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot or Parcel (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area, which shall be subject to Section 4.1) which may or may not be subject to this Declaration.

9.16 Property Held in Trust. Except as otherwise expressly provided in this Declaration, any and all portions of the Property (and of the Additional Property) which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is the Declarant or a Declarant Affiliate, shall be deemed for all purposes under this Declaration to be owned by the Declarant or such Declarant Affiliate, as applicable, and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by the Declarant or such Declarant Affiliate, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by the Declarant or any such Declarant Affiliate to any such trust (or the trustee thereof) or to the Declarant or any such Declarant Affiliate by any such trust (or the trustee thereof) shall be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

9.17 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the first day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

9.18 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of the Project Documents. The notice shall be recorded and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot or Parcel against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which shall be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and Occupant, and to any subsequent purchaser of the Lot or Parcel, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall record a notice of compliance which shall state the legal description of the Lot or Parcel against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

9.19 Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither the Declarant nor any Declarant Affiliate makes any warranties or representations whatsoever that the plans currently envisioned for the complete development of the Project can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant or by any Declarant Affiliate is or will be subjected to this Declaration, or that any such real property (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 real property is once used for a particular use, such use will continue in effect. While neither the Declarant nor any Declarant Affiliate believes that any of the restrictive covenants contained in this Declaration is or may be invalid or unenforceable for any reason or to any extent, neither the Declarant nor any Declarant Affiliate makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot or parcel in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot or Parcel agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

9.20 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate or a trustee for the benefit of the Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

9.21 Bulk Service Agreements.

9.21.1 The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Owners and Occupants of Lots, Parcels or both within the Property, or within one or more portions thereof, cable television, community satellite television or other electronic entertainment, information or communication services: (a) which might not otherwise be generally available to such Owners and Occupants; (b) at rates or charges lower than might otherwise generally be

charged to Owners and Occupants for the same or similar services; (c) otherwise on terms and conditions which the Board believes to be in the interests of Owners and Occupants generally; or (d) any combination of the foregoing.

9.21.2 If all Lots and Parcels within the Property are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly). If not all Lots and Parcels within the Property will be served by a particular Bulk Service Agreement the Board shall have only the billing option described in clause (b) above.

9.21.3 The Declarant, for each Lot and Parcel, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Lot or Parcel, is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Lot or Parcel) by the Board pursuant to this Section 9.21, and all such amounts: (a) shall be deemed to be a part of the Assessments against the Lots or Parcels against or to which they are levied or charged (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Lot or Parcel at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

9.21.4 No Owner of a Lot or Parcel covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot or Parcel under this Section 9.21, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, at its option, to exempt from payment of such amounts any Lot or Parcel upon which no Residential Unit or other building has been completed.

9.21.5 "Bulk Provider" means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, community satellite television or other electronic entertainment, information or communication services to Lots, Parcels or both within the Property, or within one or more portions thereof, pursuant to a "Bulk Service Agreement" (as defined below).

9.21.6 "Bulk Service Agreement" means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, community satellite television or other electronic entertainment, information or communication services to Lots, Parcels or both with the Property, or within one or more portions thereof.

9.21.7 During the Period of Declarant Control, the Board shall not, without the approval of Members holding at least fifty-one percent (51%) of all Class A votes represented in person or by proxy at an annual or special meeting of the Members of the Association, enter into a Bulk Service Agreement which imposes on the Association or its Members (other than Declarant or a Developer which, in either case, agrees in writing thereto) any obligation to pay the direct costs of construction of any cables, lines or other facilities or equipment for any such cable television, community satellite television or electronic entertainment, information or communication services, but nothing in this Section 9.21.7 shall prevent the Board from entering into, or require approval by the Members of, any Bulk Service Agreement which imposes on the Association or its Members

installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the greater Scottsdale, Arizona, area, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

End of Article 9

ARTICLE 10

CONSTRUCTION DEFECT DISPUTE RESOLUTION AND LITIGATION

10.1 Construction Defect Dispute Notification and Resolution Procedure

10.1.1 Construction Defect Dispute Notification and Resolution Procedure. All actions or claims (i) by the Association against any one or more of the Declarant Parties (as defined below), (ii) by any Owner(s) against any one or more of the Declarant Parties, or (iii) by both the Association and any Owner(s) against any one or more of the Declarant Parties, relating to or arising out of the Project, including but not limited to the Declaration or any other Project Documents (as defined below), the use or condition of the Project or the design or construction of or any condition on or affecting the Project, including, but not limited to, construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (including, but not limited to Residential Units) or disputes which allege negligence or other tortious conduct, breach of contract or breach of implied or express warranties as to the condition of the Project or any Improvements (collectively, "Dispute(s)") shall be subject to the provisions of this Article 10. Declarant and each Owner acknowledge that the provisions set forth in this Article 10 shall be binding upon current and future Owners of Lots and Parcels and the Association, whether acting for itself or on behalf of any Owner(s). For purposes hereof, the term "Declarant Parties" means, collectively, Declarant, its builders, general contractors or brokers, or their agents or employees, and any Declarant Affiliate.

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

10.1.3 Attempt to Resolve; Right to Inspect and Right to Corrective Action. Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, Declarant and claimant shall meet at a mutually acceptable place within or reasonably convenient to the Project to discuss the claim. At such meeting or at such other mutually agreeable time, the Declarant and the Declarant's representatives shall have full access to the property that is the subject of the claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing the same in a manner deemed appropriate by Declarant (provided Declarant shall repair or replace any property damaged or destroyed during such inspection or testing), which rights shall continue until such time as the Dispute is resolved as provided in this Section 10.1.3. The parties shall negotiate in good faith in an attempt to resolve the claim. If the Declarant elects to take corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the project and the property which is the subject of the claim to take and complete corrective action.

10.1.4 No Additional Obligations, Irrevocability and Waiver of Right. Nothing set forth in Section 10.1.3 shall be construed to impose any obligation on Declarant to inspect, test, repair or replace any part of the Project for which Declarant is not otherwise obligated under applicable law or any limited warranty provided by Declarant in connection with the sale of the Project and/or the Improvements constructed thereon. The right of Declarant to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a written instrument executed and Recorded by Declarant.

10.1.5 Mediation. If the parties to the Dispute cannot resolve the claim pursuant to the procedures described in Section 10.1.3, the matter shall be submitted to mediation pursuant to the mediation procedures adopted by the American Arbitration Association (except as such procedures are modified by the provisions of this Section 10.1.5) or any successor thereto or to any other entity offering mediation services that is acceptable to the parties. No person shall serve as a mediator in any dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. No litigation or other action shall be commenced

against the Declarant or any Declarant Affiliate without complying with the procedures described in this Section 10.1.5.

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

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

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

(d) Parties Permitted at Sessions. Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of both parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediator while serving in such capacity shall be confidential. There shall be no stenographic, audiotape or videotape record of the mediation process.

(e) Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise. Each party to the mediation shall bear its own attorneys' fees and costs in connection with such mediation.

10.1.6 Arbitration. Should mediation pursuant to Section 10.1.5 not be successful in resolving a Dispute, such Dispute shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association as modified or as otherwise provided in this Section 10.1.6. The parties shall cooperate in good faith to attempt to cause all necessary and appropriate parties to be included in the arbitration proceeding. Subject to the limitations imposed in this Section 10.1.6, the arbitrator shall have the authority to try all issues, whether of fact or law.

(a) Place. The proceedings shall be heard in Maricopa County, Arizona.

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

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

(d) Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

(e) Discovery. The parties shall be entitled only to limited discovery, consisting of the exchange between the parties of only the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Dispute, including but not limited to, destructive or invasive testing; and (vi) trial briefs. The parties shall also be entitled to conduct further tests and inspections as provided in Section 10.1.3. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

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

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

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

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

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

10.2 Required Consent of Owners for Legal Action

10.2.1 Required Consent of Owners for Legal Action. Notwithstanding anything to the contrary in this Declaration, no action or claim may be instituted by the Association against any one or more of the Declarant Parties, relating to or arising out of the Project, this Declaration or any other Project Documents, the use or condition of the Project or the design or construction of or any condition on or affecting the Project,

including, but not limited to, construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (including, but not limited to, Residential Units) or disputes which allege negligence or other tortious conduct, breach of contract or breach of implied or express warranties as to the condition of the Project or any Improvements, unless such action or claim has first been approved by Owners representing seventy-five percent (75%) of the votes in the Association who are voting in person or by proxy at a meeting duly called for such purpose.

10.2.2 Notice to Owners.

(a) Prior to obtaining the consent of the Owners in accordance with Section 10.2.1, the Association must provide written notice to all Owners, which notice shall (at a minimum) include (1) a description of the nature of any action or claim (the "Claim"), (2) a description of the attempts of Declarant to correct such Claim and the opportunities provided to Declarant to correct such Claim, (3) a certification from an engineer licensed in the State of Arizona that such Claim is valid along with a description of the scope of work necessary to cure such Claim and a resume of such engineer, (4) the estimated cost to repair such Claim, (5) the name and professional background of the attorney proposed to be retained by the Association to pursue the Claim against Declarant and a description of the relationship between such attorney and member(s) of the Board of Directors (if any), (6) a description of the fee arrangement between such attorney and the Association, (7) the estimated attorneys' fees and expert fees and costs necessary to pursue the Claim against Declarant and the source of the funds which will be used to pay such fees and expenses, (8) the estimated time necessary to conclude the action against Declarant, and (9) an affirmative statement from the Board that the action is in the best interest of the Association and its members.

(b) In the event the Association recovers any funds from Declarant (or any other person or entity) to repair a Claim, any excess funds remaining after repair of such Claim shall be paid into the Association's reserve fund.

10.2.3 Notification to Prospective Purchasers. In the event that the Association commences any action or claim, all Owners must notify prospective purchasers of such action or claim and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 10.2.2.

10.3 Required Consent of Declarant to Modify. Notwithstanding anything to the contrary in this Declaration, this Article 10 shall not be amended except in accordance with Section 9.3 of this Declaration and with the express written consent of the Declarant.

End of Article 10

ARTICLE 11**FHA/VA PROVISIONS**

11.1 Approvals During Period of Declarant Control. Notwithstanding any other provision of this Declaration or of any of the other Project Documents to the contrary, during the period: (a) commencing with the earlier of: (i) the date FHA or VA first approves any subdivision in the Project for residential loan insurance or guarantee programs offered by FHA or VA; or (ii) the date FHA or VA first insures or guarantees a loan on any Lot within the Project; and (b) ending with the expiration or termination of the Period of Declarant Control:

11.1.1 property which is not included within the Additional Property shall not be annexed to the Property without the prior approval of either FHA or VA (except to the extent such annexation involves only minor adjustments to boundaries of the Property);

11.1.2 neither the Common Area nor any part thereof shall be dedicated without the prior approval of either FHA or VA except for minor adjustments to the boundaries of any Common Area or any other portion of the Property; (b) dedications or grants of easements to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company as permitted by Section 4.1.1(a); and (c) grants of easements pursuant to Section 4.2.

11.1.3 no amendment to this Declaration or to the Articles or Bylaws shall be effective without the prior approval of either FHA or VA (except to make clerical or technical corrections); and

11.1.4 the Association shall not be dissolved, or merged or consolidated with any other entity, without the prior approval of FHA or VA.

11.2 Obtaining Approvals. As to any action required by this Article 11 to be approved by FHA or VA before becoming effective or before being taken, such action shall be submitted to FHA or VA for approval, and if the agency whose approval is requested does not disapprove the same, by written notice to the Association, the Declarant or other Person requesting such approval, within thirty (30) days after delivery to such agency of the request for approval, the action in question shall be deemed approved by such agency.

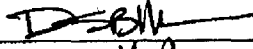
11.3 Definitions. For purposes of this Article 11, the term "FHA" means the Federal Housing Administration (or its successor federal agency), and the term "VA" means the Veterans Administration (or its successor federal agency).

End of Article 11

IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set
above.

HIDDEN HILLS OF SCOTTSDALE, L.C., an Arizona
limited liability company

By SUNCOR DEVELOPMENT COMPANY, INC.
an Arizona corporation, its managing member

By 
Its V.P.

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 28th day of September, 1999, by
Diana S. Black, the Vice President of Sunco
Development Company, a(n) Arizona Corporation, the managing member of Hidden
Hills of Scottsdale, L.C., an Arizona limited liability company,

Gail Sanchez
Notary Public

My Commission Expires:



NO. 229-185-1033940

That portion of the Northeast quarter of Section 19 and the Northwest quarter of Section 20, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

BEGINNING at the Northwest corner of said Section 20;

thence South 89 degrees 50 minutes 18 seconds East along the North line of said Northwest quarter of Section 20 a distance of 1348.06 feet;

thence South 22 degrees 10 minutes 09 seconds West 509.43 feet;

thence South 83 degrees 07 minutes 46 seconds West 164.43 feet;

thence South 16 degrees 22 minutes 26 seconds West 70.47 feet;

thence South 69 degrees 37 minutes 46 seconds West 76.07 feet to the beginning of a curve concave Southeasterly and having a radius of 570.00 feet;

thence Southwesterly along the arc of said curve through a central angle of 14 degrees 36 minutes 27 seconds a distance of 145.32 feet;

thence South 34 degrees 58 minutes 42 seconds East leaving said curve along a radial line a distance of 340.00 feet to a point on a curve concentric with the last described curve and having a radius of 230.00 feet;

thence Northeasterly along the arc of said curve through a central angle of 14 degrees 36 minutes 27 seconds a distance of 58.64 feet to a point of tangency;

thence North 69 degrees 37 minutes 46 seconds East 285.92 feet to the beginning of a curve concave Northwesterly and having a radius of 720.00 feet;

thence Northeasterly along the arc of said curve through a central angle of 26 degrees 37 minutes 55 seconds a distance of 334.67 feet to a point of tangency;

thence North 42 degrees 59 minutes 51 seconds East 137.70 feet;

thence South 47 degrees 03 minutes 55 seconds East 715.11 feet;

thence North 89 degrees 56 minutes 04 seconds East 455.43 feet to a point on the East line of the Northwest quarter of said Section 20;

thence South 00 degrees 03 minutes 23 seconds East along said East line a distance of 1627.72 feet to the Southeast corner of said Northwest quarter.

No: (229-185-1033940)

thence North 89 degrees 53 minutes 47 seconds West along the South line of said Northwest quarter a distance of 2635.89 feet to the Southeast corner of the Northeast quarter of said Section 19;

thence South 89 degrees 46 minutes 27 seconds West along the South line of said Northeast quarter a distance of 2643.10 feet to the Southwest corner of the Northeast quarter of said Section 19;

thence North 00 degrees 06 minutes 50 seconds West along the West line of said Northeast quarter a distance of 2637.03 feet to the Northwest corner of said Northeast quarter;

thence North 89 degrees 51 minutes 10 seconds East along the North line of said Northeast quarter a distance of 2645.97 feet to the POINT OF BEGINNING.

EXHIBIT B

LEGAL DESCRIPTION

ORDER NO. 99250049

THAT PORTION OF SECTION SEVENTEEN (17), TOWNSHIP THREE (3) NORTH, RANGE SIX (6) EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 17;

THENCE NORTH 00 DEGREES 05 MINUTES 54 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 17, A DISTANCE OF 2639.46 FEET;

THENCE NORTH 15 DEGREES 23 MINUTES 39 SECONDS EAST, LEAVING SAID WEST LINE, A DISTANCE OF 994.69 FEET;

THENCE SOUTH 55 DEGREES 39 MINUTES 14 SECONDS EAST 763.66 FEET;

THENCE SOUTH 80 DEGREES 32 MINUTES 53 SECONDS EAST 577.81 FEET;

THENCE SOUTH 31 DEGREES 25 MINUTES 46 SECONDS EAST 139.25 FEET;

THENCE SOUTH 18 DEGREES 42 MINUTES 20 SECONDS EAST 1350.52 FEET;

THENCE SOUTH 02 DEGREES 34 MINUTES 07 SECONDS WEST 883.25 FEET;

THENCE SOUTH 40 DEGREES 08 MINUTES 48 SECONDS WEST A DISTANCE OF 1041.22 FEET TO A POINT LYING ON THE SOUTH LINE OF SAID SECTION 17;

THENCE NORTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1254.84 FEET TO THE TRUE POINT OF BEGINNING.

AND

PARCEL B, SCOTTSDALE MOUNTAIN ESTATES UNIT 1, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 304 OF MAPS, PAGE 35.