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PAGES: 65
FEE NUMBER: 2007-028994

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

FOR

RED ROCK VILLAGE

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

FOR

RED ROCK VILLAGE

This Declaration of Covenants, Conditions and Restrictions for Red Rock Village (this "Declaration") is made as of the 13th day of February, 2007, by Pulte Home Corporation, a Michigan corporation (the "Declarant").

**ARTICLE 1
DEFINITIONS**

Unless otherwise defined, the following words and phrases when used in this Declaration shall have the meanings set forth in this Article.

1.1 "Additional Property" means the real property described on Exhibit B attached hereto, together with all Improvements situated thereon, and any other real property lying and being within three (3) miles in any direction from any portion of the perimeter boundary line of the Project, together with the Improvements situated thereon.

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

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

1.4 "Areas of Association Responsibility" means (i) all Common Area; (ii) all real property, and the Improvements situated thereon, located within the boundaries of a Lot or Parcel that the Association is obligated to maintain, repair and replace pursuant to the terms of a Plat, this Declaration or the terms of another Recorded document executed by Declarant and/or Association; and (iii) all real property, and the Improvements situated thereon, within or adjacent to the Project located within dedicated rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or any county or municipality has accepted all responsibility for the maintenance, repair and replacement of such areas.

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

1.6 "Assessment" means an Annual Assessment, a Special Assessment or a Neighborhood Assessment.

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

1.8 **"Assessment Period"** means the period set forth in Section 6.7 of this Declaration.

1.9 **"Association"** means Red Rock Village Community Association, an Arizona nonprofit corporation, or such other Arizona nonprofit corporation to be organized by Declarant to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns.

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

1.11 **"Board"** means the Board of Directors of the Association.

1.12 **"Builder"** means any Person purchasing from Declarant one or more Lots or Parcels to construct Residential Units thereon for later sale to Owners.

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

1.14 **"Common Area"** means all real property, together with all Improvements situated thereon, that the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest, except that Common Area shall not include any Lot that the Association may acquire through foreclosure of the Assessment Lien or any deed in lieu of foreclosure.

1.15 **"Common Expenses"** means the actual expenses incurred, or anticipated to be incurred, by the Association, together with any allocations to reserves.

1.16 **"Condominium Development"** means a condominium established within the Project pursuant to Chapter 9, Title 33, Arizona Revised Statutes, as amended from time to time.

1.17 **"Condominium Unit"** means a unit, together with any appurtenant interest in all common elements, within a Condominium Development.

1.18 **"Declarant"** means Pulte Home Corporation, a Michigan corporation, its successors, and any Person to whom it may expressly assign any or all of its rights under this Declaration by a Recorded instrument.

1.19 **"Declarant Party" or "Declarant Parties"** means collectively Declarant, the shareholders of Declarant, the parent, affiliates and subsidiaries of Declarant, the officers, directors and employees of all of the foregoing, and as to Section 9.16, to the extent such Persons agree to be bound by Section 9.16, any contractors, subcontractors, suppliers, architects, engineers, brokers and any other Person providing materials or services in connection with the construction of any Improvement upon or benefiting the Project.

1.20 **"Declaration"** means this Declaration of Covenants, Conditions and Restrictions for Red Rock Village, as amended from time to time.

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

1.22 **"Development Plan"** means the development plan approved for the Property and Additional Property by Pinal County, Zoning Case PZ-PD-006-02, which originally established the density for the Project, which density is subject to change pursuant to Section 2.5 of this Declaration.

1.23 **"First Mortgage"** means any mortgage, deed of trust or contract for sale pursuant to the provisions of A.R.S. § 33-741 et seq. encumbering a Lot or Parcel that has priority over all other mortgages, deeds of trust and contracts for sale encumbering the same Lot or Parcel.

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

1.25 **"Improvement"** means any Residential Unit, any other temporary or permanent building, fence, wall or other structure (including, without limitation, any sheds, basketball poles/hoops, play structures, patio covers, balconies, light fixtures and light poles), and any swimming pool, road, driveway, parking area (paved or unpaved), and any trees, plants, shrubs, grass and other landscaping improvements of every type and kind.

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

1.27 **"Lot"** means (a) any portion of the Project intended for independent ownership and use and designated as a lot on a Plat, and where the context indicates or requires, shall include any building, structure or other Improvements situated on the Lot and, (b) a Condominium Unit, and where the context indicates or requires, shall include the buildings, structures and other Improvements situated within the common elements of the Condominium Development.

1.28 **"Maintenance Standard"** means the standard of maintenance of Improvements established from time to time by the Board or, in the absence of any standard established by the Board, the standard of maintenance of Improvements generally prevailing throughout the Project.

1.29 **"Member"** means any Person that is a member of the Association and that holds a "Membership" created pursuant to Article 5.

1.30 **"Neighborhood Assessment"** means an assessment levied against less than all of the Lots in the Project pursuant to Section 6.6 of this Declaration.

1.31 **"Neighborhood Assessment Area"** means a portion of the Project designated in a Supplemental Declaration as an area in which the Association will provide Neighborhood Services.

1.32 **"Neighborhood Common Area"** means Common Area designated in a Supplemental Declaration intended for the use and enjoyment of less than all of the Owners, Lessees and Residents and maintained by the Association through a Neighborhood Assessment.

1.33 **"Neighborhood Expenses"** means the actual expenses, including allocations to reserves, incurred or anticipated to be incurred by the Association to provide Neighborhood Services to the Owners, Lessees and Residents in a Neighborhood Assessment Area.

1.34 **"Neighborhood Services"** means services designated in a Supplemental Declaration as being for the sole or primary benefit of the Owners, Lessees and Residents of a particular part of the Project.

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

1.36 **"Parcel"** means any area of real property within the Project that (i) is not included within the boundaries of any subdivision Plat creating Lots or condominium Plat creating Condominium Units, and (ii) is not Common Area. However, any land located within the Project included within the boundaries of a subdivision Plat or a condominium Plat that is designated for future development and intended to be re-subdivided into Lots or Condominium Units shall be a "Parcel."

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

1.38 **"Plat"** means any subdivision or condominium plat Recorded against all or any part of the Project, and all amendments, supplements and corrections thereto.

1.39 **"Property" or "Project"** means the real property described on Exhibit A attached to this Declaration together with all Improvements located thereon, and all real property together with all Improvements situated thereon that is annexed and subjected to this Declaration pursuant to Section 2.3 of this Declaration.

1.40 **"Project Documents"** means this Declaration, any Supplemental Declaration, the Articles, the Bylaws, the Association Rules and the Design Guidelines.

1.41 **"Purchaser"** means any Person, other than Declarant or a Builder, who by means of a voluntary transfer becomes the Owner of a Lot, except for: (i) a Person who purchases a Lot or Parcel and then leases it to Declarant or a Builder for use as a model in connection with the sale or lease of other Lots; or (ii) a Person who, in addition to purchasing a Lot or Parcel, is assigned any or all of Declarant's rights under this Declaration.

1.42 **"Record" or "Recording"** means placing an instrument of public record, **"Recorded"** or **"Recordation"** means having been so placed or the act of placing of public record, and **"Record Owner"** and **"Record Notice"** means that such Owner and/or such notice is evidenced by such public records, all in the office of the County Recorder of Pinal County, Arizona.

1.43 **"Reduced Assessments"** means the reduced assessments described in Subsections 6.3.3 through 6.3.6 inclusive, hereof.

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

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

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

1.47 **"Special Neighborhood Assessment"** means any assessment levied and assessed pursuant to Subsection 6.6.2 of this Declaration.

1.48 **"Subsidiary Association"** means an owners association created within the Project (other than the Association established under this Declaration), which owners association shall be subject to this Declaration. Each Owner who is a member of a Subsidiary Association shall also hold a Membership in the Association established under this Declaration.

1.49 **"Supplemental Declaration"** means a declaration Recorded pursuant to Section 2.2 of this Declaration.

1.50 **"Visible From Neighboring Property"** means, with respect to any given object, that such object is or would be visible to a natural person six (6) feet tall, standing at ground level on any part of an adjoining Lot, Common Area or street.

ARTICLE 2

PLAN OF DEVELOPMENT; CERTAIN PROJECT DISCLOSURES

2.1 **Property Initially Subject to the Declaration.** Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement and desire to provide a flexible and reasonable procedure for the overall development of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property. Declarant hereby declares that all the Property

shall be held, sold, used and conveyed subject to the easements, restrictions, conditions and covenants set forth in this Declaration, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property. Declarant further declares that this Declaration shall be binding upon all Persons having any right, title or interest in the Property or any part thereof, their successors, successors in title and assigns and shall inure to the benefit of each Owner thereof, Declarant and the Association. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Declaration, each Person, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the Property and hereby evidences his 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. Declarant, its successors, assigns and grantees, covenant and agree that the Lots and Parcels and the Membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot and Parcel even though the description in the instrument of conveyance or encumbrance may refer only to the Lot or Parcel.

2.2 Supplemental Declarations. Declarant reserves the right, but not the obligation, to Record one or more Supplemental Declarations against portions of the Property. A Supplemental Declaration shall require the written approval of Declarant so long as Declarant owns any Property or Additional Property and may (i) designate Neighborhood Assessment Areas, (ii) designate Neighborhood Services for Neighborhood Assessment Areas, (iii) designate Neighborhood Common Area, (iv) impose such additional covenants, conditions and restrictions as Declarant determines to be appropriate for the Neighborhood Assessment Area and/or Neighborhood Common Area, (v) establish a Neighborhood Assessment pursuant to Section 6.6 of this Declaration for a Neighborhood Assessment Area, and (vi) impose any additional covenants, conditions and restrictions as Declarant deems reasonably necessary and appropriate, whether or not a Neighborhood Assessment Area is established. A Supplemental Declaration may be amended only by (a) the written approval or the affirmative vote, or any combination thereof, of the Owners representing more than seventy-five percent (75%) of the votes in the Association held by the Owners of all of the Lots subject to the Supplemental Declaration, (b) the written approval of the Association, and (c) the written approval of Declarant so long as Declarant owns any Property or Additional Property. The amendment shall certify that the amendment has been approved as required by this Section, shall be signed by the President or Vice President of the Association and Declarant, so long as Declarant owns any Property or Additional Property, and shall be Recorded.

2.3 Annexation of Additional Property.

2.3.1 At any time on or before the date that is fifteen (15) years after the date of the Recording of this Declaration, 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 or the Association. The annexation of all or any portion of the Additional Property shall be effected by Declarant Recording an amendment to this Declaration setting forth the legal description of the Additional Property being annexed, stating that such portion of the Additional Property is annexed and subjected to the Declaration and describing any portion of the Additional Property being annexed that will be Common Area.

2.3.2 The Additional Property may be annexed in separate parcels and at different times, or the Additional Property may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. Additional Property annexed by 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 Additional Property shall not bar the further exercise of the right of annexation as to any other Additional Property. Declarant makes no assurances that Additional Property will or will not be annexed.

2.3.3 An amendment recorded pursuant to this Section may divide the portion of the Additional Property being annexed into separate phases and provide for a separate effective date with respect to each phase. If an amendment annexing a portion of the Additional Property divides the annexed portion of the Additional Property into phases, Declarant shall have the right to amend any such amendment to change the description of the phases within the annexed property, except that Declarant may not change any phase in which a Lot has been conveyed to a Purchaser.

2.3.4 Voting rights and the obligation of Owners to pay Assessments for Lots annexed pursuant to this Section shall be effective as of the date the amendment annexing such property is Recorded or such later date set forth in the amendment.

2.3.5 All taxes and other assessments relating to all or any portion of the Additional Property annexed into the Project for any period prior to the time when such portion of the Additional Property is annexed in accordance with this Section 2.3 shall be the responsibility of, and shall be paid by, the owner of such Additional Property.

2.3.6 The Additional Property, when and if subjected to this Declaration and added to the Project, shall be subject to the use restrictions contained in this Declaration and shall be subject in all respect to the Project Documents.

2.4 Withdrawal of Property. At any time on or before the date that is twenty (20) years after the date this Declaration is Recorded, Declarant shall have the right to withdraw Property owned by Declarant from the Project without the consent of any other Owner or Person. The withdrawal of all or any portion of the Project shall be effected by Declarant Recording a Declaration of Withdrawal 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 Development Plan. Subject to approval of the applicable governmental authorities, Declarant, without obtaining the consent of any other Owner, Person or the Association, shall have the right to make changes or modifications to the Development Plan with respect to any Property or Additional Property owned by Declarant in any way that Declarant desires, including changing the density of all or any portion of the Property or Additional Property owned by Declarant or changing the nature or extent of the uses to which the Property or Additional Property may be devoted.

2.6 High Power Electric Facilities; High Pressure Gas Line; Agricultural Easement; State Land; Pinal Airpark; Release of Claims.

2.6.1 The Saguaro Power Plant is a natural gas-fueled power plant that is located approximately 2 miles southeast of the Project. An electric substation also may be constructed in close proximity to or within the Project. High power electric transmission lines and related towers, systems and other equipment related to the substation also may lie within or adjacent to the boundaries of the Project. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, acknowledges and agrees as follows:

(i) The Property may now or in the future be exposed to electromagnetic fields from high power electric facilities.

(ii) The Declarant Parties do not claim any expertise concerning such conditions and make no representations, warranties or statements, express or implied, regarding such high power electric facilities (except to note their existence), or regarding any damage or injury which may occur as a result of the proximity of such facilities to the Property.

2.6.2 El Paso Natural Gas Company owns and operates a high-pressure natural gas pipeline that extends across the eastern portion of the Project within an easement sixty (60) feet wide. The pipeline may, from time to time, require maintenance and may pose a danger to the Residents and any other person, Improvement or personal property located within the Project.

2.6.3 A Resource Management Easement has been granted by Declarant over and across the first phase of the Project, as set forth in the instrument Recorded on October 6, 2006, in Fee No. 2006-140607, and similar easements likely will be Recorded over and across future phases of the Project if such future phases are developed (collectively, the "Resource Management Easements"). The Resource Management Easements are in favor of the owners of all agricultural resource property adjacent to and within one thousand (1,000) feet of the Project (the "Agricultural Property"). The Resource Management Easements provide a perpetual, non-exclusive easement for commercial agricultural operations on the Agricultural Property and the waiver, to the extent provided by law, by all Owners of all rights to object to normal and necessary agricultural activities legally conducted on the Agricultural Property that may conflict with the Owners' use and enjoyment of the Property. Such activities may include, without limitation, management and harvesting of agricultural produce, air and ground application of pesticides and other chemicals (discharged in accordance with Article 6, Chapter 2, Title 3 of the

Arizona Revised Statutes, and the rules and regulations adopted pursuant to that article), road and canal construction and maintenance and other accepted customary resource management activities conducted in accordance with federal and state laws. These agricultural resource management activities ordinarily and necessarily produce noise, odor, dust, smoke, chemical spray vapor and other conditions that may conflict with an Owner's use and enjoyment of the Property.

2.6.4 At the time this Declaration is recorded, the Project abuts land owned by the State of Arizona ("State Land"). All State Land abutting the Project is subject to disposition, planning and development by the Arizona State Land Department or as otherwise provided by law. As of the date this Declaration is Recorded, all or portions of the State Land are designated as "open range," which the State of Arizona may lease to Persons for the purpose of grazing cattle or other livestock. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, assumes the risk that (i) abutting State Land may be developed in the future for any use, and (ii) cattle or other livestock may be present on State Land pursuant to agreements between the State of Arizona and other Persons.

2.6.5 Pinal Air Park is a public airport located approximately 3 miles south of the Project. Adjacent to the Air Park is the Western Army National Guard Aviation Training Site (Silverbell Army Heliport). Flights over the Project and operations at the Pinal Air Park and the Silverbell Army Heliport by general aviation and military aircraft may generate noise and pollution.

2.6.6 Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, assumes any and all risks as may now or hereafter be or become associated with the matters set forth in this Section 2.6. Neither the Declarant Parties, the Association, nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Owner, Resident, Lessee or its family, invitees or licensees for any claims or damages to persons or property resulting, directly or indirectly, from the existence, operation or maintenance of the electric and natural gas facilities, the Agricultural Property, Pinal Air Park and Silverbell Army Heliport or from the disposition, planning development or use of State Land. Each Owner, Lessee and Resident, for itself, its family, invitees and licensees, hereby releases the Declarant Parties, the Association and all Builders from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (Including strict liability) arising out of or relating to any nuisance, inconvenience, disturbance, injury, death or damage to persons and property resulting from activities, occurrences or facts described in this Section 2.6.

2.7 Disclaimer of Implied Covenants. Nothing contained in this Declaration and nothing that may be represented to a purchaser by real estate brokers or salespersons representing Declarant or any Builder shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of any Property subject to this Declaration or Additional Property owned by Declarant or another third party.

2.8 Disclaimer of Representations. Declarant makes no representations or warranties whatsoever that: (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; (iii) the use of

any Property subject to this Declaration will not be changed in the future; or (iv) the use of any property within the vicinity of the Property will not change so as to impact the use, enjoyment and value of any of the Property.

2.9 Views Not Guaranteed. Although certain Lots in the Project at any point in time may have particular views, no express or implied rights or easements exist for views or for the passage of light and air to any Lot. No representation or warranty whatsoever, express or implied, is made by Declarant Parties or the Association concerning the view that any Lot will have whether as of the date this Declaration is Recorded or thereafter. Any view that exists at any point in time for a Lot may be impaired or obstructed by further construction within or outside the Project, including, without limitation, by construction of Improvements (including, without limitation, landscaping) by Declarant, construction by third parties (including, without limitation, other Owners, Residents and Builders) and by the natural growth of landscaping. No third party, including, without limitation, any broker or salesperson, has any right to bind Declarant, a Builder or the Association with respect to the preservation of any view from any Lot or any view of a Lot from any other property.

ARTICLE 3 PERMITTED USES AND RESTRICTIONS

3.1 Architectural Control.

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

3.1.2 No Improvement shall be constructed or installed on any Lot or Parcel without the prior written approval of the Architectural Review Committee. No addition, alteration, repair, change or other work that in any way alters the exterior appearance of any Lot, including, but not limited to, the exterior color scheme of any Residential Unit, or any Improvements located thereon, from their appearance on the date this Declaration is Recorded, shall be made or done without the prior written approval of the Architectural Review Committee. No approval shall be required to repaint the exterior of a Residential Unit in accordance with the originally approved color scheme. The proposed construction or installation of any new Improvement, or any proposed addition, alteration, repair, change or other work that in any way alters the exterior appearance of any Lot is hereinafter referred to as a "Change." Any Owner desiring approval of the Architectural Review Committee for a Change shall submit to the Architectural Review Committee a written request for approval specifying in detail the nature and extent of the Change that the Owner desires to perform, including, without limitation, the distance of the Change from neighboring properties, if applicable, and the approximate dates upon which the Owner intends to commence and complete the Change. Any Owner requesting the approval of the Architectural Review Committee shall also submit to the Architectural Review Committee any additional information, plans and specifications that the Architectural Review Committee may request. In the event that the Architectural Review Committee fails to approve or disapprove an application for approval within thirty (30) days after the application, together with any fee payable pursuant to Section 3.1.6 of this Declaration and all supporting information, plans and specifications requested by the Architectural Review Committee have

been submitted to the Architectural Review Committee, the application shall be deemed to be disapproved.

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

3.1.4 Upon receipt of approval from the Architectural Review Committee for any Change, the Owner who had requested such approval shall proceed to perform, construct or make the Change approved by the Architectural Review 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 Review Committee.

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

3.1.6 The Architectural Review Committee shall have the right to charge a fee for reviewing requests for approval of any Change pursuant to this Section 3.1, which fee shall be payable at the time the application for approval is submitted to the Architectural Review Committee.

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

3.1.8 The approval required of the Architectural Review Committee pursuant to this Section 3.1 shall be in addition to, and not in lieu of, any approvals or permits that may be required under any federal, state or local law, statute, ordinance, rule or regulation. The approval by the Architectural Review Committee of any Change pursuant to this Section 3.1 shall not be deemed a waiver of the Architectural Review Committee's right to withhold approval of any similar Change subsequently submitted for approval.

3.1.9 The approval by the Architectural Review Committee of any Change pursuant to this Section 3.1 shall not be deemed a warranty or representation by the Architectural Review Committee as to the quality of such Change or that such Change conforms to any

applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

3.1.10 The Architectural Review Committee may condition its approval of plans and specifications upon the agreement by the Owner submitting such plans and specifications to furnish to the Association a bond or other security acceptable to the Architectural Review Committee in an amount determined by the Architectural Review Committee to be reasonably sufficient to: (i) assure the completion of the proposed Change or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Change, and (ii) to repair any damage that might be caused to any Area of Association Responsibility as a result of such work. Any such bond shall be released or security shall be fully refundable to the Owner upon: (a) the completion of the Change in accordance with the plans and specifications approved by the Architectural Review Committee; and (b) the Owner's written request to the Architectural Review Committee, provided that there is no damage caused to any Area of Association Responsibility by the Owner or its agents or contractors.

3.1.11 If the plans and specifications pertain to a Change that is within an Area of Association Responsibility, and the Association is responsible for the maintenance, repair and replacement of such Change, the Architectural Review Committee may condition its approval of the plans and specifications for the proposed Change on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Change.

3.1.12 The provisions of this Section do not apply to, and approval of the Architectural Review Committee shall not be required for, the construction, erection, installation, addition, alteration, repair or replacement of any Improvements made by, or on behalf of, Declarant or a Builder, provided that all construction, erection, installation, addition, alteration, repair and replacement of any Improvements by a Builder shall have the prior written consent of Declarant so long as Declarant owns any Property or Additional Property at the time such consent is given. When no portion of the Property or Additional Property is owned by Declarant, the construction, erection, installation, addition, alteration, repair and replacement of all Improvements by a Builder shall be subject to the prior written consent of the Architectural Review Committee, provided that the Architectural Review Committee shall have no authority to rescind or modify an approval validly given by Declarant.

3.2 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. No temporary construction buildings or trailers may be installed or kept on any Lot or Parcel without the prior written approval of the Architectural Review Committee. Any such temporary buildings or trailers approved by the Architectural Review Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailer or other structures be maintained or kept on any Property for a period in excess of twelve (12) months without the prior written approval of the Architectural Review Committee. The provisions of this Section shall not apply to construction or sales activities of Declarant.

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

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

3.5 Antennas. No antenna, aerial, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation (a "Device") proposed to be erected, used or maintained outdoors on any portion of the Project, whether attached to a Residential Unit or structure or otherwise, shall be erected or installed without the prior written consent of the Architectural Review Committee unless (i) applicable law prohibits the requirement for review and approval by the Architectural Review Committee, or (ii) the Design Guidelines permit installation of the Device without such review and approval. Even though an Owner may not be required to obtain written approval from the Architectural Review Committee for a Device, an Owner is required to comply with the Design Guidelines to the extent that the Design Guidelines set forth guidelines, standards and procedures applicable to such Device. Failure by an Owner to comply with the Design Guidelines with respect to a Device shall be deemed a violation of this Declaration in the same manner as if an Owner had not obtained the prior written approval from the Architectural Review Committee for a Device that does require prior written approval.

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

3.7 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Parcel, except in covered containers of a type, size and style that are approved by the Architectural Review 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 and garbage shall be removed from Lots and Parcels and other property and shall not be allowed to accumulate thereon. The Board shall have the right to adopt rules and regulations regarding garbage, trash, trash containers and collection. No outdoor incinerators shall be kept or maintained on any Lot or Parcel or other portion of the Property. The Board shall have the right to contract with or designate one or more third parties (including, but not limited to, a municipality) to collect garbage, trash and recyclable materials for the benefit of the Owners and Residents, with any costs to be a Common Expense, a Neighborhood Expense or billed separately to the Owners at the sole discretion of the Board.

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

3.9 Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot or Parcel 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 in writing by the Architectural Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Review Committee or Declarant.

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

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

(c) a license is required for such activity. The leasing of a Residential Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

3.12 Animals. No animal, bird, fowl, poultry, reptile or livestock may be kept on any Lot or Parcel, except that a reasonable number of generally recognized house or yard pets ("Permitted Pets") may be kept on a Lot if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All Permitted Pets shall be confined to an Owner's Lot except that a dog may be permitted to leave the Owner's Lot if such dog is at all times kept on a leash not to exceed six feet (6') in length and is not permitted to enter upon any other Lot or Parcel. No Permitted Pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any Permitted Pet shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner, Lessee or Resident, the Board shall determine, in its sole and absolute discretion, whether, for the purposes of this Section (i) a particular Permitted Pet is a nuisance or making an unreasonable amount of noise, (ii) a particular pet is a Permitted Pet, and (iii) the number of Permitted Pets kept on a Lot or Parcel is reasonable. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration. Any Owner, Resident or other person who brings or permits a pet to be on the Common Area or any Lot or Parcel or street shall be responsible for immediately removing any feces left by such pet.

3.13 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Parcel, except 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 such machinery or equipment that Declarant or the Association may require for the development, operation and maintenance of the Project. Lawn and garden equipment may be kept on a Lot or Parcel provided such equipment is stored so as not to be Visible From Neighboring Property.

3.14 Signs. No signs whatsoever (including, but not limited to, commercial and similar signs) that are Visible From Neighboring Property shall be erected or maintained on any Lot or Parcel without the prior written approval of the Architectural Review Committee except:

- (i) Signs required by legal proceedings;
- (ii) Political signs; however, the Architectural Review Committee reserves the right to disallow and/or regulate the size and number of political signs to the extent permitted by law;
- (iii) Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Review Committee; and
- (iv) One (1) "For Sale" sign placed by a professional residential real estate brokerage company or placed by the Owner of the Lot or Parcel, provided that the Architectural Review Committee shall reserve the right to prescribe within the Design Guidelines the size, materials, color and format of such signs.

Until expiration of the Class B Membership, "For Rent" and "For Lease" signs shall not be permitted on any portion of the Property. After expiration of the Class B Membership, the Architectural Review Committee may establish within the Design Guidelines rules and standards for "For Rent" and "For Lease" signs. Such rules and standards may include, but not be limited to, the size, materials, color and format of such signs; provided that the Board also may continue the prohibition of such signs if the Board deems the prohibition to be in the best interests of the Project.

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

3.16 Vehicles and Parking. No truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, automobile or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot, Parcel or Common Area so as to be Visible From Neighboring Property, except for: (i) vehicles that cannot be prohibited from parking on a street or driveway by applicable law; (ii) the temporary parking of a motor home, camper, recreational vehicle or boat and boat trailer on the concrete driveway situated on a Lot for a period of not more than seventy-two (72) consecutive hours within any consecutive seven (7) day period for the purpose of loading or unloading such vehicle or equipment, provided that such vehicles shall not be parked in such a manner as to block the sidewalks or impede pedestrian traffic in any way; (iii) temporary construction trailers or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Architectural Review Committee; (iv) boats and motor vehicles parked in garages on Lots so long as such vehicles are in good operating condition and appearance and are not under repair; or (v) motor vehicles not exceeding eight (8) feet in height that are parked in the garage or on the concrete driveway situated on a Lot, provided that such vehicles shall not be parked in such a manner as to block the sidewalks or impede pedestrian traffic in any way. Motor vehicles may be parked on a street during daytime and evening hours, but over-night parking on streets is prohibited unless applicable law does not permit such prohibition. Parking on unpaved portions of Lots and Parcels is prohibited. The Board shall have the right and power to adopt additional rules and regulations governing the parking of motor vehicles within the Project and implementing the provisions of this Section.

3.17 Repair of Motor Vehicles. Except for emergency vehicle repairs, no automobile or other motor vehicle, boat, boat trailer or other similar vehicle shall be constructed, reconstructed or repaired upon a Lot or Parcel or other property in the Project, and no inoperable vehicle may be stored or parked on any such Lot or Parcel or other property so as to be Visible From Neighboring Property.

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

3.19 Garages and Driveways. Garages situated on Lots shall not be used for or converted into living or recreational activities without the prior written approval of the Architectural Review Committee. The Architectural Review Committee shall not approve the conversion of a garage for living or recreational activities if such approval results in the Residents of a Lot parking their motor vehicles in the driveway or street. Garages may be used for the storage of material so long as the storage of material does not require the Residents of the Lot to park their motor vehicles in the street.

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

3.21 Mechanical Equipment. No air conditioning units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residential Unit or other building on a Lot or Parcel so as to be Visible From Neighboring Property.

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

3.23 Violation of Law or Insurance. No Owner shall permit anything to be done or kept in or upon a Lot or Parcel that will result in the cancellation or increase in premium, or reduction in coverage, of insurance maintained by any Owner or the Association or that would be in violation of any law.

3.24 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot or Parcel that in any manner will allow light to be directed or reflected unreasonably upon any other Lot, Parcel or Common Area.

3.25 Window Coverings. No window that is Visible From Neighboring Property shall at any time be covered with aluminum foil, bed sheets, newspapers or any other like materials.

No reflective materials shall be installed or used on any Improvement without the prior written consent of the Architectural Review Committee.

3.26 Fire/Building Repair. If any Improvement is destroyed or partially destroyed by fire, act of God or as the result of any other act or thing, the damage must be repaired and the Improvement reconstructed or razed within twelve months after such damage. Notwithstanding the foregoing, if a dangerous condition shall exist because of such damage, it shall immediately be corrected so as to not cause harm to another person.

3.27 Leasing of Residential Units.

3.27.1 Subject to the terms of this Section, an entire Lot may be leased to a Lessee from time to time by an Owner provided that each of the following conditions is satisfied:

(i) The lease or rental agreement must be in writing and shall be for a term no less than ninety (90) days.

(ii) The lease between an Owner and a Lessee shall contain provisions that the lease or rental agreement is subject to this Declaration and other Project Documents and that Lessee has received and agrees to be bound by the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by the Project Documents.

(iii) Before commencement of the lease term or rental agreement, the Owner shall provide the Association with the names of the Lessees and each person who will reside in the Residential Unit and the address and telephone number of the Owner.

3.27.2 Any Owner that leases or rents such Owner's Lot shall keep the Association informed at all times of the Owner's address and telephone number. Any lease or rental agreement shall be subject to the Project Documents and any breach of the Project Documents shall constitute a default under the lease or rental agreement, regardless of whether it so provides in the lease or rental agreement. If any Lessee breaches any restriction contained in the Project Documents, the Owner, upon demand by the Association, immediately shall take such actions as may be necessary to correct the breach, including, if necessary, eviction of the Lessee. Notwithstanding the foregoing, the Association shall have all rights and remedies provided for under this Declaration, the other Project Documents and applicable law.

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

such restriction to the fullest extent allowed by law, so as to make such restriction valid and enforceable. Such modification shall not serve to extinguish any restriction not adjudged or deemed to be unenforceable. Upon expiration of the Class B Membership, any variance granted by the Architectural Review Committee or the Board shall be subject to review and approval of Declarant so long as Declarant owns any Property or Additional Property.

ARTICLE 4 EASEMENTS AND DEVELOPMENT RIGHTS

4.1 Easement for Use of Common Area.

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

(i) The right of the Association to dedicate, convey, transfer or encumber the Common Area as provided in Section 5.11 of this Declaration.

(ii) The right of the Association to change the use of a Common Area as provided in Section 5.12 of this Declaration.

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

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

(v) The right of the Association to impose reasonable Membership requirements and charge reasonable fees for services to be rendered by the Association or for the use of any facility situated on the Common Area.

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

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

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

4.2 **Utility Easement.** There is hereby created an easement upon, across, over and under the Common Area for reasonable ingress, egress, installation, replacing, repairing or maintaining 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 erect and maintain the necessary equipment on the Common Area but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Area except as initially designed, approved and/or constructed by Declarant or as approved by the Board.

4.3 **Declarant's and Builders' Use for Sales and Leasing Purposes.** Declarant and Builders shall have the right and an easement to maintain throughout the Project sales or leasing offices, management offices, construction offices, a design center, model homes and parking areas (the "Sales and Construction Facilities") for the purpose of selling and constructing the Project, and to maintain one or more advertising, identification or directional signs on the Common Area or on the Lots and Parcels owned or leased respectively by Declarant and Builders while Declarant and Builders are selling Lots and Parcels. Declarant reserves the right for itself and Builders to place Sales and Construction Facilities on any Lots and Parcels owned or leased respectively by Declarant and Builders and on any portion of the Common Area in such number, of such size and in such locations as Declarant and Builders deem appropriate. In the event of any conflict or inconsistency between this Section and any other provision of this Declaration, this Section shall control. Notwithstanding anything contained to the contrary in this Section, the rights of any Builder pursuant to this Section shall be subject to review and approval by Declarant.

4.4 **Declarant's and Builders' Easements.** Declarant shall have the right and an easement on and over the Areas of Association Responsibility to construct all Improvements that Declarant may deem necessary and to use the Areas of Association Responsibility and any Lots, Parcels and other Property within the Project owned by 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. Declarant shall have the right and an easement upon, over, and through the Areas of Association Responsibility as may be reasonably necessary for the purpose of discharging its obligations or exercising the rights granted to or reserved by Declarant by this Declaration. Builders shall have the right and an easement on and over Lots owned by the respective Builders for construction or renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, as long as such activities have the prior written consent of Declarant. In the event of any conflict or inconsistency between this Section and any other provision of this Declaration, this Section shall control.

4.5 **Easement in Favor of Association.** The Lots and Parcels (except for the interior of a Residential Unit or other buildings) are hereby made subject to the following easements in

favor of the Association and its directors, officers, agents, employees and independent contractors:

(i) For inspection of the Lots or Parcels in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible;

(ii) For inspection, maintenance, repair and replacement of the Areas of Association Responsibility accessible only from such Lots or Parcels;

(iii) For correction of emergency conditions in, under, upon or over one or more Lots or Parcels;

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

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

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

ARTICLE 5

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS; POWERS OF BOARD; COMMON AREAS

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

5.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Until the termination of the Class B Membership in the Association, Declarant shall have the right to appoint and remove the members of the Board. After the termination of the Class B Membership, the directors shall be elected by the Members as provided in the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board shall have the power to levy reasonable fines against an Owner for a violation of the Project Documents by the Owner or a Lessee or by any Resident or guest of the Owner's Lot or Parcel, and to impose late charges for payment of such fines if such fines remain unpaid fifteen (15) or more days after the due date, provided that the late charge shall not exceed the greater of fifteen dollars (\$15.00) or ten percent (10%) of the

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

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

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

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

5.6 Identity of Members. Membership in the Association shall be limited to Owners of Lots and Parcels (including Declarant). An Owner of a Lot or Parcel shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease.

5.7 Memberships and Voting Rights.

5.7.1 Each Owner (including Declarant) shall have the following number of Memberships:

- (i) One Membership for each Lot owned by the Member;

(ii) In the case of the Owner of a Parcel for which a subdivision Plat or condominium Plat and declaration have not been Recorded, one Membership for each Residential Unit permitted upon the Parcel under the Development Plan. If a site plan for a Parcel is subsequently approved by the Architectural Review Committee and Pinal County, Arizona, for a number of Residential Units different from the number of Residential Units permitted under the Development Plan, the number of Memberships shall be adjusted as to the portion of the Parcel covered by the site plan effective as of the date of adjustment to reflect the actual number of Residential Units authorized by the site plan. If a subdivision Plat or condominium Plat is Recorded covering all or part of the area within the Parcel, the Parcel shall be reduced in size by the area so platted and the number of Memberships held by the Owner, as Owner of the Parcel, shall be reduced by a number equal to the number of Lots or Condominium Units in the Recorded subdivision Plat or condominium Plat, and the Memberships attributable to the Lots or Condominium Units so created shall be determined pursuant to Subsection (i) of this Section 5.7. All Memberships attributable to the Parcel shall cease when the land area ceases to be a Parcel because all of the area in the Parcel has been platted (and the Memberships attributable to the Lots or Condominium Units so created shall be determined pursuant to Subsection (i) of this Section 5.7) or otherwise dedicated to the public and no unplatted area remains within the Parcel;

(iii) In addition to the number of Memberships allocated to Declarant pursuant to Subsections (i) and (ii) above as the Owner of Lots and Parcels, Declarant shall have one Membership for each unit of density allocated by the Development Plan to the portions of the Property and Additional Property that are shown on the Development Plan as available for residential development, whether or not such property has been annexed and subjected to this Declaration pursuant to the provisions of Section 2.3 hereof.

5.7.2 The Association shall have two classes of voting Memberships:

(i) Class A. Class A Memberships shall be all Memberships, except the Memberships held by Declarant. Each Owner shall be entitled to one (1) vote for each Class A Membership held by such Owner.

(ii) Class B. Class B Memberships shall be all Memberships held by Declarant. Declarant shall be entitled to three (3) votes for each Membership held by Declarant. The Class B Memberships shall cease and be converted to Class A Memberships on the first to occur of the following:

(a) The date that is one hundred eighty (180) days after the total votes outstanding in the Class A Memberships equal the total votes outstanding in the Class B Memberships; or

(b) The first day of January, 2025; or

(c) When Declarant notifies the Association in writing that it relinquishes its Class B Memberships.

5.8 Voting Procedures. No change in the ownership of a Lot or Parcel shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote or votes for each such Lot or Parcel must be cast as a unit, and fractional votes shall not be allowed. If 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 or votes representing a certain Lot or Parcel, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot or Parcel unless objection thereto is made at the time the vote is cast.

5.9 Transfer of Membership. The rights and obligations of any Member other than 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 to the Lot or Parcel. A transfer of ownership to a Lot or Parcel may be effected by deed, intestate succession, testamentary disposition, foreclosure of a Recorded mortgage, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot 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 such purchase within ten (10) days after becoming the Owner of a Lot or Parcel.

5.10 Architectural Review Committee.

5.10.1 The Association shall have an Architectural Review Committee to perform the functions of the Architectural Review Committee set forth in this Declaration. The Architectural Review Committee shall consist of such number of regular members and alternate members as may be provided for in the Bylaws. So long as Declarant owns any Property or Additional Property, Declarant shall have the sole right to appoint and remove the members of the Architectural Review Committee. At such time as Declarant no longer owns any Property or Additional Property, the members of the Architectural Review Committee shall be appointed by the Board. Declarant may at any time voluntarily surrender its right to appoint and remove the members of the Architectural Review Committee, and in that event Declarant may require, for so long as Declarant owns any Property or Additional Property, that specified actions of the Architectural Review Committee, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective. The Architectural Review Committee may adopt, amend and repeal architectural guidelines, standards and procedures to be used in rendering its decisions (the "Design Guidelines"). The Design Guidelines may include, without limitation, provisions regarding: (i) the size of Residential Units; (ii) architectural design, with particular regard to the harmony of the design with the surrounding structures and topography; (iii) placement of Residential Units and other buildings; (iv) landscaping design, content and conformance with the character of the Property and permitted and prohibited plants; (v) requirements concerning exterior color schemes, exterior finishes and materials; (vi) signage; and (vii) perimeter and screen wall design and appearance. Subject to the provisions of Subsection 5.10.2 hereof, the decision of the Architectural Review Committee shall be final on all matters submitted to it pursuant to this Declaration.

5.10.2 Any Owner aggrieved by a decision of the Architectural Review Committee may appeal the decision to the Board in accordance with procedures to be established by the Board if at the time of such decision Declarant does not have the right to appoint the members of the Architectural Review Committee pursuant to Subsection 5.10.1 hereof. Such procedures would include, but not be limited to, the requirement that the appellant has modified the requested action or has new information that would in the opinion of the Board warrant reconsideration. If the Board fails to allow an appeal or, after appeal, again rules in a manner aggrieving the appellant, the decision of the Board is final. In the event the decision of the Architectural Review Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Review Committee shall be deemed modified to the extent specified by the Board, and for the purposes of this Declaration, such decision, as so modified, shall thereafter be deemed the decision of the Architectural Review Committee. In this regard, the Board shall have the authority to modify or overrule the decision of the Architectural Review Committee on any matter presented to it.

5.11 Conveyance or Encumbrance of Common Area. After termination of the Class B Membership, the Common Area may not be mortgaged or conveyed without the prior written consent or affirmative vote of (i) Owners representing at least two-thirds (2/3) of the votes entitled to be cast by Class A Members of the Association, and (ii) the prior written consent of Declarant so long as Declarant owns any Property or Additional Property. The Board shall have the right to (a) change the size, shape or location of the Common Area, and (b) grant easements over portions of the Common Area to any Person upon adoption of a resolution by the Board stating that in the Board's reasonable opinion the change or easement proposed shall not substantially adversely affect the Residents and Members. So long as Declarant owns any Property or Additional Property, the Board shall not change the size, shape or location of the Common Area or grant easements over portions of the Common Area without the prior written consent of Declarant.

5.12 Procedure for Change of Use of Common Area. Upon 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 Members and Residents, the Board shall have the power and right to change the use of such property (and in connection therewith, 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 (i) for the benefit of the Members and Residents, as determined by the Board, and (ii) consistent with any deed restrictions, zoning and other municipal regulations restricting or limiting the use of the land. So long as Declarant owns any Property or Additional Property, the Board shall not change the use of a Common Area without the prior written consent of Declarant.

5.13 Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including, without limitation, Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and

provided further that the transaction or contract is fair and reasonable. Any director, officer or committee member employed by or otherwise connected with Declarant may be counted in determining the existence of a quorum at any meeting of the Board or committee of which such person is a member that shall authorize any contract or transaction described above or grant or deny any approval sought by Declarant, its affiliated companies or any competitor thereof and may vote at the meeting to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

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

5.15 Subsidiary Associations. In the event any Subsidiary Association is to be formed within the Project, the covenants, conditions and restrictions, and the articles of incorporation, bylaws and other governing documents for such Subsidiary Association, and any amendments thereto, shall not be effective unless the contents thereof have been approved by Declarant so long as Declarant owns any Property or Additional Property, and thereafter by the Board, and such governing documents specify that (i) such Subsidiary Association and the rights of its members are subject and subordinate to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles and Bylaws of the Association, the Association Rules and the Design Guidelines, as any or all of the foregoing may be amended from time to time; and (ii) any lien for assessments levied pursuant to such Subsidiary Association's governing documents shall be subordinate to the Assessment Lien. Any covenants, conditions and restrictions Recorded without such approval being endorsed thereon shall be null and void.

ARTICLE 6

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot and Parcel owned by Declarant, hereby covenants and agrees, and each Owner, other than 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 the Person who was the 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 such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title. However, such exemption does not apply to the obligation of the successor in title of the Owner to correct any violation of this Declaration, the Association Rules or the Design Guidelines by the Owner pursuant to Section 9.10 of this Declaration; and further provided, however, that the transfer of title shall not extinguish any Assessment Lien except a transfer pursuant to foreclosure of a superior lien in which the Assessment Lien has been extinguished by such foreclosure proceeding.

6.2 Annual Assessments.

6.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each Assessment Period, shall assess against each Lot and Parcel an Annual Assessment, which shall be allocated to each Lot and Parcel in accordance with Section 6.3 below. The total amount to be assessed against the Lots and Parcels as an Annual Assessment shall be the amount that is reasonably estimated by the Board to produce income to the Association equal to the total budgeted Common Expenses (other than Common Expenses pertaining to Neighborhood Assessment Areas and Neighborhood Services that are to be assessed as Neighborhood Assessments), taking into account other sources of funds available to the Association.

6.2.2 The Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board. Notwithstanding anything contained in this Section 6.2 to the contrary, the Board shall not impose an Annual Assessment in any Assessment Period in excess of that amount permitted by law; however, to the extent that the law shall permit any increase in the Annual Assessment that requires the approval of a majority of the Members, such increase shall be implemented only upon approval of a majority of the Members.

6.3 Rate of Assessment. The amount of any Annual Assessment to be levied against each Lot and Parcel shall be determined as follows:

6.3.1 For purposes of this Section 6.3, the term "Membership Assessment" shall mean the total amount of any Annual Assessment to be levied against all Lots and Parcels divided by the total number of Memberships attributable to such Lots and Parcels.

6.3.2 Except for Lots and Parcels covered by Subsections 6.3.3 through 6.3.6, each Lot and Parcel shall be assessed an Annual Assessment in an amount equal to the Membership Assessment multiplied by the number of Memberships attributable to such Lot or Parcel pursuant to Section 5.7 of this Declaration.

6.3.3 The Owner of a Parcel that has not yet been subdivided into Lots shall be assessed 25% of the amount equal to the number of Memberships attributable to the Parcel multiplied by the Membership Assessment.

6.3.4 The Owner of a Lot on which construction of a Residential Unit has not commenced shall be assessed 25% of the amount equal to the number of Memberships attributable to his Lot multiplied by 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) one (1) year from the date the title to the subject Lot is first transferred from Declarant to an Owner.

6.3.5 The Owner of a Lot or Parcel intended for a Condominium Development shall be assessed 25% of the amount equal to the number of Memberships attributable to the Lot or Parcel multiplied by the Membership Assessment until the earliest of (i) the date on which the first Condominium Unit within the Lot or Parcel has been completed, (ii) six (6) months after commencement of construction of the Condominium Development, or (iii) the date one (1) year after title to the subject Lot or Parcel is first transferred from Declarant to an Owner.

6.3.6 Notwithstanding the provisions set forth in Subsections 6.3.3 through 6.3.5, for so long as there is a Class B Membership, Lots and Parcels owned by Declarant shall be assessed 25% of the amount equal to the number of Memberships attributable to its Lots and Parcels multiplied by the Membership Assessment.

6.3.7 The Reduced Assessments referred to in Subsections 6.3.3, 6.3.5 and 6.3.6 above shall be continued for unimproved portions of Parcels when Improvements are to be phased. The portions of the Assessments affected by the phasing shall be determined by the Board.

6.3.8 For the purposes of this Section 6.3, (i) construction of a Residential Unit or Condominium Development shall be deemed to have commenced when a building permit is issued with respect thereto by the appropriate authority; and (ii) a Residential Unit or Condominium Unit shall be deemed completed when, in the opinion of the Board, the Residential Unit or Condominium Unit is ready for occupancy.

6.4 Obligation of Declarant and Builders for Deficiencies.

6.4.1 Prior to the first Assessment Period, Declarant and Builders shall pay all Common Expenses, which shall be allocated between or among Declarant and Builders on a pro rata basis as described in this Subsection. Upon commencement of the first Assessment Period and thereafter, Declarant and Builders shall be required to pay to the Association, in the form of a subsidy, Declarant's and each Builder's "Pro Rata Share" of the difference between the cost of operating and administering the Association and the income from Assessments paid by Owners (including Declarant and Builders) to the Association (the "Subsidy"). The Subsidy shall be payable within thirty (30) days after Declarant and Builders receive written notice from the Association of the amount of the Subsidy for the applicable Assessment Period. The Pro Rata Share attributable to Declarant and each Builder shall be determined based on the ratio that the number of Memberships held by Declarant or such Builder bears to the total number of

Memberships held by Declarant and all Builders at the subject point in time. A Builder's Pro Rata Share of the Subsidy shall be paid in addition to any Assessments, other charges and other obligations provided for herein, but a Builder's Pro Rata Share of the Subsidy shall not exceed, when added to such Builder's Reduced Assessment, the amount that would be payable by such Builder in the subject Assessment Period if it were subject to a full Annual Assessment hereunder. If a Builder's Subsidy, when added to such Builder's Reduced Assessment, equals an amount greater than the amount that would be payable by such Builder in the subject Assessment Period if it were subject to a full Annual Assessment, Declarant shall be obligated to pay the excess Subsidy otherwise payable by such Builder. Each Builder's obligation to pay its Pro Rata Share of the Subsidy shall be a personal obligation, shall be secured by the Assessment Lien and shall terminate as to future Assessment Periods at such time as such Builder no longer qualifies for a Reduced Assessment on any property owned by the Builder within the Project. When the Class B Membership ceases in accordance with Section 5.7 hereof, all Parcels and Lots owned by Declarant shall be subject to Assessment in the same manner as any other Lot or Parcel, and the Subsidy obligation set forth in this Section 6.4 shall terminate.

6.4.2 If the rate of Assessment for a Lot or Parcel increases during the period to which an Annual Assessment is attributable (or if Declarant's or any Builder's obligation for payment of their respective Pro Rata Share of the Subsidy shall terminate or change during the period to which such Subsidy is attributable), the Assessment (and/or Pro Rata Share, if applicable) shall be prorated between the applicable rates on the basis of the number of days in the period that such Owner qualified for each rate.

6.5 Special Assessments. The Association may levy against each Lot and Parcel a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Improvement upon an Area of Association Responsibility, including fixtures and personal property related thereto, provided that any Special Assessment is approved by Members having more than two-thirds (2/3) of the votes in each Class of Membership entitled to be cast by Members present in person or by proxy or by absentee ballot (as applicable) at a meeting duly called for such purpose. Special Assessments shall be allocated to the Memberships in the same manner as the Annual Assessment, provided that Reduced Assessments shall not be applicable to Special Assessments. Special Assessments shall require the prior written approval of Declarant so long as Declarant owns any Property or Additional Property.

6.6 Neighborhood Assessments.

6.6.1 All Neighborhood Expenses shall be shown separately in the budget adopted by the Board. The Common Expenses pertaining to providing Neighborhood Services shall be assessed solely against the Lots or Parcels within the Neighborhood Assessment Area as established by the Supplemental Declaration designating the Neighborhood Assessment Area. No Neighborhood Expenses shall be used in computing the Annual Assessments to be levied pursuant to Section 6.2 of this Declaration. Unless otherwise provided for in the applicable Supplemental Declaration, Neighborhood Assessments shall be levied against the Lots within the Neighborhood Assessment Area at a uniform rate per Membership. Reduced Assessments shall not be applicable to Neighborhood Assessments. If the Board determines during any Assessment Period that any Neighborhood Assessment is, or will, become inadequate to pay all

Neighborhood Expenses for any reason, including, without limitation, nonpayment of Neighborhood Assessments by Owners within the Neighborhood Assessment Area, the Board may increase the Neighborhood Assessment for that Assessment Period and the revised Neighborhood Assessment shall commence on the date designated by the Board.

6.6.2 In addition to a Neighborhood Assessment assessed pursuant to Subsection 6.6.1, the Association may assess against each Lot or Parcel within a Neighborhood Assessment Area a Special Neighborhood Assessment for the purpose of paying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Improvement situated within the Neighborhood Assessment Area, provided that any Special Neighborhood Assessment is approved by more than two-thirds (2/3) of each Class of Members in the Neighborhood Assessment Area present in person or by proxy or by absentee ballot (as applicable) at a meeting duly called for such purpose. Any such Special Neighborhood Assessment shall be assessed against all Lots or Parcels within the applicable Neighborhood Assessment Area at a uniform rate per Membership. Reduced Assessments shall not be applicable to Special Neighborhood Assessments. Special Neighborhood Assessments shall require the prior written approval of Declarant so long as Declarant owns any Property or Additional Property.

6.7 Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period, and the obligation of the Owners to pay Assessments, shall commence upon the conveyance of the first Lot or Parcel to a Purchaser and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

6.8 Commencement Date of Assessment Obligation. The Lots and Parcels initially subjected to this Declaration have been divided into phases (a "Phase"). All Lots and Parcels within each Phase described in Exhibit A to this Declaration shall be subject to assessment upon the conveyance of the first Lot or Parcel in such Phase to a Purchaser. All Lots and Parcels annexed pursuant to Section 2.3 of this Declaration shall be subject to assessment as of the date the amendment annexing such Lots or Parcels is Recorded or a later date if provided for therein.

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

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

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

6.10.2 The Association shall have a lien on each Lot and Parcel for: (i) all Assessments levied against the Lot or Parcel; (ii) all interest, lien fees, late charges and other fees and charges assessed against the Lot or Parcel or payable by the Owner of the Lot or Parcel with respect to Assessments; and (iii) all reasonable attorneys' fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot or Parcel with respect to Assessments. Notwithstanding anything contained herein to the contrary, no lien shall apply to any interest, lien fee, late charge or other fees, charges and costs not permitted by law. The Recording of this Declaration constitutes Record Notice and perfection of the Assessment Lien. The Association may, at its option, Record a notice of lien (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 of Lien, including interest, lien Recording fees and reasonable attorneys' fees. Before Recording any Notice of Lien against a Lot or Parcel, the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments and all other amounts due to the Association by such Owner. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the delinquency is not paid within ten (10) days after delivery of the demand, the Association may proceed with Recording a Notice of Lien against the Lot or Parcel. If the Association Records a Notice of Lien, the Association may charge the Owner of the Lot or Parcel against which the Notice of Lien is Recorded a lien fee in an amount to be set from time to time by the Board.

6.10.3 The Assessment Lien shall have priority over all liens or claims except for: (i) liens and encumbrances Recorded before the Recordation of this Declaration; (ii) tax liens for real property taxes; (iii) assessments in favor of any municipal or other governmental

body; and (iv) the lien of any First Mortgage on the Lot or Parcel, or as otherwise provided from time to time under applicable law. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot or Parcel through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid Assessments and charges against the Lot or Parcel that became payable prior to the acquisition of such Lot or Parcel by the First Mortgagee or other Person. Any Assessments and charges against the Lot or Parcel that accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot or Parcel.

6.10.4 The Association shall not be obligated to release the Assessment Lien as to any portion of Assessments past due until all such delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs, title report fees, collection costs and all other sums payable to the Association by the Owner of the Lot or Parcel with respect to Assessments have been paid in full. In no event shall such release of past due Assessments release the lien of this Declaration as to all other Assessments to become due hereunder.

6.10.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to: (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments and (ii) subject to the provisions of A.R.S. § 33-1807(A), 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.

6.10.6 In addition to the Assessment Lien described in Subsection 6.10.2, the Association also shall have a lien on each Lot and Parcel for all monetary penalties and the reasonable fees, attorneys' fees, court costs, charges, late charges and interest charged with respect to such monetary penalties (the "Penalty Charges") after the entry of a judgment in a civil suit for such Penalty Charges from a court of competent jurisdiction and the Recording of such judgment as otherwise provided by law (the "Penalty Lien"). The Penalty Lien may not be foreclosed and is effective only on conveyance of any interest in the Lot or Parcel except as otherwise may be permitted by law.

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

6.12 Purposes for Which Association's Funds May Be Used. The Association shall use all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) solely for the purpose of (i) discharging and performing the Association's duties and obligations under the Project Documents; (ii) exercising the rights and powers granted to the Association by the Project Documents, and (iii) the common good and benefit of the Project and the Owners, Lessees and Residents, by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners, Lessees and Residents. Notwithstanding any other provision of this Declaration to the contrary, so long as there is a Class B Membership in the Association, funds of the Association may not be used for the initial construction of Improvements on the Common Area.

6.13 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the 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.

6.14 Working Capital Fund. To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Person acquiring a Lot or Parcel, or portion thereof, from Declarant or a Builder shall pay to the Association immediately upon becoming the Owner of the Lot or Parcel, or portion thereof, a sum equal to one-sixth (1/6) of the then current Annual Assessment attributable to the Lot or Parcel, or portion thereof, payable by Owners other than Declarant and Builders. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Project Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

6.15 Reserve Fund. To ensure that the Association shall have funds reserved for repair and replacement of the Improvements within the Common Areas, each Person acquiring a Lot or Parcel, or portion thereof, from Declarant or a Builder shall pay to the Association immediately upon becoming the Owner of the Lot or Parcel, or portion thereof, a sum equal to one-sixth (1/6) of the then current Annual Assessment attributable to the Lot or Parcel, or portion thereof, payable by Owners other than Declarant and Builders. Funds paid to the Association pursuant to this Section shall be deposited in the Reserve Account established pursuant to Section 6.16. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

6.16 Reserves. Each budget adopted by the Board shall include reasonable amounts as determined by the Board to be collected as reserves for the future periodic maintenance, repair or

replacement of all or a portion of the Areas of Association Responsibility. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a separate bank account (the "Reserve Account") to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board shall not expend funds designated as reserve funds for any purpose other than those purposes for which they were collected. Withdrawal of funds from the Association's reserve account shall require the signatures of either (i) two (2) members of the Board, or (ii) one (1) member of the Board and an officer of the Association who is not also a member of the Board. The Board shall obtain an initial reserve study and then provide updates thereto at least once every five years. The reserve study shall at a minimum include (a) identification of the major components of the Areas of Association Responsibility that the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years, (b) identification of the probable remaining useful life of the identified major components as of the date of the study, (c) an estimate of the cost of repair, replacement, restoration or maintenance of the identified major components during and at the end of their useful life, and (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain the identified major components during and at the end of their useful life, after subtracting total reserve funds as of the date of the study. Provided that the Board acts in good faith in determining the amount to be collected as reserves, the Declarant Parties shall not be liable to the Association or any Member if the amount collected as reserves proves to be inadequate to pay for all required periodic maintenance, repair and replacement which was intended to be funded from reserves.

6.17 Transfer Fee. Each Person (other than Declarant or a Builder) acquiring a Lot or Parcel, or portion thereof, shall pay to the Association, or to its managing agent if directed to do so by the Board, immediately upon becoming the Owner of the Lot or Parcel, or portion thereof, a transfer fee in such amount as is established from time to time by the Board.

ARTICLE 7 MAINTENANCE

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

shall be responsible for the control, maintenance and payment of ad valorem taxes and liability insurance on the Common Area. Notwithstanding anything contained herein to the contrary, the Association shall be responsible for the operation and maintenance (both scheduled and unscheduled) of drainage facilities constructed and installed within Common Areas (the "Drainage Facilities") in accordance with the following guidelines:

7.1.1 Drainage Facilities shall be monitored annually prior to the rainy season and after all major storm events. Monitoring shall be performed to confirm the functionality of all Drainage Facilities, including without limitation, retention basins, culverts, outlet structures, channels and channel linings. Monitoring shall specifically include observance of the general condition of the polypropylene turf reinforcement mat ("TRM") linings and any surrounding areas that could impact the performance of the TRM linings, including but not limited to, slopes above installed TRM linings, adjacent hydraulic structures, upstream and downstream terminations of TRM lining installations and testing of the irrigation system where applicable.

7.1.2 A normal maintenance schedule shall be established to provide regular mowing of irrigated turf channel linings. Operations shall not commence until vegetation achieves a minimum height of six (6) inches; mower blades shall be set at a height equal to or greater than four (4) inches above the TRM lining.

7.1.3 Care shall be taken to limit all vehicles trafficking over irrigated TRM linings to lightweight mowers or other necessary maintenance equipment. Equipment shall be rubber-tired only with a gross vehicle weight of two thousand (2,000) pounds or less.

7.1.4 Once every two years the Association shall contract with an Arizona Registered Professional Civil Engineer ("Engineer") to undertake an inspection of the Drainage Facilities, which shall include but not be limited to verification of the following:

- (i) Required runoff continues to be routed to basins;
- (ii) The perimeters of the basins are intact to the elevation specified;
- (iii) The intended basin volumes still exist;
- (iv) Sedimentation in basins and channels is not excessive;
- (v) Basin drywells and percolation is functioning satisfactorily;
- (vi) Drainage culvert integrity and capacity is maintained;
- (vii) Outlet structure integrity is maintained;
- (viii) Channel lining integrity is maintained; and
- (ix) Channel lining irrigation systems are functional and vegetation design density, coverage and height are maintained.

7.1.5 Upon completion of the inspection described above, the Engineer shall prepare a report for the Association regarding the items listed above. The report shall contain the following: (i) a statement that no repairs or other work is needed at that time, or (ii) a list of repairs and work to be done to correct deficiencies, to avoid potential problems and/or to restore aesthetics (the "Deficiency Work"). If Deficiency Work is required, the Association shall perform the Deficiency Work as soon as reasonably possible and notify the Engineer upon completion thereof. The Engineer shall inspect the Deficiency Work and provide a letter to the Association verifying that the Deficiency Work has been satisfactorily completed. This list of Deficiency Work shall include, as necessary, removal of any sedimentation that has accumulated in basins or the channel in excess of six (6) inches in depth. If required, repair of damaged sections of TRM linings shall be specified in the list of Deficiency Work to be performed per the manufacturer's installation guidelines. Replacement material shall be cut a minimum of twelve (12) inches larger, in all directions, than the ripped or torn area. Any damaged pre-existing material shall be removed so as to achieve a smooth surface and intimate contact with the soil under the material patch. On the upstream end of the patch, the replacement material shall be tucked under the existing material. The replacement material shall be secured with ground-anchoring devices spaced every six (6) inches around the circumference of the patch of material. Anchors shall also be placed within the replacement material in the appropriate pattern as shown in the installation guidelines. The replacement area shall be re-seeded and soil added in accordance with the original design intent.

7.1.6 Records of all inspection reports and work verification letters (if applicable) shall be maintained by the Association and available for review by any applicable governmental agency for verification of Association compliance with the maintenance obligations specified herein.

7.2 Lots and Parcels. Each Owner of a Lot or Parcel shall be responsible for maintaining, repairing or replacing his Lot or Parcel and the Residential Unit and all other buildings, landscaping or other Improvements situated thereon and any landscaping installed between the boundary of such Lot or Parcel and the pavement of a street (except for any portion of the Lot or Parcel that is an Area of Association Responsibility). All buildings, Residential Units, landscaping and other Improvements shall at all times be kept in good condition and repair in accordance with the Maintenance Standard. All grass, hedges, shrubs, vines and plants of any type shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass that die shall be promptly removed and replaced with living foliage. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property.

7.3 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of an Area of Association Responsibility, or any Improvement situated thereon, is caused through the willful or negligent act of any Owner, Resident, Lessees, guests or invitees, the cost of such maintenance or repairs shall be paid by such Owner to the Association upon demand. The decision of the Board shall be final and binding as to whether any need for repair is caused by any willful or negligent act of any Owner, Resident, Lessee or their guests or invitees.

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

7.5 Boundary Fences.

7.5.1 Each fence that is located between two Lots, a Lot and a Parcel or two Parcels, shall constitute a boundary fence and, to the extent not inconsistent with this Section 7.5, the general rules of law regarding boundary fences shall apply.

7.5.2 The Owners of contiguous Lots or Parcels who have a boundary fence shall both equally have the right to use the fence provided that the use by one Owner does not interfere with the use and enjoyment of the fence by the other Owner.

7.5.3 The adjoining Owners shall each have the right to perform any necessary maintenance, repair or replacement of the fence and the cost of such maintenance, repair or replacement shall be shared equally by the adjoining Owners except as otherwise provided in this Section.

7.5.4 If a boundary fence is damaged or destroyed through the act of an Owner, its agents, Lessees, licensees, guests or family, it shall be the obligation of such Owner to rebuild and repair the boundary fence without cost to the other Owner or Owners.

7.5.5 If a boundary fence is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, Lessees, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then all adjoining Owners shall rebuild or repair the fence at their joint and equal expense.

7.5.6 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.

7.5.7 In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a boundary fence shall first obtain the written consent of the adjoining Owners.

7.5.8 If a boundary fence encroaches upon a Lot or Parcel, a valid easement for such encroachment and for the maintenance of the boundary fence shall and does exist in favor of the Owners of the Lots or Parcels who share the boundary fence.

7.6 Maintenance of Fences Other Than Boundary Fences.

7.6.1 Fences and walls (other than boundary fences) located on a Lot or Parcel shall be maintained, repaired and replaced by the Owner of the Lot or Parcel.

7.6.2 Fences (other than fences described in Subsection 7.6.3 below) located on Areas of Association Responsibility shall be maintained, repaired and replaced by the Association.

7.6.3 Any fence that is placed on the boundary line between a Lot or Parcel and an Area of Association Responsibility 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 surface of the fence that faces the Area of Association Responsibility. The Association shall have no responsibility for any structural repair and maintenance that would require rebuilding all or a portion of any such fence, including any portion of a view fence. In the event any such fence encroaches upon the Area of Association Responsibility or a Lot or Parcel, an easement for such encroachment shall exist in favor of the Association or the Owner of the Lot or Parcel, as the case may be.

7.6.4 Any fence that is placed on the boundary line between a Lot or Parcel and public right-of-way and that was constructed by Declarant or Builder in a decorative manner (i.e., a with stone or brick accents) 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 replacement of the surface of the fence that faces the public right-of-way. The Association shall have no responsibility for any structural repair and maintenance that would require rebuilding all or a portion of any such fence, including any portion of a view fence.

7.6.5 Any fence that is placed on the boundary line between an Area of Association Responsibility and public right-of-way or any other property dedicated to the public shall be maintained, repaired and replaced by the Association.

7.6.6 If the Association deems it necessary to trim, cut or remove vines, plants, trees, bushes, shrubs or other landscaping planted on a Lot or Parcel in order for the Association to be able to perform its maintenance responsibilities under this Section, the Association shall give notice to the Owner of the applicable Lot or Parcel identifying the work that must be done in order for the Association to be able to perform its maintenance responsibilities and the date by which such work must be completed. If the Owner does not perform the work identified in the notice within the time period set forth in the notice, then the Association shall have the right to perform the necessary work and charge the Owner for all costs incurred by the Association in the performance of the work. Any such amounts that become payable by an Owner to the Association pursuant to this Subsection shall be paid by the Owner within fifteen (15) days after receipt of a billing, invoice or other demand from the Association for payment of such amount. The Association shall not be liable to the Owner of a Lot or Parcel or to any other Person for any loss or damage to the landscaping or for any change in appearance of a Lot or Parcel as a result of any work performed by the Association on a Lot or Parcel pursuant to this Subsection. The Association shall be liable to the Owner of a Lot or Parcel for

any damage to a fence caused by the Association in the exercise of the Association's rights under this Subsection 7.6.6.

7.7 Installation of Landscaping.

7.7.1 Unless installed by Declarant or a Builder, within sixty (60) days after acquiring a Lot or Parcel from Declarant or a Builder, each Owner shall install trees, plants or other landscaping Improvements (together with any sprinkler system or drip irrigation system sufficient to adequately water the trees, plants or other landscaping Improvement) on the part of the Lot or Parcel that is between the street adjacent to the Lot or Parcel and the exterior walls of the Residential Unit situated on the Lot or Parcel, except for any side or back yard of the Lot or Parcel that is completely enclosed by a fence.

7.7.2 Unless installed by Declarant or a Builder, within one hundred eighty (180) days after acquiring a Lot or Parcel from Declarant or a Builder, each Owner of a Lot or Parcel abutting a Common Area where the rear and/or side yards are enclosed with a view fence shall install trees, plants or other landscaping Improvements (together with any sprinkler system or drip irrigation system sufficient to adequately water the trees, plants or other landscaping Improvements) on such rear and/or side yards. Prior to installing the landscaping in the rear and/or side yards, an Owner shall maintain all such yard areas in a weed-free and attractive manner.

7.7.3 All landscaping installed pursuant to this Section 7.7 must have the written approval of the Architectural Review Committee before installation.

ARTICLE 8 INSURANCE

8.1 Scope of Coverage.

8.1.1 Commencing not later than the time of the first conveyance of a Lot or Parcel to a Person other than Declarant, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(i) Commercial general liability insurance in an amount determined by the Board, but not less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or relating to the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project that the Association is obligated to maintain under this Declaration, and shall also include cross liability endorsements to cover liabilities of the Owners as a group to an Owner;

(ii) Property insurance on all Areas of Association Responsibility insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Areas of Association Responsibility, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of

the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy;

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

(iv) Directors' and officers' liability insurance in an amount not less than \$1,000,000 covering the directors and officers of the Association against claims arising out of or relating to the administration of the Association;

(v) Such other insurance (including, without limitation, employment practices liability insurance and fidelity insurance) as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board, the officers and the members of any committee of the Board and the Owners.

8.1.2 The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance that may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the First Mortgagee named in the policy at least thirty (30) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

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

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

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

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

ARTICLE 9 GENERAL PROVISIONS

9.1 Enforcement.

9.1.1 The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Project Documents, including, without limitation, an action to obtain an injunction to compel compliance with the Project Documents, provided that an Owner shall not take any enforcement action until the Association has failed or refused to take such enforcement action for an unreasonable period of time after written notice to do so. Failure by the Association or an Owner to enforce any covenant or restriction contained in the Project Documents shall in no event be deemed a waiver of the right to do so thereafter.

9.1.2 If any lawsuit is filed by the Association or any Owner to enforce the provisions of the Project Documents or in any other manner arising out of or relating to the Project Documents or the operations of the Association, the prevailing party in such action shall be entitled to recover from the other party all attorneys' fees incurred by the prevailing party in the action.

9.1.3 In addition to any other rights or remedies available to the Association pursuant to the Project Documents or at law or in equity, the Board shall have the power to levy reasonable monetary penalties against an Owner for a violation of the Project Documents by the Owner, a Lessee of the Owner or by any Resident of the Owner's Lot or Parcel, provided the Owner is given notice and an opportunity to be heard.

9.1.4 The Association shall be obligated to investigate allegations of violations of any covenant, restriction or rule set forth in any of the Project Documents; provided that the Association may, but shall not be obligated to, investigate anonymous allegations. Following such investigation, the decision to take or not take enforcement action shall, in each case, be in the discretion of the Board in the exercise of its business judgment. Without limiting the generality of the Board's discretion, if the Board reasonably determines that a covenant,

restriction or rule is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action, the Board shall not be obligated to take such action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision at a later time or under other circumstances, or estop the Association from enforcing any other covenant, restriction or rule. Notwithstanding the above, if, in the discretion of Declarant as long as Declarant owns any Property or Additional Property, the Association fails to take appropriate action to enforce any provision of the Project Documents in accordance with its rights and responsibilities, Declarant may take such enforcement action on behalf of the Association. Declarant shall not take such action without first providing the Association written notice and a reasonable opportunity to take such action on its own.

9.1.5 The Association and Owners shall be subject to A.R.S. §§ 33-1803 and 41-2198.01.

9.2 **Termination.** This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Owners representing ninety percent (90%) or more of the votes in each class of Membership and by the holders of First Mortgages, the Owners of which have seventy-five percent (75%) or more of the votes in the Association. If such termination is proposed after the Class B Membership has ceased, such termination shall require the written consent of Declarant so long as Declarant owns any Property or Additional Property. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

9.3 **Amendments.**

9.3.1 Except for amendments made pursuant to Sections 2.2 or 2.3, or amendments made pursuant to Subsections 9.3.2 or 9.3.4 of this Declaration, and subject to the provisions of Subsection 9.16.8 of this Declaration, the Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Owners of not less than seventy-five percent (75%) of the votes in the Association.

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

9.3.3 So long as Declarant owns any Property or Additional Property, any amendment to this Declaration must be approved in writing by Declarant.

9.3.4 Declarant, so long as Declarant owns any Property or Additional Property, and thereafter, the Board, may amend this Declaration without the consent of any other Owner to correct any error or inconsistency in the Declaration.

9.3.5 So long as Declarant and any Builders collectively own more than seventy-five percent (75%) of the votes in the Association, any amendment to this Declaration shall be signed by Declarant and such Builders and shall be Recorded. At any time Declarant and any Builders do not collectively own at least seventy-five percent (75%) of the votes in the Association, any amendment approved pursuant to Subsection 9.3.1 of this Declaration or by the Board pursuant to Subsections 9.3.2 or 9.3.4 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded, and any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by Declarant pursuant to Sections 2.2 or 2.3 of this Declaration shall be signed by Declarant and shall be Recorded. Any amendment made by Declarant pursuant to Subsections 9.3.2 or 9.3.4 of this Declaration shall be signed by Declarant and shall be Recorded. Unless a later effective date is provided for in the amendment, any amendment to this Declaration shall be effective upon the Recording of the amendment.

9.4 Rights of First Mortgagees.

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

9.4.2 No Lot or Parcel shall be partitioned or subdivided without the prior written approval of the holder of any First Mortgage on such Lot or Parcel.

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

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

9.7 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the rule against perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of

perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (i) those that would be used in determining the validity of the challenged interest, plus (ii) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

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

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

9.10 Responsibility of Successors in Interest to Owner's Violations. Successors in title of an Owner to a Lot are obligated to correct any violation of the Project Documents by any preceding Owner of the Lot.

9.11 Laws, Ordinances and Regulations.

9.11.1 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 Review Committee with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation to also comply with all applicable laws, ordinances and regulations.

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

9.12 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 heirs, executors, administrators, successors and assignees.

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

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

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

9.16 Dispute Notification and Resolution Procedure. All actions or claims (i) by the Association against any one or more of the Declarant Parties, (ii) by any Owner(s) against any one or more of the Declarant Parties (other than claims under the limited warranty provided by Declarant to a purchaser (the "Limited Warranty") to the extent applicable), or (iii) by both the Association and any Owner(s) (other than claims under the Limited Warranty to the extent applicable) against any one or more of the Declarant Parties, arising out of or relating to the Project, including but not limited to, the 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 that allege negligence or other tortious conduct, fraud, misrepresentation, 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 Section 9.16. Declarant and each Owner acknowledge that the provisions set forth in this Section 9.16 shall be binding upon current and future Owners of the Project and upon the Association, whether acting for itself or on behalf of any Owner(s). Nothing in this Declaration is intended to limit, expand or otherwise modify the terms of the Limited Warranty, and claims under the Limited Warranty will, subject to the terms of the Limited Warranty, be arbitrated in accordance with the arbitration provisions set forth in the Limited Warranty (to the extent applicable).

9.16.1 Notice. Any Person (including, without limitation, the Association) with a Dispute claim shall notify the applicable Declarant Party (the "Notified Declarant Party") in writing of the claim, which writing shall describe the nature of the claim and any proposed remedy (the "Claim Notice").

9.16.2 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, the Notified Declarant Party and the claimant shall meet at a mutually acceptable place within the Project to discuss the claim. At such meeting or at such other mutually agreeable time, the Notified Declarant Party and the Notified Declarant Party'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 in a manner deemed appropriate by the Notified Declarant Party (provided the Notified Declarant Party 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 Subsection 9.16.2. The parties shall negotiate in good faith in an attempt to resolve the claim. If the Notified Declarant Party elects to take any corrective action, the Notified Declarant Party and the Notified Declarant Party's representatives and agents shall be provided full access to the Project and the property that is the subject of the claim to take and complete corrective action.

9.16.3 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in Subsection 9.16.2 shall be construed to impose any obligation on the Notified Declarant Party to inspect, test, repair or replace any item of the Project for which the Notified Declarant Party is not otherwise obligated under applicable law or the Limited Warranty (if applicable). The right of the Notified Declarant Party to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing executed and Recorded by the Notified Declarant Party.

9.16.4 Mediation. If the parties to the Dispute fail to resolve the Dispute pursuant to the procedures described in Subsection 9.16.2 above within ninety (90) days after delivery of the Claim Notice, the matter shall be submitted to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (except as such procedures are modified by the provisions of this Subsection 9.16.4) or such other mediation service selected by the Notified Declarant Party. The Person who delivered the Claim Notice shall have until one hundred twenty (120) days after the date of delivery of the Claim Notice to submit the Dispute to mediation. If the Person who delivered the Claim Notice fails to timely submit the Dispute to mediation, then the claim of the Person who delivered the Claim Notice shall be deemed waived and abandoned and all applicable Declarant Parties shall be relieved and released from any and all liability relating to the Dispute. 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 any 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 Notified Declarant Party or any Declarant Party without complying with the procedures described in this Subsection 9.16.4.

(i) **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 the county in which the Project is located or such other place as is mutually acceptable by the parties.

(ii) 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, consistent with the Construction Industry Mediation Rules of the American Arbitration Association. 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.

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

(iv) 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. Notwithstanding the foregoing, applicable contractors, subcontractors, suppliers, architects, engineers, brokers and any other Person providing materials or services in connection with the construction of any Improvement upon or benefiting the Project designated by a Notified Declarant Party may attend mediation sessions and may be made parties to the mediation. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall be confidential. There shall be no stenographic record of the mediation process.

(v) 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.

9.16.5 Arbitration. Should mediation pursuant to Subsection 9.16.4 above not be successful in resolving any Dispute, then the Person who delivered the Claim Notice shall have ninety (90) days after the date of termination of the mediation to submit the Dispute to binding arbitration. If timely submitted, such claim or dispute shall be resolved by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association as modified or as otherwise provided in this Subsection 9.16.5. If the Person who delivered the Claim Notice fails to timely submit the claim to arbitration within the ninety (90) day period, then the claim of the Person who delivered the Claim Notice shall be deemed waived and abandoned and all applicable Declarant Parties shall be relieved and released from any and all liability relating to the Dispute. A Person with any Dispute may only submit such Dispute in arbitration on such Person's own behalf. No Person may submit a Dispute in arbitration as a representative or member of a class, and no Dispute may be arbitrated as a class action. All Declarant Parties and any Person(s) submitting a Claim Notice, together with any additional

Persons who agree to be bound by this Section 9.16, such as contractors, subcontractors suppliers, architects, engineers, brokers and any other Person providing materials or services in connection with the construction of any Improvement upon or benefiting the Project (collectively, the "Bound Parties"), agree that all Disputes that are not resolved by negotiation or mediation shall be resolved exclusively by arbitration conducted in accordance with this Subsection 9.16.5, and waive the right to have the Dispute resolved by a court, including the right to file a legal action as the representative or member of a class or in any other representative capacity. 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 Subsection 9.16.5, the arbitrator shall have the authority to try all issues, whether of fact or law.

(i) Place. The proceedings shall be heard in the county in which the Project is located.

(ii) Arbitrator. 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 shall 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 demand for arbitration on all respondents named therein.

(iii) 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.

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

(v) Discovery. The parties shall be entitled only to limited discovery, consisting of the exchange between the parties of only the following matters: (a) witness lists; (b) expert witness designations; (c) expert witness reports; (d) exhibits; (e) reports of testing or inspections of the property subject to the Dispute, including but not limited to, destructive or invasive testing; and (f) hearing briefs. The parties shall also be entitled to conduct further tests and inspections as provided in Subsection 9.16.2 above. 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.

(vi) 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.

(vii) Arbitration Award. Unless otherwise agreed by the parties, the arbitrator shall render a written arbitration award within thirty (30) days after conclusion of the

arbitration hearing. 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, or, as applicable, pursuant to the Federal Arbitration Act (Title 9 of the United States Code).

9.16.6 WAIVERS.

NOTICE: BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE PROJECT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY DISPUTE RESOLVED ACCORDING TO THE PROVISIONS OF THIS SECTION 9.16 AND WAIVES THE RIGHT TO PURSUE ANY DISPUTE IN ANY MANNER OTHER THAN AS PROVIDED IN THIS SECTION 9.16. SPECIFICALLY, AND WITHOUT LIMITATION, EACH SUCH PERSON WAIVES THE RIGHT TO SUBMIT A DISPUTE IN ARBITRATION AS A REPRESENTATIVE OR MEMBER OF A CLASS AND TO HAVE SUCH DISPUTE ARBITRATED AS A CLASS ACTION AND ALSO WAIVES THE RIGHT TO HAVE THE DISPUTE RESOLVED BY A COURT, INCLUDING THE RIGHT TO FILE A LEGAL ACTION AS THE REPRESENTATIVE OR MEMBER OF A CLASS OR IN ANY OTHER REPRESENTATIVE CAPACITY. THE ASSOCIATION, EACH OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 9.16, 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 IS GIVING UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A DISPUTE.

9.16.7 Statutes of Limitation and Repose. Nothing in this Section 9.16 shall be considered to toll, stay, reduce or extend any applicable statute of limitation or repose.

9.16.8 Required Consent of Declarant to Modify. Neither this Section 9.16 nor Section 9.16 below may be amended except in accordance with Subsection 9.3.1 of this Declaration and with the express written consent of Declarant.

9.17 Required Consent of Owners for Legal Action. Any action or claim instituted by the Association (which action or claim shall be subject to the terms of Section 9.16) against any one or more of the Declarant Parties, arising out of or relating to the Project, including, but not limited to the 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 that allege negligence or other tortious conduct, fraud, misrepresentation, breach of contract or breach of implied or express warranties as to the condition of the Project or any Improvements, shall have first been

approved by Owners representing at least seventy-five percent (75%) of the votes in the Association.

9.17.1 Notice to Owners.

(i) Prior to obtaining the consent of the Owners in accordance with Section 9.17, the Association must provide written notice to all Owners which notice shall (at a minimum) include (a) a description of the nature of any action or claim (the "Claim"), (b) a description of the attempts of the Notified Declarant Party to correct such Claim and the opportunities provided to such Notified Declarant Party to correct such Claim, (c) 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, (d) the estimated cost to repair such Claim, (e) the name and professional background of the attorney proposed to be retained by the Association to pursue the Claim against the Notified Declarant Party and a description of the relationship between such attorney and member(s) of the Board (if any), (f) a description of the fee arrangement between such attorney and the Association, (g) the estimated attorneys' fees and expert fees and costs necessary to pursue the Claim against the Notified Declarant Party and the source of the funds that will be used to pay such fees and expenses, (h) the estimated time necessary to conclude the action against the Notified Declarant Party, and (i) an affirmative statement from the Board that the action is in the best interest of the Association and its Members.

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

9.17.2 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 Subsection 9.17.1.

9.18 Limitation on Declarant's Liability. Notwithstanding anything to the contrary in this Declaration, each Owner, by accepting any interest in any portion of the Property and becoming an Owner, acknowledges and agrees that neither any Declarant (including, without limitation, any assignee of the interest of Declarant hereunder) nor any affiliate, partner, officer, director or shareholder of Declarant (or any partner or shareholder in any such assignee) shall have any personal liability to the Association, or any Owner, Member or any other Person, arising out of or relating to (including, without limitation, resulting from action or failure to act with respect to) this Declaration or the Association except, in the case of Declarant (or its assignee), to the extent of its interest in the Property and, in the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets or be a lien upon such other assets of the judgment debtor.

9.19 Termination of Previous Covenants, Conditions and Restrictions. This Declaration supersedes and replaces in its entirety that certain Declaration of Covenants, Conditions and Restrictions for Red Rock Village Recorded on February 14, 2007 in Fee No. 2007-019251 pursuant to the Termination and Release of Declaration of Covenants, Conditions

and Restrictions for Red Rock Village Recorded on March 5, 2007 in Fee No. 2007-027686

DECLARANT:

PULTE HOME CORPORATION, a Michigan corporation

By: *John W. Ward* *John W. Ward*

Its: Attorney-in-Fact

STATE OF ARIZONA)
) ss.
County of Pima)

Acknowledged before me this 1 day of March, 2007, by JOHN W. WARD, the Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, on behalf of the corporation.

P. Michelle Duran
Notary Public

My commission expires:
4-4-2009

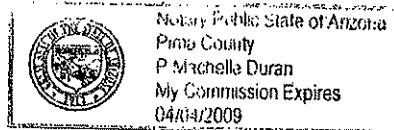


EXHIBIT A

PROPERTY

PHASE 1

Lots 357 through 434, inclusive; Lots 436 through 481, inclusive; and Tracts A, B, C, D, E, F, G, I, J, K and L, RED ROCK VILLAGE 1, according the final plat recorded in Cabinet G, Slide 173, Official Records of Pinal County Recorder, Pinal County, Arizona.

PHASE 2

Lots 1 through 104, inclusive, RED ROCK VILLAGE 1, according the final plat recorded in Cabinet G, Slide 173, Official Records of Pinal County Recorder, Pinal County, Arizona.

PHASE 3

Lots 115 through 247, inclusive, RED ROCK VILLAGE 1, according the final plat recorded in Cabinet G, Slide 173, Official Records of Pinal County Recorder, Pinal County, Arizona.

PHASE 4

Lots 256 through 347, inclusive, RED ROCK VILLAGE 1, according the final plat recorded in Cabinet G, Slide 173, Official Records of Pinal County Recorder, Pinal County, Arizona.

EXHIBIT B

ADDITIONAL PROPERTY

A PARCEL OF LAND SITUATE IN A PORTION OF SECTION 8, SECTION 9, THE SOUTHEAST QUARTER OF SECTION 5, AND THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 10 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP WITH R.L.S. NUMBER 33545, BEARS AS A BASIS OF BEARINGS NORTH 89°45'51" EAST, A DISTANCE OF 2628.91 FEET;

THENCE NORTH 01°03'21" WEST ALONG THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 5, A DISTANCE OF 2697.99 FEET TO THE CENTER OF SAID SECTION 5 MONUMENTED BY A 1-1/2 INCH ALUMINUM CAP;

THENCE SOUTH 89°55'15" EAST ALONG THE NORTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5, A DISTANCE OF 1917.57 FEET;

THENCE SOUTH 23°26'45" EAST, A DISTANCE OF 960.28 FEET;

THENCE SOUTH 17°14'57" EAST, A DISTANCE OF 258.25 FEET;

THENCE SOUTH 02°41'14" EAST, A DISTANCE OF 133.96 FEET;

THENCE NORTH 89°47'51" EAST, A DISTANCE OF 46.05 FEET;

THENCE SOUTH 00°04'58" EAST, A DISTANCE OF 59.97 FEET;

THENCE SOUTH 07°00'21" EAST, A DISTANCE OF 440.67 FEET;

THENCE NORTH 88°08'55" EAST, A DISTANCE OF 182.51 FEET TO A POINT ON THE EASTERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

THENCE SOUTH 00°50'57" EAST ALONG SAID EASTERLY LINE, A DISTANCE OF 251.53 FEET;

THENCE NORTH 76°30'08" EAST, A DISTANCE OF 710.62 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, WHOSE RADIUS POINT BEARS SOUTH 62°20'38" WEST, A DISTANCE OF 2192.00 FEET;

EXHIBIT B

ADDITIONAL PROPERTY

THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF $08^{\circ}20'39''$, AN ARC DISTANCE OF 319.23 FEET TO A POINT OF TANGENCY;

THENCE SOUTH $19^{\circ}18'43''$ EAST, A DISTANCE OF 491.10 FEET;

THENCE SOUTH $66^{\circ}57'14''$ WEST, A DISTANCE OF 929.02 FEET;

THENCE SOUTH $23^{\circ}02'46''$ EAST, A DISTANCE OF 99.91 FEET;

THENCE NORTH $66^{\circ}57'14''$ EAST, A DISTANCE OF 504.33 FEET;

THENCE SOUTH $23^{\circ}02'46''$ EAST, A DISTANCE OF 150.00 FEET;

THENCE NORTH $66^{\circ}57'14''$ EAST, A DISTANCE OF 325.00 FEET;

THENCE NORTH $21^{\circ}57'14''$ EAST, A DISTANCE OF 28.28 FEET;

THENCE NORTH $66^{\circ}57'14''$ EAST, A DISTANCE OF 42.30 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS SOUTH $82^{\circ}39'05''$ WEST, A DISTANCE OF 1045.92 FEET;

THENCE SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF $20^{\circ}50'36''$, AN ARC DISTANCE OF 380.49 FEET TO A POINT OF TANGENCY;

THENCE SOUTH $13^{\circ}29'41''$ WEST, A DISTANCE OF 288.19 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, WHOSE RADIUS POINT BEARS SOUTH $76^{\circ}31'20''$ EAST, A DISTANCE OF 213.00 FEET;

THENCE SOUTHWESTERLY, SOUTHERLY, AND SOUTHEASTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF $51^{\circ}08'13''$, AN ARC DISTANCE OF 190.10 FEET TO A POINT OF NON-TANGENCY;

THENCE SOUTH $37^{\circ}39'49''$ EAST, A DISTANCE OF 226.11 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, WHOSE RADIUS POINT BEARS NORTH $52^{\circ}19'08''$ EAST, A DISTANCE OF 218.38 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF $51^{\circ}06'46''$, AN ARC DISTANCE OF 194.81 FEET TO A POINT OF TANGENCY;

EXHIBIT B

ADDITIONAL PROPERTY

THENCE SOUTH 88°47'38" EAST, A DISTANCE OF 484.50 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, WHOSE A RADIUS POINT BEARS

SOUTH 01°12'22" WEST, A DISTANCE OF 1173.24 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 53°06'52", AN ARC DISTANCE OF 1087.62 FEET TO A POINT OF TANGENCY;

THENCE SOUTH 35°40'46" EAST, A DISTANCE OF 365.40 FEET;

THENCE NORTH 54°19'14" EAST, A DISTANCE OF 22.00 FEET;

THENCE SOUTH 35°40'46" EAST, A DISTANCE OF 1596.24 FEET;

THENCE SOUTH 54°44'34" WEST, A DISTANCE OF 1437.84 FEET;

THENCE SOUTH 37°43'39" EAST, A DISTANCE OF 1365.93 FEET TO A POINT ON THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9;

THENCE NORTH 89°49'23" WEST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 877.28 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 9 MONUMENTED BY A 2 INCH IRON PIPE;

THENCE SOUTH 89°45'33" WEST ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 9, A DISTANCE OF 2628.01 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 8 MONUMENTED BY A 2 INCH IRON PIPE;

THENCE SOUTH 89°35'21" WEST ALONG THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 8, A DISTANCE OF 2637.19 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 8 MONUMENTED BY A 2 INCH IRON PIPE;

THENCE SOUTH 88°52'29" WEST ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 8, A DISTANCE OF 2626.54 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 8 MONUMENTED BY A 5/8 INCH REBAR;

THENCE NORTH 00°05'58" WEST ALONG THE WESTERLY LINE OF THE WEST HALF OF SAID SECTION 8, A DISTANCE OF 5285.23 FEET TO THE NORTHWEST CORNER OF SAID SECTION 8 MONUMENTED BY A 2 INCH ALUMINUM CAP AND THE POINT BEGINNING.

EXHIBIT B

ADDITIONAL PROPERTY

LESS AND EXCEPT -EXISTING SCHOOL SITE

A PARCEL OF LAND SITUATE IN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 5 AND A PORTION OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 10 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP WITH R.L.S. NUMBER 33545, FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP, BEARS AS A BASIS OF BEARINGS SOUTH 89°45'51" WEST, A DISTANCE 2628.91 FEET;

THENCE CONTINUING NORTH 89°45'51" EAST ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 8, A DISTANCE OF 1984.91 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°45'51" EAST ALONG SAID NORTHERLY LINE, A DISTANCE OF 131.71 FEET;

THENCE NORTH 00°50'57" WEST, A DISTANCE OF 16.00 FEET TO A POINT ON A LINE PARALLEL WITH AND 16.00 FEET NORTHERLY OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

THENCE NORTH 89°45'51" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 512.29 FEET TO THE EASTERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

THENCE SOUTH 00°50'57" EAST ALONG SAID EASTERLY LINE, A DISTANCE OF 16.00 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 5, MONUMENTED BY A PREVIOUSLY FOUND 3/4 INCH IRON PIPE AND HELD LOCATION;

THENCE SOUTH 00°09'33" EAST ALONG THE EASTERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 8, A DISTANCE OF 512.00 FEET TO A POINT ON A LINE PARALLEL WITH AND 512.00 FEET SOUTHERLY OF THE NORTHERLY LINE OF SECTION 8;

THENCE SOUTH 89°45'51" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 644.00 FEET TO A POINT ON A LINE PARALLEL WITH AND 644.00 FEET WESTERLY OF THE EASTERLY LINE OF SECTION 8;

EXHIBIT B

ADDITIONAL PROPERTY

THENCE NORTH 00°09'33" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 512.00 FEET TO THE TRUE POINT OF BEGINNING.

LESS AND EXCEPT -WELLSITE 1

A PARCEL OF LAND SITUATE IN A PORTION OF THE NORTHWEST CORNER OF SECTION 8, TOWNSHIP 10 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP FORM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP WITH R.L.S. NUMBER 33545, BEARS AS A BASIS OF BEARINGS NORTH 89°45'51" EAST, A DISTANCE OF 2628.94 FEET;

THENCE SOUTH 00°05'58" EAST ALONG THE WESTERLY LINE OF THE WEST HALF OF SAID SECTION 8, A DISTANCE OF 2325.33 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 89°54'02" EAST, A DISTANCE OF 130.00 FEET;

THENCE SOUTH 52°39'26" EAST, A DISTANCE OF 61.55 FEET;

THENCE SOUTH 23°29'11" EAST, A DISTANCE OF 134.01 FEET;

THENCE SOUTH 66°30'49" WEST, A DISTANCE OF 252.83 FEET TO A POINT ON THE WESTERLY LINE OF THE WEST HALF OF SAID SECTION 8;

THENCE NORTH 00°05'58" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 260.77 FEET TO THE TRUE POINT OF BEGINNING.

LESS AND EXCEPT -WELLSITE 2

A PARCEL OF LAND SITUATE IN A PORTION OF THE NORTHWEST CORNER OF SECTION 8, TOWNSHIP 10 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

EXHIBIT B

ADDITIONAL PROPERTY

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 8, MONUMENTED BY A 2 INCH ALUMINUM CAP WITH R.L.S. NUMBER 33545, BEARS AS A BASIS OF BEARINGS NORTH 89°45'51" EAST, A DISTANCE OF 2628.91 FEET;

THENCE SOUTH 00°05'58" EAST ALONG THE WESTERLY LINE OF THE WEST HALF OF SAID SECTION 8, A DISTANCE OF 2654.75 FEET;

THENCE NORTH 66°30'49" EAST ALONG THE EXISTING CENTERLINE OF SASCO ROAD, A DISTANCE OF 1574.19 FEET;

THENCE NORTH 23°29'11" WEST, A DISTANCE OF 65.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 23°29'11" WEST, A DISTANCE OF 115.00 FEET;

THENCE NORTH 66°30'49" EAST, A DISTANCE OF 128.37 FEET;

THENCE SOUTH 23°29'11" EAST, A DISTANCE OF 115.00 FEET TO A POINT ON A LINE PARALLEL WITH 65.00 FEET NORTHWESTERLY OF THE CENTERLINE OF SASCO ROAD;

THENCE SOUTH 66°30'49" WEST, A DISTANCE OF 128.37 FEET ALONG SAID PARALLEL CENTERLINE TO THE TRUE POINT OF BEGINNING.

LESS AND EXCEPT any property described on Exhibit A attached to this Declaration.

CONSENT OF LENDER

The undersigned holder of all of the Beneficiary's right, title and interest under the Deed of Trust and Assignment of Rents recorded on September 30, 2005, in the Official Records of Pinal County, Arizona as Fee No. 2005-132152 (the "Deed of Trust") hereby consents to the foregoing Declaration and agrees that the Declaration shall continue in full force and effect, even in the event of foreclosure or trustee's sale pursuant to the Deed of Trust or any other acquisition of title by the undersigned, its successors, or assigns, of all or any portion of the real property encumbered by the Deed of Trust.

Dated this 13 day of February, 2007.

RED ROCK VENTURES LLC, an Arizona limited liability company

By: Diamond Ventures, Inc., an Arizona corporation, its Manager

By: [Signature]

Its: Pres.

State of Arizona)
)ss.
County of Pima)

On this 13th day of February, 2007, before me, the undersigned notary public in and for said state, personally appeared David Goldstein, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person, acted, executed the instrument.

Witness my hand and official seal.

My Commission Expires:

Aug. 30, 2008

[Signature: Debra Harper]

Notary Public

