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CAMINO MODERN

AMENDED AND RESTATED DECLARATION OF COVENANTS

CONDITIONS, RESTRICTIONS, AND EASEMENTS

CAMINO MODERN, Lots 1-54 and Common Areas "A" (Private Streets/Utilities), Common Area "B" (Open Space/Drainage/Utilities), and Common Area "C" (Open Space/Utilities), a Flexible Lot Design Subdivision, as recorded in Sequence No. 20180120608 Pima County Records, Pima County, Arizona (the "**Plat**"), being a re-subdivision of a portion of Block E of Desert Steppes Estates, as recorded in Book 15 of Maps and Plats at Page 47 located in the S.E. ¼ of the N.E. ¼ of Section 16, T14S, R15E, G&SRM, Pima County, Arizona.

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AMENDED AND RESTATED DECLARATION OF COVENANTS

CONDITIONS, RESTRICTIONS, AND EASEMENTS

FOR

CAMINO MODERN

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS is executed this 22nd day of March, 2018, by Title Security Agency, LLC fka, Title Security Agency of Arizona, LLC and Title Security Agency, LLC, a Delaware limited liability company, as Trustee under Trust No. 201532R and Trust No. 201720R, hereinafter referred to as "**Declarant**," and amends and restates in its entirety the instrument recorded in the Official Records of Pima County, Arizona on January 12, 2018 in sequence number 20180120609 and rerecorded on February 16, 2018 in sequence number 20180470618.

RECITALS

A. Declarant is the Owner of certain real property in the County of Pima, State of Arizona, which is more particularly described as:

> CAMINO MODERN, Lots 1-54 and Common Areas "A" (Private Streets/Utilities), Common Area "B" (Open Space/Drainage/Utilities), and Common Area "C" (Open Space/Utilities), a Flexible Lot Design Subdivision, as recorded in Sequence No. 20180120608 Pima County Records, Pima County, Arizona (the "**Plat**"), being a re-subdivision of a portion of Block E of Desert Steppes Estates, as recorded in Book 15 of Maps and Plats at Page 47 located in the S.E. ¼ of the N.E. ¼ of Section 16, T14S, R15E, G&SRM, Pima County, Arizona.

Lots 1 through 54 and Common Areas "A", "B" and "C" shall hereinafter be referred to as the "**Covered Property**," and is subject to the terms and provisions hereof.

B. The Covered Property shall generally be known as "CAMINO MODERN," and Declarant desires to see that it be developed as a planned community.

C. Declarant (as hereinafter defined) proposes to construct improvements upon the Covered Property (as hereinafter defined), and to sell and convey the same, subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens hereafter set forth, each of which is for the benefit of the Covered Property and the subsequent owners thereof.

D. Declarant desires and intends that the Covered Property shall be held, sold and conveyed subject to the provisions hereof, which are for the purpose of protecting the value, desirability, attractiveness and character of the Covered Property and which shall run with all of the property. This Declaration shall be binding on all parties having any right, title or interest in the Covered Property, or any part thereof, and shall inure to the benefit of the aforementioned parties and their successors and assigns.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

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

1.1 "Agency" or "Agencies"	Shall mean any of the Federal Housing Administration (FHA), Veterans Administration (VA), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), and any other governmental agency or financial institution insuring or guaranteeing residential loans, or purchasing such loans on the secondary market.
1.2 "Annexable Property"	None.
1.3 "Annual Assessments"	Shall mean the annual assessments levied by the Board pursuant to Section 8.2 of this Declaration.
1.4 "Architectural and Landscape Review Committee" or "ARC"	Shall mean the committee formed pursuant to Article IV of this Declaration.
1.5 "Architectural and Landscape Review Guidelines" or "ARC Guidelines"	Shall mean the rules and. regulations adopted, amended and supplemented by the Declarant and Architectural and Landscape Review Committee pursuant to Section 4.2 of this Declaration.
1.6 "Articles"	Shall mean the Articles of Incorporation of the Association, as amended or restated from time to time.
1.7 "Assessments"	Shall mean all Annual Assessments, Maintenance Assessments and Special Assessments, and shall include any late charges secured by the Assessment Lien.
1.8 "Assessment Lien"	Shall mean the charge and continuing servitude and lien against a Lot for payment of Assessments as described in Section 8.1 of this Declaration.
1.9 "Assessment Period"	Shall mean each period for which Assessments are to be levied against a Lot pursuant to this Declaration, as more particularly described in Section 8.3 below.
1.10 "Association"	Shall mean "CAMINO MODERN HOA," an Arizona nonprofit corporation, its successors and assigns.
1.11 "Association Rules"	Shall mean the rules and regulations adopted by the Association pursuant to Section 6.3 of this Declaration.

1.12 "Board" Shall mean the Board of Directors of the Association.

1.13 "Bylaws" Shall mean the Bylaws of the Association, as amended or restated from time to time. The Bylaws contain the operational procedures of the Association.

1.14 "Common Area" Shall mean all real property and the improvements or amenities thereon, all easements and licenses, and all personal property and facilities, which shall from time to time be owned, controlled or operated by the Association within the Covered Property (including, but not limited to, areas used for landscaping, flood control, drainage, walls, fencing, structures, bicycle, jogging paths or walking paths, passive recreational areas, play areas, play equipment, dog parks, open space, benches, walkways, etc. if any, and pedestrian and vehicular ingress and egress), or with respect to which the Association has undertaken administrative, maintenance or other similar responsibilities.

1.15 "Common Expenses" Shall mean the expenses incurred or to be incurred by the Association, as estimated by the Board, for the benefit of the Members and Owners within the Covered Property, generally, including reasonable reserves, and which are, in the sole and absolute discretion of the Board, determined to be properly chargeable by Assessments to all Owners and Members, as opposed to being allocated solely to certain Lots.

1.16 "City" Shall mean City of Tucson, Arizona.

1.17 "Covered Property" Defined in Recital A. Covered Property shall also include such portions of the Annexable Property (if any) as may be annexed pursuant to the provisions hereof by recordation of a Declaration of Annexation, and the definition of Covered Property shall be subject to the further provisions hereof, including those dealing with withdrawal of land.

1.18 "Declarant" Shall mean Title Security Agency of Arizona, Inc., as Trustee under Trust No. 201532R and 201720R, and any Declarant Affiliate or assignee of the rights and duties granted or reserved to Declarant herein, which assignment may be in whole or in part.

1.19 "Declarant Affiliate" Shall mean any Person owning any portion of the Covered Property or Annexable Property (if any) and directly or indirectly controlling, controlled by or under common control with the Declarant or, if a trust, the beneficiary of Declarant, and shall include without limitation, any general or limited partnership, limited liability company, corporation or trust in which the Declarant or the beneficiary of Declarant (or another Declarant Affiliate) is a general partner, managing member, controlling shareholder, or beneficiary. Without limiting the generality of the foregoing, Developer is a Declarant Affiliate.

1.20 "Declarant Control Period" The period commencing upon the recording of this Declaration and expiring on the first to occur of:

1.20.1 One hundred percent (100%) of the total number of Dwelling Units which are permitted to be built both within the Covered Property and the Annexable Property (if any), as such percentage is determined by Declarant in its sole discretion, have had certificates of occupancy (or the equivalent approval) issued and have been conveyed to Persons other than Declarant or a Declarant Affiliate;

1.20.2 Such date as Declarant relinquishes its rights which may be exercised during the Declarant Control Period; or

1.20.3 December 31, 2035.

The Declarant Control Period, if once expired, shall revive if subsequent annexations or other events should occur which indicates that the percentage in sub-part 1.20.1 above no longer exists.

Notwithstanding the foregoing, in no event shall the Declarant Control Period continue for more than five (5) years after neither Declarant nor any Declarant Affiliate owns any land within either the Covered Property or Annexable Property (if any).

1.21 "Declaration of Annexation" Shall mean a declaration executed by Declarant and declaring that any portion of the Annexable Property (if any) is made subject to this Declaration and annexed under the purview hereof and made a portion of the Covered Property.

1.22 "Declaration" Shall mean this Declaration of Covenants, Conditions, Restrictions and Easements, as amended, restated, or supplemented from time to time.

1.23 "Delinquent Amount" Shall mean any Assessment, or installment thereof, or any other sum due hereunder and not paid when due.

1.24 "Developer" Shall mean PSSW INVESTMENTS, LLC and its successors and assigns, and any assignment of Developer's rights hereunder may be in whole or in part.

1.25 "Dwelling Unit" Shall mean any building, or part thereof, situated upon a Lot and intended for use and occupancy as a residence by a Single Family.

1.26 "Eligible Mortgage Holder" Shall mean a First Mortgagee who has in writing requested notice of material amendments or actions to be taken pursuant to the provisions hereof granting to such First Mortgagees the right of objection or approval.

1.27 "Event of Foreclosure" Shall mean the foreclosure, the acceptance of a deed in lieu of foreclosure, or the transfer of title by trustee's deed at a trustee's sale in regard to a mortgage, deed of trust or other encumbrance inferior

in priority to an Assessment Lien.

1.28 "First Mortgage" Shall mean any mortgage or deed of trust on any Lot with the first priority over any other mortgage or deed of trust encumbering such Lot.

1.29 "First Mortgagee" Shall mean the holder of any First Mortgage.

1.30 "Governing Documents" Shall mean this Declaration, the Articles of Incorporation and Bylaws of the Association, the Architectural and Landscape Review Guidelines and the Association Rules, as same may from time to time be amended.

1.31 "Government Property" Shall mean all land and improvements owned by or dedicated to a public or governmental agency or authority for so long as the public or governmental agency or authority is the owner or beneficiary thereof, except for land or improvements, or both, owned and/or operated by a public or governmental agency or authority acting in a proprietary capacity.

1.32 "Improvement" Shall mean any structure or improvement, including any Dwelling Unit or modification thereof, any patio, outbuilding, pool, wall, path, driveway, excavation, landscaping, fixture, antennae, satellite system, fence, coping, awning, sunshade, flagpole, sign or other structure or improvement or appurtenance, and including decorative or aesthetic changes, such as color changes or changes to materials.

1.33 "Lot" Shall mean an area of real property designated as a numbered "Lot" on any recorded subdivision plat.

1.34 "Maintenance Assessments" Shall mean the Assessments, if any, levied by the Board pursuant to Section 8.6 of this Declaration.

1.35 "Member" Shall mean any Owner or Person entitled to Membership, including Declarant for so long as Declarant is a Class A or Class B Member (whether or not Declarant owns any Lot).

1.36 "Membership" Shall mean the rights and duties of Owners, including Declarant so long as Declarant is a Class A or Class B Member, with respect to the Association.

1.37 "Occupant" Shall mean any Person, other than an Owner, occupying a Lot, or any portion thereof or building or structure thereon, as a Resident, Tenant, licensee or otherwise, other than on a merely transient basis.

1.38 "Owner" Shall mean the record holder of legal title to the fee simple interest in any Lot or, in the case of a recorded "contract" (as that term is defined in A.R.S. §33-741(2)), the holder, of record, of the purchaser's or vendee's interest under said contract, but excluding others who hold such title merely as security, such as any trustee under a deed of trust. An Owner shall include any Person who holds record title to a Lot in joint ownership

or as an undivided fee interest.

1.39 "Person" Shall mean a corporation, partnership, limited liability company, joint venture, individual, trust or any other legal entity.

1.40 "Plat" Shall mean a recorded subdivision plat for the Covered Property, and any amendment or resubdivision thereof, and in the event of successive plats for portions of the Covered Property, the term shall include all such plats unless the context clearly indicates otherwise.

1.41 "Resident" Shall mean:

1.41.1 each Owner who resides on the Covered Property and the members of the immediate family of each Owner who reside on the Covered Property;

1.41.2 each Tenant who resides on the Covered Property and the members of the immediate family of each Tenant who reside on the Covered property;

1.41.3 such persons as the Board, in its absolute discretion, may authorize, including without limitation, guests of an Owner or Tenant.

1.42 "Reviewing Authority" Shall mean, as applicable, the Declarant and the ARC or other designee or assignee as provided in Article IV below.

1.43 "Single Family" Shall mean a group of persons related by blood, marriage or legal adoption, or a group of not more than three unrelated persons maintaining a common household. "Single Family" use shall not include any form of detention house, reform school, rooming or boarding house, sanatorium, or any form of group home whether or not providing services to occupants, except that this prohibition shall not apply to group homes or similar living or care arrangements which by state or federal law may not be prohibited by enforcement of private restrictive covenants.

1.44 "Special Assessments" Shall mean the assessments, if any, levied by the Board pursuant to Section 8.8 of this Declaration.

1.45 "Tenant" Shall mean a Person occupying any part of the Covered Property under any type of rental agreement, whether such rental agreement is within the definition set forth in A.R.S. §33-1310(11) or otherwise.

1.46 "Visible From Neighboring Property" Shall mean, with respect to any given object, that such object is or would be reasonably visible to a Person six feet tall, standing at ground level on neighboring property (either Lots or Common Area) six feet back from the property line of the neighboring property, provided, however, that the ARC shall have the right to determine the meaning of the term "Visible From Neighboring Property" as applied on a case by case basis, and the determination of the ARC shall be binding in that

regard, subject to any appeal rights to the Board.

ARTICLE II

PROPERTY AND PERSONS BOUND BY THIS DECLARATION

2.1 General Declaration

Declarant desires to facilitate development of the Covered Property in accordance with this Declaration which establishes a general plan of development for the planned community known as Camino Modern. This Declaration provides for the overall development, administration, maintenance and preservation of the Covered Property.

In accordance with the foregoing, as portions of the Covered Property are developed, Declarant, without obligation, may establish such additional covenants, conditions and restrictions as may be appropriate for the respective portions of the Covered Property. Nothing in this Declaration shall be construed to prevent or limit Declarant's right to modify the development of the Covered Property, or from dedicating or conveying portions of the Covered Property for uses other than as a Lot or Common Area.

2.2 Owners and Occupants Bound

Upon the recording of this Declaration, this Declaration shall be binding upon all Owners and Occupants of the Covered Property and their successors and assigns, whether or not stated in any document or deed transferring any interest in any Lot to or from such Owners or Occupants.

ARTICLE III

EASEMENTS AND RIGHTS OF ENJOYMENT IN THE COMMON AREA

3.1 Easements and Rights of Enjoyment

Each Owner shall have a nonexclusive easement for use and enjoyment in and to the Common Area, which nonexclusive easement shall be appurtenant to and shall pass with the title to each Owner's Lot. All Occupants shall have a nonexclusive, nontransferable temporary license to use and enjoy the Common Area so long as they remain Occupants. The foregoing grants and rights are subject to the following limitations, in addition to all other limitations and reserved powers set forth in this Declaration:

Right to Modify and Change

3.1.1 The rights, duties and obligations of the Association, and the reserved right of Declarant, and of the Association, to modify the use of Common Area, or to convey same free of claims or rights of the Owners or Members;

Suspension of Rights

3.1.2 The right of the Association, after such notice and hearing as may be required by law, to suspend the voting rights and the rights to use and enjoyment of the Common Area of any Owner or occupant, as the case may be, for any period during which an Assessment remains delinquent, or for a period not to exceed 60 days for any single infraction of this Declaration, the Association Rules, or the ARC Guidelines (provided such suspension shall not be limited if the infraction remains uncured);

Limitation of Guests

3.1.3 The right of the Association to limit the number of guests of an Owner or Occupant who may use the Common Area; and

Regulation, Mortgages and Conveyances; Power of Association

3.1.4 The right of the Association to regulate use of the Common Area in accordance with this Declaration, and, in addition to Declarant's reserved rights, to mortgage or convey portions of Common Area with the affirmative vote or written consent, with or without a meeting, of Declarant and Owners representing at least two-thirds (2/3rds) of the total votes held by Class A Members.

Broad Reserved Powers of Declarant

Notwithstanding the foregoing, the Association may at any time convey, and the Declarant may cause the Association to convey, minor, insignificant, or immaterial portions of Common Area (such as those caused by encroachment areas, boundary line discrepancies, survey errors and other such matters), and portions of Common Area determined by Declarant to be more burdensome or costly to own than the concomitant benefit to the Association would warrant, and such conveyance may be made without the consent or vote of any other Person or Member, should Declarant or the Board determine that such conveyance or transfer is in the best interests of the Association or Covered Property. Furthermore, Declarant may at any time resubdivide Common Area into Lots or other Common Area or dedicated land, and may cause the Board or Association to execute such instruments as may be necessary to cause such resubdivision or dedication, and no consent or approval shall be required of any other Members nor shall a meeting of Members be required.

Any sale, disposition or resubdivision of the Common Area shall serve to extinguish any interests therein of Owners pursuant to the provisions hereof.

In addition, the Association shall in all cases have the right to convey and dedicate lands and interests such as public roads, streets, drainage ways, culverts, parks, sewer facilities and other Common Area, and such action shall not require the approval of any Owners or Members of the Association.

3.2 Delegation of Use

Any Owner or Occupant, in accordance with the Association Rules and this Declaration, may delegate his or her rights of use and enjoyment in the Common Area to the members of his or her family or his or her occupants, employees, customers or guests subject to the limitations set forth herein and in the Association Rules, and in the event of such delegation, including any lease of a Lot, the Owner shall be deemed to have relinquished his or her right of use and enjoyment for the period of such lease or delegation. Without limitation, the Rules may limit the number of guests, prescribe restrictions on certain types of gatherings or events.

3.3 Waiver of Use

No Owner shall be exempt from liability for Assessments, nor shall any Owner have any right to release a Lot from the liens or charges arising under this Declaration by waiver of the right of use and enjoyment of Common Area or for any other reason, and no Owner shall in any fashion or by any means have a right of setoff of claims against any sum owned to the Association.

3.4 Acceptance of Certain Common Area and Other Areas

Declarant shall have the absolute right to require that the Association accept title to future Common Area, open spaces and facilities whether or not shown upon any Plat for the Covered Property. Such right of Declarant shall, without limitation, extend to all areas of the Annexable Property (if any) that Declarant determines are appropriate for Common Area designation or otherwise appropriate for Association control and maintenance.

3.5 Exclusive Use and Benefit Easements

On certain Common Area, particularly where perimeter or similar walls are to be built (including yard walls, landscape walls, subdivision boundary walls and the like), such walls may be constructed within the Common Area at varying distances from the adjacent Lot line in order to avoid monotony of design. Portions of the Common Area may be located on the Lot side of any such dividing wall (each, an "**Easement Area**"). Each Easement Area will adjoin and be contiguous to a Lot (each, a "**Dominant Lot**"). The Association may, in its sole discretion, at any time and from time to time, grant to the Owner of a Dominant Lot and record a perpetual exclusive use and benefit easement over the Easement Area abutting that Dominant Lot for the use, benefit and enjoyment of that Owner (each, an "**Easement**"). Such Easement shall run with the land and be appurtenant to the abutting Dominant Lot and may not be sold, transferred or otherwise conveyed apart therefrom.

The Easements shall be limited to the extent that no other structure or improvement of any nature may be placed, maintained or permitted to remain in any Easement Area. The Association shall have no possession or control of the Easement Areas, except that the Association shall have the right of ingress and egress for the sole purpose of any maintenance and repair obligations the Association may have with respect to such dividing wall.

Easements Benefiting Individual Owners

Each Easement Area shall be possessed, controlled, maintained and insured by the Owner of the abutting Dominant Lot and not by the Association. Any separate insurance maintained by the Association is

excess and non-contributory. Each Owner of a Dominant Lot shall indemnify, protect, defend and hold harmless the Association for, from and against any and all losses, costs, claims, actions, damages, expenses and liabilities of any kind whatsoever arising from or in connection with the Easement Area abutting that Owner's Dominant Lot.

Easements Benefiting the Association

In addition to the Easement Areas set forth above, to permit a varying or undulating design of perimeter or yard walls, there shall exist, and there is hereby granted and reserved, a valid, perpetual easement in favor of the Association for the maintenance and repair of landscaping and other improvements which may be accepted for maintenance by the Association and which may be installed or built in the Common Area side of any such wall built or to be built partly into the area of any adjacent Lot, as determined by the ARC at the time of original construction of improvements. The Association shall be solely responsible for maintaining any such Lot area upon which such easements exist and which have been accepted by the Association. The limit and extent of any such easement shall be determined by the ARC upon approval of designs and plans submitted by Owners.

3.6 Side Yard Easements

Certain lots within the Covered Property may be developed and constructed with building walls, patio walls, roofs, eaves, overhangs and other improvements ("Boundary Area Improvements") located on or adjacent to the property line between Lots which encroach upon Common Area or adjacent Lots or for which access to adjacent Lots may be necessary or convenient for maintenance and repair. Accordingly, and notwithstanding anything in this Declaration to the contrary, there is hereby created an exclusive and perpetual easement (the "Boundary Area Easement") for the benefit of each Lot (the "Benefitted Lot") over and across the first three feet of each adjacent Lot (the "Burdened Lot") and adjacent Common Area for the encroachment, maintenance, repair and replacement of Boundary Area Improvements. The Boundary Area Easement is subject to the following terms and conditions:

(a) No Owner of a Lot may construct any structure or improvements within the Boundary Area Easement that would reasonably preclude an Owner of a Benefitted Lot from maintaining or repairing Boundary Area Improvements.

(b) No Owner may (i) modify a building wall or patio wall in the Boundary Area Easement benefitting another Lot, (ii) install any tangible object, including, without limitation, art objects, barbeques, or other attachments, to a building wall or patio wall in the Boundary Area Easement benefitting another Lot, or (iii) paint, stucco or otherwise alter the aesthetic appearance of such building wall or patio wall, without in each case the prior written approval of the ARC (which shall consult with the Owner of the Benefitted Property as appropriate).

(c) Notwithstanding the limitations in subparagraph (b),

the Owner of a Burdened Lot may place ground-level rock or other inert materials within the Boundary Area Easement so long as that the area remains level and there is no alteration to or impairment of drainage.

(d) The Owner of a Burdened Lot shall not: (i) permit or cause any nuisance to occur in the Boundary Area Easement, (ii) permit any damage to Boundary Area Improvements, or (iii) permit any material of any kind to be placed, located or stored within one foot of the wall of the building on the Benefitted Lot.

(e) An Owner of a Benefitted Lot must provide at least 30 days written notice to the Owner of the Burdened Lot before entering the Burdened Lot to perform maintenance, repairs or replacements; provided, however, that in the case of an emergency involving either the safety of the occupants of either Lot or the interruption of utility services (such as a gas or water leak), the Owner shall only be required to provide such notice as is reasonable under the circumstances acting in good faith.

ARTICLE IV

ARCHITECTURAL AND LANDSCAPING RESTRICTIONS AND CONTROL

4.1 Control by Declarant of All Architectural and Landscaping Matters

Reserved Rights of Declarant

4.1.1 Each and every Owner, and all other Persons, by accepting a deed or otherwise having ownership, possession or control over any Lot agrees that Declarant, as the initial entity planning for the development of the Covered Property, and as an initial Owner of all or portions of the Covered Property, has a vital and legitimate interest in seeing the Covered Property developed in a manner consistent with Declarant's wishes and plans, as those plans may from time to time change.

Approval Required

4.1.2 In accordance with the foregoing, and as more specifically set forth below, no development, construction, grading, Improvement, landscaping or other work or alteration of any land shall be commenced unless and until Declarant has given its prior written approval of same, which approval may be granted or denied in the sole and absolute discretion of Declarant. Declarant intends to and shall in writing, as more specifically set forth below, delegate certain or all of its rights of review and approval to the ARC, which shall be a committee of the Board, though Declarant may retain certain rights of review and approval and may also delegate certain of its rights of review and approval to others. Declarant, or the ARC to the extent Declarant has assigned its rights for review and approval, shall be deemed the "**Reviewing Authority**" for purposes of this Article IV. Upon any delegation, Declarant shall be fully released of all obligation, right and responsibility with respect to the functions of the Reviewing Authority

so delegated or assigned. In any case in which Declarant has retained rights as the Reviewing Authority and has not assigned or delegated rights of review and approval to the ARC, the Association shall nevertheless, with Declarant's approval, have full rights of enforcement of the provisions hereof, and may take legal and other action against any Owner, Person or entity, or their agents, contractors and subcontractors, who may be in violation of the provisions hereof or of the ARC Guidelines, or who may have acted without approval of the Reviewing Authority. Declarant shall have full rights and authority to cause the Association to take such action and to expend Association funds and resources in pursuit thereof, it being acknowledged that the Association and Members are or shall be benefited by such enforcement or other action.

4.1.3 The Reviewing Authority shall in all cases be deemed to be acting for and on behalf of the Association and shall be deemed an agent and committee of the Association.

ARC and ARC Guidelines

4.1.4 The Reviewing Authority shall be guided in its functions by the Architectural and Landscape Review Guidelines (the "**ARC Guidelines**").

Protection of Declarant

4.1.5 In exercising its rights hereunder, including in the review, approval or denial of any application or request, and for so long as Declarant is a Class B Member, or for so long as Declarant owns any portion of the Covered Property, whichever ever period shall last expire, Declarant may act, or cause the ARC to act, in Declarant's interest and as Declarant determines based upon its desires for the Covered Property. Declarant's rights reserved hereunder may in writing be waived, terminated or assigned. In exercising its rights hereunder, the Declarant shall be deemed to be acting as an agent and committee of the Association.

Delegation of Review Rights

4.1.6 Declarant may from time to time, delegate all or a portion of its reserved rights hereunder to either or both of (i) the ARC; or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association, it being acknowledged that certain portions of the Covered Property may be treated differently, and may at Declarant's discretion, be under the control solely of Declarant.

Reviewing Authority

4.1.7 The Reviewing Authority may designate one or more Persons to act on its behalf in reviewing applications hereunder, and may assign it rights under this Article (including its rights to review and approve all required submittals or applications, and its right to adopt, amend or revoke the ARC Guidelines).

4.2 Architectural and Landscape Review Guidelines

4.2.1 The initial ARC Guidelines may be adopted by the Reviewing Authority with the approval of Declarant and the Board. Subject to the written approval of the contents thereof by the Declarant for so long as Declarant owns any portion of the Covered Property or Annexable Property (if any), and thereafter subject to the written approval of the Board, the Reviewing Authority may adopt, amend, and supplement the

Content of Guidelines

ARC Guidelines, which may be different for various portions of the Covered Property. The right of Declarant to approve the ARC Guidelines is paramount to the right of the Board or any Reviewing Authority other than Declarant, and no amendment may be made without Declarant's consent as long as Declarant owns any portion of the Covered Property. The ARC Guidelines shall interpret, implement and supplement this Declaration, and shall set forth procedures for review and the standards for development within all or various portions of the Covered Property. The ARC Guidelines may include, without limitation, provisions regarding:

(a) the size or maximum Lot coverage for Single Family Dwelling Units;

(b) architectural design, with particular regard to the harmony of the design with surrounding structures and topography;

(c) the content of any front yard landscaping;

(d) placement of buildings;

(e) landscaping design, content and conformity with the natural desert character of the Covered Property;

(f) requirements concerning exterior color schemes, exterior finishes, and materials, and requirements concerning yard and building ornaments (Visible from Neighboring Property), recreational equipment, exterior lighting and exterior furniture (Visible from Neighboring Property), and other items or improvements Visible From Neighboring Property;

(g) signage and mailboxes;

(h) restrictions on the use of the Side Yard Easements; and

(i) perimeter and screen wall design and appearance.

Adoption and Force and Effect of Rules and ARC Guidelines

4.2.2 The ARC Guidelines shall have the same force and effect as the Association Rules.

4.3 Power and Duties Upon Assignment to ARC

After such time as Declarant shall have assigned its right of review and approval to the ARC, it shall be the duty of the ARC, as a Reviewing Authority, to consider and act upon all proposals or plans submitted to it pursuant to the provisions hereof, to adopt the ARC Guidelines, with the approval of Declarant or the Board, as applicable, to perform any other duties delegated to it by the Board, and to carry out all other duties imposed upon it by this Declaration.

4.4 Obligation to Obtain

4.4.1 Except as otherwise expressly provided in this Declaration or the

Approval

Mandatory Submittal

ARC Guidelines, without the prior written approval by the Reviewing Authority of plans and specifications prepared and submitted to such committee in accordance with the provisions of this Declaration and the ARC Guidelines:

(a) No improvements, alterations, repairs, excavation, grading, landscaping or other work shall be done which in any way alters the exterior appearance of any property or improvements thereon from their natural or improved state; and

(b) No building, fence, exterior wall, pool, roadway, driveway or other structure, improvement or grading shall at any time be commenced, erected, maintained, altered, changed or made on any Lot.

Landscaping

4.4.2 No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon the Covered Property except in compliance with plans and specifications therefor which have been submitted to and approved by the Reviewing Authority in accordance with the ARC Guidelines, and except for replacements of plants previously approved and which remain acceptable in accordance with the then current ARC Guidelines.

Changes and Deviations

4.4.3 No material changes or deviations in or from the plans and specifications for any work to be done on the Covered Property, once approved by the Reviewing Authority, shall be permitted without approval of the change or deviation by the Reviewing Authority.

Verbal Statements

4.4.4 In no event shall the Reviewing Authority be bound by any verbal statements, no single member thereof having the right to bind the committee.

4.5 Organization of Architectural and Landscape Review Committee

The Reviewing Authority, whether the Declarant, the ARC, or other assignee, shall be deemed a committee of the Board. All members of the ARC, and all persons acting on behalf of the Reviewing Authority shall be appointed and removed solely by Declarant so long as Declarant is a Member of the Association, unless such rights is in writing waived by Declarant. Thereafter, the right of appointment shall rest with the Board, A member shall not be required to satisfy any particular qualification for membership and may be a member of the Board, an officer of the Association, or an officer, agent or employee of Declarant.

4.6 Waiver and Variance

The Reviewing Authority may grant variances and waivers from the requirements of the ARC Guidelines if it believes it is in the best interests of the Covered Property to do so, or if hardship justifies the variance. In addition, the Declarant may at any time grant a variance or waiver. The approval by the Reviewing Authority of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring approval, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval. So long as Declarant owns any portion of the Covered Property, any waiver shall require the written

approval of Declarant.

No application or approval shall be required for any Improvement to be made within the Covered Property by Declarant or its authorized agents, affiliates or representatives.

4.7 Liability

Neither the Reviewing Authority, Declarant nor the ARC (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

4.7.1 the approval or disapproval of any plans, drawings or specifications, whether or not defective;

4.7.2 the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;

4.7.3 the development of any Lot; or

4.7.4 the execution and filing of any estoppel certificate or statement, whether or not the facts therein are correct, provided, however, that with respect to the liability of a member of the ARC, such member has acted in good faith on the basis of such information as may be possessed by him.

Without in any way limiting the generality of any of the foregoing provisions of this Section, the Reviewing Authority, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner (other than the Owner applying for consent or approval, whose views the ARC shall be required to hear) with respect to any plans, drawings, specifications, or any other proposal submitted for review.

4.8 Appeal to Board

Any Owner who initially made application to the Reviewing Authority, and who is aggrieved by a decision of the Reviewing Authority, may appeal the decision to the Board in accordance with procedures to be established in the ARC Guidelines. In the event the decision of the Reviewing Authority is overruled by the Board on any issue or question, the prior decision of the Reviewing Authority shall be deemed modified to the extent specified by the Board. Notwithstanding the foregoing, there shall be no appeal from a decision of the Reviewing Authority, and no appeal from a decision of the Reviewing Authority may be taken, so long as Declarant has the right to appoint the members of the ARC.

4.9 Power to Assess

4.9.1 The Reviewing Authority, whether it be the Declarant, the Board or whomever else may be vested with authority to review plans, applications and submittals in accordance herewith, may establish a reasonable processing fee to defer the costs of the Reviewing Authority in considering any requests for approvals submitted to the Reviewing Authority or for appeals to the Board, which fee shall be paid at the time the request for approval or review is submitted.

Refundable and Non-Refundable Fees and Deposits

4.9.2 In addition, the Reviewing Authority may implement: a) refundable and non-refundable fees and deposits for revegetation and restoration of any site, with a portion of a fee being non-refundable should an Owner default in its obligations to restore or revegetate a site when required hereunder or by the Reviewing Authority, or should the Association or Reviewing Authority incur cost as a result thereof; b) refundable and non-refundable fees to assure that all damage or degradation to Common Area, streets and roads caused or to be caused by construction traffic is promptly repaired or otherwise addressed by the Owner responsible therefor, or to enable the Association to accomplish such work, itself, or to establish a fund for future restoration of such areas; and c) such deposits as may be appropriate to assure completion of components of any work that may interrupt or interfere with the use of Common Area or operations of the Association.

4.10 Inspection

The Declarant and any member or authorized consultant of the Reviewing Authority, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot after reasonable notice to the Owner of such Lot in order to inspect the improvements constructed or being constructed on such Lot to ascertain that such improvements have been, or are being, built in compliance with the ARC Guidelines or this Declaration.

ARTICLE V

PERMITTED USES AND RESTRICTIONS

The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots:

5.1 Covenants, Conditions, Restrictions, and Easements Governing Use

5.1.1 The following uses are prohibited:

(a) any use which is offensive by reason of odor, fumes, dust, smoke, noise, glare, heat, sound, vibration, radiation or pollution, or which constitutes a nuisance, or which is hazardous by reason of risk of fire or explosion, or which is otherwise materially injurious to the perceived value of any Lot; and

(b) any use which is in violation of the laws (after taking into account the application of any validly granted or adopted variance, exception or special use ordinance or regulation) of the United States, the State of Arizona, the City or any other governmental entity having jurisdiction over the Covered Property.

Plat Notes

5.1.2 In addition to the restrictions contained herein, the Covered Property shall be subject to all applicable restrictions and limitations set forth on the Plat, and all Owners shall comply therewith.

Duty of Maintenance

5.1.3 Each Owner shall, at such Owner's sole cost and expense,

except as otherwise provided herein, keep such Owner's Lot, including buildings, Improvements, front and side yards, private drives, easement areas and grounds thereon, in a well-maintained, clean, neat and attractive condition at all times and shall comply in all respects with all applicable governmental health, fire and safety statutes, ordinances, regulations and requirements. Each Owner shall be solely responsible for all maintenance and repair of his or her improvements, including the Dwelling Unit, and including all walls and the roof of each Dwelling Unit. Each Owner shall be responsible for the maintenance and repair of all utility lines, including sewer, located within such Owner's Lot, and such maintenance obligation shall include maintenance and repair beyond the Lot boundary to the point of service line connection or junction in the adjacent street, Common Area or easement area.

No Improvement on any Lot shall be permitted to fall into disrepair and each such building and Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished to maintain a first class appearance of the Improvement. In the event any building or Improvement is damaged or destroyed, then, subject to approval in accordance with Article 4, such building or Improvement shall be immediately repaired, rebuilt or demolished by the Owner. If any Owner fails to make the necessary repairs, after receiving notice from the Board of the requirement to perform such repairs within the time limits established by the Board, the Board and its agents and representatives are empowered to enter on the Lot and to make the necessary repairs. The cost of these corrective measures shall be charged to the Owner and collected in the same manner as Assessments. Any such entry shall be after reasonable notice of the time and date of entry, and after such hearings and notice as the law may require.

In addition and without limiting the foregoing, each Owner shall maintain upon its Lot:

(a) front yard courtyard walls, if any, and landscaping located in front yards outside the courtyards, such maintenance to include all exterior faces of the courtyard walls, including the "return" leading toward the Dwelling Unit; and

(b) gates and lighting fixtures, if any, appurtenant to courtyard walls, if any.

The Association shall have the right, but not the obligation, to maintain front yard features if necessary to create a uniform and pleasing appearance of the Covered Property, and such right shall include the painting or maintenance of the front face of any garage door (excluding the mechanical or operating components thereof) and the right to assess the Owner of such Lot for any and all cost and expense related to such maintenance or repair. The Association shall

have an easement onto each Lot for purposes of the foregoing matters of maintenance and repair.

Each of such Lot Owners, for themselves and for and on behalf of their family members and tenants, licensees and invitees, do hereby waive and release the Association, the Developer and the Declarant from any and all claims, demands and liabilities which are, or may be, asserted relating in any way to such landscaping, improvements or equipment, or the maintenance, repair or replacement thereof, or the use of water or electricity in connection therewith, including, without limitation, any claims for personal injury or property damage, or for expense for water or electric charges.

Building Exteriors

5.1.4 All colors of materials on the building exteriors and all exterior wall surfaces of any building shall be in accordance with plans and designs approved in accordance with Article 4.

On Site Grading and Drainage

5.1.5 No water shall be drained or discharged from any Lot, or building thereon, except in accordance with approvals of the Reviewing Authority and applicable City ordinances.

Utility Lines and Connections

5.1.6 All utility wires, lines, pipes, conduits, facilities, connections and installations (including, without limitation, electrical, telephone, cable television, water, gas and sanitary sewer) shall be installed and maintained underground or concealed in, under, or on structures approved in writing in advance by the Reviewing Authority. All transformers shall be placed on or below the surface of the Lot. Temporary above-ground power or telephone structures and water lines incident to construction activities shall be permitted but only with the prior written approval of the Reviewing Authority.

Notwithstanding the above, the following permitted uses may be installed and maintained above ground:

(a) Existing utility installations, for so long as Declarant shall approve; and

(b) Any future relocation of existing utility installations, for so long as Declarant shall approve.

No other utility or service equipment or lines may be installed or relocated on any Lot or the Common Area except as approved by the Reviewing Authority.

Overhead Encroachment

5.1.7 No tree, shrub or planting of any kind shall be allowed to overhang or encroach upon any public right-of-way, bicycle path or any other pedestrian way from ground level to a height of eight (8) feet, without the prior written approval of the Reviewing Authority. The Reviewing Authority shall have the right to cause the Association to trim any offending tree, shrub or planting.

Permissible Encroachment

5.1.8 Each Owner hereby acknowledges and agrees that Dwelling Units, or privately-owned patio walls, improvements and fixtures,

once built and completed, and which were initially constructed on the Covered Property in the course of original construction by Developer or Declarant may from time to time encroach in minor degree upon the Common Area or other Lots in the Covered Property. Such encroachments caused incidentally and which are minor in scope and degree, such as those caused by good faith survey error, and where removal of improvements would cause substantial economic waste, shall be deemed acceptable. Each Owner consents thereto and agrees that title to the land lying within such incidental encroachments is deemed conveyed to the Owner of the Lot upon which the majority of the encroaching structure is built and such Owner shall have a right in perpetuity to maintain such encroachment.

Further Subdivision **5.1.9**

(a) So long as Declarant is a Member of the Association, all subdivision plats must be submitted to and approved by Declarant before being recorded or approved by the City, as applicable. Except for property owned by the Declarant, after a subdivision plat has been approved, no Lot, or any portion of a Lot, shall be further subdivided and no portion less than all of the Lot shall be conveyed or transferred by any Owner without the prior written approval of the Declarant. The combining of a Lot or Common Area with an adjacent Lot or Common Area, where no additional Lot is created, and which is approved by the Reviewing Authority, shall not be deemed a resubdivision requiring approval under the foregoing requirements.

(b) No proposed application for rezoning, variance or use permit for any portion of the Covered Property shall be made, filed, submitted to, or recorded with the City or any other governmental authority or agency unless it has first been approved by Declarant so long as Declarant is a Member of the Association.

(c) Neither subsection (a) nor (b) shall apply to portions of the Covered Property owned by Declarant or to subdivision plats submitted or proposed by Declarant and pertaining to portions of the Covered Property owned by Declarant. Declarant may at any time, of its own volition, and with no other consent or approval required, resubdivide all or any portion of the Lots or Common Area.

(d) Declarant may at any time in writing relinquish all or a portion of its approval rights under this Section. After Declarant no longer is a Member of the Association, or after Declarant may have relinquished

its rights under this Section, the Board shall succeed to the right to approve of subdivision plats, unless Declarant has assigned such right to one or more Persons, in which case the Board shall succeed to such rights only after such Persons no longer own any portion of the Covered Property or Annexable Property (if any).

Maintenance of Landscaping and Driveways

5.1.10 Maintenance of Landscaping and Driveways. Each Owner shall be responsible for the proper maintenance of all landscaping in the following locations:

(a) on the Owner's Lot (including set back and front yard areas), except that in the event the maintenance of the yard areas of such Owner's Lot is the responsibility of the Association, a utility, or a governmental or similar authority, or an adjacent Owner pursuant to a Side Yard Easement, then only for so long as such entities are not undertaking such responsibility;

(b) portions of the Common Area adjacent to an Owner's Lot which are on the Lot's side of any wall erected on the Common Area (as described in Section 3.5); and,

(c) public right-of-way area between sidewalks and the street curb on the Owner's Lot, or other public or easement areas adjacent to the Owner's Lot, except that in the event the maintenance of such areas is the responsibility of the Association, a utility, or a governmental agency or similar authority, then only for so long as such entities are not undertaking such responsibility; and

(d) any Side Yard Easement area, as applicable, not otherwise included in clauses (a) through (c) immediately preceding.

As used herein, maintenance shall include but not be limited to keeping the areas neatly trimmed, cultivated and free of trash, weeds and unsightly materials. All lawn areas shall be timely mowed needed to keep an even, well-groomed appearance and shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive and free of weeds.

All trees, shrubs, plants and ground covers shall be timely and properly trimmed (including, without limitation, the removal of dead wood therefrom) according to their plant culture and landscape design and shall be watered and fertilized at such times and in such quantities as required to keep them alive and attractive. Any dead tree, shrub, plant or ground cover shall be removed and replaced immediately.

All bed areas shall be kept free of weeds and cultivated periodically as needed. No area shall be over watered so as to create a risk of damage to nearby structures or Improvements. Landscaping may be required to be placed on a Lot within certain time frames established by the Reviewing Authority. Each Owner shall maintain in good condition and repair all paved and concrete areas, including driveways, roadways and parking areas, located on the Owner's Lot.

Any Owner who fails to properly maintain the landscaping upon the Lot shall be given thirty days from said written notice to conduct such maintenance. In the event Owner fails to provide such landscaping maintenance to his/her Lot after receiving notice from the Board to do so, and after such hearing and notice as may be required by law, the Association is empowered to enter upon the Lot, conduct the necessary landscaping maintenance, and charge the cost to the Owner. Such charges shall be collected in the same manner as Maintenance Assessments.

Requirements Pertaining to Drainage, Retention and Detention

5.1.11 Association shall operate, maintain, repair and replace any drainage and retention/detention facilities installed within the Common Areas or within such drainage easements shown on the Plat which are the responsibility of the Association.

(a) Inspection and Review. The Association shall, as required by applicable law or as deemed advisable by the Board from time to time in its sole discretion, review all such drainage, retention and detention facilities if any to determine the status and condition of same. Each Owner, through Assessments, shall be responsible in common with the other Owners for payment of all costs and expenses related to such items, and for reserves relating thereto. In addition to the foregoing, it is acknowledged by all Owners that new or changed conditions or unpredictable drainage patterns can cause the need for new or revised features or facilities to address drainage conditions or hazards. Such costs and expenses shall be those of the Association, and shall in no way be considered obligations of Declarant.

(b) Certified Inspection Reports. On at least an annual basis, the Association shall retain an Arizona Registered Professional Civil Engineer to prepare a certified inspection report for drainage and retention facilities, if any. The Association shall assemble records of its inspections and reports, and shall retain same for a period of at least five (5) years. The content of all certified inspection reports shall comply with the applicable requirements of the City of Tucson Standards Manual for Drainage Design and Floodplain Management.

(c) Right of Entry. Though not required to do so, the City may enter upon the Covered Property to inspect detention and retention facilities, and other drainage facilities to determine compliance with applicable rules and regulations. The City shall have an easement to conduct such periodic reviews and inspections of any and all drainage, retention and detention facilities within the Covered Property.

(d) Should the City in its discretion determine that work must be performed and that the Association has failed to meet its obligations for maintenance and repair under applicable City ordinances, the City may perform such work or maintenance and the Association shall be liable to reimburse the City for all reasonable costs incurred.

(e) Additional Density Within Covered Property. It is not anticipated that additional residential Dwelling Units shall be created within the boundaries of the Covered Property. Additional Dwelling Units may be created within any Annexable Property (if any). All rights are reserved to alter or change Common Area, or to delete or withdraw Common Area.

5.1.12 The Association shall at no time be dissolved while Common Area or open spaces remain the responsibility of the Association by state or local law.

Nuisances, Dust Control and Construction Activities

5.1.13 No rubbish or debris of any kind shall be permitted to accumulate upon or adjacent to any Lot so as to create a nuisance or render any such property or activity thereon unsanitary, unsightly or offensive. Each Lot shall be landscaped and maintained in a manner which will minimize the possibility of dust being transmitted into the air and over adjacent properties. Although normal construction activities shall not be considered a nuisance or otherwise prohibited, Lots must be kept in a neat and tidy condition during construction periods. No noxious or offensive activity shall be carried on or permitted on any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to Persons or property in the vicinity of such Lot or which shall interfere with the quiet enjoyment of each of the Owners and Occupants. The Association may, but is not required to, take action to abate what any Owner may consider a nuisance.

General Parking and Street Parking Regulations, etc.

5.1.14 As used in this Section: (a) "Motor Vehicle" means a car, van, sport utility vehicle, bus, truck, recreational pickup truck or other motor vehicle; and (b) "Streets" means the streets shown on any Plat of the Covered Property.

(a) No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment or vehicle may be parked, kept or stored on the Common Area. No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment may be parked, kept or stored on any Lot so as to be Visible From Neighboring Property. No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment or vehicle may be parked, kept or stored on the Streets, except that the Board may adopt rules and regulations governing the subject matter and further restricting such parking or establishing limited exceptions thereto, such as for loading and unloading, emergencies, and the like.

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

(c) It is also the intent of this Section to require that Motor Vehicles owned or leased by an Owner, Lessee or Resident of the Lot be parked only in a garage on the Lot as constructed by the Developer in the course of original construction approved by the Reviewing Authority or ARC. Accordingly, Motor Vehicles owned or leased by an Owner, Lessee or Resident of a Lot must be parked in a garage situated on the Lot. The parking of a Motor Vehicle owned or leased by an Owner, Lessee or Resident of a Lot on a driveway or expansion area is also subject to such rules and regulations as may be adopted by the Board.

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

Recreational vehicles, motor homes and similar vehicles owned or leased by an Owner, Lessee or Resident may only be parked in the

driveway on a Lot for the purpose of loading or unloading, subject to such limitations as may be established by the Board.

No Motor Vehicle shall be constructed, reconstructed or repaired on any Lot in such a manner as to be Visible From Neighboring Property, and no inoperable Motor Vehicle may be stored or parked on any Lot in such a manner as to be Visible From Neighboring Property, nor stored or parked on the Streets or any other part of the Common Area. Except for emergency repairs, no Motor Vehicle shall be constructed, reconstructed or repaired on the Streets or any other part of the Common Area.

The Board shall have the right and power to adopt rules and regulations governing and further restricting the parking of Motor Vehicles on Lots or the Streets, implementing the provisions of this Section, and establishing certain exceptions that may in certain cases be warranted. In the event of any conflict or inconsistency between the provisions of this Section and the rules and regulations adopted by the Board, the provisions of this Section shall control.

This Section shall not prohibit the parking of vehicles protected by A.R.S. § 33-1809.

Use of Garages

5.1.15 Vehicles shall be kept in garages. No garage doors shall be permitted to remain open except for a temporary purpose (such as during ingress or egress, or when the garage is physically occupied by an Owner or Occupant therein) and no less than one stall in all garages shall be kept free of obstruction and available for parking of vehicles.

Commercial Vehicles

5.1.16 No vehicle shall be parked on the Covered Property if the exterior of the vehicle contains or exhibits any signage relating to a commercial enterprise or commercial activity that is visible from the exterior of such vehicle (and the vehicle is not kept in an approved enclosed garage), except such signage that is limited to the exterior driver or passenger door of such vehicle shall be permitted if the vehicle is used by the Owner as regular transportation in commuting to work.

No vehicle shall be permitted to park on a Lot, even if such vehicle otherwise qualifies under the preceding paragraph, or other provisions hereof, if such vehicle is used for a commercial enterprise or activity and such vehicle has ladders, work beds, lights and/or other commercial items attached to or hanging from such vehicle so as to be visible from the exterior of such vehicle (and the vehicle is not kept in an approved enclosed garage).

The foregoing restriction shall not apply to vehicles parked within an enclosed structure approved by the Reviewing Authority, nor to commercial vehicles of contractors and others working on the Covered Property, nor to vehicles of vendors, business invitees and others in the process of temporarily serving the Covered Property.

Temporary Occupancy Prohibited

5.1.17 No trailer, tent, shack, garage, barn or temporary structure of any kind shall be used as a residence, whether temporary or permanent, except that during the construction process, a temporary building or structure may be erected, installed or maintained on a Lot with the prior written approval of the Reviewing Authority, including the approval of the structure's location and appearance. Such temporary structures shall be removed immediately after completion of such construction, and that portion of the Lot from which the same are removed shall be promptly placed in such condition as is otherwise required by this Declaration. Except during construction, no materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be stored on any area outside of a building unless approved in advance in accordance with Article 4. Any permitted outside storage shall be screened by a solid visual barrier so as not to be Visible From Neighboring Property, provided, however, that during construction of improvements on any Lot, necessary construction materials and supplies may be stored on the Lot without the need for a solid visual bather providing such materials and supplies are kept in neat order considering the construction activities. The Reviewing Authority is authorized to designate the areas and manner in which supplies of building materials and construction equipment shall be stored and the routes construction vehicles may use. All such designations shall be reasonable.

Health and Welfare

5.1.18 In the event uses of, activities on, or facilities upon a Lot are deemed by the Board to be a nuisance or to adversely affect the health or welfare of Owners or Occupants, the Board or the Reviewing Authority may make rules restricting or regulating their presence.

Incidental Uses

5.1.19 The Board may approve, regulate and restrict incidental uses of property. By way of example and not of limitation, the Board may adopt Rules governing tennis and/or swimming clubs and facilities, and other recreational facilities.

Antennae, Dishes, etc.

5.1.20 No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 47 CFR Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time.

The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder, and to establish reasonable, non-discriminatory restrictions relating to location and safety of antennae structures.

To the extent that reception of an acceptable signal would not be impaired, an antenna permissible pursuant to rules of the Association may only be installed in a side or rear yard location, not Visible From Neighboring Property, or integrated with the Residence and surrounding landscaping to

prevent or limit such visibility. Antennae shall be installed in compliance with all applicable laws and regulations.

No solar heating or cooling equipment or other solar device Visible from Neighboring Property may be installed or erected except in compliance with rules adopted from time to time by the ARC, which shall give due regard to state law restricting the limitation of such devices.

Clothes Drying

5.1.21 No outside clotheslines or other facilities for drying or airing clothes Visible From Neighboring Property shall be placed on any Lot without the prior express written consent of the Reviewing Authority.

Mineral Exploration

5.1.22 No Lot shall be used in any manner to explore for, quarry, mine, remove or transport any water, oil or other hydrocarbons, minerals, gravel, gas, earth or any earth substance of any kind, except in each case as Declarant shall specifically approve.

Diseases and Insects

5.1.23 No Owner or Occupant shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant or animal diseases or noxious insects.

Window Treatments

5.1.24 No visible window covering or reflective covering may be placed, or permitted to remain, on or adjacent to the exterior of any window of any building, structure or other improvement without the prior written approval of the Reviewing Authority. Without limiting the generality of the foregoing, any window covering visible from any street or sidewalk shall be a white or off white color;

Lot Coverage

5.1.25 The percentage of each Lot which may be covered by buildings (as well as the location of such buildings and other improvements on each Lot) shall be subject to the review and approval of the Reviewing Authority as part of the Reviewing Authority's review of plans for proposed improvements on such Lot pursuant to this Declaration, but shall in no event violate City ordinances and regulations in effect from time to time. This Section shall not apply to Declarant's Lots.

Party Walls

5.1.26 Except as hereinafter provided, the rights and duties of Owners of contiguous Lots which have shared walls or fences ("Party Walls") shall be as follows:

(a) Each Owner shall have the right to use the Party Wall, provided that such use does not interfere with the other Owner's use and enjoyment thereof.

(b) If a Party Wall is damaged or destroyed through the willful or negligent act of an Owner or the Owner's Occupants, agents, guests or family, the Owner or Occupant as the case may be, shall be obligated to rebuild and repair the Party Wall at the Owner's sole expense. Any dispute over an Owner's liability shall be resolved as provided in Subsection (d) below.

(c) In the event any Party Wall is damaged or destroyed other

than by the willful or negligent act of an adjoining Owner or the Owner's Occupants, agents, guests or family, or deteriorates from ordinary wear and tear, it shall be the joint obligation of all Owners whose Lots adjoin the damaged or destroyed portion of such Party Wall to immediately rebuild and repair such Party Wall, such expense to be ratably divided among such Owners on the basis of the amount of frontage of their respective Lots on the damaged or destroyed Party Wall.

(d) In the event of a dispute between Owners with respect to a Party Wall or the sharing of the cost thereof, such Owners shall submit the dispute to the Reviewing Authority; whose decision shall be binding unless appealed to the Board, in which event the Board's decision shall be binding and final.

(e) Notwithstanding the foregoing and, unless otherwise expressly agreed in writing by the Association, in the case of walls or fences between Common Area and Lots or situated on Common Area within or adjacent to a Lot, the Owners and Occupants of such Lots shall be responsible, at their expense, for all maintenance, repair, painting and replacement thereof.

Single Family Use

5.1.27 No structure whatsoever, other than one private, Single Family residence per Lot, together with such private garage, guest facilities, recreational and storage facilities which may be approved in advance by the Reviewing Authority in accordance with this Declaration, shall be erected, placed or permitted on any Lot.

Commercial Restriction

5.1.28 No gainful occupation, profession, trade, or other nonresidential use shall be conducted on any Lot except as set forth in this subparagraph. The Declarant or Developer may maintain sales offices, construction offices and sales models on the Covered Property and an Owner or Occupant may carry on a "Home Occupation" as provided below. A "Home Occupation" as permitted hereby means work within the Dwelling Unit (such as the performance of accounting work, creation of art work, music teaching, etc.) provided that:

(a) the existence or operation of the business activity is not apparent from the outside of the Dwelling Unit and no unreasonable sound or smell from the outside of the Dwelling Unit indicating the conduct of business is detectable;

(b) the business activity conforms to all zoning requirements for the Lot; and

(c) the business activity does not involve traffic by persons who do not reside therein for the purpose of receiving

merchandise, nor regular arrival of employees of the Owner, and is not conducted outside of customary business ; and

(d) the business activity is lawful and consistent with the residential character of the neighborhood and does not constitute a nuisance or hazard or offensive use within the Covered Property as determined in the discretion of the Board.

If the Board determines that the Home Occupation violates the provisions hereof, then the Board shall have the authority to require that the Home Occupation in question cease immediately. In no event shall any form of detention house, reform school, rooming or boarding house, sanatorium, or any form of group home whether or not providing services to occupants, be permitted within the Covered Property, except that this prohibition shall not apply to group homes or similar living or care arrangements which by state or federal law may not be prohibited by enforcement of private restrictive covenants. Prospective purchasers of Lots who intend to conduct a Home Occupation may request pre-approval from the Board, and provided that the prospective purchasers provide such information concerning the Home Occupation as may reasonably be requested by the Board, the Board shall not unreasonably withhold or delay pre-approval.

Leasing

5.1.29 The entire (but not less than all) Dwelling Unit may be leased to a Single Family Tenant from time to time by the Owner, subject to the provisions of this Declaration and the Association Rules. Each Owner shall provide to the Association a copy of any written lease agreement for any Lot, and Tenants shall be required in each form of lease to abide by all provisions of this Declaration. In addition, any lease to a Single Family Tenant shall be of duration of no less than one (1) year. Should a tenant fail to so abide, the Association shall have the right to cause the Owner to declare a default under the lease and to take appropriate action, including eviction of the tenant. Declarant shall have the right (i) to limit or prohibit leasing activity for the initial period (not to exceed two (2) years) after an Owner other than Declarant first purchases a Dwelling Unit upon a particular Lot, and (ii) to remove such restriction on leasing activity from a particular Lot on which it has been imposed.

Animals

5.1.30 No animal, livestock, poultry or fowl of any kind other than a maximum of two generally recognized house pets, shall be maintained on any Lot and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes without the express written consent of the Association. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any permitted pet shall be Visible From Neighboring Property. The Board shall have the right by Rule or otherwise to determine what shall constitute a generally recognized house pet, and what a reasonable number of such pets shall, in any instance, constitute.

Notwithstanding the foregoing, no permitted pets may be kept on any Lot

which result in an annoyance to other Owners or Occupants in the vicinity. All permitted pets shall be leashed when not on a Lot owned by the pet's owner or on which the pet's owner is a Tenant, guest or invitee. The Board has the right, after notice and the opportunity for a hearing, to require the removal of any pet which the Board, in its sole discretion, has determined is a nuisance. Persons walking pets shall carry a "pooper scooper" (a hand held shovel or other instrument designed for removing animal excrement from the ground) or bags with them at all times and shall remove the pet's excrement from the Covered Property.

Garbage and Trash Regulation

5.1.31 No garbage or trash shall be allowed, stored or placed on a Lot except in sanitary, covered containers. In no event shall such containers be Visible From Neighboring Property, except for a reasonable time immediately prior to and after collection, if any, unless approved by the Reviewing Authority. All trash and garbage shall be regularly removed from each Lot, placed in the appropriate container and shall not be allowed to accumulate thereon. The Board may also determine to require that the Association or individual Owners shall employ one or more of a limited number of waste management or pick-up companies to retrieve waste and refuse from the Covered Property or portions thereof. The Board may establish regulations as to the times and duration that waste containers may be Visible From Neighboring Property for pick-up, and may determine and regulate the type and appearance of waste containers.

Machinery and Equipment

5.1.32 No machinery or equipment of any kind shall be placed, operated, stored or maintained upon any Lot, except:

(a) during the period of construction, such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a building, appurtenant structures or improvements thereon; or

(b) that which Declarant or the Association may require for the development, operation and maintenance of the Covered Property or other portions of the Covered Property.

Signs

5.1.33 No signs of whatever nature may be erected or placed within the Covered Property, except such signs as are permitted by the ARC Guidelines, and further except for those signs approved by the Board or by Declarant. Declarant may approve signs without any other consent or approval. Except as stated, no sign shall be placed on any Lot other than:

(a) signs required by legal proceedings;

(b) signs, including "for sale" signs, if any, and subdivision signs, the nature, number, location, content and design of which shall comply with the ARC Guidelines;

(c) such other signs as the ARC Guidelines shall permit; and

(d) such signs approved by Declarant.

The foregoing restrictions shall be subject to such limitations and privileges as are established by applicable law, including for the placement of political signs and signs pertaining to candidates for political office or to other such protected matters.

Model Homes

5.1.34 Nothing contained herein shall prohibit the construction and maintenance of model homes, sales offices, property management offices, construction offices and parking incidental thereto by persons engaged in the construction, marketing, rental or management of Dwelling Units within the Covered Property, provided, however, that the models are open only during reasonable hours and otherwise are in compliance with the provisions of this Declaration and ordinances of the City. Except as otherwise approved in writing by the Board, all model homes and sales offices shall cease to be used as such at any time the owner (or lessee thereof as the case may be) is not actively engaged in the construction or sale of Dwelling Units within the Covered Property (provided that the foregoing portion of this sentence shall not apply to property management offices).

For such time as any model home is actively being used by Developer for the marketing and sale of Dwelling Units within the Covered Property, such model homes may also be used by Developer as a model home or sales office for the sale or rental of residences constructed by Developer not located within the Covered Property.

5.2 Variances

The Board may, at its sole discretion, grant variances from the restrictions set forth in Article 5 hereof if the Board determines:

5.2.1 Either that (a) a particular restriction would create a substantial hardship or burden on an Owner or Occupant and that such hardship is not attributable to the Owner's or Occupant's acts; or (b) a change of circumstances has rendered the particular restriction obsolete; and

5.2.2 The activity permitted under the requested variance will not have a substantial adverse effect on other Owners and Occupants.

The request for a variance must be made in writing and be accompanied by adequate supporting documentation. The Board shall approve or disapprove the request, in writing, as promptly as possible under the particular circumstances. All decisions of the Board shall be final and non-appealable. No variance may be given that reverses or alters a decision made by the Reviewing Authority without the consent of the Declarant during such time that Declarant acts as Reviewing Authority for the property in question.

5.3 Additional Restrictions

Declarant may require prior to the development of any Lot, the imposition of special conditions in additional covenants in any case where deemed appropriate in the sole and absolute discretion of Declarant, and may require adequate provision for assessments and maintenance of the subject property and improvements and such other provisions as are deemed proper.

5.4 Declarant's Exemption

Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by Declarant or a Declarant

Affiliate or their agents during the period of development and construction on the Covered Property of improvements, landscaping or signs deemed necessary or convenient by Declarant or a Declarant Affiliate, in its sole discretion, to the development or sale of property within the Covered Property. Declarant may assign, in whole or in part, its rights and privileges under this Section, and Declarant may grant, in its sole discretion, any similar rights and privileges to any Owner.

5.5 Savings Clause

The provisions of this Declaration shall be construed to be consistent with law, and should any provision violate law, then applicable law shall govern. Without limitation, no provision hereof shall be construed to prohibit the placement of solar heating or other such devices or antennae on Lots, provided such placement conforms to such lawful requirements hereof or of the ARC Guidelines which do not conflict with law, nor shall the provisions hereof prohibit the placement of the American Flag or the parking of public service vehicles as permitted by law, again subject to the ARC Guidelines and rules and regulations of the Association not in conflict with such laws.

ARTICLE VI

ORGANIZATION OF ASSOCIATION

6.1 General Purpose and Charge

The Association is a nonprofit Arizona corporation charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents. Neither the Articles nor the Bylaws shall be amended or interpreted so as to be inconsistent with this Declaration.

6.2 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. During the period while the Class B Membership continues to exist, the Board shall consist of at least three (3) directors who shall be Members or individuals designated by a corporate, partnership or other non-individual Member, and all directors may be appointed by the Declarant and the Class B Member during the Declarant Control Period. The initial directors appointed by Declarant may serve extended terms as provided in the Bylaws.

The Board may appoint various committees at its sole and absolute discretion, including an advisory committee of Class A Members who may provide non-binding advice to the Board and assist with gradual transition from control by the Class B Members to the Class A Members. The Board may appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area. The Board shall determine the compensation to be paid to the manager.

6.3 Association Rules

6.3 Association Rules By a majority vote of the Board, the Board may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. The Association Rules may restrict and govern the use of the Common Area, provided, however, that the Association Rules shall not discriminate among Owners and Occupants except to reflect their

different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles, or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of the Covered Property and the Common Area. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth herein, and may be enforced in the same manner as the provisions of this Declaration. A copy of the Association Rules as adopted, or amended, shall be available for inspection at the office of the Association. During the period while the Class B Membership continues to exist, the Class B Member may disapprove of actions of the Board to adopt, amend or repeal the Rules.

6.4 Personal Liability

No Reviewing Authority, Board member, officer, committee member, employee or representative of the Association, or the Association, shall be personally liable to any Owner, or to any other Person, including the Association, for any damage, loss, costs, fees (including reasonable attorneys' fees), or prejudice suffered or claimed on account of any of their acts, omissions, errors or negligence, provided, however, that 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.

6.5 Mergers or Consolidations

The Association shall have the right, power and authority to participate in mergers or consolidations with any other nonprofit corporation whose objectives, methods, and taxable status and format of operation are similar to those of the Association.

ARTICLE VII

MEMBERSHIPS AND VOTING

7.1 Votes of Owners

Every Owner of a Lot, including Declarant so long as it is a Class A or Class B Member, shall automatically be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Class A Member shall have one (1) vote for each Lot owned.

7.2 Membership is Appurtenant to Ownership

Each Owner's Membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot to which the Membership is attributable, except that Declarant shall be a Member of the Association for so long as Declarant possesses either a Class B or Class A Membership, unless Declarant shall earlier relinquish its Membership. There shall be only the Memberships for each Lot as are described herein. Joint ownership or ownership of undivided interests in any Lot as to which a Membership is established pursuant hereto shall not increase the number of Memberships or votes attributable to the Lot. Rather, the votes must be cast together in one unit.

7.3 Declarant

Declarant shall be a member of the Association for so long as it holds a Class A or Class B Membership.

7.4 Membership Classes

The Association shall have two classes of Members:

Class A Members

7.4.1 Class A Members shall be all Owners except Declarant, until

the conversion of Declarant's Class B Membership to Class A Membership as provided below. Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have the number of votes provided in Section 7.1.

Class B Members

7.4.2 The Class B Member shall be the Declarant. The Class B Membership shall terminate and be converted to a Class A Membership upon the happening of the first of the following events:

(a) Two (2) years after termination of the Declarant Control Period; or

(b) the date on which the Class B Member(s) relinquishes its Class B Membership by notifying the Class A Members in writing.

Declarant shall have the right to assign its rights and privileges as the Declarant and as the Class B Member in whole or in part. Such assignment may include all special voting and other provisions set forth herein.

Upon termination of the Class B Membership, Declarant shall be a Class A Member entitled to Class A votes for all Lots which it owns, provided that no such conversion shall affect any reserved rights of Declarant as otherwise set forth herein. Should the Class B Membership not have expired, Declarant shall retain its Class B Membership, even if Declarant owns no Lot.

7.5 Right to Vote

Class A votes shall only be cast by the Owner of the Lot such vote is attributable to. No change in the ownership of a Lot shall be effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof, for example, the recorded deed showing the name of the Owner of such Lot. The vote for each Member must be cast as a single unit, and solely by the Owner as and when applicable.

In the event that a Lot for which an Owner may vote is owned by more than one Person and such Owners are unable to agree as to how their vote or votes shall be cast, they shall not be entitled to vote on the matter in question. If any Owner casts a vote or votes representing a certain Lot, the Owner will thereafter be conclusively presumed to be acting with the authority and consent of all other Owners of such Lot unless objection thereto is made to the Board, in writing, at or prior to the time the vote or votes are cast. In the event more than one (1) Person casts or attempts to cast a vote for a particular Lot all such votes shall be deemed void.

7.6 Members' Rights

Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules, and the ARC Guidelines.

7.7 Control by Declarant, and Rights of the Class B Member

Declarant, as the Class B Member, has the right to control the Association. Such control shall exist by virtue of the right, at all times during the Declarant Control Period, to appoint Directors of the Association, as provided herein, as well as their replacements in the event of death, removal, resignation or otherwise. Additionally, continuing even after expiration of the Declarant Control Period while the Class B Membership continues to exist, the Class B Member may appoint the ARC, and may veto amendments proposed to be made by the Class A Members. The Class B Member and Declarant shall have such additional and other rights and powers as are set forth herein or in other Governing Documents, including the right to disapprove of actions of the Board.

7.8 Transfer of Membership

The rights, duties and obligations of a Class A Member cannot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Class A Member's Lot, and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure, or other legal process authorized under Arizona law. Any attempt to make a non-approved form of transfer shall be void. Any transfer of ownership in a Lot shall operate to transfer the Membership appurtenant to ownership to the new Owner.

ARTICLE VIII

ASSESSMENTS AND CREATION OF LIEN

8.1 Creation of Assessment Lien; Personal Obligation of Lot Owner

Each Owner by acceptance of a deed therefor (whether or not it should be so expressed in any such deed or other instrument) is deemed to covenant and agree to pay to the Association the Assessments. The amount and time for payment of Assessments shall be determined by the Board pursuant to this Declaration and the Articles and Bylaws. In determining the amount of the Assessments, the Board may give such consideration as it determines appropriate to any surplus funds or other revenue balances held by the Association from prior years and the Board shall be entitled to establish such reasonable reserves for the Association as it deems appropriate.

Assessments, together with interest thereon and the costs and reasonable attorneys' fees, if any, incurred by the Association in connection with the enforcement and collection thereof or in otherwise enforcing this Declaration, shall be a charge and continuing servitude and lien upon the Lot against which such Assessments are made and, in addition, shall be the personal obligation of the Owner of such Lot at the time when such Assessments become due and payable. This provision shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

8.2 Annual Assessments

The Association by and through the Board shall determine and levy the Annual Assessments for the purposes set forth herein below. The Annual Assessments levied by the Association shall be used to accomplish the duties and purposes of the Association within the Covered Property, to pay the costs of administration of the Association and the maintenance of the Common Area, to establish reasonable reserves, and to otherwise further the interests of the Association as the Board deems appropriate. Without limiting the generality of the foregoing, the Association shall include in the Annual Assessments any maintenance, repair and other costs incurred by the Association related to the use by the Association and the Owners of the privately owned sewer facilities located outside of the Covered Property used to convey sewage from the Covered Property to the public sewer.

Subject to the limitations hereof, and such limitations as exist at law, the Board may, during an Assessment Period, revise the amount of the Annual Assessment in order to meet expenses which exceed the amounts previously budgeted by the Association and collect such increased Annual Assessment in accordance with the provisions hereof.

8.3 Annual Assessment Period

Except as otherwise provided herein below, the Assessment Period shall be the calendar year. The Board may, in its sole discretion, from time to time, change the Assessment Period. The initial Assessment Period shall commence upon conveyance of the first Lot from Declarant to an Owner, and shall terminate on December 31 of the same year. The Annual Assessments shall be prorated for the initial Assessment Period. Without limitation, Assessments shall commence upon initial conveyance to any Person or entity, other than Declarant or to a Declarant Affiliate.

If any installment permitted for the payment of Assessments is not paid when due, the Board may accelerate the entire Annual Assessment or other Assessment. Late fees and interest may be added to the Delinquent Amount of any Assessment, as provided herein, and become a part thereof, and may continue to accrue interest thereon, all to the extent permitted by law. Delinquent payments shall, to the extent permitted by law, apply first to the principal amount of any delinquent Assessments, then to accrued interest, and then to late fees and other sums due. The Owner shall also be liable for attorneys' fees and legal costs, including litigation related expenses and expert witness fees, if any. Attorneys' fees and costs incurred shall to the extent permitted by law, be deemed a part of the delinquent Assessment, and shall be secured by the lien therefor.

8.4 Association's Rights in Spending Funds from Year to Year

This provision shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

The Association shall not be obligated to spend in any year all monies received by it in such year, and the Board 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. The Association shall be under no obligation to refund any surplus balance, and may transfer surpluses to the reserve account or other account at the Board's discretion.

8.5 Rate of Assessment

The amount of the Annual Assessments, Maintenance Assessments and Special Assessments shall be established by the Board, in its sole discretion. In establishing its budget and creating its plan for Assessments each year, the Board shall establish an Annual Assessment per Lot payable by the Owner of each Lot. The Board shall at any time have the right to adjust the Assessment made, and issue invoices for any additional sums due, subject to such limitations as exist at law.

8.6 Maintenance Assessments

The Association may assess Maintenance Assessments against a Lot in the event the need for maintenance or repair of areas maintained by the Association is caused through:

8.6.1 The willful or negligent act or omission of any Owner (or of any other person for whom such Owner is legally responsible under applicable state law); or

8.6.2 the maintenance of a Lot by an Owner, or failure to maintain, so as to present a nuisance, or to substantially detract from or negatively affect the appearance or quality of any neighboring Lot or other area; or

8.6.3 the maintenance of a Lot by an Owner, or failure to maintain, so as to violate this Declaration; or

8.6.4 any use of, or activity on, any Lot that causes maintenance or repair costs incurred or to be incurred by the Association with respect to Common Area to be substantially greater than those costs which would typically be incurred in relation to such Common Area, whether such use or activity is of a continuing nature or an isolated event.

In any such case, the Board may, depending upon the circumstances, give notice to the Owner of such Lot that unless specified corrective action is taken within a specified time period, the Association, at such Owner's cost, may take whatever action is appropriate to compel compliance including, without limitation, appropriate legal action.

If at the expiration of the specified time period the requisite corrective action has not been taken by the Owner, at the Owner's sole cost, the Board is authorized and empowered, subject to such notice and hearing as may be required by law, at its sole discretion, to cause corrective action to be taken or to commence appropriate legal action and the cost thereof, including court costs and attorneys, fees, shall be charged to the Owner as a Maintenance Assessment.

The Maintenance Assessment shall be added to and become a part of the Assessments to which the offending Owner and the Owner's Lot is

subject, shall be secured by the Assessment Lien, and shall be due fifteen (15) days after written demand or notice by the Board.

In no case may any form of Maintenance Assessment be levied or charged with respect to Lots owned by Declarant.

This provision shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

8.7 Fines and Penalties

If any Owner, his or her family, or any licensee, invitee, tenant or lessee violates the provisions hereof, or any provision of any of the ARC Guidelines or other rules of the Association, the Board after providing the Owner with notice of the violation and an opportunity for a hearing as required by law, may levy a fine upon the Owner, may suspend the violator's right to use the Common Area and may charge such Owner all costs incurred by the Association in connection with enforcement or other action taken by the Association, including attorney's fees and costs incurred. Such violation shall also be grounds for the Association, should it wish, to suspend the said rights of the Owner and its family members, guests and invitees. This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

The Board may establish a procedure for conducting hearings and imposing penalties. Any fines imposed against the Owner which are not paid within fifteen (15) days of notice of the due date, may be charged to the Owner of the Lot in question, and may be collected as provided by law.

In no event shall any fine be imposed for a default or violation of the Governing Documents, other than a failure to pay Assessments, without first affording the Owner notice and an opportunity for hearing. This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

8.8 Special Assessments

In addition to the Annual Assessments, the Board may levy a Special Assessment a) for the purpose of constructing improvements to Common Area; b) correcting an inadequacy in the Association's accounts; c) defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement owned by the Association; or d) defraying other extraordinary expenses or paying other expenses the Board may deem appropriate, including increased expenses encountered by the Association in connection with new or expanded Common Area amenities or features, including such amenities or features within any annexed land. The Board shall specify the effective date of any Special Assessment and may provide that the Special Assessment is payable in installments. Special Assessments shall be approved by the Class B Member and either the written consent of, or vote at any annual or special meeting of, Owners representing a majority of all votes allocable to Lots. The Board may in any case, however, impose and assess a Special Assessment as to all Lots, without any vote or consent of Members whatsoever if the purpose is to

pay the increased costs and expenses of the Association in connection with any annexed land or new Common Areas, amenities or features, and the Class B Member shall have the right to cause the Board to make and levy such Special Assessments.

8.9 Billing and Collection Procedures

The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments. The failure of the Association to send a bill to an Owner shall not relieve such Owner of the Owner's liability for an Assessment. It shall be the responsibility of the Owner to inform the Association in writing of a change of address. The Association shall be under no duty to refund any payments received by the Association even if the ownership of a Lot changes during an Assessment Period. Any successor Owner shall be given credit for any non-refunded prepayments made by a prior Owner.

In case the Owner of a Lot having a right to pay a reduced payment amount as may be provided in this Declaration fails to notify the Board at such time as the payment amount should be increased, such Owner shall nonetheless be liable for the increased amount of the Assessment and such Owner's failure to notify the Board shall not relieve such Owner of the liability for such increased Assessment.

8.10 Collection Costs and Interest on Delinquent Amounts

Any Delinquent Amount shall have added thereto a late charge of the greater of fifteen dollars ($15.00) or ten percent (10%) of the Delinquent Amount if such Delinquent Amount is not paid within fifteen (15) days after the due date. Any Delinquent Amount shall bear interest from its due date until paid at a rate equal to the greater of twelve percent (12%) per annum, the then prevailing interest rate on loans insured by FHA or VA, or such rate as is reasonably determined from time to time by the Board. The Owner shall be liable for all costs, including but not limited to attorneys fees and collection agency fees, which may be incurred by the Association in collecting any Delinquent Amount, and such amounts, to the extent permitted by law, shall be deemed a part of the Assessment Lien. This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

8.11 Working Capital Fund and Transfer Fees

To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment and services, each purchaser of a Lot upon which the construction of improvements is complete, as evidenced by a certificate of occupancy or similar instrument which allows the Lot to be used as a residence, shall pay to the Association immediately upon becoming the Owner of a Lot a sum equal to twenty-five percent (25%) of the then-current Annual Assessment applicable to such Lot (the "Working Capital Fund Contribution").

The Association may also collect reasonable administrative transfer fees (the "Administrative Transfer Fees") to compensate it for expenses in complying with State law as it pertains to providing notice and documents to prospective purchasers. Such Administrative Transfer Fees shall be in amounts and payable at such times as determined by the Board.

A Working Capital Fund Contribution shall continue to be payable upon each subsequent sale of a Lot, unless waived by the Board in writing. 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 this Declaration and the Articles and Bylaws. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as advance payment of any Assessments levied by the Association pursuant to this Declaration.

8.12 Declarant's Exemption

Anything in this Declaration to the contrary notwithstanding, neither the Declarant nor any Declarant Affiliate shall be liable for, nor shall they be required to pay, Assessments of any nature for Lots owned by them, nor shall Declarant or a Declarant Affiliate be liable for the payment of any Assessments for any Lot that, having been previously sold to a purchaser, has been deeded back to the Declarant by foreclosure or deed in lieu of foreclosure.

In lieu of Assessments, Declarant and each Declarant Affiliate shall pay the actual shortfall or deficiency, if any, in necessary ordinary operating revenue to pay current ordinary expenses for the operation and maintenance of the Association and Common Area (i.e., only for actual budget deficits), but only up to the full Annual Assessment for each such Lot actually owned by Declarant or Declarant Affiliate in the Covered Property. A shortfall or deficiency shall exist if current ordinary and budgeted expenses of the Association are greater than the revenues of the Association from all sources for the Assessment Period in question; provided, however, that neither Declarant nor a Declarant Affiliate shall be liable for any shortfall or deficiency created by any decrease in the amounts of the Annual Assessments from those charged during any prior year, which decrease was not approved by Declarant, nor for any shortfall or deficiency incurred after expiration of the Declarant Control Period. Declarant and any Declarant Affiliate may at any time at their sole discretion elect to cease paying the shortfall or deficiency, if any, and to pay instead up to the full Annual Assessment for each Lot owned by Declarant or by Declarant Affiliate. Declarant's and Declarant Affiliate's obligation to contribute toward a deficiency as provided herein is supported by a lien on Declarant's Lots and the Lots of each Declarant Affiliate.

In the event of deficiencies, as afore stated, Declarant and each Declarant Affiliate shall share the burden of payment of the deficiency by paying their ratable share of same, up to the full amount of the Annual Assessment for each Lot owned by them. Further, should Declarant assign its rights to the exemption from Assessments as provided herein, whether such assignment be in whole or in part, then the assignee shall, in the case of any deficiency as described above (and meeting the conditions set forth above), be liable for its ratable share of same, up to the full amount of the Annual Assessment for each Lot owned by them, and not more.

In no event shall Declarant or any Declarant Affiliate be required to contribute to any deficiency after termination of the Declarant Control Period.

8.13 Savings Clause

Notwithstanding the provisions of this Article, or any other provision of this Declaration, the extent of any lien of the Association shall be subject to such provisions as are established at law or in equity, including such limitations as are established and imposed by A.R.S. § 33-1807.

ARTICLE IX

ENFORCEMENT OF THE ASSESSMENT LIEN

9.1 Association Remedies to Enforce Assessments

If any Owner fails to pay any Assessment when due, the Association may (and each Owner hereby authorizes the Association to) enforce the payment thereof and the Assessment Lien by taking any and all action available at law or in equity, including:

9.1.1 Bringing an action against the Owner to recover Judgment against the Owner who is personally liable for the Assessments; and,

9.1.2 Foreclosing the Assessment Lien against the appropriate Lot in accordance with the prevailing Arizona law. Though not required, the Association may record notice of its lien, and all costs of preparation of such notice, recording and releasing same, including attorneys' fees and costs, shall be paid by the delinquent Owner, with all expense thereof being a part of the lien of the Assessment.

9.2 Subordination of Assessment Lien

The Assessment Lien shall have priority from the date of recording of this Declaration, and shall be superior to all charges, liens or encumbrances which hereafter are or may be imposed on any Lot, except as provided by law. Notwithstanding the foregoing, without limitation, the Assessment lien is junior to:

9.2.1 the lien of any First Mortgage encumbering a Lot; and

9.2.2 the lien for taxes or other governmental assessments which are deemed superior hereto by applicable law.

Sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, the sale or transfer of any Lot pursuant to any First Mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the Assessment Lien as to payments which became due prior to such sale or transfer. No other sale or transfer shall relieve a Lot, or the Owner thereof, for liability from any Assessment theretofore becoming due nor from the Assessment Lien arising in regard thereto. No Event

of Foreclosure shall relieve the Owner whose interest was foreclosed from liability for Assessments payable through the date of such Event of Foreclosure.

In addition, no Event of Foreclosure shall impair the Assessment Lien, except that a First Mortgagee obtaining an interest in a Lot through an Event of Foreclosure shall take title subject only to such Assessments as shall accrue subsequent to the date the Person acquires its interest.

This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

ARTICLE X

MAINTENANCE

10.1 Common Area and Public Rights-of-Way

Association Duty

10.1.1 The Association, or its duly delegated representative, shall maintain and otherwise manage Common Area and accept responsibility for all real property and ad valorem taxes. Common Area to be maintained by the Association may be identified on recorded subdivision plats approved by Declarant, or in deeds from Declarant, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect thereto. A separate instrument approved by Declarant may limit the Association's responsibilities with respect to certain Common Area.

Rights of Way

10.1.2 The Association may also in its discretion elect to maintain landscaping and similar improvements within public rights of way located within the Covered Property to the extent the Association wishes to augment or enhance the degree of repair and maintenance provided by any governmental entity with respect to such public rights of way.

10.2 Standard of Care

The Association shall use a reasonable standard of care in providing for the repair, management and maintenance of the Common Area so that the Covered Property will reflect a high degree of pride of ownership. The Board shall be the sole judge as to the appropriate level of maintenance of all Common Area.

ARTICLE XI

RIGHTS AND POWERS OF ASSOCIATION

11.1 Rights, Powers and Duties of the Association

In addition to the rights and powers of the Association set forth in the Governing Documents, the Association shall have such rights and powers and duties as may be reasonably necessary in order to affect all the objectives and purposes of the Association as set forth herein. A copy of the Governing Documents shall be available for inspection at the office of the Association during reasonable business hours.

11.2 Rules and Regulations

In addition to the right to adopt, amend and repeal rules and regulations (the "Rules") on the matters expressly mentioned elsewhere in this Declaration, the Association, acting through the Board, shall have the right to adopt, amend and repeal rules and regulations, as a part of the Rules, with respect to all other aspects of the Association's rights, activities and duties, provided such rules and regulations are not inconsistent with the provisions of the Governing Documents. Upon adoption, the Association's Rules shall be enforceable in the same manner as this Declaration and shall have the same force and effect as if they were set forth in and were a part of this Declaration.

11.3 Association's Rights of Enforcement

The Association shall have the right, but not the obligation, to enforce the provisions of this Declaration and all any Additional Covenants that shall have been executed pursuant to or subject to the provisions of this Declaration. If the Association shall fail or refuse to enforce the provisions of this Declaration or the Additional Covenants after receipt of written request to enforce from any Owner, then any Owner shall have the right and authority, but not the obligation, to enforce the provisions of this Declaration.

11.4 Enforcement Methods and Means

The Association, after affording such notice and opportunity for a hearing, or to be heard, as may be required by law, may enforce the provisions hereof at law or in equity, including, but not limited to:

11.4.1 Imposing reasonable monetary penalties, which penalties shall be the obligation and liability of the offending Owner to pay, with each Owner being further liable for the acts of his or her guests, invitees and Tenants or residents.

11.4.2 Suspending an Owner's right to vote after notice and opportunity to be heard.

11.4.3 Suspending any services provided by the Association to an Owner or the Owner's property if the Owner is more than 15 days delinquent in paying any Assessment or other charge owed to the Association.

11.4.4 Exercising self-help or taking action to abate any violation of the provisions hereof.

11.4.5 Requiring an Owner at the Owner's expense to remove any offending condition, structure or improvement on the Owner's property, and further requiring the said Owner to restore his or her property to the condition in which it previously existed, without such action being a trespass.

11.4.6 Without liability to the Association or to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Declaration from continuing to perform and further activities on the Covered Property.

11.4.7 Towing vehicles which are parked in violation of the provisions hereof.

11.4.8 Filing suit at law or in equity to enjoin a violation of the provisions hereof, or to recover fines or Assessments or such other relief as may be appropriate.

The Board may weigh financial and other factors, such as possible defenses, legal merit and other factors, in determining whether to pursue legal action, and the Board's discretion in such matters shall be final. The rights and remedies of the Association are cumulative, and the Association may pursue any or all remedies without waiver, and any failure by the Association to take legal action shall not limit or waive the right of any Owner to pursue proper action, nor the right of the Association to pursue action at a future time should it so desire.

11.5 Contracts with Others; Bulk Service Agreements

Subject to the restrictions and limitations contained herein, the Articles, the Bylaws, and the laws of the State of Arizona, the Association may enter into contracts with others, including Declarant and Declarant Affiliates, and such contracts shall not be invalidated by the fact that one or more directors or officers of the Association are employed by or otherwise affiliated with Declarant or Declarant Affiliates, provided, however, that the fact of such interest shall be previously disclosed or made known to the other members of the Board acting upon such contract or transaction and, provided further, that the transaction or contract is fair and reasonable. Notwithstanding the foregoing, any contract entered into by the Association must be for a term not exceeding one year and must be terminable, without penalty, by the Association for cause at any time and without cause upon no more than such period as may be set forth in the Bylaws.

The Association may, without limitation, provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant or Developer, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense or may be funded as otherwise determined by the Board in accordance with this Declaration. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, trash and refuse service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board shall be permitted to modify or cancel existing services or facilities, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to what services and facilities, if any, will be provided by the Association.

If all Lots within the Covered Property are to be served by a particular bulk service agreement, the Board shall have the option either to (a) include the Association's costs under such bulk service agreement in the budget for each applicable fiscal year and thereby include such costs in the Assessments for each such applicable year, or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such bulk service agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board but no more often than monthly).

It is expressly agreed by all Owners that the Association's rights shall include the designation of certain service providers as the exclusive provider for the Covered Property. By way of example, the Association may elect to designate a waste management, or trash and refuse, service provider as the sole provider in order to eliminate the frequency of truck travel, interference and other adverse effects of having multiple such service providers for the Covered Property.

11.6 Change of Use or Common Area Conveyance

The Declarant and the Association shall have broad rights to conveyance of Common Area as set forth in Section 3.1 above. In addition, and without limitation, the use of Common Area may also be changed, or portions conveyed, as follows:

11.6.1 Upon adoption of a resolution by the Board stating that the then current use of a specified part of the Common Area is no longer in the best interests of the Owners and Occupants, and upon the approval of Declarant so long as it owns any Lot in the Covered Property (and if Declarant no longer owns any Lot, then upon approval of such resolution by Owners representing at least two-thirds (2/3rds) of the votes allocable to Lots within the Covered Property), the Association shall have the power and right to change the use of Common Area (and in connection therewith to take whatever actions are required to accommodate the new use), provided that in the case of a change of use such new use:

(a) also shall be for the common benefit of the Owners and Occupants; and

(b) shall be consistent with this Declaration and zoning regulations.

The Class B Member shall have the right to disapprove any such decision by the Association.

11.6.2 The Association shall have the right to dedicate all or any part of the Common Area to any public authority, utility or public service corporation, provided that:

(a) the Board in its sole discretion determines that such dedication does not have a material and substantial adverse effect on the enjoyment of the remaining

Common Area by the Owners and Occupants; and

(b) such dedication shall be approved by Class B Member so long as such the Class B Membership exists.

11.6.3 Declarant shall at any time have the right to cause the Association or the Board to resubdivide Common Area, and may do so without the consent or approval of any other Member, and without a vote or meeting of Members.

ARTICLE XII

EMINENT DOMAIN AND INSURANCE INVOLVING THE COMMON AREA

12.1 Eminent Domain

In the event of a threatened taking of all or any portion of the Common Area, the owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with the taking. The Board shall act, in its sole discretion, with respect to any awards made or to be made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action.

Any awards received on account of the taking shall be paid to the Association, In the event of a total taking, the Board may, in its sole discretion, retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Owners, (taking into account a reduction in the distribution to those Owners paying reduced amounts for Assessments pursuant thereto), and all holders of liens and encumbrances, as their interest may appear of record.

The term "taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation.

12.2 Authority to Purchase Insurance

The Association shall as a Common Expense purchase and maintain such property damage and liability insurance upon the Common Area and such other insurance as the Board, in its absolute discretion, may determine. The Association shall be the named insured in all policies providing such insurance. Neither the Association nor the Board, nor any member of the Board or officer or agent of the Association, shall be liable to any Person for failure of the Association to secure and maintain any such insurance coverage where such insurance coverage is not available in the State of Arizona at a reasonable cost and on other reasonable terms and conditions.

Notwithstanding the foregoing, the Association shall obtain and maintain at all times, at the Association's expense, directors and officers, liability insurance covering all officers and directors of the Association as well as all regular and alternate members of the ARC, the Declarant, and, to the extent such insurance is reasonably available,

any property manager under contract with the Association, all in amounts and on terms adequate to permit the Association to indemnify such persons pursuant to the provisions hereof and pursuant to the provisions of the Articles and Bylaws. Neither the Association nor any Board member nor Declarant shall be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of such insurance is not adequate.

12.3 Individual Responsibility

It shall be the responsibility of each Owner or Occupant to provide insurance for real or personal property or interests owned or held by such Owners within the Covered Property, including, but not limited to, homeowners insurance, hazard, fire and casualty insurance, liability insurance, and property damage insurance covering all additions and improvements to Lots, furnishings and personal property therein, and personal liability.

Each Owner and Occupant shall also provide such other insurance which is not carried by the Association as such Person desires. No Person shall maintain any insurance which would limit or reduce in any manner the insurance proceeds payable under the insurance maintained by the Association in the event of damage to the improvements or fixtures on the Common Area. Neither the Association nor any Board member nor Declarant shall be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of such insurance is not adequate.

12.4 Insurance Claims

The Association is hereby irrevocably appointed and authorized by the Owners to adjust all claims arising under insurance policies purchased by the Association covering Common Area and improvements thereon, property or interests of the Association, liability of the Association, and other such insurance. Each Owner shall execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Association in this regard and may, at its discretion, appoint an authorized representative or committee, or enter into an insurance trust agreement wherein the trustee shall have authority to negotiate losses under any policy purchased by the Association. Any Owner who causes any damage or destruction of any areas for which the Association maintains insurance, is responsible for the payment of any deductible portion of the insurance, which will become a Maintenance Assessment against the Owner and the Lot.

ARTICLE XIII

DISPUTE RESOLUTION

13.1 Approval of Association Action

13.1.1 Except as provided in this Article, the Association may not commence a legal proceeding or an action within the purview of Section 13.3 without the approval of at least two-thirds (2/3rds) of the Class A votes of Members eligible to vote. This Article shall not apply,

however, to (i) actions brought by the Association to enforce governing documents (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it.

13.1.2 Prior to the Association or any Member commencing any proceeding to which Declarant, any Declarant Affiliate, or beneficiary thereof, is a party, including but not limited to an alleged defect of any Improvement, Declarant and each Declarant Affiliate shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

13.2 Alternative Method for Resolving Disputes

Declarant, its beneficiaries, members, partners, officers, directors, employees and agents; the Association, its officers, directors and committee members; all Persons subject to this Declaration, including all Owners and Members of the Association, its officers, directors employees and agents; and any Person not otherwise subject to this Declaration but who agrees to submit to this Article (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 13.3 (singularly, "Claim," and collectively, "Claims") to the procedures set forth in Section 13.4.

13.3 Claims

Unless specifically exempted below, all claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to, claims (a) arising out of or relating to the interpretation, application or enforcement of this Declaration, or to the Articles or Bylaws ("Governing Documents") or the rights, obligations and duties of any Bound Party under the Governing Documents; (b) relating to the design or construction of improvements; or (c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party, shall be subject to the provisions of 13.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of 13.4:

(a) any suit by the Association against any Bound Party to enforce the provisions hereof pertaining to assessments, fines or charges;

(b) any suit by the Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to

maintain the status quo and preserve the Association's ability to act under and enforce the provisions hereof;

(c) any suit between or among Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

(d) any suit in which any indispensable party is not a Bound Party.

With the consent of all parties hereto, any of the above identified in this Section may be submitted to the alternative dispute resolution procedures set forth herein.

13.4 Mandatory Procedures

13.4.1 Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and the Respondent referred to herein being individually, as a "Party" or, collectively, as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

(a) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(c) the proposed remedy; and

(d) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

13.4.2 Negotiation.

(a) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(b) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), the Claim shall be pursued by the Claimant in arbitration.

13.4.3 Upon Termination of Negotiations, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the

auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate (or such other arbitrator using such rules as the parties to the arbitration may agree). Such claims shall not be decided by or in a court of law. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds $250,000, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting party shall be awarded reasonable attorney's fees and expenses incurred in defending such contest. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s).

The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

13.5 Conflicts

In the event that a separate binding arbitration agreement exists by and between an Owner and any person whom is not a Bound Party ("Third Party"), or in the event an Owner is bound by a separate lawful and enforceable agreement to arbitrate disputes, then in the event of a conflict between such separate agreement and the provisions hereof, the separate agreement shall control in disputes between such Owners and Third Party, but neither the Association, Declarant, nor any Bound Party other than such Owner and Third Party who are parties to or bound by such separate agreement shall be subject to the terms of such separate agreement, whether or not in conflict, unless they agree to be bound thereby.

13.6 Amendment of Article

Without the express prior written consent of Declarant, this Article may not be amended for a period of twenty years from the effective date of this Declaration.

ARTICLE XIV

ANNEXATION AND DE-ANNEXATION

14.1 Annexation of Annexable Property

Declarant may, in its sole discretion, at any time and from time to time until the twenty-fifth anniversary of the recording of this Declaration, annex to the Covered Property any Annexable Property (if any is identified in Section 1.2 of this Declaration). To effect such annexation, a

Declaration of Annexation covering the Annexable Property (or the applicable portion or portions thereof) shall be executed and recorded by Declarant.

The recordation of such Declaration of Annexation shall constitute and effectuate the annexation of the Annexable Property (or the applicable portion or portions thereof) described therein as of the date of recordation or such later date, if any, as may be set forth in such Declaration of Annexation, making such Annexable Property (or the applicable portion or portions thereof) and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association as of the date of recordation or such later date, if any, as may be set forth in such Declaration of Annexation. In addition to the foregoing, and notwithstanding any decision not to annex the Additional Property or any portion thereof, Declarant may grant easements for ingress, egress, utilities, and other purposes for the benefit of such Annexable Property, all on terms deemed by Declarant to be reasonable, and easements shall be deemed reserved over and across all streets and roads in favor of any land not annexed.

14.2 Declarations of Annexation

The annexations authorized under this Section shall be made by recording a Declaration of Annexation, which instrument may contain additional covenants, conditions, restrictions, easements or other terms. The portions of Annexable Property annexed in accordance with this Section shall thereupon become fully a part of the Covered Property subject to all provisions of this Declaration (including, but not limited to, provisions hereof regarding Assessments).

A Declaration of Annexation may contain such complementary additions to and modifications of this Declaration as may be necessary to reflect the different character, if any, of the Annexable Property (or the applicable portion or portions thereof). In no event, however, shall any such Declaration of Annexation revoke or conflict with this Declaration except to the extent specifically permitted hereby.

14.3 Annexation by Owners

The Association may, from time to time, annex to the Covered Property additional Annexable Property provided that such annexation has been approved by the Owners possessing at least seventy-five percent (75%) of the total votes then entitled to be cast by Class A Members, with or without a meeting, subject to the right of the Class B Member to disapprove the action.

To effect such annexation, a Declaration of Annexation covering the Annexable Property shall be executed by the President or Vice-President of the Association and attested to by the Secretary of the Association, and executed by the owner of the Annexable Property sought to be annexed. The recordation of such Declaration of Annexation shall constitute and effectuate the annexation of the Annexable Property described therein, making such Annexable Property and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association.

Any annexation during the period of the Class B Membership shall have the written approval of the Class B Member. Absent such approval, any such annexation shall be deemed void.

14.4 De-Annexation of Covered Property

Declarant may, in its sole discretion, at any time and from time to time up to the date which is twenty-five (25) years after the date this Declaration is recorded, de-annex or withdraw from the Covered Property any portion or portions thereof (subject to the written consent of the owner of the portion or portions to be de-annexed or withdrawn, if other than Declarant).

To effect such de-annexation or withdrawal, Declarant shall execute and record a Declaration of De-Annexation setting forth the legal description of the portion or portions of the Covered Property to be de-annexed or withdrawn, and such Declaration shall be executed by the Declarant and the Owner of the land to be withdrawn. The land to be withdrawn may include any portion of the Covered Property, including Lots and Common Area. Recording such Declaration of De-Annexation shall constitute and effectuate the de-annexation and withdrawal of the applicable portion or portions of the Covered Property described therein, and such property and the Owners and Occupants thereof shall no longer be subject to this Declaration or the jurisdiction of the Association. Notwithstanding the preceding sentence, except as otherwise provided in the applicable Declaration of De-Annexation, de-annexation or withdrawal of any portion or portions of the Covered Property will not be effective until the owner of the property to be de-annexed or withdrawn has paid all unpaid Assessments applicable to such property (unless exempt), prorated to the date of de-annexation or withdrawal.

It is specifically understood that this right of de-annexation or withdrawal may be exercised in Declarant's sole and absolute discretion, and that once de-annexed or withdrawn, none of the provisions hereof shall apply to or encumber the land. Further, the Class B Member may cause the Association to grant and convey such easements as may be necessary to benefit such land de-annexed or withdrawn, including easements for ingress, egress, and utilities, all on terms, if any, deemed by them to be proper.

14.5 Protection of Declarant

The provisions of this Article may not be amended without the written approval of Declarant until such time as Declarant relinquishes this approval right by recordation of a written instrument referring to this paragraph of this Declaration (even if after the expiration of the Declarant Control Period and the Class B Membership) .

ARTICLE XV

TERM; AMENDMENTS; TERMINATION

15.1 Term; Method of Termination

This Declaration shall be effective upon its recordation and, as amended from time to time, shall continue in full force and effect unless and until there is an affirmative vote to terminate this Declaration by the then Owners casting ninety percent (90%) of the total votes entitled to be cast by the entire Membership. Upon the recording of a Certificate of Termination executed by the President and Secretary of the Association confirming such vote, this Declaration shall have no further force and effect and the Association thereupon shall be dissolved in accordance with the terms of its Articles and Bylaws and the laws of the State of Arizona. No such termination shall be effective unless approved in writing by Declarant so long as Declarant owns any portion of the Covered Property or Annexable Property.

15.2 Amendments

Broad Power of Declarant

15.2.1 In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Declarant Control Period, Declarant may amend this Declaration for any purpose, and without the consent or approval of any Owners or Members, or any other Person, regardless of whether any such amendment is uniform in nature.

15.2.2 In addition to the foregoing, even after termination of the Declarant Control Period, and for so long as Declarant owns any portion of the Covered Property, Declarant may of its own volition, and without the consent or approval of any Owners or Members, or any other Person, amend this Declaration for the following purposes: (a) to bring any provision hereof into compliance with applicable law; (b) to satisfy the requirements of any Agency pertaining to lending criteria, or established as conditions for the acceptability or approval of mortgages, mortgage insurance, loan guarantees or other factors; or (c) to correct any error or ambiguity or to further the intent or purposes hereof by expanding upon the existing provisions hereof.

Any amendment during such time as Declarant is a Class B Member or a Class A Member of the Association shall require the written approval of the Declarant. Further, so long as Declarant owns any land within the Covered Property or the Annexable Property, Declarant may, without any other consent or approval, amend this Declaration to clarify the application of the provisions hereof to any land which may be annexed, or for any other reasonable purpose in connection with any land which may be annexed.

Power of Association

15.2.3 At any time, the Board may, with Declarant's consent so long as Declarant owns any portion of the Covered Property or Annexable Property, amend this Declaration for the following purposes: (a) to bring any provision hereof into compliance with applicable law; (b) to satisfy the requirements of any Agency pertaining to lending criteria, or established as conditions for the acceptability or approval of mortgages, mortgage insurance, loan guarantees or other factors; or (c) to correct any error or ambiguity or to further the intent or purposes hereof by expanding upon the existing provisions hereof.

15.2.4 Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners which in the aggregate represent at least two-thirds (2/3) of the total Class A votes allocable to Lots, and Declarant's consent, as well, so long as Declarant owns any portion of the Covered Property or Annexable Property.

15.3 Mortgagee Protection; Termination of Association; Condemnation Proceeds

15.3.1 Any actions to terminate this Declaration for reasons other than substantial destruction or condemnation of the Covered Property shall require, in addition to the approval of Declarant so long as Declarant owns any portion of the Covered Property or Annexable Property, and in addition to such approval as is required by law, the approval of Eligible Mortgage Holders whose First Mortgages encumber Lots whose Owners represent at least sixty-seven percent (67%) of the total Class A votes in the Association.

15.3.2 No Owner, or any other party, shall have priority over any rights of any First Mortgagee pursuant to its mortgage or deed of trust in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

15.3.3 First Mortgagees may jointly or singly pay taxes or other charges that are in default and that may or have become charges against any Common Area, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for Common Area in the case of lapse of a policy. First Mortgagees making such payments are due immediate reimbursement from the Association.

15.3.4 Any Owner, First Mortgagee, or Eligible Mortgage Holder shall be entitled to: (a) inspect current copies of the Governing Documents, and the books, records, and financial statements of the Association, during normal business hours; and (b) receive, upon written request therefor, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party.

ARTICLE XVI

MISCELLANEOUS

16.1 Additional Covenants

In furtherance of the orderly sale and development of the Covered Property, and of the protection and enhancement of the value of the Covered Property, Declarant shall have the right, power and authority (but not the obligation), where in Declarant's discretion the circumstances so warrant, to execute prior to, with or after the sale of any portion of the Covered Property by any purchaser, a supplement to this Declaration adding additional covenants or restrictions, qualifying

or limiting the application of this Declaration to such land, or entirely excepting such land from the coverage hereof any from all of the restrictions, limitations or other provisions included herein.

Such additional covenants or restrictions may be referred to herein as the "Additional Covenants." No such Additional Covenants shall exempt any such land or the respective owners thereof from the obligations to pay Assessments hereunder or from the Assessment Lien in regard thereto or deprive such land or its Owner of membership and voting rights otherwise established by this Declaration, except that Declarant at all times shall have the right record a Declaration of De-Annexation with respect to any land.

Such Additional Covenants shall be recorded and shall be binding upon Declarant, the Association, the ARC and each Owner and Occupant. Declarant shall deliver a true and complete copy of any such Additional Covenants to the Association within a reasonable time after recordation thereof. After conveyance of a Lot to an Owner thereof, de-annexation of such land or the imposition of Additional Covenants thereon shall require the consent of such Owner.

16.2 Enforcement Rights

Each Owner (including Declarant, so long as Declarant is an Owner) shall have the right and authority, but not the obligation, to enforce the provisions of this Declaration.

16.3 Interpretation of the Covenants

Except for judicial construction and as hereinafter provided, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration, including without limitation, the land use restrictions in Article V hereof. 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.

16.4 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.

16.5 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.

16.6 Declarant's Disclaimer of Representations

Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Covered Property can or will be carried out, or that any real property now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect.

No provision or content of any development plan showing or applicable to the Covered Property shall be deemed a representation that any facility, land or feature shall be included either in the Covered Property or the Common Area.

While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold Declarant harmless therefrom.

16.7 View Impairment

Neither the Declarant, nor the Association nor Developer guarantees or represents that any view or passage of light and air over and across any portion of the Covered Property, including any Lot, from adjacent Lots or Common Area will be preserved without impairment. Neither the Declarant, nor the Association nor Developer shall have the obligation to prune or thin trees or other landscaping except as required by the ARC or ARC Guidelines. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Any view which exists at any point in time for a Lot may be impaired or obstructed by further construction, including, without limitation, by construction of improvements (including without limitation, landscaping) by Declarant, Developer or by any third person (including, without limitation, other Owners and Occupants) and by the natural growth of landscaping. No third party, including, without limitation, any broker or salesperson, has any right to bind Declarant, the Association or Developer with respect to the preservation of any view from any Lot or any view of a Lot from any other property.

16.8 Assumption of Risk

Neither the Association, the members of the Board, the officers of the Association, the management company of the Association, nor the Declarant nor any Developer, shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or Occupant of any Lot or any tenant, guest or invitee of any Owner or Occupant or for any property of any such persons. Each Owner and Occupant of a Lot and each tenant, guest, and invitee of any Owner or Occupant shall assume all risks associated with the use and enjoyment of the Covered Property, including all Common Area.

Neither the Association, the members of the Board, the officers of the Association, the Association's management company nor the Declarant nor Developer shall be liable or responsible for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Covered Property. Each Owner and Occupant of a Lot and each tenant, guest, and invitee of any Owner or Occupant shall assume

all risk of personal injury, illness, or other loss or damage arising from the presence or malfunction of utility lines or utility sub-stations and further acknowledges that neither the Association, the members of the Board, the officers of the Association, the Association's management company nor the Declarant nor Developer have made any representations or warranties, nor has any Owner or Occupant, or any tenant, guest, or invitee of any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

No provision hereof, or of the articles of incorporation or bylaws of the Association, or of the ARC Guidelines, shall be interpreted as creating a duty of the Association, the members of the Board, the officers of the Association, the management company of the Association or the Declarant or Developer to protect or further the health, safety, or welfare of any Person, even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Covered Property (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands, and causes of action against the Association, the Board, the Association's management company, and the Declarant and Developer, their directors, officers, committee and board members, employees, agents, contractors, subcontractors, successors, and assigns arising from or connected with any matter for which the liability has been disclaimed.

16.9 Successors and Assigns

Any reference in this Declaration to Declarant shall include any successors or assignees of all or a specified portion of Declarant's rights and powers hereunder. Any such assignment shall be evidenced by a recorded instrument executed by Declarant and its successor or assignee whereby such rights and powers (or any specified portion thereof) are specifically assigned.

16.10 Notices

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

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed on the date set forth on page one of this Declaration.

DECLARANT:

Title Security Agency, LLC fka, Title Security Agency of Arizona, LLC and Title Security Agency, LLC, a Delaware limited liability company, as Trustee under Trust No. 201532R and Trust No. 201720R only and not in its limited liability capacity

By: _____
Name: _____, Trust Officer

STATE OF ARIZONA)
)ss.
COUNTY OF PIMA)

The foregoing instrument was acknowledged before me this 22 day of March, 2018 by the Trust Officer of Title Security Agency, LLC fka, Title Security Agency of Arizona, LLC and Title Security Agency, LLC, a Delaware limited liability company, as Trustee under Trust No. 201532R and Trust No. 201720R only and not in its limited liability capacity.

NOTARY PUBLIC
STATE OF ARIZONA
Pima County
DIANE L. SLOANE
My Commission Expires July 26, 2018

My commission expires: 7/26/18

Beneficiary Disclosure:
The sole beneficiary of Title Security Agency of Arizona, LLC Trust No. 201532R is PSSW Investments, LLC, an Arizona limited liability company, whose address is 70 West Cushing Street, Tucson, Arizona 85701. The sole beneficiary of Title Security Agency, LLC Trust No. 201720R is Camino Modern Ventures, LLC, an Arizona limited liability company, whose address is 5633 East Grant Road, Tucson, Arizona 85712.