

207 Waiver
Title
Legal Description
Policy or Appeals
Correspondence Between Legal & Staff
Letter of Authorization

Legal

INFORMATION

The Title Insurance Commitment is a legal contract between you and the company. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy.

The Company will give you a sample of the Policy form, if you ask.

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT.



First American

COMMITMENT FOR TITLE INSURANCE ISSUED BY

American Title Service Agency, LLC.
as agent for First American Title Insurance Company

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YOU SHOULD READ THE COMMITMENT VERY CAREFULLY

AGREEMENT TO ISSUE POLICY

We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when Policy is issued and then our obligation to you will be under the Policy.

Our obligation under the Commitment is limited by the following:

- The Provisions in Schedule A
- The Requirements
- The Exceptions in Schedule B – Parts 1 and 2
- The Conditions

This Commitment is not valid without SCHEDULE A and Parts 1 and 2 of SCHEDULE B.

SCHEDULE B – EXCEPTIONS

Part One of Schedule B will be eliminated from any A.L.T.A. Extended Coverage Policy, A.L.T.A. Plain Language Policy, A.L.T.A. Homeowner's Policy, A.L.T.A. Expanded Coverage Residential Loan Policy and any short form versions thereof. However, the same or similar exception may be made in Schedule B of those policies in conformity with Schedule B, Part Two of this Commitment.

Part One: (For use with 2006 ALTA policies)

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstances affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water; whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

Part One: (for use with 1992 and prior ALTA policies)

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interest or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.

4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water; whether or not the aforementioned matters excepted are shown by the public records.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

REQUIREMENTS

(Standard)

The following requirements must be met:

- (a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
- (b) Pay us the premiums, fees and charges for the policy.
- (c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- (d) You must tell us in writing the name of anyone not referred to in this commitment who will get interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.

(Continued on Requirements Page)

CONDITIONS

1. DEFINITIONS

- (a) "Mortgage" means mortgage, deed of trust or other security instrument.
- (b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state law where the land is located.

2. LATER DEFECTS

The Exceptions in Schedule B may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment date and the date on which all of the Requirements are met. We shall have no liability to you because of this amendment.

3. EXISTING DEFECTS

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. LIMITATION OF OUR LIABILITY

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, or liability will be limited to your actual loss caused by your relying on this commitment when you acted in good faith to:

Comply with the Requirements

Or

Eliminate with our written consent any exceptions shown in Schedule B

We shall not be liable for more than the Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. CLAIMS MUST BE BASED ON THIS COMMITMENT

Any claims, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms.

NOTE: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

First American Title Insurance Company
COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

Order Number: **00085871-052-SH3**

1. Commitment Date: **January 20, 2017 at 8:00 A.M.**
2. Policy or Policies to be issued: Amount
 - a. **ALTA 2006 Standard Owner's Policy** **\$1,217,000.00**
Proposed Insured:
CITY OF SCOTTSDALE
 - b. **None** **\$0.00**
Proposed Insured:
None
 - c. **None** **\$0.00**
Proposed Insured:
None
3.
 - a. The estate or interest in the land described in this Commitment is:
A FEE
 - b. Title to the said estate or interest at the date hereof is vested in:
BALABUS, LLC, an Arizona limited liability company
4. The land referred to in this Commitment is situated in the City of Scottsdale, County of Maricopa, State of Arizona, and is described as follows:

See Exhibit A attached hereto and made a part hereof.

Note: Please direct all inquiries and correspondence to
Sheri Hagemeister
(480) 289-3800

AMERICAN TITLE SERVICE AGENCY, LLC.,
issuing agent for First American Title Insurance Company
By: **Steve Owen**
Served by: **Steve Owen**

**SCHEDULE B – Part One
REQUIREMENTS**

For the current tax information Maricopa County Treasurer
please, prior to recording, contact: 301 W. Jefferson
Phoenix, AZ 85003

Phone No.: (602) 506-8511
(treasurer.Maricopa.gov)

TAX INFORMATION:

Parcel No.: 212-10-003F
Year: 2016
First Half of 2016 Taxes are paid

1. RECORD Deed from BALABUS, LLC, an Arizona limited liability company to CITY OF SCOTTSDALE.

NOTE: ARS 11:1133 may require the completion and filing of an Affidavit of Value.

NOTE: The only conveyance(s) affecting said land recorded within 24 months, or last conveyance of record, as of the date of this commitment is (are) as follows:

Deed recorded August 24, 2016 as Document No. 2016-0607133; Grantor: Donna M. Kline, a widow; Grantee: Balabus, LLC, an Arizona limited liability company.

NOTE: Pursuant to Arizona Revised Statutes 11-1180, effective January 1, 1991, the County Recorder may not accept documents for recording that do not comply with the following:

(a) Print must be ten-point type or larger.

(b) Margins of at least one-half inch along all sides, including top and bottom, except the top of the first page which must be at least two inches for recording and return address information. The margin must be clear of all information including but not limited to, notaries, signatures and page numbers.

(c) Each instrument shall be no larger than eight and one half inches wide and fourteen inches in length.

SCHEDULE B – Part Two
EXCEPTIONS

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction. Printed exceptions and exclusions from coverage are contained in the policy or policies to be issued. Copies of the policy forms should be read. They are available from the office which issued this Commitment.

1. Taxes for the second half of 2016, a Lien, but not yet due and payable.
First half due and payable October 1, 2016 and delinquent on November 1 of that year. Second half payable on or before March 1 of the following year, and delinquent May 1 of that same year.
2. An easement for highway and rights incidental thereto, recorded in Docket 10659, page 1419.
3. Terms and provisions as set forth in an unrecorded Operating Agreement as disclosed by memorandum recorded in Document No. 2016-0607134

The map attached, if any, may or may not be a survey of the land depicted hereon. **First American Title Insurance Company** expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.



First American Title

Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.

In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

When Recorded Mail to:

79646-4-3-3--
Yorkm

Stein Law, PLC
14362 N. Frank Lloyd Wright Blvd.
Suite 1000
Scottsdale, Arizona 85260
Attention: Scott J. Stein

2/2
**MEMORANDUM
OF
OPERATING AGREEMENT**

THIS MEMORANDUM OF OPERATING AGREEMENT ("Memorandum") is made as of August ~~22~~ 2016, between Balabus LLC, an Arizona limited liability company ("Balabus"), and J.P. Kush Construction, L.L.C., an Arizona limited liability company ("J.P. Kush").

RECITALS


Balabus owns the land ("Land") located in Scottsdale, Arizona, and described in Exhibit A-1 attached hereto and incorporated herein by this reference. Balabus and J.P. Kush, as the Members of Lomas Verdes Estates, L.L.C., an Arizona limited liability company (the "Company"), have executed an operating agreement of the Company pursuant to which the Company will develop, finance and construct improvements on the Land upon satisfaction of certain conditions as more fully set forth therein. Balabus and J.P. Kush desire to establish public notice of such operating agreement in the applicable land records ("Land Records").

NOW, THEREFORE, Balabus and J.P. Kush hereby declare that (i) they have executed an Operating Agreement of Lomas Verdes Estates, L.L.C., an Arizona limited liability company dated as of August ~~22~~ 2016 (as amended from time to time, "Operating Agreement"), (ii) the Operating Agreement governs the management and operation of the Company, and includes provisions relating to the transfer of Balabus's interest in the Land and the development and financing of such acquisition of, and construction upon, the Land. Nothing set forth in this Memorandum shall operate to modify or amend the Operating Agreement, which shall continue in full force and effect in accordance with its terms. This Memorandum shall automatically terminate and be of no further force and effect with the need for execution and recordation of a release upon the date that is nine (9) months following the date of recording this Memorandum.

[signatures on following page]

IN WITNESS WHEREOF, the parties have executed and acknowledged this Memorandum as of the date set forth above.

J.P. Kush Construction LLC, an Arizona limited liability company, its Member

By: 
 Name: Jason Kush
 Its: Member

Balabus LLC, an Arizona limited liability company, its Member

By: 
 Name: Josh Wertlieb
 Its: Member

STATE OF ARIZONA)

) ss.

County of Maricopa)

On this, the 23rd day of August 2016 before me the undersigned Notary Public, personally appeared J.P. Kush, the member of J.P. Kush Construction LLC, an Arizona limited liability company, and acknowledged that he as such officer, being authorized to do so, and acknowledged that he executed the foregoing instrument in the capacity thereon stated, for the purposes therein contained.

In witness whereof, I have hereunto set my hand and official seal.

Notary Public

My commission expires: 6/23/19

STATE OF ARIZONA)

) ss.

County of Maricopa)



On this, the 23rd day of August 2016 before me the undersigned Notary Public, personally appeared Tish Werten, the member of Balabus LLC, an Arizona limited liability company, and acknowledged that he as such officer, being authorized to do so, and acknowledged that he executed the foregoing instrument in the capacity thereon stated, for the purposes therein contained.

In witness whereof, I have hereunto set my hand and official seal.

Notary Public

My commission expires: 6/23/19

EXHIBIT A-1
LEGAL DESCRIPTION OF THE LAND

The West 528 feet of the North half of the South half of the Southwest quarter of Section 34,
Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa
County, Arizona.

10659814

I do hereby certify that the within named instrument was recorded at request of
VARICOPA CO. BD. OF SUPERVISORS

10659 ¹⁴¹⁹⁻¹⁴²⁰ Records of Maricopa County, Arizona.
WITNESS my hand and official seal the day and year aforesaid.

126002

Fee:

3. 6. PAUL N. MARSTON By Shirley Ong
 3. 7. County Recorder Deputy Recorder
 When referred return to: **MARICOPA COUNTY BOARD OF SUPERVISORS**

4/c

EASEMENT AND AGREEMENT FOR HIGHWAY PURPOSES 212-10-3

Project No. DB-5463

Elem No.

Harold P. Metchley, Jr., Susan Metchley, Francis E. Metchley, Ralph R. Metchley,
Keith W. Metchley & Julia S. Metchley.

GRANTORS,

for and in consideration of the sum of One Dollar and other valuable consideration, receipt of which is hereby acknowledged, do hereby grant to MARICOPA COUNTY, a political subdivision of the State of Arizona, its successors, and assigns, a permanent easement and right-of-way, for the following purposes, namely: The right to enter upon the hereinafter described land and grade, level, fill, drain, pave, build, maintain, repair and rebuild a road or highway, including incidental purposes consistent therewith, together with such bridges, culverts, ramps and cuts as may be necessary, on, over, under, and across the ground embraced within the right-of-way situated in the County of Maricopa, State of Arizona, and described as follows:

The North ~~East~~ (40) feet of the Southwest one-quarter of the Southwest one-quarter (SW¹/₄ of SW¹/₄) of Section Thirty-four(34), Township Five(5) North, Range Four(4) East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

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To have and to hold the said easement and right-of-way unto Maricopa County, a political subdivision of the State of Arizona and unto its successors and assigns forever, together with the right of ingress and egress to permit the economical operation and maintenance of said public highway and all facilities thereto, and together with the right to authorize, permit, and license the use thereof for utilities or other public purposes not inconsistent with its primary use as a highway.

And the Grantors hereby covenant that they are lawfully seized and possessed on this aforementioned tract or parcel of land; that they have a good and lawful right to sell and convey it; and that they will warrant the title and quiet possession thereto against the lawful claim of all persons, subject to easements of record.

- The said easement to include the right to cut back and trim such portion of the branches and tops of the trees now growing or that may hereafter grow upon the above described premises, as may extend over said right-of-way, so as to prevent the same from interfering with the efficient maintenance and operation of said public highway.

In the event the right, privilege and easement herein granted shall be abandoned and permanently cease to be used for the purposes herein granted all rights herein granted shall cease and revert to the grantors, their heirs or assigns.

Whereas in the foregoing instrument the plural is used, it will be read as singular when necessary, and wherever words indicating gender are employed they will apply to either masculine, feminine or neuter as the context requires.

(Use Reverse Side For Agreement and Signature)

NOW THEREFORE, in consideration of the same and further consideration hereinafter set forth, it is agreed, that this instrument contains the entire agreement between the parties hereto there being no further consideration paid than herein specified.

THE COUNTY OF MARICOPA AGREES:

- A. To use the above described land for the general welfare and benefit of the public.

THE GRANTOR ^{5/16} AGREES:

1. To grant an easement for the above described land to the County of Maricopa for the general welfare and benefit of the public.
2. That acceptance of this dedication in no way obligates Maricopa County to construct or maintain a roadway within the right-of-way granted by this document.
3. It is further agreed that any existing encroachments within the right-of-way granted by this easement will be removed or relocated to Grantor's remaining property at no expense to County.

Unofficial Document

Dated this 1st day of May, 1974

Francis E. Atchley, (Ripley) R. Atchley
Grantor Grantor

Harold D. Atchley Jr., James J. Atchley
Grantor Grantor

Grantor: Keith W. Atchley - Julia S. Atchley

STATE OF ARIZONA } ss.
COUNTY OF MARICOPA }

Subscribed and sworn to before me this 1st day of May, 1974

My commission expires 7-16-75

Ruth L. Pinnay
Notary Public

Recommended for approval: William H. L. L.
Right of Way Agent

ACCEPTED:
MARICOPA COUNTY BOARD OF
SUPERVISORS

by B. B. Collins
Chairman of the Board

ATTEST:

Paul Woodall
Clerk of Board of Supervisors

Date May 13, 1974

PHOTOSTATIC COPIES REQUESTED
MARICOPA COUNTY RECORDS DEPT.
MARICOPA COUNTY P. O. BOX 1000

MARICOPA COUNTY
OFFICIAL PARCEL MAP
STATE OF ARIZONA

PT. SECTION 34 T05N R04E

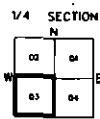
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ASSESSOR BOOKS & MAPS WITHIN THIS AREA

BOOK: 212 MAP: 10
BOOK: 212 MAP: 11
BOOK: 212 MAP: 24

SUBDIVISIONS

*ASEO LAS COLINAS
MCR 1025-07, 2010 SUB

SCALE: 1" =

**CAPTION HEADING: Declaration of Covenants, Conditions
and Restrictions for The Estates At Lone Mountain**

DO NOT REMOVE

**THIS IS PART OF AN OFFICIAL
DOCUMENT**

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR

Lomas Verdes Estates

This Declaration of Covenants, Conditions, and Restrictions for Lomas Verdes Estates
(this "Declaration") is made this day of , by Lomas Verdes Estates, LLC
, an Arizona Limited Liability Company (the "Declarant").

INTRODUCTION

A. The Declarant is the Owner of fee title to the real property located in City of
Scottsdale, County of Maricopa, State of Arizona, legally described on Exhibit A attached hereto
(the "Property").

B. By executing and recording this Declaration with the County Recorder of
Maricopa County, Arizona, the Declarant intends to impose upon the Property mutually
beneficial covenants, conditions, restrictions and easements to establish a flexible and reasonable
procedure for the overall development, administration, maintenance, use and preservation of the
Property. Declarant intends for this Declaration to create equitable servitudes and covenants
appurtenant to and running with the Property and which will be binding upon all future Owners
of all or any portion of the Property and any other Person acquiring any right, title or interest in
or to all of any portion of the Property.

C. Declarant deems it desirable to provide for the creation of a nonprofit corporation
under the laws of the State of Arizona to administer and maintain, repair and replace the Areas of
Association Responsibility and to provide for the levying and collecting of Assessments and
other charges by the Association for the purpose, among other things, of paying all costs and
expenses incurred or to be incurred by the Association in connection with the maintenance,
repair and replacement and administration of the Areas of Association Responsibility and the
enforcement of the covenants, conditions and restrictions contained in this Declaration.

ARTICLE 1

DEFINITIONS

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

1.1 "**Areas of Association Responsibility**" means (a) all Common Area; and (b) all
land, and the Improvements situated thereon, located within the boundaries of a Lot or a public
right-of-way which the Association is obligated to maintain, repair and replace pursuant to the
terms of this Declaration or other Recorded document executed by the Declarant or the
Association.

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

1.3 **"Assessable Lot"** means, during the Declarant Control Period, a Lot owned by a Person other than the Declarant. After the termination of the Declarant Control Period, all Lots shall be Assessable Lots.

1.4 **"Assessment"** means a Regular Assessment or Special Assessment.

1.5 **"Assessment Lien"** means the lien created and imposed by Article 7.

1.6 **"Assessment Period"** means the period set forth in Section 7.4.

1.7 **"Association"** means Estates at Lone Mountain Homeowner's Association, an Arizona nonprofit corporation, and its successors and assigns.

1.8 **"Association Rules"** means the rules adopted by the Board pursuant to Section 6.3.

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

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

1.11 **"Common Area"** means (a) Tracts A through C, inclusive, Estates at Lone Mountain (also known as "Hidden Estates"), according to the plat recorded in Book 653 of Maps, page 20, records of Maricopa County, Arizona, together with all improvements situated thereon and (b) all land, together with all improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest, except that Common Area shall not include any Lot the Association acquires by the foreclosure of the Assessment Lien or any deed in lieu of foreclosure.

1.12 **"Common Expenses"** means the actual and estimated expenses incurred or anticipated to be incurred by or on behalf of the Association, including any allocations to reserves determined by the Board to be necessary and appropriate, and all other financial liabilities of the Association.

1.13 **"Community Documents"** means, collectively, this Declaration, the Articles, the Bylaws, the Association Rules and Guidelines, all as amended from time to time.

1.14 **"Declarant"** means Estates at Lone Mountain Landing, L.L.C., an Arizona Limited Liability Company, and any Person to whom it may expressly assign any or all of its rights under this Declaration by a Recorded instrument.

1.15 **"Declarant Control Period"** means the period commencing upon the Recording of this Declaration and ending on the date Declarant no longer owns a lot in the Project or an earlier Turnover Date.

1.16 **"Declaration"** means this Declaration of Covenants, Conditions, and Restrictions for Estates at Lone Mountain, as amended from time to time.

1.17 **"First Mortgage"** means any mortgage or deed of trust on a Lot which has priority over all other mortgages and deeds of trust on the same Lot.

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

1.19 **"Guidelines"** means the procedures, standards and guidelines adopted by the Board pursuant to Section 3.11, as amended or supplemented from time to time.

1.20 **"Improvement"** means: (a) any Residence, building, fence or wall; (b) any swimming pool, tennis court, basketball goal, backboard or apparatus or playground equipment; (c) any road, driveway or parking area; (d) any trees, plants, shrubs, grass, sprinkler system or other landscaping improvements of any type and kind; (e) any statuary, fountain, artistic work, craft work, figurine or ornamentation of any type or kind, and (f) any other structure of any type, kind or nature.

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

1.22 **"Lot"** means a parcel of land within the Project, whether improved or unimproved, intended for independent ownership and use and designated as a "lot" on the Plat and any Residence, building, structure or other Improvement situated thereon.

1.23 **"Maintenance"** means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

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

1.25 **"Member"** means any Person who is a member of the Association as provided in Section 6.6.

1.26 **"Owner"** means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. In the case of Lots subject to an option agreement, the optionor shall be deemed to be the Owner. Owner shall not include Persons having an interest in a Lot merely as security for the performance of an obligation or a Lessee. Owner shall include a purchaser

under a Recorded contract for the conveyance of real property subject to the provisions of A.R.S. § 33-741 et. seq. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of a Lot subject to a deed of trust pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the Owner. In the case of a Lot the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

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

1.28 **"Plat"** means the plat of Estates at Lone Mountain(also known as: Hidden Estates), recorded in Book 653 of Maps, page 20, records of Maricopa County, Arizona, and all amendments, supplements and corrections thereto.

1.29 **"Property" or "Project"** means the real property described on Exhibit A attached to this Declaration together with all Improvements located thereon.

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

1.31 **"Recording"** means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona, and Recorded means having been so placed of public record.

1.32 **"Regular Assessment"** means the Assessments levied pursuant to Section 7.2.

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

1.34 **"Resident"** means each person occupying or residing in any Residence.

1.35 **"Special Assessment"** means any assessment levied pursuant to Section 7.3.

1.36 **"Turning Date"** means the earlier of: (a) December 31, 2011; (b) the date Declarant shall elect to transfer control of the Association to the Owners, by notice to the Owners, in writing, six (6) months in advance of the Turnover Date, or (c) the date that is no later than six (6) months from the date Declarant no longer owns a Lot in the Project.

ARTICLE 2

PROPERTY AND PERSONS BOUND BY DECLARATION

2.1 Purpose and Binding Effect

Declarant is the record owner of fee title to the Property. Declarant intends by this Declaration to impose upon the Property covenants, conditions, restrictions and easements to create a general plan of development for the Property and to provide a flexible and reasonable procedure for the administration, maintenance, preservation, use and enjoyment of the Property. The Declarant declares that all of the Property shall be held, sold, used and conveyed subject to the easements, restrictions, conditions and covenants set forth in this Declaration which are for the purpose of protecting the value, desirability and appearance of the Property. Declarant further declares that all of easements, restrictions, conditions and covenants in this Declaration shall run with the Property and shall be binding upon and inure to the benefit of the Declarant and all Owners, Lessees and Residents and all other Persons having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors, successors in title and assigns. Each Person who acquires any right, title or interest in the Property, or any part thereof, agrees to abide by all of the provisions of the Community Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Community Documents, or as to the compliance of any of the provisions of the Community Documents with public laws, ordinances and regulations applicable thereto.

2.2 Disclaimer of Implied Covenants

The Declarant makes no representation or warranty that the Project will be developed in accordance with the zoning and development plan for the Project as it exists as of the Recording of this Declaration. Each Owner, Lessee, Resident and other Person acquiring any Lot or other real property in the Project acknowledges that the zoning and development plan may be amended from time to time by the City of Phoenix. The Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Community Documents or as to the compliance of any provision of the Community Documents with public laws, ordinances, or regulations applicable to the Project. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of any property subject to this Declaration.

ARTICLE 3

ARCHITECTURAL CONTROL

3.1 Approval Required.

As used in this Article 3, "Construction" means any devegetation, excavation or grading work or the construction, erection or installation of an Improvement on a Lot, and "Modification" means an addition, alteration, repair, paint, change or other work to any Improvement or which in any way alters the exterior appearance of any Improvement located on a Lot. No Construction or Modification shall be made or done without the prior written approval of the Board. All construction, under this provision, shall be performed by licensed contractors and where required, with a building permit from the local governmental agency. The provisions of this Article do not apply to, and approval of the Board shall not be required for, any Construction or Modification or any other work made by, or on behalf of, the Declarant.

Any Owner desiring approval of the Board for any Construction or Modification shall submit to the Board a written request for approval specifying in detail the nature and extent of the Construction or Modification which the Owner desires to perform. The request for approval must be accompanied by plans or specifications showing the nature, kind, color, shape, height, materials and location of the Improvements and such other information as may be required by the Guidelines. Any Owner requesting the approval of the Board shall also submit to the Board any additional information, plans and specifications which the Board may request.

In the event that the Board fails to approve or disapprove a complete application for approval within forty-five (45) days after the application and all supporting information, plans and specifications requested by the Board, have been submitted to the Board, approval will not be required and this Section will be deemed to have been complied with by the Owner who requested approval of such plans. The approval by the Board of any Construction or Modification shall not be deemed a waiver of the Board's right to withhold approval of any similar Construction or Modification subsequently submitted for approval.

3.2 Review of Plans.

In reviewing plans and specifications for any Construction or Modification, the Board may consider any and all factors which the Board, in its sole and absolute discretion, determines to be relevant including, but not limited to: (a) the harmony of the proposed Improvements with existing Improvements in the Project or with Improvements previously approved by the Board but not yet constructed; (b) the location of the proposed Improvements in relation to existing topography, finished grade elevations, roads, Common Area and other structures; (c) the exterior design, finish materials and color of the proposed Improvements; and (d) compliance of the proposed Improvements with this Declaration and the Guidelines.

Decisions of the Board may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary

as to the desirability and attractiveness of certain Improvements. Each Owner agrees that the decision of the Board shall be final on all matters submitted to it pursuant to this Declaration.

The approval required of the Board pursuant to this Article 3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

The Board, by resolution, may exempt certain Construction or Modifications from the application and approval requirements of this Article, provided such Construction or Modifications are undertaken in strict compliance with the requirements of such resolution. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of a Residence without approval so long as such activity does not affect the exterior appearance of the Residence.

3.3 Variances.

The Board may authorize variances from compliance with any provision of the Design Guidelines in circumstances where the design meets the intent of the provision sought to be varied and where granting of the variance would enhance design innovation and excellence, or when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations so require, and the Board determines, in its sole discretion, that the objective of the particular requirement can still be achieved. No variance shall be effective unless in writing and signed by the Association's President or Vice President. No variance may be contrary to this Declaration or estop the Board from denying a variance in other circumstances including, without limitation, circumstances similar or identical to circumstances under which the Board previously granted a variance. For purpose of this Section, the inability to obtain approval of any governmental agency, issuance of any permit, or the terms of any financing shall not constitute hardships.

3.4 Construction of Improvements.

Upon receipt of approval from the Board for any Construction or Modification, the Owner who had requested such approval shall proceed with the Construction or Modification approved by the Board as soon as practicable and shall diligently pursue such Construction or Modification so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Board.

3.5 No Changes Without Approval

Any Construction or Modification approved by the Board must be done or performed in accordance with the plans and specifications approved by the Board. No change, deletion or addition to the plans and specifications approved by the Board may be made without the prior written approval of the Board.

3.6 Review Fee.

The Board shall have the right to charge a non-refundable fee for reviewing requests for approval of any Construction or Modification, which fee shall be payable at the time the application for approval is submitted to the Board. The fee charged by the Board may include the actual or estimated fees or costs incurred or anticipated to be incurred by the Board in consulting with, or having the application reviewed by, architects, engineers or other professionals. The Association may retain architects, engineers or other persons as deemed necessary to review applications or otherwise assist the Board.

3.7 New Construction.

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

3.8 No Warranty.

The approval by the Board of any Construction or Modification shall not be deemed a warranty or representation by the Board as to the quality of such Construction or Modification or that such Construction or Modification conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

3.9 Conditional Approval.

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

3.10 Improvements to Areas of Association Responsibility

If plans and specifications submitted to the Board pertain to an Improvement which is within an Area of Association Responsibility so that the Association is responsible for the maintenance, repair and replacement of such Improvement, the Board may condition its approval of the plans and specifications for the proposed Construction or Modification with respect to the Improvement on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Improvement.

ARTICLE 4

USE RESTRICTION

4.1 Residential Use

All Residences shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Residence, except that the Owner, Lessee or other Resident of a Residence may conduct a business activity within the Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activity is a legal activity and conforms to all applicable zoning ordinances or requirements for the Project; (c) the use of the Residence for trade or business in no way destroys or is incompatible with the residential character of the Residence or the surrounding neighborhood; (d) the trade or business is conducted only inside the Residence; (e) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or be in excess of what is customary in a residential neighborhood; (f) the trade or business does not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (i) the use of the Residence for a trade or business does not violate any other provision of the Community Documents.

The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity. The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

4.2 Temporary Occupancy and Temporary Buildings.

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

4.3 Nuisances; Construction Activities

No rubbish or debris of any kind shall be placed or permitted to accumulate on any Lot or other property, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly,

offensive or detrimental to any other property in the vicinity thereof or to the Residents of such other property. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot. No Person shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects. Normal construction activities and parking in connection with the building of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved in writing by the Board. In addition, any construction equipment and building materials stored or kept on any Lot during the construction of Improvements may be kept only in areas approved in writing by the Board, which may also require screening of the storage areas. The provisions of this Section shall not apply to construction activities of the Declarant.

4.4 Antennas.

To the extent permitted by applicable law, the installation of antennas, satellite dishes or other devices for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be subject to the prior written approval of the Board (such approval not to be unreasonably withheld). Therefore, no antenna, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed, installed, erected, used or maintained on any Lot without the prior written approval of the Board unless applicable law prohibits the Board from requiring such approval. Even if applicable law prohibits the Board from requiring prior approval for the installation of certain antennas, any such antennas must still be installed in accordance with any Guidelines established by the Board.

4.5 Trash Containers and Collection.

No garbage or trash shall be placed or kept on any Lot.. All rubbish, trash, or garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot. Owner's personal trash shall be kept in a City of Phoenix provided sanitary container concealed from public view. Sanitary and/or Recycling containers provided by the City shall be removed from public view within 12 hours of pickup by the City of Phoenix Disposal service.

4.6 Utility Service.

No lines, wires, or other devices for the communication or transmission of electric current or power, (except low voltage landscape lighting), including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Board. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Board.

4.7 Overhead Encroachments.

No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other Common Area from ground level to a height of eight (8) feet without the prior written approval of the Board.

4.8 Animals

No animal, bird, fowl, poultry, reptile or livestock may be kept (or bred) on any Lot, except that three (3) dogs, three (3) cats, and four (4) parakeets or similar household birds may be kept on a Lot if they are kept, thereon solely as domestic pets and not for commercial purposes. Dogs shall not be allowed by the Owner to run loose off the Owner's Lot and shall be on lease whenever outside the owner's exclusive use property. Any person bringing a dog onto the Common Area shall immediately remove any feces deposited on the Common Area by the dog. The Board may restrict the portions of the Common Area on which dogs are permitted. Guide dogs for the blind, hearing impaired, etc are excluded from this provision.

No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance. Upon the written request of any Owner, Lessee or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal, or bird is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration.

The Board may adopt rules and regulations further restricting and governing animals within the Project, which rules may include, without limitation rules providing for the removal from the Project of a domestic pet which has bitten or attacked a person or other animal, has a propensity to attack persons or other animals or otherwise constitutes a threat to the safety of persons or other animals in the Project or which because of incessant barking or other behavior constitutes an unreasonable annoyance or nuisance to Owners and Residence Occupants.

4.9 Machinery and Equipment

No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except such machinery or equipment as is usual and customary in connection with residential use of property or machinery or equipment necessary for the construction of a Residence, building, structure, or other Improvement on the Lot.

4.10 Signs.

Except for signs constructed or erected by the Declarant or by the Association, no signs whatsoever may be erected, posted or displayed on any Lot, except security company and for sale or lease signs as approved by the Board or for which the Board had adopted Guidelines.

4.11 Further Subdivision, Property Restrictions, Rezoning and Timeshares.

Without the prior written approval of the Board, no Owner other than the Declarant shall do any of the following: (a) further subdivide a Lot or separate the Lot into smaller lots or parcels; (b) convey or transfer less than all of a Lot; or (c) replat the Lot or combine the Lot with other Lots. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, Lessee, or other Person other than the Declarant against any Lot without the provisions thereof having been first approved in writing by the Board and the Board. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental authority by any Person other than the Declarant unless the application has been approved by the Board and the Board and the proposed use otherwise complies with this Declaration. No Lot shall be subjected to or used for any timesharing, cooperative, fractional share ownership, weekly, monthly or any other type or revolving or periodic occupancy by multiple owners, cooperators, licensees, timesharing participants, or like occupants.

4.12 Vehicles and Parking

As used in this Section: (a) "Motor Vehicle" means a car, van, sport utility vehicle, bus, truck, recreational vehicle, motor home, motorcycle, all terrain vehicle, utility vehicle, pickup truck or other motor vehicle; and (b) "Street" means each public or private street shown on the Plat.

No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer, commercial vehicles or other similar equipment or vehicle may be parked, kept or stored on the Common Area, or on any Lot, except in the Owner's garage, or as determined by the Board in its Guidelines. *Except that for a period not to exceed 72 hours, recreational vehicles (RV's) of owner or owner's guest may be parked on owner's drive.* Owner's are not be allowed to make repairs on their vehicles except in their garages.

4.16 Drainage.

No Residence, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the approved drainage plans on file with the municipality in which the Project is located. In addition, no Owner or other Person shall change the grade or elevation of a Lot in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the approved drainage plans.

4.13 Garages.

Unless owner is willing to supply additional garage space so that not less that space for 3 cars is provided; no garage shall be converted to living space or altered or used for storage of

material or other purposes which would prevent the use of the garage for the parking of the number of vehicles for which it was designed, except that the Declarant may use a garage in one or more model homes for a sales office and/or a construction office. The interior of all garages shall be maintained and kept in a neat, clean and slightly condition, free of debris or unsightly objects. Garage doors shall be kept closed except when the opening of the door is necessary to permit ingress or egress.

4.14 Rooftop HVAC Equipment Prohibited

No heating, ventilating, air conditioning or evaporative cooling units or equipment related thereto may be mounted, installed or maintained on the roof of any Residence or other building.

4.15 Basketball Goals and Backboards

Basketball goals or backboards may be kept on a Lot provided they are kept and used in accordance with the Association Rules which govern their size, design, color, material, location and hours of use.

4.16 Playground Equipment.

No jungle gyms, swing sets or similar playground equipment which would be 3' higher than the Lot's perimeter fencing shall be erected or installed on any Lot without the prior written approval of the Board. Unless otherwise approved by the Board, all such playground equipment shall be installed on the back patio of the Residence.

4.17 Rental of Lots

No Owner may lease less than his entire Lot and the Residence situated thereon. All leases must be in writing and must provide that the terms of the lease are subject in all respect to the provisions of the Community Documents and that any violation of this Declaration or the Association Rules by the lessee or the other occupants shall be a default under the lease. There shall be no subleasing of Residences or assignments of leases.

At least one (1) day before commencement of the lease term, the Owner shall provide the Association with the following information: (a) the commencement date and expiration date of the lease term; (b) the names and ages of each of the Lessees and each other person who will reside in the Residence during the lease term; (c) the address, work and home telephone number at which the Owner can be contacted by the Association during the lease term; and (d) the address, work and home telephone number of all tenants and (e) the name, address and telephone number of a person other than the Owner whom the Association can contact in the event of an emergency involving the Lot. Any Owner who leases his Lot and the Residence situated thereon must provide the Lessee with copies of this Declaration, the Guidelines and the Association Rules.

The Owner shall be liable for any violation of this Declaration, the Guidelines or the Association Rules by the Lessees or other persons residing in the Residence and their guests or invitees and, in the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct any such violations.

4.18 Screening Materials.

All screening materials, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the original construction of such Improvements by the Declarant or as approved by the Board pursuant to Article 3.

4.19 Lights.

Except as initially installed by the Declarant, no spotlights, floodlights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other property except as approved by the Board.

4.24 Window Cover Materials

No reflective materials, including, but without limitation, tinting, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Residence without the prior written approval of the Board.

ARTICLE 5

EASEMENTS

5.1 Easements for Use of Common Area

Every Owner and Resident and their guests shall have a right and easement of enjoyment in and to the Common Area, which right shall be appurtenant to and shall pass with the title to every Lot, subject to:

- (a) The right of the Association to dedicate, convey, transfer, lease or encumber the Common Area as provided in Section 6.10; provided, however, that if access to a Lot is over any part of the Common Area, any conveyance, lease or encumbrance of such Common Area shall be subject to an easement for ingress and egress in favor of the Owner and Residents of the Lot and their guests and invitees.

(b) The right of the Board to adopt rules, regulations or policies regulating the use of the Common Area including rules, regulations and policies limiting the number of guests who may use the Common Area and restricting or prohibiting access to such portions of the Common Area (such as landscaped areas) not intended for use by the Owners, Lessees or Residents.

(c) The right of the Association to suspend the right of an Owner and such Owner's family, tenants and guests to use the Common Area (other than the right of an Owner and such Owner's family, tenants and guests to use any streets which are part of the Common Area for ingress or egress to the Owner's Lot) if such Owner is more than fifteen (15) days delinquent in the payment of Assessments or other amounts due to the Association or if the Owner has violated any other provisions of the Community Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation.

(d) The rights and easements reserved by or granted to the Declarant by this Declaration.

(e) The rights and easements, if any, reserved or granted to the Declarant or any other Person in the deed conveying the Common Area to the Association.

(e) The right of the Association to rent or lease any portion of the Common Area on a short-term basis to an Owner or Resident for the exclusive use of such Owner or Residents and their guests and invitees.

(f) The right of the Board to charge reasonable admission or other fees for the use of any recreational facility or amenity situated on the Common Area.

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

(h) The rights and easements, if any, reserved or granted to the Declarant or any other Person in the deed conveying the Common Area to the Association.

If a Lot is leased or rented by the Owner thereof, the Lessee and the members of the Lessee's family residing with such Lessee shall have the right to use the recreational facilities

situated on the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use such recreational facilities until the termination or expiration of such lease.

The right of easement and enjoyment of the Common Area may not be transferred or assigned except upon the conveyance or transfer of the Lot to which such right is appurtenant.

5.2 Utility and Development Easements

A non-exclusive, perpetual blanket easement is hereby granted over and through the Common Area for the purpose of: (a) installing, constructing, operating, maintaining, repairing or replacing equipment used to provide to any portion of the Property or adjacent land any utilities, including, without limitation, water, sewer, drainage, gas, electricity, telephone and television service, whether public or private; and (b) ingress and egress to install, construct, operate, maintain, repair and replace such equipment and (c) storm water management and storm water drainage, as necessary or desirable for the orderly development of the Property. Such easement is hereby granted to any Person providing the aforesaid utilities or installing, constructing, maintaining, repairing or replacing equipment related thereto. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed or relocated only where permitted by the Declarant, where contemplated on any site plan approved by the Declarant or where approved by resolution of the Board. Equipment used to provide or meter such utilities or services may be installed above ground during periods of construction if approved by the Declarant. The Person providing a service or installing a utility pursuant to this easement shall install, construct, maintain, repair or replace the equipment used to provide or meter the utility as promptly and expeditiously as possible, and shall restore the surface of the land and the surrounding vegetation and improvements to their original condition as soon as possible.

The Declarant hereby reserve the right to grant and reserve easements, rights-of-way and licenses over and through the Common Area for the purposes set forth in this Section or for any other purpose necessary or desirable for the orderly development of the Property. If the Person installing the utility or providing a service requests a specific easement by separate recordable documents, then the Declarant or the Association shall have the power to record a document locating such easements.

5.3 Easements to Facilitate Development

The Declarant hereby reserves to itself and its successors and assigns a non-exclusive blanket easement over and through the Property for all purposes reasonably related to the development and completion of Improvements on the Property, including without limitation: (a) temporary construction easements; (b) easements for the temporary storage of supplies of building materials and equipment necessary to complete Improvements; and (c) easements for the construction, installation and Maintenance of Improvements on the Property or Improvements reasonably necessary to serve the Property.

The Declarant hereby reserves to itself, its successors and assigns the right to: (a) use any Lots owned or leased by the Declarant, any other Lot with written consent of the Owner thereof

or any portion of the Common Area as models, management offices, sales offices, a visitors' center, construction offices, customer service offices or sales office parking areas; and (b) install and maintain on the Common Area, any Lot owned or leased by the Declarant or any other Lot with the consent of the Owner thereof, such marketing, promotional or other signs which the Declarant deems necessary for the development, sale or lease of the Property.

5.4 Dedications and Easements Required by Governmental Authority

The Declarant hereby reserves to itself and its successors and assigns, the right to make any dedications and to grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Common Area.

5.5 Further Assurances.

Any and all conveyances made to the Association or any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements granted and reservations made to the Declarant in this Declaration shall not terminate or merge and shall continue to run with the land, notwithstanding the common law doctrine of merger and the common ownership of all the Property by the Declarant. Upon written request of the Declarant, the Association and each Owner shall from time to time sign, acknowledge and deliver to the Declarant such further assurances of these reservations of rights and easements as may be requested.

5.6 Assignment of Development Rights

The Declarant may make limited temporary assignments of its easement rights under this Declaration to any Person performing construction, installation or Maintenance on any portion of the Property.

5.7 Easement for Maintenance and Enforcement

The Association and its directors, officers, agents, contractors and employees, the Board and any other Persons authorized by the Board are hereby granted the right of access over and through any Lots (excluding the interior of any Residence), for: (a) the exercise and discharge of their respective powers and responsibilities under the Community Documents; (b) making inspections in order to verify that all Improvements on the Lot have been constructed in accordance with the plans and specifications for such Improvements approved by the Board and that all Improvements are being properly maintained as required by the Community Documents; (c) correcting any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area; (d) performing installations or Maintenance of utilities, landscaping or other Improvements located on the Lots for which the Association is responsible for Maintenance; or (e) correcting any condition which violates the Community Documents.

5.8 Easements for Encroachments.

If any Improvements on any Lot or portion of the Common Area now or hereafter encroach on any other portion of the Property by reason of: (a) the original construction thereof; (b) deviations within normal construction tolerances in the Maintenance of any Improvement; or (c) the settling or shifting of any land or Improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists. The Owner of the encroaching Improvement shall also have an easement for the limited purpose of Maintenance of the encroaching Improvement. This easement does not relieve any Owner or any other Person from liability for such Owner's or other Person's negligence or willful misconduct.

ARTICLE 6

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

6.1 Formation of Association.

The Association shall be a nonprofit Arizona corporation. The Association shall have all of the common law and statutory powers conferred upon nonprofit corporations under Arizona law and all powers necessary or desirable to perform the Association's duties and obligations and to exercise the rights and powers of the Association set forth in the Community Documents. The Association shall not be dissolved unless another entity has agreed to assume the obligations of the Association under this Declaration with respect to the operation and maintenance of the Areas of Association Responsibility.

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. The initial directors and officers of the Association shall be designated in the Articles, and such persons shall serve until their death, resignation or removal from office. Until the termination of the Declarant Control Period, the Declarant shall have the right to appoint and remove the members of the Board. After the termination of the Declarant Control Period, the Board shall be elected by the members as provided in the Bylaws. Unless the Community Documents specifically require the vote or consent of the Members, the Board may do or cause to be done any act on behalf of the Association.

6.3 The Association Rules and Guidelines

The Board may adopt, amend and repeal rules and regulations pertaining to: (a) the management, operation and use of the Areas of Association Responsibility including, but not limited to, any recreational facilities situated upon the Areas of Association Responsibility; (b) minimum standards for the Maintenance of Lots; or (c) restrictions on the use of Lots. In the

event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail. The Association Rules shall be enforceable in the same manner and to the same extent as the covenants, conditions and restrictions set forth in this Declaration. The Board may adopt, amend and repeal Guidelines for the Owners to follow relative to those matters set forth in this Declaration.

6.4 Personal Liability.

No director or officer of the Association, no member of the Board or of any committee of the Association, and no other person acting on behalf of the Board shall be personally liable to any Member, or to any other Person for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence in the discharge of such person's duties and responsibilities under the Community Documents provided such person acted in good faith.

6.5 Implied Rights.

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

6.6 Identity of Members.

The Members of the Association shall be the Owners of the Lots. All Owners of Lots shall be mandatory Members of the Association. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

6.7 Classes of Members and Voting Rights.

The Association shall have the following two classes of voting membership:

Class A. Class A Members are all Owners, with the exception of the Declarant until the termination of the Class B membership, of Lots. Each Class A Member shall be entitled to one (1) vote for each Lot owned. Upon the termination of the Class B membership, the Declarant shall be a Class A Member so long as the Declarant owns any Lot.

Class B. The Class B Member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the Turnover Date.

6.8 Voting Procedures.

No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof

thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Class A Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

6.9 Transfer of Membership.

The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each purchaser of a Lot shall notify the Association of his purchase within ten (10) days after he becomes the Owner of a Lot.

6.10 Conveyance, Lease or Encumbrance of Common Area

The Association may grant permits, licenses and easements on, over, under and through the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Property. In addition, the Association may convey portions of the Common Areas to make adjustments in the boundary lines between the Common Areas and adjoining Lots or public rights-of-way. Except as expressly permitted by this Section, the Common Area shall not be mortgaged or conveyed without the prior written consent or affirmative vote of the Declarant and the total affirmative vote or written consent of the Owners holding at least two-thirds (2/3) of the votes in the Association.

6.11 Suspension of Voting Rights

If any Owner fails to pay any Assessments or other amounts due to the Association under the Community Documents within fifteen (15) days after such payment is due or if any Owner violates any other provision of the Community Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner of the violation, such delinquent Owner's right to vote shall be suspended without further action, until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Community Documents are corrected.

ARTICLE 7

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

7.1 Creation of Lien and Personal Obligation of Assessments

Each Owner, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs (including but not limited to reasonable attorneys' fees) incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. During the Declarant Control Period, no Regular Assessment or Special Assessment shall be levied against any Lot owned by the Declarant.

Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

No Owner shall be exempt from liability for Assessments because of such Owner's non-use of the Common Area, abandonment of such Owner's Lot or other circumstance. The obligation to pay Assessments is a separate and independent obligation on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association or the Board to take some action or perform some function required of it.

7.2 Regular Assessments.

At least thirty (30) days prior to the commencement of each Assessment Period, the Board shall prepare and adopt a budget of the estimated Common Expenses for the next Assessment Period, including any contribution to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such Common Expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments are the amount to be generated through Assessments against the Lots. Based on the budget adopted by the Board, the Board shall assess against each Assessable Lot a Regular Assessment. The Regular Assessment shall be the same for each Assessable Lot. The amount of increase, if any, in the Regular Assessment from one Assessment Period to the next Assessment Period shall be subject to such limitations as may be imposed by Arizona law.

The Board shall give notice of the Regular Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Regular Assessment established by the Board nor relieve any Owner from its obligation to pay the Regular Assessment. If the Board fails to adopt a budget for any Assessment Period, then until and unless such budget is adopted and a Regular Assessment is levied by the Board for such Assessment Period, the amount of the Regular Assessment for the immediately preceding Assessment Period shall remain in effect. Unless approval or ratification of the budget or the Regular Assessment for any Assessment Period is required by law, neither the budget nor the Regular Assessment shall be required to be ratified or approved by the Members.

If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessment by Members, the Board may amend the budget and increase the Regular Assessment for that Assessment Period and the revised Regular Assessment shall commence on the date designated by the Board.

7.3 Special Assessments

The Association may levy against each Assessable Lot a Special Assessment for the purpose of obtaining funds to pay the cost of any construction, reconstruction, repair or replacement of an Improvement upon the Common Area (including fixtures and personal property related thereto), or to pay unbudgeted expenses or expenses in excess of the amount budgeted. After the Turnover Date, any Special Assessment must be approved by two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose. So long as the Declarant owns any Lot, any Special Assessment must be approved in writing by the Declarant. Any Special Assessment shall be levied in an equal amount for each Assessable Lot.

7.4 Assessment Period.

The period for which the Regular Assessment is to be levied shall be the calendar year, except that the first Assessment Period shall commence on the first day of the first month following conveyance of the first Lot to a Purchaser and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

7.5 Obligation of Declarant for Deficiencies

During the Declarant Control Period, the Declarant shall pay and contribute to the Association such funds as may be necessary, when added to the Regular Assessment levied by the Association, to pay all Common Expenses of the Association as they become due. The Board may require the payment of such funds by the Declarant from time to time as the Board deems necessary by giving written notice thereof to the Declarant. Each such notice shall state the total amount of funds required and the calculation of the pro rata share of such funds to be paid by the Declarant. In no event shall the Declarant be obligated to pay or contribute money to

the Association in excess of the amount of Regular Assessments that would have been payable by the Declarant if the Lots owned by the Declarant had been assessed as Assessable Lots.

7.6 Rules Regarding Billing and Collection Procedures

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

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

Any Assessment, or any installment of an Assessment, not paid within fifteen (15) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate of interest set from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within fifteen (15) days after such payment was due.

The Association shall have a lien on each Lot for: (a) all Assessments levied against the Lot; (b) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot; (c) all fines levied against the Owner of the Lot; (d) all attorney fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot whether or not suit is filed by the Association; (e) any amounts payable to the Association pursuant to Section 8.3 or 8.4; and (f) any other amounts payable to the Association pursuant to the Community Documents.

The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is recorded and the amount claimed to be past due as of the date of the Recording of the Notice, including interest, lien recording fees and reasonable attorneys' fees. Before recording any Notice of Lien against a Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any, and all other amounts secured by the Assessment Lien. Each default shall constitute a separate basis for

a demand, but any number of defaults may be included within the single demand. If the amounts specified in the demand are not paid within ten (10) days after delivery of the demand, the Association may proceed with recording a Notice of Lien against the Lot. If the Association records a Notice of Lien, the Association may charge the Owner of the Lot against which the Notice of Lien is Recorded a lien fee in an amount established from time to time by the Board.

The Assessment Lien shall have priority over all liens or claims except for: (a) liens and encumbrances recorded before the Recording of this Declaration; (b) liens for real estate taxes and other governmental assessments and charges against the Lot; and (c) any recorded first mortgage on the Lot, a seller's interest in a first contract for sale pursuant to Title 33, Chapter 6, Article 3 of the Arizona Revised Statutes Recorded prior to the Association's lien or a Recorded first deed of trust on the Lot. Any First Mortgagee or any other Person unrelated to the Lot Owner acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person. Any Assessments and charges against the Lot which accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot.

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

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

7.8 Purposes for which Association's Funds May Be Used

The Association may use the funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the purpose of: (a) discharging and performing the Association's duties and obligations under the Community Documents or applicable law; (b) exercising the rights and powers granted to the Association by the Community Documents or applicable law; (c) providing or promoting activities and services the Board deems appropriate, necessary or desirable to foster or promote the common good and general welfare of the Project and the Owners, Lessees and Residents; (d) contracting for services (including, without limitation, trash collection or cable television) to be provided to Owners, Lessees and Residents; and (e) taking such other action as the Board deems necessary, appropriate or desirable for the management and administration of the Association or the benefit of the Association or the Project.

7.9 Surplus Funds.

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

7.10 Initial Capital Contribution

Each Purchaser of a Lot from the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth (1/6th) of the then current Regular Assessment for an Assessable Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Community Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. Payments made pursuant to this Section shall be deemed a contribution to the capital of the Association.

7.11 Transfer Fee.

Each Person who purchases a Lot from a Person other than the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board to compensate the Association for the administrative cost resulting from the transfer of a Lot. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail to deliver to a purchaser under A.R.S. § 33-1806A and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806C.

ARTICLE 8

MAINTENANCE

8.1 Areas of Association Responsibility

The Association shall be responsible for the management and Maintenance of the Areas of Association Responsibility, and all Improvements located thereon, except for any part of the Areas of Association Responsibility which any governmental entity is maintaining or is obligated to maintain. The Board shall be the sole judge as to the appropriate Maintenance of all Areas of Association Responsibility, but the Areas of Association Responsibility, and the Improvements located thereon, shall be maintained in good condition and repair at all times.

No Owner, Resident or other Person shall construct or install any Improvements on the Areas of Association Responsibility or alter, modify or remove any Improvements situated on the Areas of Association Responsibility without the approval of the Board. No Owner, Resident or other Person shall obstruct or interfere with the Association in the performance of the Association's management or Maintenance of the Areas of Association Responsibility, and the Improvements located thereon.

8.2 Lot Owner's Responsibility.

Each Owner of a Lot shall be responsible for the Maintenance of his Lot, and all buildings, Residences, landscaping or other Improvements situated thereon, except for any portion of the Lot, or any Improvement situated thereon, which is an Area of Association Responsibility. All buildings, Residences, landscaping and other Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated, as needed, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be promptly removed; and replaced. No yard equipment, wood piles or storage areas may be maintained so as to be visible from neighboring property or streets.

8.3 Assessment of Certain Costs of Maintenance and Repair

In the event that the need for Maintenance of an Area of Association Responsibility is caused through the willful or negligent act of any Owner, his family, tenants, guests or invitees, the cost of such Maintenance shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

8.4 Improper Maintenance and Use of Lots

In the event (a) any portion of any Lot is so maintained as to present a public or private nuisance (including, but not limited to, not having the Residence periodically treated for pests, insects and vermin), or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, (b) any portion of a Lot is being used in a manner which violates this Declaration, or (c) the Owner of any Lot is failing to perform any of its obligations under the Community Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fifteen (15) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fifteen (15) day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien. Each Owner shall have his Residence treated for pests, insects and vermin as needed, but no less than once every two (2) months.

8.5 Boundary Walls.

Each wall which is located on the boundary between two Lots shall constitute a boundary wall and, to the extent not inconsistent with this Section, the general rules of law regarding boundary walls shall apply.

The Owners of contiguous Lots who share a boundary wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner. Except as otherwise provided in this Section, the Owners of contiguous Lots who share a boundary wall shall each pay one-half ($\frac{1}{2}$) of the cost of any maintenance, repair or replacement of the boundary wall. Either of such Owners may perform any necessary repair, maintenance or replacement of the boundary wall and in such event, such Owner shall be entitled to reimbursement from the other Owner for one-half ($\frac{1}{2}$) of such cost. In the event that any boundary wall is damaged or destroyed through the negligence or willful act of an Owner, his agents, tenants, licensees, guests or family, it shall be the obligation of such Owner to rebuild and repair the boundary wall without cost to the other Owner or Owners who share the boundary wall.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a boundary wall shall first obtain the written consent of the adjoining Owners.

In the event any boundary wall encroaches upon a Lot, a valid easement for such encroachment and for the maintenance of the boundary wall shall and does exist in favor of the Owners of the Lots which share such boundary wall.

The Declarant hereby reserves to itself and its successors and assigns a perpetual, non-exclusive easement over, under, upon and across the Lots for the purpose of repairing or relocating a boundary wall without the consent of the Owners who share the use of the boundary wall.

8.6 Maintenance of Walls other than Boundary Walls

Walls (other than boundary walls) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot. Any wall which is placed on the boundary line between a Lot and an Area of Association Responsibility shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Area of Association Responsibility. In the event any such wall encroaches upon the Common Area or a Lot, an easement for such encroachment shall exist in favor of the Association or the Owner of the Lot, as the case may be. Any wall which is placed on the boundary line between a Lot and public right-of-way shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and replacement of the surface of the wall which faces the public right-of-way.

ARTICLE 9

INSURANCE

9.1 Scope of Coverage.

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

- (a) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;
- (b) Property insurance on all Common Areas insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Areas, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy.
- (c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;
- (d) Director's and Officer's liability insurance and such other insurance as the Board shall determine from time to time to be appropriate to protect the Association, the Directors, the Officers, or the Owners;
- (e) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to

recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

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

9.2 Certificates of Insurance.

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

9.3 Payment of Insurance Proceeds.

With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 9.4, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

9.4 Repair and Replacement of Damaged or Destroyed Property

Any portion of the Common Areas which is damaged or destroyed shall be repaired or replaced promptly by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance, or Owners representing at least seventy percent (70%) of the total authorized votes in the Association vote not to repair or replace the damaged or destroyed Improvements. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association.

If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas of Association Responsibility shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either be retained by the Association as an additional capital reserve.

ARTICLE 10

DISPUTE RESOLUTION

10.1 Defined Terms. As used in this Article 10, the following terms shall the meaning set forth below:

- (a) **"Alleged Defect"** means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Common Area or any Lot.

(b) **"Bound Parties"** means: (i) the Declarant; (ii) all Lot Owners, Lessees and Residents; and (iii) any contractor or subcontractor, architect, engineer, consultant or other Person who performs or furnishes the design, specifications, surveying, planning, supervision, testing, construction or observation of construction of the Common Area or the Lots and who agrees in writing to be bound by the provisions of this Article 10.

(c) **"Claim"** means: (i) any claim or cause of action arising out of or related in any way to the planning, design, engineering, grading, construction or development of the Common Area or the Lots or any other part of the Project, including, without limitation, any claim or cause of action that the Common Area or the Lots are defective or that the Declarant or its agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof; or (ii) any claim or cause of action against the Declarant or any employee, agent, director, member or officer of Declarant, an officer or director of the Association, or an officer, director, or employee of any property management company engaged by the Association, arising out of or in any way related to the development of the Project or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty.

10.2 Agreement to Resolve Certain Disputes Without Litigation All Bound Parties agree that all Claims shall be resolved exclusively in accordance with the dispute resolution procedures set forth in this Article 10.

10.3 Notice of Claim.

Any Bound Party having or alleging to have a Claim (a "Claimant") against any other Bound Party (a "Respondent") shall notify each Respondent in writing of the Claim (the "Claim Notice"), stating plainly and concisely: (a) the nature of Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; and (c) what Claimant wants Respondent to do or not do to resolve the Claim.

In the event the Claimant is the Association, the Association must provide written notice to all Members prior to delivering a Claim Notice or commencing any legal action, cause of action, proceeding, reference or arbitration against the Declarant or any other Bound Party which notice shall (at a minimum) include: (a) a description of the Claim, (b) a description of the attempts of any Declarant or other Bound Party to correct such Alleged Defect and the opportunities provided to Declarant or other Bound Party to correct such Alleged Defect, (c) the estimated cost to repair such Alleged Defect, (d) the name and professional background of the attorney retained by the Association to pursue the claim against a Declarant or other Bound Party and a description of the relationship between such attorney and member(s) of the Board (if any), (e) a description of the fee arrangement between such attorney and the Association, (f) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against the

Declarant or other Bound Party and the source of the funds which will be used to pay such fees and expenses, (g) the estimated time necessary to conclude the action against the Declarant or a other Bound Party, (h) a description of the manner in which the action will be funded and a description of any demands, notices, offers to settle or responses to offers to settle made either by the Association or other Bound Party, and (i) an affirmative statement from the Board that the action is in the best interests of the Association and its Members. If the Alleged Defect is alleged to be the result of an act or omission of a person licensed by the State of Arizona under Title 20 or Title 32 of the Arizona Revised Statutes (a "Licensed Professional"), then the notice from the Association must be accompanied by an affidavit from a Licensed Professional in the same discipline as the Licensed Professional alleged to be responsible for the Alleged Defect. The affidavit must contain the information required to be contained in a preliminary expert opinion affidavit submitted pursuant to Section 12-2602B of the Arizona Revised Statutes.

10.4 Mediation.

If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be agreed upon by the Parties ("Termination of Negotiations"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation by an individual or entity who regularly mediates such disputes such as the American Arbitration Association ("AAA") or such other independent mediation service agreed to by the Claimant and Respondent.

If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim. If either party delays the mediation, refuses mediation or commences legal action without first attempting to mediate (except in case of reservation of rights), then that party shall not be entitled to recover attorney fees and costs, even if they would otherwise be awarded and recoverable

If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

10.5 Binding Arbitration.

In the event a Claim is not resolved by Mediation, the Claimant shall have fifteen (15) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. If the Claimant submits the Claim to binding arbitration in accordance with this Section, the arbitration shall be conducted in accordance with the following:

(a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the AAA Commercial Arbitration Rules, or such other AAA rules as the AAA determines to be applicable (the "AAA Rules"). A Respondent may join as a party to the arbitration any Bound Party who may be liable to the Respondent or the Claimant with respect to the Claim.

(b) **Governing Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, *et seq.* In the event of a conflict between the AAA Rules and this Section 10.5, the provisions of this Section 10.5 shall govern.

(c) **Appointment of Arbitrator.** The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection (c) is referred to in this Section 10.5 as the "Arbitrator".

(d) **Qualifications of Arbitrator.** The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.

(e) **Disclosure.** Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection (c) above.

(f) **Compensation.** The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate, unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(g) **Preliminary Hearing.** Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the Parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in

addition to those set forth in the AAA Rules, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the Parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

(h) **Management of the Arbitration.** The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(i) **Confidentiality.** All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) **Hearings.** Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) **Final Award.** The Arbitrator shall promptly (within sixty (60) days of the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made; provided, however, that such damages may be deemed by the Arbitrator to be direct damages in an award reimbursing payments made by a party therefor to a third party. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

10.6 Right to Enter, Inspect, Repair and/or Replace

Within a reasonable time after the receipt by the Declarant or other Bound Party of a Claim Notice, the Declarant or other Bound Party shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Area, any Lot, including any Residence constructed thereon, and/or any Improvements for the purposes of inspecting and/or conducting testing to determine the validity of the Claim and, if deemed necessary by the Declarant or other Bound Party, to correct, repair and/or replace any Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, Declarant or other Bound Party shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

Nothing set forth in this Section shall be construed to impose any obligation on the Declarant or other Bound Party to inspect, test, repair, or replace any item or Alleged Defect for which the Declarant or other Bound Party is not otherwise obligated under applicable law or any limited warranty provided by the Declarant or other Bound Party in connection with the sale of the Lots and/or the Improvements constructed thereon. The right of the Declarant and other Bound Parties to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and Recorded by the Declarant or a other Bound Party. In no event shall any statutes of limitations be tolled during the period in which the Declarant or other Bound Party conducts any inspection or testing of any Alleged Defects.

10.7 Use of Funds.

In the event the Association recovers any funds from a Declarant or any other Person as a result of a claim involving an Alleged Defect, the funds shall first be used to correct and or repair the Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect, and any excess funds shall be paid into the Association's reserve fund.

10.8 Approval of Litigation.

The Association shall not deliver a Claim Notice to any Bound Party, commence any legal action or arbitration proceeding against any Bound Party or incur any expenses (including, without limitation, attorneys' fees) in connection with any Claim without the written approval of Owners entitled to cast more than seventy-five percent (75%) of the total votes in the Association, excluding the votes of any Owner who would be a defendant in such proceedings. The Association must pay for any such legal action or arbitration proceeding with monies that are specifically collected for such purposes and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal action or arbitration proceeding involving a Claim, all Owners must notify prospective purchasers of such legal action or arbitration proceeding and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 10.3.

ARTICLE 11

GENERAL PROVISIONS

11.1 Enforcement.

The Association may enforce the Community Documents in any manner provided for in the Community Documents or by law or in equity, including, but not limited to:

- (a) imposing reasonable monetary fines after notice and an opportunity to be heard is given to the Owner or other violator. An Owner shall be responsible for payment of any fine levied or imposed against a Lessee or Resident of the Owner's Lot or by any guest or invitee of the Owner or any Lessee or Resident;
- (b) suspending an Owner's right to vote;
- (c) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (d) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 15 days delinquent in paying any assessment or other charge owed to the Association;
- (e) exercising self-help or taking action to abate any violation of the Community Documents in a non-emergency situation;
- (f) requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Lot in violation of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;
- (g) without liability 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 this Declaration or the Design Guidelines from continuing or performing any further activities in the Project;

(h) towing vehicles which are parked in violation of this Declaration or the Association Rules; and

(i) filing a suit at law or in equity to enjoin a violation of the Community Documents, to compel compliance with the Community Documents, to recover fines or money damages or to obtain such other relief as to which the Association may be entitled.

(j) recording a written notice of violation by any Owner, Lessee or Resident of any restriction or other provision of the Community Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner, Lessee or Resident violating, or responsible for the violation of, the Community Documents; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and Resident, and any subsequent purchaser of the Lot, that there is such a violation. Failure by the Association to Record a notice of violation shall not constitute a waiver of any such violation, constitute any evidence that no violation exists with respect to a particular Lot or constitute a waiver of any right of the Association to enforce the Community Documents.

The Association shall not be obligated to take any enforcement action if the Board determines, in its sole discretion, that because of the strength of the Association's possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association.

Any Owner shall also have the right to enforce this Declaration in any manner available at law or in equity. All rights and remedies of the Association under the Community Documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Community Documents shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Community Documents in the future. If any lawsuit is filed by the Association or any Owner to enforce the provisions of the Community Documents or in any other manner arising out of the Community Documents or the operations of the Association, the prevailing party in such action

shall be entitled to recover from the other party all attorney fees incurred by the prevailing party in the action.

11.2 Duration; Termination.

This Declaration, as it may be amended pursuant to Section 11.3, shall run with the land and bind the Property and be in full force and effect in perpetuity unless terminated as provided in this Section. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Following the Recording of a Certificate of Termination, this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles. So long as the Declarant owns one or more Lots, no termination of this Declaration shall be effective unless approved in writing by the Declarant.

11.3 Amendments.

Prior to the turnover of the Project and Common Areas to the Association, the Declarant may unilaterally amend this Declaration. After the turnover of the Project and Common Areas to the Association, this Declaration may be amended at any time by the affirmative vote of Owners of not less than two-thirds (2/3) of the Lots. So long as the Declarant owns one or more Lots, any amendment to this Declaration must be approved in writing by the Declarant. In addition, the provisions of Article 10 shall not be amended without the prior written consent of the Declarant even if the Declarant no longer owns any Lot at the time the amendment is adopted by the Owner.

Any amendment approved by the Owners shall be signed by the President or Vice President of the Association and shall be Recorded. Unless a later effective date is provided for in the amendment, any amendment to this Declaration shall be effective upon the Recording of the amendment.

Any challenge to an amendment to this Declaration for the reason that the amendment was not adopted by the required number of Owners or was not adopted in accordance with the procedures set forth in this Section must be made within one (1) year after the Recording of the amendment.

11.4 Condemnation of Common Area

If all or any part of the Common Area is taken or condemned, or conveyed by the Association in lieu of or under threat of such condemnation, by or to any authority having the power of condemnation or eminent domain, the award or other compensation paid as a result of such taking or conveyance shall be paid to the Association. If the taking involves a portion of the Common Area upon which Improvements have been constructed, then the Association shall

construct replacement Improvements on the remaining Common Area to the extent land is available for such construction, unless within sixty (60) days after such taking the Owners holding at least eighty percent (80%) of the votes in the Association instruct the Board not to build replacement Improvements.

If such replacement Improvements are to be constructed, then the Association shall be entitled to use the award or other compensation made for such taking solely for the purpose of such construction. If the taking does not involve any Improvements on the Common Area or if the Owners holding more than eighty percent (80%) of the votes in the Association decide not to construct any replacement Improvements or if there are any net funds remaining after such construction is completed, then such awarded net funds shall be retained by the Association and used for such purposes as may be determined by the Board.

11.5 Interpretation.

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

11.6 Severability.

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

11.7 Change of Circumstances

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

11.8 Laws, Ordinances and Regulations

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

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

11.9 References to this Declaration in Deeds

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

11.10 Gender and Number.

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

11.11 Captions and Titles.

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

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

**CAPTION HEADING: Declaration of Covenants, Conditions
and Restrictions for The Estates At Lone Mountain**

DO NOT REMOVE

**THIS IS PART OF AN OFFICIAL
DOCUMENT**

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

Lomas Verdes Estates

This Declaration of Covenants, Conditions, and Restrictions for Lomas Verdes Estates (this "Declaration") is made this day of , by Lomas Verdes Estates, LLC , an Arizona Limited Liability Company (the "Declarant").

INTRODUCTION

A. The Declarant is the Owner of fee title to the real property located in City of Scottsdale , County of Maricopa, State of Arizona, legally described on Exhibit A attached hereto (the "Property").

B. By executing and recording this Declaration with the County Recorder of Maricopa County, Arizona, the Declarant intends to impose upon the Property mutually beneficial covenants, conditions, restrictions and easements to establish a flexible and reasonable procedure for the overall development, administration, maintenance, use and preservation of the Property. Declarant intends for this Declaration to create equitable servitudes and covenants appurtenant to and running with the Property and which will be binding upon all future Owners of all or any portion of the Property and any other Person acquiring any right, title or interest in or to all of any portion of the Property.

C. Declarant deems it desirable to provide for the creation of a nonprofit corporation under the laws of the State of Arizona to administer and maintain, repair and replace the Areas of Association Responsibility and to provide for the levying and collecting of Assessments and other charges by the Association for the purpose, among other things, of paying all costs and expenses incurred or to be incurred by the Association in connection with the maintenance, repair and replacement and administration of the Areas of Association Responsibility and the enforcement of the covenants, conditions and restrictions contained in this Declaration.

ARTICLE 1

DEFINITIONS

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

1.1 "**Areas of Association Responsibility**" means (a) all Common Area; and (b) all land, and the Improvements situated thereon, located within the boundaries of a Lot or a public right-of-way which the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration or other Recorded document executed by the Declarant or the Association.

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

1.3 **"Assessable Lot"** means, during the Declarant Control Period, a Lot owned by a Person other than the Declarant. After the termination of the Declarant Control Period, all Lots shall be Assessable Lots.

1.4 **"Assessment"** means a Regular Assessment or Special Assessment.

1.5 **"Assessment Lien"** means the lien created and imposed by Article 7.

1.6 **"Assessment Period"** means the period set forth in Section 7.4.

1.7 **"Association"** means **Estates at Lone Mountain Homeowner's Association**, an Arizona nonprofit corporation, and its successors and assigns.

1.8 **"Association Rules"** means the rules adopted by the Board pursuant to Section 6.3.

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

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

1.11 **"Common Area"** means (a) Tracts A through C, inclusive, **Estates at Lone Mountain** (also know as **"Hidden Estates"**), according to the plat recorded in Book 653 of Maps, page 20, records of Maricopa County, Arizona, together with all improvements situated thereon and (b) all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest, except that Common Area shall not include any Lot the Association acquires by the foreclosure of the Assessment Lien or any deed in lieu of foreclosure.

1.12 **"Common Expenses"** means the actual and estimated expenses incurred or anticipated to be incurred by or on behalf of the Association, including any allocations to reserves determined by the Board to be necessary and appropriate, and all other financial liabilities of the Association.

1.13 **"Community Documents"** means, collectively, this Declaration, the Articles, the Bylaws, the Association Rules and Guidelines, all as amended from time to time.

1.14 **"Declarant"** means **Estates at Lone Mountain Landing, L.L.C.**, an Arizona Limited Liability Company, and any Person to whom it may expressly assign any or all of its rights under this Declaration by a Recorded instrument.

1.15 "**Declarant Control Period**" means the period commencing upon the Recording of this Declaration and ending on the date Declarant no longer owns a lot in the Project or an earlier Turnover Date.

1.16 "**Declaration**" means this Declaration of Covenants, Conditions, and Restrictions for Estates at Lone Mountain, as amended from time to time.

1.17 "**First Mortgage**" means any mortgage or deed of trust on a Lot which has priority over all other mortgages and deeds of trust on the same Lot.

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

1.19 "**Guidelines**" means the procedures, standards and guidelines adopted by the Board pursuant to Section 3.11, as amended or supplemented from time to time.

1.20 "**Improvement**" means: (a) any Residence, building, fence or wall; (b) any swimming pool, tennis court, basketball goal, backboard or apparatus or playground equipment; (c) any road, driveway or parking area; (d) any trees, plants, shrubs, grass, sprinkler system or other landscaping improvements of any type and kind; (e) any statuary, fountain, artistic work, craft work, figurine or ornamentation of any type or kind, and (f) any other structure of any type, kind or nature.

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

1.22 "**Lot**" means a parcel of land within the Project, whether improved or unimproved, intended for independent ownership and use and designated as a "lot" on the Plat and any Residence, building, structure or other Improvement situated thereon.

1.23 "**Maintenance**" means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

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

1.25 "**Member**" means any Person who is a member of the Association as provided in Section 6.6.

1.26 "**Owner**" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. In the case of Lots subject to an option agreement, the optionor shall be deemed to be the Owner. Owner shall not include Persons having an interest in a Lot merely as security for the performance of an obligation or a Lessee. Owner shall include a purchaser

under a Recorded contract for the conveyance of real property subject to the provisions of A.R.S. § 33-741 et. seq. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of a Lot subject to a deed of trust pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the Owner. In the case of a Lot the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

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

1.28 **"Plat"** means the plat of Estates at Lone Mountain(also known as: Hidden Estates), recorded in Book 653 of Maps, page 20, records of Maricopa County, Arizona, and all amendments, supplements and corrections thereto.

1.29 **"Property" or "Project"** means the real property described on Exhibit A attached to this Declaration together with all Improvements located thereon.

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

1.31 **"Recording"** means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona, and Recorded means having been so placed of public record.

1.32 **"Regular Assessment"** means the Assessments levied pursuant to Section 7.2.

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

1.34 **"Resident"** means each person occupying or residing in any Residence.

1.35 **"Special Assessment"** means any assessment levied pursuant to Section 7.3.

1.36 **"Turning Date"** means the earlier of: (a) December 31, 2011; (b) the date Declarant shall elect to transfer control of the Association to the Owners, by notice to the Owners, in writing, six (6) months in advance of the Turnover Date, or (c) the date that is no later than six (6) months from the date Declarant no longer owns a Lot in the Project.

ARTICLE 2

PROPERTY AND PERSONS BOUND BY DECLARATION

2.1 Purpose and Binding Effect

Declarant is the record owner of fee title to the Property. Declarant intends by this Declaration to impose upon the Property covenants, conditions, restrictions and easements to create a general plan of development for the Property and to provide a flexible and reasonable procedure for the administration, maintenance, preservation, use and enjoyment of the Property. The Declarant declares that all of the Property shall be held, sold, used and conveyed subject to the easements, restrictions, conditions and covenants set forth in this Declaration which are for the purpose of protecting the value, desirability and appearance of the Property. Declarant further declares that all of easements, restrictions, conditions and covenants in this Declaration shall run with the Property and shall be binding upon and inure to the benefit of the Declarant and all Owners, Lessees and Residents and all other Persons having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors, successors in title and assigns. Each Person who acquires any right, title or interest in the Property, or any part thereof, agrees to abide by all of the provisions of the Community Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Community Documents, or as to the compliance of any of the provisions of the Community Documents with public laws, ordinances and regulations applicable thereto.

2.2 Disclaimer of Implied Covenants

The Declarant makes no representation or warranty that the Project will be developed in accordance with the zoning and development plan for the Project as it exists as of the Recording of this Declaration. Each Owner, Lessee, Resident and other Person acquiring any Lot or other real property in the Project acknowledges that the zoning and development plan may be amended from time to time by the City of Phoenix. The Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Community Documents or as to the compliance of any provision of the Community Documents with public laws, ordinances, or regulations applicable to the Project. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of any property subject to this Declaration.

ARTICLE 3

ARCHITECTURAL CONTROL

3.1 Approval Required.

As used in this Article 3, "Construction" means any devegetation, excavation or grading work or the construction, erection or installation of an Improvement on a Lot, and "Modification" means an addition, alteration, repair, paint, change or other work to any Improvement or which in any way alters the exterior appearance of any Improvement located on a Lot. No Construction or Modification shall be made or done without the prior written approval of the Board. All construction, under this provision, shall be performed by licensed contractors and where required, with a building permit from the local governmental agency. The provisions of this Article do not apply to, and approval of the Board shall not be required for, any Construction or Modification or any other work made by, or on behalf of, the Declarant.

Any Owner desiring approval of the Board for any Construction or Modification shall submit to the Board a written request for approval specifying in detail the nature and extent of the Construction or Modification which the Owner desires to perform. The request for approval must be accompanied by plans or specifications showing the nature, kind, color, shape, height, materials and location of the Improvements and such other information as may be required by the Guidelines. Any Owner requesting the approval of the Board shall also submit to the Board any additional information, plans and specifications which the Board may request.

In the event that the Board fails to approve or disapprove a complete application for approval within forty-five (45) days after the application and all supporting information, plans and specifications requested by the Board, have been submitted to the Board, approval will not be required and this Section will be deemed to have been complied with by the Owner who requested approval of such plans. The approval by the Board of any Construction or Modification shall not be deemed a waiver of the Board's right to withhold approval of any similar Construction or Modification subsequently submitted for approval.

3.2 Review of Plans.

In reviewing plans and specifications for any Construction or Modification, the Board may consider any and all factors which the Board, in its sole and absolute discretion, determines to be relevant including, but not limited to: (a) the harmony of the proposed Improvements with existing Improvements in the Project or with Improvements previously approved by the Board but not yet constructed; (b) the location of the proposed Improvements in relation to existing topography, finished grade elevations, roads, Common Area and other structures; (c) the exterior design, finish materials and color of the proposed Improvements; and (d) compliance of the proposed Improvements with this Declaration and the Guidelines.

Decisions of the Board may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary

as to the desirability and attractiveness of certain Improvements. Each Owner agrees that the decision of the Board shall be final on all matters submitted to it pursuant to this Declaration.

The approval required of the Board pursuant to this Article 3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

The Board, by resolution, may exempt certain Construction or Modifications from the application and approval requirements of this Article, provided such Construction or Modifications are undertaken in strict compliance with the requirements of such resolution. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of a Residence without approval so long as such activity does not affect the exterior appearance of the Residence.

3.3 Variances.

The Board may authorize variances from compliance with any provision of the Design Guidelines in circumstances where the design meets the intent of the provision sought to be varied and where granting of the variance would enhance design innovation and excellence, or when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations so require, and the Board determines, in its sole discretion, that the objective of the particular requirement can still be achieved. No variance shall be effective unless in writing and signed by the Association's President or Vice President. No variance may be contrary to this Declaration or estop the Board from denying a variance in other circumstances including, without limitation, circumstances similar or identical to circumstances under which the Board previously granted a variance. For purpose of this Section, the inability to obtain approval of any governmental agency, issuance of any permit, or the terms of any financing shall not constitute hardships.

3.4 Construction of Improvements.

Upon receipt of approval from the Board for any Construction or Modification, the Owner who had requested such approval shall proceed with the Construction or Modification approved by the Board as soon as practicable and shall diligently pursue such Construction or Modification so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Board.

3.5 No Changes Without Approval

Any Construction or Modification approved by the Board must be done or performed in accordance with the plans and specifications approved by the Board. No change, deletion or addition to the plans and specifications approved by the Board may be made without the prior written approval of the Board.

3.6 Review Fee.

The Board shall have the right to charge a non-refundable fee for reviewing requests for approval of any Construction or Modification, which fee shall be payable at the time the application for approval is submitted to the Board. The fee charged by the Board may include the actual or estimated fees or costs incurred or anticipated to be incurred by the Board in consulting with, or having the application reviewed by, architects, engineers or other professionals. The Association may retain architects, engineers or other persons as deemed necessary to review applications or otherwise assist the Board.

3.7 New Construction.

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

3.8 No Warranty.

The approval by the Board of any Construction or Modification shall not be deemed a warranty or representation by the Board as to the quality of such Construction or Modification or that such Construction or Modification conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

3.9 Conditional Approval.

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

3.10 Improvements to Areas of Association Responsibility

If plans and specifications submitted to the Board pertain to an Improvement which is within an Area of Association Responsibility so that the Association is responsible for the maintenance, repair and replacement of such Improvement, the Board may condition its approval of the plans and specifications for the proposed Construction or Modification with respect to the Improvement on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Improvement.

ARTICLE 4

USE RESTRICTION

4.1 Residential Use

All Residences shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Residence, except that the Owner, Lessee or other Resident of a Residence may conduct a business activity within the Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activity is a legal activity and conforms to all applicable zoning ordinances or requirements for the Project; (c) the use of the Residence for trade or business in no way destroys or is incompatible with the residential character of the Residence or the surrounding neighborhood; (d) the trade or business is conducted only inside the Residence; (e) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or be in excess of what is customary in a residential neighborhood; (f) the trade or business does not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (i) the use of the Residence for a trade or business does not violate any other provision of the Community Documents.

The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity. The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

4.2 Temporary Occupancy and Temporary Buildings.

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

4.3 Nuisances; Construction Activities

No rubbish or debris of any kind shall be placed or permitted to accumulate on any Lot or other property, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly,

offensive or detrimental to any other property in the vicinity thereof or to the Residents of such other property. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot. No Person shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects. Normal construction activities and parking in connection with the building of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved in writing by the Board. In addition, any construction equipment and building materials stored or kept on any Lot during the construction of Improvements may be kept only in areas approved in writing by the Board, which may also require screening of the storage areas. The provisions of this Section shall not apply to construction activities of the Declarant.

4.4 Antennas.

To the extent permitted by applicable law, the installation of antennas, satellite dishes or other devices for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be subject to the prior written approval of the Board (such approval not to be unreasonably withheld). Therefore, no antenna, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed, installed, erected, used or maintained on any Lot without the prior written approval of the Board unless applicable law prohibits the Board from requiring such approval. Even if applicable law prohibits the Board from requiring prior approval for the installation of certain antennas, any such antennas must still be installed in accordance with any Guidelines established by the Board.

4.5 Trash Containers and Collection.

No garbage or trash shall be placed or kept on any Lot. All rubbish, trash, or garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot. Owner's personal trash shall be kept in a City of Phoenix provided sanitary container concealed from public view. Sanitary and/or Recycling containers provided by the City shall be removed from public view within 12 hours of pickup by the City of Phoenix Disposal service.

4.6 Utility Service.

No lines, wires, or other devices for the communication or transmission of electric current or power, (except low voltage landscape lighting), including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Board. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Board.

4.7 Overhead Encroachments.

No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other Common Area from ground level to a height of eight (8) feet without the prior written approval of the Board.

4.8 Animals

No animal, bird, fowl, poultry, reptile or livestock may be kept (or bred) on any Lot, except that three (3) dogs, three (3) cats, and four (4) parakeets or similar household birds may be kept on a Lot if they are kept, thereon solely as domestic pets and not for commercial purposes. Dogs shall not be allowed by the Owner to run loose off the Owner's Lot and shall be on lease whenever outside the owner's exclusive use property. Any person bringing a dog onto the Common Area shall immediately remove any feces deposited on the Common Area by the dog. The Board may restrict the portions of the Common Area on which dogs are permitted. Guide dogs for the blind, hearing impaired, etc are excluded from this provision.

No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance. Upon the written request of any Owner, Lessee or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal, or bird is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration.

The Board may adopt rules and regulations further restricting and governing animals within the Project, which rules may include, without limitation rules providing for the removal from the Project of a domestic pet which has bitten or attacked a person or other animal, has a propensity to attack persons or other animals or otherwise constitutes a threat to the safety of persons or other animals in the Project or which because of incessant barking or other behavior constitutes an unreasonable annoyance or nuisance to Owners and Residence Occupants.

4.9 Machinery and Equipment

No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except such machinery or equipment as is usual and customary in connection with residential use of property or machinery or equipment necessary for the construction of a Residence, building, structure, or other Improvement on the Lot.

4.10 Signs.

Except for signs constructed or erected by the Declarant or by the Association, no signs whatsoever may be erected, posted or displayed on any Lot, except security company and for sale or lease signs as approved by the Board or for which the Board had adopted Guidelines.

4.11 Further Subdivision, Property Restrictions, Rezoning and Timeshares.

Without the prior written approval of the Board, no Owner other than the Declarant shall do any of the following: (a) further subdivide a Lot or separate the Lot into smaller lots or parcels; (b) convey or transfer less than all of a Lot; or (c) replat the Lot or combine the Lot with other Lots. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, Lessee, or other Person other than the Declarant against any Lot without the provisions thereof having been first approved in writing by the Board and the Board. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental authority by any Person other than the Declarant unless the application has been approved by the Board and the Board and the proposed use otherwise complies with this Declaration. No Lot shall be subjected to or used for any timesharing, cooperative, fractional share ownership, weekly, monthly or any other type or revolving or periodic occupancy by multiple owners, cooperators, licensees, timesharing participants, or like occupants.

4.12 Vehicles and Parking

As used in this Section: (a) "Motor Vehicle" means a car, van, sport utility vehicle, bus, truck, recreational vehicle, motor home, motorcycle, all terrain vehicle, utility vehicle, pickup truck or other motor vehicle; and (b) "Street" means each public or private street shown on the Plat.

No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer, commercial vehicles or other similar equipment or vehicle may be parked, kept or stored on the Common Area, or on any Lot, except in the Owner's garage, or as determined by the Board in its Guidelines. *Except that for a period not to exceed 72 hours, recreational vehicles (RV's) of owner or owner's guest may be parked on owner's drive.* Owner's are not be allowed to make repairs on their vehicles except in their garages.

4.16 Drainage.

No Residence, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the approved drainage plans on file with the municipality in which the Project is located. In addition, no Owner or other Person shall change the grade or elevation of a Lot in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the approved drainage plans.

4.13 Garages.

Unless owner is willing to supply additional garage space so that not less that space for 3 cars is provided; no garage shall be converted to living space or altered or used for storage of

material or other purposes which would prevent the use of the garage for the parking of the number of vehicles for which it was designed, except that the Declarant may use a garage in one or more model homes for a sales office and/or a construction office. The interior of all garages shall be maintained and kept in a neat, clean and sightly condition, free of debris or unsightly objects. Garage doors shall be kept closed except when the opening of the door is necessary to permit ingress or egress.

4.14 Rooftop HVAC Equipment Prohibited

No heating, ventilating, air conditioning or evaporative cooling units or equipment related thereto may be mounted, installed or maintained on the roof of any Residence or other building.

4.15 Basketball Goals and Backboards

Basketball goals or backboards may be kept on a Lot provided they are kept and used in accordance with the Association Rules which govern their size, design, color, material, location and hours of use.

4.16 Playground Equipment.

No jungle gyms, swing sets or similar playground equipment which would be 3' higher than the Lot's perimeter fencing shall be erected or installed on any Lot without the prior written approval of the Board. Unless otherwise approved by the Board, all such playground equipment shall be installed on the back patio of the Residence.

4.17 Rental of Lots

No Owner may lease less than his entire Lot and the Residence situated thereon. All leases must be in writing and must provide that the terms of the lease are subject in all respect to the provisions of the Community Documents and that any violation of this Declaration or the Association Rules by the lessee or the other occupants shall be a default under the lease. There shall be no subleasing of Residences or assignments of leases.

At least one (1) day before commencement of the lease term, the Owner shall provide the Association with the following information: (a) the commencement date and expiration date of the lease term; (b) the names and ages of each of the Lessees and each other person who will reside in the Residence during the lease term; (c) the address, work and home telephone number at which the Owner can be contacted by the Association during the lease term; and (d) the address, work and home telephone number of all tenants and (e) the name, address and telephone number of a person other than the Owner whom the Association can contact in the event of an emergency involving the Lot. Any Owner who leases his Lot and the Residence situated thereon must provide the Lessee with copies of this Declaration, the Guidelines and the Association Rules.

The Owner shall be liable for any violation of this Declaration, the Guidelines or the Association Rules by the Lessees or other persons residing in the Residence and their guests or invitees and, in the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct any such violations.

4.18 Screening Materials.

All screening materials, whether fences, hedges or walls, shall be maintained and replaced from time to time on the Lots by the Owners thereof in accordance with the original construction of such Improvements by the Declarant or as approved by the Board pursuant to Article 3.

4.19 Lights.

Except as initially installed by the Declarant, no spotlights, floodlights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other property except as approved by the Board.

4.24 Window Cover Materials

No reflective materials, including, but without limitation, tinting, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Residence without the prior written approval of the Board.

ARTICLE 5

EASEMENTS

5.1 Easements for Use of Common Area

Every Owner and Resident and their guests shall have a right and easement of enjoyment in and to the Common Area, which right shall be appurtenant to and shall pass with the title to every Lot, subject to:

- (a) The right of the Association to dedicate, convey, transfer, lease or encumber the Common Area as provided in Section 6.10; provided, however, that if access to a Lot is over any part of the Common Area, any conveyance, lease or encumbrance of such Common Area shall be subject to an easement for ingress and egress in favor of the Owner and Residents of the Lot and their guests and invitees.

(b) The right of the Board to adopt rules, regulations or policies regulating the use of the Common Area including rules, regulations and policies limiting the number of guests who may use the Common Area and restricting or prohibiting access to such portions of the Common Area (such as landscaped areas) not intended for use by the Owners, Lessees or Residents.

(c) The right of the Association to suspend the right of an Owner and such Owner's family, tenants and guests to use the Common Area (other than the right of an Owner and such Owner's family, tenants and guests to use any streets which are part of the Common Area for ingress or egress to the Owner's Lot) if such Owner is more than fifteen (15) days delinquent in the payment of Assessments or other amounts due to the Association or if the Owner has violated any other provisions of the Community Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation.

(d) The rights and easements reserved by or granted to the Declarant by this Declaration.

(e) The rights and easements, if any, reserved or granted to the Declarant or any other Person in the deed conveying the Common Area to the Association.

(e) The right of the Association to rent or lease any portion of the Common Area on a short-term basis to an Owner or Resident for the exclusive use of such Owner or Residents and their guests and invitees.

(f) The right of the Board to charge reasonable admission or other fees for the use of any recreational facility or amenity situated on the Common Area.

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

(h) The rights and easements, if any, reserved or granted to the Declarant or any other Person in the deed conveying the Common Area to the Association.

If a Lot is leased or rented by the Owner thereof, the Lessee and the members of the Lessee's family residing with such Lessee shall have the right to use the recreational facilities

situated on the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use such recreational facilities until the termination or expiration of such lease.

The right of easement and enjoyment of the Common Area may not be transferred or assigned except upon the conveyance or transfer of the Lot to which such right is appurtenant.

5.2 Utility and Development Easements

A non-exclusive, perpetual blanket easement is hereby granted over and through the Common Area for the purpose of: (a) installing, constructing, operating, maintaining, repairing or replacing equipment used to provide to any portion of the Property or adjacent land any utilities, including, without limitation, water, sewer, drainage, gas, electricity, telephone and television service, whether public or private; and (b) ingress and egress to install, construct, operate, maintain, repair and replace such equipment and (c) storm water management and storm water drainage, as necessary or desirable for the orderly development of the Property. Such easement is hereby granted to any Person providing the aforesaid utilities or installing, constructing, maintaining, repairing or replacing equipment related thereto. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed or relocated only where permitted by the Declarant, where contemplated on any site plan approved by the Declarant or where approved by resolution of the Board. Equipment used to provide or meter such utilities or services may be installed above ground during periods of construction if approved by the Declarant. The Person providing a service or installing a utility pursuant to this easement shall install, construct, maintain, repair or replace the equipment used to provide or meter the utility as promptly and expeditiously as possible, and shall restore the surface of the land and the surrounding vegetation and improvements to their original condition as soon as possible.

The Declarant hereby reserve the right to grant and reserve easements, rights-of-way and licenses over and through the Common Area for the purposes set forth in this Section or for any other purpose necessary or desirable for the orderly development of the Property. If the Person installing the utility or providing a service requests a specific easement by separate recordable documents, then the Declarant or the Association shall have the power to record a document locating such easements.

5.3 Easements to Facilitate Development

The Declarant hereby reserves to itself and its successors and assigns a non-exclusive blanket easement over and through the Property for all purposes reasonably related to the development and completion of Improvements on the Property, including without limitation: (a) temporary construction easements; (b) easements for the temporary storage of supplies of building materials and equipment necessary to complete Improvements; and (c) easements for the construction, installation and Maintenance of Improvements on the Property or Improvements reasonably necessary to serve the Property.

The Declarant hereby reserves to itself, its successors and assigns the right to: (a) use any Lots owned or leased by the Declarant, any other Lot with written consent of the Owner thereof

or any portion of the Common Area as models, management offices, sales offices, a visitors' center, construction offices, customer service offices or sales office parking areas; and (b) install and maintain on the Common Area, any Lot owned or leased by the Declarant or any other Lot with the consent of the Owner thereof, such marketing, promotional or other signs which the Declarant deems necessary for the development, sale or lease of the Property.

5.4 Dedications and Easements Required by Governmental Authority

The Declarant hereby reserves to itself and its successors and assigns, the right to make any dedications and to grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Common Area.

5.5 Further Assurances.

Any and all conveyances made to the Association or any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements granted and reservations made to the Declarant in this Declaration shall not terminate or merge and shall continue to run with the land, notwithstanding the common law doctrine of merger and the common ownership of all the Property by the Declarant. Upon written request of the Declarant, the Association and each Owner shall from time to time sign, acknowledge and deliver to the Declarant such further assurances of these reservations of rights and easements as may be requested.

5.6 Assignment of Development Rights

The Declarant may make limited temporary assignments of its easement rights under this Declaration to any Person performing construction, installation or Maintenance on any portion of the Property.

5.7 Easement for Maintenance and Enforcement

The Association and its directors, officers, agents, contractors and employees, the Board and any other Persons authorized by the Board are hereby granted the right of access over and through any Lots (excluding the interior of any Residence), for: (a) the exercise and discharge of their respective powers and responsibilities under the Community Documents; (b) making inspections in order to verify that all Improvements on the Lot have been constructed in accordance with the plans and specifications for such Improvements approved by the Board and that all Improvements are being properly maintained as required by the Community Documents; (c) correcting any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area; (d) performing installations or Maintenance of utilities, landscaping or other Improvements located on the Lots for which the Association is responsible for Maintenance; or (e) correcting any condition which violates the Community Documents.

5.8 Easements for Encroachments.

If any Improvements on any Lot or portion of the Common Area now or hereafter encroach on any other portion of the Property by reason of: (a) the original construction thereof; (b) deviations within normal construction tolerances in the Maintenance of any Improvement; or (c) the settling or shifting of any land or Improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists. The Owner of the encroaching Improvement shall also have an easement for the limited purpose of Maintenance of the encroaching Improvement. This easement does not relieve any Owner or any other Person from liability for such Owner's or other Person's negligence or willful misconduct.

ARTICLE 6

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

6.1 Formation of Association.

The Association shall be a nonprofit Arizona corporation. The Association shall have all of the common law and statutory powers conferred upon nonprofit corporations under Arizona law and all powers necessary or desirable to perform the Association's duties and obligations and to exercise the rights and powers of the Association set forth in the Community Documents. The Association shall not be dissolved unless another entity has agreed to assume the obligations of the Association under this Declaration with respect to the operation and maintenance of the Areas of Association Responsibility.

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. The initial directors and officers of the Association shall be designated in the Articles, and such persons shall serve until their death, resignation or removal from office. Until the termination of the Declarant Control Period, the Declarant shall have the right to appoint and remove the members of the Board. After the termination of the Declarant Control Period, the Board shall be elected by the members as provided in the Bylaws. Unless the Community Documents specifically require the vote or consent of the Members, the Board may do or cause to be done any act on behalf of the Association.

6.3 The Association Rules and Guidelines

The Board may adopt, amend and repeal rules and regulations pertaining to: (a) the management, operation and use of the Areas of Association Responsibility including, but not limited to, any recreational facilities situated upon the Areas of Association Responsibility; (b) minimum standards for the Maintenance of Lots; or (c) restrictions on the use of Lots. In the

event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail. The Association Rules shall be enforceable in the same manner and to the same extent as the covenants, conditions and restrictions set forth in this Declaration. The Board may adopt, amend and repeal Guidelines for the Owners to follow relative to those matters set forth in this Declaration.

6.4 Personal Liability.

No director or officer of the Association, no member of the Board or of any committee of the Association, and no other person acting on behalf of the Board shall be personally liable to any Member, or to any other Person for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence in the discharge of such person's duties and responsibilities under the Community Documents provided such person acted in good faith.

6.5 Implied Rights.

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

6.6 Identity of Members.

The Members of the Association shall be the Owners of the Lots. All Owners of Lots shall be mandatory Members of the Association. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

6.7 Classes of Members and Voting Rights.

The Association shall have the following two classes of voting membership:

Class A. Class A Members are all Owners, with the exception of the Declarant until the termination of the Class B membership, of Lots. Each Class A Member shall be entitled to one (1) vote for each Lot owned. Upon the termination of the Class B membership, the Declarant shall be a Class A Member so long as the Declarant owns any Lot.

Class B. The Class B Member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the Turnover Date.

6.8 Voting Procedures.

No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof

thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Class A Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

6.9 Transfer of Membership.

The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each purchaser of a Lot shall notify the Association of his purchase within ten (10) days after he becomes the Owner of a Lot.

6.10 Conveyance, Lease or Encumbrance of Common Area

The Association may grant permits, licenses and easements on, over, under and through the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Property. In addition, the Association may convey portions of the Common Areas to make adjustments in the boundary lines between the Common Areas and adjoining Lots or public rights-of-way. Except as expressly permitted by this Section, the Common Area shall not be mortgaged or conveyed without the prior written consent or affirmative vote of the Declarant and the total affirmative vote or written consent of the Owners holding at least two-thirds (2/3) of the votes in the Association.

6.11 Suspension of Voting Rights

If any Owner fails to pay any Assessments or other amounts due to the Association under the Community Documents within fifteen (15) days after such payment is due or if any Owner violates any other provision of the Community Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner of the violation, such delinquent Owner's right to vote shall be suspended without further action, until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Community Documents are corrected.

ARTICLE 7

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

7.1 Creation of Lien and Personal Obligation of Assessments

Each Owner, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs (including but not limited to reasonable attorneys' fees) incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. During the Declarant Control Period, no Regular Assessment or Special Assessment shall be levied against any Lot owned by the Declarant.

Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

No Owner shall be exempt from liability for Assessments because of such Owner's non-use of the Common Area, abandonment of such Owner's Lot or other circumstance. The obligation to pay Assessments is a separate and independent obligation on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association or the Board to take some action or perform some function required of it.

7.2 Regular Assessments.

At least thirty (30) days prior to the commencement of each Assessment Period, the Board shall prepare and adopt a budget of the estimated Common Expenses for the next Assessment Period, including any contribution to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such Common Expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments are the amount to be generated through Assessments against the Lots. Based on the budget adopted by the Board, the Board shall assess against each Assessable Lot a Regular Assessment. The Regular Assessment shall be the same for each Assessable Lot. The amount of increase, if any, in the Regular Assessment from one Assessment Period to the next Assessment Period shall be subject to such limitations as may be imposed by Arizona law.

The Board shall give notice of the Regular Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Regular Assessment established by the Board nor relieve any Owner from its obligation to pay the Regular Assessment. If the Board fails to adopt a budget for any Assessment Period, then until and unless such budget is adopted and a Regular Assessment is levied by the Board for such Assessment Period, the amount of the Regular Assessment for the immediately preceding Assessment Period shall remain in effect. Unless approval or ratification of the budget or the Regular Assessment for any Assessment Period is required by law, neither the budget nor the Regular Assessment shall be required to be ratified or approved by the Members.

If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessment by Members, the Board may amend the budget and increase the Regular Assessment for that Assessment Period and the revised Regular Assessment shall commence on the date designated by the Board.

7.3 Special Assessments

The Association may levy against each Assessable Lot a Special Assessment for the purpose of obtaining funds to pay the cost of any construction, reconstruction, repair or replacement of an Improvement upon the Common Area (including fixtures and personal property related thereto), or to pay unbudgeted expenses or expenses in excess of the amount budgeted. After the Turnover Date, any Special Assessment must be approved by two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose. So long as the Declarant owns any Lot, any Special Assessment must be approved in writing by the Declarant. Any Special Assessment shall be levied in an equal amount for each Assessable Lot.

7.4 Assessment Period.

The period for which the Regular Assessment is to be levied shall be the calendar year, except that the first Assessment Period shall commence on the first day of the first month following conveyance of the first Lot to a Purchaser and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

7.5 Obligation of Declarant for Deficiencies

During the Declarant Control Period, the Declarant shall pay and contribute to the Association such funds as may be necessary, when added to the Regular Assessment levied by the Association, to pay all Common Expenses of the Association as they become due. The Board may require the payment of such funds by the Declarant from time to time as the Board deems necessary by giving written notice thereof to the Declarant. Each such notice shall state the total amount of funds required and the calculation of the pro rata share of such funds to be paid by the Declarant. In no event shall the Declarant be obligated to pay or contribute money to

the Association in excess of the amount of Regular Assessments that would have been payable by the Declarant if the Lots owned by the Declarant had been assessed as Assessable Lots.

7.6 Rules Regarding Billing and Collection Procedures

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

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

Any Assessment, or any installment of an Assessment, not paid within fifteen (15) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate of interest set from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within fifteen (15) days after such payment was due.

The Association shall have a lien on each Lot for: (a) all Assessments levied against the Lot; (b) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot; (c) all fines levied against the Owner of the Lot; (d) all attorney fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot whether or not suit is filed by the Association; (e) any amounts payable to the Association pursuant to Section 8.3 or 8.4; and (f) any other amounts payable to the Association pursuant to the Community Documents.

The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is recorded and the amount claimed to be past due as of the date of the Recording of the Notice, including interest, lien recording fees and reasonable attorneys' fees. Before recording any Notice of Lien against a Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any, and all other amounts secured by the Assessment Lien. Each default shall constitute a separate basis for

a demand, but any number of defaults may be included within the single demand. If the amounts specified in the demand are not paid within ten (10) days after delivery of the demand, the Association may proceed with recording a Notice of Lien against the Lot. If the Association records a Notice of Lien, the Association may charge the Owner of the Lot against which the Notice of Lien is Recorded a lien fee in an amount established from time to time by the Board.

The Assessment Lien shall have priority over all liens or claims except for: (a) liens and encumbrances recorded before the Recording of this Declaration; (b) liens for real estate taxes and other governmental assessments and charges against the Lot; and (c) any recorded first mortgage on the Lot, a seller's interest in a first contract for sale pursuant to Title 33, Chapter 6, Article 3 of the Arizona Revised Statutes Recorded prior to the Association's lien or a Recorded first deed of trust on the Lot. Any First Mortgagee or any other Person unrelated to the Lot Owner acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person. Any Assessments and charges against the Lot which accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot.

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

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

7.8 Purposes for which Association's Funds May Be Used

The Association may use the funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the purpose of: (a) discharging and performing the Association's duties and obligations under the Community Documents or applicable law; (b) exercising the rights and powers granted to the Association by the Community Documents or applicable law; (c) providing or promoting activities and services the Board deems appropriate, necessary or desirable to foster or promote the common good and general welfare of the Project and the Owners, Lessees and Residents; (d) contracting for services (including, without limitation, trash collection or cable television) to be provided to Owners, Lessees and Residents; and (e) taking such other action as the Board deems necessary, appropriate or desirable for the management and administration of the Association or the benefit of the Association or the Project.

7.9 Surplus Funds.

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

7.10 Initial Capital Contribution

Each Purchaser of a Lot from the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth (1/6th) of the then current Regular Assessment for an Assessable Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Community Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. Payments made pursuant to this Section shall be deemed a contribution to the capital of the Association.

7.11 Transfer Fee.

Each Person who purchases a Lot from a Person other than the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board to compensate the Association for the administrative cost resulting from the transfer of a Lot. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail to deliver to a purchaser under A.R.S. § 33-1806A and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806C.

ARTICLE 8

MAINTENANCE

8.1 Areas of Association Responsibility

The Association shall be responsible for the management and Maintenance of the Areas of Association Responsibility, and all Improvements located thereon, except for any part of the Areas of Association Responsibility which any governmental entity is maintaining or is obligated to maintain. The Board shall be the sole judge as to the appropriate Maintenance of all Areas of Association Responsibility, but the Areas of Association Responsibility, and the Improvements located thereon, shall be maintained in good condition and repair at all times.

No Owner, Resident or other Person shall construct or install any Improvements on the Areas of Association Responsibility or alter, modify or remove any Improvements situated on the Areas of Association Responsibility without the approval of the Board. No Owner, Resident or other Person shall obstruct or interfere with the Association in the performance of the Association's management or Maintenance of the Areas of Association Responsibility, and the Improvements located thereon.

8.2 Lot Owner's Responsibility.

Each Owner of a Lot shall be responsible for the Maintenance of his Lot, and all buildings, Residences, landscaping or other Improvements situated thereon, except for any portion of the Lot, or any Improvement situated thereon, which is an Area of Association Responsibility. All buildings, Residences, landscaping and other Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated, as needed, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be promptly removed; and replaced. No yard equipment, wood piles or storage areas may be maintained so as to be visible from neighboring property or streets.

8.3 Assessment of Certain Costs of Maintenance and Repair

In the event that the need for Maintenance of an Area of Association Responsibility is caused through the willful or negligent act of any Owner, his family, tenants, guests or invitees, the cost of such Maintenance shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

8.4 Improper Maintenance and Use of Lots

In the event (a) any portion of any Lot is so maintained as to present a public or private nuisance (including, but not limited to, not having the Residence periodically treated for pests, insects and vermin), or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, (b) any portion of a Lot is being used in a manner which violates this Declaration, or (c) the Owner of any Lot is failing to perform any of its obligations under the Community Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fifteen (15) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fifteen (15) day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien. Each Owner shall have his Residence treated for pests, insects and vermin as needed, but no less than once every two (2) months.

8.5 Boundary Walls.

Each wall which is located on the boundary between two Lots shall constitute a boundary wall and, to the extent not inconsistent with this Section, the general rules of law regarding boundary walls shall apply.

The Owners of contiguous Lots who share a boundary wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner. Except as otherwise provided in this Section, the Owners of contiguous Lots who share a boundary wall shall each pay one-half ($\frac{1}{2}$) of the cost of any maintenance, repair or replacement of the boundary wall. Either of such Owners may perform any necessary repair, maintenance or replacement of the boundary wall and in such event, such Owner shall be entitled to reimbursement from the other Owner for one-half ($\frac{1}{2}$) of such cost. In the event that any boundary wall is damaged or destroyed through the negligence or willful act of an Owner, his agents, tenants, licensees, guests or family, it shall be the obligation of such Owner to rebuild and repair the boundary wall without cost to the other Owner or Owners who share the boundary wall.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a boundary wall shall first obtain the written consent of the adjoining Owners.

In the event any boundary wall encroaches upon a Lot, a valid easement for such encroachment and for the maintenance of the boundary wall shall and does exist in favor of the Owners of the Lots which share such boundary wall.

The Declarant hereby reserves to itself and its successors and assigns a perpetual, non-exclusive easement over, under, upon and across the Lots for the purpose of repairing or relocating a boundary wall without the consent of the Owners who share the use of the boundary wall.

8.6 Maintenance of Walls other than Boundary Walls

Walls (other than boundary walls) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot. Any wall which is placed on the boundary line between a Lot and an Area of Association Responsibility shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Area of Association Responsibility. In the event any such wall encroaches upon the Common Area or a Lot, an easement for such encroachment shall exist in favor of the Association or the Owner of the Lot, as the case may be. Any wall which is placed on the boundary line between a Lot and public right-of-way shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and replacement of the surface of the wall which faces the public right-of-way.

ARTICLE 9

INSURANCE

9.1 Scope of Coverage.

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

- (a) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;
- (b) Property insurance on all Common Areas insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Areas, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy.
- (c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;
- (d) Director's and Officer's liability insurance and such other insurance as the Board shall determine from time to time to be appropriate to protect the Association, the Directors, the Officers, or the Owners;
- (e) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to

recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

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

9.2 Certificates of Insurance.

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

9.3 Payment of Insurance Proceeds.

With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 9.4, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

9.4 Repair and Replacement of Damaged or Destroyed Property

Any portion of the Common Areas which is damaged or destroyed shall be repaired or replaced promptly by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance, or Owners representing at least seventy percent (70%) of the total authorized votes in the Association vote not to repair or replace the damaged or destroyed Improvements. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association.

If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas of Association Responsibility shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either be retained by the Association as an additional capital reserve.

ARTICLE 10

DISPUTE RESOLUTION

10.1 Defined Terms. As used in this Article 10, the following terms shall the meaning set forth below:

- (a) **"Alleged Defect"** means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Common Area or any Lot.

(b) **"Bound Parties"** means: (i) the Declarant; (ii) all Lot Owners, Lessees and Residents; and (iii) any contractor or subcontractor, architect, engineer, consultant or other Person who performs or furnishes the design, specifications, surveying, planning, supervision, testing, construction or observation of construction of the Common Area or the Lots and who agrees in writing to be bound by the provisions of this Article 10.

(c) **"Claim"** means: (i) any claim or cause of action arising out of or related in any way to the planning, design, engineering, grading, construction or development of the Common Area or the Lots or any other part of the Project, including, without limitation, any claim or cause of action that the Common Area or the Lots are defective or that the Declarant or its agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof; or (ii) any claim or cause of action against the Declarant or any employee, agent, director, member or officer of Declarant, an officer or director of the Association, or an officer, director, or employee of any property management company engaged by the Association, arising out of or in any way related to the development of the Project or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty.

10.2 Agreement to Resolve Certain Disputes Without Litigation All Bound Parties agree that all Claims shall be resolved exclusively in accordance with the dispute resolution procedures set forth in this Article 10.

10.3 Notice of Claim

Any Bound Party having or alleging to have a Claim (a "Claimant") against any other Bound Party (a "Respondent") shall notify each Respondent in writing of the Claim (the "Claim Notice"), stating plainly and concisely: (a) the nature of Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; and (c) what Claimant wants Respondent to do or not do to resolve the Claim.

In the event the Claimant is the Association, the Association must provide written notice to all Members prior to delivering a Claim Notice or commencing any legal action, cause of action, proceeding, reference or arbitration against the Declarant or any other Bound Party which notice shall (at a minimum) include: (a) a description of the Claim, (b) a description of the attempts of any Declarant or other Bound Party to correct such Alleged Defect and the opportunities provided to Declarant or other Bound Party to correct such Alleged Defect, (c) the estimated cost to repair such Alleged Defect, (d) the name and professional background of the attorney retained by the Association to pursue the claim against a Declarant or other Bound Party and a description of the relationship between such attorney and member(s) of the Board (if any), (e) a description of the fee arrangement between such attorney and the Association, (f) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against the

Declarant or other Bound Party and the source of the funds which will be used to pay such fees and expenses, (g) the estimated time necessary to conclude the action against the Declarant or a other Bound Party, (h) a description of the manner in which the action will be funded and a description of any demands, notices, offers to settle or responses to offers to settle made either by the Association or other Bound Party, and (i) an affirmative statement from the Board that the action is in the best interests of the Association and its Members. If the Alleged Defect is alleged to be the result of an act or omission of a person licensed by the State of Arizona under Title 20 or Title 32 of the Arizona Revised Statutes (a "Licensed Professional"), then the notice from the Association must be accompanied by an affidavit from a Licensed Professional in the same discipline as the Licensed Professional alleged to be responsible for the Alleged Defect. The affidavit must contain the information required to be contained in a preliminary expert opinion affidavit submitted pursuant to Section 12-2602B of the Arizona Revised Statutes.

10.4 Mediation.

If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be agreed upon by the Parties ("Termination of Negotiations"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation by an individual or entity who regularly mediates such disputes such as the American Arbitration Association ("AAA") or such other independent mediation service agreed to by the Claimant and Respondent.

If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim. If either party delays the mediation, refuses mediation or commences legal action without first attempting to mediate (except in case of reservation of rights), then that party shall not be entitled to recover attorney fees and costs, even if they would otherwise be awarded and recoverable

If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

10.5 Binding Arbitration.

In the event a Claim is not resolved by Mediation, the Claimant shall have fifteen (15) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. If the Claimant submits the Claim to binding arbitration in accordance with this Section, the arbitration shall be conducted in accordance with the following:

(a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the AAA Commercial Arbitration Rules, or such other AAA rules as the AAA determines to be applicable (the "AAA Rules"). A Respondent may join as a party to the arbitration any Bound Party who may be liable to the Respondent or the Claimant with respect to the Claim.

(b) **Governing Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, et seq. In the event of a conflict between the AAA Rules and this Section 10.5, the provisions of this Section 10.5 shall govern.

(c) **Appointment of Arbitrator.** The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection (c) is referred to in this Section 10.5 as the "Arbitrator".

(d) **Qualifications of Arbitrator.** The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.

(e) **Disclosure.** Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection (c) above.

(f) **Compensation.** The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate, unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(g) **Preliminary Hearing.** Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the Parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in

addition to those set forth in the AAA Rules, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the Parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

(h) **Management of the Arbitration.** The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(i) **Confidentiality.** All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) **Hearings.** Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) **Final Award.** The Arbitrator shall promptly (within sixty (60) days of the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made; provided, however, that such damages may be deemed by the Arbitrator to be direct damages in an award reimbursing payments made by a party therefor to a third party. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

10.6 Right to Enter, Inspect, Repair and/or Replace

Within a reasonable time after the receipt by the Declarant or other Bound Party of a Claim Notice, the Declarant or other Bound Party shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Area, any Lot, including any Residence constructed thereon, and/or any Improvements for the purposes of inspecting and/or conducting testing to determine the validity of the Claim and, if deemed necessary by the Declarant or other Bound Party, to correct, repair and/or replace any Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, Declarant or other Bound Party shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

Nothing set forth in this Section shall be construed to impose any obligation on the Declarant or other Bound Party to inspect, test, repair, or replace any item or Alleged Defect for which the Declarant or other Bound Party is not otherwise obligated under applicable law or any limited warranty provided by the Declarant or other Bound Party in connection with the sale of the Lots and/or the Improvements constructed thereon. The right of the Declarant and other Bound Parties to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and Recorded by the Declarant or a other Bound Party. In no event shall any statutes of limitations be tolled during the period in which the Declarant or other Bound Party conducts any inspection or testing of any Alleged Defects.

10.7 Use of Funds.

In the event the Association recovers any funds from a Declarant or any other Person as a result of a claim involving an Alleged Defect, the funds shall first be used to correct and or repair the Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect, and any excess funds shall be paid into the Association's reserve fund.

10.8 Approval of Litigation.

The Association shall not deliver a Claim Notice to any Bound Party, commence any legal action or arbitration proceeding against any Bound Party or incur any expenses (including, without limitation, attorneys' fees) in connection with any Claim without the written approval of Owners entitled to cast more than seventy-five percent (75%) of the total votes in the Association, excluding the votes of any Owner who would be a defendant in such proceedings. The Association must pay for any such legal action or arbitration proceeding with monies that are specifically collected for such purposes and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal action or arbitration proceeding involving a Claim, all Owners must notify prospective purchasers of such legal action or arbitration proceeding and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 10.3.

ARTICLE 11

GENERAL PROVISIONS

11.1 Enforcement.

The Association may enforce the Community Documents in any manner provided for in the Community Documents or by law or in equity, including, but not limited to:

- (a) imposing reasonable monetary fines after notice and an opportunity to be heard is given to the Owner or other violator. An Owner shall be responsible for payment of any fine levied or imposed against a Lessee or Resident of the Owner's Lot or by any guest or invitee of the Owner or any Lessee or Resident;
- (b) suspending an Owner's right to vote;
- (c) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (d) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 15 days delinquent in paying any assessment or other charge owed to the Association;
- (e) exercising self-help or taking action to abate any violation of the Community Documents in a non-emergency situation;
- (f) requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Lot in violation of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;
- (g) without liability 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 this Declaration or the Design Guidelines from continuing or performing any further activities in the Project;

(h) towing vehicles which are parked in violation of this Declaration or the Association Rules; and

(i) filing a suit at law or in equity to enjoin a violation of the Community Documents, to compel compliance with the Community Documents, to recover fines or money damages or to obtain such other relief as to which the Association may be entitled.

(j) recording a written notice of violation by any Owner, Lessee or Resident of any restriction or other provision of the Community Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner, Lessee or Resident violating, or responsible for the violation of, the Community Documents; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and Resident, and any subsequent purchaser of the Lot, that there is such a violation. Failure by the Association to Record a notice of violation shall not constitute a waiver of any such violation, constitute any evidence that no violation exists with respect to a particular Lot or constitute a waiver of any right of the Association to enforce the Community Documents.

The Association shall not be obligated to take any enforcement action if the Board determines, in its sole discretion, that because of the strength of the Association's possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association.

Any Owner shall also have the right to enforce this Declaration in any manner available at law or in equity. All rights and remedies of the Association under the Community Documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Community Documents shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Community Documents in the future. If any lawsuit is filed by the Association or any Owner to enforce the provisions of the Community Documents or in any other manner arising out of the Community Documents or the operations of the Association, the prevailing party in such action

shall be entitled to recover from the other party all attorney fees incurred by the prevailing party in the action.

11.2 Duration; Termination.

This Declaration, as it may be amended pursuant to Section 11.3, shall run with the land and bind the Property and be in full force and effect in perpetuity unless terminated as provided in this Section. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Following the Recording of a Certificate of Termination, this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles. So long as the Declarant owns one or more Lots, no termination of this Declaration shall be effective unless approved in writing by the Declarant.

11.3 Amendments.

Prior to the turnover of the Project and Common Areas to the Association, the Declarant may unilaterally amend this Declaration. After the turnover of the Project and Common Areas to the Association, this Declaration may be amended at any time by the affirmative vote of Owners of not less than two-thirds (2/3) of the Lots. So long as the Declarant owns one or more Lots, any amendment to this Declaration must be approved in writing by the Declarant. In addition, the provisions of Article 10 shall not be amended without the prior written consent of the Declarant even if the Declarant no longer owns any Lot at the time the amendment is adopted by the Owner.

Any amendment approved by the Owners shall be signed by the President or Vice President of the Association and shall be Recorded. Unless a later effective date is provided for in the amendment, any amendment to this Declaration shall be effective upon the Recording of the amendment.

Any challenge to an amendment to this Declaration for the reason that the amendment was not adopted by the required number of Owners or was not adopted in accordance with the procedures set forth in this Section must be made within one (1) year after the Recording of the amendment.

11.4 Condemnation of Common Area

If all or any part of the Common Area is taken or condemned, or conveyed by the Association in lieu of or under threat of such condemnation, by or to any authority having the power of condemnation or eminent domain, the award or other compensation paid as a result of such taking or conveyance shall be paid to the Association. If the taking involves a portion of the Common Area upon which Improvements have been constructed, then the Association shall

construct replacement Improvements on the remaining Common Area to the extent land is available for such construction, unless within sixty (60) days after such taking the Owners holding at least eighty percent (80%) of the votes in the Association instruct the Board not to build replacement Improvements.

If such replacement Improvements are to be constructed, then the Association shall be entitled to use the award or other compensation made for such taking solely for the purpose of such construction. If the taking does not involve any Improvements on the Common Area or if the Owners holding more than eighty percent (80%) of the votes in the Association decide not to construct any replacement Improvements or if there are any net funds remaining after such construction is completed, then such awarded net funds shall be retained by the Association and used for such purposes as may be determined by the Board.

11.5 Interpretation.

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

11.6 Severability.

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

11.7 Change of Circumstances

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

11.8 Laws, Ordinances and Regulations

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

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

11.9 References to this Declaration in Deeds

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

11.10 Gender and Number.

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

11.11 Captions and Titles.

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

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY



Preliminary Plat Notification Affidavit

I, JAMES M. GRIFFIN (EEC, INC.), acting on behalf of
LOMAS VERDES ESTATES, LLC, hereby affirm that a copy of the
preliminary plat of LOMAS VERDES ESTATES
subdivision has been delivered to the following agencies for their review.

AGENCY

DATE NOTIFIED

_____	SALT RIVER PROJECT...(2).....	_____
_____	ARIZONA PUBLIC SERVICE	_____
_____	SOUTHWEST GAS CORPORATION.....	_____
_____	ARIZONA DEPARTMENT OF TRANSPORTATION.....	_____
_____	MARICOPA COUNTY ENVIRONMENTAL SERVICES.....	_____
_____	MARICOPA COUNTY PLANNING DEPARTMENT.....	_____
_____	MARICOPA COUNTY FLOOD CONTROL DISTRICT.....	_____
_____	SCOTTSDALE POSTMASTER.....	_____
_____	SCOTTSDALE SCHOOL DISTRICT.....	_____
_____	CAVE CREEK SCHOOL DISTRICT.....	_____
_____	PARADISE VALLEY SCHOOL DISTRICT.....	_____
_____	CENTRAL ARIZONA WATER CONSERVATION DISTRICT...	_____
_____	CENTURY LINK.....	_____
_____	OTHER.....	_____

Signature

Date

Address

Phone

7740 N. 16th ST. # 135 PHOENIX, AZ 85016

602-248-7702 # 7306

Planning, Neighborhood & Transportation Division

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088

CAPITAL FUND I

FUNDING FOR INVESTMENT PROPERTY

April 6, 2017

Re: Funding Approval - 6501 E Red Bird Rd

To Whom It May Concern,

Lomas Verdes Estates has been pre-approved for funding of a "non-transactional hard money" loan on the above referenced property by Capital Fund I, LLC ("CFI"), in the amount of \$450,000, contingent upon final underwriting approval. CFI is a direct private lender that doesn't require 3 party appraisals and can fund in as quickly as 48 hours.

If you need any additional info, please contact Noah Brocious at 480.889.6100.

Sincerely,

Noah Brocious

Noah Brocious

COO/RI/MLO

480.361.8627 | WWW.CAPITALFUND1.COM

5-PP-2017
05/15/17



Affidavit of Posting

Office of the City Clerk

STATE OF ARIZONA)
)
COUNTY OF MARICOPA) SS

I, Wayland Barton, being first duly sworn, depose and say:

That on January 8, 2017, I posted notification poster(s) for the properties indicated below.

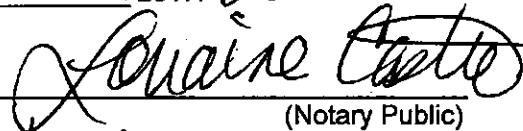
Site(s) must be posted on or before: January 8, 2018

Case No.	Description and Location of Project	No. of Signs	Date Posted
5-PP-2017	Lomas Verdes Estates, N 64th St	1	1/8/18

Date of Development Review Board Public Meeting: January 18, 2018, AT 1:00 P.M. IN THE CITY HALL KIVA, SCOTTSDALE, ARIZONA.


(Signature)

Acknowledged this 8th day of JANUARY ~~2017~~ 2018


(Notary Public)

My commission expires 11/15/2020



Planning and Development Services

7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ Phone: 480-312-7000 ♦ Fax: 480-312-7088



Affidavit of Authority to Act as the Property Owner

1. This affidavit concerns the following parcel of land:

- a. Street Address: 6501 E. RED BIRD ROAD
b. County Tax Assessor's Parcel Number: 212-10-003F
c. General Location: S.E.C. 64th STREET & RED BIRD ROAD
d. Parcel Size: 8 ACRES GROSS, 7.64 ACRES NET
e. Legal Description: SEE ATTACHED LEGAL DESCRIPTION

(If the land is a platted lot, then write the lot number, subdivision name, and the plat's recording number and date. Otherwise, write "see attached legal description" and attach a legal description.)

2. I am the owner of the land or I am the duly and lawfully appointed agent of the owner of the land and have authority from the owner to sign this affidavit on the owner's behalf. If the land has more than one owner, then I am the agent for all of the owners, and the word "owner" in this affidavit refers to all of them.
3. I have authority from the owner to act for the owner before the City of Scottsdale with regard to any and all reviews, zoning map amendments, general plan amendments, development variances, abandonments, plats, lot splits, lot ties, use permits, building permits and other land use regulatory or related matters of every description involving the land, or involving adjacent or nearby lands in which the owner has (or may acquire) an interest, and all applications, dedications, payments, assurances, decisions, agreements, legal documents, commitments, waivers and other matters relating to any of them.
4. The City of Scottsdale is authorized to rely on my authority as described in this affidavit until three work days after the day the owner delivers to the Director of the Scottsdale Planning & Development Services Department a written statement revoking my authority.
5. I will immediately deliver to the Director of the City of Scottsdale Planning & Development Services Department written notice of any change in the ownership of the land or in my authority to act for the owner.
6. If more than one person signs this affidavit, each of them, acting alone, shall have the authority described in this affidavit, and each of them warrant to the City of Scottsdale the authority of the others.
7. Under penalty of perjury, I warrant and represent to the City of Scottsdale that this affidavit is true and complete. I understand that any error or incomplete information in this affidavit or any applications may invalidate approvals or other actions taken by the City of Scottsdale, may otherwise delay or prevent development of the land, and may expose me and the owner to other liability. I understand that people who have not signed this form may be prohibited from speaking for the owner at public meetings or in other city processes.

Name (printed)

Date

Signature

JASON P. KUSH

Jan 27, 2017

JIM ROBERTSON

FEB 3, 2017

Planning and Development Services

5-PP-2017
02/03/2017

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088

LEGAL DESCRIPTION

THE WEST 528 FEET OF THE NORTH HALF OF
THE SOUTH HALF OF THE SOUTHWEST QUARTER
OF SECTION 34, TOWNSHIP 5 NORTH, RANGE 4
EAST OF THE GILA AND SALT RIVER BASE AND
MERIDIAN, MARICOPA COUNTY, ARIZONA.



Appeals of Dedication, Exactions, or Zoning Regulations

Rights of Property Owner

In addition to the other rights granted to you by the U.S. and Arizona Constitution, federal and state law and city ordinances or regulations, you are hereby notified of your right to appeal the following City actions relating to your property:

- 1) Any dedication of exaction which is required of you by an administrative agency or official of the city as a condition of granting approval of your request to use, improve or develop your real property. This appeal right does not apply to a dedication or exaction required as part of a city legislative act (for example a zoning ordinance) when an administrative agency or official has no discretion to determine the dedication or exaction.
- 2) The adoption or amendment of a zoning regulation that creates a taking of property in violations of Arizona and federal court decision.

Appeal Procedure

The appeal must be in writing and specify the City action appealed and the date final action was taken, and must be filed with or mailed to the hearing officer designated by the city within 30 days after the final action is taken

- No fee will be charged for filing
- The city Attorney's Office will review the appeal for compliance with the above requirements, and will notify you if your appeal does not comply
- Eligible appeals will be forwarded to the hearing officer, and a hearing will be scheduled within 30 days of receipt by the hearing officer of your request. Ten days notice will be given to you of the date, time and place of the hearing unless you indicate that less notice is acceptable to you.
- The City will submit a takings impact report to the hearing officer.
- In an appeal from a dedication or exaction, the City will bear the burden of proving that the dedication or exaction to be imposed on your property bears an essential nexus between the requirement and a legitimate governmental interest and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement or development you proposed.
- In an appeal from the adoption or amendment of a zoning regulation, the City will bear the burden of proving that any dedication of exaction requirement in the zoning regulation is roughly proportional to the impact of the proposed use, improvement, or development, and that the zoning regulation does not create a taking of property in violation of Arizona and federal court cases.
- The hearing officer must render his decision within five working days after the appeal is heard.
- The hearing officer can modify or delete a dedication or exaction or, in the case of an appeal from a zoning regulation, transmit a recommendation to the City Council.
- If you are dissatisfied with the decision of the hearing officer, you may file a complaint for a trial nevo with the Superior Court within 30 days of the hearing officer's decision.

For questions, you may contact:

City's Attorney's Office
3939 Drinkwater Blvd.
Scottsdale, AZ 85251
480-312-2405

Address your appeal to:

Hearing Officer, C/O City Clerk
3939 Drinkwater Blvd
Scottsdale, AZ 85251

Please be aware that City Staff cannot give you legal advice. You may wish, but are not required, to hire an attorney to represent you in an appeal.

Planning and Development Services

5-PP-2017

02/03/2017

7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ Phone: 480-312-7000 ♦ Fax: 480-312-7088


**Owner Certification
Acknowledging Receipt
Of
Notice Of Right To Appeal
Exactions And Dedications**

I hereby certify that I am the owner of property located at:

6501 E. REDBIRD ROAD SCOTTSDALE, AZ

(address where development approval, building permits, or city required improvements and dedications are being required)

and hereby certify that I have received a notice that explains my right to appeal all exactions and/or dedications required by the City of Scottsdale as part of my property development on the parcel listed in the above address.



Signature of Property Owner

1-27-17

Date