

*Windmill Village
Homeowners Association
CC&R's*



*Windmill Village Homeowners Association
P.O. Box 5720
Mesa, AZ 85211*

PREFERRED COMMUNITIES
"LOVING WHERE YOU LIVE."



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**CAPTION HEADING: DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENT FOR WINDMILL VILLAGE**

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

FOR

**WINDMILL VILLAGE
Buckeye, Arizona**

This Declaration of Covenants, Conditions, Restrictions and Easements for Windmill Village is made as of the _____ day of _____, 2005, by Meritage Homes of Arizona, Inc., an Arizona corporation, as "Declarant." Declarant is the holder of certain purchase and/or option rights of the Property described herein granted to Declarant by the Project Owner which Property Declarant intends to develop into an attractive residential community to be known as Windmill Village (the "Project"), and Declarant desires to establish a general plan for the improvement, development, operation, maintenance and use of the Project for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project and the quality of life within the Project. In furtherance of that plan, Declarant hereby declares that all of the Property within the Project shall be held, sold, conveyed, encumbered, occupied, developed, built on, improved, used, leased and otherwise transferred subject to the covenants, conditions, restrictions, reservations, easements, liens and charges set forth in this Declaration, each of which shall attach to and run with the land, shall be binding on the Property and all Owners and Occupants and all other parties having, acquiring or otherwise at any time possessing any right, title or interest in or to the Property or any part thereof, and each of which shall inure to the benefit of said Owners, Occupants and other parties.

**ARTICLE 1
DEFINITIONS**

The following words, phrases and terms used in this Declaration shall have the following meanings:

1.1 "Additional Property." Additional Property shall mean any other real property located adjacent to the Property. For purposes of the foregoing, real property shall be deemed to be located adjacent to the Property if it is separated from the Property solely by land dedicated to and accepted by the State of Arizona, Maricopa County, the Town of Buckeye or any other political subdivision (e.g., land dedicated for public rights-of-way).

1.2 "Architectural and Landscaping Guidelines." Architectural and Landscaping Guidelines shall mean the rules and guidelines adopted by the Declarant or, upon termination of the Class B membership by the Board, as they may be amended or supplemented, which shall govern the procedures of the Committee and the design, placement, color schemes, exterior finishes, selection and use of materials and similar features for all Improvements within the Project and the design, installation and placement of Landscaping within the Project. In no event shall compliance with any such Architectural and Landscaping Guidelines negate the necessity of obtaining Board or Committee approval where such approval is required by the terms of this Declaration.

1.3 “Areas of Association Responsibility.” Areas of Association Responsibility shall mean (i) all Common Areas and Improvements situated therein or thereon, including, but not limited to, all landscaped areas, open space, washes, specialty paving or lighting, trails, and drainage ways owned by the Association; (ii) all land, and the Improvements situated thereon, situated within the boundaries of a Lot which the Association acknowledges in this Declaration or in another recorded document is land which is to be maintained and repaired by the Association; (iii) all real property and the Improvements situated thereon, if any, within the Project located within and improved as dedicated rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or a county, city or town has accepted the responsibility for the maintenance, repair and replacement of such areas; (iv) landscaped areas within the Project located in rights-of-way dedicated to the Town shall be maintained by the Association (v) any Project entry features constructed within the Project; (vi) all perimeter fences or walls for the Project, including any perimeter fences or walls located upon or within the boundaries of a Lot, provided, however, the Association shall not be responsible for painting or finishing the interior side of any perimeter fences or walls located upon or within the boundaries of a Lot; (vii) if any perimeter fence or wall of the Project is located within the boundaries of a Lot, the area of the Lot located outside such perimeter fence or wall; and (viii) any property adjacent to or near the Project which the Town may require the Association to maintain.

1.4 “Articles.” Articles shall mean the Articles of Incorporation of the Association as they may from time to time be amended.

1.5 “Assessment.” Assessment shall mean all assessments authorized and provided by Article 8 of this Declaration.

1.6 “Assessment Lien.” Assessment Lien shall mean a lien created or imposed by Article 8 of this Declaration.

1.7 “Association.” Association shall mean and refer to the Arizona nonprofit corporation to be organized by Declarant to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein and in this Declaration, and its successors and assigns. Declarant intends to organize the Association in the name of “Windmill Village Homeowners’ Association” but if such name is not available, the Association shall be organized under such other name as the Declarant may select.

1.8 “Board.” Board shall mean the Board of Directors of the Association.

1.9 “Builder.” Builder shall mean Declarant and any other Person who is engaged in the home building business and who purchases one or more Lots from Declarant for the purpose of constructing a Living Unit and related Improvements thereon.

1.10 “Bylaws.” Bylaws shall mean the Bylaws of the Association, as they may from time to time be amended.

1.11 “Committee.” Committee shall mean the Architectural and Landscaping Control Committee created pursuant to Article 4 of this Declaration, and, if no such committee is created, it shall mean the Board.

1.12 “Common Areas.” Common Areas shall mean (i) those portions of the Project, together with the Improvements thereon, which the Association may, from time to time, own in fee or in which it may have an easement interest, for as long as the Association holds fee title or an easement interest, including, but not limited to, Tracts A through T, inclusive, as shown on the Plat; (ii) all land within the Project which Declarant, by this Declaration or in any other recorded instrument, makes available for use by Members of the Association or otherwise designates as Common Areas for purposes of this Declaration; and (iii) any land within, adjacent to or near the Project which the Town may at any time require be owned by the Association.

1.13 “Declarant.” Declarant shall mean and refer to Meritage Homes of Arizona, Inc., an Arizona corporation, and its successors and assigns and any Person to whom it may expressly assign any or all of its rights under this Declaration. An assignment of the rights of the Declarant under this Declaration may be an assignment of less than all of the rights of the Declarant under this Declaration, and such assignment may apply to less than all the Property. No assignment or partial assignment of the Declarant’s rights under this Declaration shall be valid unless and until an assignment of Declarant’s rights or a partial assignment of Declarant’s rights is recorded in the Official Records of the county in which the Property is located.

1.14 “Declaration.” Declaration means this Declaration of Covenants, Conditions, Restrictions and Easements for Windmill Village, as and if amended.

1.15 “First Mortgage.” First Mortgage shall mean any mortgage, deed of trust or any other form of security instrument or agreement given to an institutional lender for the purpose of creating a lien on one or more Lots, with the first priority over any other mortgage, deed of trust or other security instrument or agreement.

1.16 “First Mortgagee.” First Mortgagee shall mean the holder of any First Mortgage.

1.17 “Improvement.” Improvement shall mean all parts of a Living Unit, any building, driveway, walkway, parking area, fence, wall or other structure, any swimming pool or spa, any Landscaping and all other improvements of every type and kind constructed or otherwise located within the Project.

1.18 “Landscaping.” Landscaping shall mean any tree, plant, shrub, hedge, cacti, grass and other vegetation of any kind, any inert material used as ground cover and any rocks or similar materials used in connection with landscaping within the Project.

1.19 “Living Unit.” Living Unit shall mean any building, or portion of a building, situated upon a Lot, designed and intended for use and occupancy as a residence. All references to a Living Unit shall be deemed to refer also to the underlying Lot and all permanent Improvements thereon.

1.20 “Lot.” Lot shall mean each parcel designated as a lot on the Plat with the exception of the Common Areas, and where the context indicates or requires, shall include any Living Unit and other Improvements situated thereon.

1.21 “Member.” Member shall mean any Person who is a member of the Association as provided in Article 7 below.

1.22 “Occupant.” Occupant shall mean any Person, other than an Owner who occupies or is in possession of a Lot, or any portion of a Lot, or any Living Unit on a Lot, whether as a lessee under a lease or otherwise.

1.23 “Owner.” Owner shall mean and refer to 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. Owner shall not include (i) Persons having an interest in a Lot merely as security for the performance of an obligation, (ii) a Lessee or (iii) an Occupant. Owner shall include a purchaser under a contract for the conveyance of 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. With respect to any Lots for which fee simple title is held by the Project Owner but which are subject to the purchase option rights described in an unrecorded option agreement between Declarant, as optionee/purchaser, and Project Owner, as optionor/seller, so long as such purchase option rights remain in effect (but not thereafter), the Declarant will be deemed the Owner for all purposes under the Project Documents. In the case of Lots the fee simple title to which is vested in a trustee pursuant to A.R.S. § 33-801, et seq., the trustor shall be deemed to be the Owner. In the case of Lots 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.

1.24 “Person.” Person shall mean a natural person, corporation, business trust, estate, trust, limited liability company, partnership, association, joint venture, municipality, governmental subdivision or agency or other legal or commercial entity.

1.25 “Plat.” Plat shall mean the subdivision plat of Windmill Village, as recorded in Book 741 of Maps, page 38, records of Maricopa County, Arizona, as may hereafter be amended or supplemented.

1.26 “Project.” Project shall mean the Property, together with all Improvements located thereon, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.27 “Project Documents.” Project Documents shall mean this Declaration, the Articles, the Bylaws, the Rules and Regulations, the Architectural and Landscaping Guidelines and all other documents or instruments pertaining to and affecting the Project, as the same may be amended from time to time.

1.28 “Project Owner.” means StoneBridge Capital Progeny, L.L.C., an Arizona limited liability company, and its successors and assigns.

1.29 “Property.” Property shall mean Lots 1 through 513 and Tracts A through T as shown in the Plat.

1.30 “Purchaser.” Purchaser shall mean any Person, other than the Declarant, who by means of a voluntary transfer, becomes the Owner of a Lot, except for a Person who, in addition to purchasing a Lot, is assigned any or all of the Declarant’s rights under this Declaration.

1.31 “Rules and Regulations.” Rules and Regulations shall mean any rules and regulations adopted and/or amended from time to time by the Association for the Project.

1.32 “Single Family.” Single Family shall mean a group of one or more persons, each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not so related, who maintain a common household in a Living Unit.

1.33 “Single Family Residential Use.” Single Family Residential Use shall mean the occupation or use of a Lot by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning and other applicable laws.

1.34 “Town.” Town shall mean the Town of Buckeye, Arizona.

1.35 “Visible From Neighboring Property.” Visible From Neighboring Property shall mean, with respect to any particular object or matter, if such object or matter would be visible to a person six (6) feet tall, standing on any part of the Project adjacent to the Lot on which the object or matter is situated at an elevation no higher than the elevation of the base of the object or matter being viewed.

ARTICLE 2 PLAN OF DEVELOPMENT

2.1 Property Subject to the Declaration. Declarant and Project Owner by executing the Consent of Project Owner attached hereto declare that all of the Property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any Lot subject to this Declaration, each Person, for himself or itself, his or its heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transfers and assigns to all of the provisions, restrictions, covenants, easements, charges, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each Person, by so doing, thereby acknowledges that all restrictions, conditions, covenants, easements, charges, rules and regulations contained in this Declaration shall run with the land and be binding on all Owners, Purchasers and Occupants and all assignees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. The Lots and the membership in the Association and the other rights created by this Declaration shall not be separated from the Lot or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot, even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

2.2 Transfer of Common Areas. The Common Areas shall be transferred by Declarant or Project Owner, by special warranty deed, to the Association pursuant to the terms of this Declaration. Such transfer shall be subject to all easements and matters of record affecting the Common Areas. Once the Common Areas are conveyed to the Association, the Common Areas may not be mortgaged or conveyed without the consent of at least sixty-seven percent (67%) of the Owners (other than Declarant). In the event of any actual or threatened condemnation of any portion of the Common Areas prior to the conveyance of the Common Areas to the Association, and so long as the actual or threatened condemnation of such Common Areas does not materially and adversely affect the Project, Declarant shall have the right and authority to convey the affected Common Areas to the applicable authority which has commenced or threatened condemnation proceedings and Declarant shall be entitled to retain all condemnation awards and/or sale proceeds received from any such authority.

2.3 Right to Resubdivide and Replat. Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time, without the consent of other Owners, to resubdivide and replat any Lot or Lots or any other part of the Project which Declarant then owns and has not sold.

2.4 Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out or that the Property or any adjacent real property is or will be committed to, or developed for, a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are, or may be, invalid or unenforceable, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks as to the validity and enforceability thereof, and by accepting a deed to a Lot, agrees that Declarant shall have no liability with respect thereto.

ARTICLE 3 COVENANTS AND RESTRICTIONS

In addition to all other covenants and restrictions contained herein, the use of the Lots and Common Areas and all Improvements thereon and all other parts of the Project, are subject to the covenants and restrictions contained in this Article.

3.1 Residential Use. Each Lot in the Project shall be improved and used exclusively for Single Family Residential Use. No trade or business may be conducted on any Lot or in or from any Living Unit or any guest house, except that an Owner or other resident of a Living Unit may conduct a business activity within a Living Unit so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the outside of the Living Unit, (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Project, (iii) the business activity does not involve persons coming onto the Lot (other than for incidental and minimal pick-ups, deliveries and visits) or the door-to-door solicitation of Owners or Occupants, (iv) the business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or

threaten the security or safety of other residents within the Project and (v) the business actually conducted on a Lot or from a Living Unit does not involve any employees routinely coming onto the Lot, other than family members residing in the Living Unit, all as may be determined from time to time in the sole discretion of the Board. The terms "business" and "trade", as used in this Section, shall be construed to have ordinary, generally accepted meanings, and shall include without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full or part-time, (ii) such activity is intended or does generate a profit or (iii) a license is required for such activity. The sale or lease of a Living Unit by the Owner thereof shall not be considered a "trade" or "business" within the meaning of this Section. Notwithstanding the foregoing provisions, Declarant, and its duly authorized agents and employees, may use any part of the Project not owned by a Purchaser for a model site or sites, a display and sales office, a business office and construction office during the construction and sales period. Rummage sales, garage sales, estate sales, and similar household sales are not permitted within the Project unless previously approved by the Committee.

3.2 Temporary Occupancy and Buildings. No trailer, bus, mobile home, tent, shack, storage shed, garage, barn or other building of a temporary nature shall be installed, located or used on any Lot at any time as a residence, either temporarily or permanently. Notwithstanding the foregoing, Declarant shall have the right, until the Project is fully developed and improved, to maintain construction facilities and storage areas incident to the development and improvement of the Project.

3.3 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or any other portion of the Property. In addition, a Living Unit or any other portion of the Project shall not be used in whole or in part for the storage of any property or thing that will cause the Living Unit or the Project or any part thereof to appear in an unclean or untidy condition or that will be unsightly, offensive, obnoxious or detrimental to any other Owner or Occupant. No substance, thing or material shall be kept or used upon any Lot that will emit a foul, offensive or obnoxious odor or that will cause any noise that will or might disturb the peace, quiet, comfort, serenity or tranquility of the Owners and/or Occupants of adjacent portions of the Project. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any portion of any Lot without the written consent of the Committee. Notwithstanding the foregoing, speakers specifically designed and installed as built-in and recessed exterior speakers for a stereo system installed inside any Living Unit may be installed on a Lot provided that such speakers shall not be Visible From Neighboring Property and shall not be used in a manner so as to disturb the peace or the quiet, serenity or tranquility of the Owners and/or Occupants of adjacent portions of the Project. Noise caused by improperly muffled motor vehicles shall not be permitted and construction machinery and equipment must be operated within the manufacturers' recommendations and specifications and only during reasonable working hours. No nuisance of any kind or description shall be permitted to exist or operate upon any Lot so as to be offensive, unsanitary, unsightly or detrimental to the Owners or Occupants of adjacent portions of the Project. The Board, in its sole and absolute discretion, shall have the right to determine the existence of any nuisance whether described herein or not. No Improvements shall be permitted

to be constructed on or to otherwise be permitted to exist on any Lots, the height or location of which shall be deemed by the Committee (i) to constitute a traffic hazard, (ii) to be unreasonably unattractive, or (iii) to be unreasonably detrimental to adjoining or nearby property.

3.4 Trash and Recycling Containers and Collection. No rubbish, trash, garbage, refuse, debris or recyclable materials shall be placed or kept on any portion of any Lot except in covered containers of a type, size and style which are approved by the Committee. Refuse containers shall be kept clean, sanitary and free of noxious odors. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make such containers available for collection and then only for the shortest period of time (not to exceed twenty-four [24] consecutive hours) reasonably necessary to effect such collection. All rubbish, trash, garbage, refuse, debris and recyclable materials shall be promptly removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be maintained or used and no rubbish, trash, garbage, refuse or debris shall be burned by open fire or otherwise on any portion of any Lot.

3.5 Animals. No animals, fish, fowl, poultry, swine, horses, reptiles or livestock shall be raised, bred or kept on or within any Living Unit or on any Lot, except that a reasonable number of dogs, cats or other generally recognized and commonly accepted household pets may be kept within the Living Units or on Lots; provided, however, such household pets may not be kept, bred or maintained thereon for any commercial purposes, or in unreasonable numbers. Except where specifically approved by the Board to the contrary; provided, however, offspring of such household pets will be permitted for a period not to exceed sixteen (16) weeks following the birth of such offspring. No household pets may be kept on a Lot which result in an annoyance to or which are obnoxious to other Owners or Occupants. All household pets must be kept indoors or within fenced yards and may not be permitted to run loose. No structure for the care, housing or confinement of any animal, bird, fowl, poultry or livestock shall be constructed or maintained without the prior written approval of the Committee, and in no event shall any such structure be constructed so as to be Visible From Neighboring Property. The owner of each pet is responsible for cleaning any waste, dirt and soilage and repairing any damage caused by the pet. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, for the purposes of this Section, whether a particular animal, bird, fowl, poultry or livestock is a generally recognized and commonly accepted household pet or a nuisance or whether the number of animals, birds, fowl, poultry or livestock on any Lot is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained herein.

3.6 Motor and Recreational Vehicles and Parking. No mobile or motor home, boat, jet ski or wave runner, boat, recreational vehicle, all-terrain vehicle, off-road vehicle, trailer, horse trailer, camper, camper shell, snowmobile, bus or any motor vehicle classed by manufacturing rating as exceeding one (1) ton or any vehicles designed for commercial purposes shall be parked, kept, placed, maintained, constructed, reconstructed or repaired on any Lot or within the Project so as to be Visible From Neighboring Property; provided, however, that the provisions of this Section shall not apply to (i) emergency vehicle repairs (ii) vehicles falling within the described category which are parked on paved driveways on Lots for the purpose of loading, unloading and preparing such items for offsite usage, provided that such use is for a period not to exceed twenty-four (24) consecutive hours, and (iii) the parking of public service

and public safety vehicles which may not be prohibited pursuant to Section 33-1809 of the Arizona Revised Statutes. All other motor vehicles shall be permitted to park only in garages or on concrete driveways on Lots and may not be parked so as to obstruct any sidewalks, and no motor vehicle may park on the roads or streets within the Project (the "Roadways") except as specifically permitted by signage; provided, however, vehicles of guests and invitees may park on the Roadways for a temporary period of time not to exceed ten (10) hours provided that such parking is done in a fashion so as not to obstruct driveways on other Lots or traffic within the Project. Notwithstanding the foregoing, Owners may park a motor home, boat, jet ski or wave runner, boat, recreational vehicle, all-terrain vehicle, off-road vehicle, trailer, horse trailer, camper, camper shell, snowmobile, bus or any motor vehicle classed by manufacturing rating as exceeding one (1) ton on a Lot with the prior written approval of the Committee and subject to any applicable Rules and Regulations or other requirements imposed by the Committee. All motor vehicles of Owners, Occupants, guests and invitees shall be kept in garages whenever such facilities are sufficient to accommodate the number of motor vehicles on a Lot. Any vehicle parked in violation of this Declaration may be towed at the direction of the Board or its agent, and the recording of this Declaration shall constitute the legal notice of intent to tow as though the Project were posted in accordance with the applicable laws and ordinances. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner or Occupant, any amounts payable to the Association shall be secured by the Assessment Lien and the Association may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments. The Board may adopt additional parking restrictions including the establishment of fines and assessments for their violation.

3.7 Garages. Any part of a Living Unit constructed as a garage shall be used for parking vehicles and other garage purposes only and shall not be converted for living or recreational purposes. All garages must be kept in a neat and tidy manner at all times. Garage doors must be kept completely closed at all times except to permit vehicle ingress and egress or when the garage is being used for access to and from the Living Unit.

3.8 Signs. No signs or billboards of any kind shall be displayed to the public view on any portion of the Project except for: (i) signs as may be required by legal proceedings; (ii) not more than two (2) signs for each Living Unit for identification of the address of such Living Unit with a combined total face area of eighty-four (84) square inches or less; (iii) such signs as may be erected by the Declarant in connection with the development, sale or operation of the Lots and Improvements during the construction and sales period; (iv) one (1) professionally prepared sign advertising the Lot for sale or for rent, which sign shall not be larger than 24" x 24" and shall be professionally made of metal or fiberboard or wood and mounted on a wood or metal post; (v) one (1) "open house" sign; (vi) signage for the Project at such locations designated or installed by Declarant; and (vii) such other signs, the nature, number and location of which shall have been approved in advance by the Association. All signs provided for under this Section shall require the approval of the Committee as to the size, color, design, message content, location, type and hours of display.

3.9 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 the use, maintenance or construction of a residence, appurtenant structures or other Improvements, which machinery and equipment shall not be Visible From Neighboring Property, except when it is being operated or used in connection with the construction of Improvements or the maintenance of Improvements.

3.10 Clotheslines. No clotheslines of any sort or other device for drying or airing of clothes shall be erected, placed or maintained upon any Lot in a manner so as to be Visible from Neighboring Property.

3.11 Sidewalk and Roadway Encroachments. No Improvement of any kind shall be permitted to overhang or otherwise encroach upon any Common Area, Roadway or sidewalk within the Project; provided, however, Landscaping approved by the Committee and properly cultivated and maintained may overhang Common Areas or the Roadways provided such Landscaping does not create a nuisance to Owners or Occupants within the Project.

3.12 HVAC. Except as may be installed by Declarant during the original construction of any Living Unit, no heating, air conditioning or evaporative cooling facilities may be installed, constructed or maintained upon any Living Unit or on any Lot unless (i) such facilities are installed in such a manner so they are not Visible From Neighboring Property and (ii) the Committee has approved such facilities.

3.13 Solar Panels. No solar panels, devices, facilities, structures or equipment may be installed upon any Living Unit or on any Lot unless such items and the proposed location and installation thereof are approved by the Committee and unless any such items approved by the Committee are installed at such location on a Lot or upon a Living Unit in such manner as to permit the function of such items but which is the least Visible From Neighboring Property.

3.14 Fencing. Except as may be constructed by the Declarant or otherwise approved in writing by the Committee, all fencing which is built upon a Lot shall be of masonry and/or wrought iron material only and shall have a maximum height of six (6) feet. All fencing that is adjacent to Common Area open space or trail easements within the Project and built upon a Lot shall be constructed solely of wrought iron material. The foregoing notwithstanding, all fencing used adjacent to washes, hillside, open spaces, retention or detention areas and trails (except for Lots adjacent to arterial or collector streets which also have an adjacent trail) shall be wrought iron "view fencing," and all such required "view fencing," unless installed by the Declarant, shall be subject to the prior written approval of the Committee.

3.15 Storage and Tool Sheds and Structures. No storage or tool sheds or similar structures shall be placed, erected or maintained upon any part of the Project, except where the storage or tool shed or similar structure is previously approved by the Committee and (i) is constructed of the same or substantially similar materials as, and is the same color as and is architecturally comparable to and compatible with, the exterior of the Living Unit located upon the Lot (all as reasonably determined by the Committee) subject to the applicable provisions of any Architectural and Landscaping Guidelines and (ii) complies with any applicable set-back line requirements.

3.16 Window Materials. Within thirty (30) days of occupancy of a Living Unit, the Owner of the Living Unit shall install draperies or suitable window treatments on all windows facing the Roadways and Common Areas adjacent to its Lot. However, no external window covering may be placed, or permitted to remain, on any window of any Living Unit or other Improvement without the prior written approval by the Committee in accordance with Article 4. No reflective coating, materials or covering may be placed on any window of any Living Unit or other Improvement. Further, all curtains, blinds, interior shutters, screens and window coverings or window treatments which are Visible From Neighboring Property must be neutral in color. No bedsheets, blankets, bedspreads or other items not designed for use as curtains or other window coverings may be used for such purposes except during a period not to exceed thirty (30) days following the conveyance of a Lot from Declarant or a Builder to a Purchaser.

3.17 Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals, gravel or other natural resources of any kind.

3.18 Conveyance. No portion less than all of a Living Unit or Lot shall be conveyed, transferred or encumbered. Nothing herein shall prevent the dedication or conveyance of or granting of easements over portions of the Project for public utilities or any other public purposes, in which event the remaining portion of any Lot or Living Unit affected shall, for the purpose of this Declaration, be considered a whole Lot or Living Unit.

3.19 Further Subdivision. No Lot in the Project shall be further subdivided or separated into smaller lots nor conveyed in less than the full original dimensions of such Lots as shown on the Plat. Notwithstanding this Section or any other provision contained in this Declaration, as long as the Class "B" Membership is in existence, Declarant, without the consent of any other Member, shall have the right to replat the Project in any manner Declarant deems appropriate, including, without limitation, changing the size, location, configuration and number of Lots, Roadways, and Common Areas and changing the number of Lots within the Project. In the event of any such replat, Declarant shall have the right, without the consent of any other Member, to amend this Declaration as may be necessary or appropriate as a result of such replat of the Project.

3.20 Violation of Statutes, Ordinances and Regulations. No Lot shall be maintained or utilized in such a manner as to violate any applicable statute, ordinance or regulation of the United States of America, the State of Arizona, the county in which the Lot is located, the Town or any other municipality, governmental agency or subdivision authority having jurisdiction over the Lots or the use or occupation thereof.

3.21 Rental. Only entire Living Units may be rented, and if so rented, the occupancy thereof shall be limited to the lessee or tenant under the lease and his family and guests. No Owner shall be permitted to lease a Living Unit for transient or hotel purposes. No Owner may lease less than his entire Living Unit. All lease agreements shall be in writing and shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration and the Project Documents, and any failure by Lessee to comply with the terms of such documents shall be a default under the lease. For purposes of this Declaration, "lease" shall mean any agreement for the leasing or rental of all of a Living Unit, including, but not limited to,

“month-to-month” rentals. Upon leasing his Living Unit, an Owner shall promptly notify the Association in writing of the commencement date and termination date of the lease, together with the names of each Lessee or other person who will be occupying the Living Unit during the term of the lease.

3.22 Drainage. The drainage from, to, or on any Lot or Common Area or any other portion of the Project, and all drainage improvements and facilities, as originally constructed by the Declarant or the Project Owner pursuant to plans approved by the County and/or other applicable governmental authorities, (collectively the "Drainage Improvements") shall not be altered, disturbed or obstructed by any Owner in any way, and no Improvements shall be constructed on or in any such Drainage Improvements. Without limitation of the foregoing, in no event shall any Owner alter, disturb or obstruct in any way, or construct any Improvement in, any natural washes within the Project. Anything in this Section or elsewhere in this Declaration notwithstanding, the Declarant may alter or construct any Drainage Improvements or alter any natural washes to the extent required by the County or any other governmental authority, and the Declarant is hereby granted a license to enter upon any Lot or Common Area to the extent deemed necessary or convenient by Declarant for the purpose of accomplishing such alteration or construction.

3.23 Utility and Irrigation Meters and Panels. No utility or service equipment or lines may be installed or located on any Lot except as has been approved by the Committee. No utility meter or apparatus shall be located on any pole or attached to the outside of any Improvement which is exposed to view from any street within the Project. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls as necessary to comply with the requirements, requests, regulations, orders, commissions or specifications of any public, quasi-public or private utility or any governmental agency or body provided that reasonable efforts shall be made to avoid placing any such meter, panel or equipment on the outside front wall of any Living Unit or other building facing the street directly in front of or to the side of the Living Unit. All sprinkler and irrigation controls, valves, panels and equipment installed on any Lot shall be installed so as not to be visible from any street located directly in front of or to the side of any Lot.

3.24 Antennas and Satellite Dishes.

A. This Section applies to antennas, satellite dishes and other devices (“Receivers”), including any poles or masts (“Masts”) for such Receivers, for the transmission or reception of television or radio signals or any other form of electromagnetic radiation.

B. As of the date of recordation of this instrument, Receivers one (1) meter or less in diameter are subject to the provisions of Title 47, Section 1.4000 of the Code of Federal Regulations (with such Section being referred to herein as the “Federal Regulation”). “Regulated Receivers” shall mean Receivers subject to the Federal Regulation as such may be amended or modified in the future or subject to any other applicable federal, state or local law, ordinance or regulation that would render the restrictions in this Section on Unregulated Receivers (hereinafter defined) invalid or unenforceable as to a particular Receiver (“Other Laws”). “Unregulated Receivers” shall mean all Receivers that are not Regulated Receivers. Notwithstanding the foregoing, a Regulated Receiver having a Mast in excess of the size

permitted under the Federal Regulation or Other Laws for Regulated Receivers shall be treated as Unregulated Receivers under this Section.

C. No Unregulated Receivers shall be permitted outdoors on any Lot, whether attached to a building or structure or on any Lot, unless approved in writing by the Committee, with such screening and fencing as such Committee may require. Unregulated Receivers and any mast therefor, if permitted by the Committee, must be ground mounted and may in no event be Visible from Neighboring Property.

D. Regulated Receivers shall be subject to the following requirements:

(i) A Regulated Receiver and any required Mast shall be placed so as not to be Visible from Neighboring Property if such placement will not (a) unreasonably delay or prevent installation, maintenance or use of the Regulated Receiver, (b) unreasonably increase the cost of installation, maintenance or use of the Regulated Receiver or (c) preclude the reception of an acceptable quality signal.

(ii) Regulated Receivers and any required Masts for a Regulated Receiver shall be placed on Lots only in accordance with the following descending order of locations, with Owners required to use the first available location that does not violate the requirement of parts (a) through (c) in subsection (i) above:

1. A location in the back yard of the Lot where the Receiver will be screened from view by Landscaping or other Improvements;
2. An unscreened location in the back yard of the Lot;
3. On the roof but below the roof line;
4. A location in the side yard of the Lot where the Receiver and any pole or Mast will be screened from view by Landscaping or other Improvements;
5. An unscreened location in the side yard; or
6. A location in the front yard of the Lot where the Receiver will be screened from view by Landscaping or other Improvements.

Notwithstanding the foregoing order of locations, if a location stated in the above list allows a Receiver to be placed so as not to be Visible from Neighboring Property, such location shall be used for the Receiver rather than any higher-listed location at which a Receiver will be Visible from a Neighboring Property, provided that placement in such non-visible location will not violate the requirements of parts (a) through (c) in subsection (i) above.

(iii) No Mast for a Regulated Receiver shall extend above any Regulated Receiver.

(iv) Owners shall install and maintain Landscaping or other Improvements (“Screening”) around Receivers and Masts to screen items that would otherwise be Visible from Neighboring Property unless such requirement would violate the requirements of parts (a) through (c) in subsection (i) above. If an Owner is not required to install and maintain Screening due to an unreasonable delay in installation of the Receiver that such Screening would cause, the Owner shall install such Screening within thirty (30) days following installation of the Receiver and shall thereafter maintain such Screening, unless such Screening installation or maintenance will violate the provisions of parts (a) through (c) in subsection (i) above. If an Owner is not required to install Screening due to an unreasonable increase in the cost of installing the Receiver caused by the cost of such Screening, the Association shall have the right, at the option of the Association, to enter onto the Lot and install such Screening and, in such event, the Owner shall maintain the Screening following installation, unless such Screening installation or maintenance will violate the provisions of parts (a) through (c) in subsection (i) above.

The provisions of this Section are severable from each other; the invalidity or unenforceability of any provision or portion of this Section shall not invalidate or render unenforceable any other provisions or portion of this Section, and all such other provisions or portions of this Section shall remain valid and enforceable. The invalidity or unenforceability of any provisions or portions of this Section to a particular type of Receiver or Mast or to a particular Receiver or Mast on a particular Lot shall not invalidate or render unenforceable such provisions or portions regarding other Receivers or Masts on other Lots.

3.25 Basketball Goals and Play Structures. No basketball goal, backboard or similar structure or device and no swing set, trampoline, batting cage or other play structure which would be Visible From Neighboring Property shall be placed or constructed on any Lot without the prior written approval of the Committee (including, but not limited to, approval of appearance, dimensions and location). In no event shall basketball goals be permitted to be attached to any Living Unit. Permanent basketball goals must include a free standing pole, which must be painted the color of the body of the Living Unit. The backboard of any basketball goal must be composed of a clear material free of stickers, decals, writing, or graphic designs. Basketball goals and nets must be maintained in good repair at all times.

3.26 Items Visible From Neighboring Property. The following shall not be erected, used, maintained or kept on any Lot so as to be Visible From Neighboring Property: air conditioners, coolers, pool filters, pool heaters, lawn and yard tools, storage tanks for water, gas, gasoline, oil or other fuel.

3.27 Lights. Except for lights installed by Declarant, spot lights or other lights shall not be installed, maintained or used in a manner which causes glare to neighboring property or an annoyance to the Owner or Occupant of neighboring Lots. Tennis or sport court and overhead swimming pool lights, shall not be allowed except as approved by the Committee. Tennis and sport court lighting shall not be utilized between the hours of 10:00 p.m. and 6:00 a.m. All outside lights, if any, will be of a height, design and type approved by the Committee. Seasonal decorative lights may be displayed between November 15 and January 31, subject to the Rules and Regulations and any restrictions adopted by the Board or the Committee.

3.28 Reflective Materials. Reflective materials or articles, including reflective house sidings and roofing material, shall not be maintained on any Lot. No glass used in the construction of any exterior Improvement on any Lot shall have a light reflective value in excess of fifty percent (50%).

3.29 Roofs and Flashings. Except as installed by Declarant, no asbestos shingle roofs, light-reflective roofs or flat roofs (unless fully concealed by a parapet wall so as not to be Visible From Neighboring Property) shall be constructed or maintained on any Lot. No standing water shall be permitted to exist on any flat roof. Only roofs composed of concrete or clay tile or another material approved by the Committee shall be constructed on any Living Unit.

3.30 Landscaping. In addition to the requirements and restrictions set forth in Article IV, below, no plant materials other than those specified on Exhibit A attached hereto shall be planted on a Lot or elsewhere within the Project except with the prior written consent of the Committee. All areas of turf shall be restricted to within fenced rear Lot yards.

3.31 Natural Washes. Natural washes are located within and/or adjacent to portions of the Project. All present and future Owners, lessees and residents of a Living Unit acknowledge and agree that there are certain risks inherent in the presence or use of washes due to the possibility of flash floods, floodwaters, and standing water. All such Persons expressly agree to assume such risk and further agree that no claim or cause of action for any harm, damage, or injury to person or property of any kind or from any hazard associated with the presence or use of such washes shall be maintained against Declarant, the Association, the Committee, the Board, or any of the members, directors, officers, shareholders or other owners, employees, committee members, or agents of any of the foregoing, and all such Persons are hereby released from any and all such claims or causes of action. Each such Person further understands and agrees that certain methods may be used to reduce the hazards of flash floods in the washes. After receiving a written request from an Owner, the Association may either make available to such Owner information concerning flash flood reduction methods or may refer such Owner to a State, County, or Town agency for information concerning such methods. All present and future Owners, lessees, and residents of a Living Unit acknowledge and agree, however, that neither the Declarant nor the Association makes any representation or warranty as to the truth or accuracy of any such information, whether or not such information is provided directly by the Association.

3.32 Parks. The areas identified as "Tot Lots" on the Plat are presently proposed as community park sites (herein, each a "Park Site"). Each Owner, lessee and resident of a Living Unit shall comply with any and all rules and requirements imposed by the Association with respect to such Park Sites, until such time any such Park Site is dedicated to the Town. Thereafter each Owner shall comply with any and all rules and regulations imposed by the Town with respect to the use of the Park Site. Each present and future Owner understands and agrees that, while construction of a park on each Park Site is presently contemplated, the Declarant, Association and the Project Owner make no warranties or representations as to the future use of any Park Site.

ARTICLE 4
ARCHITECTURAL AND LANDSCAPING CONTROL

4.1 Architectural and Landscaping Control.

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

B. No excavation or grading work shall be performed on any Lot without the prior written approval of the Committee.

C. No Improvement shall be constructed or removed from any Lot and, except for such removal as may be required in connection with routine maintenance of Landscaping, no Landscaping shall be installed, planted, placed on or removed from any Lot without the prior written approval of the Committee, and all Improvements and Landscaping must fully comply with the Architectural and Landscaping Guidelines.

D. No addition, alteration, repair, change, painting or other work which in any way alters the exterior appearance of any Living Unit or any Improvements on any Lot, including, without limitation, the exterior color scheme of any Improvements located thereon from their appearance on the date the Lot is conveyed by Declarant to a Purchaser shall be made or done without the prior written approval of the Committee.

E. Any Owner desiring approval of the Committee for the construction, installation, addition, alteration, removal, repair, change or replacement of any Improvement which would alter the exterior appearance of his or its Lot or the Improvements located thereon shall submit to the Committee a written request for approval, specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Committee shall also submit to the Committee any additional information, plans and specifications which the Committee may request.

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

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

H. The Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section, which fee shall be payable at the time that the

application for approval is submitted to the Committee. The Committee may employ an architect and other design professionals, and the fees for such services shall be included in the review fees.

I. The provisions of this Section do not apply to, and approval of the Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvements made by, or on behalf of, the Declarant.

4.2 Initial Landscaping Requirements. To the extent that the Landscaping is not, prior to closing of the sale of a Lot by Declarant or a Builder to a Purchaser of the Lot, installed in the front yard of a Lot and on any other portion of a Lot which is Visible from Neighboring Property through view fencing, such Landscaping must, within 120 days following the closing of the Purchaser's purchase of such Lot, be installed in accordance with the Architectural and Landscaping Guidelines. A Purchaser's failure to complete such Landscaping in accordance with plans previously approved by the Committee or, if the same exist, in accordance with the Architectural and Landscaping Guidelines within 120 days after the Purchaser's closing of the purchase of its Lot shall result in the sending of a reminder letter of this requirement. A Purchaser's failure to complete such Landscaping in accordance with the plans approved by the Committee or the Architectural and Landscaping Guidelines within 180 days after closing the purchase of its Lot shall result in a fine by the Board in the amount of \$250. A Purchaser's failure to complete such Landscaping in accordance with the plans approved by the Committee or the Architectural and Landscaping Guidelines within 210 days after closing the purchase of its Lot shall result in an additional fine by the Board in the amount of fifty dollars (\$50) for each day after 210 days after such closing. The non-complying Owner shall also be responsible for all fees and costs incurred by the Association and/or the Declarant in connection with the enforcement of this Section, including reasonable attorneys' fees, and such amounts shall be added to and become part of the Assessment for which the non-complying Owner's Lot is subject.

4.3 Appointment of Committee. The Association shall establish the Committee to perform the functions of the Committee set forth in this Declaration. The Committee shall consist of not less than three (3) members. From the date of this Declaration until the period ending one (1) year after Declarant has sold its last Lot, the Declarant shall have the sole right to appoint and remove the members of the Committee. At such time as the Declarant no longer is entitled or waives its right to appoint members of the Committee, the members of the Committee shall be appointed by the Board. The Declarant may at any time voluntarily surrender its right to appoint and remove members of the Committee, and in that event, the Declarant may require, for a period expiring one (1) year after the Declarant has sold its last Lot, that specified actions of the Committee, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

4.4 Determination of Architectural and Landscaping Guidelines. Prior to the termination of the Class "B" Membership, Declarant shall have the right but not the obligation to establish and revise the Architectural and Landscaping Guidelines. The Architectural and Landscaping Guidelines may include supplemental procedures and restrictions for the construction, installation and removal of any Improvements on any Lot. Upon the termination of the Class "B" Membership, the Board shall have the right to the right but not the obligation to

establish and revise the Architectural and Landscaping Guidelines, if none have been previously established by the Declarant, or, if Architectural and Landscaping Guidelines have been previously established by the Declarant, to make such changes to the Architectural and Landscaping Guidelines as the Board shall deem appropriate. The Committee shall keep and maintain a written record of all actions taken in connection with the Committee.

4.5 Failure to Approve or Disapprove. All requests for Committee approval pursuant to this Article must be made by an Owner in writing. In the event the Committee fails to approve or disapprove in writing an application for an improvement, addition or alteration to a Lot within forty-five (45) days after the receipt by the president of the Association and any management company retained by the Association of a complete application, duly prepared in accordance with the rules promulgated by the Declarant or the Board, as the case may be, such application for an improvement shall be deemed disapproved, and the Owner shall be free to resubmit such application to the Committee. If any Owner resubmits an application which was deemed disapproved pursuant to the preceding sentence, and in the event the Committee fails to approve or disapprove in writing such resubmitted application within forty-five (45) days after the receipt by the President of the Association and any management company retained by the Association of a complete resubmitted application, duly prepared in accordance with the rules promulgated by the Declarant or the Board, as the case may be, the application shall be deemed approved by the Committee, provided such improvement, addition or alteration described in the resubmitted application is carried out in precise conformity with such application.

4.6 Prior Approval. The approval (whether actual or deemed) by the Committee of any plans, drawings or specifications, as the case may be, for a matter requiring the prior written approval of the Committee, shall not be deemed to constitute a waiver of any requirement or restriction imposed by this Declaration, or of any right of the Committee to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

4.7 Effect of Approval or Disapproval. All decisions of the Committee shall be final, and neither Declarant, the Board, the Committee nor any director, officer, shareholder or member thereof shall have any liability to any Owner or any other party for any damage or loss suffered or claimed on account of: (i) approval or disapproval of any plans, drawings or specifications or any landscape plan; (ii) construction or modification of any Improvement or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or (iii) the development of any property within the Project. Approval of plans and specifications by the Committee is not, and shall not be deemed to be, a representation or warranty, whether express or implied, that said plans and specifications comply with applicable governmental ordinances or regulations, including, without limitation, zoning ordinances and building codes, and industry standards for design or construction.

4.8 Governmental Approvals. The approval of the Committee required by this Section shall be in addition to, and not in lieu of, any approvals, consents or permits required under the ordinances or rules and regulations of any county or municipality having jurisdiction over the Project.

**ARTICLE 5
EASEMENTS**

5.1 Easements in Common Areas. Each and every Member shall have a nonexclusive perpetual easement of use and enjoyment in and to the Common Areas. Such right and easement of use and enjoyment shall be subject to:

- A. The right of the Association to limit the number of guests of Members;
- B. The right of the Association to suspend the right of any Member to use the facilities situated upon the Common Areas for any period during which an Assessment against the Member's Lot remains unpaid or for any violation of the Project Documents;
- C. The right of the Association to dedicate, transfer or convey, all or any part of the Common Areas to any public agency, authority or utility as provided in this Declaration;
- D. The right of the Association to promulgate Rules and Regulations concerning the use of any Common Areas and all facilities located thereon; and
- E. All existing easements of record.

5.2 Blanket Utility Easement. There is hereby created in the Association and all providers to the Project of public utilities a blanket easement upon, across, over and under the Property for ingress and egress for the installation, replacing, repairing and maintaining of all utility and service lines and systems, including but not limited to water, sewer, gas, telephone, electrical, air conditioning, heating, television cable or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company or the Association or their agents to install and maintain facilities and equipment on the Property and to affix and maintain wires, pipes, lines, conduits, ducts, vents, cables, circuits and other appurtenant items on the Property and to trim any tree, shrubbery and other Landscaping which interfere with any such utility facilities. Notwithstanding anything to the contrary contained in this Article, no sewer facilities, electrical lines, water lines or other utility or service lines may be installed or relocated on the Property, except as approved by Declarant, as long as Declarant owns any interest in any Lot or in the Project and, thereafter, except as approved by the Board.

5.3 Easement for Encroachments. In the event a wall, Landscaping, or other approved Improvement on a Lot or the Common Area encroaches upon another Lot or the Common Area, and such encroachment is inadvertent and has no significant adverse impact on the adjacent property, an easement for such encroachment is hereby given and the right to determine whether such encroachment causes a significant adverse impact shall be determined by the Committee upon request by either of the parties. When such determination is made by the Committee, that determination shall be binding on all parties. Also, in the event that Declarant at any time determines that any Improvements within the Project were constructed so as to create an encroachment upon a Lot which causes a significant adverse impact upon the encroached-upon Lot, Declarant shall have the right but not the obligation to cause such encroachment to be eliminated or minimized, and an easement is hereby created in favor of Declarant and its

employees, contractors and agents to enter upon the affected Lots to eliminate or minimize such encroachment.

5.4 Drainage Easements Among Owners. The Lots are subject to all drainage easements shown on the Plat, if any, and all drainage easements as the City may hereafter require. In addition, to the extent that storm runoff flows from any Lot(s) or Common Areas under or through one or more other Lots, drainage easements shall exist over such Lot(s) and any such drainage flow shall not be impeded, diverted, or otherwise changed. Such drainage easements shall include, but are not limited to, receiving the runoff from roofs and drainage under and through walls.

5.5 Association's Easement for Performing Maintenance and Inspections. The Association shall have an easement upon, across, over and under the Common Areas and the Lots for the purpose of repairing, maintaining and replacing Areas of Association Responsibility and for performing all of the Association's other rights, duties and obligations hereunder. In addition, during reasonable hours, the Association or any authorized representative of the Association shall have the right to enter upon and inspect any Lot, excluding the interior of any Improvement located thereon, for the purpose of making inspections to determine whether the provisions of the Project Documents are being complied with by the Owner or Occupants of said Lot.

5.6 Temporary Easements. Declarant, its agents, employees and contractors shall have such temporary easements upon each Lot and the Areas of Association Responsibility as are reasonably necessary for any of the following purposes: (i) development of adjacent Lots or Common Areas (ii) completion of improvements in public rights-of-way, public utility easements, drainage easements or Common Areas, (iii) otherwise discharging its obligations and exercising its rights granted to or reserved by the Declarant under this Declaration; or (iv) to carry out any work required by, convenient to or incidental to carrying out the terms of any warranty. In addition, the Declarant shall have the right and an easement to maintain sales or leasing offices, management offices, construction offices or trailers, and models, together with related parking and storage areas, and to maintain one or more advertising signs on any or all Common Areas while the Declarant is selling Lots or constructing improvements within the Project. Declarant reserves the right to place models, management offices, construction trailers and offices, and sales and leasing offices, and related parking and storage areas on any Lots owned or optioned by Declarant and on any portion of the Common Areas in such number, of such size and in such locations as the Declarant deemed appropriate.

5.7 Public Easements. Each Owner who accepts a deed to or any interest in a Lot agrees to recognize and be bound by any open space easements, drainage easements and other easements shown in the Plat or which otherwise exist with respect to the Lot purchased by such Owner or the Common Areas, all in accordance with applicable ordinances and regulations.

5.8 Perimeter Wall Easements and Maintenance. Each Owner who accepts a deed to a Lot which borders any major arterial street which borders the Project and/or which borders any Common Area tract shall be deemed to grant to the Association a non-exclusive easement for access to, and maintenance and repair of, the perimeter walls for the Project along such roadways and/or any other major arterial street and any Common Area tract, and each Owner of such a Lot

shall be responsible for maintaining the interior of any such perimeter wall and shall also be responsible for repairing any damage to such perimeter wall caused by such Owner or its family members, guests, lessees or agents. To the extent any perimeter wall for the Project encroaches upon any Lot, an easement for such encroachment is hereby established over the encroached upon portion of any such Lot for the benefit of the Association.

ARTICLE 6 MAINTENANCE

6.1 Maintenance of Areas of Association Responsibility. The Association, or its duly delegated representative, shall be responsible for the maintenance and repair of (i) the Common Areas and (ii) all other Areas of Association Responsibility. The Association shall also have the right, but not the obligation to undertake any maintenance within the Project as the Board may from time to time determine to be in the best interest of the Association and the Members. The Board shall endeavor to use a high standard of care in providing any maintenance, management and repair, so that the Project will reflect a high pride of ownership.

6.2 Maintenance of Lots. No Improvement upon any Lot shall be permitted to fall into disrepair, and all Improvements shall at all times be kept in good condition and repair, adequately painted and otherwise finished. Each Owner shall maintain in good repair the exterior surfaces of each Improvement on said Owner's Lot, including but not limited to walls, roofs, porches, patios and appurtenances. Nothing shall be done in or to any Improvement which will impair the structural integrity of any Improvement except in connection with any alterations and repairs permitted or required by the Committee. In the event of damage or destruction from any cause whatsoever to all or any portion of an Improvement, the Owner of the Lot shall promptly repair, reconstruct or restore the same, or cause the same to be repaired, reconstructed or restored, to the condition existing prior to such damage or destruction. Each Owner shall also maintain in good condition and repair all paved, concrete and other artificially surfaced areas, including driveways and walkways located on the Owner's Lot. Notwithstanding any provision contained in this Declaration, an Owner shall not be responsible for maintenance of any Areas of Association Responsibility.

6.3 Maintenance of Landscaping. All lawn areas shall be kept mowed as needed to keep an even, well groomed appearance and shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive and free of weeds. In addition, each Owner of a Lot shall keep all other Landscaping of every kind located on his or its Lot neatly groomed and trimmed (including the pruning of dead wood) according to their plant culture and landscape design, and each Owner shall keep all such Landscaping watered and fertilized at such times and in such quantities as required to keep them alive and attractive and each Owner shall keep all such areas properly cultivated and free of trash, weeds and other unsightly materials. Each Owner shall immediately remove and replace any dead tree, shrub, plant, ground cover or other dead Landscaping on its Lot. All lawn areas on Lots which are visible from adjacent Lots, Roadways or Common Areas must be watered, fertilized and overseeded by the Owner of the Lot as and when necessary in order to maintain a green lawn at all times. If an Owner or Occupant of a Lot fails to comply with this provision, the Association may levy a fine against the violating Lot and its Owner in an amount to be established by the

Board. Notwithstanding the foregoing, Owners shall not be responsible for maintenance of any Area of Association Responsibility.

6.4 Assessment for Nonperformance of Maintenance. In the event any Owner fails to maintain any portion of its Lot and the Improvements located thereon, the Association shall have the right, but not the obligation, to enter upon such Owner's Lot to perform the maintenance and repairs not performed by the Owner, and the cost of such maintenance and repairs shall be added to and become a part of the Assessment to which such Lot is subject.

6.5 Assessment for Damage or Destruction. In the event that any Lot or Common Areas are damaged or destroyed through the willful or negligent act or omission of any Owner, Occupant or their pets, guests, licensees or agents and the Association performs the appropriate repairs or replacements as required or permitted herein, the cost to repair such damage or destruction shall be added to and become a part of the Assessment to which such Lot is subject.

6.6 Maintenance of Fences and Walls other than Common Fences and Walls. Fences and Walls (other than common fences and walls and any perimeter fences included as Areas of Association Responsibility) 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 the Common Area (other than perimeter fences included as Areas 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 fence or wall which faces the Common Area. Common fences and walls are to be maintained in accordance with Article 10 below.

ARTICLE 7 HOMEOWNERS' ASSOCIATION

7.1 Formation of Association. The Association has been or shall be incorporated as an Arizona non-profit corporation to perform and exercise all or any part of the responsibilities and functions granted to the Association under this Declaration and the Project Documents. In the event of any conflict or inconsistency between this Declaration and the Articles, Bylaws, Rules and Regulations, Architectural and Landscaping Guidelines or any other Project Document, this Declaration shall control.

7.2 Membership. Each Owner shall automatically be a Member of the Association, and upon subsequent transfers of the Owner's Lot, the new Owner shall automatically become a Member of the Association and the former Owner's membership shall automatically cease. Membership shall be appurtenant to and may not be separated from ownership of any Lot and any attempt to transfer membership, other than upon the transfer of the Lot giving rise to the membership, shall be void. Each and every Owner, by accepting its ownership interest in a Lot, agrees to become a Member of the Association and to be bound by the provisions of the Project Documents and this Declaration.

7.3 Classes of Membership and Voting Rights. The Association shall have two (2) classes of voting membership designated as Class "A" and Class "B."

A. Class "A" Members shall be all Owners, except Declarant shall not be a Class "A" Member as long as the Class "B" membership is in existence. Each Class "A" member, including Declarant with respect to any Lots owned by Declarant, shall be entitled to one (1) vote for each Lot owned by it. If a Lot is owned or deemed to be owned by more than one individual Class "A" Member, the Members owning such Lot shall collectively be entitled to cast only one (1) vote for that Lot. The vote for such Lot shall be exercised as the Owners thereof among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

B. The Class "B" Member shall be the Declarant. The Class "B" Member shall be entitled to three (3) votes for each Lot owned by it. The Class "B" membership shall cease and be converted to Class "A" membership following the earlier to occur of the following:

(i) The date when seventy-five percent (75%) of the total Lots within the Project are owned by Purchasers;

(ii) That date which is five (5) years after the date of recordation of this Declaration; or

(iii) Such time as the Class "B" Member shall elect to convert its Class "B" membership to Class "A" membership and provides the Association with written notification of such election.

Upon the termination of the Class "B" membership, that membership shall be converted to Class "A" membership and Declarant shall thereafter be entitled to one (1) vote for each Lot owned by Declarant.

7.4 Duties and Powers of the Association. In addition to the duties and powers enumerated in the Project Documents or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the duty and power to perform the following:

A. Maintain, repair, replace, restore, operate and manage all Areas of Association Responsibility and all Improvements thereon, and all property that may be acquired by the Association;

B. Enforce the provisions of this Declaration by appropriate means, including, without limitation, the expenditure of funds of the Association, the employment of legal counsel and the commencement and prosecution of legal proceedings;

C. Maintain such policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members;

D. Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area and the Lots;

E. Employ a manager or other persons and contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the

Association, subject to the Bylaws and the restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project;

F. Pay real property taxes, assessments and other governmental charges attributable to the Common Areas and all other expenses of the Association;

G. Fix, levy, collect and enforce Assessments and fines as set forth in this Declaration and the Rules and Regulations.

H. Pay all expenses and obligations incurred by the Association for the conduct of its business, including, without limitation, all licenses, taxes or governmental charges levied or imposed against the Common Areas and any other property or property rights owned by the Association;

I. Engage in activities which will actively foster, promote and enhance the common interests of the Members;

J. Buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real or personal property and any right or interest therein for any purpose of the Association;

K. Borrow money for any purpose as may be limited in the Bylaws;

L. Enter into, make, perform or enforce contracts of every kind and description and to do all other acts necessary, appropriate or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation or other entity or agency, public or private;

M. Dedicate, sell or transfer all or part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association (such sale, transfer or dedication shall be subject to the restrictions and requirements under the applicable laws of Arizona);

N. Exercise any and all powers, rights and privileges provided for in this Declaration; and

O. Have and exercise any and all other powers, rights and privileges and transact any lawful business which nonprofit corporations are permitted to have, exercise or transact under the laws of the State of Arizona, as they may be amended from time to time.

7.5 Board. The affairs of the Association shall be conducted by the Board which shall be selected in the manner stated in the Project Documents. Each director shall be an Owner of a Lot or the spouse of an Owner, or, if an Owner is a corporation, limited liability company, partnership, trust or other legal entity, a director may be an officer, director, member, partner, beneficiary or authorized agent of such Owner. If a director shall cease to meet such directorship qualifications during his term, he shall automatically cease to be a director and his place on the Board shall be deemed vacant. Notwithstanding the foregoing, as long as there is a Class "B" Membership, directors need not be an Owner of a Lot. Unless the Project Documents

specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

7.6 Rules and Regulations. The Association may from time to time establish such Rules and Regulations as it deems necessary for the conduct and operation of the Project including, by way of illustration and not by way of limitation, Rules and Regulations for the purpose of establishing and maintaining general beautification features within the Project and providing for the health, safety and welfare of Occupants of and visitors to the Project.

7.7 Availability of Documents. The Association shall make available to all Owners of Lots and prospective purchasers of Lots current copies of the Project Documents; provided, however, the Association may charge any requesting party a reasonable fee for such copies of the Project Documents.

ARTICLE 8 COVENANTS FOR ASSESSMENTS AND CREATION OF LIENS

8.1 Creation of the Assessment Lien and Personal Obligations for Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (i) regular annual Assessments or charges ("Annual Assessments"); (ii) special Assessments for capital improvements and unexpected expenses ("Special Assessments"); and (iii) such other Assessments as are provided for herein or in the Project Documents. The Assessments together with interest, collection costs, attorneys' fees, witness fees, court costs and other litigation related expenses which may be incurred by the Association in collecting such amounts or in enforcing all of the rights and remedies provided herein, shall be a charge and a continuing Assessment Lien upon the Lot against which each Assessment is made, and all such amounts shall also be a personal obligation of the Person who was the Owner of such Lot at the time when the Assessment fell due. No Owner of a Lot may exempt himself from liability for his contribution toward the Assessments by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his Lot. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of the alleged failure of the Association or the Board to take some action or perform some function under this Declaration or the Project Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority.

8.2 Purpose of Assessments. The Assessments by the Association shall be used exclusively for the improvement and maintenance of the Areas of Association Responsibility, the promotion of the recreation, health, safety and welfare of all the residents in the Project, the operation and administration of the Association and for the common good of the Project.

8.3 Annual Assessments. The Board shall annually determine and fix the amount of the Annual Assessment against each Lot and shall notify the Owner of each Lot in writing as to the amount of such Annual Assessment not less than thirty (30) days prior to the date that such Annual Assessment is to commence. Along with such notification, the Board shall endeavor to provide the Owners with a proposed budget for the next fiscal year and a summary of the

Association's finances for the previous fiscal year. In addition to including amounts for the estimated common expenses and cash requirements of the Association, each budget shall also provide for a reserve for contingencies and a reserve for replacements, all in such amounts as shall be determined by the Board to be reasonably adequate, taking into account the number and nature of replaceable property within the Areas of Association Responsibility, the expected life of each such item and each item's expected repair or replacement cost. The Board shall cause a statement of the amount of the Annual Assessments for the fiscal year in question to be delivered or mailed to each Owner at least thirty (30) days prior to the commencement of such fiscal year; provided, however, in the event the Board fails to adopt a budget for any fiscal year prior to commencement of the fiscal year, then until and unless a budget is adopted, the budget (and the amount of the Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. The Board shall make available to all Members copies of the budget for the Association. Until January 1 of the year following the conveyance of the first Lot to a Purchaser, the maximum Annual Assessment shall be established by Declarant in its sole discretion. Thereafter, the Annual Assessment may be neither increased by more than twenty percent (20%) above, nor decreased by more than twenty percent (20%) below the Annual Assessment for the previous year, without the vote or written consent of sixty-seven percent (67%) of the membership present and voting at a meeting at which a quorum equal to fifty-one percent (51%) of the Members are present in person or by proxy. Notwithstanding the foregoing, the Board may without the approval of the Members, increase the maximum Annual Assessment for any fiscal year by an amount sufficient to permit the Board to cover any increase over the preceding fiscal year for: (i) premiums for any insurance coverage required by the Declaration to be maintained by the Association; (ii) taxes or other governmental charges on the Common Areas or (iii) charges for utility services necessary to the Association's performance of its obligations under this Declaration. If item (i), (ii) or (iii) in the preceding sentence results in an increase in the maximum Annual Assessment, such increase shall be permitted notwithstanding the fact that the resulting increase in maximum Annual Assessment is at a rate greater than otherwise permitted by the preceding portions of this Section. Nothing herein shall obligate the Board to levy, in any fiscal year, Annual Assessments in the full amount of the maximum Annual Assessment for the fiscal year, and the election by the Board not to levy Annual Assessments in the full amount of the maximum Annual Assessments for the fiscal year shall not prevent the Board from levying Annual Assessments in subsequent years in the full amount of the maximum Annual Assessments for the subsequent fiscal year (as determined in accordance with this Section). In the event that for any fiscal year, the Board elects to levy an Annual Assessment at less than the full amount of the maximum Annual Assessment for the fiscal year, the Board may, if in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Annual Assessment during the same fiscal year so long as the total of the Annual Assessments levied during the fiscal year have not exceeded the maximum Annual Assessments for such fiscal year. All Annual Assessments shall be payable in advance in accordance with such payment schedule as the Board may determine. Upon the transfer of any Lot to a Purchaser, the Annual Assessment shall be prorated through the date of the close of escrow for each Lot based on the number of full and partial months remaining in the then current payment period.

8.4 Special Assessments. In addition to the Annual Assessments authorized above, the Board may levy in any assessment year a Special Assessment, applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction,

repair or replacement of a capital improvement upon the Common Areas and Areas of Association Responsibility, including equipment, fixtures and personal property related thereto, or to defray any unanticipated or underestimated expenses normally covered by an Annual Assessment, including taxes assessed against the Common Areas, provided, however, that the aggregate Special Assessments for any fiscal year shall not exceed fifty percent (50%) of the budgeted gross expenses of the Association for that Assessment year without the vote or written consent of sixty-seven percent (67%) of the membership present and voting at a meeting at which a quorum equal to fifty-one percent (51%) of the Members are present in person or by proxy.

8.5 Enforcement Assessments. The Board shall also have the right to levy assessments against an individual Lot and its Owner to reimburse the Association for costs incurred by the Association in connection with its efforts to require that Owner and his Lot to comply with the provisions of this Declaration and the Project Documents or costs incurred by the Association in connection with causing to be done such work as is necessary to bring a Lot into such compliance (an “Enforcement Assessment”), and such Enforcement Assessments shall not be subject to the limitations set forth above as to the amount of Special Assessments.

8.6 Allocation of Assessments. Except as provided for in Section 8.7 below with respect to Declarant and in Section 8.5 above with respect to an Enforcement Assessment, the Owner of each Lot shall bear an equal share of Assessments.

8.7 Declarant’s Assessments. Notwithstanding any other provision contained in this Declaration, as long as the Class “B” membership is in existence, no Assessments shall be levied against Lots owned or leased by Declarant or Project Owner. In lieu thereof, Declarant agrees that so long as the Class “B” membership is in existence, Declarant shall subsidize the Association by paying the difference, if any, between the amount of Annual Assessments levied by the Association and the actual cost of operating and administering the Association (other than costs for which a Special Assessment or Enforcement Assessment is levied); provided, however, in no event shall Declarant’s subsidy obligation exceed an amount calculated by multiplying the total number of Lots owned or leased by Declarant and Project Owner by the per-Lot amount of Annual Assessments levied against the other Lots within the Project, which amount is to be adjusted and prorated based upon the actual number of days such Lots are owned or leased by Declarant or Project Owner. Such payments by Declarant shall be made at such times as Declarant and the Board shall agree. Declarant’s obligations under this Section may be satisfied in the form of a cash subsidy or by “in kind” contributions of services or materials, or a combination of both.

8.8 Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on a monthly basis or such other more frequent 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 this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of its liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than twenty (20) days written notice prior to such foreclosure or enforcement

that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time 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 any period for which any such Assessment pertains. Successor Owners of Lots shall be given credit for prepayments of Assessments, on a prorated basis, made by prior Owners.

8.9 Transfer of Lot by Sale or Foreclosure. Sale or transfer of any Lot shall not affect any Assessment Lien against such Lot. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof. Except for Assessment Liens existing prior to the recording of a First Mortgage, the Assessment Liens provided for in this Declaration shall be junior and subordinate to the lien of any First Mortgage against a Lot, and where the Owner of record acquires title to a Lot as a result of foreclosure of any such First Mortgage, such Owner shall not be liable for the share of the Assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to an Assessment Lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any such Assessments becoming due after the date of any such statement.

8.10 Effect of Non-Payment of Assessments; Remedies of the Association. If any part of any Assessment is not paid within fifteen (15) days after the due date provided for herein or otherwise established by the Board, a late fee in an amount established by the Board shall automatically become due and payable by the delinquent Member. In addition, if any part of any Assessment is not paid within fifteen (15) days after the due date, such unpaid Assessment or unpaid portion of an Assessment shall bear interest from the sixteenth (16th) day following the due date until paid at the greater of (i) fifteen percent (15%) per annum or (ii) two percent (2%) per annum over the prime rate of Wells Fargo Bank or its successor, and the Owner of the Lot subject to such delinquent Assessment shall also be responsible for paying any collection costs, attorneys' fees, witness fees, court costs and other litigation related expenses which may be incurred by the Association in collecting such Assessments or in enforcing any of the Association's rights and remedies set forth herein. Any monies paid by a Member for a delinquent Assessment shall be applied first to the principal amount unpaid and then to the late charge and interest accrued. Any Assessment, or any installment of an Assessment, which is delinquent shall be a continuing lien on the Lot against which such Assessment was made. The Assessment Lien may, but need not, be evidenced by the recordation of a "Notice of Claim of Lien" which shall set forth (i) the name of the delinquent Owner as shown on the records of the Association, (ii) the legal description or street address of the Lot against which the claim of lien is made, (iii) the amount claimed as of the date of the recording of the Notice, including late charges, interest, recording fees, collection costs, attorneys' fees, court costs and other litigation related expenses which may be incurred by the Association in collection such amounts and (iv) the name and address of the Association. Before recording a lien against any Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent assessments, together with late charges and reasonable attorneys' and collection fees, if any. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within

a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent assessments, lien fees, late charges and reasonable attorneys fees and/or collection costs have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien. The Assessment Lien on each respective Lot shall be prior to and superior to all other liens except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (ii) the lien or charge of any First Mortgage of record made in good faith and for value. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, all in connection with a First Mortgage, shall acquire title free and clear of any claims for unpaid Assessments and charges against the Lot which became payable subsequent to the recording of the First Mortgage but prior to the acquisition of such Lot by the First Mortgagee or other Person. An Assessment Lien, when delinquent, may be enforced by sale by the Association in accordance with the provisions of the Arizona Revised Statutes applicable to the exercise of powers of sale in mortgages or deeds of trust, or in any other manner permitted by law; however, the right to foreclose the same shall be in addition to and not in substitution of all of the rights and remedies which the Association and the Board may have in accordance with the provisions of this Declaration or otherwise. The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event the Owner against whom the original Assessment was made is the purchaser or redemptioner, the Assessment Lien shall continue in effect and the Assessment Lien may be enforced by the Association or by the Board for the respective Lot's Assessment that was due prior to the final conclusion of such foreclosure or equivalent proceedings. Further, any such unpaid Assessment shall continue to exist as a personal obligation of the defaulting Owner of the respective Lot to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a Member. Suit to recover a money judgment for unpaid Assessments and attorneys' fees shall be maintainable without foreclosing or waiving the Assessment Lien securing the same.

8.11 Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under the Project Documents for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended for a period not to exceed sixty (60) days for each infraction of the Project Documents, and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current.

8.12 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 but may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

8.13 Working Capital Funds. To create a reasonable working capital fund, each initial Owner (other than Project Owner, Declarant or another Builder) who purchases a Lot from Declarant or another Builder shall pay to the Association immediately upon becoming the owner of the Lot a sum equal to twenty-five percent (25%) of the then current Annual Assessment against its Lot. Such payment shall be non-refundable and shall be paid in addition to, and shall not be applied against or considered as an advance payment of, any Assessment or transfer fee levied by the Association pursuant to this Declaration. All amounts paid pursuant to this Section may be used as working capital while the Declarant is in control of the Association, and thereafter such amounts, if any then remain, shall be deposited into the Association's reserve account to be applied toward future major repairs and replacements and unbudgeted items, and Declarant and the Association may take such payments into account when determining the amounts to be funded to reserves from other Association funds.

8.14 Transfer Fee. Each Owner, except for a Declarant, Project Owner, any Owner who purchases its Lot from Declarant and any First Mortgagee, shall pay to the Association immediately upon becoming the Owner of a Lot a transfer fee in an amount determined by the Board but which shall not exceed one-half (1/2) of the then current Annual Assessment against the Lot, which amount shall be used by the Association to cover administrative costs incurred by the Association in connection with such transfer, with any excess amounts, if any, to be used to supplement the Association's reserve fund. 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 furnish to a purchaser under A.R.S. § 33-1806(A) and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806(C). The transfer fee shall be in addition to, and shall not be offset against or considered as an advance payment of, any Assessment levied by the Association pursuant to this Declaration, and the payment of such transfer fee shall not entitle an initial Owner to the return of any working capital payments made to the Association pursuant to Section 8.13 above.

8.15 Fines. The Association, acting through the Board, shall have the right to adopt a Schedule of Fines for the violation of any provision of the Project Documents by any Owner or such Owner's Lessees, licensees and invitees. No fines shall be imposed without first providing a written warning to the Owner describing the violation and stating that failure to stop the violation within ten (10) days or another re-occurrence of the same violation within six (6) months of the original violation shall make the Owner subject to the imposition of a fine. All fines shall constitute a lien on all Lots owned by the Owner and shall be paid within thirty (30) days following imposition. The failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any Assessments under this Article 8.

8.16 Books and Records. The Board shall at all times keep or cause to be kept true and correct records of account for the Association in accordance with generally accepted accounting principles applied on a consistent basis. Such records shall specify in reasonable detail all expenses incurred and funds accumulated from Assessments or otherwise. Except as provided in Subsection B of Section 33-1805 of the Arizona Revised Statutes, and subject to the limitations set forth in the succeeding sentences with respect to annual audits, reviews or compilations, and further subject to the limitations in Section 10-11602 of the Arizona Revised Statutes, all financial and other records of the Association shall be made reasonably available for examination by any Member or any person designated by the Member in writing as the

Member's representative. The Board shall further provide, at its election, an annual financial audit, review or a compilation of the Association. Such audit, review or compilation shall be completed no later than one hundred and eighty (180) days after the end of the Association's fiscal year and, upon the request of a Member, shall be made available to such Member within 30 days after its completion. If a management agent contracts with the Association to perform all or a part of the Association's duties, the management agreement therefore shall require such management agent to maintain records in accordance with the foregoing requirements, and to provide the Board with a report of its activities under such management agreement prior to the close of each fiscal year of the Association, and at such additional times as may be requested by the Board. The information set forth in such report shall be included in the annual budget and report from the Board to the Owners required by Section 8.3 above.

ARTICLE 9 ENFORCEMENT

The Association shall have the right but not the obligation to enforce the restrictions, conditions and covenants set forth herein, and the Association shall be the proper party plaintiff in any legal action initiated to enforce any provision of this Declaration. In the event the Board determines that an Owner is in breach of the Owner's obligations under this Declaration, the Board may give the Owner written notice of its determination, including a reasonably detailed list or description of the repairs, maintenance, work or corrective measure required to cure the Owner's breach. If the Owner does not cure the breach within thirty (30) days after the date of the written notice, the Board, on behalf of the Association, may cause the repairs, maintenance, work or corrective measures to be performed so as to cure the Owner's breach. The Association's costs incurred in performing such work, together with a fee in an amount equal to ten percent (10%) of such amount and any collection costs, attorneys' fees, court costs and other litigation related expenses which may be incurred by the Association in collecting such amounts and enforcing the Association's rights and remedies hereunder, shall constitute a lien on the Owner's Lot, which lien amount shall thereafter bear interest at the rate of ten percent (10%) per annum until paid. The Association shall also have standing and authority to request that a court of competent jurisdiction compel the Owner to cure the breach and to the extent not inconsistent with an order of such a court, the Association may pursue either or both of the courses of action described in this Section. If the Association shall fail or decline to enforce any of the terms of this Declaration for an unreasonable period of time after being notified of a non-compliance, then any Owner may become a proper party plaintiff

The failure of the Association or an Owner to take enforcement action with respect to a violation of the Project Documents, or any one of them, shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Project Document(s) in the future. In the event of any litigation or arbitration by or against the Association, the prevailing party in such litigation shall be entitled to recover from the prevailing party all attorneys' fees, costs and expert witness fees incurred by the prevailing party.

ARTICLE 10 COMMON WALLS

10.1 Use. Each fence which is built upon a Lot and placed on the dividing line between Lots (whether or not located on a property line), shall constitute a common wall and, to the extent not inconsistent with the provisions of this Article, the Owners of contiguous Lots who have a common wall shall both equally have the right to use such common wall, provided such use by one Owner does not interfere with the use and enjoyment of the same by the other Owner.

10.2 Sharing of Repair and Maintenance. In the event any common wall is damaged or destroyed, including but not limited to deterioration from ordinary wear and tear, but other than by the act of the Owner of another Lot or his agents, guests, family or Lessees, the cost of reasonable repair and maintenance of a common wall shall be shared by the Owners whose Lots adjoin or benefit from such common wall, at their joint and equal expense; provided, however, that each Owner shall be responsible for all nonstructural work (including painting) necessary to maintain the appearance of the common wall viewable from such Owner's Lot.

10.3 Negligent Destruction. In the event a common wall is destroyed or damaged through the negligent or willful act of an Owner or any of his agents, guests or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to promptly rebuild or repair the common wall without cost to the other adjoining Lot Owner or Owners.

10.4 Successor Liability. The provisions of this Article shall be binding upon the heirs and assigns of any Owners, but no person shall be liable for any act or omission or payment obligation respecting the party wall except such as took place while he was an Owner.

10.5 Consent. In addition to meeting the other requirements of this Declaration (including, without limitation, the requirements contained in Article 4 above) and any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a common wall shall first obtain the written consent of the other Owner who shares such Common Wall.

ARTICLE 11 INSURANCE

11.1 Scope of Coverage. Commencing not later than the first to occur of (a) the transfer to and acceptance for maintenance by the Association of any Common Area or (b) the 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 may, at the discretion of the Board, 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. Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association and 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 households;

(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) 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;

(iv) Statement of the name of the insured as the Association;

(v) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the First Mortgagee or other beneficiary under a deed of trust named in the policy at least thirty (30) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy;

F. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a policy of flood insurance on the Common Area must be maintained in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other Property covered by the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended; and

G. "Agreed Amount" and "Inflation Guard" endorsements.

11.2 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 and First Mortgagee or other 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 First Mortgagee or other beneficiary under a deed of trust to whom certificates of insurance have been issued.

11.3 Fidelity Bonds.

A. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, but without limitation, officers, directors and employees of any management agent of the Association, whether or not they receive compensation for their services. The total amount of the fidelity bonds maintained by the Association shall be based upon the best business judgment of the Board, and shall not be less than the greater of the estimated maximum funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond, or the sum equal to three (3) months aggregate Common Expense Assessments on all Units plus reserve funds. Fidelity bonds obtained by the Association must comply with all requirements imposed by governmental agencies which insure home mortgages and must also meet the following requirements:

- (i) The fidelity bonds shall name the Association as an obligee;
- (ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and
- (iii) The bonds shall provide that they may not be canceled or substantially modified (including cancellation from nonpayment of premium) without at least ten (10) days prior written notice to the Association and each First Mortgagee.

B. The Association shall require any management agent of the Association to maintain its own fidelity bond in an amount equal to or greater than the amount of the fidelity bond to be maintained by the Association pursuant to Subsection 11.3(A). The fidelity bond maintained by the management agent shall cover funds maintained in bank accounts of the management agent and need not name the Association as an obligee.

C. The requirements of this Section 11.3 may be modified from time to time upon the unanimous written consent of all officers and Directors of the Association; provided, however, at all times the Association and/or the management agent for the Association shall maintain customary and reasonable forms and levels of fidelity bonds and/or insurance.

D. Notwithstanding the provisions in this Section 11.3, no fidelity bonds shall be required to be maintained by the Association (i) as long as the Class "B" membership is in existence or (ii) the funds of the Association are maintained solely by a management agent for the Association which maintains a fidelity bond in accordance with this Section 11.3.

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

11.5 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 First Mortgagee or other beneficiary under a deed of trust. Subject to the provisions of Section 11.6 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

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

11.7 Insurance Obtained by Owners. Each Owner shall be responsible for obtaining property insurance for its own benefit and at its own expense covering its Lot and all Improvements and personal property located thereon. Each Owner shall also be responsible for obtaining at its expense personal liability coverage for death, bodily injury or property damage arising out of the use, ownership or maintenance of its Lot.

ARTICLE 12

TERM

This Declaration shall remain in full force and effect and shall run with and bind the Property for a term of thirty (30) years from the date hereof. After such thirty (30) year period, this Declaration shall be deemed to have been automatically renewed for successive terms of ten (10) years, unless revoked by an amendment in writing, executed and acknowledged by the then Owners representing not less than eighty percent (80%) of the Lots, or such higher percentage as required by applicable law, which amendment, once executed, must, within sixty (60) days prior to the expiration of the initial period hereof or any ten (10) year extension, be recorded in the Official Records of the county in which the Property is located. Upon the expiration, revocation, termination or revocation of this Declaration, title to the Common Areas shall immediately pass in equal, undivided interests to the Owners, as tenants in common, but each Owner shall nevertheless continue to be individually and collectively liable under the duty to pay its pro rata share of the costs of maintaining the Association Areas of Responsibility, payment of all taxes assessed or due with respect to the Common Areas and securing and paying the premium for comprehensive general liability insurance for all Association Areas of Responsibility. If any Owner does not pay its pro rata share within twenty (20) days following written demand from any other Owner or the city or town within which the Property is located, and if any other Owner

or the city or town pays the delinquent Owner's pro rata share, the Person paying such delinquent Owner's pro rata share shall be entitled to assess the delinquent Owner's Lot, impose a lien upon and enforce such lien upon the delinquent Owner's Lot in accordance with the provisions of Article 8 hereof, as if such Person was the Association. The foregoing provisions of this Article shall survive the expiration, revocation, termination or cancellation of this Declaration.

ARTICLE 13 GENERAL PROVISIONS

13.1 Amendments.

A. Except for amendments made pursuant to Sections 3.18, 8.3, 8.4, 13.1(B) and 14 of this Declaration, the Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Owners entitled to cast not less than seventy-five percent (75%) of the votes of each class of membership in the Association. Notwithstanding the foregoing, Sections 13.12 and Articles 15 and 16, and any other provision of this Declaration to the extent the same reserves to the Declarant rights or privileges or exempts the Declarant from duties, obligations or responsibilities, may not be amended.

B. Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally or state chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or any portions thereof. Any such amendment shall be effected by the recording by Declarant of a Certificate of Amendment duly signed by or on behalf of the Declarant, specifying the federal, state or local governmental agency or the federally or state chartered lending institution requesting the amendment and setting forth the amendatory language requested or required by such agency or institution.

C. So long as Declarant owns any Lot, any amendment to this Declaration must be approved in writing by Declarant.

D. Any amendment approved pursuant to Section 13.1(A) of this Declaration shall be signed by the President or Vice President of the Association and shall be recorded in the Official Records of the county in which the Property is located. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Section 13.1(B) of this Declaration shall be executed by Declarant and shall be recorded in the Official Records of the county in which the Property is located.

Notwithstanding anything in this Declaration to the contrary, Declarant shall, for so long as it possesses the Class "B" Membership, be entitled to unilaterally, without the consent or approval of any other Member or party, amend the Declaration to correct minor errors or omissions.

13.2 Interpretation of Covenants. Except for judicial construction, the Board shall have the exclusive right to construe and interpret the terms of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction or interpretation of the terms of this Declaration, the Architectural and Landscaping Guidelines, the Rules and Regulations and the Project Documents shall be final, conclusive and binding upon all Persons, any Lot and the Project.

13.3 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid, illegal or unenforceable shall not affect the validity, legality or enforceability of the remaining provisions of this Declaration and the same shall remain in full force and effect.

13.4 References to This Declaration. Any and all instruments of conveyance or lease of any interest in any Lot must contain reference to this instrument and shall be subject to the terms of this Declaration the same as if they were therein set forth in full. Notwithstanding the foregoing, the terms of this Declaration shall be binding upon all Owners and all other persons and entities affected by the same, whether such express reference is made to this Declaration or not.

13.5 Waiver or Abandonment. The failure to enforce any breach or violation of any of the provisions of this Declaration shall not constitute an abandonment or a waiver of any right to enforce such provision or of any of the other terms hereof.

13.6 Violation of Law. Any violation of any federal, state, municipal or local law, ordinance or regulation, including zoning laws or ordinances pertaining to the ownership, occupation or use of any Lot is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration.

13.7 Agents and Committees. The Board shall have the right to appoint agents or committees or both to act on behalf of the Association for the purpose of exercising any right, power or duty given to or imposed upon it by this Declaration.

13.8 Remedies Cumulative. Each remedy provided by this Declaration is cumulative and non-exclusive.

13.9 Gender and Number. Whenever 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 used in the singular shall include the plural and words used in the plural shall include the singular.

13.10 Captions, Tables and Headings. All captions, titles and headings in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context of the terms of this Declaration.

13.11 Waiver of Damages. The Declarant, the Project Owner, and the Association and their respective officers, directors, employees and agents shall not be liable for damages to anyone relating in any manner to their actions or failures to act in performing or failing to

perform their respective responsibilities and functions under this Declaration by reason of mistake in judgment, negligence, malfeasance or nonfeasance and each and every Owner, by accepting a deed to or acquiring any ownership interest in a Lot, thereby agrees to indemnify and hold harmless the Declarant, the Project Owner, and the Association and their respective officers, directors, employees and agents in respect to the foregoing, except where such indemnification is contrary to Arizona law.

13.12 Indemnification from Common Area Liability. THE OWNERS ACKNOWLEDGE THAT: (1) THE PROPERTY SUBJECT TO THIS DECLARATION CONTAINS COMMON AREAS; (2) THE COMMON AREAS ARE INTENDED SOLELY FOR AESTHETIC PURPOSES AND LIMITED RECREATIONAL USE; (3) THE COMMON AREAS POSSESS CERTAIN INHERENT DANGERS FROM WHICH THE OWNERS MUST TAKE PRECAUTIONS TO PROTECT THEMSELVES, THEIR FAMILIES, INVITEES, GUESTS AND OTHERS; (4) NO SAFETY PERSONNEL WILL PATROL THE COMMON AREAS AND THE OWNERS ASSUME THE RISK AND THE RESPONSIBILITY OF PROTECTING THEMSELVES, THEIR FAMILIES, INVITEES, GUESTS AND OTHERS; AND (5) THE OWNERS WILL INDEMNIFY, DEFEND AND HOLD HARMLESS THE DECLARANT, THE OFFICERS AND DIRECTORS OF DECLARANT AND THE ASSOCIATION AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY CLAIMS, DEMANDS, OBLIGATIONS, LIABILITIES, INJURIES, DAMAGES, EXPENSES AND COSTS, INCLUDING INTEREST AND ATTORNEYS' FEES INCURRED BY OR CLAIMED AGAINST THE DECLARANT, THE ASSOCIATION AND THEIR SUCCESSORS AND ASSIGNS WHICH IN ANY WAY AROSE FROM OR IN CONNECTION WITH THE USE, OPERATION OR MAINTENANCE OF THE COMMON AREAS.

13.13 Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in, or imposed by, this Declaration, shall be joint and several.

13.14 Attorneys' Fees. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration, or to collect any assessments or other amounts due from an Owner, or to enforce compliance with or recover damages for any violation or noncompliance with the Project Documents, the offending Owner or other person or entity shall pay to the Association, upon demand, all attorney fees and court costs incurred by the Association, whether or not suit is filed, which fees and costs shall be secured by the assessment lien.

ARTICLE 14 GOVERNMENTAL APPROVALS

If certification of the Project is sought by Declarant from the Federal Housing Administration (FHA) or the United States Veterans Administration (VA), the following actions will require the prior approval of the FHA and VA, unless such agencies have waived such requirements or unless the next sentence of this Section applies: (i) annexation of additional properties into the Project; (ii) mergers and consolidations; (iii) mortgaging or otherwise encumbering Common Area; (iv) dedication or other transfer of Common Areas; (v) dissolution

of the Association; and (vi) amendment of provisions of this Declaration or other Project Documents to the extent required to be approved by the FHA or VA pursuant to their rules and regulations. Consent of the FHA and VA to the foregoing will not be required if the FHA and VA have elected not to approve the Project for certification or if such approval has been revoked, withdrawn, cancelled or suspended. So long as there is a Class "B" Membership, the Declarant, without the consent of any Owner or First Mortgagee being required, shall have the right to amend this Declaration or any of the other Project Documents in order to conform such documents to the requirements or guidelines of the FHA, VA or any other federal, state or local agency whose approval of the Project, the Plat or the Project Documents is required or is requested by Declarant.

ARTICLE 15 **ANNEXATION**

15.1 De-Annexation. Notwithstanding any other provision of this Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any other person (except as provided in this Section), to delete from the Property and remove from the effect of this Declaration one or more portions of the Property; provided, however, that (a) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal such portion is owned by Declarant or Declarant executes and records an instrument approving such deletion and removal; (b) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal no Dwelling Unit or Common Area recreational facilities have been constructed thereon; and (c) a portion of the Property may not be so deleted and removed if such deletion and removal would deprive Owners and Occupants of other parts of the Property of access or other easements or rights-of-way necessary to the continued use of their respective parts of the Property (unless Declarant at the same time provides for reasonably adequate replacement easements or rights-of-way). Declarant may exercise its rights under this Section in each case by executing and causing to be recorded an instrument which identifies the portion of the Property to be so deleted and removed and which is executed by each Owner of such portion (if other than Declarant), and the deletion and removal of such portion of the Property shall be effective upon the later of (i) the date such instrument is recorded and (ii) the effective date specified in such instrument, if any, whereupon, except as otherwise expressly provided in this Section. The portion of the Property so deleted and removed shall thereafter for all purposes be deemed not to be a part of the Property and not subject to this Declaration, and the owner(s) thereof (or of interest therein shall not be deemed to be Owners or Members or have any other rights or obligations hereunder, except as members of the general public. No such deletion and removal of a portion of the Property shall act to relieve such portion from the lien for Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal, and no Assessments or other charges shall thereafter accrue hereunder with respect to the portion of the Property so deleted and removed.

15.2 Annexation. Without the consent of any Member or any other party (other than Project Owner), Declarant shall have the right to annex all or any portion of the Additional Property into the Project by recording one or more Supplemental Declarations describing the property being annexed. Until the date that is the tenth (10th) anniversary of the recording of this Declaration, Declarant may annex all or any portion of the Additional Property into the Project without the vote of the Members and without notice to or approval of any other Person (other

than Project Owner). Although Declarant shall have the ability to annex the Additional Property as provided in this Article, Declarant shall not be obligated to annex any property. No Additional Property shall become subject to this Declaration unless and until a Supplemental Declaration is recorded as provided in this Article and takes effect. A Supplemental Declaration shall be a writing in recordable form that annexes some or all of the Additional Property to the plan of this Declaration and that incorporates by reference all of the provisions of this Declaration. It shall contain such other provisions as may be appropriate to the property being annexed so long as any such additional provisions are not in conflict with the existing provisions of this Declaration. Recordation of a Supplemental Declaration, as provided for in this Section, shall constitute and effectuate the annexation of the property described in the Supplemental Declaration (unless a later effective date is specified in the Supplemental Declaration) making the property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association and, thereafter, the property described on any Supplemental Declaration shall be part of the Property for all intents and purposes of this Declaration and all of the Owners of Lots in the annexed property shall automatically be Owners under this Declaration.

ARTICLE 16
RESOLUTION OF DISPUTES WITH DECLARANTS
REGARDING DEVELOPMENT AND CONSTRUCTION MATTERS

It is the Declarant's intent that all Improvements constructed within the Project shall be built in compliance with all applicable building codes and ordinances and will be of a quality that is consistent with good construction and development practices. Nevertheless, disputes may arise as to whether a defect exists with respect to the construction by a Builder of any of the Improvements constructed within the Project and a Builder's responsibility therefor. It is the intent of the Builders that all disputes and claims regarding Alleged Defects (as defined below) be resolved amicably, and without the necessity of time-consuming and costly litigation. Accordingly, the Association, the Board of Directors, the Builders and all Owners shall be bound by the following claim resolution procedures, provisions and limitations:

16.1 Limitation on Owners' Remedies. In the event that the Association, the Board or any Owner (collectively, "Claimant") claims, contends or alleges that any portion of a Living Unit and the Common Areas or any other Improvements constructed within the Project is defective or that one or more of the Builders, their agents, consultants, contractors or subcontractors (collectively, "Agents") were negligent in the planning, design, engineering, grading, construction or other development thereof (collectively, an "Alleged Defect"), the only right or remedy that any Claimant may have with regard to any such Alleged Defect is the right to have the Alleged Defect repaired and/or replaced by the Builder which was responsible for the construction of the Improvement which is the subject of the Alleged Defect, but such right or remedy shall only be available if and to the extent such Builder is, at that time, still obligated to repair such Alleged Defect pursuant to applicable statutes and common law and any applicable rules, regulations and guidelines imposed by the Arizona Registrar of Contractors (the "Applicable Laws"), but subject to the time frames imposed by such Applicable Laws. Except for such remedy, each Owner, by accepting a deed to a Lot, shall be deemed to have waived the right to seek damages or other legal or equitable remedies from the applicable Builder(s) or from any affiliates, subcontractors, agents, vendors, suppliers, design professionals and materialmen of such Builder(s) under any common law, statutory or other theories of liability, including, but

not limited to, negligence, tort and strict liability. Under no circumstances will any Builder or Declarant be liable for any consequential, indirect, special, punitive or other damages, including, but not limited to, any damages based on a claim of diminution in the value of the Claimant's Lot and each Owner, by accepting a deed to a Lot, shall be deemed to have waived its right to pursue any such damages. It shall be a condition to a Claimant's rights and a Builder's obligations under this Article that the Claimant fully and timely abide by the requirements and conditions set forth in this Article. Consistent with the limitation on a Claimant's rights to have a Builder repair and/or replace the Alleged Defect, the Builders hereby reserve the right for themselves to be notified of such Alleged Defect and to inspect, repair and/or replace such Alleged Defect(s) as set forth herein prior to instituting any other actions.

16.2 Notice of Alleged Defect. In the event that a Claimant discovers any Alleged Defect, Claimant shall notify the Builder which constructed the Improvement which is the subject of the Alleged Defect, in writing within thirty (30) days of discovery of the Alleged Defect, and of the specific nature of such Alleged Defect ("Notice of Alleged Defect").

16.3 Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by a Builder of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by a Builder, such Builder shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Lot, Living Unit, Common Area or other part of the Project as may be necessary or appropriate for the purposes of inspecting and/or conducting testing and, if deemed necessary by the Builder, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacements, Builder shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances to repair or correct any such Alleged Defect.

16.4 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section shall be construed to impose any obligation on Builders to inspect, test, repair or replace any item or Alleged Defect for which Builders are not otherwise obligated under Applicable Laws or contract. Specifically, a Builder's obligation to repair and/or replace an Alleged Defect shall expire on the applicable date which the Applicable Laws state or impose as the date(s) through which a contractor is responsible for such Alleged Defect. The right of Builders 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 Builders.

16.5 Tolling of Statutes of Limitations. In no event shall any statutes of limitations be tolled during the period in which a Builder conducts any inspection or testing of any Alleged Defects.

16.6 Legal Actions. All legal actions initiated by a Claimant shall be brought in accordance with and be subject to Sections 16.7 (Binding Arbitration) and 16.8 (Approval of Litigation) of this Declaration. In the event the Claimant is the Association, the Association must, prior to initiation of any proceeding or arbitration against a Builder, (a) provide written notice to all Members which notice shall (at a minimum) include (i) a description of the Alleged Defect; (ii) a description of the attempts of the affected Builder to correct such Alleged Defect and the opportunities provided to the affected Builder to correct such Alleged Defect; (iii) a

certification from an engineer licensed in the State of Arizona, confirming its opinion of the existence of such Alleged Defect and a resume of such engineer; (iv) the estimated cost to repair such Alleged Defect; (v) the name and professional background of the attorney retained by the Association to pursue the claim against the Builder and a description of the relationship between such attorney and member(s) of the Board, if any; (vi) a thorough description of the fee arrangement between such attorney and the Association; (vii) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against Builder(s) and the source of the funds which will be used to pay such fees and expenses; (viii) the estimated time necessary to conclude the action against Builder; and (ix) an affirmative statement from the Board that the action is in the best interests of the Association and its Members, and (b) obtain the written approvals required by Section 16.8 of this Declaration.. In the event the Association recovers any funds from Declarant(s) (or any other Person) to repair an Alleged Defect, any excess funds remaining after repair of such Alleged Defect shall be paid into the Association's reserve fund.

16.7 Binding Arbitration. In the event of a dispute between or among a Builder, its contractors, subcontractors or brokers or their agents or employees (a "Constructing Party"), on the one hand, and any Owner (other than the Project Owner) or the Association, on the other hand, regarding any controversy or claim between the parties, including any claim based on contract, tort, statute or any other theory of liability arising out of or relating to the rights or duties of the parties under this Declaration, the design or construction of the Project, any Living Unit, any Common Area or any Alleged Defect, the Constructing Party involved in such dispute may elect to have the dispute submitted to and resolved by binding arbitration, and in the event of such an election by the involved Constructing Party, such dispute shall be submitted to and resolved by binding arbitration conducted in accordance with the provisions set forth in any applicable Warranty Agreement or Program issued by Declarant or any affiliate of Declarant with respect to any Lot and/or Living Unit or if no such arbitration process is set forth in such Warranty Agreement or Program or if the dispute involves defects or alleged defects in Common Areas, then the following provisions shall govern such arbitration proceedings:

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 American Arbitration Association ("AAA") Commercial Arbitration Rules, as amended from time to time (the "AAA Rules").

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, the provisions of this Section 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 is referred to in this Section 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 16.7(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 hourly rate not to exceed Three-Hundred Dollars (\$300) per hour, 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 Guidelines, 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 and the parties attorneys and expert witnesses (where applicable to their testimony), except that, upon the 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.

L. Statute of Limitations. All statutes of limitation applicable to claims which are subject to binding arbitration pursuant to this Section shall apply to the commencement of arbitration proceedings under this Section. If arbitration proceedings are not initiated within the applicable period, the claim shall forever be barred.

M. Warranty Dispute Resolution Procedures. If Declarant has provided to Owner a warranty which includes a dispute resolution process which is different than the processes forth in this Section, then the provisions of the dispute resolution process in the warranty shall control and shall supercede the provisions of this Section with respect to any matter that is covered by such warranty.

16.8 Approval of Litigation. The Association shall not incur attorneys' fees or other legal expenses in connection with legal proceedings or arbitration proceedings initiated by the Association or in connection with legal proceedings or arbitration proceedings in which the Association is joined as a plaintiff without the written approval of Owners holding more than two-thirds (2/3) of the total votes in the Association, excluding the vote of any Owner who would be a defendant in such proceedings. The Association must finance any legal proceeding with monies that are specifically collected for same and may not borrow money or use working capital or reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal proceedings, all Owners must notify prospective purchasers of such legal proceedings and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 16.2 of this Declaration. This Section shall not apply to legal proceedings initiated by the Association to collect any unpaid Assessments levied pursuant to this Declaration.

16.9 Repurchase Option for Alleged Defect Claims. Notwithstanding anything in this Declaration to the contrary, in the event any Owner, either directly or through the Association, shall commence an action against a Builder in connection with any Alleged Defects on or to such Owner's Lot, the Builder (or any assignee of such Builder) that constructed and/or sold such Lot shall have the option (but not the obligation) to purchase such Lot as improved with a Living Unit on the following terms and conditions:

A. The purchase price shall be an amount equal to the sum of the following less any sums paid to such Owner under any homeowner's warranty in connection with the Alleged Defect:

(i) The purchase price paid by the Owner of the Lot which purchased such Lot from a Builder, following the substantial completion of the Living Unit on the Lot;

(ii) The value of any documented Improvements made to the Lot by third-party contractors or decorators after the conveyance thereof to the initial Owner that added an ascertainable value to the Property;

(iii) The Owner's reasonable moving costs; and

(iv) Any closing costs, including loan fees and/or "points" incurred by the Owner in connection with the purchase of another primary residence within ninety (90) days after the closing of the repurchase provided for herein.

B. Close of escrow shall not occur later than forty-five (45) days after written notice from the Builder to the Owner of the Builder's intent to exercise the option herein.

C. Title shall be conveyed to the applicable Builder free and clear of all monetary liens and encumbrances other than non-delinquent real estate taxes.

D. All closing costs in connection with the repurchase shall be paid by the applicable Builder who is repurchasing the Lot.

E. Exercise of the repurchase option as provided hereinabove shall constitute full and final satisfaction of all claims relating to the subject Lot, including claims relating to the Alleged Defect. The Owner of an affected Lot (or Association, as applicable) shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

16.10 As-Built Conditions. Various engineering and architectural plans pertaining to the Project, including, but not limited to, the Plats, subdivision maps, grading plans, plot plans, improvement plans and building plans (collectively, the "Plans"), contain dimensions regarding certain aspects of the Lots, Common Areas and other parts and aspects of the Project. By accepting a deed to a Lot, each Owner shall be deemed to have acknowledged and agreed that (a) if there is a discrepancy between the Plans and the actual as-built conditions of any Lot, Common Area or any other Improvement within the Project, the as-built conditions will control and be deemed to be accepted as-is by the Lot Owner; (b) the usable or buildable area, location and configuration of the Living Units, Common Areas and any other Improvements located within the Project may deviate from the Plans or from any other display or configuration related thereto; (c) the location, size, height and composition of all walls and fences to be constructed on or as part of a Lot or adjacent thereto shall be determined by Builders in their sole and absolute discretion. Despite the Plans or any other materials that may exist, neither Declarant nor any other Builder shall be deemed to have made any representations, warranties or assurances with respect to any such matters or with respect to the size, height, location or composition of any wall or fence to be constructed on or adjacent to any Lots; and (d) each Owner waives the right to make any demands of or claims against Builders as a result of any discrepancies between the Plans any actual as-built conditions on any Lot.

16.11 Limitation on Declarant's and Builders' Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner, and each other person, by acquiring any interest in the Project, acknowledges and agrees, that neither Declarant, Project Owner nor any Builder (including, but not limited to, any assignee of the interest of Declarant, Project Owner or a Builder) nor any partner, shareholder, officer, director, employee or affiliate of a Declarant, Project Owner or a Builder shall have any personal liability to the Association, or to any Owner, Member or other person, arising under or in connection with this Declaration or resulting from any action or failure to act with respect to this Declaration, the Association or the Committee except, in the case of Declarant, Project Owner and Builders (or their assignees), to the extent of their respective interests in the Project; and, in the event of a judgment against any such parties no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor. Neither Declarant, Project Owner nor the Association shall be liable for any theft, vandalism, disturbance, accident, unauthorized entrance or other similar occurrence or breach of the peace or security which may occur or take place within the Project.

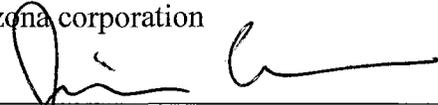
16.12 Consent of Project Owner. Declarant agrees to the terms and conditions of the Consent of Project Owner attached hereto.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date first written above.

MERITAGE HOMES OF ARIZONA, INC., an
Arizona corporation

By

Its



CHIEF OPERATING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa

On this 29 day of Sept, 2005 before me personally appeared Jim Arneson, the COO of Meritage Homes of Arizona, Inc., an Arizona corporation, known to me to be the person whose name is subscribed to the foregoing Covenants, Conditions and Restrictions, and being authorized to do so, acknowledged that he executed the same for the purposes contained therein.



Notary Public

My Commission Expires:

9-22-06



CONSENT OF PROJECT OWNER

The undersigned, StoneBridge Capital Progeny, L.L.C., an Arizona limited liability company (“**Project Owner**”), as the owner of fee title to the Property, consents to the recordation of the Declaration, subjects the Property to the covenants and restrictions contained in the Declaration, and joins in the grant, reservation, and creation of the various easements described in the Declaration. Unless and until a supplemental declaration is recorded declaring the Project Owner as a successor Declarant because of the termination or expiration of Declarant’s purchase option rights (other than as a result of Declarant’s acquisition of all Lots subject to the option or as a result of the Project Owner’s default under the option), Meritage Homes of Arizona, Inc., an Arizona corporation (“**Meritage Communities**”), will: (i) be deemed the Declarant under the Project Documents; (ii) have and will exercise (subject to the limitations set forth in the Declaration) all rights, privileges, duties, and obligations of Declarant under the Project Documents (including the right to exercise any weighted voting rights); (iii) be deemed the Owner of all Lots that either are owned by Declarant or over which Declarant has purchase option rights, including, without limitation, for purposes of determining the number and class of votes appurtenant to the Lots; and (iv) not assign, transfer, convey, or encumber (whether voluntarily, involuntarily, or by operation of law, merger, consolidation, reorganization, or otherwise) any of the rights, privileges, duties, and obligations of Declarant under the Project Documents or any right or obligation to exercise, enjoy, fulfill, or perform any rights, privileges, duties, or obligations of Declarant under the Project Documents; provided that Meritage Communities shall at all times be subject to the liabilities and obligations pursuant to that certain Rolling Option Agreement dated November 22, 2004 (as amended from time to time, the “Option Agreement”) between Project Owner and Meritage Communities and nothing in this Consent of Project Owner shall be deemed to limit any of the rights of Project Owner or the liabilities and obligations of Meritage Communities pursuant to the Option Agreement. Upon the termination or expiration of Declarant’s purchase option rights, as described above, Project Owner may execute and record such a supplemental declaration without any further joinder or consent of Meritage Communities.

At such time as Meritage Communities purchases all of the Lots subject to the purchase option granted by Project Owner, all references to the Project Owner will be deemed deleted from this Declaration, and Project Owner will have no approval, veto, or other rights or obligations under the Project Documents (provided that Project Owner shall continue to be entitled to the benefit of all exculpatory provisions in the Declaration, including, without limitation, Section 16.11 of the Declaration). If, instead, the purchase option rights of Meritage Communities expire or are terminated (other than through the acquisition of all Lots subject to the option), the right and obligation of Meritage Communities to exercise the rights, privileges, duties, and obligations of the Declarant under the Project Documents will cease and revert to and be vested in the Project Owner, and Meritage Communities thereafter will be deemed a Class A member only as to each Lot that is owned in fee title by Meritage Communities.

In the event of any conflict between this Consent of Project Owner or the Declaration on the one hand and the Option Agreement and the Construction Contract (as defined in the Option Agreement) on the other hand, the Option Agreement and the Construction Contract shall control. Without waiving the foregoing, the provisions of Article 16 of the Declaration shall not

apply to disputes and other matters arising under the Option Agreement or the Construction Contract.

All terms used in this Consent of Project Owner and not otherwise defined herein will have the meanings ascribed in the attached Declaration.

“Project Owner”

STONEBRIDGE CAPITAL PROGENY, L.L.C., an
Arizona limited liability company

By: StoneBridge Capital Properties, L.L.C., an
Arizona limited liability company, its sole
member

By: StoneBridge Capital, L.L.C., an
Arizona limited liability company,
its sole member

By: Deborah Hamberlin
Name: Deborah Hamberlin
Title: Manager