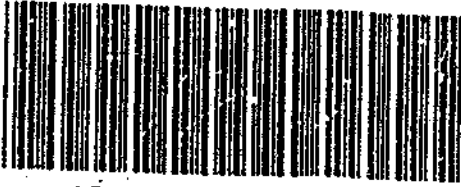


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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
FOR
PARCEL 19 AND 21 OF TATUM RANCH

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS

FOR

PARCEL 19 AND 21 OF TATUM RANCH

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS

FOR

PARCEL 19 AND 21 OF TATUM RANCH

This Declaration of Covenants, Conditions, Restrictions and Easements for Parcel 19 and 21 of Tatum Ranch is made this 11th day of February, 1997, by Suncor Development Company, an Arizona corporation.

ARTICLE I

DEFINITIONS

- 1.1. "Adjacent Lot" means a Lot adjacent to another Lot.
- 1.2. "Annual Assessment" means the assessments levied against each Lot, and the Owner thereof, pursuant to Section 6.2 of this Declaration.
- 1.3. "Areas of Association Responsibility" means (i) the Common Area; (ii) all land, and the Improvements situated thereon, situated within the boundaries of a Lot which the Association acknowledges in a recorded document is land which is to be improved, maintained, repaired and replaced by the Association; and (iii) all real property, and the Improvements situated thereon, within the Project located within dedicated rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or any county or municipality has accepted all responsibility for the maintenance, repair and replacement of such areas; and (iv) each of the Ingress/Egress Easements.
- 1.4. "Articles" means the Articles of Incorporation of the Association, as they may from time to time be amended.
- 1.5. "Assessment" means an Annual Assessment or Special Assessment.
- 1.6. "Assessment Lien" means the lien created and imposed by Article 6 of this Declaration.
- 1.7. "Assessment Period" means the period set forth in Section 6.5 of this Declaration.

1.8. "Association" means 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 its successors and assigns. Declarant intends to organize the Association under the name of "Parcel 19 and 21 of Tatum Ranch Community Association," but Declarant reserves the right to organize the Association or conduct business under such other name as Declarant deems appropriate.

1.9. "Association Rules" means the rules adopted by the Board pursuant to Section 5.3 of this Declaration, as they may from time to time be amended.

1.10. "Board" means the Board of Directors of the Association.

1.11. "Builder" means Frank Development Group, Inc., an Arizona corporation, and its successors and assigns, or such Person designated by Builder from time to time as Builder.

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

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

1.14. "Bylaws" means the Bylaws of the Association, as they may from time to time be amended.

1.15. "Common Area" means: (a) the real property designated as Tracts A, B, C, D, E, F, G, H, I, J, K, L on the Plat; (b) all land, and the Improvements situated thereon, within the Project which Declarant indicates on a Recorded subdivision plat, Tract Declaration or other Recorded instrument is to be conveyed to the Association for the benefit and use of the Members; and (c) all land, and the Improvements situated thereon, which is adjacent to the Project which Declarant indicates on a Recorded subdivision plat, Tract Declaration or other Recorded instrument is to be used for landscaping, drainage or water retention or flood control for the benefit of the Project or the general public and which is to be maintained, repaired and replaced by the Association.

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

1.17. "Declarant" means Suncor Development Company, an Arizona corporation, its successors and any Person or entity to whom it may expressly assign any or all of its rights under this Declaration.

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

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

1.20. "First Mortgage" means a mortgage or deed of trust recorded against a Lot which constitutes a lien or encumbrance which is prior and superior to all other liens or encumbrances except those that relate to tax liens for real property or taxes or assessments in favor of any municipal or other governmental body.

1.21. "First Mortgagee" means a mortgagee under a First Mortgage.

1.22. "Improvement" means any Residential Unit, building, fence, wall or other structure or any swimming pool, road, driveway, parking area or any trees, plants, shrubs, grass or other landscaping improvements of every type and kind.

1.23. "Ingress/Egress Easement" means a Type "A", Type "B", Type "C" or Type "D" Ingress/Egress Esmt. as depicted on the Plat.

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

1.25. "Lot" means each parcel of real property designated as a lot on the Plat and, where the context indicates or requires, shall include any Residential Unit, building, structure or other Improvements situated on the Lot.

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

1.27. "Master Association" means Tatum Ranch Community Association, an Arizona nonprofit corporation, organized pursuant to the provisions of the Master Declaration.

1.28. "Master Association Architectural Committee" means the Master Association Architectural Committee established under the Master Declaration.

1.29. "Master Declaration" means the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Tatum Ranch dated December 21, 1988, and recorded on December 27, 1988 at Recording No. 88 625068, records of Maricopa County, Arizona, as such Declaration may be amended from time to time.

1.30. "Member" means any Person who is a Member of the Association.

1.31. "Owner" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include (i) Persons having an interest in a Lot merely as security for the performance of an obligation, or (ii) a Lessee. Owner shall include a purchaser under a contract for the conveyance of real property subject to the provisions of A.R.S. § 33-741 *et. seq.* Owner shall not include an obligation under an option to purchase (unless and until the option has been exercised and then only as to the Lots for which the option has been exercised), a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 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.

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

1.33. "Plat" means the plat of record, Parcel 19 and 21 of Tatum Ranch, recorded in Book 429, page 18, records of Maricopa County, Arizona, and all amendments, supplements and corrections thereto, and any subdivision plat recorded against all or any part of the Additional Property, and all amendments, supplements and corrections thereto.

1.34. "Private Accessway" means any of the private accessways depicted on the Plat as Tract "A."

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

1.36. "Project Documents" means this Declaration, the Articles, the Bylaws, and the Association Rules.

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

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

1.39. "Resident" means each individual occupying or residing in any Residential Unit.

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

1.41. "Single Family" means 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 all so related, who maintain a common household in a Residential Unit.

1.42. "Special Assessment" means any assessment levied and assessed pursuant to Section 6.4 of this Declaration.

1.43. "Vehicle" means any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle.

1.44. "Vehicle Equipment" means any attachment or accessory piece of equipment which is not capable of sustained powered movement without being connected or attached to an automobile, truck, motorcycle, motorbike, recreational vehicle or other motor vehicle.

1.45. "Visible From Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six feet tall standing on neighboring property, on the level of the base of the structure or building being viewed.

ARTICLE II

PLAN OF DEVELOPMENT

2.1. Property Initially Subject to the Declaration. This Declaration is being recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. Declarant declares 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 of the property subject to this Declaration, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and Membership and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

2.2. Disclaimer of Representations Neither Declarant nor Builder make any representations or warranties whatsoever that (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iii) the use of any Property subject to this Declaration will not be changed in the future. In addition, if any guardhouses are constructed within the Project, neither Declarant nor any Builder make any representations or warranties that a guard service will be provided or, if guard service is provided, that it will be provided during any particular hours or be continued in the future. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salespersons representing Declarant or Builder shall be deemed to create any implied covenants or restrictions with respect to the use of any property subject to this Declaration or any part of the Additional Property. While neither Declarant, Declarant Affiliate or Builder believes that any of the restrictive covenants contained in this Declaration is or may be invalid or unenforceable for any reason or to any extent, neither Declarant, Declarant Affiliate or Builder makes any warranty or representation as to the

present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot or Parcel in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot or Parcel agrees to hold Declarant, Declarant Affiliate and Builder harmless therefrom.

2.3. Master Association. The Project is part of a master planned community known as Tatum Ranch. The Project shall be subject to the terms and conditions of the Master Declaration, the Articles of Incorporation and the Bylaws of the Master Association and the Architectural Guidelines or Design Guidelines of the Master Association Architectural Committee as such documents may be amended from time to time (the "Master Association Documents"). Each Owner of a Lot will be obligated to pay Assessments and other charges to the Master Association in accordance with the Master Association Documents. All Assessments and other charges due to the Association under the Project Documents shall be in addition to the assessments and other charges payable to the Master Association. All consents required by this Declaration of the Board shall be in addition to any consents required under the terms of the Master Declaration or the Master Association Documents. In the event of any conflict or inconsistency between the restrictions with respect to the use or occupancy of the Lots set forth in the Master Association Documents and the restrictions set forth in Article 3 of this Declaration, the more restrictive provision shall control.

2.4. Withdrawal of Property. At any time on or before the date which is ten (10) years after the date this Declaration is recorded, Declarant shall have the right to withdraw property from the Project without the consent of any other Owner or Person. A withdrawal of all or any portion of the Project shall be effectuated by Declarant recording with the County Recorder of Maricopa County, Arizona, an amendment to this Declaration setting forth the legal description of the property being withdrawn. Upon the withdrawal of any property from the Project pursuant to this Section, such property shall no longer be subject to any of the covenants, conditions or restrictions set forth in this Declaration.

2.5. Restriction on Liability of the Association. Declarant or Builder may construct a guardhouse or gated entry on one or more of the streets providing access to the Project in order to limit access to the Project and to provide more privacy for Owners and other occupants of Lots. Each Owner and occupant, their families, guests and invitees acknowledge that any such guardhouse or gated entry may restrict or delay entry into the Project by the police, the fire department, ambulances and other emergency vehicles or personnel. Neither Declarant, Builder, the Association or any director, officer, agent or employee of Declarant, Builder or the Association shall be liable to any Owner or other occupant or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of any such guardhouse or gated entry.

2.6. Conveyance of Common Area to the Association. Within ten (10) days after the conveyance of the first Lot to a Purchaser, as evidenced by the recording of a deed in the Official Records of Maricopa County, Declarant shall cause the Common Area to be conveyed to the Association by special warranty deed, free and clear of all liens.

ARTICLE III

LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

In addition to the restriction on uses as set forth in the Master Association Documents, the following restrictions shall apply to the Project:

3.1. Animals. As used in this Section, the term "Permitted Pet" means a dog, cat, parakeet or similar household bird. No animal, bird, fowl, poultry, reptile or livestock may be kept on any Lot, except for two Permitted Pets if the Permitted Pets are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All Permitted Pets shall be confined to an Owner's Lot except that a dog or cat may be permitted to leave an Owner's Lot if such dog or cat is at all times kept on a leash not to exceed six feet (6') in length and is not permitted to enter upon any other Lot.

3.2. Parking.

3.2.1 Private Accessway and Ingress/Egress Easement Parking Limitations. No Vehicle shall be parked on a Private Accessway or any Ingress/Egress Easement, except for vehicles of guests of Owners which may be parked on a Private Accessway or any Ingress/Egress Easement for a period of not more than forty-eight (48) consecutive hours. No Vehicle Equipment shall be parked or placed in or on a Private Accessway or any Ingress/Egress Easement unless the same is attached at all times to a Vehicle which is capable of sustained powered movement.

3.2.2 Ingress/Egress Easement Parking Restrictions. No Vehicle shall be parked on any Ingress/Egress Easement which restricts or impedes in any way the access to any Residential Unit or any Lot which is benefitted by such Ingress/Egress Easement.

3.3. Towing of Vehicles. The Board shall have the right to have any Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired on a Lot, the Common Area, a Private Accessway or an Ingress/Egress Easement in violation of the Project Documents, towed away at the sole cost and expense of the owner of the Vehicle. Any expense incurred by the Association in connection with the towing of any Vehicle shall be paid to the Association upon demand by the

owner of the Vehicle. If the Vehicle is owned by an Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner provided for in the Declaration for the collection of Assessments. Each Owner hereby grants an easement to the Association and its directors, officers, employees, agents and contractors to enter upon the Owner's Lot for the purpose of towing any Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired on the Lot in violation of the Project Documents.

3.4. Variances. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 if the Board determines in its discretion that (i) a restriction would create an unreasonable hardship or burden on an Owner, Lessee or Resident or a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and (ii) that the activity permitted under the variance will not have any substantial adverse effect on the Owners, Lessees and Residents of the Project and is consistent with the high quality of life intended for residents of the Project.

3.5. Change of Use. Upon (i) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Area of Association Responsibility is no longer in the best interests of the Owners and (ii) the approval of such resolution by Members casting more than fifty percent (50%) of the votes entitled to be cast by Members who are present in person or by proxy at a meeting duly called for such purpose and who are entitled to use such Area of Association Responsibility under the terms of this Declaration, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use shall be for the benefit of the Owners and shall be consistent with any zoning regulations restricting or limiting the use of the Area of Association responsibility.

3.6. Garages and Driveways. The interior of all garages or carports shall be maintained in a neat, clean and sightly condition. Garages and carports shall be used only for the parking of vehicles and shall not be used or converted for living or recreational activities without the prior written approval of the Board.

3.7. Trash Receptacles. All trash receptacles shall be stored so that they are not Visible From Neighbors Property; provided, however, that on the day of trash pickup, such containers shall be placed in the designated pickup area and shall be removed from such area no later than twelve (12) hours after such pickup.

ARTICLE IV

EASEMENTS

4.1. Owners' Easements of Enjoyment.

4.1.1. Subject to the rights and easements granted to Declarant and Builder in Section 4.4 and 4.5 of this Declaration, every Member, and any person residing with such Member, shall have the right to use the Common Area (including, but not limited to, the right to use any Private Accessway, any Ingress/Egress Easement or any other private streets which may be part of the Common Area for ingress and egress to the Member's Lot) which right shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

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

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

(iii) The right of the Association to suspend the right of an Owner and such Owner's family, tenants, guests or invitees to use the Common Area (other than the right of an Owner to use any Private Accessway, any Ingress/Egress Easement or any private streets which may be part of the Common Area for ingress and egress to the Owner's Lot) if such Owner is more than fifteen (15) days delinquent in the payment of Assessments or other amounts due to the Association or if such Owner has violated any other provision of the Project Documents and has failed to cure such violation within fifteen (15) days after the Association notifies such Owner of the violation.

(iv) Any encroachment easement and right of exclusive use which exists pursuant to Section 4.5 of this Declaration.

4.1.2. If a Lot is leased or rented by the Owner thereof, the Lessee and the members of such Lessee's family who are residing with such Lessee shall have the right to use the Common Area during the term of the subject lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

4.2. Utility Easement. There hereby is created an easement upon, across, over and under the Common Area, the Lots, and each of the Ingress/Egress Easements for reasonable ingress, egress, installation, replacing, repairing or

maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this utility easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Area, the Lots and each of the Ingress/Egress Easements, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Area, the Lots, or any of the Ingress/Egress Easements except as initially designed, approved and constructed by Declarant or as approved by the Board.

4.3. Easements of Declarant and Builder.

4.3.1. Declarant and Builder shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area or any of the Ingress/Egress Easements while Declarant or Builder is leasing or selling Lots. Declarant and Builder reserve the right to place models, management offices and sales and leasing offices on any Lots owned by them and on any portion of the Common Area in such number, of such size and in such locations as Declarant or Builder deems appropriate.

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

4.3.3. Declarant and Builder shall have the right and an easement upon, over, and through the Areas of Association Responsibility as may be reasonably necessary for the purpose of discharging its obligations and exercising the rights granted to or reserved by Declarant or Builder by this Declaration.

4.4. Easement in Favor of Association. The Lots and each of the Ingress/Egress Easements hereby are made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.4.1. For inspection of the Lots in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible:

4.4.2. For inspection, maintenance, repair and replacement of the Areas of Association Responsibility accessible only from such Lots:

4.4.3. For correction of emergency conditions in one or more of the Lots or the Ingress/Egress Easements;

4.4.4. For the purpose of enabling the Association, the Board, or any other committees appointed by the Board to exercise and discharge their respective rights, powers and duties under the Project Documents;

4.4.5. For inspection of the Lots or any of the Ingress/Egress Easements in order to verify that the provisions of the Project Documents are being complied with by the Owners, their guests, tenants, invitees and the other occupants of the Lot.

4.5. Easement for Encroachments:

4.5.1. In the event any Residential Unit or any patio adjacent to a Residential Unit or any driveway, sidewalk or walkway providing access to a Residential Unit or any Lot perimeter wall or fence, as initially constructed, encroaches upon any Common Area, then an easement for the encroachment in favor of the Lot Owner shall exist, and the Lot Owner also shall have an easement over the Common Area for the purpose of repairing, maintaining and replacing the portion of the Owner's Residential Unit, patio, driveway, sidewalk, walkway, wall or fence which encroaches upon the Common Area. That portion of the Common Area subject to an easement for encroachment pursuant to this Section shall be for the exclusive use of the Owner of the Lot benefitted by the easement and the guests and invitees of such Owner.

4.5.2. In the event any Common Area improvement including, but not limited to, any wall, building, road or sidewalk, as initially constructed encroaches upon any Lot, then an easement for the encroachment in favor of the Association shall exist, and the Association shall also have an easement over that portion of the Lot on which the encroachment exists for the purpose of repairing, maintaining and replacing the portion of the improvement that encroaches upon the Lot. That portion of the Lot subject to an easement for the encroachment pursuant to this Section shall be for the exclusive use of the Association.

4.6. Adjacent Lot Easement. In the event any driveway, sidewalk or walkway providing access to a Residential Unit or any Lot, as initially constructed, encroaches upon any Adjacent Lot, then an easement for the encroachment in favor of the Lot Owner shall exist, and the Lot Owner shall also have an easement over the Adjacent Lot for the purpose of repairing, maintaining and replacing the portion of the Owner's driveway, sidewalk or walkway which encroaches upon the Adjacent Lot. That portion of the Adjacent Lot subject to an easement for encroachment pursuant to this section shall be for the exclusive use of the Owner of the Lot benefitted by the easement and the guests and the invitees of such Owner.

ARTICLE V

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS

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

5.2. Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Association.

5.3. The Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to (i) the management, operation and use of the Areas of Association Responsibility including, but not limited to, any recreational facilities situated upon the Areas of Association Responsibility, (ii) minimum standards for any maintenance of Lots, or (iii) any other subject within the jurisdiction of the Association. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

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

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

5.6. Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot upon becoming the Owner thereof, shall

automatically be a Member and shall remain a Member until such time as his ownership ceases for any reason, at which time his Membership shall cease automatically.

5.7. Classes of Members. The Association shall have two classes of voting membership:

5.7.1. Class A. Class A members shall be all Owners, with the exception of Declarant (the "Class A Membership") until the termination of the Class B Membership as provided in Subsection 5.7.2 of this Declaration. Each Class A member shall be entitled to one (1) vote for each Lot owned.

5.7.2. Class B. The Class B member shall be Declarant (the "Class B Membership"). The Class B member shall be entitled to ten (10) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the earlier of (i) the date on which the votes entitled to be cast by the Class A members equals or exceeds the votes entitled to be cast by the Class B member; (ii) the date which is five (5) years after the recording of this Declaration; or (iii) when Declarant notifies the Association in writing that it relinquishes its Class B Membership.

5.8. Voting Procedures. No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one Person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, thereafter it will be presumed conclusively for all purposes that he or she was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Class A Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

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

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

5.11. Conveyance or Encumbrance of Common Area. The Common Area shall not be mortgaged, transferred, dedicated or encumbered without the prior written consent or affirmative vote of the Class B member of the Association and the affirmative vote or written consent of the Owners representing at least two-thirds (2/3) of the votes in the Association.

5.12. Indemnification. The Association shall indemnify each and every officer and director of the Association, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, and former members of committees appointed by the Board) (collectively, "Association Officials" and individually an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, except for his own individual willful misfeasance, malfeasance, misconduct or bad faith. No Association Officials shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Officials may also be Members of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses by reason of his being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 5.12 or otherwise under the Articles, Bylaws or applicable law, such Association Official, upon demand shall repay promptly to the Association the total of such funds advanced by the Association to

him, or for his benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

ARTICLE VI

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

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

6.2. Annual Assessments.

6.2.1. In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each Assessment Period shall assess against each Lot an Annual Assessment.

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

6.3. Rate of Assessment. The amount of the Annual Assessment for each Lot, other than Lots owned by Declarant or Builder, shall be the amount obtained by dividing the total budget of the Association for the Assessment Period for which the Annual Assessment is being levied by the total number of Lots subject to the Assessment at the time the Annual Assessment is levied by the Board. The Annual Assessment for Lots owned by Declarant or Builder shall be an amount equal to twenty-five percent (25%) of the Annual Assessment levied against Lots owned by Persons other than Declarant or Builder until such time as a Residential Unit has been constructed on the Lot and the Residential Unit has been occupied for Single Family Residential Use. After a Residential Unit has been constructed on a Lot owned by Declarant or Builder and the Residential Unit has been occupied for Single Family Residential Use, the amount of the Annual Assessment for such Lot shall be the same as the Annual Assessment levied against Lots owned by Persons other than Declarant or Builder. If a Lot ceases to qualify for the reduced twenty-five percent (25%) rate of assessment during the period to which an Annual Assessment is attributable, the Annual Assessment shall be prorated between the applicable rates on the basis of the number of days in the Assessment Period that the Lot qualified for each rate. So long as there is a Class B membership in the Association, Declarant shall pay to the Association any amounts which, in addition to the Annual Assessments levied by the Association, may be required by the Association (the "Declarant Subsidy") in order for the Association to fully perform its duties and obligations under the Project Documents, including the obligation to maintain adequate reserve accounts. The annual assessments levied against Lots owned by Declarant or Builder, and Declarant Subsidy may be satisfied in the form of cash or in the form of "in-kind" contributions of goods or services, or any combination of the foregoing, and any such payments made by Declarant in the form of "in-kind" contributions of goods or services shall be valued at the fair market value of the goods or services contributed. Declarant shall make such payments or contributions at such time as the Board may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly). At the end of each fiscal year of the Association, either: (1) Declarant shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such fiscal year, to satisfy in full Declarant's obligations under this Section 6.3 for such fiscal year; or (2) the Association shall pay to Declarant or credit against Declarant's obligations for the immediately following fiscal year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such fiscal year exceeded the total obligations of Declarant for such fiscal year under this Section 6.3.

6.4. Special Assessments. The Association may levy against each Lot which is then subject to assessment, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Improvement upon the Common Area, including fixtures and personal property related thereto, provided that any Special

Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

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

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

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

6.7.1. Any Assessment, or any installment of an Assessment, not paid within five (5) days after the Assessment, or the installment of the Assessment first became due shall bear interest from the due date at the rate established from time to time by the Board of Directors. In addition, the Board of Directors may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within five (5) days after such payment was due.

6.7.2. The Association shall have a lien on each Lot for (i) all Assessments levied against the Lot, (ii) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot, (iii) all fines levied against the Owner of the Lot, and (iv) all attorney fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred by the Association in attempting to collect Assessments and other amounts due to the Association by the Owner of a

Lot (the "Assessment Lien"). Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is recorded and the amount claimed to be past due as of the date of the recording of the Notice, including interest, lien recording fees and reasonable attorneys' fees.

6.7.3. The Assessment Lien shall have priority over all liens or claims except for (i) tax liens for real property taxes, (ii) assessments in favor of any municipal or other governmental body and (iii) the lien of any First Mortgage. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of a First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person. Any Assessments and charges against the Lot which accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot.

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

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

6.8. Evidence of Payment of Assessments. Upon receipt of a written request by a Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Member or other Person a written certificate stating (i) that all Assessments, interest, and other fees and charges have been paid with respect to any specified Lot as of the date of such certificate, or (ii) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued

as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot in question.

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

6.10. Working Capital/Reserve Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth (1/6th) of the Annual Assessment on the Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses, the establishment and funding of operating or capital reserves or any other purpose permitted under the Project Documents. Payments made pursuant to this Section shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

6.11. Transfer Fee. Each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board.

6.12. Fines. The Board shall have the right to levy reasonable fines against an Owner for any violation of the Project Documents by the Owner or any Person residing on the Owner's Lot provided the Owner is given notice of the alleged violation of the Project Documents and is given an opportunity to have a hearing on the violation before the Board in accordance with such procedures as may be set forth in the Bylaws or adopted by the Board;

6.13. Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, the Bylaws or the Association Rules, written notice of any meeting called for the purpose of approving the establishment of any Special Assessment as required by Section 6.4 hereof shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment, a quorum shall consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the

same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

ARTICLE VII

MAINTENANCE

7.1. Areas of Association Responsibility.

7.1.1. The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Areas of Association Responsibility, and all Improvements located thereon, except the Association shall not maintain areas which any governmental entity is maintaining or is obligated to maintain.

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

7.1.3. Any part of the Common Area which is subject to an easement for an encroachment pursuant to Section 4.5 of this Declaration shall be maintained, repaired and replaced by the Owner of the Lot benefitted by the easement.

7.2. Installation of Landscaping. If front yard landscaping has not been installed by Builder before the date on which title to a Lot is first conveyed to a Purchaser, as evidenced by recordation of a deed (the "Closing Date"), within thirty (30) days after the Closing Date, the Owner of the Lot upon which the Residential Unit is situated shall install grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements) shall be installed on the front yard of the Lot. Within sixty (60) days after the Closing Date, the Owner of the Lot upon which the Residential Unit is situated shall install grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water the grass, trees, plants and other landscaping improvements) in the side and backyard of the Lot. All landscaping to be installed pursuant to this Section shall be installed in accordance with plans approved by the Master Association Architectural Committee. If any Owner fails to landscape his Lot in the manner and within the time provided for in this section, the Association shall have the right, but not the obligation, to enter upon such Owner's Lot to install such landscaping improvements as the Association deems appropriate (together with an irrigation system sufficient to adequately water the same), and the cost of any such installation shall be paid to the Association by the Owner of the Lot, upon demand

from the Association. Any amounts payable by an owner to the Association pursuant to this section shall be secured by an assessment lien against the Lot, and the Association may enforce the collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

7.3. Lots. Each Owner of a Lot shall be responsible for maintaining, repairing or replacing all buildings, Residential Units, landscaping or other Improvements situated on his Lot, except for any portion of the Lot which is an Area of Association Responsibility or is subject to the easement provided for in Section 4.6 of this Declaration. All buildings, Residential Units, landscaping and other Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be removed promptly and replaced with living foliage of like kind. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property or any Private Accessway or any Ingress/Egress Easement. All Lots upon which no Residential Units, buildings or other structures, landscaping or Improvements have been constructed shall be maintained in a weed free and attractive manner. Each Owner shall also be responsible for the maintenance, repair and replacement of the wall around the patio area of the Owner's Lot.

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

7.5. Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to detract substantially from the appearance or quality of the surrounding Lots or other areas of the Project which are affected substantially thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration; or in the event the Owner of any Lot is failing to perform any of his obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen day period of time the requisite cor-

rective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien.

7.6. Common Walls. The rights and duties of Owners of Lots with respect to common walls shall be as follows:

7.6.1. The Owners of contiguous Lots who have a common wall shall have equal rights to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of the same by the other Owner;

7.6.2. In the event any common wall is damaged or destroyed through the act of an Owner, it shall be the obligation of such Owner to rebuild and repair the common wall without cost to the other Owner or Owners;

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

7.6.4. The right of any Owner to contribution from any other Owner under this Section 7.6 shall be appurtenant to the land and shall pass to such Owner's successors in title;

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

ARTICLE VIII

INSURANCE

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

8.1.1. General liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000 per occurrence. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with

the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to maintain under this Declaration, and also shall include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

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

8.1.3. Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

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

8.1.5. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(i) That there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household;

(ii) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy,

(iii) That the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;

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

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

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

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

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

8.4. Payment of Insurance Proceeds. With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article 8, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 8.5 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

8.5. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Areas of Association Responsibility 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.

ARTICLE IX

GENERAL PROVISIONS

9.1. Enforcement. The Association or any Owner shall have the right to enforce the Project Documents and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (i) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (ii) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant.

9.2. Term; Method of Termination. This Declaration shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is recorded. After which time, this Declaration shall be extended automatically for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing ninety percent (90%) or more of the votes in each class of membership. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the County Recorder of Maricopa County, Arizona, a certificate of termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

9.3. Amendments.

9.3.1. Except for amendments made pursuant to Subsection 9.3.2 of this Declaration, this Declaration may be amended only by the affirmative vote of Owners representing not less than seventy-five percent (75%) of the votes cast with respect to the amendment at an annual or special meeting of the Members.

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

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

9.3.4. Any amendment approved pursuant to Subsection 9.3.1 of this Declaration or by the Board pursuant to Subsection 9.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of Maricopa County, Arizona. Any such amendment shall certify that the amendment has been approved as required by this Section 9.3.

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

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

9.6. Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (i) those which would be used in determining the validity of the challenged interest, plus (ii) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

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

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

9.9. Laws, Ordinances and Regulations.

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

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

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

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

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

9.13. Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner, Lessee or Resident then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within Maricopa County. This Section 9.13 shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

9.14. Bulk Service Agreements.

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

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

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


9.14.3. Declarant, for each Lot hereby covenants and agrees, and each Owner other than Declarant, by becoming the Owner of a Lot is deemed to covenant and agree, to pay all amounts levied or charged against or to him or his Lot by the Board pursuant to this Section 9.14, and all such amounts: (a) shall be deemed to be a part of the Assessments against the Lots against or to which they are levied or charged (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Lot at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

9.14.4. No Owner of a Lot covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot under this Section 9.14, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, at its option, to exempt from payment of such amounts any Lot upon which no Residential Unit or other building has been completed.

9.14.5. Until the Class B Membership has ceased and has been converted to Class A Membership as provided in Subsection 5.7.2 of this Declaration, the Board shall not, without the approval of Members holding at least fifty-one percent (51%) of all Class B votes represented in person or by proxy at an annual or special meeting of the Members of the Association, enter into a Bulk

Service Agreement which imposes on the Association or its Members (other than Declarant or a Developer which, in either case, agrees in writing thereto) any obligation to pay the direct costs of construction of any cables, lines or other facilities or equipment for any such cable television, community satellite television or electronic, entertainment, information or communication services, but nothing in this Section 9.14.5 shall prevent the Board from entering into, or require approval by the Members of, any Bulk Service Agreement which imposes on the Association or its Members installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the greater Phoenix, Arizona, area, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

SUNCOR DEVELOPMENT COMPANY, an
Arizona corporation

By: 

Its: v p.

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 14 day of February, 1997, by Charles S. Stack the Vice President of SUNCOR DEVELOPMENT COMPANY, an Arizona corporation, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument, and that he/she, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself, as such Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires:

9-17-99

[2163-0000]

