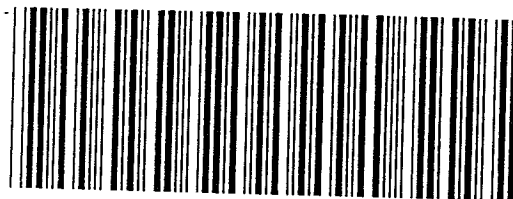


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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
LA COLINA**

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LA COLINA

THIS DECLARATION is made on the date hereinafter set forth by SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real Property ("property") located in Scottsdale, County of Maricopa, State of Arizona, described as follows:

Lots 1 through 111 and Tracts A through G, inclusive of LA COLINA, a subdivision per plat (the "Plat") recorded in Book 373 of Maps, Page 25, Recording Number 94-0187527, Records of Maricopa County, Arizona.

WHEREAS, Declarant desires to provide for the development on the Property detached single family residences:

NOW, THEREFORE, Declarant hereby declares that the Property described above shall be subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, conditions, charges and liens (hereinafter sometimes collectively termed "Covenants and Restrictions") which are for the purpose of protecting the value and desirability of, and what shall run with, the real Property and be binding on all parties having any right, title or interest in the described lots or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each Owner thereafter.

ARTICLE I
DEFINITIONS

Section 1.1. "Architèctural Committee" means the committee established by the Board pursuant to Section 3.4 of this Declaration.

Section 1.2. "Architèctural Committee Rules" means the rules adopted by the Architectural Committee.

Section 1.3. "Articles" means the Articles of Incorporation of the Association which have been or will be filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

Section 1.4. "Assessment Lien" means the lien granted to the Association by this Declaration to secure the payment of Assessments and all other amounts payable to the Association under the Project Documents.

Section 1.5. "Assessments" means the annual and special assessments levied and assessed against each Lot pursuant to Article IV of the Declaration.

Section 1.6. "Association" means the Arizona nonprofit corporation to be organized by the 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 "LA COLINA Homeowners Association", but if such name is not available, Declarant may organize the Association under such other name as the Declarant deems appropriate.

Section 1.7. "Association Rules" means the rules and regulations adopted by the Association, as the same may be amended from time to time.

Section 1.8. "Board" means the Board of Directors of the Association.

Section 1.9. "Bylaws" means the bylaws of the Association, as such bylaws may be amended from time to time.

Section 1.10. "Common Area" consists of Tracts A through G, LA COLINA, a subdivision per plat recorded in Book 373, Page 25, recording number 94-0187527, records of Maricopa County, Arizona.

Section 1.11. "Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

Section 1.12. "Declarant" shall mean Shea Homes Limited Partnership, a California limited partnership, and its successors and assigns if such successors or assigns should acquire two or more undeveloped lots from the Declarant for the purpose of development and resale and such acquisition includes a transfer of the Declarant's rights herein. No successor Declarant shall have any liability resulting from any actions or inactions of any preceding Declarant unless expressly assumed by the successive Declarant, in which event the preceding Declarant shall be released from liability.

Section 1.13. "Declaration" shall mean the provisions of this document and any amendments hereto.

Section 1.14. "Eligible Insurer Or Guarantor" means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters from the Association in accordance with Article XII of this Declaration.

Section 1.15. "Eligible Mortgage Holder" means a First Mortgagee who has requested notice of certain matters from the Association in accordance with Article XII of this Declaration.

Section 1.16. "First Mortgage" means any mortgage or deed of trust on a Lot which has priority over all other mortgages or deeds of trust on the same Lot.

Section 1.17. "First Mortgagee" means the holder of any First Mortgage.

Section 1.18. "Improvement" means buildings, roads, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

Section 1.19. "Lot" or "lot" shall mean any one of Lots 1 through 111 of LA COLINA per the Plat.

Section 1.20. "Member" means any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

Section 1.21. "Owner" or "owner" shall mean the record owner, except as provided below, whether one or more persons or entities, of fee simple title of any lot, including without limitation, one who is buying a lot under a recorded contract, but excluding others having an interest merely as security for the performance of an obligation. In the case of a lot wherein the fee simple title is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., legal title shall be deemed to be in the trustor. In the case of a lot, the fee simple title to which is vested in a trustee pursuant to a trust agreement the beneficiary entitled to possession shall be deemed to be the Owner.

Section 1.22. "Plat" shall mean the Plat of LA COLINA in Book 373, Page 25, Recording Number 94-0187527, Records of Maricopa County, Arizona and all amendments hereto.

Section 1.23. "Project" means the real Property described as Lots 1 through 111 of LA COLINA and Tracts A through G recorded in Book 373, Page 25, Recording Number 94-0187527, Records of Maricopa County, Arizona together with all buildings and other Improvements located thereon and all easements, rights and privileges appurtenant thereto.

Section 1.24. "Project Documents" means this Declaration and the Articles, Bylaws, Association Rules and Architectural Committee Rules.

Section 1.25. "Purchaser" means any person other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot except for (i) an Owner who purchases a Lot and then leases it to the Declarant for use as a model in connection with the sale of other Lots or (ii) an Owner who, in addition to purchasing a Lot, is assigned any or all of the Declarant's rights under this Declaration.

Section 1.26. "Residential Unit" means any building situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence by a Single Family.

Section 1.27. "Single Family" shall mean an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

Section 1.28. "Single Family Residence" shall mean a building, house or dwelling unit used as a residence for a Single Family, including any appurtenant garage or storage area.

Section 1.29. "Single Family Residential Use" shall mean the occupation or use of a Single Family Residence in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

Section 1.30. "Visible from Neighboring Property" or "visible from neighboring property" shall mean that an object is or would be visible to a person six feet (6') tall standing on a neighboring lot or street at an elevation not greater than the elevation of the base of the object being viewed.

ARTICLE II
PLAN OF DEVELOPMENT

Section 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. 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 or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and such 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.

ARTICLE III
THE ASSOCIATION: RIGHTS AND DUTIES,
MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Rights, Powers and Duties. The Association shall be a non-profit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Project Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Project Documents. 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.

Section 3.2. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers and committees as the Board may elect or appoint in accordance with the Articles and the Bylaws.

Section 3.3. Association Rules. The Board may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations. The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner except that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 3.4. Architectural Committee. The Board shall establish an Architectural Committee consisting of not less than three (3) members to regulate the external design, appearance and use of the Property and to perform such other functions and duties as may be imposed upon it by this Declaration, the Bylaws or the Board. So long as the Declarant owns any Lot, the Declarant shall have the right to appoint and remove members of the Architectural Committee. At such time as the Declarant no longer owns any lot, the Board shall have the right to appoint and remove members of the Architectural Committee.

Section 3.5. Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

Section 3.6. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by

intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association. The Association shall have the right to charge a reasonable transfer fee to the new owner in connection with any transfer of a lot.

Section 3.7. Classes of Members. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant until the termination of the Class B membership. Each Class A member shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) When seventy-five percent (75%) of the Lots have been conveyed to Purchasers; or
- (ii) Five (5) years after the conveyance of the first Lot to a Purchaser; or
- (iii) When the Declarant notifies the Association in writing that it relinquishes its Class B membership.

Section 3.8. Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint 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 Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 3.9. Corporate Ownership. In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president, general partner or chief executive officer of such corporation, partnership or association shall have the power to vote the membership.

Section 3.10. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of 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.

Section 3.11. Termination of Contracts and Leases. A contract for any of the following, if entered into prior to the expiration of the Class B membership in the Association, may be terminated by the Association at any time after the expiration of the Class B membership on thirty (30) days written notice to the other party:

(i) Any management contract, employment contract or lease of recreational or parking areas or facilities.

(ii) Any contract or lease, including franchises and licenses, to which the Declarant or any affiliate of the Declarant is a party.

Section 3.12. Fines. The Association, acting through its Board of Directors, shall have the right to adopt a schedule of fines for violation of any provision of the Project Documents by any Owner or such Owner's licensees and invitees. No fine shall be imposed without first providing a written warning to the Owner describing the violation and stating that failure to stop the violation within no less than ten (10) days or another recurrence of the same violation within six (6) months of the original violation shall make the Owner subject to 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. Failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any assessments under Article IV.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, hereby covenants, and each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association annual assessments and special assessments. The annual and special assessments, together, with interest, costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 4.2. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for (i) the upkeep, maintenance and improvement of the Common Area, (ii) promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property, and (iii) the performance and exercise by the Association of its rights, duties and obligations under the Project Documents.

Section 4.3. Annual Assessment.

(A) For each fiscal year of the Association, the Board shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board believes to be required during the ensuing fiscal year to pay all Common Expenses including, but not limited to (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Area and those parts of the Lots, if any, which the Association has the responsibility of maintaining, repairing or replacing under the Project Documents, (ii) the cost of wages, materials, insurance premiums, services, supplies and maintenance or repair of the Common Area and for the general operation and administration of the Association, (iii) the amount required to render to Owners all services required to be rendered by the Association under the Project Documents, and (iv) such amounts as may be necessary to provide general operating reserves and reserves for contingencies and replacement.

(B) For each fiscal year of the Association commencing with the year in which the first Lot is conveyed to a Purchaser, the total amount of the estimated Common Expenses shall be assessed equally against each Lot by the Board.

(C) An Owner other than the Declarant shall be obligated to pay only twenty-five percent (25%) of the annual assessment attributable to this Lot until the earlier of (i) the date on which a certificate of occupancy on similar permit is issued by the appropriate governmental authority, (ii) six (6) months from the date on which a building permit is issued by the appropriate governmental authority for construction of a residential unit on the Lot, or (iii) two (2) years after the Lot was conveyed to the Owner by the Declarant. 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.

(D) The Declarant shall be obligated to pay only twenty-five percent (25%) of the annual assessment attributable to Lots owned by the Declarant until seventy-five percent (75%) of the Lots have been conveyed to Purchasers. 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 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.

(E) Until seventy-five percent (75%) of the Lots have been conveyed to Purchasers, the 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 in order for

the Association to fully perform its duties and obligations under the Project Documents, including the obligation to maintain adequate reserve accounts. Notwithstanding the foregoing, Declarant shall have no obligation to pay any amounts during any calendar year in excess of the amount that Declarant would have paid if its payments were made on the same basis as Purchasers of lots.

(F) The Board shall give notice of the annual assessment to each Owner at least thirty (30) days prior to the beginning of each fiscal year of the Association, 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.

(G) If the Board determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all expenses of the Association for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the annual assessment for that fiscal year and the revised annual assessment shall commence on the date designated by the Board except that no increase in the annual assessment for any fiscal year which would result in the annual assessment exceeding the maximum annual assessment for such fiscal year shall become effective until approved by Members entitled to cast at least 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.

(H) The maximum annual assessment for each fiscal year of the Association shall be as follows:

(i) Until January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum annual assessment for each Lot shall be \$350.00.

(ii) From and after January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum annual assessment will automatically increase during each fiscal year of the Association by the greater of (a) 5% of the maximum annual assessment for the immediately preceding fiscal year or (b) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (All Items) U.S. City Average, published by the United States Department of Labor, Bureau of Labor Statistics (1982 - 84 = 100) (the "Consumer Price Index"), which amount shall be computed in the last month of each fiscal year in accordance with following formula:

X = Consumer Price Index for September of the calendar year immediately preceding the year in which annual assessments commenced.

Y = Consumer Price Index for September of the year immediately preceding the calendar year for which the maximum annual assessment is to be determined.

$\frac{Y-X}{X}$ multiplied by the maximum annual assessment for the then current fiscal year equals the amount by which the maximum annual assessment may be increased.

In the event the Consumer Price Index ceases to be published, then the index which shall be used for computing the increase in the maximum annual assessment permitted under this Subsection shall be the substitute recommended by the United States government for the Consumer Price Index or, in the event no such successor index is recommended by the United States government, the index selected by the Board.

(iii) The increase in the maximum annual assessment pursuant to this Subsection (I) shall be calculated without considering the portion of the immediately preceding annual assessment attributable to the payment of utility charges or insurance premiums by the Association. In addition to the increase in the maximum annual assessment pursuant to Subsection (I) (ii) above, the maximum annual assessment shall include an increase for each fiscal year from and after January 1 of the year immediately following the conveyance of the first Lot to a purchaser in an amount equal to the amount in the Association budget for the prior fiscal year applicable to utility charges and insurance premiums, multiplied by the percentage increase in utility charges or the percentage increase in insurance premiums during the prior fiscal year, whichever is greater.

Section 4.4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any fiscal year, a special assessment applicable to that fiscal 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 of the Common Area, including fixtures and personal Property related thereto, or for any other lawful Association purpose, provided that any such special assessment shall have the assent of Members having at least 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. Special assessments shall be levied at a uniform rate for all Lots.

Section 4.5. Notice and Quorum for Any Action Authorized Under Sections 4.3 or 4.4. Written notice of any meeting called for the purpose of obtaining the consent of the Members for any action for which the consent of the Members is required under Sections 4.3 and 4.4 shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board may require that the annual assessment be paid in installments and in such event the Board shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association or the Association's designated agent setting forth whether the Assessments on a specified Lot have been paid.

Section 4.7. Effect of Non-payment of Assessments; Remedies of the Association.

(A) Any Assessment, or any installment of an Assessment, not paid within fifteen (15) days after the Assessment, or the installment of the Assessment, first became due shall (i) bear interest from the due date at the greater of the rate of twelve percent (12%) per annum, or the prevailing FHA/VA interest rate for new home loans, or (ii) be subject to a reasonable late charge as determined by the Board of Directors, whichever is greater. Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made. The Assessment Lien shall be perfected 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, lien recording fees, reasonable collection costs and reasonable attorneys' fees, and (iv) the name and address of the Association.

(B) The Assessment Lien shall have priority over all liens or claims created subsequent to the recordation of the Notice of Claim of Lien except for (i) tax liens for real Property taxes on the Lot, (ii) assessments on any Lot in favor of any municipal or other governmental body and ((iii) the lien of any First Mortgage.

(C) Before recording a Notice of Claim of 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, interest, reasonable collection costs and reasonable attorneys' fees, if any. The 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 the delinquency is not paid within ten (10) days after delivery of the 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 the Assessment Lien until all delinquent Assessments, late charges, interest, lien recording fees, reasonable collection costs and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

(D) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with late charges, interest, lien recording fees, reasonable

collection costs, 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 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.

Section 4.8. Subordination of the Lien to Mortgages. The Assessment Lien shall be subordinate to the lien of any First Mortgage. The sale or transfer of any Lot shall not affect the Assessment Lien except that the sale or transfer of a Lot pursuant to judicial or nonjudicial foreclosure of a first mortgage or any proceeding in lieu thereof shall extinguish the Assessment Lien as to payments which became due prior to the sale or transfer. No sale or transfer shall relieve the Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 4.9. Exemption of Owner. No Owner of a Lot may exempt himself from liability for Assessments levied against his Lot or for other amounts which he may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area and facilities or by the abandonment of his Lot.

Section 4.10. Maintenance of Reserve Fund. Out of the annual assessments, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area.

Section 4.11. No Offsets. All Assessments and other amounts payable to the Association shall be payable in accordance with the provisions of the Project Documents, and no offsets against such Assessments or other amounts shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Project Documents.

Section 4.12. 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 established from time to time by the Board.

ARTICLE V USE RESTRICTIONS

Section 5.1. Residential Use: Except as otherwise provided herein, all lots shall be improved and used only for Single Family Residential Use. No gainful occupation, profession, trade or other commercial activity shall be conducted on any lot; provided, however, the Declarant may use the lots for such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale of residential units, including, without

limitation, a business office, storage areas, construction yards, signs, a model site or sites, and a display and sales office. Notwithstanding the foregoing, home businesses are permitted on the lots provided they are in accordance with the City of Scottsdale Zoning Ordinance.

Section 5.2. Building Type and Size: No building shall be constructed or permitted to remain on any lot other than one detached Single Family Residence not to exceed two stories in height and a private one to three car garage. Unless otherwise approved in writing by the Architectural Committee, all buildings shall be of new construction and no prefabricated structure shall be placed upon any lot if Visible from Neighboring Property; storage structures and/or a sales office may be maintained upon any lot or lots by the Declarant or a building contractor for the purpose of erecting and selling dwellings on the Property, but such temporary structures shall be removed upon completion of construction or selling of a dwelling, whichever is later. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out buildings shall be used on any lot at any time as a residence, either temporarily or permanently.

Section 5.3. Signs: No signs shall be displayed on any lot except the following:

- (A) signs used by Declarant to advertise the lots and residence thereon for sale or lease;
- (B) one temporary for sale or for rent sign with a total face area of five square feet or less;
- (C) such signs as may be required by law;
- (D) one residential identification sign with a total face area of eighty square inches or less; and
- (E) signs approved by the Architectural Committee.

All signs must conform to applicable City of Scottsdale ordinances.

Section 5.4. Noxious and Offensive Activity: No noxious or offensive activity shall be allowed on the lots nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners and tenants of their respective lots and residences without limiting the generality of the foregoing, no speakers, horns, sirens or other sound devices, except security devices used exclusively for security purposes, shall be located or used on a lot.

Section 5.5. Motor Vehicles:

- (A) No truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat trailer or other similar equipment or other motor

vehicle of any kind shall be parked, kept or maintained on any Lot or on the Common Area except for (i) motor vehicles which do not exceed 222 inches in length, 75 inches in height and 84 inches in width, (ii) motor vehicles which are owned by any guest or invitee of any Owner or tenant and which are parked on a Lot only during such time as the guest or invitee is visiting the Owner or tenant but in no event shall such a motor vehicle be parked on a Lot for more than seven (7) days during any six (6) month period of time.

(B) Except for emergency vehicle repairs, no automobile, motorcycle, motorbike or other motor vehicle of any kind shall be constructed, reconstructed or repaired on any Lot or the Common Area. No inoperable vehicle or vehicle which because of missing fenders, bumpers, hoods or other parts or because of lack of proper maintenance is, in the sole opinion of the Architectural Committee, unsightly or detracts from the appearance of the Project shall be stored, parked or kept on any Lot or the Common Area.

Section 5.6. Parking: All vehicles of Owners and of their lessees, employees, guests and invitees shall be kept in garages or residential driveways of the Owners wherever and whenever such facilities are sufficient to accommodate the number of vehicles on a lot; provided, however, this Section shall not be construed to permit the parking in the above described areas of any vehicle whose parking is otherwise prohibited by this Declaration or the parking of any inoperable vehicle; and there shall in any event be no overnight on-street parking.

Section 5.7. Towing of Vehicles: The Association shall have the right to have 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 parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment towed is owned by an Owner, then the cost incurred by the Association in towing the vehicle or equipment shall be assessed against the Owner and his Lot, and such cost shall be secured by the Assessment Lien.

Section 5.8. 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 improvements constructed by the Declarant or approved by the Architectural Committee.

Section 5.9. Restrictions and Further Subdivision: No lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all or an undivided interest in all of any lot shall be conveyed or transferred by any Owner other than the Declarant. Notwithstanding the foregoing and subject to compliance with any applicable city ordinances, a vacant lot may be split between the Owners of the lots adjacent to such lot so that each portion of such lot would be held in common ownership with another lot adjacent to that portion.

Section 5.10. Windows: Within thirty (30) days of occupancy each Owner shall install permanent draperies or suitable window treatments on all windows facing the street. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows.

Section 5.11. HVAC and Solar Panels: Except as initially installed by the Declarant, no heating, air conditioning, evaporative cooling or solar energy collecting unit or panels shall be placed, constructed or maintained upon any lot without the prior written approval of the Architectural Committee.

Section 5.12. Garages and Driveways: The interior of all garages situated on any lot shall be maintained in a neat and clean condition. Garages shall be used only for the parking of vehicles and the storage of normal household supplies and materials and shall not be used for or converted to living quarters or recreational activities without the prior written approval of the Architectural Committee. Garage doors shall be left open only as needed for ingress and egress.

Section 5.13. Installation of Landscaping:

(A) Within six (6) months after becoming the Owner of a Lot, the Owner shall install landscaping and irrigation improvements in compliance with the xeriscape principles and other applicable requirements set forth in the City of Scottsdale Zoning Code in that portion of his Lot which is between the street(s) adjacent to his Lot and the exterior wall of his Residential Unit or any wall separating the side or back yard of the Lot from the front yard of the Lot. The landscaping and irrigation improvements shall be installed in accordance with plans approved in writing by the Architectural Committee. Prior to installation of such landscaping, the Owner shall maintain the front yard of his Lot in a weed-free condition.

(B) If any Owner fails to landscape the front yard of his Lot 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, 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 the Assessment Lien, and the Association may enforce 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.

Section 5.14. Declarant's Exemption: Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of model homes, structures, improvements or signs necessary or convenient to the construction, development, identification, or sale or lease of Lots or other Property within the Project.

Section 5.15. Leasing Restrictions: Any lease or rental agreement must be in writing and shall be subject to the Declaration. All leases must be for an entire residence and lot and must have a minimum term of thirty (30) days.

Section 5.16. Animals: No animals, insects, livestock, or poultry of any kind shall be raised, bred, or kept on or within any lot or structure thereon except that dogs, cats or other common household pets may be kept on or within the lots, provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers as determined by the Architectural Committee. Notwithstanding the foregoing, no animals or fowl may be kept on any lot which results in an annoyance to or are obnoxious to other Owners or tenants in the vicinity. All pets, required by any law, must be kept within a fenced yard or on a leash under the control of the Owner at all times. No structure for the care, housing or confinement of any animal or fowl shall be maintained so as to be Visible from Neighboring Property.

Section 5.17. Drilling and Mining: No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind, shall be permitted upon or in any lot nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted on any lot. No derrick or other structure designed for use in boring for or removing water, oil, natural gas or other minerals shall be erected, maintained or permitted upon any lot.

Section 5.18. Refuse: All refuse shall be regularly removed from the lots and shall not be allowed to accumulate thereon. Refuse containers shall be kept clean, sanitary and free of noxious odors. Refuse containers shall be maintained so as to not be Visible from Neighboring Property, except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection.

Section 5.19. Antennas and Satellite Dishes: No antenna, satellite television dish, antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be permitted outdoors on any lot, whether attached to a building or structure or on any lot, unless approved in writing by the Architectural Committee, with such screening and fencing as such Committee may require. Any satellite dish must be ground mounted and not Visible from Neighboring Property.

Section 5.20. Utility Services: All lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Architectural Committee. Temporary power or telephone structures incident to construction activities approved by the Architectural Committee are permitted.

Section 5.21. Diseases and Insects: No Owner or resident shall permit any thing or condition to exist upon a lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 5.22. Architectural Control:

(A) No excavation or grading work shall be performed on any Lot without the prior written approval of the Architectural Committee.

(B) No Improvements, shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee.

(C) No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, shall be made or done without the prior written approval of the Architectural Committee.

(D) Any Owner desiring approval of the Architectural Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of the Improvement, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change or replacement of any Improvement which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within sixty (60) days after the application, together with all supporting information, plans and specifications requested by the Architectural Committee have been submitted to it, approval will not be required and this Section will be deemed to have been complied with by the Owner who had requested approval of such plans.

(E) The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

(F) Upon receipt of approval from the Architectural 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 construction, installation, addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

(G) The approval of the Architectural 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.

(H) The provisions of this Section shall not apply to, and approval of the Architectural 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.

Section 5.23. Height Limitation: Notwithstanding any contrary provision herein, no structure or other improvement constructed on any of Lots 6 through 18, 23 or 24 shall have a height of more than 24 feet above the finished floor of the structure or improvement.

ARTICLE VI
RESERVATION OF 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 which the Declarant then owns and has not sold.

ARTICLE VII
PARTY WALLS

Section 7.1. General Rules of Law to Apply: Each wall or fence, any part of which is placed on a dividing line between separate lots shall constitute a "Party Wall". Each adjoining Owner's obligation with respect to party walls shall be determined by these covenants and restrictions and, if not inconsistent, by Arizona law.

Section 7.2. Sharing Repair and Maintenance: Each Owner shall maintain the exterior surface of a party wall facing his lot. Except as provided in this Article, the cost of reasonable repair shall be shared equally by adjoining lot Owners.

Section 7.3. Damage by One Owner: If a party wall is damaged or destroyed by the act of one adjoining Owner, or his guests, tenants, licensees, agents or family members (whether or not such act is negligent or otherwise culpable), then that Owner shall immediately rebuild or repair the party wall to its prior condition without cost to the adjoining Owner and shall indemnify the adjoining Owner from any consequential damages, loss or liabilities.

Section 7.4. Other Damage: If a party wall is damaged or destroyed by any cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family members (including ordinary wear and tear and deterioration from lapse of time), then the adjoining Owners shall rebuild or repair the party wall to its prior condition, equally sharing the expense; provided, however, that if a party wall is damaged or destroyed as a result of an accident or circumstances that originate or occur on a particular lot, (whether or not such accident or circumstance is caused by the action or inaction of the Owner of that lot, or his

agents, tenants, licensees, guests or family members) then in such event, the Owner of that particular lot shall be solely responsible for the cost of rebuilding or repairing the party wall and shall immediately repair to the same condition as such party wall formerly was.

Section 7.5. Right of Entry: Each Owner shall permit the Owners of adjoining lots, or their representatives, to enter his lot for the purpose of installations, alteration, or repairs to a party wall on the Property of such adjoining Owners, provided that other than for emergencies, requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner of the adjoining lot. An adjoining Owner making entry pursuant to this Section shall not be deemed guilty of trespassing by reason of such entry. Such entering Owner shall indemnify the adjoining Owner from any consequential damages sustained by reason of such entry.

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

Section 7.7. Consent of Adjoining Owner: In addition to meeting the requirements of this Declaration and of any applicable building code and similar regulations or ordinances, any Owner proposing to modify, alter, make additions to or rebuild the party wall, shall first obtain the written consent of the adjoining Owner.

ARTICLE VIII
MAINTENANCE BY OWNER

Each Owner shall maintain his residence and lot in good repair. The yards and landscaping on all improved lots shall be neatly and attractively maintained, and shall be cultivated and planted to the extent required to maintain an appearance in harmony with other improved lots in the Property. During prolonged absence, an Owner shall arrange for the continued care and upkeep of his lot. In the event a lot Owner fails to maintain his lot and residence in good condition and repair or in the event an Owner fails to landscape his lot as required by Section 5.13 of Article V, the Architectural Committee may have said lot and residence landscaped, cleaned and repaired and may charge lot owner for said work in accordance with the provisions of said Section. An Owner shall not allow a condition to exist on his lot which will adversely affect any other lots and residences or other Owners. Any repainting or redecorating of the exterior surfaces of a residence which alters the original appearance of the residence will require the prior approval of the Architectural Committee.

ARTICLE IX
EASEMENTS

Section 9.1. Owner's Easements of Enjoyment:

(A) Every Member, and any person residing with such Member, shall have a right and easement of enjoyment in and to the Common Area which shall by appurtenant to and shall pass with the title to every Lot and Parcel, subject to the following provisions:

(i) The right of the Association to charge reasonable admission and other fees for the use of any recreational or other facility situated upon the Common Area, including, but not limited to, any recreational vehicle storage area located upon the Common Area, the Association shall also have the right to restrict the use of such recreational vehicle storage area to only those Owners, Lessees or Residents who do not have such a recreational vehicle storage area available to them through a Neighborhood

Association. The Association may permit the use of any recreational vehicle storage area situated upon the Common Area by persons who are not Members of the Association provided the Association charges such persons a reasonable admission fee or user fee for the use of such recreational vehicle storage area.

(ii) The right of the Association to suspend the voting rights and right to the use of the recreational facilities, if any, located upon Common Area by any Member (a) for any period during which any Assessment against his Lot or Parcel remains delinquent; (b) for a period not to exceed sixty (60) days for any other infraction of the Project Documents, and (c) for successive sixty-day (60) periods if any such infraction is not corrected during any prior sixty-day (60) suspension period.

(iii) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Board. Unless otherwise required by zoning stipulations or agreements with Maricopa County or any municipality having jurisdiction over the Project, or any part thereof, effective prior to the date hereof or specified on a recorded subdivision Plat, no such dedication or transfer shall be effective unless an instrument signed by the Owners representing two-thirds (2/3) of the votes in each class or membership in the Association agreeing to such dedication or transfer has been recorded.

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

(B) If a Lot or Parcel is leased or rented by the Owner thereof, the Lessee and the members of his family residing with such Lessee pursuant to the lease shall have the right to use

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

(C) The guest and invitees of any Member or other person entitled to use the Common Area pursuant to this Declaration may use any recreational facility located on the Common Area provided they are accompanied by a Member or other person entitled to use the recreational facilities pursuant to this Declaration. The Board shall have the right to limit the number of guests and invitees who may use the recreational facilities located on the Common Area at any one time and may restrict the use of the recreational facilities by guests and invitees to certain specified times.

Section 9.2. Drainage Easements: There is hereby created a blanket easement for drainage of ground water on, over and across each lot in such locations as drainage channels or structures are located. An Owner shall not at any time hereafter fill, block or obstruct any drainage easements, channels or structures on his lot and each Owner shall repair and maintain all drainage channels and drainage structures located on his lot. No structure of any kind shall be constructed and no vegetation shall be planted or allowed to grow within the drainage easements which may impede the flow of water under, over or through the easements. All drainage areas shall be maintained by the Owner of the lots on which the easement area is located.

Section 9.3. Utility Easements: Except as installed by the Declarant or approved by the Architectural Committee, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, cable and radio signals, shall be erected, placed or maintained anywhere in or upon any lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No structure, landscaping or other improvements shall be placed, erected or maintained upon any area designated on the Plat as a public utility easement which may damage or interfere with the installation and maintenance of utilities. Such public utility easement areas, and all improvements thereon, shall be maintained by the Owner of the lot on which the easement area is located unless the utility company or a county, municipality or other public authority maintains said easement area.

Section 9.4. Declarant's Easement: Easements over the lots for the installation and maintenance of electric, telephone cable, communications, water, gas, drainage and sanitary sewer or similar or other lines, pipes or facilities

- (A) as shown on the recorded Plat;
- (B) as may be hereafter required or needed to service any lot (provided, however, no utility other than a connection line to a dwelling unit served by the utility shall be installed in any area upon which a dwelling unit has been or may legally be constructed on the lot)

are hereby reserved by the Declarant, together with the right to grant and transfer the same.

Section 9.5. Encroachments: The lots shall be subject to an easement for overhangs and encroachments by walls, fences or other structures upon adjacent lots as constructed by the original builder or as reconstructed or repaired in accordance with the original plans and specifications or as a result of the reasonable repair, shifting, settlement or movement of any such structure.

ARTICLE X MAINTENANCE

Section 10.1. Maintenance by the Association: The Association shall be responsible for the maintenance, repair and replacement of the Common Area and may, without any approval of the Owners being required, do any of the following:

(A) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);

(B) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway and parking area;

(C) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(D) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

(E) Construct, maintain, repair and replace landscaped areas on any portion of the Common Area;

(F) Maintain any portion of the Common Area used for drainage and retention;
and

(G) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

Section 10.2. Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area or interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefore under Arizona law, and such amounts shall be a lien on any Lots owned

by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

Section 10.3. Payment of Utility Charges. Each Lot shall be separately metered for water, sewer and electrical service and all charges for such services shall be the sole obligation and responsibility of the Owner of each Lot. The cost of water, sewer and electrical service to the Common Area shall be a Common Expense of the Association and shall be included in the budget of the Association.

ARTICLE XI INSURANCE

Section 11.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a person other than the Declarant, the Association shall maintain, to the extent reasonable available, the following insurance coverage:

(A) Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, 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;

(B) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000.00. 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 Common Area, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner and provide coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party;

(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 or the Owners;

(E) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

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

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

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

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

(v) The Association shall be named as the Insured;

(vi) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least thirty (30) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy;

(F) If there is a steam boiler in connection with the Common Area, boiler explosion insurance evidenced by the standard form of boiler machinery insurance policy and providing coverage in the minimum amount of \$50,000.00 per accident per location;

(G) If the Property is located in an area identified by the Secretary of Housing & 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;

(H) "Agreed Amount" and "Inflation Guard" endorsements.

Section 11.2 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

Section 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 fidelity bond maintained by the Association shall be based upon the best business judgment of the Board, and shall not be less than the greater of (i) the amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, (ii) the estimated maximum amount of 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, (iii) the sum equal to three (3) months assessments on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association 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;

(iii) The bonds shall provide that they may not be canceled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association.

(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 (A) of this Section. 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.

Section 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.

Section 11.5 Insurance Obtained by Owners. Each Owner shall be responsible for obtaining Property insurance for his own benefit and at his own expense covering his Lot, and all Improvements and personal Property located thereon. Each Owner shall also be responsible for obtaining at his expense personal liability coverage for death, bodily injury or Property damage arising out of the use, ownership or maintenance of his Lot.

Section 11.6 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by Property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the

Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 11.7 of this Article, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area.

Section 11.7 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area 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 owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area 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 be distributed to the Owners on the basis of an equal share for each Lot.

ARTICLE XII RIGHTS OF FIRST MORTGAGEES

Section 12.1 Notification to First Mortgagees. Upon receipt by the Association of a written request from a First Mortgagee or insurer or governmental guarantor for a First Mortgage informing the Association of its correct name, address and the Lot number of address to which the request relates, the Association shall provide such Eligible Mortgage Holder or Eligible Insurer Or Guarantor with timely written notice of the following:

(A) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer Or Guarantor;

(B) Any delinquency in the payment of Assessments or charges owed by an Owner of a Lot subject to a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer Or Guarantor or any other default in the performance by the Owner of any obligation under the Project Documents, which delinquency remains uncured for the period of sixty (60) days;

(C) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(D) Any proposed action which will require the consent of a specified percentage of Eligible Mortgage Holders as set forth in Sections 12.2 or 12.3 of this Declaration.

Section 12.2 Approval Required to Terminate Project. Any termination of the legal status of the Project for reasons other than the substantial destruction or a substantial taking in

condemnation of the Project shall not be effective unless approved by Eligible Mortgage Holders holding First Mortgages on Lots the Owners of which have at least sixty-seven percent (67%) of the votes in the Association allocated to Owners of all Lots subject to First Mortgages held by Eligible Mortgage Holders.

Section 12.3 Approval Required for Amendment to Declaration, Articles or Bylaws.

(A) The approval of Eligible Mortgage Holders holding First Mortgages on Lots the Owners of which have at least fifty-one percent (51%) of the votes in the Association allocated to Owners of all Lots subject to First Mortgages held by Eligible Mortgage Holders shall be required to add or amend any material provisions of the Declaration, Articles or Bylaws which establish, provide for, govern or regulate any of the following:

- (i) Voting rights;
- (ii) Assessments, assessment liens or subordination of assessment liens;
- (iii) Reserves for maintenance, repair and replacement of Common Areas;
- (iv) Insurance or fidelity bonds;
- (v) Responsibility for maintenance and repairs;
Useful Document
- (vi) Expansion or contraction of the Project, or the addition, annexation or withdrawal of Property to or from the Project;
- (vii) Boundaries of any Lot;
- (viii) Reallocation of interests in the Common Areas or the rights to their use;
- (ix) Convertibility of Lots into Common Areas or of Common Areas into Lots;
- (x) Leasing of Lots;
- (xi) Imposition of any restrictions on an Owner's right to sell or transfer his Lot;
- (xii) A decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;
- (xiii) Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;

(xiv) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs;

(xv) Any provisions which expressly benefit First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors.

(B) Any addition or amendment to the Declaration, Articles or Bylaws shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. Any first Mortgagee who receives a written request to approve additions or amendments to the Declaration, Articles or Bylaws which are not material who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Section 12.4 First Mortgagee Not Liable for Prior Assessments. Any First Mortgagee or any other party acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other party. 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.

Section 12.5 First Mortgagee's Right of Inspection of Records. Any First Mortgagee will, upon written request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive within ninety (90) days following the end of any fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party, and (c) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

Section 12.6 Limitation on Partition and Subdivision. No Lot shall be partitioned or subdivided without the prior written approval of the holder of any First Mortgage on such Lot.

Section 12.7 Prior Written Approval of First Mortgagees. Unless at least two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned) or Owners (other than the sponsor, developer or builder) for the individual Lots have given their prior written approval, the Association shall not be entitled to:

(A) By act or omission seek to abandon, partition, subdivide, sell or transfer the Common Area owned, directly or indirectly, by the Association for the benefit of the Lots (the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this subsection);

(B) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot Owner:

(C) By act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Lots, the exterior maintenance of Lots, and the improvements located thereon, the maintenance of the Common Area, party walls or fences and driveways, or the upkeep of lawns and plantings in the Project;

(D) Use hazard insurance proceeds for losses to any Common Area, other than the repair, replacement or reconstruction of such Common Area.

Section 12.8 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article and any other provision of the Project Documents, the provisions of this Article shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Articles of this Article or between the provisions of this Article and any other provision of the Project Documents with respect to the number or percentage of Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers Or Guarantors that must consent to (i) an amendment of the Declaration, Articles or Bylaws, (ii) a termination of the Project, or (iii) certain actions of the Association as specified in Articles 12.2, 12.3 and 12.7 of this Declaration, the provision requiring the consent of the greatest number or percentage of Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors shall prevail; provided, however, that so long as there is a Class B membership in the Association, the Declarant, without the consent of any Owner or First Mortgagee being required, shall have the right to amend this Declaration, the Articles or the Bylaws in order to conform this Declaration, the Articles or the Bylaws 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 or requested by the Declarant.

ARTICLE XIII
TERM AND ENFORCEMENT

Section 13.1. Enforcement: The Association, the Architectural Committee or any Owner shall have the right (but not the obligation) to enforce, by any proceeding at law or in equity, these Covenants and Restrictions and any amendment thereto. Failure by the Association, the Committee or any Owner to enforce these Covenants and Restrictions shall in no event be deemed a waiver of the right to do so thereafter. Deeds of conveyance of the Property may contain these Covenants and Restrictions by reference to this Declaration, but whether or not such reference is made in such deeds, each and all such Covenants and Restrictions shall be valued and binding upon the respective grantees. Violators of any one or more of the Covenants

and Restrictions may be restrained by any court of competent jurisdiction and damages awarded against such violators, provided, however, that a violation of these Covenants and Restrictions or any one or more of them shall not affect the lien of any first mortgage or first deed of trust. If the Architectural Committee enforces any provision of the Project documents, the cost of the enforcement shall be paid by the Association.

Section 13.2. Term: The Covenants and Restrictions in this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years for so long as the lots shall continue to be used for residential purposes.

Section 13.3. Amendment: The Declaration may be amended at any time by an instrument signed by the Owners of at least seventy-five percent (75%) of the lots and recorded with the Maricopa County Recorder. A properly executed and recorded amendment may alter the restrictions applicable to all or any portion of the Property. Any amendment which diminishes the Declarant's right hereunder shall require the approval of the Declarant.

ARTICLE XIV GENERAL PROVISIONS

Section 14.1. Severability: Judicial invalidation of any part of these Covenants and Restrictions shall not affect the validity of any other provisions.

Section 14.2. Construction: The Article and Section headings have been inserted for convenience only and shall not be considered in resolving questions of interpretation or construction. All terms and words used in this Declaration regardless of the number and gender in which they are used shall be deemed and construed to include any other number, and any other gender, as the context or sense requires.

Section 14.3. Notices: Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail, postage prepaid; if to an Owner, addressed to that Owner at the address of the Owner's lot or if to the Architectural Committee, addressed to that Committee at the normal business address. If notice is sent by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage pre-paid. If personally delivered, notice shall be effective on receipt. Notwithstanding the foregoing, if application for approval, plans, specifications and any other

communication or documents shall not be deemed to have been submitted to the Architectural Committee, unless actually received by said Committee.

Section 14.4. VA/FHA Approvals: If the Project or this Declaration have been initially approved by the Veterans Administration or the Federal Housing Administration, then so long as there is a Class B membership in the Association, the following actions will require the prior approval of the Veterans Administration or the Federal Housing Administration: dedications of Common Areas (except for such dedication as required by the City of Scottsdale); any annexation of additional property to this Declaration or any amendment or termination of this Declaration.

Date: October 7, 1994

WITNESS OUR HANDS:

SHEA HOMES LIMITED PARTNERSHIP,
a California limited partnership,
By: J.F. SHEA CO., INC.,
a Nevada corporation, general partner

By: [Signature]

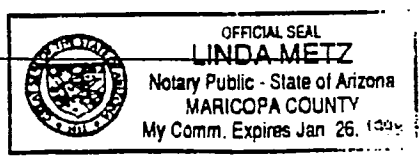
Its: [Signature]
Declarant

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me this 3rd day of October, 1994
by Linda Metz as authorized agent of SHEA HOMES LIMITED
PARTNERSHIP, a California Limited Partnership.

[Signature]
Notary Public

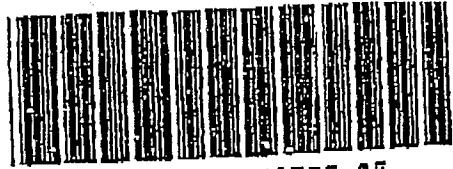
My commission expires:



When recorded, mail to:

Shea Homes Limited Partnership
P.O. Box 15627
Phoenix, Arizona 85040-5627
Attn: Mark Ackel

**HOLD FOR PICK-UP
FIRST AMERICAN TITLE
BUILDER SERVICES**



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
95-0244480 05/01/95 04:04

**FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR LA COLINA**

The undersigned, being the owner of more than 75% of Lots 1 through 111, per the plat of La Colina recorded in Book 373, page 25 Recording No. 94-0187527, Records of Maricopa County, Arizona hereby amends that certain Declaration of Covenants, Conditions, Restrictions and Easements for La Colina (the "Declaration") recorded on October 4, 1994 at Maricopa County Recorder's, No. 94-0722967, pursuant to Section 13.3 of the Declaration, by changing the initial maximum annual assessment set forth in Section 4.3 (H) (1) from \$350 to \$600. The undersigned further gives notice that the Project (as defined in the Declaration) and the Declaration have not yet been initially approved by the Veterans Administration or the Federal Housing Administration pursuant to Section 14.4 of the Declaration.

May 1, 1995

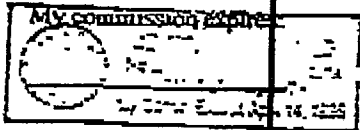
SHEA HOMES LIMITED PARTNERSHIP,
a California limited partnership

By: J.F. Shea Co., Inc., a Nevada
corporation, its general partner

By: *Garth Wiegert*
Garth Wiegert, Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this, the *1st* day of *May*, 1995, Garth Wiegert personally appeared before me and acknowledged that he is the Vice President of J.F. Shea Co., Inc., a Nevada corporation which is the general partner of Shea Homes Limited Partnership, a California limited partnership, and that he, having authority so to do, executed this instrument. In witness whereof, I hereunto set my hand official seal.



James M. Marigold
Notary Public

La Colina Homeowners Association Resolution

WHEREAS, the Board of Directors of La Colina Homeowners Association, Inc. is empowered to govern the affairs of the Homeowners Association pursuant to Article III of the Declarations Of Covenants And Restrictions.

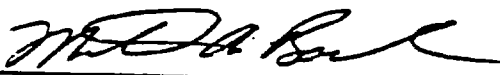
WHEREAS, there is a need to resolve an issue of the addition of exterior lighting as provided for in the Declaration, Section 5.22-part (c).

The proposed resolution will provide for owners to keep the exterior flood lighting installed on the home provided the lights are;

1. Not installed outside the rear yard fence line. (not in front)
2. If the lights in question are bothersome to a neighbor the lights shall be redirected, dimmed or removed.
3. This resolution shall apply to all floodlights meeting the above criteria.

No Architectural request will be required for these lights and approval is given by way of this resolution.

Accepted by:


President of La Colina H.O.A.

Date: JUNE 7 2000