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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WINDMILL RANCH

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AND RESTRICTIONS
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

WINDMILL RANCH

This Declaration of Covenants, Conditions, and Restrictions for Windmill Ranch is made this 14th day of September, 2000, by Richmond American Homes of Arizona, Inc., a Delaware corporation.

ARTICLE 1

DEFINITIONS

- 1.1 "Additional Property" means any real property, together with the Improvements located thereon, located not more than two miles from the property described on Exhibit A.
- 1.2 "Annual Assessments" means the Assessments levied pursuant to Section 6.2.
- 1.3 "Architectural Committee" means the committee established pursuant to Section 5.11.
- 1.4 "Articles" means the articles of incorporation of the Association, as amended from time to time.
- 1.5 "Assessable Property" means each Lot, except for Exempt Property.
- 1.6 "Assessment" means an Annual Assessment or a Special Assessment.
- 1.7 "Assessment Lien" means the lien created and imposed by Article 6.
- 1.8 "Assessment Period" means the period set forth in Section 6.6.
- 1.9 "Association" means Windmill Ranch Community Association, an Arizona nonprofit corporation, and its successors and assigns.
- 1.10 "Association Land" means all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest, easement or license, or with respect to which the Association has maintenance obligations pursuant to requirements imposed by the Town of Gilbert, for as long as the Association is the

owner of the fee, or holds such leasehold interest, easement or license, or has such maintenance obligations.

1.11 "Association Rules" means the rules adopted by the Board pursuant to Section 5.3, as amended from time to time.

1.12 "Board" means the board of directors of the Association.

1.13 "Bylaws" means the bylaws of the Association, as amended from time to time.

1.14 "Common Area" means: (a) all Association Land; (b) all land, and the Improvements situated thereon, within the Project which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be conveyed to the Association for the benefit and use of the Members; (c) all land, and the Improvements situated thereon, which is situated within the boundaries of a Lot and which is designated on a Recorded subdivision plat Recorded by the Declarant or approved by the Declarant or the Association as land which is to be improved, maintained, repaired and replaced by the Association; (d) all land, and the Improvements situated thereon, within or adjacent to the Project which the Declarant indicates on a Recorded subdivision plat 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 (e) all real property, and the Improvements situated thereon, within or adjacent to the Project located within dedicated rights-of-way with respect to which the Town of Gilbert has not accepted responsibility for the maintenance thereof, but only until such time as the Town of Gilbert has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas to be maintained, repaired and replaced by the Association pursuant to this clause (e) have been expressly approved by either the Declarant or the Board.

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

1.16 "Declarant" means Richmond American Homes of Arizona, Inc., a Delaware corporation, its successors and any Person to whom it may expressly assign any or all of its rights under this Declaration.

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

1.18 "Declaration" means this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

1.19 "Design Guidelines" means the rules and guidelines adopted by the Architectural Committee pursuant to Section 5.11, as amended or supplemented from time to time.

1.20 "Developer" means any Person (other than the Declarant) who is in the business of developing, selling or leasing real property and who acquires one or more Lots in connection with, and in the course of, such business, for the purpose of developing, selling or leasing such Lots.

1.21 "Development Plan" means the Development Plan for the Project and other property adopted by the Declarant, as amended by the Declarant from time to time.

1.22 "Exempt Property" means: (a) all land and improvements owned by, or dedicated to and accepted by, the United States, the State of Arizona, Maricopa County or the Town of Gilbert, or any political subdivision of any of them, for as long as such entity or political subdivision is the owner thereof or for as long as said dedication remains effective; and (b) all Association Land.

1.23 "First Mortgage" means a Mortgage Recorded against a Lot which has priority over all other Mortgages Recorded against that Lot.

1.24 "Improvement" means: (a) any Residential Unit, building, fence or wall; (b) any swimming pool, tennis court, basketball court, road, driveway, parking area or satellite dish; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; (d) any statuary, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot); and (e) any other structure of any kind or nature.

1.25 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot or Residential Unit thereon), including an assignee of the lessee's or tenant's interest under a lease.

1.26 "Lot" means a portion of the Project intended for independent ownership and residential use and designated as a lot on any Recorded subdivision plat executed or approved by the Declarant (including, without limitation, the Plat), and, where the context indicates or requires, includes any Residential Unit, building, structure or other Improvements situated on the Lot.

1.27 "Maximum Annual Assessment" has the meaning given that term in Section 6.4.

1.28 "Member" means any Person who is a Member of the Association as provided in Section 5.7.

1.29 "Membership" means a membership in the Association.

1.30 "Mortgage" means a deed of trust or a mortgage Recorded against a Lot.

1.31 "Mortgagee" means a beneficiary under a deed of trust, or a mortgagee under a mortgage, Recorded against a Lot, and "First Mortgagee" means such a beneficiary or mortgagee under a First Mortgage.

1.32 "Occupant" means any Person other than an Owner who occupies or is in possession of a Lot, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and includes, without limitation, a Resident).

1.33 "Owner" means the Person or Persons who individually or collectively own fee title to a Lot (as evidenced by a Recorded instrument), but: (a) the Declarant (and not the fee title holder) will be deemed to be the "Owner" of each Lot with respect to which fee title is held by a Declarant Affiliate or by a trustee (other than the trustee of a deed of trust) for the benefit of the Declarant or a Declarant Affiliate; (b) if and for so long as the Declarant or a Declarant Affiliate has, pursuant to a written agreement, an existing right or option to acquire any one or more Lots (other than by exercise of a right of first refusal or right of first offer), the Declarant will also be deemed to be the "Owner" of each Lot with respect to which the Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes, the owner of the trustor's interest under the deed of trust will be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to Lots "owned by" a Person, such phrase will be deemed to refer to Lots of which that Person is the Owner, as determined pursuant to this Section.

1.34 "Period of Declarant Control" means the period beginning on the date of the Recording of this Declaration and ending on the earlier of: (a) one hundred twenty (120) days after the number of votes entitled to be cast by Owners other than the Declarant exceeds the number of votes entitled to be cast by the Declarant; (b) December 31, 2020; or (c) the date the Declarant Records a written instrument terminating the Period of Declarant Control.

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

1.36 "Plat" means the plat Recorded in Book 538 of Maps, page 26, Instrument No. 2000-0545054, official records of Maricopa County, and any amendments or supplements thereto, as well as any plat or plats Recorded by Declarant with respect to any portion or portions of the Additional Property annexed to this Declaration pursuant to Section 2.2.

1.37 "Project" or "Property" means the real property described on Exhibit A, together with all improvements located thereon, and all real property, together with all improvements located thereon, which is annexed and subjected to this Declaration pursuant to Section 2.2, but excluding any real property, together with all improvements thereon, which is withdrawn pursuant to Section 2.3.

1.38 "Project Documents" means this Declaration, the Articles, the Bylaws, the Association Rules and the Design Guidelines.

1.39 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot, except for: (a) a Person who purchases a Lot and then leases it to the Declarant for use as a model in connection with the sale or lease of other Lots;

or (b) a Person who, in addition to purchasing a Lot, is expressly assigned any or all of the Declarant's rights as the Declarant under this Declaration; or (c) a Developer.

1.40 "Record." "Recording." "Recorded" and "Recordation" means placing or having placed an instrument of public record in the official records of Maricopa County, Arizona.

1.41 "Resident" means each individual who resides in any Residential Unit.

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

1.43 "Special Assessment" means any Assessment levied pursuant to Section 6.5.

1.44 "Special Use Fees" means any fees charged by the Association for use of Common Areas pursuant to Section 4.1.1(f).

1.45 "Visible From Neighboring Property" means, with respect to an object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of neighboring property, except where the object is visible solely through a wrought iron fence and would not be visible if the wrought iron fence were a solid fence.

End of Article 1

ARTICLE 2

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. All of the property within the Project will 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, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its 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. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration will 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 will be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

2.2 Annexation of Additional Property.

2.2.1 At any time on or before December 31, 2020, the Declarant has the right to annex and subject to this Declaration all or any portion of the Additional Property without the consent of any other Owner or Person (other than the Person who owns the property to be annexed, if other than the Declarant). The annexation of all or any portion of the Additional Property must be effected by the Declarant Recording a written instrument setting forth the legal description of the Additional Property being annexed and stating that such portion of the portion of the Additional Property is annexed and subjected to the Declaration.

2.2.2 The Additional Property may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. Property annexed by the Declarant pursuant to this Section 2.2 need not be contiguous with other property in the Project, and the exercise of the right of annexation as to any portion of the Additional Property will not bar the further exercise of the right of annexation as to any other portion of the Additional Property. The Declarant makes no assurances as to which, if any, part of the Additional Property will be annexed.

2.3 Withdrawal of Property. At any time on or before December 31, 2020, the Declarant has the right to withdraw property from the Project without the consent of any other Owner or Person (other than the Owner of such property, if other than the Declarant). The withdrawal of all or any portion of the Project must be effected by the Declarant Recording a written instrument 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 will no longer be subject to any of the covenants, conditions and restrictions set forth in this Declaration.

2.4 Disclaimer of Representations. The Declarant makes no representations or warranties whatsoever that: (a) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (b) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (c) any property not now subject to this Declaration will be subjected to the provisions hereof; or (d) the use of any property subject to this Declaration will not be changed in the future. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen representing the Declarant or any Developer will be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration or of any part of the Additional Property.

2.5 Development Plan. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to the Development Plan with respect to any property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the property owned by the Declarant or changing the nature or extent of the uses to which such property may be devoted.

End of Article 2

ARTICLE 3

ARCHITECTURAL CONTROL, PERMITTED USES AND RESTRICTIONS

3.1 Architectural Control

3.1.1 All Improvements constructed within the Project must be of new construction, and no buildings or other structures may be removed from other locations to the Project (except for construction and sales trailers or similar facilities installed, placed or maintained within the Project by Declarant, or which are approved in advance by the Architectural Committee).

3.1.2 No devegetation, excavation or grading work may be performed within the Project without the prior written approval of the Architectural Committee.

3.1.3 No Improvement may be constructed or installed within the Project without the prior written approval of the Architectural Committee.

3.1.4 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 property within the Project, or any Improvements located thereon, may be made or done without the prior written approval of the Architectural Committee, nor may any Lot be split, divided or further subdivided in any manner without the prior written approval of the Architectural Committee.

3.1.5 Any Owner or other Person 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 his, her or its Lot, or any Improvements located thereon, must submit to the Architectural Committee a written request for approval, in a form prescribed by the Architectural Committee, specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other Person desires to perform. Any Owner or other Person requesting the approval of the Architectural Committee must also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may reasonably request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within forty-five (45) days after the application, together with all supporting information, plans and specifications required by the Design Guidelines or reasonably requested by the Architectural Committee, have been submitted to it, said application shall be deemed disapproved.

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

3.1.7 Upon receipt of approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval must proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and must 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.

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

3.1.9 The Architectural Committee will have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Section, which fee will be payable at the time the application for approval is submitted to the Architectural Committee. Such fee, if established and charged by the Architectural Committee, will be set at such reasonable level as the Architectural Committee may estimate will be necessary to defray the reasonable costs and expenses of the Architectural Committee in reviewing and evaluating any such request or application, and may include, if the Architectural Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Architectural Committee by an architect or engineer.

3.1.10 The provisions of this Section do not apply to, and approval of the Architectural Committee will not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

3.1.11 The approval required of the Architectural Committee pursuant to this Section will be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other Recorded instrument. The Architectural Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Architectural Committee of evidence satisfactory to the Architectural Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work will have obtained) any and all such other approvals or permits. The Architectural Committee will cooperate reasonably with any other approving authorities or entities, provided, however, that the Architectural Committee will not be bound by any approvals, permits or other decisions of any other such approving authority or entity.

3.2 Residential Use and Trades or Businesses. All Lots and Residential Units will be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Residential Unit, except that an Owner or other Resident may conduct a business activity in a Residential Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit; (b) the business activity conforms to all applicable zoning ordinances or requirements; (c) the business activity does not involve the door-to-door solicitation of Owners or

other Residents in the Project; (d) the use of the Residential Unit for trade or business in no way destroys or is incompatible with the residential character of the Residential Unit or the surrounding neighborhood; (e) the trade or business must be conducted only inside the Residential Unit or inside an accessory building or garage, and may not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any Residential Unit; (f) the trade or business will be conducted by a Resident or Residents of the Residential Unit with no more than one (1) employee working in or from such Residential Unit who is not a Resident thereof; (g) no more than twenty percent (20%) of the total floor area of the Residential Unit may be used for trade or business; (h) the Residential Unit used for trade or business will not be used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business must not result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business must not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business must not utilize large vehicles not customary to a residential use. The terms "business" and "trade" as used in this Section will be construed to have ordinary, generally accepted meanings, and will include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Residential Unit by the Owner thereof will not be considered a trade or business within the meaning of this Section.

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

3.4 Maintenance of Landscaping. Each Owner of a Lot must properly maintain and keep neatly trimmed, properly watered and cultivated and free of trash, weeds and other unsightly material all shrubs, trees, hedges, grass and plantings of every kind (collectively, "Landscaping") located on: (a) his, her or its Lot; (b) any public right-of-way or easement area which abuts or adjoins the Owner's Lot and which is located between the boundary line of his Lot and the paved area of any street, sidewalk, bike-path or similar area, whether inside or outside any fence or wall (unless otherwise directed by the Board); and (c) any non-street public right-of-way or easement area adjacent to his Lot (unless otherwise directed by the Board); but that Owner will not be responsible for maintenance of any area over which: (i) the Association assumes the responsibility in writing; (ii) the Association has been given such responsibility by a Recorded instrument executed by the Declarant during the Period of Declarant Control; or (iii) the Town of Gilbert, Maricopa County or any other municipality or other governmental agency or entity having jurisdiction over such property assumes responsibility, for so long as the Town of Gilbert, Maricopa County or such other municipality or other governmental agency or entity assumes or has

responsibility. For purposes of this Section 3.4, proper maintenance of Landscaping includes, without limitation, removal and replacement of dead Landscaping, subject to the Design Guidelines.

3.5 Nuisances: Construction Activities. No rubbish or debris of any kind may be placed or permitted to accumulate upon or adjacent to any Lot or other property, and no odors, loud noises or loud music may be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance may be permitted to exist or operate upon or adjacent to any Lot or other property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot or other property will not be considered a nuisance or otherwise prohibited by this Declaration, but during construction periods, Lots and other property will be kept in a neat and tidy condition, trash and debris must not be permitted to accumulate, supplies of brick, block, lumber and other building materials must be piled only in such areas as may be approved in writing by the Architectural Committee, and no loud music will be permitted. In addition, any construction equipment and building materials stored or kept on any Lot or other property during the construction of Improvements may be kept only in areas approved in writing by the Architectural Committee, which may also require screening of the storage areas. The Architectural Committee in its sole discretion will have the right to determine the existence of any such nuisance, and to establish days and hours during which construction activities may occur within the Project. The provisions of this Section do not apply to construction activities of the Declarant.

3.6 Diseases and Insects. No Person may permit any thing or condition to exist upon any Lot or other property which will induce, breed or harbor infectious diseases or noxious insects.

3.7 Repair of Building. No Residential Unit, building, structure or other Improvement on any Lot or other property may be permitted to fall into disrepair and each such Residential Unit, building, structure and other Improvement must at all times be kept in good condition and repair and adequately painted or otherwise finished. If any Residential Unit, building, structure or other Improvement is damaged or destroyed, then, subject to the approvals required by Section 3.1, such Residential Unit, building, structure or other Improvement must be immediately repaired or rebuilt or must be demolished.

3.8 Antennas, Poles, Towers and Dishes. Except as otherwise required by applicable law, no television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish will be placed, constructed or maintained upon any Lot or other part of the Property unless such antenna, pole, tower or dish is fully and attractively screened or concealed so as not to be Visible From Neighboring Property, which means of screening or concealment will be subject to regulation by and prior approval of the Architectural Committee. Notwithstanding the foregoing, the Architectural Committee may adopt a rule or regulation permitting an Owner or Occupant to install and maintain a flagpole upon the Owner's or Occupant's Lot, provided that the location and size of such flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by the Architectural Committee and may, if so provided in such rule or regulation, be made subject to the prior approval thereof by the Architectural Committee. Nothing in this Section will be deemed to

prohibit the Declarant from installing and maintaining flagpoles on, at or adjacent to model homes within the Project. Poles to which basketball backboards, goals and related equipment are affixed are governed by Section 3.30.

3.9 Mineral Exploration. No Lot or other property may be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind, except for the drilling, operation and maintenance of any testing, inspection or other water wells approved by the Declarant.

3.10 Trash Containers and Collection. No garbage or trash may be placed or kept on any Lot or other property except in sanitary, covered containers of a type, size and style which are approved by the Architectural Committee. In no event may such containers be maintained so as to 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. All rubbish, trash or garbage may be removed from Lots and other property and may not be allowed to accumulate thereon. No outdoor incinerators may be maintained on any Lot or other property.

3.11 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes may be erected, placed or maintained on any Lot or other property so as to be Visible From Neighboring Property.

3.12 Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, may be erected, placed or maintained anywhere in or upon any Lot or other property unless they are contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision of this Declaration will be deemed to forbid the erection of temporary power or telephone structures for emergency purposes or incident to the construction of buildings or structures approved by the Architectural Committee. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body, provided that reasonable efforts must be made to avoid placing any such meter, panel or other equipment on the outside front wall of a residence or other building facing the street running directly in front of such residence.

3.13 Overhead Encroachments. No tree, shrub or planting of any kind on any Lot or other property may be allowed to overhang or otherwise to encroach upon any sidewalk, street, bicycle path or pedestrian way from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

3.14 Health, Safety and Welfare. If additional uses, activities or facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Lessees and Occupants, the Board may make rules restricting or regulating their presence in the Project as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots or other property as part of the Design Guidelines.

3.15 Model Homes. Provisions of this Declaration which prohibit non-residential use of Lots and regulate parking of vehicles will not be construed or applied to prohibit the construction and maintenance of model homes or other model Residential Units of any kind (including, without limitation, any used in whole or in part as sales offices) (collectively, "Models") by Persons engaged in the construction of Residential Units in the Project, or parking incidental to visiting Models, so long as the construction, operation and maintenance of those Models and parking otherwise comply with all of the provisions of this Declaration. The Architectural Committee may also permit Lots and other areas to be used for parking in connection with the showing of Models. Any homes or other structures constructed as Models must cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Residential Units in the Project, and no home or other structure may be used as a Model for the sale of homes or other structures not located in the Project. Neither the provisions of this Section nor the provisions of any other Section of this Declaration may restrict or prohibit the right of the Declarant or a Declarant Affiliate to construct, operate and maintain Models in the Project.

3.16 Incidental Uses. The Architectural Committee may approve uses of property which are incidental to the full enjoyment of the Owners and Occupants of the property. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Architectural Committee may wish to impose, in its sole discretion, for the benefit of the Project as a whole.

3.17 Animals. Except as otherwise provided in this Section, no animal, livestock, poultry or fowl of any kind may be kept on or in any Lot. This Section shall not be deemed to prohibit an Owner or Occupant from keeping on that Owner's or Occupant's Lot a reasonable number of customary domestic house pets which are kept or raised solely as domestic pets and not for commercial purposes. Animals must not be permitted to make an unreasonable amount of noise or to create a nuisance and no animals may be kept on or in any Lot which, in the opinion of the Board, result in an annoyance to other Owners or Occupants in the vicinity. All pets must be leashed when not on property owned by the pet's owner or on which the pet's owner is a Resident or guest, and persons walking any pet must promptly and properly remove and dispose of the pet's waste.

3.18 Machinery and Equipment. No machinery or equipment of any kind will be placed, operated or maintained upon or adjacent to any Lot, except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures or other Improvements; and (b) that which Declarant or the Association may permit or require for the development, operation and maintenance of the Project.

3.19 Signs. No signs whatsoever (including, but not limited to commercial, political, "for sale", "for rent" and similar signs) which are Visible From Neighboring Property may be erected or maintained on any Lot except:

3.19.1 Signs required by legal proceedings.

3.19.2 Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Committee.

3.19.3 Subdivision identification signs erected or installed by the Declarant of the Association.

3.19.4 Temporary "Open House" signs indicating that a Residential Unit is available for inspection by interested parties, but such signs may only be erected or maintained during the hours of 10:00 A.M. through 6:00 P.M.

3.19.5 Temporary "for sale" signs, which will be subject to any limitations as to such signs adopted by the Architectural Committee, and which will not be allowed to remain on a Lot for more than a total of one hundred twenty (120) days during any 365-day period.

3.20 Required Approvals for Further Property Restrictions.

3.20.1 All proposed site plans, lot splits and subdivision plats for any Lot or Lots must be approved in writing by the Architectural Committee prior to Recordation thereof or commencement of construction on the applicable Lot or Lots. No Lot, or portion thereof, may be further subdivided, and no portion less than all of any such Lot, or any easement or other interest therein, may be conveyed or transferred by any Owner without the prior written approval of the Architectural Committee.

3.20.2 No further covenants, conditions, restrictions or easements may be Recorded against any Lot or Lots without the prior written approval of the Architectural Committee.

3.20.3 No applications for rezoning, variances or use permits, or for waivers of or modifications to existing variances, use permits, zoning stipulations or similar restrictions, may be filed with any governmental authority or agency without the prior written approval of the Architectural Committee, and then only if such proposed zoning, variance or use, or waiver or modification, is in compliance with this Declaration and the Development Plan.

3.20.4 No subdivision plat, easement, declaration of further covenants, conditions, restrictions or easements or other instrument which is to be Recorded and which is required by this Section 3.20 to be approved by the Architectural Committee will be effective unless the required approval is evidenced on such instrument by the signature of an authorized representative of the Architectural Committee.

3.20.5 No site plan, subdivision plat or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits may be submitted to the Town of Gilbert or any other governmental authority or agency unless first approved in writing by the Architectural Committee as provided in this Section 3.20; further, no changes or modifications may be made in any such documents, instruments or applications once they have been approved by the Architectural Committee hereunder (whether requested by the Town of Gilbert or otherwise) unless such changes or modifications have first been approved by the Architectural Committee in writing.

3.20.6 Notwithstanding the foregoing, the Declarant will not be required to seek or obtain any of the approvals or consents otherwise required under this Section 3.20 as to any Lot of which Declarant is the Owner.

3.21 Trucks, Trailers, Campers and Boats. No truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot, Common Area or other portion of the Property, or on any street, so as to be Visible From Neighboring Property without the prior written approval of the Architectural Committee except for: (a) temporary construction trailers or facilities maintained during, and used exclusively in connection with, construction of any Improvement approved by the Architectural Committee; (b) boats and vehicles parked in garages on Lots so long as such vehicles are in good operating condition and appearance and are not under repair; (c) the storage of vehicles in any area designated or approved for such purposes by Declarant or by the Board (including, but not limited to, one or more recreational vehicle storage facilities, whether operated on a for-profit or not-for-profit basis); or (d) motor vehicles which are not used for commercial purposes and which do not display any commercial name, phone number or message of any kind. Notwithstanding anything to the contrary in this Section or elsewhere in this Declaration, not more than one recreational vehicle and not more than one boat may be parked or stored within the enclosed backyard of any Lot, whether or not the same is or are Visible From Neighboring Property, except that no such recreational vehicle or boat may be parked on a corner Lot (that is, a Lot at the intersection of two streets) if it (or any structure in which it is kept or stored, other than a garage typical within the Property and approved by the Architectural Committee) is visible from adjacent streets.

3.22 Motor Vehicles.

3.22.1 Except for emergency vehicle repair, no automobile or other motor vehicle may be constructed, reconstructed or repaired upon a Lot or other property in the Project, and no inoperable vehicle may be stored or parked on such Lot or other property in the Project so as to be Visible From Neighboring Property or be visible from any Common Area or any street.

3.22.2 No motorcycle, motorbike, all-terrain vehicle, off-road vehicle or any similar vehicle may be parked, maintained or operated on any portion of the Project except in garages on Lots.

3.22.3 No automobile or other motor vehicle may be parked on any road or street in the Project, except automobiles or motor vehicles of guests of Owners which may be parked on a road or street in the Project for a period of not more than twenty-four (24) hours.

3.23 Towing of Vehicles. The Board has 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 which is 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 must be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Association will be secured by the Assessment Lien, and the Association may enforce collection of those amounts in the same manner provided for in this Declaration for the collection of Assessments.

3.24 Variances. The Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 if the Architectural Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or Occupant or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Owners and Occupants and is consistent with the high quality of life intended for residents of the Project.

3.25 Change of Use of Common Area. Upon: (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Common Area is no longer in the best interests of the Owners; and (b) 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 Common Area under the terms of this Declaration or other Recorded instrument, the Board will 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 will be consistent with any zoning regulations restricting or limiting the use of the Common Area. This Section 3.25 does not apply to, and will not be deemed to limit in any way, the right and power of the Association pursuant to Section 4.1.1(a) to grant easements over, under or through portions of the Common Area, or to dedicate portions of the Common Area, to public, quasi-public or private utility companies, municipalities or other governmental agencies or entities, in connection with or at the time of development of property within or adjacent to the Project, where required or requested by any municipality or other governmental agency or entity, or any public, quasi-public or private utility company.

3.26 Drainage. No Residential Unit, structure, building, landscaping, fence, wall or other Improvement may be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the drainage plans on file with the county or municipality in which the Project is located.

3.27 Garages and Driveways. The interior of all garages must be maintained in a neat, clean and sightly condition. Garages must be used only for parking vehicles and storage, and must not be used or converted for living or recreational activities. Garage doors must be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

3.28 Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residential Unit or other building.

3.29 Solar Collecting Panels or Devices. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans therefor by the Architectural Committee, solar collecting panels and devices may be placed, constructed or maintained upon any Lot within the Property so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Committee may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property). Notwithstanding any other provision of this Declaration to the contrary, the Declarant (during the Period of Declarant Control) or the Board (after the expiration or termination of the Period of Declarant Control) will have the right, without the consent or approval of any Owner or other Person, to amend this Section (which amendment may, without limitation, impose additional or different restrictions on solar collecting panels and devices) as the Declarant or the Board (as applicable) deems appropriate in the event that, after the date this Declaration is Recorded, Section 33-439 of the Arizona Revised Statutes (or any successor thereto) is amended, repealed or replaced.

3.30 Basketball Goals or Play Structures. No basketball goal, backboard or similar structure or device, and no swingsets or other play structures, may be placed or constructed on any Lot without the prior written approval of the Architectural Committee (including, without limitation, approval as to appearance and location).

3.31 Tanks. No tanks of any kind (including tanks for the storage of fuel) may be erected, placed or maintained on any Lot unless such tanks are buried underground. Nothing in this Section shall be deemed to prohibit use or storage upon any Lot of an aboveground propane or similar fuel tank used in connection with a normal residential gas barbecue, grill or fireplace or a spa or "hot tub," so long as such tank either: (a) has a capacity of ten (10) gallons or less; or (b) is appropriately stored, used and/or screened, in accordance with the Design Guidelines or as otherwise approved by the Architectural Committee, so as not to be Visible From Neighboring Property.

3.32 Exterior Lighting. Exterior lighting is permitted on a Lot so long as: (a) the source of such lighting is not Visible From Neighboring Property; (b) such lighting is limited to that which is reasonably necessary for the safety and convenience of the Occupants of such Lot; and (c) such lighting conforms to such other requirements as may be imposed by the Architectural Committee. Notwithstanding the foregoing, but subject to reasonable regulation by the Architectural Committee, Owners or Occupants of Lots may display temporary holiday lighting during the Christmas season, provided that no such lighting will be permitted for a period in excess of thirty (30) days.

3.33 Declarant's Exemption. Nothing contained in this Declaration may be construed to prevent the construction, installation or maintenance by the Declarant, any Declarant Affiliate or any agents or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property, including, without limitation, construction trailers or offices, Models and parking related to any of the foregoing.

End of Article 3

ARTICLE 4

EASEMENTS

4.1 Owners' Easements of Enjoyment.

4.1.1 Subject to the rights and easements granted to the Declarant in Section 4.4, each Owner, and each Occupant of such Owner's Lot, has and will have a non-exclusive right and easement of enjoyment in, to and over the Common Area, which right and easement is appurtenant to and will pass with the title to each Lot, subject to the provisions of this Declaration including, without limitation, the following:

(a) Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Area will be effective unless approved by Owners representing two-thirds (2/3) of the votes in each class of Members. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association has the right, without the consent of the Owners or any other Person (except Declarant, whose consent will be required so long as Declarant owns any part of the Property or of the Additional Property), to dedicate portions of the Common Area to the public, or grant easements over, under or through portions of the Common Area to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by the Town of Gilbert or any municipal or other governmental agency or entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property or of portions of the Additional Property.

(b) The Association has the right to regulate the use of the Common Area through the Association Rules (which may include, without limitation, the adoption and implementation of a reservation system for such portions of the Common Area, or Improvements or amenities thereon, as the Board deems appropriate) and to prohibit access to such portions of the Common Area, such as landscaped right-of-ways, not intended for use by the Owners, Lessees or other Occupants.

(c) The Declarant and the Association each have the right to grant easements or licenses to Developers or other Persons for the construction of Improvements on the Common Area, and the Declarant and the Association each have the right to grant ingress and egress easements over any private streets and roads in the Project to Persons who are not Members of the Association.

(d) The Declarant and the Association each have the right to convey certain portions of the Common Area to Owners of adjoining Lots in connection with the correction or adjustment of any boundary between Common Area and any one or more adjoining Lots, but neither the Association nor the Declarant will have the right to transfer or convey any portion of the Common Area upon which is situated any recreational facility unless approved by a vote of the Members pursuant to Subsection 4.1.1(a).

(e) The Association will have the right to charge Special Use Fees for the use of the Common Area. The Special Use Fees, if any, will be set by the Board from time to time, in its discretion. Special Use Fees will be charged only for actual entry upon or use of those portions of the Common Area, if any, selected by the Board to be subject to a Special Use Fee, and will be imposed only where the Board deems it appropriate to collect revenue from users of the selected portions of the Common Area rather than impose all cost of operating those portions of the Common Area on all Owners through Annual Assessments.

(f) The Association will have the right to suspend the rights of any Owner or Occupant to use and enjoy recreational facilities on the Common Area: (1) for any period during which an Assessment remains delinquent; (2) for a period not to exceed 60 days for any infraction of the Project Documents; or (3) for successive 60-day periods if any such infraction is not corrected during any preceding suspension period.

4.1.2 If a Lot is leased or rented by its Owner, the Occupants of such Lot will have the right to use the Common Area during the term of the lease, and the Owner of such Lot will have no right to use the Common Area until the termination or expiration of such lease.

4.1.3 The Board has 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.

4.2 Utility Easement. There is hereby created an easement upon, across, over and under the Common Area, Lots and other property for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television, irrigation and electricity. By virtue of this easement, the providing utility company may install and maintain the necessary equipment on the Common Area, Lots and other property but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Area, Lots and other property except as initially designed, approved and/or constructed by the Declarant or as approved by the Board (and, in the case of a Lot, by the Owner of such Lot). If any utility company requests that a more specific easement be granted in its favor in substitution for the blanket easement hereby established with respect to the Common Area, the Association will have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

4.3 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Area. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such easements run in favor of and are for the benefit of the Owners and Occupants of the Lots and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over the Common Area and any and all private streets, private roadways, private driveways and private

parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel.

4.4 Declarant's Use and Easements.

4.4.1 The Declarant has the right and an easement (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) 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 with respect to the sales of Lots in the Project or within any of the Additional Property. The Declarant reserves the right (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to place models, management offices and sales and leasing offices on any Lots or other property owned by the Declarant (or by such Developer(s), as applicable) and on any portion of the Common Area in such number, of such size and in such locations as the Declarant deems appropriate.

4.4.2 So long as the Declarant is marketing Lots within the Property (or any portion of the Additional Property), the Declarant will have the right to restrict the use of the parking spaces on the Common Area. That right will include reserving such spaces for use by prospective Purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

4.4.3 The Declarant has the right and an easement on and over the Common Area to construct all improvements the Declarant may deem necessary and to use the Common Area and any Lots and other property owned by the Declarant 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 and property adjacent to the Project.

4.4.4 The Declarant has the right and an easement upon, over and through the Common Area as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

4.5 Easement in Favor of Association. The Lots are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.5.1 For inspection during reasonable hours of the Lots in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.5.2 For inspection, maintenance, repair, replacement and removal of portions of the Common Area and signs or monuments that identify the subdivision, which are accessible only from such Lots;

4.5.3 For correction of emergency conditions on one or more Lots or on portions of the Common-Area accessible only from such Lots;

4.5.4 For the purpose of enabling the Association, the Board, the Architectural Committee or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under the Project Documents;

4.5.5 For inspection during reasonable hours of the Lots in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents.

End of Article 4

ARTICLE 5

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS

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

5.2 Board of Directors and Officers. The affairs of the Association will 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 will be valid if given or taken by the Board. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area; the Board will determine the compensation to be paid to any such manager. During the Period of Declarant Control, the Declarant shall appoint, and may remove and replace, all members of the Board, who shall serve at the pleasure of Declarant. Thereafter, the members of the Board shall be elected by the Members at each annual meeting of Members (subject to the provisions of the Bylaws relating to filling of vacancies between annual meetings). Members of the Board elected after expiration or termination of the Period of Declarant Control will be elected for a one-year term, unless, by a duly-adopted amendment to the Bylaws, the Members elect to establish a system of staggered terms for members of the Board (in which event the Bylaws, as so amended, shall govern the length of such terms).

5.3 Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (a) the management, operation and use of the Common Area including, but not limited to, any recreational facilities situated upon the Common Area; (b) traffic and parking restrictions including speed limits on private streets within the Project; (c) minimum standards for any maintenance of Common Area and Lots within the Project; or (d) 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 will prevail.

5.4 Personal Liability. No member of the Board, the Architectural Committee or any other committee of the Association, no officer of the Association and no manager or other employee of the Association will 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 or any member thereof, the Architectural Committee or any member thereof, the manager, any representative or employee of the Association, any officer of the Association or any member of any other committee of the Association, but the limitations set forth in this Section will not apply to any person who has failed to act in good faith or has engaged in willful 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 Membership in the Association. Every Owner of a Lot is a Member of the Association, and the Declarant will be a Member of the Association so long as it owns any part of the Project or of the Additional Property (unless and until the Declarant expressly relinquishes in writing its status as a Member). Each such Owner will have the following number of Memberships in the Association:

5.6.1 An Owner will have one (1) Membership for each Lot owned by that Owner.

5.6.2 If, at any time when the Declarant is a Member of the Association but would have no Memberships pursuant to Section 5.6.1, the Declarant will nevertheless be deemed to have one (1) Membership, but the number of votes held by the Declarant will be determined pursuant to Section 5.7.

5.7 Votes in the Association.

5.7.1 Each Owner other than the Declarant will be entitled to one (1) vote for each Membership held by such Owner.

5.7.2 Until the expiration or termination of the Period of Declarant Control, the Declarant will be entitled to the number of votes equal to two hundred fifty-three (253) minus the total number of outstanding votes held at the time by Owners other than the Declarant. After the expiration or termination of the Period of Declarant Control, the Declarant will have one (1) vote for each Membership held by the Declarant.

5.7.3 Until the expiration or termination of the Period of Declarant Control: (a) the Association will be deemed to have two classes of Members, Class A and Class B; (b) the Declarant will be the Class B Member, and all votes held by the Declarant will be Class B votes; (c) all Owners other than Declarant will be Class A Members, and all votes held by such Owners will be Class A votes. Following expiration or termination of the Period of Declarant Control, the Association will be deemed to have a single class of Members and votes (which may be referred to as Class A Members and Class A votes). Notwithstanding the foregoing, however, except as otherwise expressly provided in this Declaration or in any of the other Project Documents, any issue put to a vote at a duly called meeting of Members at which a quorum is present will be decided by a simple majority of all votes represented in person or by valid proxy at such meeting, regardless whether such votes are otherwise deemed to be Class A votes or Class B votes.

5.8 Voting Procedures. A change in the ownership of a Lot will be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded; the Board must thereafter be given written notice of such change and provided satisfactory evidence

thereof. The vote for each such Lot must be cast as a unit, and fractional votes will not be allowed. If a Lot is owned by two or more Persons and those Persons are unable to agree among themselves as to how the vote attributable to their Lot will be cast, they will lose their right to vote on the matter in question. If two or more Persons own a Lot and any one of those Persons casts a vote attributable to that Lot, it will thereafter be conclusively presumed for all purposes that he or she was acting with the authority and consent of all of the Persons who own that Lot unless any one of them objects at the time the vote is cast, and if more than one such Person attempts to cast the vote or votes for that Lot, the vote or votes for that Lot will be deemed void and will not be counted.

5.9 Transfer of Membership. The rights and obligations of any Member other than the Declarant may 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 of the Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer will be void. Any transfer of ownership of a Lot will automatically transfer the Membership appurtenant to said Lot to the new Owner thereof. Each Purchaser of a Lot must notify the Association of his, her or its purchase of a Lot. The Association may require the Purchaser of a Lot to pay to the Association a transfer fee in an amount to be set by the Board, and any such transfer fee will be secured by the Assessment Lien.

5.10 Architectural Committee.

5.10.1 The Association will have an Architectural Committee to perform the functions assigned to it as set forth in this Declaration. So long as the Declarant owns any Lot or other property within the Project, the Architectural Committee will consist of three (3) regular members and one (1) alternate member, each of whom will be appointed by, and serve at the pleasure of, the Declarant. At such time as the Declarant no longer owns any Lot or other property within the Project, the Architectural Committee will consist of such number of regular and alternate members as the Board may deem appropriate from time to time (but in no event less than three (3) nor more than seven (7) regular members, nor less than one (1) nor more than three (3) alternate members), each of whom will be appointed by, and serve at the pleasure of, the Board. The Declarant may at any time voluntarily surrender in writing its right, as the Declarant, to appoint and remove the members of the Architectural Committee pursuant to this Section 5.10.1, and in that event the Declarant may require, for so long as the Declarant owns any Lot or other property within the Project, that specified actions of the Architectural Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. At any time when the Declarant or the Board, as applicable, have not appointed the Architectural Committee as contemplated by this Section, the members of the Board shall be deemed to constitute the Architectural Committee.

5.10.2 The Architectural Committee will promulgate the Design Guidelines, which will include architectural design guidelines and standards (including, but not limited to, color palettes and plant materials) to be used in rendering its decisions. The decision of the Architectural Committee will be final on all matters submitted to it pursuant to this Declaration. As provided in Section 3.1.9, the Architectural Committee may establish a reasonable fee to defer the costs of

considering any requests for approvals submitted to the Architectural Committee, which fee must be paid at the time the request for approval is submitted.

End of Article 5

ARTICLE 6

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments will 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, will be a charge on the Lot and will 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, will also be the personal obligation of each Person who was an Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments will 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 any Assessment or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

6.2 Annual Assessment. 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, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each Assessment Period beginning with the fiscal year ending December 31, 2001, will assess an Annual Assessment against each Lot which is Assessable Property, which shall be determined in accordance with Section 6.3. Except as otherwise provided in Section 6.15, Annual Assessments shall be assessed equally against all Lots.

6.3 Computation of Assessments; Annual Budget. The Board shall prepare and adopt an estimated annual budget for each fiscal year of the Association, which annual budget shall serve as the basis for determining the Annual Assessments for the applicable fiscal year (subject to the limitations of Section 6.4 hereof). Such budget shall take into account the estimated Common Expenses and cash requirements of the Association for the year. The annual budget shall also take into account the estimated net available cash income for the year, if any, from the operation or use of any of the Common Area. The annual budget shall also provide for a reserve for contingencies for the year (and for subsequent fiscal years) and a reserve for replacements, all in such reasonably adequate amounts as shall be determined by the Board, taking into account the number and nature of replaceable assets, the expected life of each asset, and each asset's expected repair or replacement cost. Not later than sixty (60) days following the meeting of the Board at which the Board adopts the annual budget for the year in question, the Board shall cause to be delivered or mailed to each Owner a copy of the budget and a statement of the amount of the Annual Assessments to be levied against such Owner's Lot for the fiscal year in question. In the event the Board fails to adopt a budget for any fiscal year prior to commencement of such fiscal year, then until and unless such budget is adopted, the budget (and the amount of the Annual Assessments

provided for therein) for the year immediately preceding shall remain in effect. Subject to the provisions of this Section 6.3 and of Sections 6.4 and 6.5, neither the annual budget (nor any amended budget) adopted by the Board, nor any Assessment levied pursuant thereto, shall be required to be ratified or approved by the Owners. If, at any time during a fiscal year of the Association the Board deems it necessary to amend the budget for such year, the Board may do so and may levy an additional Annual Assessment for such year (subject to the limitations imposed by Section 6.4) or may call a meeting of the Members to request that the Members approve a Special Assessment pursuant to Section 6.5. Within sixty (60) days after adoption of the amended budget (if the Board elects to levy an additional Annual Assessment), the Board shall cause a copy of the amended budget and a statement of the additional Annual Assessments to be levied against the Lots to be delivered or mailed to each Owner; if, instead, the Board elects to call a meeting of Members to seek approval of a Special Assessment, the Board shall cause a copy of the amended budget proposed by the Board to be delivered or mailed to each Owner with the notice of such meeting, and if a Special Assessment is duly approved by the Members at such meeting, shall cause a statement of the Special Assessment to be levied against each Lot to be promptly mailed or delivered to each Owner.

6.4 Maximum Annual Assessment. The Annual Assessments provided for herein shall not at any time exceed the Maximum Annual Assessment, as determined in accordance with this Section 6.4. For the fiscal year ending December 31, 2001, the Maximum Annual Assessment shall be Five Hundred Twenty-Eight and no/1000 Dollars (\$528.00) for each Lot. Thereafter, unless a greater increase is approved by the affirmative vote of two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose, the Maximum Annual Assessment for any fiscal year shall be equal to the Maximum Annual Assessment for the immediately preceding fiscal year increased at a rate equal to the greater of: (a) the percentage increase for the applicable fiscal year over the immediately preceding fiscal year in the Consumer Price Index - All Urban Consumers -- All Items (1982-1984 Average = 100 Base) published by the Bureau of Labor Statistics of the U.S. Department of Labor (or its successor governmental agency), or, if such index is no longer published by said Bureau or successor agency, in the index most similar in composition to such index; or (b) ten percent (10%). Notwithstanding the foregoing, the Board may, without the approval of the Members, increase the Maximum Annual Assessment for any fiscal year by an amount sufficient to permit the Board to meet any increases over the preceding fiscal year in: (i) premiums for any insurance coverage required by the Declaration to be maintained by the Association; or (ii) charges for utility services necessary to the Association's performance of its obligations under this Declaration, in either case (i) or (ii) notwithstanding the fact that the resulting increase in the Maximum Annual Assessment is at a rate greater than otherwise permitted under the preceding sentence. In addition, in the event Declarant (or a trustee for the benefit of Declarant, or any assignee of either) at any time hereafter annexes any portion(s) or all of the Annexable Property, and the Association's added maintenance and other responsibilities with respect to the Common Area and other property thereby annexed necessitate an increase in the Maximum Annual Assessment greater than otherwise permitted under this Section 6.4 without approval of the Members, Declarant may nevertheless increase such Maximum Annual Assessment, effective not earlier than the first sale to a retail purchaser of a Lot within the portion(s) so annexed, without the vote of the Members, so long as such increase is in an amount and in accordance with a revised budget approved by the Veterans Administration or the Federal Housing Administration (unless such agencies waive in writing their rights to approve such

revised budget, in which event such approval shall not be required); such new Maximum Annual Assessment, if so approved, shall thereupon be substituted for the previously established Maximum Annual Assessment for the applicable fiscal year of the Association. Nothing herein shall obligate the Board to levy, in any fiscal year, Annual Assessments in the full amount of the Maximum Annual Assessment for such fiscal year, and the election by the Board not to levy Annual Assessments in the full amount of the Maximum Annual Assessments for any fiscal year shall not prevent the Board from levying Annual Assessments in subsequent fiscal years in the full amount of the Maximum Annual Assessment for such subsequent fiscal year (as determined in accordance with this Section 6.4). In the event that, for any fiscal year, the Board elects to levy an Annual Assessment at less than the full amount of the Maximum Annual Assessment for such fiscal year, the Board may, if in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Annual Assessment during said fiscal year so long as the total of the Annual Assessments levied during said fiscal year does not exceed the Maximum Annual Assessment for such fiscal year.

6.5 Special Assessments. The Association may levy against each Lot which is Assessable Property, 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 Improvements upon the Common Area, including fixtures and personal property related thereto, but any Special Assessment must be approved, at a meeting duly called for such purpose, by at least two-thirds (2/3) of the votes represented at that meeting, in person or by proxy, in each Class of Members.

6.6 Assessment Period. The period for which the Annual Assessments are to be levied (the "Assessment Period") will be the calendar year. The Board in its sole discretion from time to time may change the Assessment Period.

6.7 Rules Regarding Billing and Collection Procedures. Annual Assessments will be collected on a monthly basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board has the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments, but those rules and regulations must not be inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member will not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor will 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 is 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 will be given credit for prepayments, on a prorated basis, made by prior Owners.

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

6.8.1 Any Assessment, or any installment of an Assessment, ~~due within~~ ~~thirty (30) days after the Assessment, or the installment of the Assessment, first became due will,~~

~~bearing interest from the due date at the rate established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.~~

6.8.2 The Association will have a lien on each Lot for all Assessments levied against the Lot and for all other fees and charges payable to the Association by the Owner of the Lot pursuant to this Declaration. 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.

6.8.3 The Assessment Lien will have priority over all liens or claims except for: (a) tax liens for real property taxes; (b) assessments in favor of any municipal or other governmental body; and (c) the lien of any First Mortgage.

6.8.4 The Association will not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, 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.

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

6.9 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, will issue to such Member or other Person a written certificate stating: (a) 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 (b) 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, will 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.

6.10 Purposes for Which Association's Funds May be Used. The Association will apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the

common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Members and Occupants, maintenance of landscaping on Common Area and public right-of-way and drainage areas within the Project, construction, operation and maintenance of recreational and other facilities on Common Area, recreation, insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety, indemnification of officers, directors and committee members of the Association, employment of professional managers, and hiring professional consultants such as architects, engineers, attorneys and accountants.

6.11 Surplus Funds. The Association is not 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 is not 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.

6.12 Transfer Fee. Each Purchaser of a Lot must 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.

6.13 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 6.5 hereof; or (b) approving any increase in the Maximum Membership Assessment greater than that permitted by Section 6.4, must 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 or increase in the Maximum Membership Assessment, a quorum will consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy), but 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 will 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.

6.14 Common Expenses Resulting from Misconduct. Notwithstanding any other provision of this Article 6, if any Common Expense is caused by the misconduct of any Owner (or of any Occupant, tenant, employee, servant, agent, guest or invitee for whose actions such Owner

is responsible under applicable law), the Association may assess that Common Expense exclusively against such Owner and such Owner's Lot, which amount (together with any and all costs and expenses, including but not limited to attorneys' fees, incurred by the Association in recovering the same) shall be secured by the lien created pursuant to Section 6.1.

6.15 Declarant's Exemption. Notwithstanding any other provision of this Declaration to the contrary, no Annual Assessment will be levied against Lots owned by the Declarant. During the Period of Declarant Control, the Declarant will subsidize the Association for the amount by which (a) the cost of operating and administering the Association and maintaining reasonable reserves for maintenance, replacement and repairs and for contingencies exceeds (b) the total amount of Assessments levied against Lots owned by Owners other than the Declarant. The subsidy required of Declarant under this Section 6.15 may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, and any subsidies made by Declarant in the form of "in-kind" contributions of goods or services will be valued at the fair market value of the goods or services contributed. Declarant will make payments or contributions in respect of its subsidy obligations under this Section 6.15 at such times as the Board may reasonably request from time to time (but will 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 will 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 subsidy obligations under this Section 6.15 for such fiscal year; or (2) the Association will pay to Declarant or credit against Declarant's subsidy obligation 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 subsidy obligation of Declarant for such fiscal year under this Section 6.15.

6.16. Notices. Except as otherwise provided in this Article 6, notices required or permitted by this Article 6 to be given to Owners or Members shall be deemed sufficiently given to an Owner or Member if hand-delivered to such Owner or Member, or if sent by United States mail, postage paid, addressed to such Owner or Member at the mailing address of such Owner's or Member's Lot or, if applicable, at such different mailing address as such Owner or Member shall have previously designated in writing to the Association's President or Secretary. If any such notice is addressed and mailed in accordance with the preceding sentence, it shall be deemed properly given when deposited in the mail, notwithstanding any subsequent failure of the addressee to receive the same.

End of Article 6

ARTICLE 7

MAINTENANCE

7.1 Common Area and Public Right of Way.

7.1.1 The Association, or its duly delegated representative, will manage, maintain, repair and replace the Common Area and all Improvements located thereon (subject to Section 7.1.3), except the Association will not be obligated to maintain areas which any governmental entity or any utility company is maintaining or is obligated to maintain.

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

7.1.3 If any subdivision plat, this Declaration or any other Recorded instrument permits the Board to determine whether or not Owners of certain Lots will be responsible for maintenance of certain Common Area or public right-of-way areas, the Board will have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners of Lots having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

7.2 Lots. Each Owner of a Lot is responsible for maintaining, repairing or replacing his, her or its Lot, and all Residential Units, landscaping or other Improvements situated thereon, except for any portion of the Lot which is Common Area (unless otherwise required by the Board pursuant to Section 7.1.3). All Residential Units, landscaping and other Improvements must at all times be kept in good condition and repair. Landscaping must be maintained as required by Section 3.4. All Lots upon which no Residential Units or other Improvements have been constructed must be maintained in a weed free and attractive manner.

7.3 Installation of Landscaping. The Owner of a Lot must install (if not already installed) grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements): (a) in the front yard of the Lot and in any side or back yard of the Lot which is not fully enclosed by a solid fence or wall at least six (6) feet high, not later than ninety (90) days after the date on which title to the Lot is first conveyed to a Purchaser (as evidenced by Recordation of a deed); and (b) in any side or back yard of the Lot which is fully enclosed by a solid fence or wall at least six (6) feet high, not later than one hundred eight (180) days after the date on which title to the Lot is first conveyed to a Purchaser (as evidenced by Recordation of a deed). Except as otherwise specifically approved in writing in advance by the Architectural Committee, all landscaping on a Lot must be installed in strict conformance with the provisions of the Design Guidelines relating to landscaping. If landscaping and an irrigation system are not installed on a Lot in the manner and by the

applicable dates provided for in this Section, the Association will have the right, but not the obligation, to enter upon such 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 must 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 will 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.

7.4 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Area or any other area maintained by the Association is caused through the willful or negligent act of any Member, his family, tenants, guests or invitees, the cost of such maintenance or repairs will be added to and become a part of the Assessment to which such Member and the Member's Lot is subject and will be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot pursuant to this Section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities will also become a part of such Assessment and will 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 substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration or any other Recorded instrument applicable thereto, or in the event the Owner of any Lot is failing to perform any of its 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 14 days of the date of the Board's finding~~, the Board may cause such action to be taken at said Owner's cost. If at the expiration of that 14-day period the requisite corrective action has not been taken, the Board is authorized and empowered to cause such action to be taken and the cost thereof will be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and will be secured by the Assessment Lien.

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

7.6.1 The Owners of contiguous Lots which have a common wall will both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

7.6.2 If any common wall is damaged or destroyed through the act of an Owner (or of his, her or its agents, tenants, invitees, licensees, guests or family members), it will 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, or his, her or its agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), both such adjoining Owners will promptly rebuild or repair the same to a condition at least as good as its condition prior to the damage or destruction, at their joint and equal expense;

7.6.4 The right of any Owner to contribution from any other Owner under this Section will be appurtenant to the land and will 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 construct, modify, make additions to or rebuild a common wall must first obtain the written consent of each other Owner whose Lot adjoins such common wall or any portion thereof;

7.6.6 If any common wall encroaches upon a Lot or the Common Area, a valid easement for such encroachment and for the maintenance of the common wall will exist in favor of the Owners of the Lots which share such common wall; and

7.6.7 If any dispute arises between two or more Owners of contiguous Lots regarding a common wall or walls, the dispute will be submitted to the Board for resolution, and the decision of the Board as to any such dispute will be final and binding.

7.7 Maintenance of Walls Other than Common Walls.

7.7.1 Walls (other than common walls) located on a Lot must be maintained, repaired and replaced by the Owner of the Lot.

7.7.2 Any wall which is placed on the boundary line between a Lot and the Common Area must be maintained, repaired and replaced by the Owner of the Lot, except that the Association will be responsible for the repair and maintenance of the side of the wall which faces the Common Area.

7.8 Walls Adjacent to Common Area or Street. Without limiting the generality of any other provisions of this Declaration, no wall (or portion thereof) adjacent to Common Area or a public street (whether or not deemed to be a common wall) shall be removed, dismantled or destroyed, nor shall any gate or other opening therein be created, whether temporary or permanently and regardless of the reason therefor, without the express prior written approval of the Architectural Committee.

7.9 Subdivision Identification Signs and Monuments. Either Declarant or the Association (or both) may install signs or monuments that identify the subdivision on the side of, or adjacent to, any wall that faces the Common Area or any private or public street. The Association is responsible for the maintenance and repair of such identification signs or monuments. As long as Declarant owns any property in the Project, no subdivision identification sign or monument shall be removed, altered or destroyed by any Owner or Person (including the Association), without the prior written approval of the Declarant. Thereafter, no subdivision

identification sign or monument shall be removed, altered or destroyed by any Owner or Person (other than the Association), without the prior written approval of the Association, and the Association may remove or alter any such sign or monument in its sole discretion.

End of Article 7

ARTICLE 8

INSURANCE

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

8.1.1 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, but the total amount of insurance must not be less than one hundred percent (100%) of the current replacement cost of the insured property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy;

8.1.2 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance must 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 other portions of the Project which the Association is obligated to maintain under this Declaration, and must 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;

8.1.3 Workmen's compensation insurance to the extent necessary to meet the requirements of applicable law;

8.1.4 Such other insurance as the Board determines from time to time to be appropriate to protect the Association or the Owners;

8.1.5 Each insurance policy purchased by the Association must, to the extent reasonably available, contain the following provisions:

(a) The insurer issuing such policy will have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;

(b) 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 adversely affect recovery on the policy;

(c) The coverage afforded by such policy will not be brought into contribution or proration with any insurance which may be purchased by Owners, Occupants or Mortgagees;

(d) A "severability of interest" endorsement which precludes the insurer from denying the claim of an Owner or Occupant because of the negligent acts of the Association or other Owners or Occupants;

(e) A statement naming the Association as the insured;

(f) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier must notify any Mortgagee named in the policy at least ten (10) days before the effective date of any substantial modification, reduction or cancellation of the policy.

8.2 Certificates of Insurance. An insurer which has issued an insurance policy under this Article will be required to issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee, and will be required to agree that any insurance it issues to the Association may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued.

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

8.4 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association, the loss must be adjusted with the Association, and the insurance proceeds will be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 8.5, the proceeds will be disbursed for the repair or restoration of the damage to the Common Area.

8.5 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area which is damaged or destroyed must be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health, safety or other statute or ordinance, or (b) Owners representing at least eighty percent (80%) of the total votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and available reserves will be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area will 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 will 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.

End of Article 8

ARTICLE 9

GENERAL PROVISIONS

9.1 Enforcement. The Association or any Owner has the right to enforce the Project Documents.

9.2 Term; Method of Termination. Unless terminated in accordance with this Section, this Declaration (as amended from time to time) will 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 will be automatically extended 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 Members holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board will cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration will have no further force and effect, and the Association will be dissolved pursuant to applicable law.

9.3 Amendments.

9.3.1 This Declaration may be amended at any time and from time to time during the original term of this Declaration or any extensions of that term, but, except for amendments made pursuant to Subsections 9.3.2 or 9.3.3 of this Declaration, this Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Members holding not less than sixty-seven percent (67%) of the votes in the Association.

9.3.2 Either the Board or the Declarant may amend this Declaration, without obtaining the approval or consent of any Owner, Mortgagee or other Person, in order to conform this Declaration 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 or the Project Documents is required by law or requested by the Declarant.

9.3.3 So long as the Declarant is entitled to cast at least sixty-seven percent (67%) of the votes in the Association, the Declarant may amend this Declaration without the consent or approval of any other Owner or other Person.

9.3.4 So long as the Declarant or any Declarant Affiliate owns any Lot or other portion of the Property, or any portion of the Additional Property, no amendment to this Declaration will be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendments).

9.3.5 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 must be signed by the President or Vice President of the Association and must be Recorded. Any such amendment must certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Subsections 9.3.2 or 9.3.3 of this Declaration must be executed by the Declarant and must be Recorded.

9.4 Interpretation. Except for judicial construction, the Association has 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 will be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration.

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

9.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration are determined by a court of competent jurisdiction (upheld on appeal) to be unlawful, void or voidable for violation of the rule against perpetuities, then the covenants, conditions, restrictions or other provisions so determined to be unlawful, void or voidable will continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

9.7 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances will 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 has the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations do not conflict with the provisions of the other Project Documents.

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 or the Architectural Committee 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 will not relieve an Owner or any other Person from the obligation also to 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 in violation of this Declaration and subject to any or all of the enforcement proceedings set forth herein.

9.10 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration, but whether or not any such reference is made in any deed or instrument, each and all of the provisions of this Declaration are and will be binding upon the grantee-Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

9.11 Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders includes each of the other genders, words in the singular include the plural, and words in the plural include the singular.

9.12 Captions and Title; Section References; Exhibits. 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 meaning or intent thereof. References in this Declaration to numbered Articles, Sections or Subsections, or to lettered Exhibits, will be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

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

9.14 Indemnification. The Association will indemnify each and every officer and director of the Association, each and every member of the Architectural Committee, 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, former members of the Architectural Committee, 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 or her own individual willful misfeasance, malfeasance, misconduct or bad faith. No Association Official will 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 Official may also be a Member of the Association and therefore subject to Assessments hereunder to fund a liability

of the Association), and the Association will 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 is not 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 of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her 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 9.14 or otherwise under the Articles, Bylaws or applicable law, such Association Official must promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her 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.

9.15 No Partition. No Person acquiring any interest in the Property or any part thereof will have a right to, nor may any person seek, any judicial partition of the Common Area, nor will any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section must not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area, which is subject to Section 4.1) which may or may not be subject to this Declaration.

9.16 Property Held in Trust. Except as otherwise expressly provided in this Declaration, any and all portions of the Property (and of the Additional Property) which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is the Declarant or a Declarant Affiliate, will be deemed for all purposes under this Declaration to be owned by the Declarant or such Declarant Affiliate, as applicable, and will be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by the Declarant or such Declarant Affiliate, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by the Declarant or any such Declarant Affiliate to any such trust (or the trustee thereof) or to the Declarant or any such Declarant Affiliate by any such trust (or the trustee thereof) will be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

9.17 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days will be counted including Saturdays, Sundays and holidays, but if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

9.18 Notice of Violation. The Association has the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of the Project Documents.

The notice must be executed and acknowledged by an officer of the Association and must contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; (e) a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation; and (f) any other information required by applicable law. Recordation of a notice of violation will serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association will Record a notice of compliance which will state the legal description of the Lot against which the notice of violation was recorded, the Recording data of the notice of violation, and will state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation will not constitute a waiver of any existing violation or evidence that no violation exists.

9.19 Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither the Declarant nor any Declarant Affiliate makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant or by any Declarant Affiliate is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While neither the Declarant nor any Declarant Affiliate 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 the Declarant nor any Declarant Affiliate makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants assumes all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

9.20 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) may be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate or a trustee for the benefit of the Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

End of Article 9

ARTICLE 10

FHA/VA PROVISIONS

10.1 Approvals During Period of Declarant Control. Notwithstanding any other provision of this Declaration or of any of the other Project Documents to the contrary, during the period: (a) commencing with the earlier of: (i) the date FHA or VA first approves the Project (or any portion thereof) for single family residential loan insurance or guarantee programs offered by FHA or VA; or (ii) the date FHA or VA first insures or guarantees a loan on any Lot within the Project; and (b) ending with the expiration or termination of the Period of Declarant Control:

10.1.1 property which is not included within the Additional Property may not be annexed to the Property without the prior approval of either FHA or VA (except to the extent such annexation involves only minor adjustments to boundaries of the Property);

10.1.2 neither the Common Area nor any part thereof may be dedicated without the prior approval of either FHA or VA except for: (a) minor adjustments to the boundaries of any Common Area or any other portion of the Property; (b) dedications or grants of easements to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company as permitted by Section 4.1.1(a); and (c) grants of easements pursuant to Section 4.2.

10.1.3 no amendment to this Declaration or to the Articles or Bylaws will be effective without the prior approval of either FHA or VA (except to make clerical or technical corrections); and

10.1.4 the Association may not be dissolved, or merged or consolidated with any other entity, without the prior approval of FHA or VA.

10.2 Obtaining Approvals. As to any action required by this Article 10 to be approved by FHA or VA before becoming effective or before being taken, such action must be submitted to FHA or VA for approval, and if the agency whose approval is requested does not disapprove the same, by written notice to the Association, the Declarant or other Person requesting such approval, within thirty (30) days after delivery to such agency of the request for approval, the action in question will be deemed approved by such agency.

10.3 Definitions. For purposes of this Article 10, the term "FHA" means the Federal Housing Administration (or its successor federal agency), and the term "VA" means the Veterans Administration (or its successor federal agency).

End of Article 10

IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set forth above.

RICHMOND AMERICAN HOMES OF ARIZONA, INC.,
a Delaware corporation

By Jail Broden
Its S.V.P.

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 14th day of September, 2000, by
JOEL BRODER, the S.V.P. of Richmond
American Homes of Arizona, Inc., a Delaware corporation, on behalf of such entity.

Mary A. Flynn
Notary Public

My Commission Expires:

12.01.2001



EXHIBIT A

LEGAL DESCRIPTION

Lots 1 through 178, and Tracts A through and including W, according to the plat recorded in Book 538 of Maps, page 26, and Instrument No.2000-0545054, official records of Maricopa County, Arizona.