



When Recorded Return To:

Augustus H. Shaw IV
Shaw & Lines, LLC
4523 E. Broadway Road
Phoenix, AZ 85040



**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS**

FOR HIGHLANDS AT THE RIM

TABLE OF CC

1. Definitions

1.1	Definitions	6
1.2	Annual Assessment	6
1.3	Applicant	6
1.4	Architectural Committee	6
1.5	Articles	6
1.6	Assessments	7
1.7	Beneficiary	7
1.8	Budget	7
1.9	Bylaws	7
1.10	Capital Improvement Assessment	7
1.11	Close of Escrow	7
1.12	Common Elements	7
1.13	Common Expenses	7
1.14	Deed of Trust	7
1.15	[Deleted]	8
1.16	Eligible Mortgagee	8
1.17	Executive Board	8
1.18	Family	8
1.19	Fiscal Year	8
1.20	Improvements	8
1.21	Manager	8
1.22	Map	8
1.23	Master Association	8
1.24	Master Association Governing Documents	8
1.25	Master Association Maintenance Funds	8
1.26	Declaration	9
1.27	Member	9
1.28	Membership	9
1.29	Mortgage	9
1.30	Mortgagee	9
1.31	Non-Compliance	9
1.32	Notice and Hearing	9
1.33	Notice of Addition	9
1.34	Operating Fund	9
1.35	Owner	9
1.36	Person	9
1.37	Plat	9
1.38	Project	10
1.39	Purchaser	10
1.40	Record, Recorded, Recordation	10
1.41	Reserve Fund	10
1.42	Rules and Regulations	10



1.43	Single Family Lot	10
1.44	Special Assessment	10
1.45	Sub association	10
1.46	Sub association Governing Documents	10
1.47	Trustor	10
1.48	Work	10
2.	The Master Association	
2.1	Organization of the Master Association	11
2.2	Duties and Powers of the Master Association	11
2.3	Membership in the Master Association	11
2.4	Membership and Voting Rights	12
2.5	Repair and Maintenance by the Master Association	12
2.6	Unsegregated Real Property Taxes	13
2.7	Manager	13
2.8	Limitation on Liability of Master Association	13
3.	Easements and Property Rights	
3.0	Easements and Property Rights	14
3.1	Easements of the Master Association	14
3.2	Support	14
3.3	Utility and Other Services	14
3.4	Encroachments	14
3.5	Rights of Entry ...	14
3.6	Owners' Easements	15
3.7	Damage by Member or Owner	16
4.	Budget	
4.1	Initial Year of Operations	16
4.2	Subsequent Fiscal Years	16
5.	Assessments, Liens	
5.1	Master Association Maintenance Funds	17
5.2	Purpose of Assessments	17
5.3	Personal Obligation of Assessments	17
5.4	Allocation of Assessments	18
5.5	Annual Assessments; Commencement; Collection	18
5.6	Liens	18
5.7	Working Capital Contributions to the Master Association	19
5.8	Waiver of Use	19
5.9	Transfer Fee	19
6.	Use Restrictions	
6.0	Use Restrictions	20
6.1	Rules and Regulations	20

6.2	Occupancy	20
6.3	Parking and Vehicular Restrictions	20
6.4	Nuisances	21
6.5	Signs	21
6.6	Roof-top Objects	21
6.7	Building Exterior	22
6.8	Above-ground Utilities	22
6.9	Unightly Articles	22
6.10	Dust Control	22
6.11	Pets	22
6.12	Fencing	22
6.13	Alterations	22
6.14	Relief; Warranties	23
6.15	Business or Commercial Activity	23
6.16	No Further Subdivision	23
6.17	Water and Sewer Systems	23
6.18	Leases	23

7. Insurance

7.1	Duty to Obtain Insurance; Types	24
7.2	Waiver of Claim Against Master Association	25
7.3	Notice of Expiration Requirements	25
7.4	Insurance Premiums	25
7.5	Trustee for Policies	26
7.6	Actions as Trustee	26
7.7	Annual Insurance Review	26
7.8	Required Waiver	26

8. Architectural Review

8.1	Members of Architectural Committee	27
8.2	Review of Plans and Specifications	27
8.3	Meetings of the Architectural Committee	28
8.4	No Waiver of Future Approvals	28
8.5	Compensation of Members	28
8.6	Inspection of Work	33
8.7	Scope of Review	30
8.8	Variances	30
8.9	Fees and Deposits	30

9. Destruction of Improvements

9.1	Restoration of the Project	31
9.2	Partition	32
9.3	Notice to Members, Owners and Eligible Mortgagees	32

10. Eminent Domain

10.0	Eminent Domain	32
10.1	Condemnation Award	32
10.2	Notice to Owners, Members and Eligible Mortgagees	32

11.	Mortgagees	
11.1	.....	Eligible Mortgagees 32
11.2	.....	Rights of Mortgagees 32
12.	Duration, Amendment and Termination of Declaration	
12.1	.....	Duration 33
12.2	.....	Amendment to Declaration 33
12.3	.....	Termination of Declaration 33
13.	Security Disclaimer.....	34
14.	Violations	
14.1	.....	Violations Identified by the Master Association 35
14.2	.....	Legal Proceedings 35
14.3	.....	Limitation on Expenditures 35
14.4	.....	Schedule of Fines 35
14.5	.....	Right to Enforce 36
15.	General Provisions	
15.1	.....	No Waiver 36
15.2	.....	Attorneys' Fees 36
15.3	.....	Severability 36
15.4	.....	Captions 36
15.5	.....	Number and Gender 36
15.6	.....	No Public Right or Dedication 36
15.7	.....	No Representations or Warranties 36
15.8	.....	Non-liability and Indemnification 37
15.9	.....	Notices 37
15.10	.....	Priorities and Inconsistencies 37
15.11	.....	Constructive Notice and Acceptance 37



**AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR HIGHLANDS AT THE RIM**

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for the Highlands at the Rim (the "Declaration") is made this 30 day of January, 2019 by the Highlands at the Rim Community Association, an Arizona nonprofit corporation (the "Association").

WITNESSETH

WHEREAS, that Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for the Highlands at the Rim was recorded at recording number 2003-019923, records of Gila County, AZ, as amended by that certain Amendment recorded at recording number 2007-004393, records of Gila County, AZ (the "CC&Rs"); and

WHEREAS, pursuant to the CC&Rs, the CC&Rs may be amended and restated by obtaining the approval or written consent of Owners representing not less than seventy-five percent (75%) of the Class A Membership; and

WHEREAS, this Declaration has been approved by Owners representing not less than seventy-five percent (75%) of the Class A Membership.

NOW, THEREFORE, the CC&Rs and any amendment thereto are of no further effect and are hereby deleted, amended and restated by this Declaration as follows:

**ARTICLE I
DEFINITIONS**

1.1 *Definitions.* Unless otherwise expressly provided, the following words and phrases when used herein shall have the following specified meanings.

1.2 *Annual Assessment* shall mean a charge against a particular Member representing a portion of the Common Expenses, which are to be levied as, and when determined by the Board of Directors, in the manner and in proportions as provided in this Declaration.

1.3 *Applicant* shall have the meaning ascribed to such term in Section 8.2 of this Declaration.

1.4 *Architectural Committee* shall mean the Architectural Committee created pursuant to Article 8 of this Declaration.

1.5 *Articles* shall mean the Articles of Incorporation of the Master Association as filed or to be filed in the office of the Secretary of State of the State of Arizona, as such Articles may be amended from time to time.

1.6 *Assessments* shall mean Annual Assessments, Capital Improvement Assessments, Special Assessments, and any other assessments which may be properly levied

by the Master Association pursuant to the Master Association Governing Documents.

1.7 *Beneficiary* shall mean a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee or Beneficiary.

1.8 *Budget* shall mean a written, itemized estimate of the income and Common Expenses of the Master Association in performing its functions under this Declaration.

1.9 *Bylaws* shall mean the Bylaws of the Master Association, as such Bylaws may be amended from time to time.

1.10 *Capital Improvement Assessment* shall mean a charge, which the Executive Board may from time to time levy against Members for capital improvements on any of the Common Elements.

1.11 *Close of Escrow* shall mean the date on which a deed is Recorded conveying a Lot from the Declarant to a Person.

1.12 *Common Elements* shall mean that portion of the Project that is made subject to this Declaration including, but not limited to those portions of the Project which are designated as private streets, common parking space and common landscape areas, which Common Elements shall be owned in fee by the Master Association.

1.13 *Common Expenses* shall mean those expenses for which the Master Association is responsible under this Declaration including, but not limited to, (i) the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Elements and personal property located thereon which is maintained by the Association for the benefit of the Members and/or Owners; (ii) unpaid Assessments; (iii) the costs of any commonly metered charges for the Project; (iv) the cost of maintenance of clustered mailboxes, if any; (v) the costs of management and administration of the Master Association including, but not limited to, compensation paid by the Master Association to managers, accountants, attorneys and other employees; (vi) the costs of all gardening, access control and other services benefitting the Common Elements; (vii) the costs of fire, casualty and liability insurance, workers' compensation insurance, errors and omissions and director, officer and agent liability insurance, and other insurance covering the Project, the Executive Board, and the officers and agents of the Master Association; (viii) the costs of bonding of the members of the Executive Board; (ix) taxes paid by the Master Association; (x) amounts paid by the Master Association for discharge of any lien or encumbrance levied against the Project, or portions thereof; (xi) judgments against the Master Association; (xii) the costs associated with any litigation to which the Master Association is a party; (xiii) the cost of providing a master antenna television system or duly franchised cable television service, obtained pursuant to a bulk contract, if any; and (xiv) the costs of any other item or items incurred by the Master Association, for any reason whatsoever in connection with the Project.

1.14 *Deed of Trust* shall mean a Mortgage.

1.15 [Deleted].

1.16 *Eligible Mortgagee* shall mean a Beneficiary of a Deed of Trust or Mortgagee of a Mortgage on a Lot or the Common Elements, in first lien position, which has requested notification pursuant to the provisions of Section 11.1 of this Declaration.

1.17 *Executive Board* shall mean the board of directors of the Master Association.

1.18 *Family* shall mean one or more natural Persons related to each other by blood, marriage or adoption, or one or more natural Persons not all so related, but who maintain a common household in a Lot.

1.19 *Fiscal Year* shall mean the fiscal accounting and reporting period of the Master Association as determined by the Executive Board from time to time.

1.20 *Improvements* shall mean all structures and appurtenances thereto of every type and kind associated with the Project including, if applicable, buildings, walkways, sprinkler pipes, recreational facilities, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, awnings, stairs, decks, landscaping, antennae, hedges, windbreaks, the exterior surfaces of any visible structure and the paint on such surfaces, planted trees and shrubs, poles, signs, and water softener fixtures or equipment. The Improvements described in this Section 1.22 or elsewhere in this Declaration may or may not be built.

1.21 *Manager* shall mean the Person employed by the Master Association for the management of the Project in accordance with this Declaration.

1.22 *Map* shall mean a map or plat covering all or any portion of the Project, which may be Recorded and any subsequent amendment or modification thereof.

1.23 *Master Association* shall mean Highlands at the Rim Community Association, an Arizona nonprofit corporation, its successors and assigns.

1.24 *Master Association Governing Documents* shall mean this Declaration, the Bylaws, Articles of Incorporation, the Rules and Regulations and other documents that govern the operation of the Master Association, as may be amended from time to time.

1.25 *Master Association Maintenance Funds* shall mean the accounts created for receipts and disbursements of the Master Association pursuant to Article 5 of this Declaration.

1.26 *Declaration* shall mean this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements of Highlands at the Rim Community Association as may be amended from time to time.

1.27 *Member* shall mean the owners of a Single Family Lot holding a Membership in the Master Association as provided in this Declaration.

1.28 *Membership* shall mean the property, voting and other rights and privileges of Members as provided in this Declaration, together with the correlative duties and obligations contained in the Master Association Governing Documents.

1.29 *Mortgage* shall mean any Recorded mortgage or deed of trust relating to any buildings or other Improvements on the Common Elements to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance and, when used in this Declaration in conjunction with the mortgage or deed of trust secured by a Lot, then Mortgage shall mean any Recorded mortgage or deed of trust relating to any Lot to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance. The term Mortgage shall not include any judgment lien, mechanic's lien, tax lien or other similarly involuntary lien or encumbrance on a Lot.

1.30 *Mortgagee* shall mean a Person and its assigns to whom a Mortgage is made and shall include the Beneficiary of a Deed of Trust.

1.31 *Non-Compliance* shall have the meaning ascribed to such term in Section 8.6 of this I

1.32 *Notice and Hearing* shall mean written notice and a hearing before the Executive Board, at which the Member and Owner, if applicable, concerned shall have an opportunity to be heard in person or by counsel, at the Member's and/or Owner's expense; in the manner further provided in the Bylaws.

1.33 *Notice of Addition* shall mean a document Recorded pursuant to Article 14 of this Declaration by which real estate is added to the Project.

1.34 *Operating Fund* shall have the meaning ascribed to such term in Section 5.1 of this Declaration.

1.35 *Owner* shall mean the Person or Persons holding fee simple interest to a Single Family Lot. The term "Owner" shall include a seller under an executory contract of sale, but shall exclude Mortgagees.

1.36 *Person* shall mean a natural individual or any form of entity.

1.37 *Plat* shall mean the plat for Highlands at the Rim, as recorded as Map Number 737A737E, which plat has been or will be recorded contemporaneously with this

Declaration in the official records of Gila County, Arizona, and any amendments, supplements or corrections thereto.

1.38 *Project* shall mean the planned-interest community known as Highlands at the Rim Community Association.

1.39 *Purchaser* shall mean a Person who purchases fee interest of a Single Family Lot from an Owner.

1.40 *Record, Recorded, Recordation* shall mean, with respect to any document, the recordation or filing of such document in the Office of the Gila County, Arizona Recorder.

1.41 *Reserve Fund* shall have the meaning ascribed to such term in Section 5.1 of this Declaration.

1.42 *Rules and Regulations* shall mean the rules and regulations adopted by the Executive Board pursuant to this Declaration or the Bylaws, as such rules and regulations may be amended from time to time.

1.43 *Single Family Lot or Lot* shall mean a subdivided lot or residential dwelling unit and all appurtenances thereto and described on the Plat as Forest Homes Lots 89 through 126 inclusive.

1.44 *Special Assessment* shall mean a charge against a particular Member, levied by the Executive Board after Notice and Hearing, which is directly attributable to, or reimbursable by, that Member, equal to the cost incurred by the Master Association for corrective action performed pursuant to the provisions of this Declaration, or a reasonable fine or penalty assessed by the Executive Board plus interest and other related charges on such Special Assessments as provided for in this Declaration. A Special Assessment may also be levied against an Owner in the event a Member fails to remedy a violation of this Declaration or as otherwise provided in this Declaration.

1.45 *Subassociation* shall refer to any planned community, which is a member of the Master Association:

1.46 *Subassociation Governing Documents* shall mean for each Subassociation project, the Subassociation Declaration, the bylaws for the Subassociation, the articles of incorporation for the Subassociation, any rules and regulations of the Subassociation and any other documents that govern the operation of the Subassociation, as may be amended from time to time.

1.47 *Trustor* shall be synonymous with the term *Mortgagor*.

1.48 *Work* shall have the meaning ascribed to such term in Section 8.6 of this Declaration.

ARTICLE II THE MASTER ASSOCIATION

2.1 *Organization of the Master Association.* The Master Association shall be, no later than the Close of Escrow on the first Single Family Lot, incorporated under the name of "Highlands at the Rim Community Association," as a nonprofit corporation organized under Arizona law.

2.2 *Duties and Powers of the Master Association.* The duties and powers of the Master Association are those set forth in this Declaration, the Articles and Bylaws and an Arizona nonprofit corporation, generally to do any and all things that such a corporation may lawfully do which are necessary or proper, in operating for the general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. The Master Association shall further have the right to install or construct capital Improvements on the Common Elements. The Master Association may at any time and from time to time reconstruct, replace or refinish any Improvement or portion thereof upon the Common Elements and replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Elements. The Master Association may employ personnel necessary for the effective operation and maintenance of the Common Elements including the employment of legal, management and accounting services. The Master Association shall additionally have the power, but not the duty, to enter into contracts with Members, Owners or other persons to provide services or to maintain and repair Improvements within the Project and elsewhere within the Project which the Master Association is not otherwise required to provide or maintain pursuant to this Declaration; provided, however, that any such contract shall provide for the payment to the Master Association for the costs of providing such services or maintenance.

2.3 *Membership in the Master Association.* Every record owner of fee simple title of a Single Family Lot shall automatically become a Member of the Master Association and shall remain a Member thereof until such time as their ownership ceases, for any reason, at which time their membership in the Master Association shall automatically cease. A membership in the Master Association shall not be transferred, pledged, or alienated in any way, except upon the sale of such Single Family Lot and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record, or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and /or records of the Master Association. In the event the owner of any Single Family Lot should fail or refuse to transfer the Membership registered in their name to the purchaser of such Single Family Lot, the Master Association shall have the right to record the transfer upon the books of the Master Association and issue a new Membership to the purchaser and thereupon, the old membership, outstanding in the name of the seller, shall be null and void as though the same had been surrendered. The rights, duties, privileges and obligations of all Members of the Master Association shall be as provided in the Master Association Governing Documents.

2.4 Membership and voting Rights. Membership in the Master Association shall be held by the owners of the thirty-eight (38) Single Family Lots and shall have a total of thirty-eight (38) votes.

2.5 *Repair and Maintenance by the Master Association.*

(a) *Maintenance Standards.* Subject to Articles 9 and 10 of this Declaration and except as set forth in Section 2.6(c) below, the Master Association shall have the right, but not the obligation, to paint, maintain, repair and replace the Common Elements and Improvements and personal property located thereon or shall contract for such maintenance, repair and replacement to assure maintenance of the Common Elements and Improvements thereon in a clean, sanitary and attractive condition reasonably consistent with prudent property management practices and the Budget. However, except as set forth in Section 2.6(b) below, the Master Association shall not be responsible for or obligated to perform those items of maintenance, repair or improvement of the Single Family Lots the responsibility of which is that of the Owners. The Executive Board shall determine, in its sole discretion, the level and frequency of maintenance of the Common Elements.

(b) *Maintenance Items.* The Master Association shall maintain and repair all utilities and mechanical and electrical equipment serving the Common Elements. If an Owner of a Single Family Lot fails to abide by the covenants and conditions of the Declaration relating to the upkeep of such Owner's Single Family Lot, the Executive Board, upon reasonable written notice and with a reasonable opportunity to cure, may perform all functions relative to remedying the violation and charge the Single Family Lot Owner for all costs involved in making such repairs.

(c) *Maintenance of Private Streets.* The Master Association shall maintain and repair, in perpetuity, all private streets which are part of the Common Elements of the Project, including but not limited to those private streets more fully described as Tract B of Forest Homes as shown in the Plat (the "Forest Homes Tracts").

(d) *Charges to Owners.* All such costs of maintenance, repairs and replacements for the Project shall be paid for as Common Expenses out of the Master Association Maintenance Funds as provided in this Declaration except that the cost of maintenance of the Forest Homes Tracts, as provided in Section 2.6 (c) above, shall be the sole responsibility of the Single Family Lots. Said costs shall be allocated by the Executive Board among the Owners of the Single Family Lots on a pro rata basis and shall be paid to the Master Association in a manner to be determined by the Executive Board. The cost of any maintenance, repairs or replacements by the Master Association which is not the responsibility of the Master Association or which arises out of, or is caused by, the act of an Owner or such Owner's Family, tenants, guests, invitees, or agents shall, after Notice and Hearing, be levied by the Executive Board as a Special Assessment, in the case of a Single Family Lot Owner, against such Owner.

2.6 Unsegregated Real Property Taxes. The Master Association shall pay all real and personal property taxes and assessments levied upon any portion of the Common Elements. Blanket taxes shall be allocated equally among the Members. The Master Association shall, at least forty-five (45) days prior to the delinquency date of any blanket tax installment, deliver to each Member subject thereto a copy of the tax bill, along with a written notice setting forth the Member's obligation to pay its proportionate share of the tax installment and the potential additional charges to the Member for failure to comply. The Master Association shall pay the taxes on behalf of any Member who does not pay its proportionate share of such tax bill. The Master Association shall add to the Annual Assessment of a delinquent Member the amount of any sum advanced plus interest at the rate of eighteen percent (18%) per annum (but in no event more than the maximum rate permitted by law) and any amount necessary to reimburse the Master Association for any penalty or late charge actually assessed in connection with the blanket tax bill, which late charge results from the failure of the delinquent Member to make timely payment of the proportionate share of the taxes.

2.7 Manager. The Executive Board on behalf of the Master Association, may contract with a Manager for the performance of maintenance and repair and for conducting other activities on behalf of the Master Association as may be determined by the Executive Board. The maximum term of any such contract with a Manager (the Management Contract) shall be one (1) year, unless a longer term is approved either by vote or written consent of the Members with a majority of the voting power of the Master Association, in which case the maximum term of the Management Contract shall be three (3) years. Each Management Contract shall provide for its termination by either party thereto with came upon no more than thirty (30) days' written notice to the other party, and without cause and without payment of a termination fee upon no more than ninety (90) days' written notice to the other party.

2.8 Limitation on Liability of Master Association. Notwithstanding the duty of the Master Association to maintain and repair portions of the Project, the Master Association shall not be liable to the Members, Owners, their Families, guests, agents, and invitees for injury or damage caused by any latent condition of the Project. Furthermore, the Master Association shall not be liable for any injury or damage earned by defects in design or workmanship or any reason connected with any additions, alterations or improvements or other activities done by or on behalf of any Member or Owner regardless of whether or not any such additions, alterations or improvements shall have been approved by the Master Association pursuant to the terms of this Declaration. The Master Association also shall not be liable to any Member, Owner, Family member, guest, invitee or agent of an Owner for any property damage, personal injury, death or other liability on the grounds that the Master Association did not obtain or maintain insurance (or carry insurance with a particular deductible amount) to any particular matter where such insurance is not required hereby or the Master Association could not obtain such insurance at reasonable costs or upon reasonable terms.



ARTICLE III EASEMENTS

3.0 Easements and Property Rights. The following easements are hereby created in addition to

3.1 Easements of the Master Association. The Master Association shall have an easement over the Project for performing its duties and exercising its powers described in this Declaration.

3.2 Support. Each Single Family Lot, building and Improvement shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Single Family Lots, the Common Elements, and any other structure or Improvement which abuts any Single Family Lot, building or any Improvement.

3.3 Utility and Other Services. Easements are reserved under, through and over the Project as may be required from time to time for utility, cable television, communications and monitoring systems, and other services and drainage in order to serve the Owners and Members. No Member or Owner shall do anything that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, or other service or drainage facilities or the use of these easements.

3.4 Encroachments. The Master Association shall have a reciprocal easement appurtenant to the Common Elements for the purpose of (i) accommodating any encroachment of any wall of any Improvement, and (ii) maintaining the same and accommodating authorized construction; reconstruction; repair; shifting, movement or natural settling of the Improvements or any other portion of the Project. Easements and reciprocal negative easements for utility services and repairs, replacement and maintenance of the same over all of the Common Elements are specifically reserved for the benefit of the Members.

3.5 Rights of Entry. The Master Association shall have a limited right of entry in and upon the Common Elements and the Single Family Lots for the purpose of inspecting the Project, and taking whatever corrective action may be deemed necessary or proper by the Executive Board, consistent with the provisions of this Declaration. However, such entry upon the Single Family Lots shall be made, except to effect emergency repairs or other emergency measures (which may be performed without notice), only after three (3) days' prior written notice to the Owner of such Single Family Lot and after authorization of a majority of the Executive Board. In case of an emergency, such right of entry by or on behalf of the Master Association shall be immediate. Nothing herein shall be construed to impose any obligation upon the Master Association to maintain or repair any property or Improvements required to be maintained or repaired by the Owners. Nothing in this Section

3.7 shall in any manner limit the right of an Owner to exclusive occupancy and control over the interior of such Owner's Single Family Lot; provided, however, that each Owner shall permit a right of entry to the Master Association or any other Person authorized by the Master Association as required by this Section 3.7. Any damage caused to a Single Family Lot or improvements thereon, by such entry by the Master Association or by any Person authorized by the Master Association shall be repaired by the Master Association as a Common Expense of the Master Association.

3.6 *Owners' Easements.*

(a) *Common Elements.* Subject to the provisions of this Declaration, every Owner shall have for himself or herself, his or her Family, guests and invitees a non-exclusive easement of access, ingress, and egress, reasonably necessary for (i) the use and enjoyment of, in and to the Common Elements, and (ii) access to such Owner's Single Family Lot and such easements shall be appurtenant to and shall pass with title to every Single Family Lot.

(b) *Extent of Owners' Easements.* The rights and easements of use and enjoyment of the Common Elements by the Owners created by this Declaration shall be subject to the Master Association Governing Documents, which restrictions include, without limitation, the following:

(i) the right of the Master Association to consent to or otherwise cause the construction of additional Improvements on the Common Elements and to consent to or otherwise cause the alteration or removal of any existing Improvements on the Common Elements;

(ii) the right of the Master Association, acting through the Executive Board, to grant easements, leases, licenses and concessions through or over the Common Elements;

(iii) the conveyance of the Common Elements;

(iv) the right of the Master Association, acting through the Executive Board, to reasonably restrict access to maintenance and landscaped areas and similar areas of the Project;

(v) the right of the Master Association to reasonably limit the number of guests and tenants of the Owners using the Common Elements; and

(vi) the right of the Master Association, acting through the Executive Board, to establish Rules and Regulations for the use of the Common Elements and to regulate the use, maintenance, repair, replacement and modification of the Common Elements.

(c) *Delegation of Use by Owner.* Any Owner entitled to the right and easement of use and enjoyment of the Common Elements may delegate such right and easement to such tenants, prospective Purchasers (pursuant to an executory contract of

purchase and sale of a Single Family Lot) or subtenants who reside in such Owner's improved Single Family Lot, subject to reasonable regulation by the Executive Board. Said delegation must be in writing and delivered to a member of the Executive Board. If an Owner delegates such rights as set forth herein, such Owner shall not be allowed the use and enjoyment of the Common Elements during the term of such delegation, but shall be liable for all charges and Assessments attributable to such Owner's Single Family Lot.

3.7 Damage by Member or Owner. To the extent permitted by Arizona law, each Member and each Owner shall be jointly and severally liable to the Master Association for any damage to the Common Elements not fully reimbursed to the Master Association by insurance if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper installation or maintenance of any Improvement by such Member or Owner, an Owner's family, guests, or tenants or invitees of a Member or an Owner, or any other Persons deriving their right and easement of use and enjoyment of the Common Elements from such Member or Owner. However, the Master Association, acting through the Executive Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Master Association and the Master Association further reserves the right, after Notice and Hearing as provided in the Bylaws, to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member, the Owner or the Person for whom the Member or the Owner may be liable, as described above. After Notice and Hearing as provided in the Bylaws, the cost of correcting the damage to the extent not reimbursed to the Master Association by insurance shall be a Special Assessment against such Owner's Single Family Lot and may be enforced as provided herein.

ARTICLE IV BUDGET

4.1 Initial Year of Operations. The Annual Assessment for the first Fiscal Year shall be as set forth in the initial Budget adopted by the Executive Board. If, during the first Fiscal Year, the Executive Board determines that the Annual Assessment should be increased, the Executive Board may increase the Assessment for that Fiscal Year, unless said increase exceeds twenty per cent, in which case the Executive Board shall first obtain approval of the majority of the Members of the Association. The revised Assessment shall commence on the date designated by the Executive Board.

4.2 Subsequent Fiscal Years. The Executive Board shall annually adopt, at least sixty (60) days prior to the expiration of the current Fiscal Year, a proposed Budget for the upcoming Fiscal Year. The Executive Board is expressly authorized to adopt and amend budgets for the Master Association, and no ratification of any budget by the Members shall be required, except as otherwise provided in this Article 4. If, during any Fiscal Year, the Executive Board determines that the Year and Annual Assessment should be increased, the Executive Board may increase the Assessment for that Fiscal the revised Assessment shall commence on the date designated by the Executive Board. The Executive Board shall not impose a regular assessment that is more than twenty per cent greater than the immediately

preceding fiscal year's assessment without the approval of the majority of the Members of the Association.

ARTICLE V ASSESSMENTS

5.1 *Master Association Maintenance Funds.* The Executive Board shall establish a Master Association Maintenance Fund account, into which shall be deposited all monies paid to the Master Association and from which disbursements shall be made, as provided herein, in the performance of functions by the Master Association under this Declaration. The Master Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (i) an operating fund (the *Operating Fund*) for current Common Expenses; (ii) a reserve fund (the *Reserve Fund*) for capital improvements, replacements, painting and repairs of the Common Elements (which cannot normally be expected to occur on an annual or more frequent basis); and (iii) any other funds which the Executive Board may establish to the extent necessary under the provisions of this Declaration. Nothing contained herein shall limit, preclude or impair the establishment of additional Master Association Maintenance Funds by the Executive Board, so long as the amounts assessed to, deposited into, and disbursed from any such fund are earmarked for specified purposes authorized by this Declaration. Any surplus funds of the Master Association remaining after payment of or provision for Common Expenses and any prepayment of reserves or any other fund established by the Executive Board must be paid to the Members in proportion to their liability for Common Elements or credited to them to reduce their future assessments for Common Expenses.

5.2 *Purpose of Assessments.* The Assessments levied by the Master Association shall be used to promote the recreation and welfare of the Members and the Owners and for the operation, replacement, improvement and maintenance of the Common Elements and to discharge any other obligations of the Master Association under this Declaration. Disbursements from the Operating Fund shall be made by the Executive Board or its designated agent, for such purposes as are necessary for the discharge of its responsibilities herein, other than those purposes for which disbursements from the Reserve Fund are to be used. Disbursements from the Reserve Fund shall be made by the Executive Board only for the purposes specified in Section 5.1 of this Declaration. Annual Assessments shall be used to satisfy Common Expenses of the Master Association and to build reserve accounts, as provided in this Declaration and in the Bylaws.

5.3 *Personal Obligation of Assessments.* Each Member and each Owner, by acceptance of a deed to a Single Family Lot, is deemed to covenant and agree to pay to the Master Association all Assessments to be established and collected as provided in this Declaration or otherwise in the Master Association Governing Documents. All Assessments, together with interest, costs, and attorneys' fees for the collection thereof and for the enforcement of this Declaration, whether or not suit is filed, shall be a charge on each Single

Family Lot. Each such Assessment, together with interest, costs and reasonable attorneys' fees incurred regarding the enforcement of this Declaration or collection amounts owed pursuant to this Declaration, regardless of whether suit is filed, shall also be the personal obligation of each Member and Person who was the Owner at the time when the Assessment fell due. This personal obligation cannot be avoided by abandonment of the Single Family Lot or by a waiver of use of the Common Elements. The personal obligation for delinquent Assessments shall not pass to any Purchaser unless expressly assumed by such Purchaser; provided however, that the delinquent Assessment shall still remain a charge against the Purchaser's Single Family Lot.

5.4 Allocation of Assessments. Subject to the provisions of Section 2.6, liability for Assessments shall be based upon a total of thirty-eight (38) Single Family Lots. Notwithstanding the above, should a Single Family Lot ever be combined with another Single Family Lot, the Owner must still pay an Assessment for each Single Family Lot owned.

5.5 Annual Assessments; Commencement; Collection. From time to time and consistent with this Article 5, the Executive Board may determine that all excess funds in the Operating Fund be retained by the Master Association and used to reduce the following year's Annual Assessments. Upon dissolution of the Master Association incident to the abandonment or termination of the Project, any amounts remaining in any of the Master Association Maintenance Funds shall be distributed to or for the benefit of the Members in the same proportions as such monies were collected from the Members, subject to the rights of any creditors of the Master Association. Each Member shall pay to the Master Association its portion of Annual Assessments in installments at such frequency and in such amounts as established by the Executive Board. Each installment of Annual Assessments may be paid by the Member to the Master Association in one check or in separate checks as payments attributable to deposits into specified Master Association Maintenance Funds. If any installment of an Annual Assessment payment is less than the amount assessed and the payment does not specify the Master Association Maintenance Fund into which it should be deposited, the receipt by the Master Association from that Member shall be credited in order of priority, first to the Operating Fund until that portion of the Annual Assessment has been satisfied, and second to the Reserve Fund.

5.6 Liens.

(a) **Creation of Lien.** There is hereby created a lien in favor of the Master Association against each Single Family Lot in the amount of all Assessments to be established and collected as provided in this Declaration or otherwise in the Master Association Governing Documents, together with interest, costs, and attorneys' fees for the collection thereof and for the enforcement of this Declaration, whether or not suit is filed, shall be a charge on each Single Family Lot.



(b) Effect of Nonpayment of Assessments; Remedies of the Master Association.

(i) Any Assessment, or any installment of an Assessment, which is not paid within thirty (30) days after the Assessment first became due shall be deemed delinquent and the Executive Board may impose a charge for late payment in any amount which does not exceed the greater of Fifteen Dollars (\$15) or ten percent (10%) of the amount of the unpaid assessment.

(ii) All Assessments, monetary penalties and other fees and charges imposed or levied against any Single Family Lot or Owner shall be secured by the Assessment Lien as provided in this Declaration. The recording of this Declaration constitutes record notice and perfection of the Assessment Lien, and no further recordation of any claim of lien shall be required. Although not required in order to perfect the Assessment Lien, the Master Association shall have the right but not the obligation, to record a notice setting forth the amount of any delinquent assessments, monetary penalties or other fees or charges imposed or levied against a Single Family Lot or the Owner which are secured by the Assessment Lien.

(iii) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, monetary penalties and all other fees and charges owed 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 amounts and such action may be brought without waiving the assessment Lien securing any such delinquent amounts; or (b) bringing an action to foreclose its Assessment Lien against the Single Family Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Single Family Lots purchased at such sale.

5.7 Working Capital Contributions to the Master Association. Upon acquisition of record title to a Single Family Lot, each Owner shall contribute to the capital of the Master Association an amount equal to three (3) monthly installments of Assessments attributable to such Owner's Single Family Lot. This amount shall be deposited by the Purchaser into the purchase and sale escrow and disbursed therefrom to the Master Association to be used for the payment of operating expenses or any other purpose permitted under the Master Association Governing Documents.

5.8 Waiver of Use. No Member or Owner may be exempt from personal liability for Assessments duly levied by the Master Association, or effect the release of such Owner's Single Family Lot from the liens and charges thereof, by waiving or delegating use and enjoyment of the Common Elements as set forth in this Declaration or by abandoning such Owner's Single Family Lot.

5.9 Transfer Fee. Each Purchaser of a Single Family Lot shall pay to the

2019-001219 ARES Page: 19 of 40
01/31/2019 02:23:04 PM Receipt #: 19-0845
Rec Fee: \$45.00 Shaw And Lines L.L.C.
Gila County, AZ, Sadie Jo Bingham, Recorder

Association immediately upon becoming the Owner of the Single Family Lot a transfer fee in such amount as is established from time to time by the Master Association. Funds paid to the Master Association pursuant to this Section may be used by the Master Association for payment of operating expenses or any other purpose permitted under the Declaration. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Master Association pursuant to this Declaration.

ARTICLE VI USE RESTRICTIONS

6.0 Use Restrictions. All of the Project shall be held, used and enjoyed subject to the following:

6.1 Rules and Regulations. In addition to the restrictions set forth in this Article 6, the Executive Board may, from time to time, adopt, amend and enforce rules and regulations relating to the governance of the Project, the use of a Single Family Lot by an Owner and the use of the Common Elements. Such Rules and Regulations shall become effective twenty (20) days after they are distributed to a Member. Each Member shall be responsible for distributing the Rules and Regulations to its members within ten (10) days after its receipt of the Rules and Regulations.

6.2 Occupancy. Each Single Family Lot shall be used as a single-family residence only, except as otherwise herein provided. A Single Family Lot owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following Persons, and such Persons' Families: (i) the individual Owner, (ii) an officer, director, stockholder, employee or designee of such corporation, (iii) a partner, employee or designee of such partnership, (iv) the fiduciary or beneficiary of such trust, or (v) occupants under a lease or sublease of a Single Family Lot, as the case may be. Occupants of a leased or subleased Single Family Lot must consist of the following Persons, and such Persons' Families who reside with them (A) an individual lessee or sub-lessee, (B) an officer, director, stockholder, employee or designee of a corporate lessee or sub-lessee, (C) a partner, employee or designee of such partnership lessee or sub-lessee, or (D) the fiduciary or beneficiary of a fiduciary lessee or sub-lessee. Under no circumstances may more than one Family reside in a Single Family Lot at one time. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. The Board shall have the power to authorize the occupancy of a Single Family Lot by Persons in addition to those set forth above. As used in this Section 6.2, "guests" or word of similar import shall include only those Persons who have a principal residence other than the Single Family Lots. Unless otherwise determined by the Board, a Person(s) occupying a Single Family Lot for more than one (1) month without the Owner or the Owner's Family being present shall not be deemed a guest, but, rather, shall be deemed a lessee for the purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provision of this Declaration which apply to lessees. The purpose of the preceding sentence is to prohibit the circumvention or the provisions and intent of this Section 6.2, and

the Board shall enforce, and the Owners shall comply with, same with due regard for such purpose.

6.3 *Parking and Vehicular Restrictions.* No Owner shall park, store or keep within the Project any (i) large commercial type vehicle (including, but not limited to, vehicles with commercial writing, any dump truck, cement mixer truck, oil or gas truck or delivery truck); (ii) recreational vehicle (including, but not limited to, any camper unit, house/car or motor home); (iii) bus, trailer, trailer coach, camp trailer, boat or other type of watercraft of any kind, aircraft or mobile home; or (iv) inoperable or unlicensed vehicle or any other similar vehicle. The above excludes camper trucks and similar vehicles up to and including three-quarter (3/4) ton when used for daily transportation and subject to approval by the Board. In addition, no Owner shall park, store, or keep anywhere within the Project any vehicle or vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board. In addition, there shall be no operating of any unlicensed vehicles including, but not limited to, mopeds, scooters or similar motorized products within the Project. All Owners must provide adequate parking facilities, in conformity to local ordinances, to accommodate the intended use of the Single Family Lot as such use is approved by the Executive Board. The Executive Board may establish additional regulations as it deems appropriate in its sole discretion with regard to any of the parking areas in the Project not assigned to individual Single Family Lots including, without limitation, designating parking, valet parking, guest parking and no parking areas thereon; and shall have the power to enforce all parking and vehicle use restrictions applicable to the Project, including the power to remove violating vehicles from any of the Project to the extent permitted by applicable law. In those parking areas in the Project left unassigned, the Executive Board may allow, on an individually approved basis, for temporary short-term parking for an Owner's guest in such areas. The Executive Board may, in their sole discretion; assign and re-assign handicap parking spaces within the Project. If the Executive Board fails to enforce any of the parking or vehicle use regulations, the appropriate governmental authorities may, but need not, enforce such regulations in accordance with state and local laws and ordinances.

6.4 *Nuisances.* No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere within the Project, and no odor shall be permitted to arise there from so as to render the Project or any portion thereof unsanitary, unsightly, or offensive. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Project so as to be offensive or detrimental to any portion of the Common Elements in the Project. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably disturb other Owners or their tenants shall be located, used or placed on any portion of the Project without the prior written approval of the Executive Board. Alarm devices used exclusively to protect the security of a Lot and its contents shall be permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms.

6.5 *Signs.* No sign, poster, billboard, advertising device or other display of any kind shall be displayed without the preapproval of the Executive Board, except those signs allowed pursuant to A.R.S. 33-1808.

6.6 *Roof-top Objects.* No air conditioning equipment, or other similar objects which are not part of the basic structure of a building shall be placed upon or above the roof of any building, unless architecturally concealed from view according to plans approved by the Executive Board. To the extent permitted by law, no exterior radio antenna, television antenna, "C.B." antenna, satellite dish or other antenna of any type shall be erected or maintained on any portion of the Common Elements except as approved by the Executive Board. However, a master antenna television system or duly franchised cable television service may, but need not, be provided by the Master Association for the use and at the expense of the Members or Owners.

6.7 *Building Exterior.* The exterior portions of all buildings shall be painted, stained, or otherwise finished immediately following completion with a color approved by the Executive Board, unless the material is typically left in its natural state and color.

6.8 *Above ground Utilities.* No above-ground utilities shall be installed within the Project other than transformers and other above-ground facilities reasonably necessary to operate underground utilities.

6.9 *Unsightly Articles.* No unsightly articles shall be permitted to remain on any portion of the Common Elements. There shall be no exterior fires whatsoever.

6.10 *Dust Control.* Under no circumstances shall an Owner disturb its natural soil, grass, or growth, unless the owner immediately thereafter constructs on, paves, gravels, or re-plants such disturbed area with ground cover approved by the Executive Board.

6.11 *Pets.* Except for fish, there shall be allowed no more than three (3) household Pets in a Lot; provided however, that said pets may consist only of dogs, cats, fish and/or birds and may not be kept, bred, or maintained for any commercial purpose and do not become a nuisance or annoyance to neighbors. No animal shall be permitted on the Common Elements of the Master Association except when it is leashed or carried by hand and is in an area (if any) that the Master Association has designated for the walking of pets. The Master Association may ban any animal from the Common Elements, which becomes obnoxious, aggressive or intimidating. Owners must immediately clean up and properly dispose of any pet feces on the Common Elements. Any violation of the provisions of this Section 6.11 shall entitle the Master Association to require any such pet to be removed permanently from the Project.



6.12 Fencing. No fencing of any kind, including but not limited to boundary walls or fences, shall be permitted to be constructed upon the Single Family Lots, with the exception of garden or other ornamental fencing, dog runs or similar enclosures for containing domestic animals, subject to Section 6.11. No such permitted structure shall exceed a height of six (6) feet. Prior to the installation of fencing of a type permissible under this Section 6.12, the Owner must obtain approval from the Architectural Committee in accordance with Article 8 of this Declaration.

6.13 Alterations. Without limiting the generality of this subsection, no portion of the Common Elements or Improvements thereon shall be modified in any manner whatsoever without the prior written consent of the Executive Board which shall be obtained in accordance with Article 8 of this Declaration.

6.14 Relief, Warranties. The Master Association shall have the power, but not the obligation, to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article 6 for good cause.

6.15 Business or Commercial Activity. No part of the Project shall ever be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including, without limitation, any activity for which the provider is compensated in any way or receives any form of consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license. The provisions of this Section 6.15 shall not preclude any of the above-described activities without external evidence thereof, provided that all of the following conditions are fulfilled: (i) such activities are conducted in conformance with all applicable governmental ordinances; (ii) the patrons or clientele of such activities do not visit the Single Family Lot or park automobiles or other vehicles within the Project; (iii) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside of the boundaries of the Single Family Lot; (iv) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (v) such activities are consistent with the residential character of the Project and conform with the provisions of this Declaration.

6.16 No Further Subdivision. No Owner may further subdivide a Single Family Lot without the prior written approval of the Executive Board; provided, however, that nothing in this Section 6.16 shall be deemed to prevent an Owner from, or require the approval of the Board for (i) selling a Single Family Lot; or (ii) transferring or selling any Single Family Lot to more than one (1) Person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property; or (iii) the leasing or renting by any Owner of all of such Owner's Single Family Lot in accordance with the provisions of the Association Governing Documents.

6.17 Water and Sewer Systems. No exterior individual water supply system, water softener system, water conditioner system or sewage disposal system shall be

permitted unless previously approved in writing by the Board and such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of the applicable water or sewer district and any applicable governmental health authority having jurisdiction.

6.18 *Leases.* No portion of a Single Family Lot (other than the entire Single Family Lot) may be rented. Regardless of whether or not expressed in the applicable lease, all Owners shall be jointly and severally liable with the tenants of such Single Family Lot to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for any injury or damage to property caused by the negligence of the tenant of such Single Family Lot or for the acts or omissions of the tenant(s) of such Single Family Lot which constitute a violation of, or non-compliance with, the provisions of this Declaration, and the Rules and Regulations. All leases shall comply with and be subject to the provisions of the Master Association Governing Documents and the Association Governing Documents and the provisions of same shall be deemed expressly incorporated into any lease of a Single Family Lot. This Section 6.18 shall also apply to subleases and assignments and renewals of leases. Any rental or lease that is less than thirty (30) days must be approved by the Board of Directors prior to engaging in said rental or leasing activity.

ARTICLE VII INSURANCE

7.1 *Duty to Obtain Insurance; Types.*

(a) *Liability Insurance.* Not later than the time of the first conveyance of a portion or all of the Common Elements to the Master Association, the Executive Board shall cause to be obtained and maintained adequate blanket public liability insurance (including medical payments), not less than One Million Dollars (\$1,000,000) covering all claims for personal injury and Project damage arising out of a single occurrence, insuring against liability for bodily injury, death and Project damage arising out of or in connection with the use, ownership or maintenance of the Common Elements.

(b) *Fire and Casualty Insurance.* The Executive Board shall also cause to be obtained and maintained a blanket policy of property insurance covering all structural elements of the Project owned by the Master Association. Such coverage shall afford fire, extended coverage and special perils protection (if reasonably available) on a replacement cost basis to all building elements owned by the Master Association. Restoration of the foregoing will be replacement according to the original plans and specifications. Insurance coverage of the Single Family Lot and the Limited Common Elements shall be the responsibility of the Owner and the Owner shall be obligated to obtain coverage under such Owner's own policy of insurance to afford liability insurance (including medical payments), fire, extended coverage and special perils protection on a replacement cost basis to the entire Single Family Lot. Restoration of the foregoing will be replacement according to the original plans and specifications. Owner shall also obtain adequate coverage for such items and for

any damage, which may occur to the Common Elements, or Limited Common Elements resulting from an occurrence within such Owner's Single Family Lot. Thus each Owner must arrange individual insurance to supplement the Association's policy to provide for coverage for losses not covered by the Association's policy. It is also not the intent of the Association's blanket policy of insurance to provide coverage for losses of a minor nature, maintenance items, occurrences which fall below the deductible, nor those incidences and properties as outlined above. Each Owner acknowledges that the Owner is ultimately responsible for damage to such Owner's Single Family Lot if such damage is not covered by the Owner's insurance policy.

(c) *Fidelity Bonds.* Fidelity bond coverage which names the Master Association as an obligee must be obtained by or on behalf of the Master Association for any Person handling funds of the Master Association including, but not limited to, officers, directors, trustees, employees and agents of the Master Association and employees of the Manager, whether or not such Persons are compensated for their services. The total amount of the bond shall be based upon the best business judgment of the Executive Board, and shall not be less than the greater of the estimated maximum funds, including reserve funds, in the custody of the Master Association or the management agent, as the case may be, at any given time during the term of each bond, or the sum equal to three months' aggregate Assessments on all Members plus reserve funds.

(d) *Other Insurance.* The Executive Board shall purchase such other insurance, as necessary, including, but not limited to, errors and omissions, directors, officers and agents liability insurance, plate glass insurance, medical payments, malicious mischief, liquor liability and vandalism insurance, fidelity bonds and worker's compensation, and such other risks as shall customarily be covered with respect to the projects similar in construction and use.

(e) *Beneficiaries:* Such insurance shall be maintained for the benefit of the Master Association, the Members and the Owners.

7.2 *Waiver of Claim Against Master Association.* As to all policies of insurance maintained by or for the benefit of the Master Association, the Members and the Owners, the Master Association, the Members and the Owners hereby waive and release all claims against one another, the Executive Board, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said Persons.

7.3 *Notice of Expiration Requirements.* If available, each of the policies of insurance maintained by the Master Association shall contain a provision that said policy shall not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days prior written notice to the Executive Board. In addition, fidelity bonds shall provide that they may not be canceled or substantially modified without thirty

(30) days prior written notice to any insurance trustee named pursuant to Section 7.5 of this Declaration who has filed a written request with the carrier for such notice.

7.4 Insurance Premiums. Insurance premiums for any blanket insurance coverage obtained by the Master Association and any other insurance deemed necessary by the Executive Board shall be a Common Expense to be included in the Annual Assessments levied by the Master Association and collected from the Members. That portion of the Annual Assessments necessary for the required insurance premiums shall be separately accounted for by the Master Association in the Reserve Fund, to be used solely for the payment of premiums of required insurance as such premiums become due.

7.5 Trustee for Policies. The Master Association, through its Executive Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Master Association. All insurance proceeds under any such policies as provided for in Section 7.1 of this Declaration shall be paid to the Executive Board as trustees. The Executive Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Master Association for the repair or replacement of the property for which the insurance was carried or otherwise held in trust for the Master Association, Members, Owners and lien holders as their interests may appear. The Executive Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction. Any two (2) officers of the Master Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds. A representative chosen by the Executive Board may be named as an insured, including a trustee with whom the Master Association may enter into an insurance trust agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions necessary to accomplish this purpose.

7.6 Actions as Trustee. Except as otherwise specifically provided in this Declaration, the Executive Board, acting on behalf of the Master Association and the Members, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Master Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of fire and casualty insurance maintained by the Master Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Master Association to all Members, Owners and Mortgagees who have requested the same in writing.

7.7 Annual Insurance Review. The Executive Board shall review the insurance carried by or on behalf of the Master Association at least annually, for the purpose of determining the amount of the casualty and fire insurance referred to in Section 7.1 of this

2019-001219 ARES Page: 26 of 40
01/31/2019 02:23:04 PM Receipt #: 19-0845
Rec Fee: \$45.00 Shaw And Lines, LLC
Gila County, Az, Sadie Jo Elingham, Recorder

Declaration. If economically feasible, the Executive Board shall obtain a current appraisal of the full replacement value of the Improvements on the Common Elements, without deduction for depreciation, from a qualified independent insurance appraiser, prior to each such annual review.

7.8 *Required Waiver.* All policies of physical damage and liability insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

- (a) subrogation of claims against the Owners or members of an Owner's household;
- (b) any defense based upon co-insurance;
- (c) any right of setoff, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Master Association;
- (d) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Master Association or any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured;
- (e) any right of the insurer to repair, rebuild or replace;
- (f) notice of the assignment of any Owner of such Owner's interest in the insurance by virtue of a conveyance of any Lot; and
- (g) any right to require any assignment of any Mortgage to the insurer.

Each such policy shall also provide, to the extent reasonably available, that (i) each Member is an insured Person under the policy with respect to liability arising out of a Membership, and (ii) the policy provides primary coverage in the event an Owner has a policy covering the same risk.

ARTICLE VIII ARCHITECTURAL REVIEW

8.1 *Members of Architectural Committee.* The Executive Board shall appoint the members of the Architectural Committee. The Architectural Committee members need not be Members or Owners, provided however, that at least one member of the Architectural Committee shall also be a member of the Executive Board. The Architectural Committee shall have sole authority to execute and direct the provisions contained in this Article 8. The Architectural Committee shall have the right and duty to promulgate

reasonable standards against which to examine any request made pursuant to this Article 8, in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials of the buildings in the Project.

8.2 *Review of Plans and Specifications.* The Architectural Committee shall consider and act upon any and all plans and specifications certified by an architect or engineer duly licensed in the State of Arizona submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Executive Board, including the inspection of construction in progress to assure its conformance with plans approved by the Architectural Committee. No construction, alteration, removal, relocation, repainting, demolishing, addition, installation, modification, decoration, redecoration or reconstruction of an Improvement, including landscaping, in the Project shall be commenced or maintained, until the plans and specifications therefore certified by an architect or engineer duly licensed in the State of Arizona, or otherwise authorized by the Architectural Committee, showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to the Architectural Committee and approved in writing by the Architectural Committee; provided however, that any Improvement may be repainted without Architectural Committee approval so long as the Improvement is repainted the identical color which it was last painted. The Owner or Member submitting the plans and specifications (the Applicant) shall obtain a written, dated receipt therefore from an authorized agent of the Architectural Committee. Until changed by the Executive Board, the address for the submission of such plans and specifications shall be the principal office of the Master Association. The Architectural Committee shall approve plans and specifications submitted for its approval only if it deems that the installation, construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the Project as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Elements or the enjoyment thereof by the Members and Owners, and that the upkeep and maintenance thereof will not become a burden on the Master Association.

The Architectural Committee may condition its approval of proposals or plans and specifications for any Improvement: (i) upon the Applicant's furnishing the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be : recorded against the Project as a result of such work, (ii) on such changes therein as it deems appropriate, (iii) upon the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements, (iv) upon the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption, (v) upon the Applicant's agreement to reimburse the Association for the cost of maintenance, (vi) upon the Applicant's agreement to complete the proposed work within a stated period of time, or (vii) all of the above or any other consideration which it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Architectural Committee may also issue rules or guidelines setting forth

procedures for the submission of plans for approval, requiring a fee to accompany each application for approval, or stating additional factors which it will take into consideration in reviewing submissions. The Architectural Committee may provide that the amount of the fee shall be uniform or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper including, without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the Architectural Committee of any required plans and specifications, the Architectural Committee may postpone review of any plans submitted for approval. Decisions of the Architectural Committee and the reasons therefore shall be transmitted by the Architectural Committee to the Applicant at the address set forth in the application for approval within forty-five (45) days after receipt by the Architectural Committee of all materials required by the Architectural Committee.

8.3 *Meetings of the Architectural Committee.* The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may from time to time, by resolution unanimously adopted in writing, designate a representative of the Architectural Committee (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to Section 8.8 of this Declaration.

8.4 *No Waiver of Future Approvals.* The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

8.5 *Compensation of Members.* The members of the Architectural Committee shall receive no compensation for services rendered in said member's capacity as a Board member, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

8.6 *Inspection of Work* The Architectural Committee or its duly authorized representative may at any time inspect any work for which approval of plans is required under this Article 8 (the "Work"), which right to inspect shall include the right to require the Applicant to take such action as may be necessary to remedy any non-compliance with the Architectural Committee-approved plans for the Work or with the requirements of this Declaration (a "Non-Compliance").

(a) *Time Limit.* The Architectural Committee's right to inspect the Work and notify the responsible Applicant of any Non-Compliance shall terminate sixty (60)

days after the latest to occur of the following events: (i) submittal of the plans for the Work to the Architectural Committee for its approval as provided in this Article 8; (ii) completion of the Work as provided in the Architectural Committee approved plans; and (iii) written notice from the Applicant to the Architectural Committee that the Work has been completed. This time limit for inspection *and* notification by the Architectural Committee shall be extended indefinitely if any of these conditions has not occurred. If the Architectural Committee fails to send a Notice of Non-Compliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

(b) *Remedy.* If an Applicant fails to remedy any Non-Compliance within sixty (60) days from the date of notification from the Architectural Committee, the Architectural Committee shall notify the Executive Board in writing of such failure. Upon Notice and Hearing, as provided in the Bylaws, the Executive Board shall determine whether there is a Non-Compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Non-Compliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Executive Board ruling is given to the Applicant. If the Applicant does not comply with the Executive Board ruling within that period, the Executive Board, at its option, may Record a notice of Non-Compliance and commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the Non-Compliance.

8.7 *Scope of Review.* The Architectural Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features. The Architectural Committee's approval or disapproval shall be based solely on the considerations set forth in this Article 8 and the Architectural Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. The Architectural Committee may consider the impact of views from other Single Family Lots or Subassociation Projects and reasonable privacy right claims as factors in reviewing, approving or disapproving any proposed landscaping, construction or other Improvement. However, the Declarant does not warrant any protected views within the Project and no Single Family Lots or Subassociation Project is guaranteed the existence or unobstructed continuation of any particular view.

8.8 *Variances.* The Architectural Committee may recommend to the Executive Board and the Executive Board may grant variances from compliance with any of the architectural provisions of this Declaration including, without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by a majority of the Executive Board, and shall become effective upon Recordation. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the

variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Applicant's obligation to comply with all governmental laws and regulations.

8.9 *Fees and Deposits.* The Architectural Committee may from time to time adopt, revise and amend a schedule of application fees, which may include additional or supplemental fees in connection with resubmittals or changed, revised, or amended plans. Such schedule shall be subject to the approval of the Executive Board, in accordance with the Declaration. Any and all such fees may vary (for example, but without limitation) based upon the type of structure or improvement for which approval is sought. The Architectural Committee shall also have the right, as its option, to require that an Owner provide to the Architectural Committee, at the time such Owner applies for approval of its plans or at such other time to final completion of construction as the Architectural Committee may require, a refundable deposit in such amount as the Architectural Committee may specify; in such case, such deposit shall be held by the Architectural Committee as security for full compliance by the Owner and its agents, employees, contractors and subcontractors, and all others performing work, with the requirements of this Declaration. Such deposit may be applied by the Architectural Committee (or by the Executive Board) to reimburse the Architectural Committee (or the Executive Board or the Master Association, as applicable) for any expenses incurred to cure, correct, or remedy any breach or noncompliance with the requirement of this Declaration. Upon final completion of all construction or other work on a Single Family Lot (including, without limitation, completion of all landscaping installation), and verification through an inspection by a representative of the Architectural Committee that all such work was completed in accordance with the approved plans and specifications, the Architectural Committee shall return such deposit (or any remaining balance thereof, if any portion thereof was previously applied to a breach or noncompliance as provided in the preceding sentence) to the Owner who made such deposit. The Architectural Committee shall have the right, in its sole discretion, to reduce or waive any fee or deposit otherwise required in such circumstances as the Architectural Committee may deem appropriate.

ARTICLE IX DESTRUCTION OF IMPROVEMENTS

9.1 *Restoration of the Project.* Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Common Elements, the repair or replacement of which is the responsibility of the Master Association, it shall be the duty of the Master Association to restore and repair the same to its former condition as promptly as practical. The proceeds of any insurance maintained pursuant to Article 7 of this Declaration for reconstruction or repair of the Project shall be used for such purpose, unless (i) the Project is terminated; (ii) repair or restoration would be illegal under any state or local statute or ordinance governing health or safety; or (iii) the Owners representing at least eighty percent (80%) of the Single Family Lots vote not to rebuild. The Executive Board shall be authorized to prepare the necessary documents to effect such reconstruction as

promptly as practical. The Project shall be reconstructed or rebuilt substantially in accordance with the applicable Map and the original construction plans, if they are available, unless changes recommended by the Executive Board have been approved in writing by Members holding sixty-seven percent (67%) of the voting interest in the Master Association. A Capital Improvement Assessment shall be levied by the Executive Board to provide the necessary funds for such reconstruction, over and above the amount the proceeds attributable of any insurance proceeds available for such purpose. If the entire Project is not repaired or replaced, then to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project; provided however, that such proceeds shall first be applied to the balance then due on any Mortgage encumbering the Improvements within the Common Elements, if any, in order of priority.

9.2 *Partition.* There shall be no judicial partition of the Common Elements or of any other Subassociation Project which are part of the Project, or any part thereof. Except as provided above, each Member specifically waives and abandons all right, interest and cause of action for a judicial partition of its interests in such portions of the Project and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

9.3 *Notice to Members, Owners and Eligible Mortgagees.* The Executive Board, immediately upon having knowledge of any damage or destruction affecting a material portion of the Common Elements or Improvements thereon, shall promptly notify all Owners, Members and Eligible Mortgagees.

ARTICLE X EMINENT DOMAIN

10.0 *Eminent Domain.* The term taking as used in this Article 10 shall mean condemnation agreements regarding takings of the Common Elements, or any part thereof:

10.1 *Condemnation Award.* If there is a taking of all or any portion of the Common Elements or any interest therein; then the award in condemnation shall be paid to the Master Association and shall be deposited in the Operating Fund.

10.2 *Notice to Owners, Members and Eligible Mortgagees.* The Executive Board, upon learning of any taking affecting a material portion of the Common Elements or Improvements thereon, or any threat thereof, shall promptly notify all Owners, Members and Eligible Mortgagees.

ARTICLE XI MORTGAGES

11.1 *Eligible Mortgagees.* Any Mortgage in first lien position on a Lot or the Common Elements shall be entitled to become an Eligible Mortgagee by notifying the

Master Association of its name, address and the address of the Lot or Common Element encumbered by the Mortgage in first lien position which it holds, in the manner provided in Section 20.9 of this Declaration. Any holder of a Mortgage in first lien position who does not so request notice, shall not be deemed to be an Eligible Mortgagee under the terms of this Declaration and shall not be entitled to any notices from the Master Association.

11.2 *Rights of Mortgagees.* Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration shall operate to defeat or render invalid the rights of any Mortgagee under a Mortgage secured by Improvements in the Common Elements made in good faith and for value, provided that after the foreclosure of any such Deed of Trust such Improvements shall remain subject to this Declaration, as amended.

ARTICLE XII DURATION, AMENDMENT AND TERMINATION OF DECLARATION

12.1 *Duration.* This Declaration shall continue in full force for a term of twenty (20) years from the date of Recordation hereof, after which the term shall be automatically extended for successive periods often ten (10) years, unless terminated as set forth in Section 12.3 of this Declaration.

12.2 *Amendment to Declaration.*

(a) *Amendment by the Owners.* The Executive Board may propose an amendment to this Declaration upon its own initiative via a majority vote of the Executive Board or upon request of the Owners (even though such Owners are not Members) of not less than ten percent (10%) of the Single Family Lots. The notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting at which a proposed amendment is to be considered. The resolution shall be adopted by the vote, in person or by written consent of the Owners representing not less than seventy-five percent (75%) of the Membership; provided however that the specified percentage of the voting power necessary to amend a specified Section or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that section or provision. The Owner approval described in this Section 12.2(b) shall not be required for amendments that may be executed by the Declarant, by the Master Association or by certain Owners.

(c) *Recordation of Amendment.* A copy of each amendment shall be certified by the president or any officer of the Master Association so designated and the amendment shall be effective when Recorded.

12.3 *Termination of Declaration.* Except in the case of a taking of all Lots by eminent domain, termination of this Declaration shall require approval by the Owners representing at least eighty percent (80%) of the Membership. No such

termination shall be effective unless it is also approved in advance either by fifty-one percent (51%) of the Eligible Mortgagees (if said termination is proposed by reason of the substantial destruction of the Project) or by sixty-seven percent (67%) of the Eligible Mortgagees (if said termination is for reasons other than such substantial destruction of the Project). An agreement to terminate this Declaration must be evidenced by the execution of an agreement to terminate in the same manner as a deed by the requisite number of Owners. The agreement to terminate must specify a date after which the agreement will be void unless it is recorded.

ARTICLE XIII SECURITY DISCLAIMER

The Master Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it might otherwise be.

THE MASTER ASSOCIATION SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROJECT, THE MASTER ASSOCIATION NOR ANY SUCCESSOR SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ANY SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE MASTER ASSOCIATION AND ITS EXECUTIVE BOARD, ANY SUCCESSOR DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED OR INSTALLED ACCORDING TO THE GUIDELINES ESTABLISHED BY THE MASTER ASSOCIATION MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER OR OCCUPANT OF ANY SINGLE FAMILY LOT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE MASTER ASSOCIATION, ITS EXECUTIVE BOARD AND COMMITTEES ARE NOT INSURERS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY SINGLE FAMILY LOT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISK FOR LOSS OR DAMAGE TO PERSONS, PERSONAL ITEMS, LOTS AND THE CONTENTS OF THE SINGLE FAMILY LOTS AND FURTHER ACKNOWLEDGES THAT THE MASTER ASSOCIATION, ITS EXECUTIVE BOARD AND COMMITTEES OR ANY SUCCESSOR HAVE MADE NO REPRESENTATIONS OR

WARRANTIES NOR. HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY TO FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROJECT.

2019-001219 ARES Page: 35 of 40

01/31/2019 02:23:04 PM Receipt #: 19-0845

Rec Fee: \$45.00 Shaw And Lines Llc

Gila County, Az, Sadie Jo Bingham, Recorder



ARTICLE XIV VIOLATIONS

14.1 *Violations Identified by the Master Association.* If the Executive Board determines that there is a violation of any provision of the Master Association Governing Documents, then the Executive Board shall give written notice to the responsible Member identifying (i) the condition or violation complained of, (ii) the Owner who may be responsible, if such information is readily available, and (iii) the length of time the Member has to remedy the violation, including, if applicable, the length of time the Member has to submit plans to the Executive Board and the length of time the Member has to complete the work proposed in the plans submitted to the Executive Board.

If a Member does not perform such corrective action as is required by the Executive Board within the allotted time, the Executive Board may undertake to remedy such condition or violation complained of, and the cost thereof shall be charged to the Member as a Special Assessment. Such Special Assessment shall be subject to enforcement and collection by the Executive Board in accordance with the procedures provided for in this Declaration.

If the violation involves non-payment of any type of Assessment, then the Executive Board shall be entitled to collect such delinquent Assessment pursuant to the procedures set forth in Article 5 of this Declaration.

14.2 *Legal Proceedings.* Failure to comply with any of the terms of the Master Association Governing Documents by a Member, an Owner, or an Owner's Family, guests, employees, invitees or tenants shall be grounds for relief which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof; provided however, that the procedures established in this Declaration must first be followed, if they are applicable.

14.3 *Limitation on Expenditures.* The Master Association shall not incur litigation expenses including, without limitation, attorneys' fees, where the Master

Association initiates legal proceedings or is joined as a plaintiff in legal proceedings without the approval of the Members holding a majority of the voting power of the Master Association. Such approval shall not be necessary if the legal proceedings are initiated to (i) enforce the Master Association Governing Documents, or (ii) collect any unpaid Assessments levied pursuant to this Declaration.

14.4 *Schedule of Fines.* The Executive Board may adopt a schedule of reasonable fines or penalties and a policy for administering such fines or penalties, which fines or penalties, in its reasonable discretion, it may assess against a Member for the failure of a Member, Owner, invitees, tenants, guests or Family to comply with any provisions of the Master Association Governing Documents. Such fines or penalties may only be assessed by the Executive Board, against the Member on behalf of the violating Owner, after Notice and Hearing. The Member shall then have the authority to pass on the fines or penalties against an offending Owner who may be found to have been responsible for such violation.

14.5 *Right to Enforce.* The Executive Board and any Member (not at the time in default hereunder) shall be entitled to enforce the Master Association Governing Documents as described in this Article 18. If any enforcement action is filed by the Master Association to enforce the provisions of the Project Documents or in any other manner arising out of the Project Documents or the operations of the Master Association, the Master Association shall be entitled to recover from the other party all attorney fees incurred by the Master Association, whether or not suit is filed.

Article XV GENERAL PROVISIONS

15.1 *No Waiver.* Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce that provision, or any other provision in this Declaration.

15.2 *Attorneys' Fees.* If any action is effectuated by the Master Association to enforce the provisions of the Master Association Governing Documents or in any other manner arising out of the Master Association Governing Documents or the operations of the Master Association, the Master Association shall be entitled to recover from the other party all attorney fees incurred by the Master Association, whether or not suit is filed. Said fees shall be apart of the Master Association Lien.

15.3 *Severability.* The provisions of this Declaration shall be deemed independent and severable and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provisions of this Declaration.

15.4 *Captions.* The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

15.5 *Number and Gender.* As used herein, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the other, unless the context dictates otherwise.

15.6 *No Public Right or Dedication.* Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Project to the public or for any public use.

15.8 *Non-liability and Indemnification.*

(a) *General Limitation.* Except as specifically provided in the Master Association Governing Documents or as required by law, no right, power, or responsibility conferred on the Executive Board by the Master Association Governing Documents shall be construed as a duty, obligation or disability charged upon the Executive Board, any member of the Executive Board or any other officer, employee, agent or committee members of the Master Association. Such Persons are subject to the insulation from liability provided for directors of corporations by the laws of the State of Arizona to the fullest extent provided by such laws. Members of the Executive Board are not personally liable to the victims of crimes occurring on the Project.

(b) *Indemnification.* When liability is sought to be imposed on a member of the Executive Board, an officer, committee member, employee or agent of the Master Association, the Master Association shall indemnify him or her for his or her losses or claims and undertake all costs of defense, unless and until it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof, the Master Association is no longer liable for the cost of defense due to the willful or wanton misfeasance or gross negligence of such Person and may recover costs expended from the individual who so acted. Punitive damages may not be recovered against the Master Association, but may be recovered from Persons whose activity gave rise to the damages. This Section 15.8 shall be construed to authorize payments and indemnification to the fullest extent nor or hereafter permitted by applicable law. The entitlement to indemnification hereunder shall inure to the benefit of the estate, executor, administrator, heirs, legatees, or devisees of any Person entitled to such indemnification.

15.9 *Notices.* Except as otherwise provided in this Declaration, the Master Association is only required to provide notice to the Member and not the Owner and notice to be given to a Member shall be in writing and may be delivered personally to the Member. Personal delivery of such notice to any officer or agent for the service of process on a

2019-001219 ARES Page: 38 of 40
01/31/2019 02:23:04 PM Receipt #: 19-0845
Rec Fee: \$45.00 Shaw And Lines LLC
Gila County, Az. Sadie Jo Bingham, Recorder


corporation shall be deemed delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the Member or, where required hereunder, to an Owner, at the most recent address furnished by such Member or Owner to the Master Association or, if no such address shall have been furnished by an Owner, to the street address of such Owner's Single Family Lot. Such notice shall be deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Members or of the Executive Board, in which case the notice provisions of the Bylaws shall control. Any notice to be given to the Master Association may be delivered personally to any member of the Executive Board or sent by United States mail, postage prepaid, addressed to the Master Association at such address as shall be fixed from time to time and circulated to all Members.

15.10 *Priorities and Inconsistencies.* If there are conflicts or inconsistencies between this Declaration and either the Articles or the Bylaws, the terms and provisions of this Declaration shall prevail over the Articles and Bylaws; and the terms and provisions of the Articles shall prevail over the Bylaws.

15.11 *Constructive Notice and Acceptance.* Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Single Family Lot or a portion of the Project does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such Person acquired an interest in the Project, or any portion thereof.

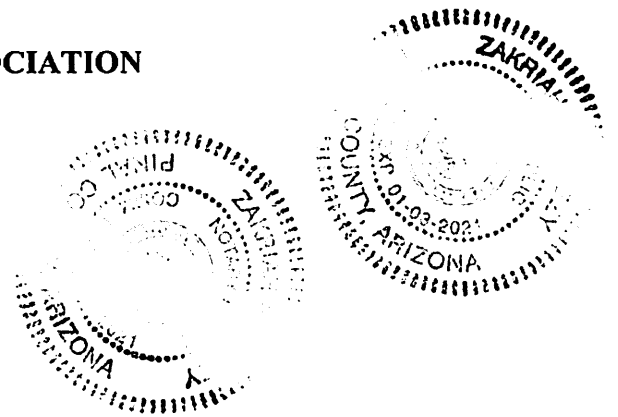
IN WITNESS WHEREOF, Highlands at the Rim Community Association, an Arizona nonprofit corporation, has executed this Amendment as of the day and year first above written.

HIGHLANDS AT THE RIM COMMUNITY ASSOCIATION
an Arizona nonprofit corporation

By: 
Its: President

State of Arizona)
County of Maricopa) ss.
Gila)

30 SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before ²⁶ me this 30 day of January, 2018, by Daniel Krishna Poty, the President of Highlands at the Rim Community Association, an Arizona nonprofit corporation, for an on behalf of the corporation.



My Commission Expires: 01/13/2021

Notary Public



SECRETARY'S ATTESTATION

I, Phillip m Poty, being the duly elected Secretary of Highlands at the Rim Community Association, hereby attests that the foregoing Amendment was assented to by a written instrument signed by not less than 75% of the owners who own Lots within the Association.

By: Phillip m Poty

Secretary, Highlands at the Rim Community Association

State of Arizona)
County of Mavupa) ss.
~~Gila~~

30th SUBSCRIBED, SWORN ²⁶₉ TO AND ACKNOWLEDGED before me this Sunday, 2018, by Phillip Maurice Poty, the Secretary of Highlands at the Rim Community Association, for an on behalf of the corporation.

Notary Public

My Commission Expires: 01-03-2021

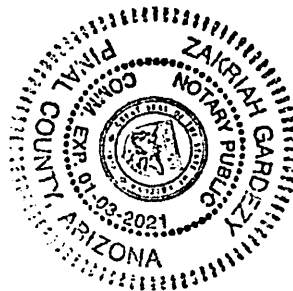


EXHIBIT "A"
PROPERTY

Lots 1 through 126 and Tracts A through K of HIGHLANDS AT THE RIM, according to the plat of record in the office of the County Recorder of Gila County, Arizona, recorded in Map(s) No. 737A737E and Affidavit of Correction recorded in the office of the County Recorder of Gila County, Arizona as Instrument No. 2003-019027; and an exclusive easement for drainage detention recorded as 2002-012602 official records of Gila County, Arizona over a portion of tract "C-3" of Whisper Ridge according to Map No.(s) 743A and 743B official records of Gila County, Arizona.

***Please note that Lots 1 through 88 are not subject to this Declaration.**

