

DISCLAIMERS

This document is NOT the officially recorded document. Please refer to Yavapai County Records which include the witness and notary signature pages at <https://www.yavapiaz.gov/Mapping-and-Properties/Recorders-Office>

Recorded documents, which include the witness and notary signature pages, are found by searching in the Yavapai County Records website under the Mapping and Properties Tab as follows:

Declaration of CC&Rs for the Highlands Book 4381/Page 801

First Amendment Book 4391/Page 997

Second Amendment Book 4419/Page 931

Third Amendment Book 4899/Page 347

A Declaration of Covenants, Conditions and Restrictions made by PTM Enterprises, LLC, affecting the Single Story Lots known as Exhibit 1, Legal Description of Real Properties, is NOT included. Please reference Reception Number 2018-0061950 of the Yavapai County Records website for more information.

NOTES

- 1. This pdf is provided strictly as a convenience to all Members of the Crossroads at Mingus HOA for their use and review. This pdf is provided as a word/term searchable document only. Format is provided for clarity of Articles and sub-Articles and does not follow the legal format.**
- 2. This document incorporates all declarations and amendments to the Crossroads at Mingus COVENANTS, CONDITIONS AND RESTRICTIONS as indicated above for ease of searchability. For the recorded documents, please reference the website above.**
- 3. This pdf will be updated when subsequent amendments are recorded.**
- 4. Grammatical and/or typographical errors are found in the originally recorded document and NOT corrected here.**

FIRST AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED APRIL 5, 2006, IN BOOK 4381 OF OFFICIAL RECORDS PAGE 801, YAVAPAI COUNTY, ARIZONA:

This Amendment is for the sole purpose of correcting a typographical error included in Schedule “B” of Book 4381 of Official Records Page 801, Yavapai County. Verbiage to be changed referring to Corner Lot Restrictions reads “218” and is hereby changed to “216”, per this amendment to the Covenants, Conditions and Restrictions.

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS THE HIGHLANDS

This Second Amendment for the sole purpose of adding /or deleting changes to the following sections in the Covenants, Conditions and Restrictions recorded on April 5, 2006, in Book 4381 of Official Records, Page 801, Yavapai County, Arizona:

THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE CROSSROADS AT MINGUS (formerly known as The Highlands)

This Third Amendment to Declaration of Covenants, Conditions and Restrictions for The Crossroads at Mingus (formerly known as The Highlands) (“Third Amendment”) is made this 6th day of June, 2012, by the Association Owners.

RECITALS

- A. The Crossroads at Mingus consists of that certain real property located in the Town of Clarkdale, Arizona, described on Exhibit 1 attached hereto (the “Property”). The Property formerly known as The Highlands.
- B. The Property currently is subject to that certain Declaration of Covenants, Conditions and Restrictions for The Highlands, which was recorded in the Official Records of Yavapai County on April 6, 2006 at Book 4381, Page 801, as amended by the first Amendment to Declaration of Covenants, Conditions and Restrictions for The Highlands, which was recorded in the Official Records of Yavapai County on May 5, 2006 at Book 4391, Page 997, and the Second Amendment to Declaration of Covenants, Conditions and Restrictions for The Highlands, which was recorded in the Official Records of Yavapai County on July 26, 2006 at Book 4419, Page 931 (collectively, the “Declaration”).
- C. The prior Declarant, Verde Highlands, LLC, no longer has any right, title, or interest in the Property. The current Declarant has accepted an assignment of Verde Highlands, LLC’s rights, power and duties under the Declaration.
- D. Section 11.16(A) of the Declaration permits the Declarant and the Owners to amend the CC&Rs with the affirmative written assent or vote of the Owners (including Declarant) holding not less than seventy-five percent (75%) of the votes.
- E. The Owners desires to amend the Declaration to facilitate the development and governance of the Property as provided below.

1. Effect of Third Amendment. This Third Amendment shall amend and supersede the Declaration as expressly set forth herein, and otherwise, the Declaration is hereby ratified and shall continue in full force and effect. Without limitation of the foregoing, the Declaration and this Third Amendment shall be construed together as a single instrument, provided, in the event of any conflict between the Declaration and this Third Amendment, this Third Amendment shall control.

ARTICLE 1 DEFINITIONS

Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows. Defined terms should appear throughout this Declaration with the initial letter of such term capitalized.

- 1.1 "Additional Property" shall mean real property and any improvements thereon, which is added to the Project, and made subject to this Declaration, in one or more additional phases, by a recorded Declaration of Annexation.
- 1.2 "Annual Assessment" means the Assessment levied against a Lot, and the Owner thereof, pursuant to Section 5.2 of this Declaration.
- 1.3 "Annual Budget" means the amounts described in Section 5.2(B) of this Declaration.
- 1.4 "Architectural Committee" means the architectural committee or committees established by the Board.
- 1.5 Section reference maintained to preserve numbering.
- 1.6 "Affiliate" means with respect to any Person, any Person directly or indirectly Controlling, Controlled by or under common Control with such Person.
- 1.7 "Articles" means the Articles of Incorporation of the Association, which have been or will be filed in the Office of the Corporation Commission of the State of Arizona, as such Articles may be amended from time to time, or of any successor thereto.
- 1.8 "Assessments" means the charges levied and assessed pursuant to this Declaration.
- 1.9 "Assessment Lien" means the lien defined in Section 5.9(B) of this Declaration.
- 1.10 "Assessment Period" means the period for which the Annual Assessment is to be levied, as defined in Section 5.6 of this Declaration.
- 1.11 "Association" means The Crossroads at Mingus Property Owners' Association, an Arizona nonprofit corporation, and its successors and assigns.
- 1.12 "Association Rules" means the rules and regulations adopted by the Board of Directors of the Association pursuant to this Declaration, as may be amended from time to time.
- 1.13 "Board" means the Board of Directors of the Association.
- 1.14 "Boundary Fence" means a boundary fence or wall constructed upon the dividing property line or boundary between Lots or near or adjacent to said dividing property line when existing easements prevent a fence or wall from being located on the dividing property line, but does not include a Perimeter Wall.
- 1.15 "Bylaws" means the Bylaws of the Association (or of any successor thereto) adopted by the Board of the Association, as such Bylaws may be amended from time to time.
- 1.16 "Commercial Vehicle" means any of the following types of vehicles that are owned, leased or used by an Owner of a Lot or any of Owner's occupants: commercial truck, government vehicle, tractor,

tow truck, bulldozer, crane, ambulance, tour jeep, trolley, commercial delivery van, commercial car or pickup truck designated with business logos or advertising, semi, semitrailer, wagon, freight trailer or similar commercial vehicles.

1.17 "Common Area" means all real property, and the improvements thereon, owned by the Association, including easements granted to the Association, or leased from time to time by the Association, for the common use and enjoyment of the Members. Such Common Area shall include, but not be limited to, all private roadways within the Project and all gates providing ingress and egress thereto, as well as areas open to pedestrian access but closed to vehicular access. Common Area does not include, however, any real property described on the Plat as individual Lots, publicly dedicated streets, or other publicly dedicated areas. The real property (but not the improvements easements) initially comprising the Common Area is the property described on Exhibit B attached hereto and incorporated herein by reference.

1.18 "Common Expenses" means the actual and estimated costs incurred by the Association in administering, maintaining and operating the Project, including, but not limited to, the maintenance, management, operation, repair and replacement of the Common Area (including, by way of example and not of limitation, any and all open spaces, drywells, towers, signage, private lighting, ramadas, benches, tables, par course and other facilities, as well as the roadways, and the gates providing ingress and egress to the Project); collection of unpaid Assessments; management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees; the costs of fire, casualty, liability, workmen's compensation and/or other insurance covering the Common Area or obtained by the Association; reasonable reserves, if deemed appropriate by the Board; the costs of bonding of the members of the Board, the Association officers, and professional managing agent or any other person handling the funds of the Association; taxes paid or payable by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Area; costs incurred by the Architectural Committee or other committees established by the Board; any other expenses incurred by the Association for any reason whatsoever in connection with the Common Area; the costs of any other items designated by this Declaration, the Articles, Bylaws, Association Rules or Architectural Rules as being a Common Expense, payable by the Association, or a necessary or permissible expense for the maintenance, administration and/or operation of the Project and/or Common Area, whether stated or implied; and those costs incurred in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.19 "Consumer Price Index" means the index described in Section 5.2(C)(ii) of this Declaration.

1.20 "Control" means the possession, directly or indirectly, of the power to direct, or to cause the direction of, the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

1.21 "Declarant" means PTM Enterprises, LLC, an Arizona limited liability company, or any Owner to whom Declarant assigns Declarant's rights, powers and duties hereunder (which Declarant may do in its sole and absolute discretion) and who accepts the same, as may be established by a Notice of Assignment referring to this Declaration and recorded in the Real Property Records of Yavapai County, Arizona. For the purposes hereof, once an assignee has accepted the assignment of Declarant's rights, power and duties hereunder, any reference herein to "Declarant" shall mean such assignee. When appropriate herein, the term "Declarant" also shall mean an Affiliate or Declarant.

1.22 "Declaration" means this instrument, as it from time to time may be amended.

1.23 "Default Rate of Interest" means an annual rate of interest equal to the prime rate as announced by Bank of America (as the rate charged to its largest and most credit worthy customers) from time to time while interest is accruing plus three (3) percentage points (with interest hereunder adjusted as and when said prime rate is adjusted). Notwithstanding anything herein to the contrary, if, during any periods, the highest lawful rate of interest which may be paid by the Person required to pay the Default Rate of Interest hereunder, despite the provisions hereof, is less than the rate provided above, the interest payable by such Person during said periods shall be the highest lawful rate. If Bank of America should cease doing business or no longer announce its prime rate as described above, the Association may compute interest hereunder upon the announced prime rate of any other bank doing business in Arizona. If such banks should cease announcing prime rates, the Association may specify the rate under which the Association would reasonably have to pay to borrow money at the time.

1.24 "Design Guidelines" means such design guidelines, architectural standards, rules and regulations adopted by the Architectural Committee (which may be amended from time to time), and which have been approved by the Board. Any reference in the Declaration to "Architectural Rules" shall mean "Design Guidelines."

1.25 "Developer" means any Person to whom Declarant may expressly designate as a Developer under this Declaration by an instrument recorded with the County Recorder of Yavapai County, Arizona.

1.26 "Dwelling Unit" means any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by a Single Family.

1.27 "Improvement(s)" shall mean each and every physical improvement of any kind whatsoever to any portion of the Real Property, including, but not limited to, any excavation, grading, fill work, building, Dwelling Unit, walkway, driveway, road, parking area, wall, fence, swimming pool, utility installation, drainage facility, stairway, patio, courtyard, pole, sign, or any trees, grass, plants, shrubs or other landscaping and any and all components of any of the foregoing (including, but not limited to, exterior paint, texture, color and finish scheme) and any and all modifications, alterations of, or additions to, any of the foregoing.

1.28 "Lot" means any parcel of real property designated as a numbered lot on the Plat and any Improvements located thereon. The platted lots are referred to collectively herein as "Lots," and all such Lots in the Project are subject to the Declaration.

1.29 "Member" means every Person who qualifies for membership in the Association pursuant to this Declaration, including Declarant so long as Declarant or an Affiliate of Declarant owns any Lot within the Project, and including Developer so long as the Developer owns any Lot within the Project.

1.30 "Mortgage" means any duly recorded mortgage or deed of trust encumbering a Lot. A "First Mortgage" shall refer to a Mortgage that has a priority over any other Mortgage encumbering a specific Lot.

1.31 "Mortgagee" means the mortgage or beneficiary under any Mortgage. A "First Mortgagee" shall mean the holder of a Mortgage that has a priority over any other Mortgage encumbering a Lot.

1.32 "Owner" means one or more Persons who are alone or collectively the record owner of fee simple title to a Lot, including Declarant (so long as Declarant or an Affiliate of Declarant is the owner of a Lot) or the vendee under an installment land sales contract, but excluding those having any such interest merely as security for the performance of an obligation.

1.33 “Perimeter Wall” means a fence or wall separating the Project from adjacent property that is not part of the Project or separating a Lot from the Common Area.

1.34 “Person” means an individual, corporation, partnership, trustee or other entity capable of holding title to real property, and their respective heirs, successors and assigns.

1.35 “Personal Vehicle” means any domestic or foreign car, station wagon, sport wagon, pickup truck, van, mini-van, jeep, sport utility vehicle, alternate fuel vehicle, motorcycles and similar non-commercial and non-Recreational Vehicles that are owned, leased or used by the Owner of the applicable Lot or the Owner's occupants.

1.36 “Plat” means collectively the plat of The Highlands as now recorded, or to be recorded in the future, in the Official Records of Yavapai County, Arizona, which subdivides the Real Property, and as thereafter from time to time amended or supplemented, including any plats or replats of specific portions of or parcels within the Real Property, together with all subsequent plats of subdivision for Additional Property annexed to the Real Property.

1.37 “Project” means the Real Property located in Yavapai County, Arizona, which is described in Exhibit A attached hereto, together with all Improvements located thereon or to be located thereon and all easements, rights, and appurtenances belonging thereto, together with all other real property and Improvements subsequently annexed to the Real Property.

1.38 “Project Documents” means this Declaration, the Articles, the Bylaws, the Association Rules, the Design Guidelines and the Plat, collectively, as any or all of the foregoing may be amended from time to time.

1.39 “Purchaser” means any Person other than Declarant (or an Affiliate of Declarant) or Developers who by means of a voluntary transfer becomes the Owner of a Lot other than a Person who, in addition to purchasing a Lot, is assigned any or all of Declarant’s or Developers' rights under this Declaration.

1.40 “Real Property” or “Property” means all the real property located in Yavapai County, Arizona, which is described on Exhibit A attached hereto, together with all Improvements located thereon or to be located thereon and all easements, rights and appurtenances belonging thereto, together with all other real property and Improvements subsequently annexed to the Real Property.

1.41 “Recreational Vehicle” means any of the following types of vehicles or equipment: boats, snowmobiles, jet ski all terrain vehicles, boat trailers, golf carts (whether licensed for street use or not), flatbeds, automobile trailers, pickup trucks with camper shells (whether or not equipped with sleeping with sleeping quarters), pontoons, canoes, rafts, house boats, mobile homes, motor homes, portable camping trailers, park trailers, travel trailers, portable truck campers, dune buggies, go carts and other or similar recreational vehicles or equipment.

1.42 “Residence” means any subdivided Lot shown on the Plat, together with the residential Dwelling Unit, garage, patio and other Improvements thereon and all rights and easements appurtenant thereto granted pursuant to this Declaration and to the deed of conveyance.

1.43 “Screened From View” means that the object in question is appropriately screened when viewed from abutting Lots, Common Area and public and private streets by a gate, wall, shrubs or other approved landscaping or screening devices. The Architectural Committee will be the sole and absolute judge as to what constitutes an object being Screened From View and appropriately screened. An object may be

Screened From View, in the opinion of the Architecture Committee, even though the object is Visible From Neighboring Property and may be seen through be the approved screening.

1.44 "Side Yard Parking Area" means that portion of the Enclosed Side Yard of a lot that has been designated by the Architectural Committee as a place for the parking of Commercial Vehicles, Recreational Vehicles or Personal Vehicles. The plans and specifications for any Side Yard Parking Area must be approved in writing by the Architectural Committee prior to its installation or construction.

1.45 "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, together with their domestic servants, who maintain a common household.

1.46 "Special Assessment" means any Assessment levied and assessed pursuant to Section 5.5 of this Declaration.

1.47 "Town" means the Town of Clarkdale, Arizona.

1.48 "Visible From Neighboring Property" means with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property (which may include a Lot or any part of the Common Area) at an elevation no greater than the elevation of the base of the object being viewed.

1.49 "Working Capital Fund" means the reserve fund described in Section 5.13 herein.

1.50 "Yard" (whether capitalize or not) means all portions of the Lot other than the portions of the Lot upon which the Dwelling Unit is constructed. The term "Private Yard" means the portion or portions of the yard that generally are not Visible From Neighboring Property and are shielded or enclosed by walls, fences and similar structurally enclosed items (typically, a back or enclosed side yard of the Lot or a courtyard). The term "Open Yard" means that portion of the Yard that is Visible From Neighboring Property, whether located in front of, beside or behind a Dwelling Unit (typically, a front yard or an open side yard or a rear yard partially enclosed by a "view fence"). The term "Enclosed Side Yard" means the enclosed side yard portion of a Lot that is located behind, when viewed from the street in front of the Dwelling Unit, the front wall of a Lot. The Architectural Committee will be the sole and absolute judge as to what constitutes a side yard and an Enclosed Side Yard in accordance with this Declaration. Generally, however, for the purposes of interpreting this Declaration, the term "side yard" (whether capitalized or not) will be used to describe that portion of a Lot located between the Dwelling Unit and the side lot line and between the front and rear yard setback areas.

ARTICLE 2 DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION

2.1 Description of Project. The Project shall be composed of the Real Property described in Exhibit A attached hereto, together with all Improvements located thereon or to be located thereon and all easements, rights and appurtenances belonging thereto, together with all other real property and Improvements subsequently annexed to the Real Property.

2.2 Name of Project. The Project shall be referred to as "The Crossroads at Mingus."

2.3 Disclaimer of Representations. Declarant and Developers make no representations or warranties whatsoever that (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is recorded; (ii) any Property subject to this Declaration will be committed to

or developed for a particular use or for any use; or (iii) the use of any Property subject to this Declaration will not be changed in the future.

ARTICLE 3 THE ASSOCIATION

3.1 General Duties and Powers. In addition to the duties and powers provided by law and enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this article.

3.2 General Duties of the Association. The Association, through its Board, shall have the duty and obligation to:

A. Maintain and otherwise manage the Association and all of its properties to the full extent permitted by law, including:

(i) the Common Area and all Improvements thereon;

(ii) all personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association; and

(iii) all property, real or personal, which the Association is obligated to repair or maintain pursuant to this Declaration.

B. Pay all real and personal property taxes and other charges assessed to or payable by the Association.

C. Obtain for the benefit of the Common Area, water, electric, refuse collections and other services.

D. Establish an Architectural Committee to govern issues set forth in this Declaration as being within the purview of the Architectural Committee as well as other issues the Board deems suitable for the Architectural Committee. All members of such committees shall hold office for the balance of the calendar year appointed, or until their successors have been approved.

E. Perform the maintenance obligations, obtain and maintain in force and effect policies of liability insurance and perform such other obligations of the Association as may be set forth in any easement by Declarant or an Affiliate of Declarant or Developers in favor of the Association which shall be recorded in the Official Records of Yavapai County, Arizona following the recording of this Declaration.

3.3 General Powers of the Association. The Association, through its Board, shall have the power but not the obligation to:

A. Enforce the provisions of this Declaration, the Articles, Bylaws, Association Rules and Architectural Rules by appropriate means and carry out the obligations of the Association hereunder.

B. Employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of residential developments to perform all or any part of the duties and responsibilities of the Association.

C. Borrow money as may be needed in connection with the discharge by the Association of its powers and duties.

D. Provide maintenance of other maintenance items to the extent determined desirable by the Board.

E. Negotiate and enter into contracts with mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by Mortgages within the Project.

3.4 Legal Proceedings. Except for any legal proceedings initiated to (i) enforce any use restrictions, easement rights or nonmonetary obligations of Owners (other than Declarant or an Affiliate of Declarant or Developers expressly set out in this Declaration; (ii) enforce any Association Rules; (iii) enforce any Architectural Rules; (iv) collect any unpaid Assessments levied pursuant to this Declaration; or (v) pursue or resolve any "small claims" (i.e., matters in which the amount in controversy could not reasonably be expected to exceed \$25,000.00), the Association (or Board) shall not initiate legal proceedings or join as a plaintiff in legal proceedings (A) without the prior approval of three-fourths (3/4) of the votes of the Members of the Association entitled to vote, excluding the vote of any Owner who would be a defendant in such proceedings; and (B) with respect to matters involving property or improvements to property, unless (1) such property or improvements is owned either by the Association or jointly by all members of the Association; (2) the Association has the maintenance responsibility for such property or improvements pursuant to this Declaration; or (3) the Owner who owns such property or improvements consents in writing to the Association initiating or joining such legal proceeding. The costs of any legal proceedings initiated by the Association which are not included in the above exceptions shall be funded by the Association with monies that are specifically collected for that purpose and the Association shall not borrow money, use reserve funds, or use monies collected for other specific Association obligations for such purpose. Nothing in this section shall preclude the Board from incurring expenses for legal advice in complying with statutes or regulations related to the operation of the Association or otherwise in the normal course of operating the Association when legal proceedings are not involved. Notwithstanding anything herein to the contrary, this section may not be modified or amended without approval of three-fourths (3/4) of the votes of the Members of the Association entitled to vote.

3.5 Association Rules. The Board shall be empowered to adopt, amend, or repeal such rules and regulations as it deems reasonable and appropriate (the "Association Rules"), binding upon all Persons subject to this Declaration and governing the use and/or occupancy of the Common Area or any other part of the Project. The Association Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments, subject to any limitations provided by law (see, e.g., A.R.S. §33-1803(B)). The Association Rules shall govern such matters in furtherance of the purposes of the Association, provided, however, that the Association Rules may not discriminate among Owners except as expressly provided or permitted herein, and shall not be inconsistent with this Declaration, the Articles or Bylaws. The Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and all other Persons having any interest in, or making any use of, the Real Property, whether or not actually received thereby. The Association Rules, as adopted, amended or repealed, shall be available to each Owner upon request. In the event of any conflict between any provision of the Association Rules and any provisions of this Declaration or the Articles or Bylaws, the provisions of this Declaration, the Articles or Bylaws shall prevail. In the event of any conflict or inconsistency between or among the Declaration, the Articles and/or the Bylaws, Declaration shall govern and control over the Articles and Bylaws. The Articles shall govern and control over the Bylaws.

3.6 Indemnification. To the fullest extent permitted by law, every director and every officer of the Association, and Declarant and any Affiliate of Declarant (to the extent a claim may be brought against

Declarant by reason of its appointment, removal or control of members of the Board) shall be indemnified by the Association, and every other person serving as an employee or direct agent of the Association, or on behalf of the Association as a member of a committee or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including attorneys' fees reasonably incurred by or imposed upon him in connection with proceeding to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association (or, in the case of Declarant, by reason of having appointed, removed or controlled or failed to control members of the Board), or any settlement thereof, whether or not he is a director, officer or serving in such other specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that the actions (or omissions) of such officer, director, or other person which are the cause of such proceedings and/or liability, were not willfully committed in derogation of their duties, and/or were not undertaken with gross negligence or fraudulent or criminal intent. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such persons may be entitled at law or otherwise.

3.7 Non-Liability of Officials. To the fullest extent permitted by law, neither Declarant, Developers, the Board, nor any other committees of the Association, nor any member thereof, nor any directors or officers of the Association, shall be liable to any Owner, tenant, the Association or any other person for any damage, loss or prejudice suffered or claimed on account of any decision approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which Declarant, Developers, the Board, or such committees or persons reasonably believed to be within the scope of their respective duties.

3.8 Easements. In addition to the blanket easements granted either in the Declaration or in any plats recorded by Declarant or an Affiliate of Declarant or any of the Developers, the Association is authorized and empowered to grant upon, over, across, through or under Common Area owned or controlled by the Association such permits, licenses, easements, and rights-of-way for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private utility purposes, roadways or other purposes as may be reasonably necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Lot resulting from such grant shall be repaired by the Association at its expense.

3.9 Accounting. The Association, at all times, shall keep, or cause to be kept, true and correct records of account, using a recognized cash or accrual method as approved by the Board, and shall have available for the inspection of all Owners at reasonable times during regular business hours, such books which shall specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise. Audited reports will not be required.

3.10 Records. The Association shall, upon reasonable written requests and during reasonable business hours, make available for inspection by each Owner the books, records and financial statements of the Association together with current copies, as amended from time to time, of this Declaration and the Articles, Bylaws and Association Rules. The Association may charge a reasonable fee for such copies and inspection. Declarant and Developers shall be under no obligation to make their own books and records available for inspection by any Owner, Member, or other person.

3.11 Delegation of Powers. The Association shall have the right, according to law, to delegate to committees, officers, employees or agents any of its duties and powers under this Declaration, the Articles, Bylaws and Association Rules; provided, however, no such delegation to a professional management company, manager or accounting firm or otherwise shall relieve the Association of its obligation to perform or have performed any such delegated duty.

ARTICLE 4 MEMBERSHIP IN THE ASSOCIATION

4.1 Membership. Every Owner shall be a Member of the Association. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owner shall, in addition, be subject to the terms and provisions of the Articles, Bylaws, Association Rules and Architectural Rules to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners shall be appurtenant to and may not be separated from the interest of such Owner in any Lot. Ownership of a Lot shall be the sole qualification for membership provided, however, a Member's voting rights may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules. Not more than one membership shall exist based upon ownership of a single Lot. Lot Owners shall have automatic membership and voting rights in the Association. Membership and voting rights in the Association shall be subject to the terms and conditions set forth in the Declaration.

4.2 Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon transfer or conveyance of ownership of a Lot. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. Any transfer or conveyance of ownership of a Lot shall operate to transfer membership appurtenant to the Lot to the new Owner thereof. The Association shall levy a transfer fee for each ownership transfer.

4.3 Voting Rights. An Owner's right to vote shall vest immediately upon taking title to such Owner's Lot. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and Association Rules.

4.4 Classes of Voting Membership. The Association shall have two (2) classes of voting membership: "Class A" and "Class B."

Class A: Class A Members shall be all the Owners of Lots within the Project with the exception of Declarant and any Affiliate of Declarant (except as provided for hereinafter). Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one Person owns a portion of the interest in a Lot required for membership, each such Person shall be a Member and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. The vote for each Lot shall be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes should be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event that more than one vote is cast for a particular Lot, none of such votes shall be counted and such votes shall be deemed void.

Class B: The Class B Member shall be Declarant. The Class B Member shall be entitled to ten (10) votes for each Lot in which it or its Affiliate holds the interest required for membership; provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier;

(a) When the number of votes entitled to be cast by Class A Members exceeds the number of votes entitled to be cast by the Class B Members; or

(b) When Declarant notifies the Association in writing that it relinquishes its Class B membership.

4.5 Voting for Board of Directors. Prior to the first vote for members of the Board after the Class B membership has been converted to Class A membership, the Board shall be constituted of one (1) director, appointed by Declarant, or, upon the election of Declarant, either three (3) or five (5) directors, all appointed by Declarant. Commencing with the first vote for members of the Board after the Class B membership has been converted to Class A membership, the Board shall be enlarged, if applicable, and be constituted of an odd number of directors, totaling five (5) or more in number, with such directors being elected "at-large" by all of the Members.

4.6 Membership Meetings. Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association; except that within ninety (90) days after the Class B membership has been converted to Class A membership, a special meeting of Members shall be held for the purpose of electing the members of the Board.

4.7 Transfer of Control. When the Class B membership has been converted to Class A membership, the Class A Members will accept control of the Association from the Declarant and full responsibility for the operation of the Association and administration of the Project as provided in the Project Documents, and Declarant will have no further responsibility for any future acts or omissions with respect to the operation of the Association and administration of the Project. Any claims of the Association or any Owners against the Declarant or any Affiliate of Declarant or any of the Developers for acts or omissions with respect to the operation of the Association or the administration the Project (including the availability or sufficiency of any reserves) arising prior to the date on which the Class B membership has been converted to Class A membership will be waived, unenforceable and void if not commenced within one year form the date on which the Class B membership has been converted to Class A membership.

4.8 Corporate or Trust Membership. In the event any Lot is owned by a corporation, partnership, trust, limited liability company or other entity, the corporation, partnership, trust, limited liability company or other entity shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the chief executive officer, if any, of such corporation, partnership, trust, limited liability company or other entity, shall have the power to vote the membership, and if there is no chief executive officer, then the board of directors, general partner, manager or similar officer of such corporation, partnership, trust, limited liability company or other entity shall designate who shall have the power to vote the membership.

4.9 Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Declaration, the Articles, Bylaws, Association Rules or Architectural Rules for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorney's fees associated therewith, are brought current. In the event any Owner is in default of any non-monetary obligation of this Declaration, the Articles, Bylaws, Association Rules or Architectural Rules, and remains in default more than fifteen (15) days after notice from the Association to cure same, said Member's right to vote shall be suspended until said default is cured.

ARTICLE 5 COVENANT FOR ASSESSMENT

5.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot with respect to which it or an Affiliate of Declarant is the Owner, hereby covenants and agrees, and each Owner, other

than Declarant or an Affiliate of Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys' fees incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made from the time same becomes due. Each Assessment, together with interest, late charges and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not the suit is filed, shall also be the personal obligation of the person who was the Owner of the lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner (or to a Developer upon such Developer becoming an Owner) unless expressly assumed by them but, except as is otherwise explicitly set forth herein or required by applicable law, the charge and lien shall continue upon the Lot.

5.2 Annual Assessments.

A. In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and other expenses to perform the Association duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each Assessment Period, shall assess against each Lot an Annual Assessment. The total amount to be assessed against the Lots as an Annual Assessment shall be the amount which is reasonably estimated by the Board to produce income to the Association equal to the total budgeted Common Expenses and all other expenses to perform the Association's duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, taking into account other sources of funds available to the Association (the "Annual Budget").

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

C. The maximum Annual Assessment for each fiscal year of the Association shall be as follows:

(i) Until January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum Annual Assessment for each Lot shall not exceed \$100.00; except that said maximum Annual Assessment shall continue to increase by the maximum increase allowed pursuant to the next subsection below, whether or not such maximum is actually assessed.

(ii) For the Assessment Period beginning January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, and for any subsequent Assessment Period, the Board may, without a vote of the Members, increase the maximum Annual Assessment by the greater of (i) 10% of the maximum Annual Assessment for the immediately preceding Assessment Period or (ii) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) U.S. Town Average (1982-84=100), issued by the United States Department of Labor, Bureau of

Labor Statistics (the "Consumer Price Index"), which amount shall be computed in the last month of each Assessment Period for the subsequent Assessment Period in accordance with the following formula:

X = Consumer Price Index for July of the calendar year immediately preceding the calendar year which immediately precedes the calendar year for which the maximum Annual Assessment is to be determined.

Y = Consumer Price Index for July of the calendar year immediately preceding the calendar year for which the maximum Annual Assessment is to be determined.

$\frac{Y-X}{X}$

multiplied by the maximum Annual Assessment for the then calendar year equals the amount by which the maximum Annual Assessment may be increased.

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

(iii) For the Assessment Period beginning on January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, and for any subsequent Assessment Period, the maximum Annual Assessment may be increased by an amount greater than the maximum increase allowed pursuant to (ii) above, only by a vote of Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

(iv) Increases shall comply with applicable law (see, e.g., A.R.S. §33-1803(A)).

5.3 Rate of Assessment. The amount of the Annual Assessment shall be the same for each Lot other than Lots with respect to which Declarant or an Affiliate of Declarant or a Developer is the Owner. The Annual Assessment for Lots with respect to which Declarant or an Affiliate of Declarant or a Developer is the Owner shall be an amount equal to twenty-five percent (25%) of the Annual Assessment levied against Lots with respect to which Persons other than Declarant or an Affiliate of Declarant or a Developer is the Owner. If a Lot ceases to qualify for the twenty-five percent (25%) rate of assessment during the period to which an Annual Assessment is attributable, the Annual Assessment shall be prorated between the applicable rates on the basis of the number of days in the Assessment Period that the Lot qualified for each rate.

5.4 Obligation of Class B Members. So long as Declarant holds a Class B membership in the Association, Declarant shall contribute to the Association an amount equal to the difference between (a) the sum of the actual expenses of the Association as permitted hereunder and the budgeted reserves reasonably established by the management retained by the Association and (b) the total amount of the Annual Assessment. Said contribution of Declarant may be paid on a monthly basis, such monthly contribution to take into account (c) all expected actual expenses for the month, except those expenses for which reserves have been established pursuant to subsection (e) below, (d) a monthly allocation to reasonable reserves to be established for repair and replacement as permitted under this Declaration, and (e) an even monthly allocation to reserves established to permit payments of those expenses, including but not limited to insurance and taxes, which are paid less frequently than monthly. Notwithstanding Declarant's obligations under this Section 5.4 to contribute a portion of the amounts necessary to cover the described shortfall, Declarant shall have no liability for any such additional amount in excess of the

difference between (f) the amount Declarant and any Affiliates of Declarant and the Developers, collectively, would have paid if paying the Assessment Amount at one hundred percent (100%) (rather than Declarant, on behalf of Declarant and Affiliates of Declarant, and the Developers paying at 25% pursuant to Section 5.3) and (g) the amount Declarant actually pays pursuant to Section 5.3 hereof.

5.5 Special Assessments. The Association may levy against each Lot which is then subject to assessment, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Improvement upon the Common area or area of Association responsibility, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

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

5.7 Commencement Date of Assessment Obligation. All Lots shall be subject to assessment upon the conveyance of the first Lot to a Purchaser.

5.8 Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on an annual basis, due on or before January 1 of each year, or such other basis as may be selected by the Board. Special Assessments shall be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of such Member's liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed until the Member has been given not less than ten (10) days written notice prior to such foreclosure that the Assessment or any installation thereof is more than ten (10) days in arrears and of the amount owing. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period but successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

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

A. Any Assessment (or any installment of an Assessment) not paid within ten (10) days after the Assessment (or the installment of the Assessment) first became due shall bear interest from the due date at the rate of twelve percent (12%) per annum or such other rate of interest as may be set from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within ten (10) days after such payment was due. Notwithstanding the foregoing, or anything herein to the contrary, charges for the payment of Assessments shall not exceed the maximum amount allowed by law.

B. The Association shall have a lien on each Lot for (and the following shall be enforceable as Assessments): (a) all Assessments levied against the Lot; (b) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot; (c) all fines levied against the Owner the Lot; (d) all attorneys' fees, court costs, title report fees, costs and fees charged by any collection agency either to the Association or to an Owner and any other fees or costs incurred by the

Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot, whether or not suit is filed by the Association; (e) any amounts payable to the Association under this Declaration; and (f) any other amounts payable to the Association pursuant to the Project Documents. The recording of this Declaration constitutes record notice and perfection of an assessment lien (the "Assessment Lien"). The Association may, at its option, record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the notice of lien is recorded and the amount claimed to be past due as of the date of the recording of the Notice, including interest, lien recording fees and reasonable attorneys' fees. Before recording any notice of lien against a Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any, and all other amounts secured by the Assessment Lien. Each default shall constitute a separate basis for demand, but any number of defaults may be included within the single demand. If the amounts specified in the demand are not paid within ten (10) days after delivery of the demand, the Association may proceed with recording a notice of lien against the Lot. If the Association records a notice of lien, the Association may charge the Owner of the Lot against which the notice of lien is recorded a lien fee in an amount established from time to time by the Board.

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

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

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

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

5.11 Purposes for which Association's Funds May Be Used. The Association shall use all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and

all funds and property received by it from any other source) solely for the purpose of (a) discharging and performing the Association's duties and obligations under the Project Documents; (b) exercising the rights and powers granted to the Association by the Project Documents; and (c) the common good and benefit of the Project and the Owners and occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and occupants.

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

5.13 Working Capital Fund. To ensure that the Association shall have adequate funds to meet its expenses or to purchase or replace necessary equipment or services, each Purchaser of a Lot from Declarant or an Affiliate of Declarant or a Developer shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-eighth (1/8th) of the current Annual Assessment for the Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses, establishment of appropriate maintenance and/or replacement reserves, or any other purpose permitted under the Project Documents; except that such funds may NOT under any circumstances be used to fund costs, including but not limited to attorneys' fees, related to the bringing of actions, claims or proceedings at law or equity or under alternative dispute resolution procedures. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of Assessments levied by the Association pursuant to this Declaration.

5.14 Transfer Fee. Each Person who purchases a Lot from a Person other than Declarant or an Affiliate of Declarant or a Developer shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in an amount equal to one-sixth (1/6th) of the Current Annual Assessment for the Lot.

ARTICLE 6 USE RESTRICTIONS AND REQUIREMENTS

6.1 Scope. Except as otherwise specified, the provisions of this article shall apply to all of the Project.

6.2 Residential Use. All Lots shall be used, improved and devoted exclusively to residential use. Each Dwelling Unit construction on the Real Property may be occupied only by a Single Family.

6.3 Limitations on Commercial Use; Leasing. Except for the use of the Project by Declarant or an Affiliate of Declarant or a Developer for display and exhibit purposes, for the maintenance of sales facilities, and for purposes of selling Lots and/or constructing Dwelling Units and other Improvements, no part of a Lot shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing mercantile storing, vending, or any nonresidential purpose, except that an Owner may conduct a business activity within a Lot so long as the existence or operation of the business activity (a) is not readily apparent or detectable by sight, sound, or smell from the exterior of the Lot, (b) conforms to all zoning requirements; (c) is consistent with the residential character of the Project, and (d) does not constitute a nuisance or a hazardous or offensive use including, without, limitation, excessive or unusual traffic or parking of vehicles in the vicinity of any Lot or the Common Area as may be determined in the sole and absolute discretion of the Board. Leasing of a Dwelling Unit shall be permitted only upon compliance with the express provisions of this Declaration

(see Section 11.13 hereof), the Articles, Bylaws, Association Rules and Architectural Rules. Any Owner who leases his Residence shall promptly notify the Association and shall advise the Association of the term of the lease and the name of each tenant.

6.4 Improvements, Alterations and Architectural Committee Control. All Real Property within the Project is subject to Architectural Rules and other rules and requirements of the Architectural Committee. Except for construction work undertaken by Declarant or an Affiliate of Declarant or a Developer or its or their agents or contractors, no Improvements may be constructed or installed on any Real Property within the Project and no construction, alterations, repairs, excavations, grading, landscaping or other work (exclusive of landscaping, which is addressed in Section 6.13 and Section 6.14) which in any way alters the exterior appearance of any Real Property within the Project, or the Improvements located thereon, from its natural or improved state existing on the date such property was first conveyed in fee by Declarant or an Affiliate of Declarant or a Developer to an Owner shall be made or done without the prior written approval of the Architectural Committee except as otherwise expressly provided in this Declaration. All additions to or changes or alteration in any landscaping, building, Dwelling Unit, fence, wall or other structure or Improvement, including exterior color scheme, shall be subject to the prior written approval of the Architectural Committee. No change or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. All decisions of the Architectural Committee shall be final and no Owner or other Person shall have recourse (other than by any appeal procedure of the Architectural Committee) against the Architectural Committee or members thereof for its refusal to approve any such plans and specifications or plot plans.

6.5 Additional Powers of the Architectural Committee. The Architectural Committee may promulgate such Design Guidelines as it deems appropriate, subject to consent of the Board; provided the Design Guidelines are not in conflict with this Declaration or the architectural and landscape standards, rules and regulations promulgated by Declarant in the exercise of its powers hereunder. **WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, AND IN ADDITION TO, NOT IN LIEU OF, THE REMEDIES PROVIDED IN ELSEWHERE IN THIS DECLARATION, THE ARCHITECTURAL COMMITTEE MAY FIX A FINE OF UP TO \$10,000 FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE ARCHITECTURAL COMMITTEE OR FOR FAILURE TO COMPLY WITH ANY APPROVAL OF THE ARCHITECTURAL COMMITTEE AFTER PROPER NOTICE IS PROVIDED AND AN OPPORTUNITY TO BE HEARD HAS BEEN EXTENDED.**

6.6 Architectural Design. The architectural design of all Dwelling Units and other Improvements constructed within the Project shall not be of such a sharply contrasting nature so as to make the Dwelling Unit and other Improvements look unusual or incompatible with other existing or contemplated Dwelling Units or other Improvements.

6.7 Minimum Dwelling Unit Size. Any Dwelling Unit erected, permitted or maintained on any lot shall have a minimum livable square footage, excluding garage, porches, guest house, and patios as follows:

Lots 3-58 (inclusive):	one thousand six hundred (1,600) square feet
Lots 59-140 (inclusive):	one thousand three hundred fifty (1,350) square feet
Lots 141-240 (inclusive):	one thousand (1,000) square feet
Lots 241-251 (inclusive):	one thousand six hundred (1,600) square feet

If any applicable governmental entity requires minimum livable square footage for certain Lots that is greater than the applicable minimum livable square footage set forth above for such Lots, then the applicable minimum livable square footage for such Lots shall be deemed increased to such minimum as may be so required by the applicable governmental entity.

6.8 Construction Materials. All roofing material shall be authorized and approved in writing by the Architectural Committee, but in any event shall be Architectural grade shingle or higher quality. All siding material shall be authorized and approved in writing by the Architectural Committee, but in any event pressed board siding shall not be permitted.

6.9 Walls and Fences. All Perimeter Walls or Boundary Fences, gates and garden walls shall be constructed of non-reflective materials that are authorized and approved in writing by the Architectural Committee. The Architectural Committee may but shall not be obligated to impose requirements and restrictions pertaining to, but not limited to, height, type and blocking of views from other Lots. Perimeter Walls shall be consistent in structure and appearance in all locations where Lots are separated from Common Area.

6.10 New and Permanent. All Dwelling Units and other structures on the Property shall be of new and permanent construction, and no structure shall be moved from any location on or off the Property onto any portion of the Property. Notwithstanding the foregoing, a shed or other storage structure may be located on a Lot on which a Dwelling Unit is constructed, so long as such shed or other storage structure is not Visible From Neighboring Property, meets all setback requirements, and is not otherwise a nuisance, as determined by the Architectural Committee in its sole and absolute discretion.

6.11 Air Conditioners. No air conditioning units, heating units, compressors, evaporative coolers, or similar equipment shall be constructed or installed on the roof, or in the windows, or, unless Screened from View, in or on the exterior walls of any Dwelling Unit in the Project.

6.12 Solar Panels. The Architectural Committee may adopt reasonable rules regarding the placement of a solar energy device on a Lot or Dwelling Unit, provided that such rules do not prevent the installation of the device, impair the functioning of the device, restrict the device's use, or adversely affect the cost or efficiency of the device.

6.13 Planting and Landscaping. Except for (i) such planting and landscaping as is installed or caused to be installed by Declarant and is in an area maintained by the Association, and (ii) such planting and landscaping as is Not Visible From Neighboring Property, and (iii) planting and landscaping installed in accordance with Section 6.14 no planting or landscaping (including but not limited to replanting or replacing plants or landscaping) shall be done and no fence, hedges or walls shall be erected or maintained on any Lot without the prior written approval of the Architectural Committee. These restrictions shall not apply to the activities of Declarant or an Affiliate of Declarant in connection with construction of the Project.

6.13.1 Section reference maintained to preserve numbering.

6.14 Installation of Landscaping Improvements. Within forty-five (45) days after the date on which the Town issues a Certificate of Occupancy for a Dwelling Unit on a Lot, the Owner of the Lot shall install plants and other landscaping improvements (together with a sprinkle or drip system sufficient to adequately water the plants and other landscaping improvements) in the Open Yard of his Lot in a manner that would give such portion of the Lot an attractive and fully landscaped appearance. Within one hundred eighty (180) days after the date on which the Town issues a Certificate of Occupancy for a Dwelling Unit on a Lot, the Owner of the Lot shall install plants and other landscaping improvements

(together with a sprinkle or drip system sufficient to adequately water the plants and other landscaping improvements) in the Private Yard of his Lot in a manner that would give such portion of the Lot an attractive and fully landscaped appearance. The grass, plants, trees and other landscaping improvements shall be installed in accordance with plans approved in writing by the Architectural Committee, and any requirements or restrictions of the Town.

6.15 Permitted and Prohibited Vegetation. Planting and vegetation shall conform to the recommendations, requirements and restrictions described in the Town of Clarkdale Landscaping Provisions set out on Schedule A attached hereto and incorporated herein by reference, as those recommendations requirements and restrictions may be modified from time to time by the Town of Clarkdale, any other schedule of permitted and prohibited vegetation that may be attached to this Declaration or otherwise adopted by the Architectural Committee, and any other recommendations, requirements and restrictions of the Town.

6.16 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot which in any manner will allow light to be directed or reflected on any other Lot except as may be expressly permitted in the Association Rules or the Design Guidelines. Exterior low voltage landscape lighting is encouraged. All lighting shall comply with the Town of Clarkdale's Dark Sky Ordinance in effect from time to time.

6.17 Antennas and Satellite Dishes.

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

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

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

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

(i) If permitted by applicable Federal Regulations or Other Laws, no Regulated Receiver shall be permitted outdoors on any Lot, whether attached to a building or structure or on any Lot, unless approved in writing by the Architectural Committee, with such screening and fencing as such Committee may require. If such restriction is not so permitted, the provisions of subsections (ii) and (iii) below shall apply.

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

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

1. A location in the back yard of the Lot where the Receiver and any Mast will be Screened from View by landscaping or other Improvements;
2. An unscreened location in the back yard of the Lot;
3. On the roof, but completely below the highest point on the roofline;
4. A location in the side yard of the Lot where the Receiver and any Mast will be Screened from View by landscaping or other Improvements;
5. On the roof above the roofline;
6. An unscreened location in the side yard.

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

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

E. The provisions of this Section 6.17 are severable from each other; the invalidity or unenforceability of any provision or portion of this section shall not invalidate or render unenforceable any other provisions or portion of this section, and all such other provision or portions shall remain valid and enforceable. The invalidity or unenforceability of any provisions or portion of this section to a particular type of Receiver or Mast or to a particular Receiver or Mast on a particular Lot shall not invalidate or render unenforceable such provisions or portion regarding other Receivers or Masts on other Lots.

6.18 Height of Dwelling Units. The height of single story Dwelling Units constructed on lots designated by Section 12.1(A) and Schedule B may not exceed eighteen feet (18'). Except as provided by the foregoing, the maximum building height for Dwelling Units shall be that set forth in the Town of Clarkdale Town Code. Building height shall be calculated as provided in the Town of Clarkdale Town Code.

6.19 Utility Service. Except as approved in writing by the Architectural Committee, no lines, wires, or other devices for the communication or transmission of electronic current or power, including television, Internet, and radio signals, shall be erected, placed or maintained anywhere in or on the Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Dwelling Units or other structures approved by Declarant or the Architectural Committee.

6.20 Temporary Structures. No structure of a temporary character, trailer, basement of an incomplete building or Dwelling Unit, tent, shack, garage, or other out-building shall be used at any time, on any portion of the Real Property for a residence, either temporarily or permanently. Temporary buildings or structures, approved by the Architectural Committee for use during the construction of a Dwelling Unit shall be removed immediately after the completion of construction. Declarant or an Affiliate of Declarant or any Developer shall be permitted to place temporary buildings or structures on portions of the Real Property for the purposes of conducting sales or construction operations.

6.21 Drainage: Interruption of Barriers. No Owner shall erect, construct, maintain, permit or allow any fence, landscaping or other Improvement or other obstruction or alteration of any grading (i) which would interrupt the normal drainage of the Lot or land from its natural or improved state existing on the date such property was first conveyed in fee by Declarant or an Affiliate of Declarant or a Developer to an Owner, (ii) which would cause or facilitate drainage from such Owner's Lot onto another Lot, or (iii) within any area designated on the Plat (or other building document) as a "Drainage Easement" or similar term, except that, with the prior consent of the Architectural Committee, non-permanent structures, including fences, may be erected in those areas which contain only underground closed conduit storm drainage facilities. No Owner shall erect, construct, maintain, permit or allow any fence, landscaping or other Improvement or other obstruction or alteration of any grading which would interrupt any physical or chemical termite "barrier" on the Lot or land in the improved state existing on the date such property was first conveyed in fee by Declarant or an Affiliate of Declarant or a Developer to an Owner.

6.22 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or other Real Property except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Dwelling Unit, appurtenant structures, or other Improvements and except which Declarant or the Association may require for the operation and maintenance of the Common Areas and the Real Property.

6.23 Signs. No sign of any kind which is Visible From Neighboring Property shall be installed or displayed on any Lot or Common area except: (i) such signs as may be used by Declarant or an Affiliate of Declarant or a Developer in connection with the development and sale of Lots and/or Dwelling Units or Common Area in the Project; (ii) such signs as may be required by legal proceedings, or which by law may not be prohibited; (iii) such signs as may be required for traffic control; or (iv) such other signs (including, but not limited to, construction job identification signs, builders' signs, "for sale" signs, "for lease" signs, temporary "rent" signs, and "garage sale" and similar signs) as are in conformance with the requirements of the Town and which have been approved in advance in writing by the Architectural Committee (which approval may be in the form of rules and regulations of general applicability) as to size, colors, design, message content, number and location.

6.24 Clothes Drying Area. Drying or hanging areas for laundry of any kind shall be permitted only if such facilities are not Visible From Neighboring Property.

6.25 Window Covers. Interior curtains, drapes, shutters or blinds may be installed as window covers. No aluminum foil, reflective material, newspaper or other materials not customarily made for use as window covers may be installed or placed upon the inside or outside of any Dwelling Unit or other structure. Exterior awnings, canopies, shutters and similar items may not be installed without prior written approval of the Architectural Committee.

6.26 Vehicles. Except with the prior approval of the Architectural Committee, no mobile home, motor home, trailer, truck with a capacity of more than three-quarter tons, camper, boat or any other type of Recreational Vehicle, or vehicle displaying a substantial amount of commercial advertising, shall be kept, placed, maintained, constructed, reconstructed or repaired within the Project. Notwithstanding the foregoing to the contrary, a trailer or boat may be kept on an Owner's Lot without time limitation or approval if it is Not Visible From Neighboring Property. Furthermore, the foregoing shall be subject to applicable laws and regulations pertaining to emergency vehicles. Finally, notwithstanding the foregoing, the Town Code will govern camping on or adjacent to an Owner's Lot.

6.27 Animals. No animals, including horses or other domestic farm animals, fowl, or poisonous reptiles of any kind, may be kept, bred or maintained within the Project. Notwithstanding the foregoing, a reasonable number of generally recognized household pets that are kept in accordance with the Association Rules shall be permitted. No animals shall be kept, bred or raised within the Project for commercial purposes. All pets, when not kept in a homeowner's residence, shall be kept in a fenced yard or on a leash at all times. No animal or bird shall be allowed to make an unreasonable amount of noise or become a nuisance or annoyance to other Owners. It shall be the responsibility of each Owner to remove immediately any droppings from pets. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be Visible From Neighboring Property, unless otherwise approved by the Architectural Committee. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this section, a particular animal is a generally recognized house or yard pet or a nuisance, or whether the number of animals exceeds the maximum number permitted. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained in this Declaration.

6.28 Garbage, Trash, Debris and Hazardous Materials. No rubbish, hazardous materials, or debris of any kind shall be placed, stored, or permitted to accumulate upon or adjacent to any Lot or other portion of the Project and no odors shall be permitted to arise therefrom, so as to render any Lot or any portion of the Project unsanitary, unsightly, offensive or detrimental to any other Lot or portion of the Project or to its occupants. No garbage or trash shall be placed or kept on any Lot or other portion of the Project except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the time reasonably necessary to effect such collection. The Board shall have the right, in its sole and absolute discretion, to require all Owners to place their garbage or trash containers at a specific location for collection or to require or to require all Owners to subscribe to a specific trash collection service. All rubbish, trash and garbage shall be removed from the Lots or other portion of the Project and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot or other portion of the Project. No garbage or trash containers shall be kept or placed on any grass or other landscaped Area.

6.29 Fires. Other than barbecues in properly constructed barbecue pits or grills, and firepits in compliance with the Association Rules and the Architectural Rules, or as otherwise expressly permitted in

such rules, no open fire shall be permitted on a Lot or other portion of the Project nor shall any other similar activity or condition be permitted.

6.30 Nuisances. No Owner shall permit or suffer anything to be done or kept about or within his Lot or on or about the Project which may cause the insurance to be canceled or the premiums of such insurance to be increased for any Lot or other portion of the Project, or which may obstruct or interfere with the rights of other Owners, or annoy them by unreasonable noises or otherwise, nor will he commit or permit any nuisance or commit or suffer any illegal act to be committed therein. Each Owner shall comply with the Association Rules, the requirements of all health authorities and other governmental authorities having jurisdiction over the Project. The Board in its sole and absolute discretion shall have the right to determine the existence of any such nuisance.

6.31 Diseases and Insects. No Owner shall permit any thing or condition to exist upon any property which shall induce, breed or harbor infectious plant diseases or noxious insects.

6.32 Mining. No portion of the Project shall be used in any manner to explore for or remove any water, oil or other hydrocarbons or minerals of any kind or earth substance of any kind.

6.33 Playground and Sports Equipment. No jungle gyms, swing sets, basketball hoops or standards, or similar playground or sports equipment or structures which would be Visible From Neighboring Property may be constructed, erected or installed on any Lot without the prior written approval of the Architectural Committee.

6.34 Tennis Courts and Sports Courts. No tennis court, racquetball court, basketball court, or similar sports court, with related equipment, structures or facilities, including but not limited to lighting fixtures, may be constructed, erected or installed on any Lot without the prior written approval of the Architectural Committee.

6.35 Provider Agreements. Declarant or an Affiliate of Declarant or the Board may enter into agreements with providers of services for the benefit of the Project that would provide either exclusive or preferred provider status to such providers, or otherwise permit such provider certain commercially reasonable access to the Project. No agreement shall be entered into nor shall any action be taken that would violate the provisions of such agreements.

6.36 Safe Condition. Without limiting any other provision in this article, each Owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Lots.

6.37 Encroachments. No tree, shrub, or planting of any kind on any property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.

6.38 Model Homes. The provisions of this Declaration which may prohibit nonresidential use of Lots and which regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction or marketing of Dwelling Units within the Project or parking incidental to the visiting of such model homes. Any Dwelling Units constructed as model homes shall cease to be used as model homes at any time when the owner thereof is not actively engaged in the construction and sale of Dwelling Units within the Project. Model homes constructed in one area or phase of the Project may be utilized in connection with the marketing of Dwelling Units in another area or phase of the Project.

6.39 Variances. The Architectural Committee may, at its sole option and in extenuating circumstances, grant variances from restrictions set forth in this Declaration if the Committee determines, in its sole and absolute discretion:

A. That either (i) enforcement of a particular restriction would create a substantial hardship or burden on an Owner or occupant, or (ii) a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete; and

B. That the activity permitted under the variance will not have any substantial adverse effect on the Owners and occupants and is consistent with the high quality of life intended for residents of the Project.

6.40 Further Subdivision. No Lot shall be further subdivided or separated into smaller lots by any Owner; and no portion less than all of any Lot shall be conveyed or transferred by an Owner without the prior written approval of the Board.

6.41 Timeshares and Shared Occupancy Arrangements. It is expressly acknowledged that the value of the Project, and the value of individual developed Lots within the Project, will be materially reduced if timeshare arrangements, shared occupancy arrangements or leasing (other than as specifically permitted under Section 11.13) of Lots are permitted, and it is expressly understood that the consideration paid by Lot Owners for Lots shall be based upon the expectation that timeshare arrangements, shared occupancy arrangements and leasing of Lots (other than as specifically permitted under Section 11.13) shall not be permitted. In that regard, no Owner shall transfer, sell, assign or convey any timeshare in his Lot or Dwelling Unit, or enter into or permit a shared occupancy arrangement relating to the Lot or Dwelling Unit, or lease his Lot or Dwelling Unit (other than specifically permitted under Section 11.13), and any such transaction shall be void. "Timeshare" as used in this section shall mean the right to occupy a Dwelling Unit or any one of several Dwelling Units during five (5) or more separated time periods of less than thirty (30) days per period over a period of at least five (5) years, including renewable options, whether or not coupled with an estate or interest in Real Property or a specified portion of a Dwelling Unit. "Shared occupancy arrangement" as used in this section shall mean occupancy of the Lot or Dwelling Unit by more than one (1) Single Family in any calendar year, exclusive of arrangements resulting from a bona fide conveyance or transfer of full legal title to the Lot.

6.42 Exemption. Notwithstanding any other provision of this Declaration, the Articles, Bylaws, Association Rules or Architectural Rules, it shall be expressly permissible for Declarant or an Affiliate of Declarant or a Developer or its or their duly authorized agents, employees and representatives to maintain during the period of construction and sale of Lots and/or Dwelling Units such facilities, structures, signs or other sales-related items as are necessary or convenient, in the sole and absolute opinion of Declarant, to the sale of the Lots and/or Dwelling Units, including without limitations, a business office, storage area, construction yards, model units or homes and sales offices (any of the foregoing may be permanent or temporary), and to otherwise construct Dwelling Units in accordance with its plans and specifications.

6.43 Enforcement. The Association or its authorized agents may, upon reasonable written notice, enter any Lot in which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses, and such fines as may be imposed pursuant to this Declaration or the Bylaws or Association Rules, shall be a Special Assessment secured by a lien upon such Lot enforceable in accordance with the provisions of this Declaration. All remedies available at law or equity shall be available in the event of any breach of any provision of this article by any Owner, tenant or other person.

6.44 Modification. Except where Declarant's or Developer's rights are involved or Declarant's or Developers' consent is required, the Board may modify or waive the foregoing restrictions contained in this Declaration or otherwise restrict and regulate the use and occupancy of the Project, the Lots and the Dwelling Units by reasonable rules and regulations of general application adopted by the Board from time to time which shall be incorporated into the Association Rules.

6.45 Common Area Mortgage or Conveyance. The Common Area cannot be mortgaged or conveyed without the consent of at least two-thirds of the votes of each class of memberships, except that the Association may dedicate or transfer all or part of the Common Area to any public agency, authority or utility upon the consent of a majority of the votes of each class of memberships, or if there is no substantial adverse effect on the enjoyment of the Common Area, or if required by a recorded subdivision plat, zoning stipulation, or agreement with the Town effective prior to the date of this Declaration.

6.46 Increased Risk. Nothing will be done or kept by any Owner in or on any Lot, Dwelling Unit, or any other area of the Project that will increase the Association's rate of insurance without the prior written consent of the Board. No Owner will permit anything to be done or kept on or in the Owner's Lot, Dwelling Unit or any other area of the Project that will result in the cancellation or reduction of insurance on any Dwelling Unit or any insurance of the Association or that would be a violation of any law.

6.47 Fuel Tanks. No fuel tanks of any kind will be erected, placed or maintained on or under the Real Property except for propane or similar fuel tanks for pools, gas grills and similar equipment so long as the fuel tanks are permitted under the ordinances of the Town.

6.48 Hazardous Wastes. Except as may be necessary for normal household, landscaping or automotive uses, no Owner will permit any hazardous wastes (as defined under all applicable federal and state laws), asbestos, asbestos containing materials, or any petroleum products or by-products to be kept, dumped, maintained, stored, or used in, on, under or over any Lot. No gasoline, kerosene, cleaning solvents or other flammable liquids may be stored in the Common Area.

6.49 Mailboxes. Except when originally installed by the Declarant or an Affiliate of Declarant or a Developer, no mailboxes, mail posts or similar items for the receipt of mail will be installed, constructed or placed on a Lot. If the Project is developed with NBU's, cluster boxes or gang mailboxes, the Association will maintain the community mailboxes to the extent allowed and required by the U.S. Postal Service, and no Owner will be permitted to install or use individual mailboxes on the Owner's Lot.

6.50 Removal of Walls and Fences. No side or rear Boundary Fence or Perimeter Wall may be removed in order to permit access to a Lot for construction, landscaping or other purposes. A front return wall or fence on a Lot may be temporarily removed in order to permit such access to the Lot upon the prior approval of the Architectural Committee.

6.51 Overwatering. Unreasonable overwatering of a Lot or landscaping on a Lot is prohibited. Unreasonable overwatering shall be deemed to exist if there is runoff, seepage, drainage or overspray of water from the Lot onto adjoining Lots, streets or property, or if watering is materially out of compliance with the guidelines set out in any publication or watering guidelines as may be adopted by the Architectural Committee.

6.52 Detached Garages. No vehicular garage or garage additions shall be permitted on a Lot if detached from the Dwelling Unit, unless in compliance with all setback and other requirements of the Town and unless prior written approval of the Architectural Committee has been received.

6.53 Section reference maintained to preserve numbering.

ARTICLE 7 ARCHITECTURAL COMMITTEE

7.1 Approval of Plans. No Improvements shall be commenced, erected or maintained within any portion of the Property (other than by Declarant or an Affiliate of Declarant or a Developer in the ordinary course of constructing Dwelling Units) unless and until detailed plans and specifications (including site plans) showing the proposed nature, location, identity, type, and quality of proposed materials, size, area, height, color, shape and design of the proposed Improvements, as well as any other matters required by this Declaration or by the Architectural Rules described below, have first been approved by the Architectural Committee. No Improvement shall be commenced, erected or maintained within the Property (other than by Declarant or an Affiliate of Declarant or a Developer in the ordinary course of constructing Dwelling Units) except in compliance with this Declaration and with the approved plans and specifications for such Improvements. Sixty (60) days following receipt by the Architectural Committee of a complete application for approval, including any plans, specifications or other materials or information submitted therewith or additionally requested by the Architectural Committee, the Architectural Committee shall be deemed to have approved such submittal and materials if the same have not been disapproved or otherwise acted upon by the Architectural Committee, either in writing or orally at a duly held meeting of the Architectural Committee.

7.2 Establishment. The Architectural Committee shall consist of a minimum of three (3) persons. So long as Declarant or an Affiliate of Declarant own any Lot or Parcel, Declarant shall have the right to appoint and remove the members of the Architectural Committee. At such time as Declarant and any Affiliate of Declarant no longer own any Lot, the members shall be appointed and removed by the Board. The members of the Architectural Committee need not be architects, Owners, occupants or homeowners, and need not possess any special qualifications. Architectural Committee members shall serve for a term of one (1) year and may be reappointed or re-elected; provided that such members may be removed by the Board at any time during their term of office, with or without cause. Upon removal of a member of the Architectural Committee, the Board shall appoint a replacement member of the Architectural Committee as soon as possible, such that the Committee consists of the minimum number of members designated in this Declaration.

7.3 Meetings. The Architectural Committee shall hold meetings as it deems necessary. A quorum for such meetings shall consist of a majority of the members, and the affirmative vote of a majority of the members present at any meeting at which a quorum is present shall be necessary for any decision of the Architectural Committee. The Architectural Committee shall keep and maintain a record of all actions taken at its meetings.

7.4 Architectural Rules and Committee Procedures. The Architectural Committee may promulgate written Architectural Rules to be followed by Owners in preparing and submitting plans and specifications and which will be used by the Architectural Committee in reviewing plans and specifications for proposed Improvements in rendering its decisions and otherwise performing its functions under this Declaration. Such rules shall be subject to approval by the Board before being put into use. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. The Architectural Rules shall not be inconsistent with the terms of this Declaration and if there are any inconsistencies, the provisions of this Declaration shall control.

7.5 Fee. The Architectural Committee may establish reasonable processing fees to defray its costs in considering any requests for approvals submitted to it. The appropriate fee shall be paid at the time the request for approval is submitted.

7.6 Compensation: Delegations. The members of the Architectural Committee shall not receive any compensation for services rendered. All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Architectural Committee function or duty. Professional consultants retained by the Architectural Committee shall be paid such compensation as the Architectural Committee determines. The Architectural Committee may delegate its plan review responsibilities, except final plan approval, to one or more of its member or to architectural consultants which it retains.

7.7 Non-Liability. Neither the Association, the Board members, Declarant, any Affiliate of Declarant, Developers, any member of the Architectural Committee, or any agent, employee or other party providing architectural consulting services to the Architectural Committee shall be liable in damages to anyone submitting plans to it for approval or to any Owner or other person by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans submitted to the Architectural Committee, and each Owner or other person submitting plans agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Association, the Board members, Declarant, any Affiliate of Declarant, Developers, or the members of the Architectural Committee, their agents or employees, or parties providing architectural consulting services to the Architectural Committee, to recover damages arising out of or in connection with flooding, natural disaster or soil conditions. Approval by the Architectural Committee shall not be deemed to be a representation or warranty that the plans and specifications (design, construction nor otherwise) are free from hazards, such as flooding, natural disaster or adverse soil conditions or complies with applicable governmental ordinances or regulations, including, but not limited to, rezoning ordinances and local building codes. It shall be the sole responsibility of the Owner, or other person submitting plans to the Architectural Committee or performing any construction, to comply with all such ordinances, regulations and codes. Each Owner understands that due to the location and condition of the Owner's Lots there may be certain inherent risks including, but not limited to, those related to flooding soil conditions or natural disaster and agrees for himself, his family, guests, tenants, and invitees (the "Releasing Parties") to release the Association, the Board members, the members of the Architectural Committee and Declarant, any Affiliate of Declarant, Developers, their agents, employees and parties providing architectural consulting services to the Architectural Committee from any and all liability arising from any damage or injury to the person or property of the Releasing Parties rising out of or in connection with such hazards.

ARTICLES 8 EASEMENTS

8.1 Easement of Enjoyment. Each Owner of a Lot has an easement to use and a right to enjoyment of the Common Areas located within the Project, which is appurtenant to the title to such Lot, subject to the restrictions and limitations set forth in this Declaration. Subject to and in accordance with the Project Documents, any Owner may delegate such rights of use and enjoyment to family members and permitted tenants.

8.2 Amendment to Eliminate Easements. This Declaration cannot be amended to modify or eliminate the easements reserved to Declarant or any applicable Developer without prior written approval of Declarant or the applicable Developer, as appropriate, and any attempt to do so shall have no effect. Any attempt to modify or eliminate this section shall likewise require the prior written approval of Declarant and Developers.

8.3 Public Utility Easements. There is hereby granted and created a perpetual and non-exclusive easement upon, across, over and under portions of the Lots and Common Area depicted and described on the Plat as a public utility easement or p.u.e. (or similar terminology) for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to electricity, telephone, water,

gas, cable television, high-speed Internet, drainage facilities, sanitary sewer or other utility lines servicing the Project or any other real property. All public utility easement depicted and described on the Plat may be used by the provider utility company and the Town without the necessity of any additional recorded easement instrument. The public utility easement described above will not affect the validity of any other recorded easements affecting the Project. All utilities and utility lines will be placed underground. No provision of this Declaration, however, will act to prohibit the use of aboveground and temporary power or telephone structures incident to the construction of buildings or structures as needed by the Declarant or an Affiliate of Declarant or a Developer. Public or private sidewalks may be located in the public utility easements. The public utility easements described above will be perpetual unless and until abandoned by resolution of the Town.

8.4 Easement for Encroachment. Each Lot and the Common Area shall be subject to an easement for encroachments created by construction, settling, overhangs, and discrepancies between the Plat and construction, as originally designed or as constructed by Declarant or Affiliate of Declarant or a Developer or its or their agents or contractors, and by overspray from water systems on adjoining Lots and Common Area. A valid easement for said encroachments for the maintenance of same, so long as it stands, shall and does exist, running in favor of the Owners of the applicable adjoining Lots or Common Area. In the event a building containing an encroachment is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of the adjacent Dwelling Unit or other building due to construction shall be permitted and that a valid easement for said encroachments and maintenance thereof shall exist. Notwithstanding any provisions in this section to the contrary, any encroachment (other than for overspray) permitted by this section shall not exceed one (1) foot.

8.5 Easement for Ingress and Egress. Easements for ingress and egress are hereby reserved to Declarant, any Affiliate of Declarant, Developers, the Owners, and their families, guests, tenants, and invitees for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area (including all streets and roadways) as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of Lots. If ingress or egress to any Dwelling Unit in the Project is through the Common Area, any conveyance or encumbrance of the Common Area shall be subject to the Lot Owner's easement for ingress and egress.

8.6 Association's Right of Entry. During reasonable hours, the Association, any member of the Architectural Committee, any member of the Board or any authorized representative of them, shall have the right to enter upon and inspect any land surrounding any structure on the Real Property, excluding the interior of any Dwelling Unit located thereon, for the purpose of making inspections to determine whether the provisions of this Declaration, the Association Rules and the Architectural Rules are being complied with by each Owner.

8.7 Association's Easement or Performing Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area (including but not limited to landscaping thereon) or any other features in the Project which the Association is obligated to maintain.

8.8 Refuse Collection and Emergency Access Easement. There is hereby created an easement over all Common Areas located within the Project for ingress and egress for emergency vehicles and for refuse collection.

8.9 Community Mailboxes. If a community mailbox has been located on a Lot, the Association shall have an easement upon, across, over and under the portion of the Lot on which the community mailbox

(and the concrete slab on which same is constructed) is located and any necessary access from and to other Common Area. Inasmuch as such easement is Common Area, the Association shall have and assume obligations of maintenance, repair and replacement in accordance with Article 9. Additionally, the Association shall indemnify, defend and hold harmless the Owner of any such Lot upon which a community mailbox has been located from and against any claims that may arise from or be related to the use of such community mailbox by Persons other than Owner and their family members, employees, guests, tenants, and invitees.

8.10 Wall Easements. The Association shall have a nonexclusive access easement over such portions of the Lots (not to exceed 10 feet in width) adjacent to Perimeter Walls and other walls and fences for which it has repair and maintenance responsibilities under the Project Documents as may be necessary or appropriate to facilitate the Association carrying out its repair and maintenance responsibilities of such walls and fences, including the right to access the easement area. Notwithstanding the foregoing, each Owner shall have the right to construct and maintain improvements within this nonexclusive easement area such as landscaping, sprinklers, pool decking, pools, spas, and Jacuzzis. In exercising the rights under this easement, the Association will cause all of its workmen (whether employees or third party contractors) to use reasonable care to avoid injury or damage to Owner's improvements and Lot, and the Association will repair (or cause its workmen to repair) all damage to Owner's Lot or improvements as a result of the exercise of the easement rights under this section.

ARTICLE 9 MAINTENANCE AND PARKING

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

- A. Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a government entity, if any, responsible for the maintenance and upkeep of such area).
- B. Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway or parking area.
- C. Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes.
- D. Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;
- E. Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purpose specified in this Declaration.

The Board shall be the sole judge as to the appropriate maintenance of the Common Area. Absolute liability is not imposed by this Declaration upon the Owners for damage to Common Area or Lots in the Project.

9.2 Maintenance of Lots by Owners. Each Owner of a Lot shall be solely responsible for the maintenance of all portions of his Lot, as well as any property (including but not limited to Common Area or public right-of-way) adjacent to the Lot and lying between a sidewalk or roadway and the Lot

boundary. The Owner of each Lot shall at all times perform his obligations under this section so that the land and Improvements comprising his Lot and any property for which he has maintenance responsibility shall be in good condition and repair. Such obligations of Owner shall include keeping all shrubs, trees, grass, plantings and landscaping of every kind properly cultivated and free of trash, weeds and other unsightly material. All maintenance of the exterior of the Dwelling Unit, including, without limitation, walls, fences and roofs, shall be accomplished in accordance with the Architectural Rules and, if required by the Architectural Rules, only after approval of the Architectural Committee.

9.3 Damage or Destruction by Owners. No Owner shall in any way (i) damage or destroy any Common Area or (ii) interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid by said Owner to the Association upon its demand to the extent that the Owner is liable therefore under Arizona law, and such amounts shall be a lien on any Lot(s) owned by such Owner, and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

9.4 Nonperformance by Owners. If any Owner fails to maintain any portion of the Lot and Improvements located thereon which he is obligated to maintain under the provisions of this Declaration, the Articles, Bylaws, Association Rules, Architectural Rules, then the Association shall have the right, but not the obligation, to enter upon such Owner's Lot to perform the maintenance and repairs not performed by the Owner, and the cost of any such work performed by or at the request of the Association shall be paid for by such Owner upon demand from the Association, and such amounts shall be a lien upon the Owner's Lot and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

9.5 Total or Partial Destruction. If any Dwelling Unit is totally or partially destroyed, the Owner shall either rebuild the structure in a timely manner or demolish the same and remove the debris from the Project in a timely manner. If the Owner fails to comply with this section, the Association may undertake the work on the Owner's behalf and charge the Owner therefor. The Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

9.6 Payment of Utility Charges. Each Lot shall be separately metered for water, sewer, cable television, Internet, telephone, electrical, and/or gas service, and all charges for such service to the Lot shall be the sole obligation and responsibility of the Owner of each Lot.

9.7 Boundary Fences. The rights and duties of Owners and Lots with respect to Boundary Fences shall be governed by the following provisions:

A. Each of the adjoining Owners shall assume the burden and be entitled to the benefit of the restrictive covenants contained in this Declaration, and to the extent not inconsistent with this Declaration, the general rules of law regarding Boundary Fences shall be applied;

B. The cost of reasonable repair and maintenance of a Boundary Fence shall be shared by the adjoining Owners of such Boundary Fence in proportion to the use thereof, without prejudice, however, to the right of any Owner to require a larger contribution from the adjoining Owner under any rule of law regarding liability for negligent or willful acts or omissions;

C. In the event any Boundary Fence is damaged or destroyed by the act of an Owner or his agents, tenants, licensees, guests or family, then, in such event, such Owner shall proceed forthwith to rebuild or repair the same to as good condition as formerly existed at such Owner's sole expense;

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

E. Notwithstanding any other provision of this section, an Owner who, by his negligent or willful act, causes any Boundary Fence to be exposed to the elements shall bear the whole cost of furnishing the necessary protection again such elements;

F. The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land and shall pass to such Owners and their successors in title;

G. In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to, or rebuild a Boundary Fence shall first obtain the written consent of the adjoining Owner and the Architectural Committee;

H. In the event of a dispute between Owners with respect to the repair or the rebuilding of a Boundary Fence or with respect to sharing of the cost thereof, then, upon written request of both of such Owners addressed to the Board, the matter shall be submitted for arbitration by the Board under such rule as made from time to time to be adopted by the Board. The decision of the Board shall be final and conclusive;

I. In the event adjoining Owners cannot agree on issues involving the maintenance, repair or rebuilding of, or other matter relating to, a common boundary wall, then regardless of whether the matter is submitted for arbitration by the Board, the Board shall have the right, but not the obligation, to resolve the disagreement and, in connection therewith, to levy a Special Assessment against an Owner for the Owner's required contribution to the cost of such maintenance, repair, rebuilding or other matter.

J. In the event any Boundary Fence encroaches upon a Lot or the Common Area, a valid easement for such encroachment of, and for the maintenance of, the Boundary Fence shall and does exist in favor of the Owners of the Lots which share such Boundary Fence.

9.8 Maintenance of Walls and Fences Other than Boundary Fences.

A. Walls or fences (other than Boundary Fences and Perimeter Walls) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot; and

B. Any Perimeter Wall, if approved by the Association, which is placed on the boundary line between a Lot and the Common Area shall be maintained, repaired and replaced by the Owner of the Lot, except the Association shall be responsible for the repair and maintenance of the side of the wall or fence which faces the Common Area if such wall or fence was placed thereon by Declarant, or with Declarant's permission.

C. Any Perimeter Wall, if approved by the Association, which is placed on the boundary line between a Lot and property that is not part of the Project shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the side of the Perimeter Wall which faces the property that is not part of the Project if such wall or fence was placed thereon by Declarant, or with Declarant's permission, unless by recorded instrument,

agreement or other arrangement a third party (e.g., the owner of the property that is not part of the Project) is responsible for such repair and maintenance.

9.9 Vehicles and Parking.

A. Intent Regarding Vehicles. It is intended that the residential nature of the Project be preserved and the storage and accumulation of certain numbers or types of vehicles on a Lot in a manner that would detract from the aesthetics of the Project be prevented. Lots should not be used as junkyards, auto repair facilities (except to the limited extent repairs are permitted below) or as parking lots for operational or non-operational vehicles.

B. Question of Use. Whenever an Owner or the Owner's occupants have questions regarding the use or parking of certain types of vehicles within the Project, they should consult with the Board or Architectural Committee prior to using or parking vehicles within the Project.

C. Parking Generally. It is intended that on-street parking of vehicles will be restricted as much as reasonably possible. Vehicles of all Owners and residents, and of their family members, employees, guests, tenants, and invitees, shall be kept in garages and the parking areas (which shall not include driveways on Lots) designated or approved by Declarant or the Board; provided, however, this subsection shall not be construed to permit the parking or storing in the above described areas of any vehicle whose parking or storage is otherwise prohibited herein. Subject to the next sentence, the Association Rules may permit temporary parking on streets or other areas in the Project for public or private social events or other permitted activities. No on-street parking of vehicles shall be permitted on or along a side of a street if a fire hydrant is located on that side of the street, regardless of distance from the fire hydrant, to the extent required Town Fire Department; if the Town Fire Department determines that the Board is not sufficiently enforcing the foregoing no-parking restriction, the Board shall post "No Parking" signs in accordance with the Town Fire Department's specifications and at the Association's expense; the Town and the Town Fire Department shall be deemed third party beneficiaries of this sentence, entitled to enforce the provisions hereof; and the provisions of this sentence may not be modified or amended without the prior written consent to the Town or the Town Fire Department.

D. Parking of Commercial Vehicles. Except as provided in this section below, Commercial Vehicles may not be parked or stored upon a Lot or anywhere else within the Project. An Owner may make a written request to the Board for the approval to store or park a particular Commercial Vehicle within the Project, and the Board may approve the storage or parking of the Commercial Vehicle in the Project as established below. Commercial Vehicles that are approved for parking or storage on the Lot may be parked within the Project only so long as they are operable and parked: (i) within a fully enclosed garage located on the Owner's Lot; (ii) in the driveway of the Lot on a nonrecurring and temporary basis; (iii) in a Side Yard Parking Area that is Screened From View; or (iv) on any public or private street within the Project only on a nonrecurring and temporary basis. The Board need not approve the parking of any or all types of Commercial Vehicles, and similar types of Commercial Vehicles may be approved for parking in Side Yard Parking Areas of one Lot but not on other Lots. Any Commercial Vehicle parked in violation of these restrictions may be towed by the Association at the sole expense of the owner of the vehicle if the vehicle remains in violation of these restrictions for a period of 24 hours from time a notice of violation is placed on the vehicle, and neither the Association nor any of its officers or directors will be liable for trespass, negligence, conversion or any criminal act by reason of towing the vehicle.

E. Parking of Recreational Vehicles. Except as provided in this section below, Recreational Vehicles may not be stored or parked on a Lot or anywhere else within a Project. An Owner may make a written request to the Board for the approval to store or park a particular Recreational Vehicle within the Project, and the Board may approve the storage or parking of the Recreational Vehicle in the Project as

established below. Recreational Vehicles will not be permitted to be parked or stored in the driveway of a Lot or in any public or private street. Certain types of Recreational Vehicles may, however, be stored or parked on a Lot. Specifically, Recreational Vehicles that can be stored or parked in a garage or Side Yard Parking Area so as to not be Visible From Neighboring Property are permitted within the Project. Additionally, certain Recreational Vehicles that cannot be parked within a garage or that, when parked, will be Visible From Neighboring Property may be stored or parked on a Lot in a Side Yard Parking Area so long as the Recreational Vehicle is appropriately Screened From View, all as determined at the sole and absolute discretion of the Architectural Committee or Board, as applicable.

F. Side Yard Parking Areas. Not all Lots are suitable for Side Yard Parking Areas, and some Lots may not be suitable for Side Yard Parking Areas even though they are similar in size to other Lots with Side Yard Parking Areas because of Lot location, Lot configuration, view orientation, streetscape, and similar aesthetic reasons, in the sole and absolute discretion of the Board. Prior to installation of any Side Yard Parking Area on a Lot, the Owner must submit to the Board for approval complete plans and specifications for the width, depth, design, location, composition or appearance of the Side Yard Parking Area. The approval by the Architectural Committee or the Board of a Side Yard Parking Area should not be construed as the approval to park or store Personal Vehicles, Commercial Vehicles or Recreational Vehicles in the Side Yard Parking Area, and the types of Personal Vehicles, Commercial Vehicles and Recreational Vehicles that may be parked or stored in the Side Yard Parking Area are governed by other provisions of the Project Documents.

G. Personal Vehicles and Use of a Garage. Each Lot may have an enclosed garage to be used by the Owner of the Lot for the sole purpose of parking Personal Vehicles, Commercial Vehicles, Recreational Vehicles, household storage purposes and certain types of permitted vehicle repairs and maintenance as described below. Garages may not be used as sleeping quarters or guest accommodations, but garages may be used for hobbies such as art, woodworking, golf club repair and similar hobbies that do not involve the permanent use of the garage for those activities. The garage door will be maintained by the Owner in good and functioning order and will remain closed except while the garage is in use for cleaning, entry and exit or permitted repairs of the type described below. No garage may be used for non-household storage or any other use that restricts or prevents the garage from being used for the purposes described above. Personal Vehicles that cannot be parked in the garage located on the Lot may be parked in the driveway so long as the Personal Vehicles are operable and are, in fact, operated from time to time. Notwithstanding any less restrictive local or municipal codes, ordinances or stipulations, Personal Vehicles may be parked in any public or private street within the Project only on a nonrecurring and temporary basis, and no other on-street parking is permitted within the Project.

H. Vehicle Repairs. Routine maintenance and repair of Personal Vehicles or approved Commercial Vehicles or Recreational Vehicles may be performed within the Owner's garage or on the driveway located on a Lot, any Recreational Vehicle Parking Area or any other portion of the Owner's Lot, but not on any public or private streets or Common Area within the Project. Additionally, Personal Vehicles and approved Commercial Vehicles or Recreational Vehicles may be rebuilt, reconstructed and repaired (including non-routine repairs) within the Owner's garage only, so long as the Owner's activities are performed at reasonable times and in a reasonable manner and so long as these activities are otherwise not in violation of any local zoning and use laws. During any types of permitted repairs and maintenance as described above (including rebuilding, reconstructing, etc.), the garage door will be kept closed except for entry and exit or ventilation, and then the garage only will remain open to the minimum extent necessary. Except for the purposes of performing the permitted repairs and maintenance of vehicles as outlined above, no Personal Vehicle or approved Commercial Vehicle or Recreational Vehicle will be permitted to be or remain on any Lot in a state of disrepair or in an inoperable condition. No vehicle frames, bodies, engines or other vehicle parts or accessories may be stored anywhere on a Lot except in a garage or in connection with permitted repairs and maintenance and then only on a temporary basis for

anticipated use on any permitted repair or maintenance that is in the process. No portion of a Lot (including the garage) may be used to store fuel or lubricants other than for personal use in amounts that are customarily stored by other Owners within the Project. NO portion of a Lot (including a garage) may be used for steam cleaning of engines or as a body shop. Owner may perform any of the permitted types of repairs and maintenance as described above, only on Personal Vehicles and approved Commercial Vehicles or Recreational Vehicles, and not on any similar type of vehicles that are not owned, used or leased by Owner or Owner's occupants.

I. Board Decisions on Vehicles. The Architectural Committee will be the sole judge as to whether any Commercial Vehicle or Recreational Vehicle will be considered a Personal Vehicle for the purposes of this Declaration and the other Project Documents. Not all types of Commercial Vehicles or Recreational Vehicles will be considered Personal Vehicles. A determination by the Board will be final and binding on all persons.

ARTICLE 10 INSURANCE

10.1 Scope of Coverage. Commencing not later than the date of the conveyance by Declarant or an Affiliate of Declarant of the Common Area described on Exhibit B (which sets out a legal description of that portion of the Common Area to which the Association shall have fee title), the Association shall make a good faith effort to obtain and maintain, to the extent reasonably available, the following insurance coverage:

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

B. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area and all other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverage with cost liability endorsements to cover liabilities of the Owners as a group and to each individual Owner;

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

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

E. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their households; (ii) that no act or omission of any Owner (unless acting within the scope of his authority on behalf of the Association) will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by the Owners or their Mortgagees; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the

Association or other Owners; (v) statement of the name of the insured as the "Association"; (vi) for policies of hazard insurance, a standard mortgage clause providing that the insurance carrier shall notify the First Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy; (vii) and "Agreed Amount" and "Inflation Guard" endorsements.

10.2 Insurance on Lots. The Association shall not be obligated to obtain property insurance, flood insurance or any other type of insurance covering the enclosed rear yards of the Lots or the Improvements located thereon. The procurement and maintenance of insurance on each Lot, including all Improvements on such Lot, shall be the sole obligation of the Owner thereof. Each Owner shall also be responsible for obtaining all liability insurance, personal property insurance and any other type of insurance to the extent desired by such Owner.

10.3 Certificates of Insurance. An insurer that has issued an insurance policy under this article shall issue certificates or a memorandum of insurance to the Association and, upon request, at the requesting party's expense to any Owner. Any insurance obtained pursuant to this article may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner to whom certificate of insurance have been issued.

10.4 Fidelity Bonds. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, without limitation, any management agent to whom the Association has delegated some all or all of the responsibility for the handling of such funds. The total amount of fidelity bond coverage shall be based upon the best business judgment of the Board, and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. In no event shall the aggregate amount of such fidelity bonds be less than a sum equal to three (3) months of Annual Assessments on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association must also:

- A. Name the Association as an obligee;
- B. Contain waivers by the insurers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and
- C. Provide that they may not be canceled (including cancellation from non-payment of premium) or substantially modified without at least ten (10) days prior written notice to the Association.

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

10.6 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association in accordance with this article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association. The proceeds shall be disbursed for the repair or restoration of the damage to the Common Area.

10.7 Annual Insurance Review. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Common Area in light of increased construction costs, inflation, practice in Yavapai County, Arizona, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are

necessary or desirable to protect the interests of the Owners and of the Association. If the Board determines that increased coverage of additional insurance is appropriate, it shall obtain the same.

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

ARTICLE 11 GENERAL PROVISIONS

11.1 Construction. Nothing in this Declaration shall limit the right of Declarant or an Affiliate of Declarant to alter the Common Area or the Lots, or shall limit the right of Declarant or an Affiliate of Declarant or a Developer to construct such additional or different Improvements as Declarant or such Affiliate of Declarant or such Developer deems advisable prior to completion of Improvements upon and sale of the entire Project. Such right shall include but shall not be limited to erecting, constructing and maintaining on the Real Property such structures and displays as may be reasonably necessary for the conduct of the business of completing the work and disposing of the same by sale, lease or otherwise. This Declaration shall not limit the right of Declarant or an Affiliate of Declarant or a Developer at any time prior to acquisition of title by a Purchaser to establish on the Real Property additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Project. Declarant and any Affiliate of Declarant reserve the right to alter their construction plans and designs as they deem appropriate. The rights of Declarant hereunder may be assigned to any successor or successors to all or part of said entity's respective interest in the Project by an express assignment incorporated in a recorded deed, lease or other instrument, as the case may be, transferring interest to such successor. Declarant and/or Developers shall exercise their rights contained in this provision in such a way as not to unreasonably interfere with the Members' rights to use and enjoy the Common Area.

11.2 Enforcement. The Association, or any Owner, shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants and reservations, now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover the damages or other dues for such violation. The Association, or any Owner, shall also have the right to enforce, by proceedings at law or in equity, the provisions of the Articles or Bylaws and any amendments thereto. With respect to Assessment liens or any other liens or charges and Association Rules, the Association shall have the exclusive right to enforcement thereof.

11.3 Alternative Dispute Resolution. Except for any legal proceedings initiated to (i) enforce any use restrictions, easement rights or nonmonetary obligations of Owners (other than Declarant or Developers) expressly set out in this Declaration; (ii) enforce any Association Rules; (iii) enforce any Architectural Rules; (iv) collect any unpaid Assessments levied pursuant to this Declaration; or (v) pursue or resolve any "small claims" (i.e., matters in which the amount in controversy could not reasonably be expected to exceed \$25,000.00), any dispute or claim (a "Dispute") under or pertaining to this Declaration or any

provision hereof between or among (1) any Owner(s) and any other Owner(s), (2) any Owner(s) and the Association, (3) the Declarant (or its brokers, agents, consultants, contractors, subcontractors or employees), and (4) the Developers (or their brokers, agents, consultants, contractors, subcontractors or employees) and any Owner(s) or the Association, shall be subject to the negotiation, mediation and arbitration provisions contained herein.

A. Negotiation. Each party to a Dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving the Dispute by good faith negotiation before resorting to any legal proceedings or any other dispute resolution procedure. Upon receipt of a written request from any party to the Dispute, the Board may appoint a representative to assist the parties in resolving the Dispute by negotiation.

B. Mediation. If the Dispute cannot be settled through negotiation, the parties to the Dispute shall make every reasonable effort to settle the Dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules (or if such procedure is unavailable, by such other comparable entity or comparable rules as the parties to the Dispute may in good faith agree upon) before resorting to any legal proceedings or any other dispute resolution procedure.

C. Arbitration. If a Dispute cannot be settled through mediation, the Dispute shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. If any party to the Dispute does not submit the Dispute to arbitration within thirty (30) days after termination of the mediation proceedings, such party shall be deemed to have waived any claims under the Dispute and all of the other parties to the Dispute shall be released and discharged from any and all liability to such party on account of such Dispute; provided, however, nothing herein shall release or discharge such party or parties from any liability to persons or entities not a party to the foregoing proceedings. The parties to a Dispute shall cooperate in good faith to assure that all necessary and appropriate persons and entities are included in the arbitration proceeding. No party shall be required to participate in the arbitration proceeding if all persons and entities against whom the party would have necessary or permissive cross-claims, counterclaims or third-party claims are not or cannot be joined in the arbitration proceeding.

11.3A Alternative Dispute Resolution. All bound ADR Parties, as identified and defined below, agree to encourage the amicable resolution of claims, grievances, controversies, disagreements, or disputes involving the Project or the Project Documents in order to avoid or limit wherever possible the emotional and financial costs of litigation. Accordingly, each Bound ADR Party covenants and agrees that all Covered Claims, as defined below, between one or more Bound ADR Party must be resolved using the Alternative Dispute Resolution procedures set forth in Section 11.3 above, and in the manner set forth, in lieu of filing a lawsuit or initiating administrative proceedings.

A. Bound Parties. As used in the Project Documents, the term “Bound ADR Parties” means: (i) the Declarant and its affiliates, builders, general contractors, brokers, subcontractors, and their respective agents, employees, and representatives (“Declarant Parties”); (ii) the Association and its officers, board members, and committee members (“Association Parties”); (iii) all Owners and all of Owner’s Permittees including all future Owners and their Owner’s Permittees (“Owner Parties”); and (iv) the property manager or Association manager and any other person not subject to this Declaration who voluntarily agrees to be subject to the alternative dispute resolution procedures contained below. Unless they otherwise agree, Mortgagees and Institutional Guarantors are not Bound ADR Parties.

B. Covered Claims Defined. The general intent of the Project Documents is to require all claims involving the Owners, the Project, or the Project Documents to be handled under the alternative dispute resolution procedures established in the Project Documents. Consequently, as used in the Project Documents, the term “Covered Claims” means all the claims, grievances, controversies, disagreements, or

disputes that may arise in whole or part out of (i) the interpretation, application, or enforcement of the Declaration or the other Project Documents; (ii) any alleged violation of the Project Documents by any of the Bound ADR Parties; (iii) the authority of the Association Parties or the Declarant Parties to take or not take any action under the Project Documents; (iv) the failure of the Declarant Parties or the Association Parties or the Board to properly conduct elections, give adequate notice of meetings, properly conduct meetings, allow inspection of books and records, or establish adequate warranty and reserve funds; (v) the performance or non-performance by any of the Bound ADR Parties of any of their respective obligations or responsibilities under the Project Documents to or on behalf of any other Bound ADR Party; (vi) the design or construction of any of the Dwelling Units within the Project (other than matters of aesthetic judgment by the Architectural Committee or the Board, all of which are not subject to the alternative dispute resolution procedures or other review) including construction defaults, surveys, soil conditions, grading specifications, installations, etc.; or (vii) any alleged violation or defect with respect to the maintenance or construction of the Common Area or any improvements or landscaping on the Common Area or the Areas of Association Responsibility. The term “Covered Claims”, however, specifically does not include any Exempt Claims of the type described below. The term “Alleged Defects” means only those Covered Claims described in subsections (vi) and (vii) above.

C. Exempt Claims. In addition to the legal proceedings listed in Section 11.3 above, the following claims, grievances, controversies, disagreements, and disputes (each an “Exempt Claim” and, collectively, the “Exempt Claims”) are exempt from the alternative dispute resolution provisions described in this Declaration and may be enforced in any manner permitted under law or equity:

a. Collection of Assessments. Any action taken by the Association against any Bound ADR Party to enforce the collection of any Assessments, to enforce or foreclose any lien in favor of the Association, or to determine the priority of any lien for Assessments;

b. Specific Actions. Any claim, grievance, controversy, disagreement, or dispute that primarily involves:

- (i) Title to any Lot or Common Area;
- (ii) A challenge to a property taxation or condemnation proceeding;
- (iii) The eviction of a tenant from a Detached Dwelling Unit;
- (iv) The breach of fiduciary duty by any one or more of the Association Parties;
- (v) The rights of any Mortgagee or Institutional Guarantor;
- (vi) An employment matter between the Association and any employee of the

Association; or

(vii) The invalidation of any provision of the Declaration or any of the covenants and restrictions contained in the Project Documents.

c. Injunctive Relief. Any suit by the Association to obtain a temporary or permanent restraining order or equivalent emergency equitable relief (together with any other ancillary relief as the court may deem necessary) in order to maintain the then-current status of the Project and preserve the Association’s ability to enforce the architectural control provisions of the Project Documents and the use restrictions contained in this Declaration;

d. Owner Actions. Any suit solely between Owners (that does not include as a party the Association Parties or the Declarant Parties) seeking redress on any Covered Claim that would constitute a cause of action under federal law or the laws of the State of Arizona regardless of the existence of the Project Documents;

e. Separate Written Contracts. Any action arising out of any separate written contract between Owners or between the Declarant Parties and any Owner Parties that would constitute a cause of action under the laws of the State of Arizona regardless of the existence of the Project Documents or the Owner's ownership of a Lot in the Project (e.g., an Owner owns a computer supply business and furnishes, through proper orders, Declarant with computers for work that Declarant fails to pay for); and

f. Not Bound Parties. Any suit in which less than all parties are Bound ADR Parties (unless the parties that are not Bound ADR Parties voluntarily agree to be subject to the alternative dispute resolution procedures established in this Declaration and the Bylaws).

Any Bound ADR Party having an Exempt Claim may submit it to the alternative dispute resolution procedures established in this Declaration and the Bylaws, but there is no obligation to do so and no obligation of any other Bound ADR Party to agree to have the Exempt Claim submitted to the alternative dispute resolution procedures. The submission of an Exempt Claim involving the Association or Declarant to the alternative dispute resolution procedures below requires the approval of the Association or Declarant, as applicable.

D. Enforcement of Resolution. This agreement of the Bound ADR Parties to negotiate, mediate, and arbitrate all Covered Claims is specifically enforceable under the applicable arbitration laws of the State of Arizona. After resolution of any Covered Claim through negotiation, mediation, or arbitration in accordance with the provisions outlined above, if any Bound ADR Party fails to abide by the terms of any agreement or Arbitration Award, any other Bound ADR Party may file suit or initiate administrative proceedings to enforce the agreement or Arbitration Award without the need to again comply with the procedures set forth above. In this case, the Bound ADR Party taking action to enforce the agreement or Arbitration Award is entitled to recover from the non-complying Bound ADR Party (or if more than one non-complying Bound ADR Party, from all non-complying Bound ADR Parties pro rata) all costs incurred in enforcing the agreement or Arbitration Award, including, with limitation, attorney fees, and court costs.

E. Alleged Defects. If the Owner Parties or the Association Parties desire or intend to bring a claim of any sort against the Declarant Parties for an Alleged Defect, the following provisions will apply to provide full and fair notice of the existence of the Alleged Defect and an opportunity to repair or correct the Alleged Defect without cost and time-consuming litigation.

(a) Notice of Alleged Defect. If any Owner Parties or the Association Parties discover an Alleged Defect, the discovering party (referred to as a "Defect Claimant") will give written notice to the Declarant of the Alleged Defect and, if known, the repair or remedy sought by the Defect Claimant.

(b) Right to Enter. Within a reasonable time after the receipt by Declarant of written notice of the Alleged Defect (or Declarant's independent discovery of a possible Alleged Defect), the Declarant Parties will have the irrevocable right to enter the Project and any affected Detached Dwelling Units or Common Area to inspect, test, and if deemed necessary or advisable by the Declarant in its sole discretion, cause the repair or correction of the Alleged Defect. All tests, inspections, and applicable repairs may be made by any of the Declarant Parties but can be commenced only after reasonable written notice by the Declarant Parties to the Defect Claimant and must be made only during normal business hours.

(c) Declarant Discretion. In performing the tests, inspections, or repairs, as applicable, the Declarant Parties will be entitled to utilize methods or take actions that it deems appropriate or necessary, and Declarant Parties' sole obligation with respect to the Defect Claimant will be to restore the affected area as close as reasonably possible to its condition prior to the testings, investigations, or repairs.

(d) No Extension of Warranties. The existence of this right to notice and an opportunity to inspect and/or cure will not be deemed to impose any obligation on the Declarant Parties to test, inspect, or repair any Alleged Defect or to establish or extend any applicable warranty of any builder, developer, or seller (including Declarant) that may be applicable to the Detached Dwelling Unit or Common Area.

F. Amendments to Section 11.3. The provisions including the alternative dispute resolution procedures established in Sections 11.3 and 11.3A of this Declaration may not be modified, amended, terminated, or waived in any manner without Declarant's prior and express written consent, as evidenced by a recorded instrument, for so long as the Declarant Parties own at least one Lot within the Project. After the Declarant Parties cease to own at least one Lot within the Project, the provisions of Sections 11.3 and 11.3A may be modified, amended, or terminated in accordance with the procedures established in the Project Documents; however, to the extent any Covered Claim still involves the Declarant Parties, the Declarant Parties can elect for the Covered Claim to be governed by the alternative dispute resolution procedures previously contained in the Project Documents (as though not modified, amended, or terminated). Nothing contained in this Subsection F is intended to shorten, modify, or amend the provisions of Subsection E with respect to the notice and opportunity to inspect and/or cure an Alleged Defect.

11.4 No Waiver. Failure by the Association, or by any Member, to enforce any covenant, condition, or restriction herein contained, or the Articles, Bylaws, or Association Rules in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any such future breach of the same or any other covenant, condition or restriction.

11.5 Cumulative Remedies. All rights, options and remedies of Declarant, Developers, the Association, or the Owners under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant, the Association, or the Owners shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

11.6 Severability. Invalidation of any one or a portion of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

11.7 Violations and Nuisance. Every act or omission whereby any provision of the Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action by Declarant, Developers, the Association or any Owner.

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

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

11.10 Attorneys' Fees. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any Assessments or other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with this Declaration, the Articles, Bylaws, and/or Association Rules, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in any such action.

11.11 Binding Effect. By acceptance of a deed or by acquiring any ownership interest in any of the Real Property subject to this Declaration, each Person, for himself or itself, his heirs, personal representatives, successors, transferee and assigns, binds himself, his heirs, personal representatives, successors, transferee and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Project and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, Purchasers, assignees, lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. The interest of each Owner by virtue of his purchase of a Lot within the Project and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

11.12 Notices. Any notice to be given under the provision of this Declaration shall be in writing and delivered as follows:

A. Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners on behalf of all co-owners and shall be deemed delivered to all such co-owners;

B. Notice to the Association shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, addressed as follows:

The Crossroads at Mingus Property Owners' Association
190 Crystal Sky Drive
Sedona, AZ 86351

or to any other address requested by the Association pursuant to written notice to the Declarant and the Owners.

C. Notice to the Declarant shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, addressed as follows:

PTM Enterprises, LLC
190 Crystal Sky Drive
Sedona, AZ 86351

or to any other address requested by Declarant pursuant to written notice to the Association.

Any of the above notices so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

11.13 Leases Generally Prohibited. No renting or leasing of a Dwelling Unit (hereafter referred to as a "Lease") shall be permitted for less than a twelve (12) month period, other than to a member of family of Lot Owner; and no renting or leasing of a Dwelling Unit shall be permitted if to, pursuant to, or facilitated

by, a vacation club, fractional ownership arrangement, timeshare arrangement, any similar entity, program or arrangement, or any other entity, program or arrangement that involves or facilitates occupancy sharing arrangements involving more than one (1) Single Family. Any renting or leasing arrangement in violation of such prohibition shall be void and of no force or effect. Any Lease shall provide that the terms of such Lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, the Association Rules, the Architectural Rules and applicable agreements between the Association and any state, local municipal or federal agency. Said Lease shall further provide that any failure by the tenant thereunder to comply with the terms of the foregoing documents shall be a default under the Lease. All Leases shall be in writing. Any Owner who shall lease or rent his Dwelling Unit shall be responsible for assuring compliance by such Owner's tenant with this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Rules, and shall be jointly and severally responsible for any violation thereof by his tenant. Notwithstanding anything to the contrary contained herein, Owner may lease Dwelling Unit to Declarant or an Affiliate of Declarant or a Developer who may use such Dwelling Unit for purposes of marketing the Lots in the Project.

11.14 Nonliability of Officials. To the fullest extent permitted by law, neither the Board, the Architectural Committee, any committees of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith and which such Board, committees or persons reasonably believed to be within the scope of their duties.

11.15 Term. The covenants and restriction of this Declaration shall run with and bind the Project for a term of twenty (20) years from the date this Declaration is recorded. Thereafter they shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if but only if (i) another entity has agreed to perform the Common Area maintenance responsibilities of the Association hereunder and to abide by the terms of this Declaration, and (ii) such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing one hundred percent (100%) of the votes in each class of membership. If the necessary votes and consents are obtained, the Board shall cause to be recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

11.16 Amendments. Subject to the other provisions of this Declaration, including paragraph C below, this Declaration may be amended as follows:

A. Until such time as there is a Class A Membership pursuant to this Declaration, amendments or modifications shall be immediately effective (notwithstanding the existence of successive terms under Section 11.15) when executed by Declarant and Developers and recorded in the official records of Yavapai County, Arizona. Thereafter, any amendments shall require the affirmative assent or vote of the Owners holding not less than seventy-five percent (75%) of the votes; except that the Declarant and the Developers may amend this Declaration at any time without the assent or vote of the Owners as may be requested by any government agency which requests such amendment as a condition of approving this Declaration, or any federally chartered lending institution which requests such amendment as a condition to lending funds upon the security of any Lot, or as may be appropriate in the event of any such requested amendment that deletes, diminishes or alters Declarant's and Developers' control of the Association and its activities, to permit the Declarant and Developers to adopt other and different control provisions, or as Declarant and Developers may determine to be necessary or appropriate to correct an error or inconsistency, and in any such event such amendment shall be immediately effective

(notwithstanding the existence of successive terms under Section 11.15) when executed by Declarant and Developers and recorded in the official records of Yavapai County, Arizona.

B. An amendment or modification that requires the vote and written assent of the Members as herein above provided shall be immediately effective (notwithstanding the existence of successive terms under Section 11.15) when executed by the President and Secretary of the Association who shall certify that the amendment or modification has been approved as herein above provided, and when recorded in the official records of Yavapai County, Arizona; and

C. Notwithstanding the foregoing, so long as Declarant or an Affiliate of Declarant owns any Lot, no amendment to this Declaration shall be effective unless approved in writing by Declarant.

11.17 Termination. The provisions of this Declaration may be terminated only with the approval of Declarant, if Declarant or an Affiliate of Declarant still own a Lot within the Project, and each Developer, if the applicable Developer still owns a Lot within the Project, and the Owners of seventy-five percent (75%) or more of the rest of the Lots. Any such termination of this Declaration shall be executed by the President and Secretary of the Association and recorded in the official records of Yavapai County, Arizona. No such termination of these provisions shall be a bar for any subsequent commitment of the Project to certain covenants, conditions and restrictions acceptable to the then Owners.

11.18 Gender. The singular, wherever used in this Declaration shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to entities or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

11.19 Section Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the articles or sections of this Declaration.

11.20 Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Member from any liability or obligation incurred under or in any way connected with the Association during the period of such membership, or impair any rights or remedies which the Association may have against such former Member arising out of, or in any way connected with such membership and the covenants and obligations incident thereto.

11.21 Annexation of Additional Property. Declarant and Developers shall have the right to annex Additional Property into the coverage of this Declaration by jointly recording, in the land records of Yavapai County, a declaration of annexation ("Declaration of Annexation") describing the real property to be brought within the coverage of this Declaration. Any such Declaration of Annexation may supplement this Declaration with such additional provisions as Declarant and Developers may deem appropriate for the real property annexed.

11.22 Section reference maintained to preserve numbering.

11.23 Security. EACH OWNER UNDERSTANDS AND AGREES THAT NEITHER THE ASSOCIATION, DECLARANT, OR DEVELOPERS, NOR ANY OF THEIR RESPECTIVE SHAREHOLDERS, OFFICERS, MEMBERS, PARTNERS, DIRECTORS, EMPLOYEES OR AGENTS, ARE RESPONSIBLE FOR THE ACTS OR OMISSIONS OF ANY THIRD PARTIES OR OF ANY OTHER OWNER OR THE OWNER'S FAMILY MEMBERS, AGENTS, EMPLOYEES, GUESTS, TENANTS, OR INVITEES RESULTING IN PROPERTY DAMAGE, BODILY INJURY, PERSONAL INJURY OR HARM TO MARKETABILITY OF PROPERTY. ANY SECURITY

MEASURES OR DEVICES (INCLUDING SECURITY GUARDS, PRIVATE SECURITY ALARMS, BLOCK WATCH OR COURTESY PATROL) THAT MAY BE USED AT THE PROJECT WILL COMMENCE AND BE MAINTAINED BY THE ASSOCIATION SOLELY THROUGH THE APPROPRIATE VOTE OF THE BOARD, AND EACH OWNER UNDERSTANDS THAT ANY OF THE SYSTEMS, MEASURES OR DEVICES THAT ARE IN EFFECT AT THE TIME SUCH OWNER ACCEPTS A DEED FOR A LOT (OR OTHERWISE BECOMES AN OWNER) MAY BE ABANDONED, TERMINATED OR MODIFIED BY THE APPROPRIATE VOTE OF THE BOARD. THE COMMENCEMENT OF ANY SECURITY MEASURES OR DEVICES OR CONTROLS WILL NOT BE DEEMED TO BE AN ASSUMPTION OF ANY DUTY ON THE PART OF THE ASSOCIATION, DECLARANT OR DEVELOPERS WITH RESPECT TO THE PROJECT, THE OWNERS OR ANY OF THE OWNER'S FAMILY MEMBERS, AGENTS, EMPLOYEES, GUESTS, TENANTS, OR INVITEES.

ARTICLE 12 DISCLOSURES

12.1 Anticipated Development of the Project. Each Owner, by accepting a deed or other conveyance of title, shall be deemed to have acknowledged on his own behalf and on behalf of any occupants of his Lot, that anticipated development of the Project may include (but without the obligation of Declarant or any Affiliate of Declarant or Developers to provide) the following: ,

A. Single Story. Dwelling Units constructed on the Lots identified on Schedule B attached hereto and incorporated herein by reference shall be single story.

B. Multi-trail System. Certain common landscape areas may be developed as a multi-trail system for use by the general public.

C. Section reference maintained to preserve numbering.

D. Electrical Transmission Lines. High-voltage electrical transmission lines may be located on the Property. Each Owner may consider contacting the Arizona Department of Environmental Quality as well as other sources in order to evaluate issues that may include health, safety, and future development plans associated with such land use.

E. Trash Pickup. The Town of Clarkdale is expected to provide trash pickup services on the Property. Each Owner may consider contacting the Town of Clarkdale in order to evaluate issues that may include health, safety, pickup schedules and regulations, fees, and future plans associated with such services.

F. Section reference maintained to preserve numbering.

G. Building Permits; Certificates of Occupancy. Building permits shall not or may not be issued by the Town of Clarkdale for the construction of Dwelling Units and related Improvements unless and until the construction of certain road improvements and other infrastructure for the Project has been completed and accepted by the Town of Clarkdale. Certificates of occupancy shall not or may not be issued by the Town of Clarkdale for the Dwelling Units and related Improvements unless and until damaged or defective road improvements and other infrastructure for the Project has been repaired and accepted by the Town of Clarkdale. Each Owner may consider contacting the Town of Clarkdale as well as other sources in order to evaluate issues related to the timing, construction and repair of road improvements and other infrastructure for the Project.

H. Driveways. Improvements constructed in connection with a Dwelling Unit on a Lot shall include a driveway that runs from the garage of the Dwelling Unit to the back of curb or sidewalk, as appropriate, paved in a manner acceptable to the Architectural Committee. The driveway may be subject to additional requirements imposed by the Town of Clarkdale.

12.1:1. Section reference maintained to preserve numbering.

12.1:2 Section reference maintained to preserve numbering.

12.1:3 Section reference maintained to preserve numbering.

12.2 Uses of Other Property. Each Owner, by accepting a deed or other conveyance of title, shall be deemed to have acknowledged on his own behalf and on behalf of any occupants of his Lot, that Declarant and Developers shall have no liability or obligation with respect to, and that such Owner has the responsibility to and shall fully and independently investigate all past, present or planned land uses, improvements or developments of any kind or nature located off the Real Property and each such Owner shall fully and forever release and discharge Declarant and Developers and its and their officers, directors, partners, members, employees and agents from any and all liability, obligations, demands, causes of action, damages, costs and expenses (including attorneys' fees) arising from or in any way related to such past, present or planned land uses, improvements or development. Each such Owner is expressly advised to investigate, and shall be deemed obligated to fully and independently investigate, land uses, improvements or development off the Property that include (but shall not be limited to) the following:

A. Electrical Transmission Lines. High-voltage electrical transmission lines are located within the vicinity of the Property. Each Owner may consider contacting the Arizona Department of Environmental Quality as well as other sources in order to evaluate issues that may include health, safety, and future development plans associated with such land use.

B. Agricultural Uses. Agricultural operations and related facilities that involve equipment, machinery, animals, and crops associated with a rural environment are located adjacent to the Project. Such uses are legal and should be expected to continue indefinitely. Each Owner may consider contacting the owners of such operations as well as the Arizona Health Services Department, the Arizona Department of Environmental Quality, the Yavapai County Environmental Services Department, and other sources in order to evaluate issues that may include noise, odors, pests, use of fertilizers, insecticides (including aerial application), other farming practices, nuisances, pollution, times of operation, and future development plans associated with such land uses.

C. Cottonwood Municipal Airport. The Cottonwood Municipal Airport is located approximately one mile southeast of the Property and the Property may be within flight patterns or noise contour areas associated with the Cottonwood Municipal Airport. Each Owner may consider contacting the Cottonwood Municipal Airport and/or the City of Cottonwood, Arizona as well as other sources in order to evaluate issues that may include frequency and hours of overflights, noise, pollution, and future development plans associated with such land use.

D. Highway 89A. Highway 89A is located adjacent to the Property. Each Owner may consider contacting the State of Arizona Department of Transportation as well as other sources in order to evaluate issues that may include noise, traffic issues, pollution, and future development plans associated with such land use.

List of Exhibits

- A - Legal Description of the Real Property
- B - Legal Description of the Common Area

Exhibit 1 Exhibit A

Legal Description of Real Property

Lots 3 through 186 and Lots 195-251, inclusive, and Tracts G, I, J, N, O and P, all according to The Crossroads at Mingus final plat, which is recorded in Book 63 of Maps and Plats, Pages 80-1 through 80-11, records of Yavapai County, Arizona, as an amendment to The Highlands final plat. The subdivision originally was known as The Highlands and a map of the Highlands subdivision is recorded in Book 56 of Maps and Plats, Pages 61-71, Official Records of Yavapai County, Arizona.

Exhibit 2 Exhibit B

Legal Description of Common Area

Tracts G, I, J, N, O and P according to The Crossroads at Mingus final plat, which is recorded in Book 63 of Maps and Plats, Pages 80-1 through 80-11, records of Yavapai County, Arizona, as an amendment to The Highlands final plat.

Exhibit 3 Schedule A

Town of Clarkdale Landscaping Provisions

The Town of Clarkdale's Landscaping Provisions may be found in Chapter 9 of the Town Zoning Code and the Town's Native and Drought Tolerant Plant List may be obtained from the Town.

Exhibit 4 Schedule B

Lots With Single Story Dwelling Units

3, 21, 25, 34, 38, 54, 59, 65, 72, 73, 79, 80, 85, 86, 87, 92, 93, 103, 104, 109, 110, 114, 115, 122, 123, 127, 128, 129, 141, 157, 158, 159, 160-167, 210-216, 218-240