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WHEN RECORDED, RETURN TO:
MALOUF BROS.
7330 N. 16th St, Ste B101
Phoenix, AZ 85020

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
AUG 13 '87 -3 00
KEITH POLETIS, County Recorder
FEE 57⁰⁰ PGS 52 P.H.
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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
THE FIFTH GREEN

This document is being re-recorded to include lot 69 in
Paragraph 6.9, page 32

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OF MARICOPA COUNTY, ARIZONA
SEP 23 '87 -3 00
KEITH POLETIS, County Recorder
FEE 57⁰⁰ PGS 52 M.A.
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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
THE FIFTH GREEN

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EXHIBITS

Exhibit A- Legal Description of Property Initially
Subject to the Declaration

Exhibit B - Legal Description of Lake

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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE FIFTH GREEN

THIS DECLARATION is made on the 12 day of AUGUST, 1987, by Boulders Malouf Bros. Partnership, an Arizona general partnership (the "Declarant").

ARTICLE 1

DEFINITIONS

As used in this Declaration, the following capitalized terms shall have the meanings set forth in this Article:

1.1. "Annexable Property" means any real property adjacent to or in the vicinity of the real property described on Exhibit A attached hereto, the fee title of which is now or hereafter vested in the Declarant, together with all buildings and other Improvements located thereon and all easements, rights and privileges appurtenant thereto.

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

1.3. "Architectural Committee Rules" means the rules adopted by the Architectural Committee.

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

1.5. "Assessments" means the annual and special assessments levied and assessed against each Lot pursuant to Article 4 of this Declaration.

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

1.7. "Association" means the Arizona nonprofit corporation to be organized by the Declarant to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns. Declarant intends to organize the Association under the name of "The Fifth Green Owners Association," but if such name is not

available, Declarant may organize the Association under such other name as the Declarant deems appropriate.

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

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

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

1.11. "Common Area" means (i) the real property and all Improvements located thereon, identified on the Plat as Tracts B through W, inclusive, (ii) the real property, and all Improvements located thereon, described on Exhibit B attached to this Declaration, and (iii) all real property, and all Improvements located thereon, conveyed to, and accepted by, the Association for the common use and enjoyment of the Owners.

1.12. "Declarant" means Boulders Malouf Bros. Partnership, an Arizona general partnership, its successors and any person or entity to whom it may expressly assign any or all of its rights under this Declaration.

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

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

1.15. "First Mortgagee" means the holder of any First Mortgage.

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

1.17. "Lot" means any parcel of real property designated as a Lot on the Plat and, where the context indicates or requires, includes the Residential Unit and all other Improvements situated on the Lot.

1.18. "Master Association" means Owners Association of Boulders Carefree, an Arizona nonprofit corporation, organized pursuant to the provisions of the Master Declaration.

1.19. "Master Declaration" means the Master Declaration of Covenants, Conditions and Restrictions for The Boulders Carefree recorded as Instrument No. 85-464536, Maricopa County, Arizona, as such Declaration may be amended from time to time.

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

1.21. "Owner" means the record owner, whether one or more persons or entities, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include (i) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (ii) a lessee or tenant of a Lot. Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title in a Lot under which the seller is obligated to convey to the purchaser the remainder of seller's title in the Lot, whether legal or equitable, on payment in full of all monies due under the contract. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the trustor under the deed of trust shall be deemed to be the Owner. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

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

1.23. "Plat" means the plat of The Fifth Green recorded with the County Recorder of Maricopa County, Arizona, in Book 313, page 6, and all amendments and corrections thereto, and any recorded plat of all or any portion of the Annexable Property which is annexed by the Declarant pursuant to Section 2.2 of this Declaration, and all amendments or corrections thereto.

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

1.25. "Property" or "Project" means the real property described on Exhibit A attached to this Declaration and all real property subsequently annexed by the Declarant pursuant to Section 2.2 of this Declaration together with all buildings and other Improvements located thereon and all easements, rights and privileges appurtenant thereto.

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

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

1.28. "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 persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

1.29. "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 at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE 2

PLAN OF DEVELOPMENT

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

2.2. Right of Annexation.

(A) The Declarant hereby expressly reserves the right, until seven (7) years from the date of recording of this Declaration, to annex and subject to this Declaration, without the consent of any Owner, all or any portion of the Annexable Property. The annexation of all or any portion of the Annexable Property shall be accomplished by the Declarant recording with the County Recorder of Maricopa County, Arizona, a Declaration of Annexation stating (i) the legal description of the Annexable Property being annexed; and (ii) a description of any portion of the Annexable Property being added which will be Common Area. No annexation of all or any portion of the Annexable Property shall be effective unless approved in writing by the owner of fee title of the property being annexed.

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(B) Any portion of the Annexable Property annexed pursuant to this Section shall not become irrevocably annexed to the Project until the date on which the first Lot within the annexed portion of the Annexable Property is conveyed to a Purchaser. If any Declaration of Annexation recorded pursuant to this Section divides the portion of the Annexable Property being annexed into separate phases, then each phase of the property being annexed shall not become irrevocably annexed to the Project until the date on which the first Lot within such phase is conveyed to a Purchaser.

(C) The Declarant shall have the right to amend any Declaration of Annexation recorded pursuant to this Section to change the description of phases within the property being annexed except that the Declarant may not change any portion of the Annexable Property which has already become irrevocably annexed to the Project.

(D) At any time prior to the date which is seven (7) years after the recording of this Declaration, the Declarant may withdraw from the Project any part of the Annexable Property which has not been irrevocably annexed to the Project pursuant to the provisions of this Section. Any such withdrawal of property from the Project shall be accomplished by the recording with the County Recorder of Maricopa County, Arizona, of a Declaration of Withdrawal describing the portion of the property being withdrawn. Upon the recording of any such Declaration of Withdrawal, that portion of the Annexable Property described in the Declaration of Withdrawal shall no longer be part of the Project or subject to the Declaration.

(E) The voting rights of the Owners of Lots annexed pursuant to this Section shall be effective as of the date the Declaration of Annexation is recorded. The Lot Owners' obligation to pay Assessments shall commence as provided for in Section 4.7 of this Declaration.

(F) The Annexable Property may be added as a whole at one time or in one or more portions at different times, or it may never be added, and there are no limitations upon the order of addition or the boundaries thereof. The property annexed into the Project need not be contiguous, and the exercise of the right as to any portion of the Annexable Property shall not bar the further exercise of the right of annexation as to any other portions of the Annexable Property.

(G) There are no limitations on the locations or dimensions of improvements to be located on the Annexable Property. No assurances are made as to what, if any, further improvements will be made by Declarant on any portion of the Annexable Property.

(H) Declarant makes no assurances as to the exact number of Lots which shall be added to the Project by annexation of all or any portion of the Annexable Property.

2.3. Disclaimer of Representations. Declarant makes 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 part of the Annexable Property will be subjected to the Declaration; (iii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iv) the use of any Property subject to this Declaration will not be changed in the future. In addition, although a guardhouse will be constructed on the private street leading into the Project, the Declarant makes no representations or warranties that a guard service will be provided or, if guard service is provided, that it will be provided during any particular hours or will be continued in the future. Nothing contained in this Declaration and nothing which may be represented to a Purchaser by real estate brokers or salesmen representing the Declarant shall be deemed to create any implied covenants or restrictions with respect to the use of any Property subject to this Declaration or any part of the Annexable Property. Any part of the Annexable Property which is not annexed by the Declarant may be used by the Declarant for any purpose whatsoever.

2.4. Restriction on Liability of the Association. The Declarant intends to construct guardhouses and/or gates at the entrance of the Project in order to limit access and provide more privacy for the Owners and other occupants of Residential Units in the Project. The guard gates may be activated by a key system or some other type of activation device. Each Owner, tenant or other resident of a Residential Unit and their families and guests acknowledge that the guardhouse or gate may restrict or delay entry to the Project by the police, the fire department, ambulances and other emergency vehicles and personnel and that such restriction or delay on the entry by such emergency vehicles and personnel may result in death or injury to an Owner, tenant or other resident of a Residential Unit or their families and guests. Each Owner, tenant or other resident of a Residential Unit and their families and guests agree to assume the risk that the guard gate will restrict or delay entry to the Project by emergency vehicles and personnel and that such delay could result in death or bodily injury to an Owner, tenant or other resident of a Residential Unit or their families and guests. Neither the Declarant, the Association nor any director, officer, agent or employee of the Declarant or the Association shall be liable to any Owner, tenant or other resident of a Residential Unit or their families or

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guests for any death or bodily injury resulting, directly or indirectly, from the construction, existence or maintenance of the guard gate. Each Owner of a Lot agrees to indemnify, defend and hold the Declarant and the Association harmless from any claim, liability, demand or judgment arising out of any death or bodily injury to the Owner, his tenants, or any other person residing on his Lot or to his guests resulting, directly or indirectly, from the construction, existence or maintenance of the guard gate. This indemnity shall include all reasonable attorneys' fees and court costs incurred by the Declarant or the Association in connection with any such claim, liability, demand or judgment.

2.5. Master Association. The Project is part of a master planned community known as The Boulders Carefree. The Project shall be subject to the terms and conditions of the Master Declaration and the Articles of Incorporation, Bylaws and Architectural Committee Rules (collectively, the "Master Association Documents") of the Master Association, as such documents may from time to time be amended. Each Owner of a Lot in the Project will be obligated to pay assessments and other charges to the Master Association in accordance with the Master Association Documents. All assessments and other charges due to the Association under the Project Documents shall be in addition to the assessments and other charges payable to the Master Association. All consents required by this Declaration of the Architectural Committee shall be in addition to any consents required under the terms of the Master Declaration or the Master Association Documents. In the event of any conflict or inconsistency between the restrictions with respect to the use of the Lots set forth in the Master Declaration and the restrictions set forth in Article 4 of this Declaration, the more restrictive provision shall control.

2.6 Golf Course Facilities. A golf course and related facilities have been or are being constructed within the master planned development known as The Boulders Carefree. The golf course and related facilities are privately owned by the Declarant under the Master Declaration. No Owner shall have any right to membership in the golf course facilities by virtue of his ownership of a Lot in The Fifth Green; provided, however, that the right to use any such facility through purchase or payment of membership or user fees or other charges shall be available to all Owners on at least the same basis as is available to any other member of the public. ALL PRESENT AND FUTURE OWNERS, OCCUPANTS OR OTHER PERSONS AT ANY TIME PRESENT UPON OR HOLDING ANY INTEREST IN THE PROPERTY OR ANY PORTION THEREOF HEREBY ACKNOWLEDGE AND AGREE THAT THEY ARE FULLY AWARE OF THE FACT THAT THE ACQUISITION OF PROPERTY ADJACENT TO OR IN THE VICINITY OF A GOLF COURSE HAS

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CERTAIN RISKS, INCLUDING THE RISK THAT FROM TIME TO TIME GOLF BALLS FROM THE GOLF COURSE MAY ENTER UPON OTHER PORTIONS OF THE PROPERTY AND THERE DO DAMAGE TO PERSONS AND PROPERTY. ALL SUCH PERSONS ARE HEREBY ADVISED THAT THE GOLF COURSE HAS BEEN DESIGNED TO HAVE LIMITED BUFFERS BETWEEN PLAYING AREAS AND ADJOINING ROADWAYS AND RESIDENTIAL PROPERTIES, AND ALL SUCH PERSONS HEREBY EXPRESSLY ASSUME SUCH RISK AND ACKNOWLEDGE AND AGREE THAT NO CLAIM FOR ANY HARM, DAMAGE OR INJURY OF ANY KIND CAUSED OR OCCASIONED BY GOLF BALLS OR ANY OF THE HAZARDS ASSOCIATED WITH THE MAINTENANCE, OPERATION AND USE OF THE GOLF COURSE OR TO ENJOIN THE SAME SHALL BE MADE AGAINST THE DECLARANT, THE DESIGNERS, THE OWNER OR OPERATOR OF SUCH GOLF COURSE, OR ANY PLAYERS THEREON OR MEMBER THEREOF BY THE ASSOCIATION OR ANY OTHER OWNER OR OTHER PERSON.

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ARTICLE 3

THE ASSOCIATION; RIGHTS AND DUTIES,
MEMBERSHIP AND VOTING RIGHTS

3.1. Rights, Powers and Duties. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Project Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Project Documents. Unless the Project Documents specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

3.2. Board of Directors and Officers. The affairs of the Association shall be conducted by a board of directors and such officers and committees as the Board may elect or appoint, in accordance with the Articles and the Bylaws. No director, officer or employee of the Association and no member of the Architectural Committee or any other committee appointed by the Board shall be liable to the Association, the members or any other person for any negligence, mistake, error or omission in connection with the performance of his duties under the Project Documents except for willful misconduct or gross negligence.

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

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

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

3.6. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.

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

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

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to four (4) votes for each Lot owned by the Declarant and four (4) votes for each Lot subject to annexation. The Class B membership shall terminate on the earlier of (i) when the votes entitled to be cast by Class A members exceed the votes entitled to be cast by the Class B member or (ii) when the Declarant notifies the Association in writing that it relinquishes its Class B membership, whichever first occurs. Upon the termination of the Class B membership, the Declarant shall become a Class A member. If the Declarant voluntarily relinquishes its Class B membership, the Declarant may require that specified actions of the Association or the Board, as described in a recorded instrument executed by the Declarant relinquishing its Class B membership, be approved by the Declarant before they become effective, but such right shall terminate when the Class B membership would have otherwise terminated.

3.8. Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine; but in no event shall more than one ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be

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allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

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

3.10. Suspension of Voting Rights. If any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Project Documents for a period of five (5) days or if any Owner violates any other provision of the Project Documents and such violation is not cured within ten (10) days after the Association notifies the Owners of the violation, the 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 attorneys' fees, are brought current, and until any other infractions or violations of the Project Documents are cured.

ARTICLE 4

COVENANT FOR MAINTENANCE ASSESSMENTS

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

4.2. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for (i) the upkeep, maintenance and improvement of the Common Area and the other areas which the Association is obligated to maintain under this Declaration; (ii) promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property; (iii) the performance and exercise by the Association of its rights, duties and obligations under the Project Documents, the Master Association Documents or any agreement between the Association and the Master Association and (iv) payment of any amount due from the Association to the Master Association.

4.3. Annual Assessment. In order to provide for the operation and management of the Association and to provide funds for the Association to perform its duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each fiscal year of the Association commencing with the year in which the first Lot is conveyed to a Purchaser, shall assess against each Lot an annual assessment. The amount of the annual assessment shall be in the sole discretion of the Board except that (i) the annual assessment must be fixed at a uniform rate for each Lot and (ii) the Declarant shall be obligated to pay only ten percent (10%) of the annual assessment attributable to Lots owned by the Declarant until a Certificate of Occupancy or similar permit has been issued by the appropriate governmental authority for a Residential Unit on the Lot. If a Lot ceases to qualify for the reduced ten percent (10%)

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rate of assessment during the period to which an annual assessment is attributable, the assessment shall be prorated between the applicable rates on the basis of the number of days in the assessment period that the Lot qualified for each rate. So long as there is a Class B membership in the Association, the Declarant shall pay to the Association any amounts which, in addition to the annual assessments levied by the Association, may be required by the Association in order for the Association to fully perform its duties and obligations under the Project Documents, including the obligation to maintain adequate reserve accounts. The Board shall give notice of the annual assessment to each Owner at least thirty (30) days prior to the beginning of each fiscal year of the Association, but the failure to give such notice shall not affect the validity of the annual assessment established by the Board nor relieve any Owner from its obligation to pay the annual assessment. If the Board determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all expenses of the Association for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the annual assessment for that fiscal year and the revised annual assessment shall commence on the date designated by the Board.

4.4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any fiscal year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Area, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any such special assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

4.5. Date of Commencement of Annual Assessments; Due Dates. Except as provided in Section 4.7 with respect to Lots annexed into the Project pursuant to Section 2.2 of this Declaration, the annual assessments shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board may require that the annual assessment be paid in installments and in such event the Board shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

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4.6. Assessments on Lots Subsequently Annexed. The annual assessment for Lots annexed by the Declarant pursuant to Section 2.2 of this Declaration shall commence on the first day of the first month following the month in which the annexed portion of the Annexable Property becomes irrevocably annexed to the Project in accordance with Section 2.2 of this Declaration, and no Assessments may be levied against any such Lot until such time. If any Declaration of Annexation recorded pursuant to Section 2.2 of this Declaration divides the Annexable Property being annexed into separate phases, then the annual assessments for Lots annexed by the Declarant shall not commence until the first day of the first month following the month in which the phase of the Annexable Property within which such Lot is located is irrevocably annexed in accordance with Section 2.2 of this Declaration, and no Assessments may be levied against any such Lot until such time.

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

(A) Any Assessment, or any installment of an assessment, not paid within five (5) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate of interest established by the Board. Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made. The Assessment Lien shall be perfected by the recordation of a "Notice of Claim of Lien" which shall set forth (i) the name of the delinquent Owner as shown on the records of the Association, (ii) the legal description or street address of the Lot against which the claim of lien is made, (iii) the amount claimed as of the date of the recording of the notice including interest, lien recording fees and reasonable attorneys' fees, (iv) the name and address of the Association.

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

(C) The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

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

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

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

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

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

4.12. Monetary Penalties. In accordance with the procedures set forth in the Bylaws, the Board shall have the right to levy reasonable monetary penalties against an Owner for violations of the Project Documents by the Owner, his family, tenants or guests.

ARTICLE 5

PERMITTED USES AND RESTRICTIONS

5.1. Residential Use. Except for rights granted to the Declarant by this Declaration regarding the use of Lots, all Lots shall be used, improved and devoted exclusively for use as a residence by a Single Family, and no business, occupation, profession, trade or other nonresidential use shall be conducted on any Lot.

5.2. Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal shall be maintained so as to be Visible from Neighboring Property. No Owner or any lessee or guest of an Owner shall permit any dog or other pet being kept on a Lot to relieve itself on another Owners' Lot. It shall be the responsibility of such Owner, lessee or guest to remove immediately any droppings from pets. No dog, cat or other pet shall be permitted to run at large, and each dog, cat or other pet shall be confined entirely to an owners' Lot except that a dog, cat or other pet shall be permitted to leave an owner's Lot if such dog, cat or other pet is at all times kept on a leash not to exceed six (6) feet in length and is under the direct control of the Owner.

5.3. Antennas. No antenna, satellite television dish antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, but without limitation, Citizen's Band or Ham Radio signals shall be erected, used or maintained outdoors on any Lot without the prior written approval of the Architectural Committee.

5.4. Utility Lines. All lines, wires, and pipes for utilities, including, but not limited to water, sewer, gas, electric, telephone and cable television, shall be erected, placed or maintained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No Residential Unit, landscaping or other Improvement shall be placed, erected or maintained upon any area designated on the Plat as a public utility easement which may damage or interfere with the installation and maintenance of utilities. The public utility easement areas, and all Improvements thereon, shall be maintained by the Owner of the

Lot on which the easement area is located unless the easement area is to be maintained by the utility company or a county, municipality or other public authority.

5.5. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time for a residence on any Lot, either temporary or permanent. Temporary buildings or structures used during the construction of a Residential Unit or other structure on a Lot shall be removed immediately after the completion of construction.

5.6. Trucks, Trailers, Campers and Boats. Except for (i) emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Architectural Committee, (ii) trucks, trucks with camper shells, mini-vans, motor homes and other recreational vehicles not exceeding 205 inches in length, 75 inches in height and 80 inches in width, and (iii) trucks, trucks with camper shells, motor homes and recreational vehicles owned by any guest or invitee of any Owner or the tenant of an Owner which are parked on a Lot during such time as the guest or invitee is visiting the Owner or tenant but in no event for more than seven (7) days during any six (6) month period of time, no mobile home, motor home, trailer, truck, camper, truck with camper shell, boat, boat trailer or similar vehicle or equipment shall be parked, kept, placed, maintained, constructed, reconstructed, serviced or repaired on any street (public or private), Lot, Common Area or other property without the prior written approval of the Architectural Committee.

5.7. Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed, serviced or repaired upon any Lot, Common Area, street (public or private) or other property so as to be Visible From Neighboring Property, and no inoperable vehicle may be stored or parked on any Lot, Common Area, street (public or private) or any other property so as to be Visible From Neighboring Property; provided, however, the provisions of this Section shall not apply to emergency repairs. No automobile, motorcycle, motorbike or other motor vehicle shall be parked upon any street (public or private) within the Project. All vehicles of Owners and of their lessees, employees, guests and invitees shall be kept in garages or carports of the Owners wherever and whenever such facilities are sufficient to accommodate the number of vehicles on a Lot.

5.8. Towing of Vehicles. The Association shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment towed is owned by an Owner, then the cost incurred by the Association in towing the vehicle or equipment shall be assessed against the Owner and his Lot, and such cost shall be secured by the Assessment Lien.

5.9. Nuisances. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupant. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except fire detection and security devices used exclusively for such purposes, shall be located, used or placed on any property.

5.10. Repair of Buildings. No Residential Unit, building, landscaping or other Improvement upon any Lot shall be permitted to fall into disrepair, and each such Residential Unit, building, landscaping or other Improvement shall at all times be kept in good condition and repair by the Owner thereof.

5.11. Trash Containers and Collection. No garbage, rubbish or trash shall be placed or kept on any Lot except in covered containers. 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 shortest time reasonably necessary to effect such collection. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No incinerators shall be kept or maintained on any Lot.

5.12. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot.

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5.13. Encroachments. No tree, shrub, or planting of any kind on any Lot 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.

5.14. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in connection with the use, maintenance or repair of a Residential Unit, appurtenant structures, or other Improvements constructed by the Declarant or approved by the Architectural Committee.

5.15. Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner other than the Declarant.

5.16. Signs. No signs whatsoever (including, but not limited to, commercial, advertising, political and similar signs) shall be erected or maintained anywhere on the Property, including but not limited to, the inside or outside of windows in any residence or other structure located on the Property, except for (i) such signs as may be required by legal proceedings and (ii) not more than one (1) residential identification sign with a total face area of thirty-six (36) square inches or less for each Lot.

5.17. Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals or any kind, gravel, earth, or any earth substance of any kind and no derrick or other equipment designed or intended for any such activity shall be erected, placed, constructed or maintained on any Lot.

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

5.19. Improvements and Alterations.

(A) All Improvements constructed on Lots within the Project shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot.

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

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

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

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

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

(G) Upon receipt of approval from the Architectural Committee for the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvement, the Owner who had requested such approval shall proceed to perform the work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

(H) The provisions of this Section shall not apply to, and approval of the Architectural Committee shall not be required for, the construction, erection, installation,

addition, alteration, repair, change or replacement of any Improvements made by, or on behalf, of the Declarant.

(I) In addition to obtaining the approval of the Architectural Committee as required by this Section, an Owner must also obtain any approvals, consents or permits required under the Master Declaration or under the ordinances or rules and regulations of the City of Scottsdale, Arizona, or any other governmental body or agency having jurisdiction over the Project.

5.20. Common Walls.

(A) The rights and duties of Owners of contiguous Lots with respect to common walls (other than walls of a Residential Unit) situated on or near the Lot line or the boundary line of an Easement Area (as defined in Section 6.8 of this Declaration) shall be as follows:

(i) The Owners of the contiguous Lots shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

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

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

(iv) Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes any common wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements;

(v) 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 Owner's successors in title;

(vi) In addition to meeting the other requirements of this Declaration and of any other building code

or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a common wall shall first obtain the written consent of the adjoining Owners;

(vii) In the event any common wall encroaches upon a Lot or the Common Area, a valid easement for such encroachment and for the maintenance of the common wall shall and does exist in favor of the Owners of the Lots which share such common wall.

(B) No common wall (other than the wall of a Residential Unit) between contiguous Lots which is within fifteen feet (15') of the rear boundary line of a Lot shall exceed three feet (3') in height, without the prior written approval of the Architectural Committee and the Owners of the Lots which share the common wall.

5.21. Maintenance of Walls other than Common Walls.

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

(B) Any wall (other than the wall of a Residential Unit) 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 that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Common Area. No wrought iron or other material may be added on the top of any such wall without the prior written approval of the Architectural Committee.

5.22. Outdoor Burning. There shall be no outdoor burning of trash or other debris; provided, however, that the foregoing shall not be deemed to prohibit the use of normal residential barbecues or other similar outside cooking grills.

5.23. Fuel Tanks. No fuel tanks of any kind shall be erected, placed or maintained on the Property except for propane or similar fuel tanks permitted under the ordinances of the county or municipality having jurisdiction over the property.

5.24. Window Coverings. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows of any residence or other structure without the prior written approval of the Architectural Committee. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior

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appearance of a residence or other structure shall be constructed or installed in any residence or other structure without the prior written consent of the Architectural Committee.

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

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

5.27. Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and sightly condition. Garages shall be used for parking vehicles and storage only, and shall not be used or converted for living or recreational activities without the prior written approval of the Board. Garage doors shall be left open only as needed for ingress and egress.

ARTICLE 6

EASEMENTS

6.1. Utility Easement. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, electricity and a cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain the necessary facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

6.2. Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Declarant, the Owners, and their family, guests, tenants and invitees and to the owners and occupants, and their families, tenants, guests and invitees, of the Annexable Property, whether or not the Annexable Property has been annexed or subjected to this Declaration, 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 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 a Lot or the Common Area.

6.3. Unit Owners' Easements of Enjoyment.

(A) Every Owner shall have a right and easement of enjoyment in and to the Common Area which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(i) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Area;

(ii) The right of the Association to prohibit the use of those portions of the Common Area which the Association, in its sole discretion, determines were designed and intended for aesthetic or decorative purposes only and not for use as recreational areas;

(iii) The right of the Association to suspend the rights of an Owner under this Section for any period during which any Assessment or other amount payable to the

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Association remains unpaid or for any period during which any other infraction or violation of the Project Documents remains uncured;

(iv) The right of the Association to convey the Common Area, or any part thereof, or subject the Common Area, or any part thereof, to a mortgage, deed of trust, or other security interest, provided that any such conveyance or encumbrance is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing at least ninety percent (90%) of the votes in the Association;

(v) All rights and easements set forth in this Declaration including, but not limited to, the rights and easements granted to the Declarant by Sections 6.4 and 6.5 of this Declaration.

(B) If a Lot is leased or rented, the lessee and the members of his family residing with the lessee shall have the right to use the Common Area during the term of the lease, and the Owner shall not have the right to use the Common Area until the termination or expiration of the lease.

(C) The guests and invitees of any member or other person entitled to use the Common Area pursuant to Subsection (A) above or of any lessee who is entitled to use the Common Area pursuant to Subsection (B) above may use the Common Area provided they are accompanied by a Member, lessee or other person entitled to use the Common Area pursuant to Subsection (A) or (B) above. The Association shall have the right to limit the number of guests and invitees who may use the Common Area at any one time and may restrict the use of the Common Area by guests and invitees to certain specified times.

(D) An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from a Lot. Such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement.

6.4. Declarant's Use for Sales and Leasing Purposes.

(A) Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area while the Declarant is selling Lots in the Project. Declarant reserves the

right to place models, management offices and sales and leasing offices on any Lots owned by Declarant and on any portion of the Common Area in such manner, of such size and in such locations as Declarant deems appropriate.

(B) Declarant may from time to time relocate models, management offices and sales and leasing offices to different locations within the Project. Upon the relocation of a model, management office or sales and leasing office constituting a Common Area, Declarant may remove all personal property and fixtures therefrom.

(C) So long as Declarant is marketing Lots in the Project, Declarant shall have the right to restrict the use of the parking spaces which are located on the Common Area. Such right shall include reserving such spaces for use by prospective Lot purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

(D) The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Project that has not been represented as property of the Association. The Declarant reserves the right to remove from the Project any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

6.5. Declarant's Easements.

(A) Declarant shall have the right and an easement on and over the Common Area to construct thereon all buildings and improvements the Declarant may deem necessary and to construct improvements on the Additional Property whether or not the Additional Property has been annexed and submitted to this Declaration and to use the Common Area and any Lots owned by Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project or the Additional Property whether or not the Additional Property has been annexed and submitted to this Declaration.

(B) Declarant shall have the right and an easement on, over and under the Common Area for the purpose of maintaining and correcting drainage of surface, roof or storm water. The easement created by this Subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

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(C) The Declarant shall have an easement on, over and through the Lots for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

(D) The Declarant shall have the right and an easement on, over, and through the Common Area as may be reasonably necessary for the purpose of discharging its obligations and exercising any rights or easements reserved or granted to the Declarant in this Declaration.

6.6. Easement over Lots in Favor of Association.
The Lots, but not the Residential Unit situated thereon, are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

(A) For inspection of the Lots in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible;

(B) For inspection, maintenance, repair and replacement of the Common Area situated in or accessible from such Lots;

(C) For correction of emergency conditions in one or more Lots or casualties to the Common Area or the Lots;

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

(E) For inspection, at reasonable times and upon reasonable notice to the Owner, of the Lots in order to verify that the provisions of the Project Documents are being complied with by the Owners, their guests, tenants, invitees and the other occupants of the Lot.

6.7. Easement for Encroachments.

(A) In the event any Residential Unit or other structure or any fence or wall constructed as part of the initial construction of improvements on a Lot encroaches upon another Lot or the Common Area, a valid easement for such encroachment and for the maintenance of the Residential Unit, fence, wall or other structure or improvement within the encroachment area shall exist over the Lot or Common Area upon which the Residential Unit, fence, wall or other structure or improvement encroaches.

(B) In the event any sidewalk, fence, wall, landscaping improvement, structure or other improvement constructed or erected as part of the Common Area encroaches upon any Lot, a valid easement for such encroachment and for the maintenance of the sidewalk, fence, wall, landscaping improvement, structure or other improvements within the encroachment area by the Association shall exist over the Lot upon which the sidewalk, fence, wall, landscaping improvement, structure or other improvement encroaches.

6.8. Use Easements.

(A) Creation of Easement. Each Lot shall be subject to a use easement as shown on the Plat. The portion of each Lot on which the easement is situated shall be referred to as the "Easement Area." The Easement Area shall be for use and benefit of the Lot immediately adjoining the Easement Area as shown on the Plat (the "User Lot"). The Lot upon which the Easement Lot is situated shall be referred to in this Section as the "Easement Lot." The Plat only shows the general and approximate location of the Easement Areas and the Easement Areas are shown on the Plat for illustrative purposes only. The length and width of each Easement Area will be determined by the type of Residential Unit constructed on the Easement Lot and the User Lot, their setbacks and the placement of the wall from the side lot line to the Residential Unit on the Easement Lot. The location and dimensions of each Easement Area will be generally as shown on the building permit submittal plans approved by the City of Scottsdale for the construction of the Residential Unit on the Easement Lot and shall be finally determined by the location of the Residential Unit on the User Lot, the Residential Unit on the Easement Lot and the wall from the side lot line to the Residential Unit on the Easement Lot as they are actually constructed during the initial construction.

(B) Use of Easement Area.

(i) Subject to the rights of the Owner of the Easement Lot under Section 6.8(C) of this Declaration, the Owner, tenant, or other occupants of the User Lot shall have the exclusive use of the Easement Area.

(ii) The Easement Area may be used by the Owner and other occupants of the User Lot for patio, garden, recreation and drainage purposes. Landscaping (including flowers, plants, lawn and sprinklers), swimming pool decking, patio decking and air conditioning and heating units may be installed, kept and maintained in the Easement Area. Swimming pools, spas and related heating and filtering equipment may be installed and maintained only in the portion of the Easement

Area which is behind the rear exterior wall of the Residential Unit situated on the Easement Lot. The Easement Area may also be used for readily movable outdoor furniture, barbecue equipment and other portable items. A part of the driveway leading to the garage of the Residential Unit on the User Lot may also be constructed on the Easement Area.

(iii) The Owner of the User Lot shall protect and hold harmless the Owner of the Easement Lot from any and all liens, claims or liabilities arising out of or connected with the use of the Easement Area by the User Lot.

(iv) Except as permitted by Section 6.8(B)(ii) of this Declaration, the Easement Area shall not be used for any permanent installation of any kind, including, but not limited to, a swimming pool, swimming pool heating or filtering equipment, spa, jacuzzi or plumbing fixtures or equipment other than sprinklers. No structure or equipment which may impede or interfere with any necessary maintenance, repair or restoration of any common wall may be constructed, installed or maintained in the Easement Area.

(v) No use shall be made of the Easement Area which will become an annoyance or nuisance to the Owner of the Easement Lot, or which will interfere with the right of drainage from the Easement Lot, as set forth in Section 6.7(C)(ii) of this Declaration.

(vi) No fireplace, planter box, barbecue, wall, fence, fountain or other structure shall be attached or connected to the wall of the Residential Unit on the Easement Lot.

(vii) The Declarant and its employees, agents and contractors shall have an easement over, upon and across the Easement Area for the purpose of constructing the Residential Unit and other Improvements on the Easement Lot, and neither the Declarant nor its employees, agents or contractors shall be liable for any damage or destruction of walls, landscaping or other Improvements on the Easement Area.

(viii) The Owner of the User Lot shall be liable to the Owner of the Easement Lot for any damage or destruction to the Residential Unit or other Improvements on the Easement Lot which results from the use of the Easement Area.

(ix) No structure, swimming pool, spa, jacuzzi or related heating and filtering equipment shall be constructed, installed, maintained, altered or modified nor may the grade of the Easement Area be changed in any way without

the prior written approval of the Architectural Committee. Any application to, or request for approval of, the Architectural Committee for the installation, construction, maintenance, alteration or modification of a structure, swimming pool, spa, jacuzzi or related heating or filtering equipment in the Easement Area or any change in the grade of the Easement Area must include a drainage impact study prepared by a competent, licensed engineer.

(C) Rights of Owner of Easement Lot.

(i) The Owner of the Easement Lot shall have the right, at all reasonable times, to enter the Easement Area in order to repair, maintain, or restore his Residential Unit; provided, however, that except in case of an emergency or when the Owner or other occupants of the User Lot are not present, such entry shall be allowed only during daylight hours and with the prior knowledge of the Owner of the User Lot or any occupant of the User Lot. The Owner of the Easement Lot shall have no liability for damage to or removal of any decoration or landscaping within the Easement Area which is necessarily occasioned by such repair, maintenance or restoration; provided, however, that the Owner of the Easement Lot shall use reasonable care to avoid damage to any furniture, fixtures or equipment and landscaping within the Easement Area.

(ii) The Easement Lot shall have the right of drainage over, across and upon the Easement Area for storm water which runs off the roof of the Residential Unit on the Easement Lot.

(iii) The Owner of the Easement Lot shall have the right to maintain eaves or projections or other architectural features of up to twenty-four (24) inches over the Easement Area when eaves or features are part of the Residential Unit located upon the Easement Lot.

(iv) No doors, windows or openings of any kind shall be constructed, kept or maintained in any portion of a Residential Unit wall which adjoins an Easement Area.

(D) Maintenance of Easement Area. Each Easement Area, and all landscaping and improvements situated thereon, shall be maintained continuously in good condition and repair by the Owner of the User Lot. As to each Easement Area, the owner of the User Lot shall assume all responsibility for compliance with this Declaration and shall assume any burdens which may apply to the Easement Area.

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6.9. Common Driveway Easements.

(A) Because of the configuration of certain Lots in the Project, those Lots will share common driveways. The Lots that will share a common driveway are as follows: Lots 36 and 37, Lots 25 and 26, Lots 47 and 50, Lots 62 and 63, and Lots 68, 69, & 70 (collectively, the "Driveway Easement Lots"). The Owners of each of the Driveway Easement Lots are hereby granted easements for ingress and egress over all driveways constructed upon the adjoining Driveway Easement Lot. The owner of each Driveway Easement Lot shall at all times keep and maintain the driveway areas situated on his Lot in good and safe condition and repair, and shall pay the cost and expense of such maintenance and repair; provided, however, that (i) the cost of any maintenance, repair or replacement caused by the Owner of the adjoining Driveway Easement Lot or his family, tenants, guests or invitees shall be paid by such Owner, upon demand, to the Owner of the Driveway Easement Lot on which the damaged or destroyed driveway is located and (ii) the Owners of the Driveway Easement Lots sharing a common driveway shall have the right to enter into a separate agreement with respect to the sharing of the cost and expenses of the maintenance, repair and replacement of their common driveway. The easements granted by this subsection shall be perpetual and shall be for the benefit of Owners of the Driveway Easement Lots and their families, tenants, guests and invitees.

(B) The Declarant and its contractors, agents, suppliers and employees are hereby granted an easement over and across the driveway areas situated on the Driveway Easement Lots for the purpose of constructing a Residential Unit and other Improvements on the adjoining Driveway Easement Lot which shares the driveway. Each Owner of a Driveway Easement Lot agrees that the Declarant, its contractors, agents, suppliers and employees shall have the right to remove all or any part of the driveway situated on the Owner's Lot if the Declarant determines, in its sole discretion, that the removal of all or any portion of the driveway is necessary in connection with the construction of the Residential Unit and other Improvements on the adjoining Driveway Easement Lot which shares the driveway. If the Declarant removes all or any portion of a driveway situated on a Driveway Easement Lot, then the Declarant shall be responsible for replacing the portion of the driveway which was removed within a reasonable time after completion of the construction of the Residential Unit or other Improvements on the adjoining Driveway Easement Lot. In addition, if any such driveway is damaged in connection with the construction of a Residential Unit or other Improvements on the adjoining Driveway Easement Lot, the Declarant shall repair such damage within a reasonable time after completion of the construction of the Residential Unit and other improvements on the adjoining Driveway Easement Lot.

ARTICLE 7

MAINTENANCE

7.1. Maintenance by the Association.

(A) The Association shall be responsible for the maintenance, repair and replacement of the Common Area and may, without any approval of the Owners being required, do any of the following:

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

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

(iii) 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;

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

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

(B) The Association shall maintain, repair and replace the plants and trees and other landscaping improvements situated on the portion of each Lot which is between the street and the exterior wall of the Residential Unit (the wall which separates the interior of the Residential Unit from the outside yard, patios and entry ways) and any wall separating the side or back yard of the Lot from the front yard of the Lot. The type of landscaping to be installed in the front yard of the Lots by the Declarant shall be in the sole discretion of the Declarant. After the initial installation of the landscaping in the front yards of the Lots, the Association shall have the right to make such modifications to the landscaping as it deems appropriate from time to time. No Owner or other Person shall install any plants, trees, granite or other landscaping in the portion of their Lot which is to be maintained by the

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Association pursuant to this Subsection, and no Owner or other Person shall make any changes to landscaping installed in such area by the Declarant or the Association without the prior written approval of the Architectural Committee.

(C) The Association shall also maintain, repair and replace any real property, and the Improvements located thereon, which is adjacent to, or in the immediate vicinity of, the Project and which the Association by written agreement agrees to maintain, repair and replace. Any such written agreement must be approved by the Board, and no such agreement shall be entered into by the Association unless the Board determines that such property benefits the Owners and other occupants of Lots in the Project.

7.2. Maintenance of Lots by Owners. Each Owner shall be solely responsible for the maintenance, repair and replacement of his Lot, and the Residential Unit and all Improvements located thereon, except for any portion of his Lot which under this Declaration is to be maintained by the Association.

7.3. Damage or Destruction of Common Area. No Owner or other Person shall in any way damage or destroy any Common Area or any other area to be maintained by the Association pursuant to this Declaration or interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid to the Association by said Owner, upon demand, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

7.4. Nonperformance by Owners. If any Owner fails to maintain any portion of his Lot, and the Improvements located thereon, 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 the Owner of the Lot, 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.

7.5. Maintenance by Master Association. The real property, and all Improvements located thereon, designated on the Plat as Tract A shall be part of the common area of the

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Master Association and shall be owned, maintained, repaired and replaced by the Master Association.

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

ARTICLE 8

INSURANCE

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

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

(B) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000.00. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner and provide coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party;

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

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

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

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

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

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

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

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

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

(F) If the Property is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a policy of flood insurance on the Common Area must be maintained in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other property covered by the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended;

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

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

8.3. 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.

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

8.5. Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 8.6 of this Article, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area.

8.6. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners representing at least eighty percent (80%) of the 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 the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be retained by the Association as an additional capital reserve.

ARTICLE 9

GENERAL PROVISIONS

9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

9.3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President of the Association, with his signature acknowledged. Thereupon, this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

9.4. Amendment.

(A) This Declaration may only be amended by the written approval or the affirmative vote of Owners representing not less than sixty-seven percent (67%) of the votes in the Association.

(B) So long as the Declarant owns any Lot or any part of the Annexable Property which is subject to annexation, any amendment must be approved in writing by the Declarant.

(C) Any amendment adopted pursuant to Subsection (A) of this Section shall be signed by the President or Vice President of the Association. Any such amendment shall

certify that the amendment has been approved as required by this Section.

(D) All amendments shall be recorded with the County Recorder of Maricopa County, Arizona.

9.5. Nuisances. Every act or omission whereby any provision of this 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 the Declarant, the Association or any Owner.

9.6. Laws, Ordinances and Regulations.

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

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

9.7. Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

9.8. Delivery of Notices and Documents. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Declarant, the Association or the Architectural Committee at 7330 N. 16th St., Suite B101, Phoenix, Arizona 85020; if to an Owner, to the address of his Lot or to any other address last furnished by the Owner to the Association; provided, however, that any such address may be changed at any time by the party concerned by recording a written notice of change of address and delivering a copy thereof to the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

9.9. 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 corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

9.10. Topic 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 sections or this Declaration.

9.11. 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.

9.12. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, the provisions of this Declaration shall prevail.

9.13. 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.

9.14. 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 the Project Documents, 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.

9.15. Declarant's Right To Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign

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such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

BOULDERS MALOUF BROS. PARTNERSHIP, an Arizona general partnership

By: BOULDERS JOINT VENTURE, an Arizona general partnership, general partner

By: Boulders Carefree Partners Limited Partnership, an Arizona limited partnership

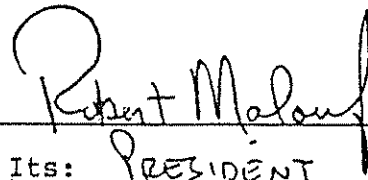
By: The Westcor Company Limited Partnership an Arizona limited partnership, its general partner

By: 
General Partner

By: The Westcor Company Limited Partnership, an Arizona limited partnership

By: 
General Partner

By: MALOUF BROS. DEVELOPMENT CO., an Arizona corporation, general partner

By: 
Its: PRESIDENT

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APPROVAL OF MASTER ASSOCIATION

Pursuant to Section 18.1 of the Master Declaration, the Owners Association of Boulders Carefree, an Arizona non-profit corporation, hereby approves the foregoing Declaration of Covenants, Conditions and Restrictions for The Fifth Green.

Dated this 12 day of Aug., 1987.

OWNERS ASSOCIATION OF BOULDERS
CAREFREE, an Arizona nonprofit
corporation

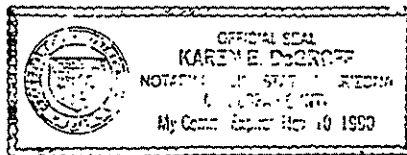
By: [Signature]
Its: President

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 12 day of AUG., 1987, by L. M. WARNER, the GENERAL PARTNER of The Westcor Company Limited Partnership, an Arizona limited partnership, on behalf of Boulders Carefree Partners Limited Partnership, an Arizona limited partnership, on behalf of Boulders Joint Venture, an Arizona general partnership, as general partner.

[Signature]
Notary Public

My Commission Expires: _____



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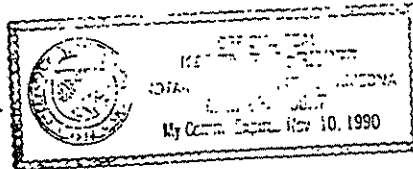
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State of Arizona)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 12 day of AUG., 1987, by LM WARWICK, the GENERAL PARTNER of The Westcor Company Limited Partnership, an Arizona limited partnership, on behalf of Boulders Joint Venture, an Arizona general partnership, as general partner.

Karen E. Draf
Notary Public

My Commission Expires:



State of Arizona)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 7 day of August, 1987, by Bah Malouf, the President of Malouf Bros. Development Co., an Arizona corporation, as general partner.

Judith Rae Cole
Notary Public

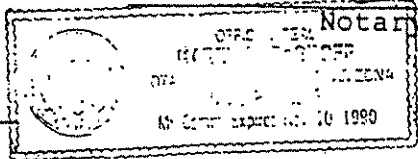


State of Arizona)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 12 day of AUG., 1987, by JOHN WYSS JR., the PRESIDENT of OWNERS ASSOCIATION OF BOULDER CAREFREE, an Arizona nonprofit corporation, on behalf of the corporation.

Karen E. Draf
Notary Public

My Commission Expires:



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EXHIBIT A

Lots 1 through 81, inclusive, and Tracts A through W, inclusive, THE FIFTH GREEN, according to the plat recorded in Book 313, page 6, records of Maricopa County, Arizona.

TWD
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Collar, Williams & White Engineering

DONALD H. COLLAR, P.E., R.L.S.
President
ROBERT E. WAGONER, P.E., R.L.S.
Vice President

Consulting Engineers
2702 N. 44th Street, Suite 205-B
Phoenix, Arizona 85008
(602) 957-3350

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Description

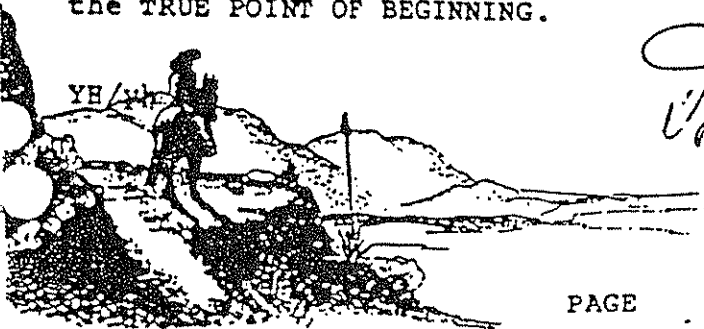
For

CWW No. 860801 Boulders Malouf Bros. Partnership July 23, 1987

THE FIFTH GREEN - LAKE EASEMENT

Being a portion of Section 11, Township 5 North, Range 4 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the most northerly corner of Lot 5 of THE FIFTH GREEN, PHASE I as recorded in Book 313, at Page 6, Maricopa County Records;
THENCE S19°32'26"E, along the boundary of said Lot 5, a distance of 51.13 feet;
THENCE S84°40'57"E, along the most northerly line of Tract D of said Fifth Green Phase I, a distance of 50.00 feet to the TRUE POINT OF BEGINNING;
THENCE, departing said northerly line, N05°19'03"E, 16.00 feet;
THENCE S84°40'57"E, along a line lying 16.00 feet north of and parallel with the north line of said Tract D, 50.00 feet;
THENCE, departing said parallel line, S05°19'03"W, 16.00 feet;
THENCE N84°40'57"W, along the north line of said Tract D, 50.00 feet to the TRUE POINT OF BEGINNING.



Donald H. Collar
DONALD H. COLLAR
7/23/87
P.E. R.L.S.
MARICOPA COUNTY, ARIZONA

Scottsdale Office
2922 N. 70th Street
Scottsdale, Arizona 85251
(602) 947 5433

Description For
Boulders Malouf Bros. Partnership
THE FIFTH GREEN - LAKE EASEMENT
CWW No. 860801
July 23, 1987

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Comprising 800 sq-ft, more or less, subject to all easements of
record.