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**FIRST AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR
THE COVES AT SAILING HAWKS
(MOHAVE COUNTY, ARIZONA)**

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**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE COVES AT
SAILING HAWKS
(MOHAVE COUNTY, ARIZONA)**

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made this _____ day of September, 2020, by Sailing Hawks Real Estate Holdings, LLC, an Arizona limited liability company, (hereinafter referred to as "Declarant"), as the owner of the real property subject to this Declaration.

RECITALS

The Declarant is the owner of real property legally described on Exhibit "A" attached hereto, which Declarant has subdivided as The Coves at Sailing Hawks, Lake Havasu City, Mohave County, Arizona, according to the plat recorded on October 7, 2019 at Fee No. 2019054965 in the office of the Recorder for Mohave County, Arizona, (hereinafter the "Property").

Declarant imposed upon the Property mutually beneficial covenants, conditions, restrictions and easements to establish a flexible and reasonable procedure for the development, administration, maintenance, use and preservation of the Property by recording a Declaration of Conditions, Covenants, Restrictions and Easements for the Coves at sailing Hawks in the Official Records of Mohave County Recorder at Fee No. 2020035204. Declarant intended for the Declaration to create equitable servitudes and covenants appurtenant to and running with the land which bind future Owners of all or any portion of the Property and any other Person acquiring a right, title or interest in the Property or any portion thereof. The Declarant, at paragraph 9.2 of said Declaration, retained the right to amend the Declaration at any time within the first year following recordation thereof. Declarant, by executing and recording this First Amended Declaration of Conditions, Covenants, Restrictions and Easements for the Coves, amends, restates and supercedes in its entirety the Declaration recorded at Mohave County Fee No. 2020035204.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall at all times be owned, conveyed, transferred, hypothecated, mortgaged, held, used and

occupied subject to the provisions of this Amended and Restated Declaration and to the covenants, conditions and restrictions contained herein.

1. **DEFINITIONS.**

The following terms shall have the meanings set forth below when used in this Declaration:

1.1. "**Articles or Articles of Incorporation**" shall mean the Articles of Incorporation for The Coves at Sailing Hawks Homeowner's Association, as the same may be amended from time to time.

1.2. "**Assessments**" shall mean the amount an Owner is obligated to pay the Association as provided for at section 6.

1.3. "**Assessment Lien**" shall mean the lien created and imposed by section 6.

1.4. "**Association**" shall mean The Coves at Sailing Hawks Homeowners Association, an Arizona nonprofit corporation and its successors and assigns.

1.5. "**Association Documents**" shall mean, collectively, this Declaration, the Articles, Bylaws, Board Resolutions, the Association Rules, and the Design Review Board Guidelines, all as may be amended from time to time.

1.6. "**Association Rules**" shall mean rules adopted by the Association through its Board of Directors.

1.7. "**Board**" shall mean the board of directors of the Association.

1.8. "**Bylaws**" shall mean the bylaws of the Association.

1.9. "**City**" shall mean the City of Lake Havasu City, Arizona.

1.10. "**County**" shall mean Mohave County, Arizona.

1.11. "**Common Areas**" shall mean the private streets, drainage parcels and infrastructure, slope easements and landscape areas dedicated or conveyed to the

Association. The Common Areas are identified as Parcels A, B, C and D on the final plat for The Coves at Sailing Hawks.

1.12. "**Common Expenses**" shall mean expenditures made by or financial liabilities of the Association together with any allocations to reserves.

1.13. "**Class A Voting Members**" shall be all owners of lots in The Coves at Sailing Hawks excluding Declarant until such time as Class B Member right's terminate.

1.14. "**Class B Voting Members**" shall be the Declarant only until such time Class B voting rights terminate as provided in section 3.4.2.

1.15. "**Declarant**" shall mean Sailing Hawks Real Estate Holdings, LLC, an Arizona limited liability company, and any person to whom it may expressly assign any or all of its rights hereunder.

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

1.17. "**Declaration**" shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

1.18. "**Design Review Board**" shall mean the Design Review Board established pursuant to section 8 below.

1.19. "**Design Review Guidelines**" shall mean and refer to the guidelines adopted by the Design Review Board pursuant to its powers articulated in section 8.

1.20. "**Developer**" shall mean any Person (other than the Declarant) who is in the business of developing, selling or leasing real property and who acquires four (4) or more Lots in connection with, and in the course of, such business, for the purpose of developing, selling or leasing such Lots.

1.21. "**Guests of an Owner or Resident**" shall mean: (i) an employee, Resident, guest (whether or not for hire) or invitee of such Owner or Resident, including transient guests; and (ii) any person who has acquired any title or interest less than a fee simple interest in an Owner's or Resident's real property subject to this Declaration, by, through, or under such Owner or Resident, including a lessee, licensee, or any employee, guest or invitee of any such person.

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

1.23. "**Individual Owner Assessment**" shall mean the amount an Owner is obligated to pay the Association as provided for at section 6.6.

1.24. "**Landscape Easement**" shall mean the easement imposed upon Lots 1-22, inclusive, as provided for at section 7.1.8.1.

1.25. "**Landscaping**" shall mean all shrubs, trees, hedges, grasses and plantings of every kind together with an irrigation system (including an electrically operated landscape controller) designed to adequately water the shrubs, trees, hedges, grasses, plantings and other landscaping improvements, including non-organic materials such as rocks and boulders.

1.26. "**Lot**" shall mean any portion of property that has been subdivided into a specific Lot pursuant to the plat of record in the office of the Recorder of Mohave County, Arizona.

1.27. "**Maintenance Standard**" means standard of maintenance of Improvements established from time to time by the Design Review Board pursuant to this Declaration. In the absence of any standard established by the Design Review Board, the standard of maintenance of Improvements shall be the generally prevailing standard of maintenance throughout the Property.

1.28. "**Member**" shall mean and refer to an Owner. The term Member may be used interchangeably with Owner.

1.29. "**Member in Good Standing**" shall mean a Member who is current in its obligations to the Association, including but not limited to payment of all Assessments, fines and penalties and is in compliance with all Association Documents.

1.30. "**Membership**" shall mean a membership in the Association.

1.31. "**Natural Open Space**" shall mean any approved revegetated area and any area of undisturbed natural desert with no man-made improvements.

1.32. "**Noncompliance**" shall mean and refer to any condition existing on a Lot that fails to comply, in part or in full, with this Declaration and the Design Review Guidelines.

1.33. "**Owner**" shall mean any person or entity which holds title in fee simple or equitable title to all or any interest in a Lot. "Owner" shall include an authorized agent or representative of a corporation, partnership, limited liability company or other entity which holds title in fee simple or equitable title to all or any interest in a Lot. The term Owner may be used interchangeably with Member.

1.34. "**Period of Declarant Control**" shall mean the period commencing on the date of the Recording of this Declaration and ending on the earlier of: (a) the date Declarant no longer owns an unimproved Lot in the Coves at Sailing Hawks; (b) December 31, 2045; or (c) the date the Declarant Records a written instrument terminating the Period of Declarant Control.

1.35. "**Planned Community Act**" means the Act of Arizona Revised Statutes which governs planned communities commencing at A.R.S. § 33-1801 et. seq.

1.36. "**Premises**" shall mean the single-family dwellings and accessory structures constructed on the Lots.

1.37. "**Property**" shall mean the real property described on Exhibit A together with all Improvements located thereon.

1.38. "**Record,**" "**Recording,**" "**Recorded**" and "**Recordation**" shall mean placing or having placed an instrument of public record in the official records of Mohave County, Arizona.

1.39. "**Representative**" shall mean a member of the Design Review Board established pursuant to section 8 below.

1.40. "**Resident**" shall mean any person who is physically residing in any premises constructed on a Lot, for so long as said person is so residing.

1.41. "**Sole Discretion,**" "**Sole and Absolute Discretion,**" "**Sole Opinion,**" or "**Opinion**" shall mean that the act or decision of the person may be made in the party's independent and individual choice of judgment, without regard to any objective or other standard of consideration. Except for those acts and decisions which may be made in the "Sole Discretion" and "Sole and Absolute Discretion" of a person, all acts or decisions of the person must be exercised in good faith discretion. Without limiting the preceding sentence, this standard shall be deemed to apply to the Declarant, the Board and the Association.

1.42. "**Special Assessment**" shall mean any Assessment levied pursuant to section 6.

1.43. "**Violation**" shall mean and refer to a failure to comply with the Rules set forth in the Association Documents.

1.44. "**Visible from Neighboring Properties or Street**" shall mean, with respect to any given object, if the object is or would be visible to a natural person six (6) feet tall standing at any location on an adjacent Lot or street at an elevation of no greater than the elevation of the base of the object being viewed.

2. **PLAN OF DEVELOPMENT**

The Coves is intended to be a premier residential neighborhood in the Sailing Hawks community. This Declaration establishes a general plan for the development and use of the Property in order to protect and enhance the value and desirability of the Coves community. A great deal of discretion is vested the Design Review Board in adopting and implementing Design Review Guidelines. The Declarant makes no representations or warranties whatsoever that the Property will be completed in accordance with the plans

for the Property as they exist on the date this Declaration is Recorded. Nothing contained in this Declaration and nothing which may be represented to a Purchaser by real estate brokers or salesmen representing the Declarant or any Developer shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration.

3. THE ASSOCIATION.

3.1. **General Purpose and Powers.** The Coves at Sailing Hawks Homeowners Association has been or will be incorporated as an Arizona not for profit corporation to serve as the homeowners association on behalf of the lot Owners to which reference is made in this Declaration. Its primary purpose is to enforce the terms of this Declaration and to maintain the Common Areas. It shall have those powers as provided for in this Declaration and all powers permitted by law. In addition to the rights and powers of the Association set forth in this Declaration, the Association will have such rights and powers as are set forth in the Association Documents, together with such rights and powers and duties as may be reasonably necessary in order to effect all the objectives and purposes of the Association.

3.2. **Board of Directors.** The affairs of the Association shall be managed by the Board of Directors as provided for in the Bylaws, subject to the minimum and maximum number established by law. Unless the Association Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees in its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area. The Board shall determine the compensation to be paid to any such manager.

3.3. **Membership.** Each Owner of a Lot shall be a Voting Member of the Association for so long as he or she owns a Lot in the Coves at Sailing Hawks.

3.4. **Voting Members Rights.** There shall be two classes of voting membership in the Association:

3.4.1. **Class A Voting Members.** Each Member shall have one vote for each Membership he or she owns; provided, however, that Declarant shall not have Class A voting rights until the date specified in section 3.4.2(ii) below. In the event

that fee simple title to a Lot is held by multiple Owners, the multiple Owners shall, prior to each meeting of the Association, provide the Association with a written statement, signed by all such multiple Owners, designating one person who shall have the right to cast the single vote assigned to the Lot owned by such multiple Owners. No fractional votes by multiple Owners of a Lot will be recognized by the Association.

3.4.2. **Class B Voting Members.** The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, taking into account all Lots (including subsequent phases to be annexed);
- (ii) on December 31, 2045; or
- (iii) when, in its discretion, the Class B Member so determines.

3.4.3. **Transfer of Voting Rights.** The right to vote may not be severed or separated from any Lot, and any sale, transfer or conveyance of fee interest in any Lot to a new Owner or Owners shall operate to transfer the appurtenant membership and voting rights without the requirement of any express reference thereto.

3.5. **Meetings.** Meeting of the Members shall be held as follows:

3.5.1. **Regular Meetings.** Regular meetings of the Members shall be held at least once each calendar year at a time and place prescribed by the Bylaws of the Association.

3.5.2. **Special Meetings.** A special meeting of the Members shall be called by the Board upon the vote of a majority of the members of the Board, or upon receipt of written request therefor by Members representing twenty-five percent (25%) or more of the voting power of the Association.

3.5.3. **First Meeting.** The first meeting of the Association shall be held not later than one (1) year after the first conveyance of a Lot from Declarant to an Owner is Recorded. Thereafter, the annual meeting shall be held as provided in the Bylaws.

3.5.4. **Place of Meetings.** Meetings of the Members shall be held within the Property or as close thereto as conveniently possible. Such meetings shall not be held outside of Mohave County, Arizona, unless the Board determines that unusual conditions exist that make a meeting elsewhere desirable.

3.6. **Notices.** Each Member shall be entitled to notice of any meeting. Notices of meetings shall be in writing and indicate each matter to be voted on at the meeting that is known to the Board at the time notice of the meeting is given; provided; however, that no business shall be conducted at a special meeting unless it is specified in such notice. Such notices shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting, except in such cases as are determined by the Board to be emergency situations. Any notice shall be deemed given and any budget or other information or material shall be deemed furnished or delivered to a party if sent in accordance with the provisions of section 9.20 below.

3.7. **Record Date.** The Board shall have the power to fix in advance a date as a Record Date for the purpose of determining Members entitled to notice of or to vote at any meeting or to be furnished with any budget or other information or material, or in order to make a determination of Members for any purpose. Notwithstanding any provisions hereof to the contrary, the Members of record on any such record date shall be deemed the Members for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, for information or material with respect to the same matter for any adjournment of the same meeting. A Record Date shall not be more than thirty (30) days nor less than three (3) days prior to the date on which the particular action requiring determination of the Members is proposed or expected to be taken or to occur.

3.8. **Articles and Bylaws.** The purpose and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association, including any reasonable provisions with respect to corporate matters, but in the event that any such provisions may be, at any time, inconsistent with any provisions of this Declaration, the provisions of this Declaration shall govern.

3.9. **Notification of Transfer.** Each Owner shall within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Lot, notify the Association of

such sale, transfer or conveyance, including the name, address and telephone number of the transferee.

3.10. **Security.** The Coves at Sailing Hawks Homeowners Association, Inc., will strive to maintain The Coves as a safe, secure residential environment. However, neither The Coves at Sailing Hawks Homeowners Association, Inc. nor Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All owner, residents, guests, invitees of any owner, as applicable, acknowledge that The Coves at Sailing Hawks Homeowners Association, Inc. is not an insurer and that each Owner, resident, guest, and invitee assumes all risk of loss or damage to persons, to residences, and to the contents of residences and further acknowledge that Declarant has made no representations or warranties, nor has any Owner, resident, guest, or invitee relied upon any including any warranty of merchantability or fitness for any particular purpose relative to any security measures recommended or undertaken.

Privacy gates may be constructed within or adjacent to the Coves community order to limit access and to provide more privacy for the Owners and residents. If any such privacy gates are installed, each Owner and resident, and their families, guests and invitees, acknowledge and expressly agree to assume the risk that privacy gate will restrict or delay entry into, or access within, the Coves community by police, fire department, ambulances or other emergency vehicles or personnel. Neither the Declarant, the Association nor any director, officer, agent or employee of the Declarant or the Association shall be liable to any Owner or resident or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of any such privacy gates.

4. **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.**

4.1. **Maintenance of Common Area.** The Association shall be obligated to provide for the care, operation, management, maintenance, repair and replacement of Common Areas. Without limiting the generality of the foregoing, such obligation shall include (i) keeping Common Areas in good, clean, attractive and sanitary condition, order and repair, (ii) maintaining the drainage parcels and infrastructure consistent with the Storm Water Management/BMP Maintenance Agreement encumbering the Coves recorded at Fee No. 2019007178, Mohave County Recorder's office, and (iii) making necessary or desirable alterations, additions, betterments or improvements to or on

Common Areas. The Board shall be the sole judge as to the appropriate maintenance of all Common Area.

4.2. **Labor and Services.** The Association may obtain and pay for the services of any person to manage its affairs, or any part thereof, to the extent it deems advisable. Additionally, the Association may contract for other services as the Association shall determine to be necessary or desirable for the proper maintenance of Common Areas.

4.3. **Association Functions.**

4.3.1. **Actions for Owners' Benefits.** The Association may undertake or contract for any lawful activity, function or service for the benefit of the Owners. In addition to the Assessment described in section 6 below, all costs and expenses of activities, functions or services undertaken by the Association for the benefit of fewer than all of the Owners may, at the discretion of the Board, be assessed to the Owner or Owners specifically benefitted thereby, and such Assessments shall be enforced in accordance with the provisions of section 6.6 below. The Association shall obtain from any governmental authority any licenses necessary or appropriate to carry out its functions hereunder.

4.3.2. **Permitted Activities.** The activities, functions or services undertaken or contracted for by the Association may include, without limitation, (i) providing police or similar security services, (ii) providing legal and accounting services necessary or desirable in connection with the operation of the Association or the enforcement of this Declaration, (iii) utility services, garbage and trash collection and disposal for each Lot, (iv) providing vegetation clearing and other fire suppression or nuisance abatement services, (v) granting or conveying easements or rights of way over, across, along or under any Common Areas, and (vi) enforcing all rights granted to the Association in any lease, easement or other instrument, including this Declaration. The Association, through its president or other authorized board member, may appear before governmental agencies to advance the interest of the Coves community.

4.4. **Rules.**

4.4.1. **Adoption.** The Association, through its Board, may promulgate such reasonable Rules as it deems appropriate and/or necessary for the governance and/or operation of the Association through the adoption of Board Resolutions. Such Rules shall

be enforced by the Association itself, including any duly employed management agent or employee. Such Rules may, without limitation: (i) regulate use and enjoyment of Common Areas, (ii) regulate the burning of open fire and any vegetation clearing, fuel modification and other fire protection actions to be taken by Owners with respect to their Lots, (iii) regulate the use and parking of vehicles, recreational vehicles and water craft within the Property, (iv) establishing speed limits within the Property and on streets, (v) prohibit noxious or offensive activities, nuisances, unsafe or hazardous activities or construction, emissions of loud sounds or offensive odors and unsightliness, and otherwise regulate the use and enjoyment of the Common Areas by Owners.

4.4.2. **Copies to be Available to Owners.** The Association shall furnish each Owner with a written copy of such Rules, but failure to furnish such copy shall not be deemed to invalidate such Rules to any extent, nor to otherwise impose any form of liability on the Association, including without limitation any claim for damages or injunctive relief.

4.4.3. **Enforcement.** The Association, the Declarant or any Owner shall have the right to enforce the Association Documents at law or in equity. Specifically the Association Documents may be enforced by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages. The Association shall be entitled to recover its costs of collection, including attorney's fees and costs, when enforcing the Association Documents, without regard to whether or not litigation commences. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover from the losing party any costs and expenses in connection therewith, including reasonable attorney's fees.

The Association shall have the right to enforce any of the Rules of the Association and the obligations of any Owner under this Declaration or any provisions of the Association's Articles of Incorporation or Bylaws (i) by assessing a reasonable fine against such Owner; (ii) recording a Notice against Owner's property which sets forth with specificity the Violation or Noncompliance and the action necessary to cure said Violation or Noncompliance; (iii) by taking such action as is necessary on Owner's property to cure or remedy the Violation or Noncompliance after reasonable notice to Owner which said entry shall not be deemed a trespass and assessing Owner a Special or Individual Owner Assessment for the costs thereof which shall be secured by the lien provided for at section 6 hereof; or, (iv) suspending the right of such owner to vote at meetings of the Association; provided that such use and/or voting suspension may not be

imposed for a period longer than thirty (30) days per Violation or Noncompliance, and provided further that, if any such Violation or Noncompliance continues for a period of ten (10) days after notice of such Violation or Noncompliance has been given to such Owner, such continuing Violation or Noncompliance shall be deemed to be a new Violation and shall be subject to the imposition of new penalties. Unless prohibited by law, if any fine imposed on an Owner by the Association is not paid by said Owner within thirty (30) days after written notice of the imposition of such fine, then the amount of such fine shall be added to the amount of regular Assessment charged to the Lot of said Owner and shall be enforceable as an Assessment in accordance with section 6 below. No penalty may be imposed under this section until the Owner accused of any such Violation or Noncompliance has been afforded the right to be heard in person, by submission of a written statement, or through a representative at any such hearing. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations or to obtain damages for Noncompliance, all to the extent permitted by law.

4.4.4. **Violation by Resident.** Should any Resident violate any rule or regulation or any provision of this Declaration, or should any Resident's act, omission or neglect cause damage to the Association Property, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner of the Lot upon which the Resident resides.

4.4.5. **Violation by Guest.** Should any Guest of an Owner or Resident commit any such violation or cause such damage to Association Property, such violation, act, omission or neglect shall also be considered and treated as a violation, act, omission or neglect of the Owner or Resident (as well as the Owner of the Lot upon which the Resident resides).

4.5. **Dedication of Land.** The Association may dedicate, transfer, lease or grant easements on any part of the Association Property to any public agency, authority or utility if it deems the same to be for the benefit of all Association Members, subject to the provisions of 4.8.4 hereof.

4.6. **Property Taxes.** The Association shall pay all real and/or personal property taxes and assessments levied on any portion of Association Property. The Association may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the amount, validity or application of any such taxes or assessments.

4.7. **Implied Rights.** The Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonable to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

4.8. **Limitation on Rights.** The Association shall not take any of the following actions except with the prior vote or written consent of a majority of the voting power of the Association:

4.8.1. **Contracts.** Entering into a contract with a third person wherein the third person will furnish goods or services for the Association or Association Property for a term longer than one (1) year, except (i) a contract with a public utility company if the rates charges for the materials or services are regulated by an Arizona regulatory authority or agency (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate), or (ii) prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration.

4.8.2. **Capital Improvements.** Incurring aggregate expenditures for capital improvements to Association Property in any fiscal year in excess of twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year.

4.8.3. **Compensation to Directors and Officers.** Paying compensation to Directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

4.8.4. **Sale, Lease or Dedication of Association Property.** Sale, lease or dedication of Association property shall only be with the consent of seventy-five percent (75%) of the owners.

5. **COMMON AREAS, EASEMENTS AND IMPROVEMENTS.**

5.1. **Title to and Use of Common Areas.**

5.1.1. **Responsibility for Maintenance.** At such times as the Association has been formed and one Lot has closed escrow, Declarant shall convey to the Association fee simple title to the Common Areas free and clear of all monetary encumbrances and liens except those imposed by the County of Mohave, and subject to

the provisions of this Declaration and easements, conditions, restrictions and reservations then of record. Prior to the turnover date, Declarant shall be responsible for the maintenance of the Common Areas, including any monument signage and landscaped areas thereon.

5.1.2. **Character of Common Areas.** Subject to the provisions of any easements granted to, or conditions imposed by the City in connection with its approval of the subdivision of the property by Declarant, Common Areas shall be used only as roadways, drainage easements, slope easements, landscape or open space purposes maintained for the benefit and enjoyment by the Owners pursuant to the Rules of the Association.

5.2. **Rights in the Association Property.**

5.2.1. **No Violation of Insurance Requirement.** Without the prior written consent of the Association, no Owner shall do anything or cause anything to be kept in or on Common Area that might result in an increase in the premiums for any insurance policies obtained by the Association or that might cause cancellation of any such insurance policies. No Owner shall do anything or keep anything in or on Common Area that would violate any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

5.2.2. **No Waste or Obstruction.** Without the prior written consent of the Association, no Owner shall obstruct, damage or commit waste to or on any Common Area. No Owner shall change, alter, repair or store anything in or on any Common Area.

5.3. **Loss or Damage to Association Property.** If loss or damage shall be caused to any Association Property due to the act, omission or neglect of an Owner or agent, guest, Resident (or resident's guest or agent) of an Owner, said Owner, shall be liable and responsible for the same except to the extent that such damage or loss is covered by insurance obtained by the Association and the insurer has waived its rights of subrogation against said party. If such loss or damage is not immediately repaired by the responsible party, the Association may effect such repairs, and the costs thereof shall be assessed against the Lot of the applicable Owner as an Assessment in accordance with section 6 below.

5.4. **Easements for Repair, Maintenance and Emergencies.** The Association shall have an easement for access through each Lot for making emergency

repairs thereon necessary to prevent damage to Association Property or to another Lot. Nothing herein shall be deemed to obligate the Association to make any such emergency repairs. The use of the easement for repair and maintenance shall not be deemed a trespass. Any damage to any Lot caused by the gross negligence or willful misconduct of the Association or any of its agents during any entry onto any Lot shall be repaired by and at the expense of the Association.

5.5. **Reservation of Construction Easement.** For a period of two (2) years after recordation of this Declaration, Declarant reserves an easement for itself and its agents over the Property for the completion of construction of improvements thereon.

5.6. **Easement for Correction of Improvements, Maintenance or Use.** The Association shall have an easement for ingress and egress to enter upon a Lot to correct any Noncompliance Rule or violation for which notice and opportunity to cure without penalty has been afforded to the Owner of said Lot and said entry shall not be deemed a trespass. All costs incurred by the Association in correcting said Noncompliance shall be deemed a Special or Individual Owner Assessment secured by an Assessment Lien on the Lot and collectible as provided herein at section 6.

6. **ASSESSMENTS.**

6.1. **Assessments.**

6.1.1. **Regular, Special and Individual Owner Assessments.** Each Owner (or, in the event of multiple Owners of the same Lot, such multiple Owners jointly and severally) shall be obligated to pay to the Association amounts as hereinafter provided based on each Lot owned by such Owner or Owners, which amounts are herein called "Assessments." Assessments shall be classified as either "Regular," "Special" or "Individual Owner" Assessments.

6.1.2. **Board Authority to Assess.** Subject to the provisions hereof, the Board shall have the power and authority to determine all matters in connection with Assessments, including, without limitation, power and authority to determine where, when and how Assessments shall be paid to the Association, and each Owner shall comply with all such determinations.

6.2. **Fiscal Year and Determination of Budgets.** A copy of the budget shall be sent to all owners prior to the beginning of the fiscal year. The fiscal year of the Association shall be determined by the Board as set forth in the Bylaws. No later than

thirty (30) days prior to the commencement of each fiscal year or partial fiscal year, the Board shall determine the budget for the Association for such fiscal year or partial fiscal year, in the following manner:

6.2.1. **Operating Budget.** The Board shall prepare or cause to be prepared and approve an Operating Budget for the fiscal year or partial year showing, in reasonable detail, the estimated operating costs and expenses that will be payable in that fiscal year or partial fiscal year to fulfill the regular operating functions and obligations of the Association in that fiscal year or partial fiscal year, including amounts necessary to cover obligations made in connection with, or contemplated under, any previously approved budgets, plus an amount sufficient to provide a reasonable carry-over reserve for the next fiscal year. The Operating Budget shall include the costs necessary to inspect, clean, and repair, as necessary, the drainage facilities.

6.2.2. **Capital Replacement Reserve.** The Board shall also determine the amount to be set aside in a special fund allocated for any maintenance and replacement of improvements not required to be performed annually. The Capital Replacement Reserve portion of the budget shall be based upon a reserve study and shall include a cost for life extending maintenance for the Association streets. Upon determination of the budget for a fiscal year or partial year, the Board shall furnish a copy of the budget to each Owner, which budget shall separately identify amounts attributable to the Operating Budget and to the Capital Replacement Reserve fund.

6.3. **Regular Assessments.**

6.3.1. **Annual Calculation.** The amount to be raised by Regular Assessments during a fiscal year or partial fiscal year shall be equal to (i) the Operating Budget for such period, plus (ii) the Capital Replacement Reserve to be set aside for said period, less the amount attributable to the Operating Budget collected but not disbursed in the immediate preceding fiscal year or partial fiscal year (provided, however, that in lieu of such subtraction the Association may elect to refund said surplus to the Owners).

6.3.2. **Reduced Assessments.** Declarant shall pay a reduced assessment for each lot owned by Declarant [equal to twenty-five percent (25%) of the actual assessment established annually by the Board of directors] PROVIDED, however, that the Declarant shall pay to the Association any deficiency in monies experienced by the Association as a result of Declarant having paid a reduced assessment. Declarant shall

pay said sum within ten (10) days of written demand therefor by the Association. Any said deficiency shall constitute an assessment against all lots then owned by Declarant and shall be enforceable as such in the manner prescribed herein.

6.3.3. When Approval of Owners Required. If the aggregate amount of the Regular Assessment to be levied in any fiscal year against the Owners of each Lot is more than twenty percent (20%) greater than the Regular Assessment for the prior fiscal year, such Regular Assessment shall not be levied without the prior approval of Owners holding fifty-one percent (51%) or more of the total voting power of the Association.

6.3.4. Failure to Calculate. If the Board fails to determine or cause to be determined the total amount to be raised by Regular Assessments in any fiscal year or partial fiscal year, and/or fails to notify the Owners of the amounts of such Regular Assessments, then the amounts thereof shall be deemed to be the amounts assessed in the previous fiscal year.

6.3.5. Limitation on Association Expenditures. Except as emergencies may require, the Association shall make no commitments or expenditures in excess of the funds reasonably expected to be available to the Association.

6.4. First Full Assessment. Full Assessments shall commence for each Lot on the first day of the first month following the close of escrow of the initial conveyance from Declarant to an Owner. Assessments shall be based on initial budget adopted by Declarant.

6.5. Special Assessments. In addition to Regular Assessments, the Association may levy Special Assessments, payable over such period as the Association may determine: (i) for the purpose of defraying, in whole or in part, to the extent the amounts in the capital replacement reserve fund are insufficient therefor, the costs of any construction or reconstruction, maintenance, repair or replacement of improvements or any part thereof, (ii) for the purpose of defraying any other expense incurred or to be incurred as provided in this Declaration, or (iii) to cover any deficiency, in the event that, for whatever reason, the amount received by the Association from Regular Assessments is less than the amount determined to be necessary and assessed by the Board. Special Assessments in excess of ten percent (10%) of the budgeted gross expenses of the Association for a fiscal year may not be levied without the prior approval of Owners

holding fifty-one percent (51%) of the total voting power of the Association. No Special Assessment may be levied for the first year.

6.6. **Individual Owner Assessment.** Costs and expenses of activities, functions, or services undertaken by the Association for the benefit of fewer than all of the Owners may be assessed to the Owner or Owners specifically benefitting. Additionally, the Association may levy an Individual Owner Assessment against an Owner for the purpose of reimbursing the Association any costs it may have incurred in exercising any rights hereunder to cause an Owner to fulfill its obligations and duties hereunder. Individual Owner Assessments shall be payable over such period as the Association determines.

6.7. **Time for Payments.** The amount of the Assessment, charge, fine, penalty or other amount payable with respect to any Owner or such Owner's Lot shall become due and payable as specified by the Board. In the event that the Association does not receive payment within thirty (30) days after any notice of the amount due as such Assessment, charge, fine, penalty or other amount, interest shall accrue at a rate specified by the Board but in no event greater than the maximum amount allowed by law from the date due until paid. Furthermore, the Board shall have the discretion to impose a reasonable late charge in lieu of or in addition to interest. All amounts assessed, imposed by or levied by the Association against a Lot shall constitute a lien against said lot as provided for herein.

6.8. **Apportionment of Assessment.** Assessments shall be payable either in full upon receipt of the notice of Assessments, or semiannually, quarterly, or monthly as prescribed more particularly in the Bylaws, and shall be uniformly applied against such lots.

6.9. **Lien for Assessments and Other Amounts on Lots.** If an Owner does not pay in full within thirty (30) days after its due date, any Assessment, charge, fine, penalty or other amount or any installment thereof, or any interest accrued thereon, the Association may record with the Mohave County Recorder a Notice of Lien for Assessment describing the amount and nature of such Assessment and the Lot or Lots owned by the defaulting Owner. Said Assessment Lien shall include costs and expenses of collecting the unpaid amount (including reasonable attorney's fees). The Notice of Assessment Lien shall include costs and penalties, the Owner's name and a description of the applicable Lot(s) against which the Assessment Lien is recorded, and shall be signed by an authorized representative of the Association. Upon payment or other satisfaction of

the Assessment Lien, the Association shall cause to be recorded a further notice stating the satisfaction and release of the Assessment Lien. In exercising its right to foreclose on an Assessment Lien, the Association shall have such rights, and shall comply with such requirements and conditions and shall follow such procedures as may be established under the laws of the State of Arizona for foreclosure of Association liens. The foregoing remedies shall be in addition to any other remedies provided by law or in equity for the enforcement of such obligations.

6.10. **Liability of Owners and Purchasers.** The amount of any Assessment, charge, fine or penalty owing to the Association of any Owner under this Declaration shall be a joint and several obligation to the Association of such Owner and such Owner's heirs, personal representative, successors and assigns. Each such amount, together with interest thereon, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same.

6.11. **Financial Statements.** Within ninety (90) days after the end of each fiscal year, the Association shall distribute to its Members an Income/Expense statement as of the last day of such year. Such financial statements need not be audited by an independent public accountant for any fiscal year.

6.12. **Inspection of Books and Records.** The membership register, books and account, and minutes of the meetings of the Members and of the Board (or committees of the Board), shall be made available for inspection and copying by any Member, except to the extent that the same may contain privileged information or communications as established by Arizona Statute or the Rules of Evidence for the State of Arizona, or by his or her duly appointed representative, at any reasonable time and for the purpose reasonably related to his or her interest as a Member, at the office of the Association or at such other place as the Board shall prescribe. The Board may establish reasonable rules with respect to the notice to be given to the custodian of the records by the Member desiring to make the inspection, the hours and days of the week when such an inspection may be made, and payment of the costs of reproducing copies of documents requested by a Member.

7. **RESTRICTION ON USE OF LOTS.**

7.1. **Residential Sizes, Uses and Construction Standards.**

7.1.1. **Residential Uses.** Any Premises to be constructed on the Lots are hereby restricted to residential site built dwellings for residential, single-family use.

7.1.2. **Requirement for Approval of Plans.** No Improvement shall be erected or maintained nor shall any construction thereof be commenced upon a Lot or any part thereof until the plans therefor have been approved by the Design Review Board as provided at section 8.7 hereof.

7.1.3. **Square Footage.** No Premises shall be erected, placed or permitted to remain which contain less than two thousand (2,000) square feet of living area under roof exclusive of any porch, patio, ramada, awning, carport, garage or basement.

7.1.4. **Setbacks.** Setbacks for the Lots shall be established in the Design Review Guidelines and may vary by Lot in the discretion of the Design Review Board to maximize views and aesthetics as provided for in section 8.

7.1.5. **Height and Roof Limitations.** Height and roof limitations shall be established in the Design Review Guidelines and may vary by Lot in the discretion of the Design Review Board to maximize views and aesthetics as provided in section 8.

7.1.6. **On-Site Construction.** Residences shall be constructed onsite. No buildings, structures, or portions thereof, shall be moved from other locations onto said Lots. Mobile homes and all structures built or prefabricated off the Lots are expressly prohibited, including but not limited to, modular and manufactured structures. No structures of a temporary character, trailer, camper, recreational vehicles, tent, shack, barn or other outbuilding shall be used on any portion of the Lots at any time as a residence either temporary or permanently. All buildings shall be constructed in compliance with the building code for the City. All buildings shall include fire prevention sprinklers.

7.1.7. **Architectural Integration of Machinery and Equipment.** No machinery, fixtures or equipment of any type, including but not limited to, heating, cooling, air conditioning and refrigeration equipment, solar panels or equipment, hot water storage systems, radio and TV antennas, satellite TV, and Direct TV type systems shall be visible from the street or adjacent property owners whether on the ground, building or roof. The screening or concealment of said machinery and equipment shall be integrated architecturally with the design of the building or structure, shall not have the appearance of a separate piece or pieces of machinery, fixtures or equipment, and shall be

constructed and positioned in such a manner so it is aesthetically incorporated with the building. Approval of the Design Review Board is required prior to installation of any machinery, fixtures or equipment.

7.1.8. Landscape.

7.1.8.1. Landscape Easement. A Landscape Easement is hereby established upon Lots 1 through 22, inclusive. The Landscape Easement shall be defined and depicted in the Lot Exhibit for each lot in the Design Review Guidelines. The Developer intends to install Landscaping and construct walls within the Landscape Easement. The Landscaping shall be maintained by the Association, the costs of which shall be a Common Expense. Any wall constructed within the Landscape Easement shall be maintained by and at the expense of the Lot Owner. If the walls are not maintained to the maintenance standard established by the Association, the Association shall have the right, but not the obligation, to enter upon such Lot to maintain and repair the wall and the cost thereof shall be paid to the Association by the Owner, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this section shall be a Special or Individual Owner Assessment secured by and collectible as an Assessment Lien.

7.1.8.2. Installation of Landscape. A Developer or Owner, concurrent with the completion of a residence on a Lot, shall install Landscaping in the front (streetside) and side yards on corner lots commencing at the back of the curb and continuing to the front of the nearest portion of the residence, wall or fence. The Owner of a Lot shall install Landscaping in the back yard of the Lot which is not fully enclosed by a solid fence or wall at least six (6) feet high, not later than ninety (90) days after the completion of a residence on the Lot. All Landscaping must be installed in accordance with plans approved in writing by the Design Review Board. If Landscaping is not installed on a Lot in the manner and by the applicable dates provided for in this section, the Association shall have the right, but not the obligation, to enter upon such Lot to install such Landscaping as the Association deems appropriate and the cost of any such installation shall be paid to the Association by the Owner, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this section shall be a Special or Individual Owner Assessment secured by and collectible as an Assessment Lien.

7.1.8.3. Maintenance of Landscaping. Each Owner of a Lot shall properly maintain and keep neatly trimmed, properly cultivated and free of trash,

weeds and other unsightly material, all Landscaping located on all areas of his, her or its Lot in compliance with The Coves Maintenance Standards promulgated by the Design Review Board. For purposes of this section, proper maintenance of Landscaping shall include, without limitation, removal and replacement of dead Landscaping, subject to the Design Review Board Rules.

7.1.9. **View Easement Corridor.** A View Easement Corridor is hereby established upon each Lot in the front and rear set back areas. No tree, shrub, planting or other Improvement shall be placed, planted, erected or maintained in the front or rear set back area of each Lot which shall exceed thirty-six inches (36") in height. The View Easement Corridor may be modified to permit Pool Improvements. An Owner may install Pool Improvements in the set back areas provided that all Pool Improvements shall be designed, constructed and installed in such a manner to minimize the impact on the View Easement Corridor for neighboring Lots. Accessory structures such as slides and cabanas are prohibited. Equipment rooms shall be constructed in such a manner as to be entirely screened from view and shall not be constructed within the modified View Easement Corridor unless architecturally integrated into the design of the pool landscape in such a manner that it is not visible. All Pool Improvements shall be approved by the Design Review Board prior to commencement of construction.

7.1.10. **Alteration of Topography.** Under no circumstances shall any Owner be permitted to deliberately alter the topographic conditions of his Lot(s) in any way that would permit additional quantities of water from any source other than what nature originally intended to flow from such Owner's Lot(s) onto any adjoining Lot, the Common Area or any public or private right-of-way, or to redirect said flow. No excavation shall be made on any Lot except in connection with construction of an Improvement of such Lot, and upon completion thereof any exposed opening shall be back-filled, and disturbed ground shall be compacted, graded and leveled in such a manner that the drainage over the disturbed ground shall be the same as it was prior to such excavation. All excavation shall be performed in accordance with plans approved by the Design Review Board.

7.1.11. **Fences and Walls.** Fences and wall shall be constructed and maintained in compliance with the Coves wall system as defined in the Design Review Guidelines. Notwithstanding the Design Review Guidelines requirements, fences and walls shall not exceed six (6) feet in height, except that in street setback areas (being both the front and side in the case of corner lots) fences and walls shall not exceed thirty (30) inches in height. Any fences or walls constructed by Declarant on a Lot shall be

maintained by the Owner of that Lot at the Owner's expense. No Owner shall permit removal, alteration or painting of such fences or walls without the prior approval of the Design Review Board. If an Owner fails to maintain such a fence or wall in accordance with the foregoing, the Association may perform such maintenance, and the cost thereof shall be assessed to the Owner as a Special or Individual Owner Assessment in accordance with section 6 above.

7.1.12. **Garage and Driveways.** Any residence constructed on a Lot shall include an attached minimum 2 car garage with a poured and finished concrete floor and a surfaced driveway to the curb line of poured and finished concrete. Garages shall be used only for parking vehicles and storage, and shall not be used or converted for living or recreational activities. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons for routine, normal use and maintenance.

7.1.13. **Utility Easements.** No structure of any kind or nature shall be erected, permitted or maintained on, over or across any easement for utilities located on an Owner's Lot. Walls/fences shall not be considered a structure; however, any wall/fence across or over any such utilities easement may be subject to being moved at Owner's expense at the request of the utility company.

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

7.1.15. **Subdivision of Lots.** Each Lot shall be a separately designated and legally described area as a freehold estate. No Lot shall be divided into smaller lots whether for lease, sale or rental purposes, provided that variances may be granted by the Design Review Board in accordance with the provisions of this Declaration. The Design Review Board may permit a Lot or Lots to be re-subdivided for the purpose of combining the re-subdivided portion of one Lot with another adjoining Lot or Lots, provided that no additional or smaller lot is created thereby; provided, further, that prior approval is obtained from the appropriate governing body. The Assessment obligation of a subdivided Lot merges into the full Lot to which it is joined. Nothing herein contained shall prevent an Owner from constructing a building upon two or more full Lots consisting of one structure otherwise complying with this Declaration.

7.2. **Animals.** No animals, livestock or poultry of any kind shall be raised or kept on any Lot, except for dogs, cats or other commonly accepted indoor household pets. At any one time the total number of household pets other than fish shall not exceed four (4), nor shall any animals be kept, bred, manicured, or maintained for any commercial purposes. No animals or breeds of animals may be kept which, in the sole discretion of the Board of Directors of the Association, constitute a nuisance, annoyance, danger, or hazard to other Owners. Any such nuisance shall be corrected at the Owner's expense. Should the Owner not comply with the requirements imposed by the Association, such correction shall be made under the Association's direction with any costs to be billed to the Owner and to be a Special or Individual Owner Assessment as to said Owner and the applicable Lot pursuant to section 6 above. In no event shall an Owner permit any animal to roam from an Owner's Lot. If required pursuant to Rules promulgated by the Board, any animal allowed on the Property shall be registered with the Association. Such Rules may require a certificate of good health and current vaccination issued by any veterinarian licensed to practice in the State of Arizona and such periodic recertification as may be reasonable with respect to the type of animal involved.

7.3. **Signs.** Except as may be specifically permitted in any Association Rules and The Planned Community Act, no advertising signs, billboards, unsightly objects or nuisance shall be erected, placed or permitted to remain on the Property, nor shall the Property be used in any way for any purpose which may endanger the health of or unreasonably disturb any Owner. During the Period of Declarant's Control, an Owner may display or have displayed on such Owner's improved Lot a sign of customary and reasonable dimensions advertising the home for sale. Nothing herein contained shall restrict the rights of the Association to place directional signs of customary and

reasonable dimensions, or the rights of Declarant to place signs of reasonable dimensions of lots or in Common Areas for any portion of the Property or for sales or office purposes of Declarant in connection with its office facilities thereon. All permitted signs shall conform to the Design Review Board Guidelines and procedures noted in section 8 below.

7.4. **Residential Use and Trades or Businesses.** No trade or business may be conducted on any Lot, except that an Owner may conduct a business activity in a residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; (b) the business activity conforms to all applicable zoning ordinances or requirements; (c) the business activity does not involve the door-to-door solicitation of Owners; (d) the use of the residence for trade or business shall in no way destroy or be incompatible with the residential character of the residence or the surrounding neighborhood; (e) the trade or business shall be conducted only inside the residence or inside an accessory building, and shall not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any residence, including excessive small package deliveries by US Postal Service, UPS, or Federal Express type carriers; (f) the trade or business shall be conducted by an Owner with no employees; (g) no more than twenty percent (20%) of the total floor area of the residence shall be used for trade or business; (h) the residence used for trade or business shall not be used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business shall not utilize large vehicles not customary to a residential use. The terms "business" and "trade" as used in this section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a residence by the Owner thereof shall not be considered a trade or business within the meaning of this section.

7.5. **Motor Vehicles.**

Except for emergency vehicle repair, no automobile or other motor vehicle shall be constructed, reconstructed or repaired upon a Lot and no inoperable vehicle may be stored or parked on a Lot, except inside an enclosed garage. No motorcycle, motorbike, all-terrain vehicle, off-road vehicle or any similar vehicle, licensed or unlicensed, used primarily for off-road purposes shall be parked, maintained or operated on any portion of the Property except in garages or in areas concealed from view on a Lot. No automobile or other motor vehicle shall be parked on any road or street within the Property. Violations of this provision by Owner's Guests may result in fines assessed against an Owner, which shall be collectible as an Assessment. Owners shall park automobiles or other motor vehicles only in their garages or driveways and shall not park on the street. No mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar recreational equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or Common Area or other portion of the Property, or on any street, except for: (a) temporary construction trailers or facilities maintained during, and used exclusively in connection with, construction of any Improvement approved by the Design Review Board; (b) boats and vehicles parked in garages on Lots so long as such vehicles are in good operating condition and appearance and are not under repair; (c) the storage of vehicles in any area designated or approved for such purposes by Declarant or by the Board (including, but not limited to, one or more recreational vehicle storage facilities, whether operated on a for profit or not-for-profit basis); (d) the parking (but not maintenance, construction, reconstruction or repair) of motor vehicles not exceeding seven (7) feet in height and eighteen (18) feet in length which are not used for commercial purposes; and (e) the parking of a recreational vehicle in an Owner's driveway for purposes of loading or unloading of the recreational vehicle for not more than twenty four (24) hours.

7.5.1. Towing of Vehicles. The Board 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 which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Association 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 is owned by an Owner, any amounts payable to the Association shall be secured by the Special or Individual Owner Assessment Lien, and the Association may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments.

7.5.2. **Noise Nuisance.** Any motor vehicles operated on the Property, including automobiles, trucks, dune buggies, motorcycles, jet ski, and trailer bikes, shall have mufflers on its exhaust system and shall be ridden only on paved roads within the Property. No motor vehicle shall be ridden on any Lot except for the purpose of parking, loading or garaging the same or for necessary maintenance of the Lot and the structures, persons, animals or plants thereon. In no event shall motor vehicles be operated for recreational purposes on any Lot.

7.6. **Overhead 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, bicycle path or pedestrian way from ground level to a height of eight (8) feet without the prior approval of the Design Review Board.

7.7. **Antennas.** Antennas, poles, masts and satellite dishes shall be governed by the Design Review Guidelines, which must comply with the applicable Federal Communication Commission's regulatory rulings and any other applicable governmental regulations.

7.8. **Basketball Goals, or Play Structures.** No basketball goal, backboard or similar structure or device, and no swingsets or other play structures shall be placed or constructed on any Lot without the prior written approval of the Design Review Board (including, without limitation, approval as to appearance, screening and location). Permanent Basketball Goals are prohibited.

7.9. **Tanks.** No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot. Nothing herein shall be deemed to prohibit use or storage upon any Lot of a propane tank 5 gallons or less in size, incidental to the use of a residential barbeque, so long as any such tank is appropriately located, stored, used and/or screened, in accordance with the Design Review Board Guidelines or as otherwise approved by the Design Review Board.

7.10. **No Waste or Nuisance.** No Lot shall be used or allowed to become in such condition as to depreciate the value of other Lots, including the failure to effect normal and routine maintenance for aesthetic purposes. No weeds, underbrush, unsightly growth, refuse piles, junk piles or other unsightly objects shall be permitted to be placed or remain upon any Lot. No Lot shall have loud speakers, stereo or car speakers, boom boxes or other stereo equipment permanently affixed outside of buildings, residences,

garages or vehicles. No affixed spotlights or other illuminated objects shall be permitted to remain, erected or placed on a Lot which unreasonably interferes or disturbs the use and enjoyment by an owner of another Lot. No exposed wood facia shall be allowed to deteriorate to be unaesthetically appealing. In the event of any Owner not complying with this provision, Declarant or Association shall have the right to enter upon the land and remove the offending objects or undertake such action as is necessary to remedy or eliminate the waste or nuisance (including effecting routine maintenance such as painting) at the expense of the Owner, who shall repay the same upon demand as a Special Assessment, and such entry shall not be deemed a trespass.

7.11. **Storage of Equipment, Refuse and Miscellaneous.** All yard equipment, garbage cans, rubbish, trash, woodpiles, storage piles and other items that shall in appearance detract from the aesthetic values of the Lot shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Lots, the Common Areas, including streets. All rubbish, trash, garbage shall be regularly removed from Premises, and shall not be allowed to accumulate thereon. Trash for collection may be placed at the street right-of-way line on regular collection days for a period not to exceed twelve (12) hours prior to pickup and once trash has been collected, the Owner's receptacles shall be removed within twelve (12) hours thereafter.

7.12. **Clothes Drying Facilities.** No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot unless said clothesline or other outside facilities for drying or airing of clothes are Concealed From View.

7.13. **Sun Screening.** At no time shall aluminum foil, tin foil, paper, cardboard or other similar materials be permitted on any window, arcadia door, or similar openings as sun shades. Nothing herein contained will prevent the use of commercially available sun film materials, shade screens or similar solar screening or shading devices on or over windows, arcadia doors or similar openings, provided that architectural approval be first obtained if appropriate.

7.14. **Solar Collecting Panels or Devices.** The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior

approval of the plans therefor by the Design Review Board, solar collecting panels and devices may be placed, constructed or maintained upon any Lot within the Property so long as such solar collecting panels and devices are placed, constructed and maintained in such locations, and with such means of screening or concealment as the Design Review Board may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property). Notwithstanding any other provision of this Declaration to the contrary, the Declarant (during the Period of Declarant Control) or the Board (after the expiration or termination of the Period of Declarant Control) shall have the right, without the consent or approval of any Owner or other Person, to amend this section (which amendment may, without limitation, impose additional or different restrictions on solar collecting panels and devices) as the Declarant or the Board (as applicable) deems appropriate in the event that, after the date this Declaration is Recorded, Section 33-439 of the Arizona Revised Statutes (or any successor thereto) is amended, repealed or replaced.

7.15. **Business of Declarant.** Notwithstanding any other provisions herein to the contrary, Declarant and its agents (including sales agents) and representatives may use any areas of the Property for model home sites and sales and display office. Said office may be a trailer or mobile office facility. No provision of this Declaration shall be applicable to prohibit any act or activity of Declarant, its agent or representatives in connection with or incidental to Declarant's improvement and/or development and/or sale of the Property.

7.16. **Rental/Lease.** The renting or leasing of Lots is permissible subject to the following restrictions: (1) the rental or lease agreement shall not be for a period of time less than three (3) months; daily, weekly and monthly rentals are expressly prohibited; (2) the Owner renting or leasing his Lot shall give notice thereof to the Association on a form promulgated by the Association; and (3) the Resident or Lessee executes a receipt evidencing he, she or it has been provided a set of Association Documents and agrees to comply with the terms and provisions of the Association Documents. The Association shall be entitled to assess a reasonable fee for the Association Documents delivered to the Resident or Lessee.

7.17. **Miscellaneous Structures.** No private wells, derrick, windmill (decorative or otherwise), pump or other structure designated for use in boring, mining or quarrying for water, oil or natural gas or precious minerals shall be dug, drilled, erected,

maintained or permitted upon any Lot. Flagpoles shall have taut halyards and a maximum height of twenty-five (25) feet from the surface of the Lot.

8. **DESIGN REVIEW BOARD.**

8.1. **Creation.** The Design Review Board is hereby created with all of the rights, powers, privileges and duties herein set forth. The Design Review Board shall consist of not less than three and no more than five persons. Two people shall constitute a quorum, regardless of the actual number of Design Review Board members.

8.2. **Terms.** Each Design Review Board Member shall hold office for such term as is set forth in the appointment and until his or her successor has been duly appointed as herein set forth, unless he or she has sooner resigned or been removed.

8.3. **Right to Appoint.** Declarant shall have the sole and exclusive right to appoint and remove all of the Design Review Board Members during the Period of Declarant Control or such other earlier time the Declarant shall decide. After the expiration of the Period of Declarant Control or the relinquishment of the right to appoint Design Review Board Members by Declarant, whichever shall first occur, the Board shall appoint and remove the Representatives.

8.4. **Removal and Resignation.** Any Design Review Board Member appointed by Declarant may be removed by Declarant with or without cause. Any Design Review Board Members may resign by submitting a written notice to the Board stating the effective date of his or her resignation. Acceptance of the resignation shall not be necessary to make the resignation effective.

8.5. **Design Review Board Functions.** The functions of the Design Review Board, in addition to any functions set forth elsewhere in this Declaration, shall be (i) to consider and approve or disapprove any plans, specifications or other material submitted to it for the erection, construction, installation, alteration, placement, or maintenance of any Improvements on Lots, or for the alteration or remodeling of, or construction of additions to, any then existing Improvements on Lots, (ii) to promulgate architectural design guidelines for formal approval and adoption by the Board, (iii) to promulgate Design Review Board procedural Rules as provided in this section, for formal approval and adoption by the Board, and (iv) to perform such other duties as may, from time to time be delegated to it by the Association. The Design Review Board's actions on matters shall be by majority vote of the representatives. Any action required to be taken by the

Design Review Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by a majority of the Representatives then serving. The Design Review Board shall keep and maintain a record of all its actions. A Representative appointed by Declarant may appear at a meeting telephonically providing that the Representative has been provided in advance a complete package of materials which are to be considered at the meeting.

8.6. **Rule Making Authority.** The Design Review Board shall promulgate Rules not incompatible with this Declaration (i) establishing the procedures for the submission and approval of said plans, specifications, and other materials, (ii) regulating construction on the Property, including, without limitation, dust and noise abatement requirements, use of temporary construction camps, trailers, construction offices, supply and equipment shelters and screening, hours of construction activity and construction equipment routes, and (iii) interpreting, applying, supplementing and implementing the provisions of this Declaration pertaining to the design of Improvements, including without limitation, building heights, setbacks, finish elevations, location of improvements on Lots, finish materials, permissible exterior colors, landscaping and aesthetic requirements. The Design Review Board may establish guidelines on purely aesthetic considerations. Each Owner acknowledges that the guidelines are purely subjective and opinions may vary as to the desirability and attractiveness of certain Improvements. Each Owner further agrees that guidelines adopted by the Design Review Board are enforceable just the same as though set forth in this Declaration. Said Rules shall be called the "Design Review Board Guidelines". A copy of the Design Review Board Guidelines of The Coves at Sailing Hawks, as from time to time adopted, amended or repealed, certified by a Representative, shall be maintained in the Association office and shall be available for inspection during normal business hours by any Owner or prospective Owner and any architect or agent of any Owner or prospective Owner. Those Design Review Board Guidelines, as they may from time to time be amended or revised, are incorporated into this Declaration by this reference, as if set forth in full.

8.7. **Approval of Improvements.** Any Owner or other Person desiring approval of the Design Review Board for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his, her or its Lot, or any Improvements located thereon, shall submit to the Design Review Board, on a form provided by the Design Review Board, a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other Person desires to perform. Any Owner or other Person requesting the

approval of the Design Review Board shall also submit to the Design Review Board any additional information, plans and specifications which the Design Review Board may reasonably request. In the event that the Design Review Board fails to approve or disapprove an application for approval within thirty (30) days after the completed application, and together with all supporting information, plans and specifications required by the Design Review Board Rules or reasonably requested by the Design Review Board, have been submitted to it, approval will not be required and this section will be deemed to have been complied with by the Owner or other Person who submitted such application for approval.

8.7.1. The Design Review Board shall, in reviewing plans, specifications and other materials submitted to it, consider the suitability of the proposed building or other Improvements for the area in which it will be located; the quality of the materials to be used in construction; and the effect of the proposed building or other Improvement on the Property, and other Lots.

8.7.2. The approval by the Design Review Board of any construction, installation, addition, alteration, repair, change, replacement or other work pursuant to this section shall not be deemed a waiver of the Design Review Board's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

8.7.3. Upon receipt of approval from the Design Review Board for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Design Review Board 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 Design Review Board, subject to the provisions herein.

8.7.4. Any change, deletion or addition to the plans and specifications approved by the Design Review Board must be approved in writing by the Design Review Board.

8.7.5. The Design Review Board shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this section, which fee shall be payable at the time the application for approval is submitted to the Design Review Board. Such fee, if established and charged by the Design Review Board, shall be

set at such reasonable level as the Design Review Board may estimate will be necessary to defray the reasonable costs and expenses of the Design Review Board in reviewing and evaluating any such request or application, and may include, if the Design Review Board deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Design Review Board by an architect or engineer.

8.7.6. The Design Review Board shall have the right to condition approval on receipt of a reasonable deposit to ensure compliance with the Association Documents. The amount of the deposit, if required by the Design Review Board, shall be determined by the Design Review Board and shall be set at such reasonable level as the Design Review Board may estimate will be necessary to defray the reasonable costs and expenses causing the construction to comply with the Association Documents. Upon satisfactory completion, in the sole discretion of the Design Review Board, of the construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this section, the deposit shall be refunded to the Owner or other Person who paid the deposit. In the event the construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this section is not completed to the satisfaction of the Design Review Board, then, without prejudice to any other rights, remedies or causes of action of the Association, the deposit shall be paid to the Association to be used, to the extent reasonably possible, to cause the construction to comply with the Association Documents.

8.7.7. The provisions of this section do not apply to, and approval of the Design Review Board shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

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

8.8. **Zoning Reclassification.** Should any Owner make application for and obtain an approval for a zoning reclassification from the appropriate governing body such new classification will not in itself constitute an automatic deviation from the provisions herein, but such reclassification as it applies to the terms and conditions of this Declaration shall be subject to approval by the Design Review Board.

8.9. **Variances.** The Design Review Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this section 8 if the Design Review Board determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Owners and is consistent with the high quality of life intended for residents of the Project.

8.10. **Damage During Construction.** In addition to the responsibilities for repair of Association Property set forth elsewhere in this Declaration, during the course of construction and/or landscaping installation on a Lot, the Owner thereof shall be responsible at its expense, for the prompt repair and/or replacement and restoration of Association Property (including, without limitation, sidewalks, curbs, street paving and Declarant installed walls, landscaping and irrigation system as well as removal of all construction debris) damaged, destroyed, or effected by the Owner, its agents, contractors or employees. Should the Owner fail to satisfactorily and promptly replace, repair or restore any such damage to the satisfaction of the Design Review Board within ten (10) days after the Design Review Board's written notice thereof to the Owner, the Association may effect repair, replacement or restoration at the expense of Owner. Any such costs shall be charged to the Owner and the applicable Lot as an Assessment, the payment of which shall be enforceable in accordance with the provisions of section 6 above.

8.11. **Time Limitations.** In no event shall the construction of any building, structure, addition, alteration or improvement be commenced prior to the approval by the Design Review Board of plans and specifications therefor. The then Owner of a Lot must complete construction and obtain an unconditional Certificate of Occupancy from the City for the Residence constructed in full accordance with plans and specifications approved by the Design Review Board within twelve (12) months of the date on which construction commences. Landscaping and irrigation systems shall be completed concurrent with the completion of the home, but not later than thirty days from the issuance of the Certificate of Occupancy. After completion of any initial construction as aforesaid, the construction of any other structures, alterations, additions or Improvements on a Lot shall be required to be completed within timeframes established by the Design

Review Board which shall not be inconsistent with the provisions hereof. If an Owner fails to comply with any of the time limitations set forth above or established by the Design Review Board, Declarant states and all Owners, by acquiring title to any interest in a Lot, agree that the damage to other Owners and the Association shall be difficult to determine. If, after expiration of any of the foregoing time periods, a required performance has not been completed, the Association may assess an Owner up to Twenty Dollars (\$20.00) per day for each day that such performance has not been completed, each Owner by acquiring title to any interest in a Lot thereby acknowledges that said Twenty Dollar (\$20.00) sum represents a reasonable estimate of said damages. Any sum so assessed shall be an Assessment against the applicable Owner and Lot in accordance with section 6 above. Failure to complete any construction, alteration or other work within the above time limits shall further operate automatically to revoke the approval of plans and specifications by the Design Review Board and, upon demand by the Design Review Board, the Lot upon which such construction, alteration or other work was undertaken shall be restored by the Association, which may undertake such restoration and charge the cost thereof to the Owner of said Lot, which cost shall be enforceable as a Special Assessment in accordance with section 6 above. The Members of and the Design Review Board's duly appointed agents may enter upon any Lot at any reasonable time or times to inspect the progress or status of any such construction, alteration or other work. The Design Review Board may record a notice reflecting the fact that any such work has not been approved or that any approval given has been automatically revoked.

9. **MISCELLANEOUS.**

9.1. **Duration of Declaration.** Each of the provisions contained in this Declaration shall run with the land and continue and remain in full force and effect for a period of sixty (60) years beginning as of the date of recordation of this Declaration, and shall automatically be extended thereafter for successive periods of ten (10) years each unless an instrument executed by the then Owners of not less than two-thirds (2/3) of the Lots has been recorded agreeing to terminate this Declaration.

9.2. **Amendment.** Any provision contained in this Declaration may be amended or changed, and additional provisions may be added hereto by the recording of a written instrument or instruments specifying the amendment or change, executed (i) by the Declarant at any time during the first year following recordation of this Declaration; or (ii) at any time thereafter, by Owners who hold not less than sixty-seven percent (67%) of the voting power of the Association. Any amendment shall have an effective date on the date of recording such amendment with the Mohave County Recorder's Office.

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

9.4. **Agreement to be Bound.** By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, Rules now or hereafter imposed by this Declaration. In addition, each such person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the restrictions, conditions, covenants, Rules 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, by acceptance of a deed or by acquiring an interest in the Property, each such person fully understands and acknowledges that this Declaration is mutually beneficial, prohibitive and enforceable by the Association and all Owners.

9.5. **Effect of Provisions of Declaration.** Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration (i) shall be deemed incorporated in each deed, agreement of sale or other instrument by which any right, title or interest in the Property or in any Lot is granted, devised or conveyed, whether or not set forth or referred to in such deed, agreement or other instrument; (ii) shall, by virtue of acceptance of any right, title or interest in the Property or in any Lot by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner and, as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representatives, successors and assigns and shall be deemed a personal covenant, to and for the benefit of the Association and any other Owner; (iii) shall be deemed a real covenant by Declarant for itself, its successors and assigns and also an equitable servitude, running, in each case, as a burden with and upon the title to the property and

each Lot and, as a real covenant and servitude for the benefit of the property and each Lot; (iv) shall be deemed a covenant, obligation and restriction secured by a Lien in favor of the Association burdening and encumbering the title to the property and each Lot in favor of the Association.

9.6. **Protection of Encumbrances.** No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any Lot taken in good faith and for value and recorded prior to the time of recording a notice giving notice of such violation, breach or failure to comply; nor shall such violation, breach or failure to comply or action to enforce this Declaration, affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust or other lien or title or interest of any such mortgage, deed of trust or other lien or title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien result in any liability, personal or otherwise, of any such holder or purchaser.

9.7. **Interpretation of the Covenant.** Except for judicial construction, the Association, through its Board, will have the exclusive right to construe and interpret the provisions of the Association Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions will be final, conclusive, and binding as to all persons and property benefitted or bound by the Association Documents. The provisions of this Declaration shall be liberally construed to promote and effectuate the fundamental concepts of the Property set forth in this Declaration, and no provision hereof shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over the Property.

9.8. **Assignment of Powers.** Any and all of the rights and powers vested in Declarant pursuant to this Declaration may be delegated, transferred, assigned, conveyed or released by Declarant to a successor in interest to all Declarant's interest, or the Association and if to the Association, it shall accept the same effective upon the recording by Declarant of a notice of such delegation, transfer, assignment, conveyance or release.

9.9. **Non-Avoidance.** No Owner through non-use or abandonment of his/ her Lot may avoid the burdens or obligations imposed on him or her by this Declaration.

9.10. Limited Liability.

9.10.1. **Good Faith.** Neither Declarant, the Association, any member of the Design Review Board, any Member of the Board, any officer of the Association, any Management Agent Representative, any duly appointed Design Review Board Member nor any agent or employee of Declarant, the Association, the Design Review Board shall be liable to any Owner or any other person for any and all claims, damages, liabilities, obligations, fees or expenses (including attorney's fees) incurred as a result of any act or any failure to act with respect to any matter if the act taken or failure to act was made in good faith, regardless of whether such act or failure to act would otherwise give rise to a cause of action for negligence or breach of duty or contract, including, without limitation, any acts or failure to act with respect to the planning, design, engineering and development of the Property and the Residence to be constructed thereon.

9.10.2. **Indemnification.** The Association shall indemnify each and every officer and director of the Association, each and every member of the Design Review Board, and each and every member of any committee appointed by the Board (including, for purposes of this section, former officers and directors of the Association, former members of the Design Review Board, and former members of committees appointed by the Board) and any management agent hired by the Board, and its employees (collectively, "Association Officials" and individually an "Association Official") to the full extent permitted by A.R.S. § 10-2305(C), as amended from time to time. This indemnification shall include indemnification against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that the Association Official is or was a member, director, officer, employee or agent of the Association or is or was serving at the request of the Association as a member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorney fees, and against judgments, fines and amounts paid in settlement (if the settlement is approved by the Board serving at the time of such settlement) actually and reasonably incurred by the Association Official in connection with such action, suit or proceeding if the Association Official acted, or failed to act, in good faith and in a manner the Association Official reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or

action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be a Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this section or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at the legal rate from the date(s) advanced until paid.

9.10.3. **Equitable Relief from Immediate Predecessor.** After the date hereof, each Owner who acquires any interest in all or any part of a Lot further agrees that upon such acquisition of any interest in all or part of a Lot, said acquiring party shall look only to the immediate predecessor Owner of said Lot for any performance or relief deemed equitable or necessary for the enforcement of the covenants, conditions and restrictions contained herein.

9.10.4. **Limitation of Declarant Liability.** Anything in this Declaration to the contrary notwithstanding, each Owner shall look solely to the interest of Declarant in the Property for the satisfaction or collection of any judgment against Declarant and no other asset of Declarant shall be subject to levy, execution or any other procedure in connection with the exercise of Owner's remedies.

9.11. **Binding Effect.** This Declaration shall be binding upon and inure to the benefit of the parties, their representative heirs, legal representatives, successors and assigns.

9.12. **Validity.** If for any reason any clause or provision of this Declaration, or the application of any clause or provision in a particular context or to a particular

situation, circumstance or person, should be held unenforceable, invalid or in violation of law by any court or other tribunal, then the application of such clause or provision in context or to situations, circumstances or persons other than that in or to which it is held unenforceable, invalid or in violation of law shall not be affected thereby, and, in any event, the remaining clauses and provisions hereof shall nevertheless remain in full force and effect.

9.13. **Waiver.** No failure or delay by a party to insist upon the strict performance of any term, condition, covenant or agreement of this Declaration, or to exercise any right, power or remedy hereunder or under law or consequent upon a breach hereof or thereof shall constitute a waiver of the same or any other term, condition, covenant, agreement, right, power or remedy or of the same or any other prior, concurrent or subsequent breach or preclude such party from exercising the same or any such other right, power or remedy at any later time or times.

9.14. **Laws, Ordinances and Regulations.**

9.14.1. The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Design Review Board 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 also to comply with all applicable laws, ordinances and regulations.

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

9.15. **References to this Declaration in Deeds.** Deeds to and instruments affecting any Lot or any other part of the Property may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

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

9.17. **Captions and Title; Section References; Exhibits.** All captions, titles or headings of the articles and sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof. References in this Declaration to numbered sections or subsections, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

9.18. **No Partition.** No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Area, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot (and only appurtenant thereto), or except as otherwise expressly permitted herein. This section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area, which shall be subject to section 4.8.4) which may or may not be subject to this Declaration.

9.19. **Agreement to Perform Necessary Acts.** Each Owner agrees to immediately upon demand therefor perform any and all further acts and execute, acknowledge and deliver any and all further instructions, instruments and documents which may be reasonably necessary or useful to carry out the provisions of this Declaration or to evidence, perfect or otherwise effectuate the right and remedies relating to this Declaration.

9.20. **Notices.** Any notice required or permitted to be given under this Declaration shall be in writing and shall be sent by a recognized private courier company or by United States mail, first class, postage prepaid and addressed to the Owner at the address on file with the Association. An Association may establish a procedure to provide notice by electronic communications. Any such procedure shall require the Owner to file a written consent with the Association to receive notifications from the

EXHIBIT "A"

See Attached



EXHIBIT A

The land referred to herein below is situated in the County of Mohave, State of Arizona, and described as follows:

LOT 27, AMENDED PLAT OF THE TERRACES AT SAILING HAWKS, TRACT 2364 ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 5, 2003, AT FEE NO. 2003-103446, IN THE OFFICE OF THE COUNTY RECORDER OF MOHAVE COUNTY, ARIZONA.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF LOT 27 OF THE AMENDED LAND DIVISION PLAT FOR "THE TERRACES AT SAILING HAWKS", TRACT

#2364, AS RECORDED IN RECEPTION NO. 2003-103446, RECORDS OF MOHAVE, COUNTY, ARIZONA, BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 14 NORTH, RANGE 20 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MOHAVE COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT;

COMMENCING AT THE 5/8 INCH REBAR WITH CAP, STAMPED LS#28218, MARKING THE NORTH QUARTER CORNER OF SAID SECTION 33, FROM WHICH THE CENTER OF SECTION 33 BEARS SOUTH 00 DEGREES 18 MINUTES 20 SECONDS WEST, 2639.80 FEET, BEING A FOUND BLM BRASS CAP;

THENCE NORTH 89 DEGREES 41 MINUTES 31 SECONDS WEST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1320.20 FEET TO THE NORTHEAST CORNER OF SAID LOT 27;

THENCE SOUTH 00 DEGREES 19 MINUTES 29 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 27, A DISTANCE OF 660.19 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 34 DEGREES 40 MINUTES 25 SECONDS EAST, A DISTANCE OF 260.85 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAILING HAWKS DRIVE;

THENCE SOUTH 61 DEGREES 20 MINUTES 47 SECONDS WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 63.02 FEET;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, BEING A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 230.00 FEET, A CENTRAL ANGLE OF 31 DEGREES 14 MINUTES 39 SECONDS, THE CHORD OF WHICH BEARS SOUTH 45 DEGREES 43 MINUTES 28 SECONDS WEST FOR A DISTANCE OF 123.87 FEET AND AN ARC DISTANCE OF 125.42 FEET;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, SOUTH 30 DEGREES 06 MINUTES 08 SECONDS WEST, A DISTANCE OF 12.65 FEET;

THENCE DEPARTING SAID RIGHT-OF-WAY LINE, NORTH 00 DEGREES 19 MINUTES 29 SECONDS EAST, A DISTANCE OF 342.17 FEET TO THE POINT OF BEGINNING.

EXCEPT ANY MINERALS PREVIOUSLY RESERVED OR EXCEPTED THEREFROM.