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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR THE KNOLLS**



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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR THE KNOLLS**

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE KNOLLS (“Declaration”) is made on the date hereinafter set forth by The Knolls Property Owners Association, Inc., an Arizona non-profit corporation (“Association”).

WITNESSETH

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for The Knolls was recorded on September 13, 1993, at Fee Number 93-636961, Official Records of Gila County, and re-recorded on September 29, 1993, Fee Number 93-638051, Official Records of Gila County, and amended on November 12, 1999, at Fee Number 99-18047, Official Records of Gila County, on October 7, 2003, at Fee 03-017696, Official Records of Gila County, and on January 2, 2004, at Fee 04-000009, Official Records of Gila County, and governs the real property (the “Property”) described as follows:

Lots 1 through 34, inclusive, and Tracts B through I, inclusive, as shown on the Final Plat of The Knolls – Unit One, recorded as Maps No. 636 through 636D, Official Records of Gila County; and

Lots 35 through 56, inclusive, and Tracts M through P, inclusive, as shown on the Final Plat of The Knolls – Unit Two, recorded as Maps No. 653 through 653-A, Official Records of Gila County; and

Lots 57 through 83, inclusive, and Tracts Q through T, inclusive, as shown on the Final Plat of The Knolls – Unit Three, recorded as Maps No. 665 through 665-A, Official Records of Gila County; and

WHEREAS, the Association, by and through its members, wishes to amend and restate the Declaration in its entirety as set forth herein; and

NOW, THEREFORE, the Association hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I
PURPOSE OF THESE RESTRICTIONS, COVENANTS AND CONDITIONS**

This Declaration is recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. The use

restrictions presented herein are intended to guard against offensive visual (aesthetic), auditory (noisy), and olfactory (smelly) conditions, and to maintain a safe, pleasant, and enjoyable residential environment for all persons living within the Project. All of the Property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. The Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and such shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

**ARTICLE II
DEFINITIONS**

- A. “Architectural Control Committee” means the committee provided for in Article VI of this Declaration.

- B. “Architectural Control Committee Rules” means the rules adopted by the Architectural Control Committee.

- C. “Articles” means the Articles of Incorporation of the Association which have been filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

- D. “Assessments” means the annual assessments, special assessments and maintenance charges levied and assessed against each Lot pursuant to Article IV of the Declaration.

- E. “Association” means The Knolls Property Owners Association, Inc., the Arizona nonprofit corporation organized to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns.

- F. “Association Rules” means the rules and regulations adopted by the Association, as the same may be amended from time to time.

- G. “Board” means the Board of Directors of the Association.



H. “Bona Fide First Mortgage” means any realty mortgage or deed of trust made in good faith and for value and property executed and recorded so as to create a lien on any Lot or Lots that is prior to the lien of any other realty mortgage or deed of trust.

I. “Bylaws” means the bylaws of the Association, as such bylaws may be amended from time to time.

J. “Common Area” means all real property, and all Improvements located thereon, owned by the Association for the common use and enjoyment of the Owners.

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

L. “Declaration” means this Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Knolls.

M. “Improvement” means buildings, roads, driveways, parking areas, perimeter fences, walls, and all other structures of every type and kind but shall not include grass, trees, shrubs, plantings, and other landscaping.

N. “Lot” means any parcel of real property designated as a Lot on a plat forming part of the Property.

O. “Member” means a person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

P. “Mobile Home” means moveable or portable unit for residential purposes constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence.

Q. “Owner” shall mean the record owner, except as provided below, whether one or more persons or entities, of fee simple title to any Lot, including without limitation, one who is buying a Lot under a recorded contract, but excluding others having an interest merely as security for the performance of an obligation. In the case of a Lot where fee simple title is vested of record in a trustee under a deed of trust, legal title shall be deemed to be in the trustor. In the case of a Lot where fee simple title is vested in a trustee pursuant to a trust agreement, the beneficiary entitled to possession shall be deemed to be the Owner.

R. “Plats” means the plats of record referred to above, as may hereafter be amended.

S. “Project” means the Property together with all buildings and other Improvements located thereon and all easements, rights and privileges appurtenant thereto.

T. “Project Documents” means this Declaration and the Articles, Bylaws, Association Rules, Landscape Guidelines, and Architectural Control Committee Rules.



U. “Property” means the real property described above, or any part thereof.

V. “Quorum” shall mean a minimum of 60% of the Owners in good standing as of the date of the respective vote. To be in good standing, the Owner shall not be delinquent in his or her payment of Assessments (as defined herein) or other charges, and such Owner shall not otherwise be in violation of this Declaration.

W. “Single Family” shall mean all persons maintaining a common household in a dwelling, whether or not each is related to the other by blood, marriage or legal adoption.

X. “Single Family Residence” shall mean a building, house or dwelling unit used as a residence for a Single Family, including any appurtenant garage or storage area.

Y. “Single Family Residential Use” shall mean the occupation or use of a Single Family Residence in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

Z. “Visible from Neighboring Property” shall mean that an object is or would be visible to a person standing at ground level on the building envelope of an adjacent property or an adjacent street. Protection screening by plantings or fencing may be used to block undesirable views.

ARTICLE III PROPERTY OWNERS ASSOCIATION

A. Rights, Powers and Duties. The Association shall be a non-profit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Project Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Project Documents. The Association’s powers and duties shall include, but not be limited to, maintaining Tracts B and C, being the entryway, landscaping and open areas; including any entryway and landscaping replacements; maintaining Tracts D, F through I, M through P, and R through T, being tracts owned by the Association, as shown on the Plats; and maintaining and fencing, as determined to be necessary by the Association, hiking paths so designated on the Plats; and maintaining any subdivision perimeter fences (but not individual Lot fences). Unless the Project Documents specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

B. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers and committees as the Board may elect or appoint in accordance with the Articles and the Bylaws.

C. Association Rules. The Board may adopt, amend and repeal rules and regulations to restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner except that the Association Rules may not unreasonably discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or



Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be available for inspection by the Members at reasonable times. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

D. Identity of Members. Membership in the Association shall be limited to Owners of Lots. Each and every Lot Owner, in accepting a deed or contract for any Lot, whether or not it shall be so expressed in such deed or contract, automatically becomes a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Member shall be appurtenant and may not be separated from ownership of the Lot. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such Lot, whether by interstate succession, testamentary disposition, foreclosure of a mortgage, or such other legal processes as now in effect or as may be hereafter established pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association. The Association shall have the right to charge a reasonable transfer fee to the new Owner in connection with any transfer of a Lot pursuant to Article IV(H) of this Declaration. The Association shall be operated and conducted on a strictly non-profit basis.

E. Membership and Voting. All Owners shall be entitled to one (1) vote for each Lot owned. The total number of Lots and therefore the total number of votes may be increased from time to time by expansion of the subdivision as evidenced by a Supplemental Declaration.

F. Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

G. Corporate Ownership. In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president, general partner or chief executive officer of such corporation, partnership or association shall have the power to vote the membership. Any such designation may be changed upon written notice to the Board from the Member, at any time except the thirty (30) days preceding a meeting of the Members.



H. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Project Documents for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended until all payments, including accrued interest and attorneys' fees, are brought current. In the event any Owner is in violation of the Project Documents said Owner's right to vote as a Member of the Association shall be suspended for a period not to exceed sixty (60) days for each infraction of the Project Documents, and shall remain suspended until such violation has been cured.

I. Fines. The Association, acting through its Board of Directors, shall have the right to levy reasonable monetary fines on Owners for violation of any provision of the Project Documents by any Owner or such Owner's tenants, licensees and invitees. No fine shall be imposed without first providing the Owner notice and an opportunity to be heard pursuant to Arizona law.

J. Ability to Borrow and Delegate Functions. The Association shall have the power to borrow money and encumber its assets, including pledging future Assessments as security, and, in all respects, shall have the powers necessary to carry out its purposes, whether or not specifically set forth herein, including the power to enter into contracts with third parties to perform all or part of its functions, and to hire its own employees to do so.

K. Limitation of Director Liability. In accordance with the provisions of the Nonprofit Corporation Act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time), each member of the Board or committee shall be immune from civil liability and shall not be subject to suit indirectly or by way of contribution for any act or omission resulting in damage or injury if said Board or committee member was acting in good faith and within the scope of his or her official capacity (which is any decision, act, or event undertaken by the Association in furtherance of the purpose or purposes for which it is organized) unless such damage or injury was caused by willful and wanton or grossly negligent conduct of the Board or committee member. This provision intends to give all Board and committee members the full extent of immunity available under the Nonprofit Corporation Act.

L. Indemnification of Directors, Officers, and Agents. The Association shall indemnify any person who incurs expenses or liabilities by reason of the fact that he or she is or was an officer, director, or agent of the Association. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by the Nonprofit Corporation Act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time); provided, however, that the Association shall have the right to refuse indemnification if the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Association, at its own expense and through counsel of its own choosing, to defend him or her in the action.



**ARTICLE IV
LIENS AND ASSESSMENTS, RESERVE ACCOUNT**

A. Creation of Lien and Personal Obligation of Assessments and Maintenance Charges. Each Owner by acceptance of a deed for a Lot (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association the following Assessments and charges as provided herein: (1) annual assessments established by this Article IV; (2) special assessments for capital improvements or other extraordinary expenses or costs established by this Article IV; and (3) maintenance charges. All such Assessments shall be established and collected as hereafter provided. The annual assessments, special assessments, and maintenance charges (sometimes hereafter referred to collectively as the "Assessments" and individually as the "Assessment"), together with interest, costs, and reasonable attorneys' fees, shall be a charge, continuing servitude and lien upon the Lot against which each such Assessment is made. No diminution or abatement of Assessments or offset shall be claimed or allowed for any reason, including, without limitation, an alleged failure of the Association, the Architectural Control Committee or the Board to take some action or perform some function under this Declaration, the Articles, Bylaws or any of the Project Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority, or an Owner's abandonment of his or her Lot, or non-use of the Common Area. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the Assessment was due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by such successors.

B. Liability for Assessments Levied Before And After Foreclosure. The obligation to pay the Assessments shall be a continuing lien on the Lot, excepting where the holder of a first mortgage of record obtains title to the Lot as a result of foreclosure, or deed in lieu of foreclosure, of said first mortgage, such acquirer of title, its successors and assigns, shall not be liable for the share of the expenses of the Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. As used in this Declaration, the term "mortgage" shall include "deed of trust" and "mortgagee" shall include the "beneficiary" under a deed of trusts. Such acquirer shall be responsible, as any Owner, for Assessments charged subsequent to the acquisition.

C. Purpose of Assessments; Reserve Funds. The Assessments shall be used exclusively by the Association for the improvement, maintenance, repair, replacement and operation of the Common Areas and any other areas for which the Association is responsible, the promotion of the recreation, health, safety and welfare of the Owners and occupants of the Property, the operation and administration of the Association, the performance and exercise by the Association of its rights, duties and obligations under the Project Documents and for the common good of the Property. Annual Assessments shall include a reasonable Reserve Fund for taxes, insurance, maintenance, repairs and replacement of the Common Areas and all other areas for which the Association is responsible. Reserve Funds collected by the Association shall be



deposited into one (1) or more federally insured bank accounts (“Reserve Accounts”) and shall be segregated from the Association’s general operating account(s).

D. Annual Assessments.

(1) Annual Budget; Delivery to Membership. Notwithstanding anything contained herein to the contrary, the Board shall not increase the annual assessment in any fiscal year by more than twenty percent (20%) over the immediately preceding fiscal year’s annual assessment without the approval of the majority of the Members. The Board shall annually adopt the Association’s budget and determine and fix the amount of the annual assessment against each Lot and shall notify the Owner of each Lot, in writing, as to (i) the amount of such annual assessment and (ii) the fractional payment cycle for the annual assessment (e.g., quarterly or monthly). The written notice shall be provided to each Owner at least thirty (30) days prior to the beginning of each fiscal year of the Association; however, failure to send written notice shall not eliminate an Owner’s obligation to pay Assessments. The Board shall maintain a summary of the Association’s finances for each fiscal year. In addition to including amounts for the estimated Common Expenses and cash requirements for the Association, each budget may also provide for a reserve for contingencies and a reserve for replacements, all in such amounts as shall be determined by the Board to be reasonably adequate, taking into account the number and nature of replaceable property within the Common Areas and other areas for which the Association is responsible, the expected life of such item and each item’s expected repair or replacement cost. In the event the Association fails to adopt a budget for any fiscal year prior to commencement of the fiscal year, then until and unless a budget is adopted, the budget (and the amount of the annual assessment provided for therein) for the year immediately preceding shall remain in effect. In the event the Board shall determine that the annual assessment levied for the current year is, or will become, inadequate to meet all Association expenses for any reason, the Board may increase the annual assessment as needed, provided however, that if such increase causes the annual assessment for the fiscal year to be an increase of more than twenty percent (20%) over the immediately preceding fiscal year’s annual assessment, the increased annual assessment must be approved by a majority of the Members.

(2) Reserve Studies. The Board may periodically obtain reserve studies and updates to assist in determining an appropriate amount for repair and replacement reserves for the Association; provided, however: (i) the results of any such studies and reports shall be advisory only and the Board, in its sole and absolute discretion, shall have the right to provide for reserves which are greater or less than those shown in the study; and, (ii) in establishing any replacement and repair reserves for the Association, in addition to the recommendations of any such studies or reports and other relevant factors, the Board may take into account (a) the amount of Annual Assessments for the Property as compared to other comparable developments; (b) the past incidences of required repairs at the Property; and, (c) projected funds available to the Association.

E. Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the annual assessments authorized above, the Association may levy, in any Assessment period, a special assessment applicable to that Assessment period only for the purposes of: (i) defraying, in whole or in part, the cost of any construction, reconstruction, repair



or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; or (ii) for any other lawful Association purpose; provided that any such special assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by absentee ballot at a meeting duly called for such purpose. Special assessments shall be levied at a uniform rate for all Lots. The provisions of this section shall not preclude or limit the assessment, collection or use of the annual assessments for the aforesaid purposes.

F. Uniform Rate of Assessment. Except as hereinafter specifically provided herein, the amount of any Assessment shall be fixed at a uniform rate per Lot. The Assessments may be collected on a monthly, quarterly, or annual basis.

G. Notice and Quorum for Any Action Authorized Under Article IV(F). Written notice of any meeting called for the purpose of taking any action authorized under Article IV(F) shall be sent to all Members subject to such Assessment no less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes (exclusive of suspended voting rights) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

H. Transfer Fee. Each purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in an amount not to exceed one-half (1/2) of the then current annual assessment against the Lot, and this amount may be changed from time to time by the Board in its sole discretion via resolution. The transfer fee shall be used by the Association in connection with such transfer and to supplement the Association's Reserve Fund. This transfer fee shall be applied uniformly to all purchasers at the close of escrow or other transfer of title and shall be due and collectible in the same manner, and subject to the same lien rights, as the Assessments. This fee shall be in addition to any other fees and Assessments due and payable at the close of escrow or other transfer of title, including any fees charged by the Association's managing agent in relation to the transfer of the Lot. The transfer fee shall be in addition to, and shall not be offset against or considered as an advance payment of, any Assessment levied by the Association pursuant to this Declaration, and the payment of such transfer fee shall not entitle purchaser to the return of any working capital and reserve payments made to the Association. No transfer fee shall be payable with respect to: (a) the transfer or conveyance of a Lot by devise or intestate succession; (b) a transfer or conveyance of a Lot to a family trust, family limited partnership or other person or entity for bona fide estate planning purposes; (c) a transfer or conveyance of a Lot to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the transfer fee.

I. Rules Regarding Billing and Collection Procedures. The Association shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein, for the billing and collection of the Assessments, provided that



said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to an Owner shall not relieve any Owner of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days written notice, prior to such foreclosure or enforcement at the address of the Owner on the records of the Association, that the Assessment, or any installment thereof is, or will be, due, and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the Owner of a Lot changes during an Assessment period; successor Owners of Lots shall be given credit on a prorated basis for prepayments made by prior Owners. If the Owner becomes liable for payment of an increased sum pursuant to this Article IV during the Assessment period, he or she shall notify the Association, but his or her failure to notify the Association shall not relieve him or her of the liability for such amounts.

J. Certificate of Assessments. The Association shall, within fifteen (15) days after a written request, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

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

(1) Any Assessment or installment thereof not paid within thirty (30) days after the date such Assessment or installment is due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum. In addition, the Board may establish a late fee, not to exceed the greater of \$15.00 or ten percent (10%) of the amount of the unpaid Assessment, to be charged to any Owner who has not paid any Assessment within thirty (30) days after such payment was due. Any amounts paid by a Member shall be applied first to unpaid principal and then to interest, late charges, and fees, if any.

(2) Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made. Recording of this Declaration perfects the Association's assessment lien. Nevertheless, the Association may record a "Notice of Claim of Lien" which shall set forth (a) the name of the delinquent Owner as shown on the records of the Association, (b) the legal description or street address of the Lot against which the claim of lien is made, (c) the amount claimed as of the date of the recording of the notice including interest, lien recording fees and reasonable attorneys' fees, (d) the name and address of the Association. The Association shall not be obligated to release the assessment lien until all delinquent Assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

(3) Before recording a Notice of Claim of Lien against any Lot the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments together with late charges, interest, reasonable collection costs, and reasonable attorneys' fees, if any. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien but any number of defaults may be included within a single demand or claim of lien. If the delinquency is not paid within

ten (10) days after delivery of the demand, the Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner.

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

L. Subordination of Assessment Lien to First Mortgage or Deed of Trust; Priority of Lien. The Assessment lien provided for herein for delinquent Assessments shall be subordinate to any first mortgage lien held by, or deed of trust of which the beneficiary is, a lender who has lent funds with the Lot as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Sale or transfer of any Lot shall not affect the Assessment lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or deed of trust to which the Assessment lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment lien for all Assessments that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment lien immediately shall become and remain superior to any and all other charges, liens or encumbrances (except liens for taxes or other public charges which by applicable law are expressly made superior), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take subject to all Assessments and the Assessment lien thereof accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure

ARTICLE V USE RESTRICTIONS

A. Land Use. No building other than one Single Family Residence and a guest house or quarters and other out buildings as approved by the Architectural Control Committee, and as are in compliance with applicable zoning, shall be erected, maintained, placed or permitted on any Lot. No Improvements may be commenced without the appropriate building permits and approval from the Architectural Control Committee having been first obtained. A guest house may not be occupied as a residence prior to the completion of the Single Family Residence's structure.



B. Minimum Sizes. Any Single Family Residence or approved Improvement placed upon any Lot shall be constructed from new material or its equivalent, and as may be approved by the Architectural Control Committee. All Single Family Residences shall contain a minimum of one thousand five hundred (1,500) square feet of living area, exclusive of carport, garage, any guest house or quarters, open porches and patio.

C. Restrictions on Business Use. No trade or business may be conducted on any Lot, except that an Owner or other resident of a Lot may conduct a business activity upon the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the Lot; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Lot; (iii) the business activity does not involve persons coming onto the Lot or the door-to-door solicitation of Owners or other residents in the Property; and (iv) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other residents in the Property, as may be determined from time to time in the sole discretion of the Board. Furthermore, no advertising or directional signs may be placed upon the Lot or any portion of the Common Areas regarding the business activity. 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: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity. Nothing herein shall be deemed to prevent the leasing of any such Lot to a Single Family from time to time by the Owner thereof, subject to all of the provisions of this Declaration.

D. Mobile Homes. No Mobile Homes or other prefabricated structures shall be placed upon any Lot, either permanently or temporarily.

E. Temporary Structures. No structure of a temporary character, motor home, recreational vehicle or travel trailer, tent, shack, garage, barn or other out buildings, regardless of its nature or form, shall be used as a residence at any time, either temporarily or permanently.

F. Signs. No signs shall be displayed on any Lot except the following:

- (1) a "For Sale" sign no larger than eighteen by twenty-four inches (18" x 24") and any associated sign riders, while the Lot is for sale;
- (2) a for lease or for rent sign with a total face area of five square feet or less, while the Lot is for lease or rent;
- (3) an open house sign as may not be prohibited by law;



(4) political signs as permitted by county and municipal ordinances may be placed on the Lot up to forty-five (45) days before an election and up to seven (7) days after an election;

(5) such signs as may be required by law or which cannot be prohibited by law;

(6) one residential identification sign; and

(7) signs approved by the Architectural Committee.

All signs must conform to applicable municipal ordinances.

G. Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a hazard or nuisance.

H. Garbage and Refuse Disposal; Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise therefrom, so as to render Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to the neighborhood or to the Owners and tenants of their respective Lots and residences. Refuse containers shall be maintained so as to not be Visible from Neighboring Property, except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All equipment for the storage of such material shall be kept in a clean and sanitary condition. No burning of trash shall be permitted on any Lot. No noxious or offensive activity shall be allowed on the Lots nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners and tenants of their respective Lots and residences. Without limiting the generality of the foregoing, no speakers, horns, sirens or similar sound devices, except security devices used exclusively for security purposes, shall be located or used on a Lot. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

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

J. Health, Safety and Welfare. In the event any uses, activities and facilities on any Lot are deemed by the Association to be a nuisance or to adversely affect the health, safety or welfare of Owners or occupants, the Association may make rules restricting or regulating their presence within the Property on any Lot(s).

K. Individual Sewage Systems. Individual sewage disposal systems to serve the Lot shall be permitted on the Lot. All individual sewage systems shall be constructed to Arizona Department of Environmental Quality and Gila County Health Department standards. No



sewage disposal system shall be installed without first obtaining a Health Department Sewage Disposal Permit. All sewage systems shall be kept as not to disturb surrounding neighbors and/or Property with offensive odors and/or sight, and located so as to minimize grading and/or disturbance to existing vegetation.

L. Protective Screening. All clotheslines, equipment, propane tanks, service yards, wood piles and storage areas shall be kept screened by adequate planting or fencing so as not to be Visible from Neighboring Property. Upon receiving the prior written approval of the Architectural Control Committee, fences, walls, hedges, or shrubs not to exceed six (6) feet in height may be erected or planted up to the property lines, except in the front yard setbacks and the side yard setbacks adjacent to streets which shall be limited to four (4) feet in height. No laundering will be permitted except inside an approved structure with approved plumbing.

M. Antennas and Satellite Dishes.

(1) Unless governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, no antenna or other device for the transmission or reception of television, internet or radio signals or any other form of electromagnetic radiation or any associated equipment shall be erected, used or maintained outdoors on any Lot or Common Area, whether attached to a building or structure or otherwise, so as to be Visible From Neighboring Property or public view, unless approved in writing by the Architectural Control Committee. Any device governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, shall comply with the following restrictions. The devices governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule) as of the date of the recording of this Declaration (hereinafter "Regulated Receivers") are as described below. If the FCC expands the types of Regulated Receivers that fall under the FCC Rule, this Section shall encompass those Regulated Receivers as well.

i. Direct Broadcast Satellite ("DBS") antennas one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite;

ii. Multi-point Distribution Service ("MDS") antennas one meter or less in diameter or diagonal measurement, designed to receive video programming services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite;

iii. Antennas designed to receive local television broadcast signals ("TVBS"); and

iv. Antennas designed to receive and/or transmit data services, including Internet access.

(2) Regulated Receivers shall be subject to the following requirements:

i. A Regulated Receiver and any required mast shall be placed so as not to be Visible from Neighboring Property if such placement will not (A) unreasonably delay

or prevent installation, maintenance or use of the Regulated Receiver, (B) unreasonably increase the cost of installation, maintenance or use of the Regulated Receiver, or (C) preclude the reception of an acceptable quality signal.

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

1. A location in the back yard of the Lot where the Receiver will be screened from view by landscaping or other improvements;
2. An unscreened location in the backyard of the Lot;
3. On the roof, but below the roof line;
4. A location in the side yard of the Lot where the Receiver and any pole or mast will be screened from view by landscaping or other improvements;
5. On the roof above the roofline
6. An unscreened location in the side yard;
7. A location in the front yard of the Lot where the Receiver will be screened from view by landscaping or other improvements.

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

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

(3) The provision of this section are severable from each other; the invalidity or unenforceability of any provision or portion of this section shall not invalidate or render unenforceable any other provisions or portion of this section, and all such other provision or portions shall remain valid and enforceable. The invalidity or unenforceability of any provisions

or portion of this section to a particular type of Receiver or mast or to a particular Receiver or mast on a particular Lot shall not invalidate or render unenforceable such provisions or portion regarding other Receivers or masts on other Lots.

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

O. Motor Vehicles. Any mobile home, motor home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, commercial vehicle or other similar equipment or other sporting or camping equipment of any kind shall not be parked, kept or maintained on any Lot unless it is screened so as not to be Visible from Neighboring Property. There shall be no on-street parking of such vehicles or equipment. Except for emergency vehicle repairs, no automobile, motorcycle, motorbike or other motor vehicle of any kind shall be constructed, reconstructed or repaired on any Lot or the Common Area, unless screened so as not to be Visible from Neighboring Property.

P. Restrictions and Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all or an undivided interest in all of any Lot shall be conveyed or transferred by any Owner without the written consent of the Board of Directors.

Q. Windows. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows.

R. Land Clearing. Since fire is an ever present concern in a forested area, Lot Owners are encouraged to clear underbrush to inhibit the spread of fire and give firefighters a better opportunity to stop fires once they have started. Adherence to Hellsgate Fire Department *Firewise Program* recommendations (see www.Firewise.org) regarding reduction/ elimination of underbrush near structures (e.g., providing a 30 foot perimeter around structures) is highly encouraged. Clear cutting or removal of mature trees should be minimized to protect the beauty of our development. Clearing of underbrush even on Lots left vacant is also recommended.

S. Spark Arresters. New fireplaces will not be approved by the Architectural Control Committee without appropriate spark arrester equipment.

T. Utility Services. Except as permitted by C.F.R. §1.400, all lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Architectural Control Committee. Temporary power or telephone structures incident to construction activities approved by the Architectural Control Committee are permitted.



U. Environmental Protections. No Owner shall use a Lot or the Property to generate, manufacture, refine, transport, treat, store, handle, dispose, produce or process Hazardous Substances or solid waste, except in compliance with all applicable federal, state, and local laws or regulations. For purposes of this paragraph, "Hazardous Substances" shall be deemed to include pollutants or substances defined as "hazardous waste," "hazardous substances," "hazardous materials," or "toxic substances" in: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended by the Superfund Amendment and Reauthorization Act of 1986 (PL 99-499); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901, et seq.; the Arizona Environmental Quality Act, Laws 1986, Chap. 368; and in the rules, regulations or guidelines adopted or promulgated pursuant to said laws."

ARTICLE VI ARCHITECTURAL AND DESIGNS CONTROL

A. Architectural Control. No Lot leveling, excavation, grading, or construction or installation of any Improvements shall be commenced without the prior written approval of the Architectural Control Committee. Furthermore, no addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, shall be made or done without the prior written approval of the Architectural Control Committee, except that such approval shall not be required for the installation, alteration, or removal of grass, trees, shrubs, or other landscaping. Any request for such approval shall require the submission of plans and specifications showing the nature, kind, shape, materials, floor plans, and locations of the construction, installation, addition, alteration, repair, change or replacement to the Architectural Control Committee, and if a copy thereof is finally approved, it shall be lodged permanently with the Architectural Control Committee. Any Owner requesting the approval of the Architectural Control Committee shall also submit to the Architectural Control Committee any additional information, plans and specifications which the Architectural Control Committee may request. All plans must comply with Gila County requirements.

B. Membership; Architectural Committee Rules. The Architectural Control Committee shall consist of no fewer than three (3) and no more than seven (7) members, as determined by the Board. All members of the Architectural Control Committee must be Members of the Association but shall not be required to be an architect or to meet any other particular qualifications for membership. Architectural Control Committee members shall be appointed by the Board and can be removed by the Board at any time for any reason. The Architectural Control Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Architectural Control Committee shall not be entitled to compensation for their services. The Board may, from time to time, adopt, amend and repeal, by majority vote at a meeting or by unanimous written consent, rules and regulations, to be known as "Architectural Control Committee Rules." The Architectural Control Committee Rules shall set forth the standards and procedures for Architectural Control Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes,



exterior finishes and materials and similar features which are recommended for use within the Property.

C. Review Fee and Construction Deposit. The Architectural Control Committee shall have the right to charge a design review fee and collect a refundable construction deposit on major remodeling and new construction projects. Such fee and deposit shall be payable at the time the application for approval is submitted to the Architectural Control Committee. The amount of the design review fee and construction deposit shall be established by the Architectural Control Committee in its discretion, and may be increased from time to time as the Architectural Control Committee may determine. The Architectural Control Committee shall have the authority to use the services of an architect or consultant chosen by the Architectural Control Committee, and to use the design review fee to pay the reasonable fees of the architect or consultant. The construction deposit will be retained by the Association for the purposes of assuring the prompt completion of the work in accordance with the Architectural Control Committee Rules and any other Association Rules adopted by the Board, and for the purpose of repairing any Common Area damaged by the Owner or the Owner's agents. If such violations or damage occur, the Association may levy reasonable monetary penalties against the construction deposit, including forfeiture of the entire deposit, after notice and an opportunity to be heard, or use any amounts of the deposit as the Board deems necessary to repair the damage caused. If the cost of repair exceeds the amount of the deposit, the Owner shall be responsible for the difference. Said amount, if unpaid, shall be collected in the same manner as Assessments. The Owner shall have no right to demand and the Association shall have no obligation to pay the construction deposit until after the completion of construction to the satisfaction of the Architectural Control Committee, after which time any unused portion of the construction deposit will be returned to the Owner who paid the construction deposit.

D. Approval or Disapproval. The Architectural Control Committee shall have the right to refuse to approve any such plans or specifications which are not suitable or desirable in its opinion for aesthetic reasons, because they are not in accordance with the overall theme of The Knolls, or for any other reason, and in so passing upon such plans and specifications it shall have the right to take into consideration the suitability of the proposed building or other structure and the material which is to be used, the site upon which it is proposed to be erected, the harmony with the surroundings, and the effect of the proposed structure on the outlook from adjacent or neighboring property. The Architectural Control Committee's approval or disapproval shall be in writing, and the Association shall keep a permanent record of all such decisions. At any meeting of the Architectural Control Committee, a majority of its members (either in person or via conference call or other similar method) shall constitute a quorum, which quorum is necessary for Architectural Control Committee action. The vote or written consent of a majority of the quorum of members present shall constitute action by the Architectural Control Committee. In the event the Architectural Control Committee or its designated representative fails to approve or disapprove any submittal within sixty (60) days of the submittal date, such submittal shall be deemed approved. However, any structure commenced, erected, or modified after the Architectural Control Committee fails to approve or disapprove such plans and specifications within sixty (60) days of submission must still comply with all other provisions of this Declaration. The approval by the Architectural Control Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Article VI shall not



be deemed a waiver of the Architectural Control Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval. The approval of the Architectural Control Committee required by this Article VI shall be in addition to, and not in lieu of, any approvals, consents or permits required under the ordinances or rules and regulations of any county or municipality having jurisdiction over the Project.

E. Appeal of Architectural Control Committee Decisions. Any Owner whose architectural submission has been denied may appeal the decision to the Board in accordance with procedures to be established by the Board. In the event the decision of the Architectural Control Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Control Committee shall be deemed modified to the extent specified by the Board and, for purposes of this Declaration, such decision, as so modified, shall thereafter be deemed the decision of the Architectural Control Committee.

F. Location. No Improvements shall be erected or placed on any Lot outside of the designated building envelope as shown in Map No. 638 recorded on September 24, 1993, in the records of the Gila County Recorder's Office, without approval of the Architectural Control Committee. It being understood that the building envelope lines and all other use restrictions contained in this Declaration are in addition to zoning and other land use regulations adopted by governmental authorities and the more restrictive must be followed.

G. Completion Time. Upon receipt of approval from the Architectural Control Committee for any construction, installation, addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the construction, installation, addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee. Construction of a Single Family Residence shall be finished and completed no later than fifteen (15) months after the issuance of a building permit by the appropriate regulatory body unless an extension is approved by the Architectural Control Committee.

ARTICLE VII MAINTENANCE

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

- (1) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);
- (2) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway and parking area;



(3) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs, and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

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

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

Common Areas and hiking paths as designated on the Plats, whether as separate parcels or easements, shall be the sole responsibility of the Association to maintain, repair and reconstruct.

B. Maintenance by Owners. Each Owner shall maintain his Lot and all Improvements thereon in good repair. The yards and landscaping on all Lots shall be neatly and attractively maintained to maintain an appearance in harmony with other Lots in the Property, and shall be cultivated and planted as required by the Association Rules and/or the Architectural Control Committee Rules. Clearing of brush to meet *Firewise Program* recommendations, as detailed in Article V(R), is encouraged. During prolonged absence, an Owner shall arrange for the continued care and upkeep of his Lot. In the event any building or structure is damaged or destroyed, then, subject to the approvals required herein, such building or structure shall be expeditiously repaired, rebuilt or demolished. In the event a Lot Owner fails to maintain his Lot, residence, or landscaping in good condition and repair, the Association shall have the right, but not the obligation, to have said Lot landscaped, cleaned, and/or repaired and such costs incurred by the Association shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

C. Owner Damage or Destruction of Common Area. No Owner shall in any way damage or destroy any Common Area or any area or Improvements maintained by the Association. No Owner shall interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner, or the Owner's family, guests, tenants, invitees, agents, or animals shall be paid by said Owner, upon demand to the Association, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same matter as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

ARTICLE VIII EASEMENTS

A. Owner's Easements of Enjoyment.

(1) Every Member, and any person residing with such Member, shall have a right and easement of enjoyment in and to the Common Area which shall by appurtenant to and shall pass with the title to every Lot, subject to the following provisions:



(a) The right of the Association to dedicate or transfer all or any part of the Common Area to any entity for such purposes and subject to such conditions as may be agreed to by the Board; provided, however, that no such dedication or transfer shall be effective unless approved by the Board.

(b) The right of the Association to regulate the use of the Common Area through the Association Rules and to prohibit or limit access to such portions of the Common Area not intended for use by the Owners, Lessees or Residents.

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

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

C. Association's Right of Entry. During reasonable hours, the Association, any member of the Architectural Control Committee, any member of the Board, or any authorized representative of them, shall have the right to enter upon and inspect any Lot, excluding the interior of any residence located thereon, for the purpose of making inspections to determine whether the provisions of this Declaration, the Association Rules and the Architectural Control Committee Rules are being complied with by the Owner of said Lot.

D. Association Easement For Performing Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area and for performing all of the Association's other rights, duties and obligations under the Project Documents.

ARTICLE IX INSURANCE

A. Scope of Coverage. The Association shall maintain, to the extent reasonable available, the following insurance coverage:

(1) Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, as determined by the Board; provided, however, that the total amount of



insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured Property, exclusive of land, excavations, foundations and other items normally excluded from a Property policy;

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

(3) Workers' compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

(4) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners, including, but not limited to, directors' and officers' liability insurance, employee dishonesty insurance, and commercial theft insurance;

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

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

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

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

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

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

(f) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least thirty (30) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy;



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

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

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

C. Fidelity Insurance.

(1) The Association shall maintain blanket fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, but without limitation, officers, directors and employees of any management agent of the Association, whether or not they receive compensation for their services. The total amount of fidelity bond maintained by the Association shall be based upon the best business judgment of the Board, and shall not be less than the greater of (i) the amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, (ii) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each policy period, (iii) the sum equal to three (3) months assessments on all Lots plus adequate reserve funds. Fidelity insurance policies obtained by the Association must also meet the following requirements:

(a) The policy shall name the Association as an obligee;

(b) The policy shall contain waivers by the issuers of the policy of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions;

(c) The policy shall provide that they may not be canceled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association.

(2) The Association shall require any management agent of the Association to maintain its own fidelity insurance in an amount equal to or greater than the amount of the fidelity insurance to be maintained by the Association pursuant to Article IX(C)(1). The fidelity insurance maintained by the management agent shall cover funds maintained in bank accounts of the management agent and need not name the Association as an obligee.



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

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

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

G. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. If the insurance proceeds collected on account of such damage or destruction is insufficient to pay the cost of the repair or restoration, the amount necessary to complete such repair or restoration may be obtained by the Association by a special assessment levied against all Lots as a uniform rate, and notwithstanding any other provision of this Declaration, the approval of the Owners shall not be necessary. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be retained by the Association for use to fulfill any proper Association purpose.

ARTICLE X GENERAL PROVISIONS

A. Enforcement. The Association or any Owner shall have the right (but not the obligation) to enforce the Project Documents and any amendment thereto in any manner provided for in the Project Documents or by law or in equity, including, but not limited to, an action to obtain an injunction to compel removal of any Improvements constructed in violation of this Declaration or to otherwise compel compliance with the Project Documents. Without limiting the generality of the foregoing, the Association shall have the right to record a notice of non-compliance against an Owner's Lot based on non-compliance by any Owner, resident, or lessee of the Lot of any provision of this Declaration, which the Association shall not be obligated to release until the violation has been corrected. Furthermore, the Association shall have the authority to levy fines for violations of any provision of this Declaration after giving the Owner notice and an opportunity to be heard. In addition, the Association shall have the right to



suspend the voting rights of any Member (a) for any period during which any Assessment against his Lot remains delinquent; (b) for a period not to exceed sixty (60) days for any other infraction of the Project Documents; and (c) for successive sixty (60) day periods if any such infraction is not corrected during any prior sixty (60) day suspension period.

B. Costs of Enforcement. In the event that the Association, by and through the Board of Directors, acts to enforce the terms of this Declaration or any other Project Document, regardless of whether suit is filed, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith, including, but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be a lien against said Owner's Lot. If, however, a lawsuit is filed, and the Owner is the prevailing party in such lawsuit, the Owner shall not be required to pay the Association's attorney's fees, court costs, costs of investigation and other related expenses incurred therewith.

C. Non-Waiver. Failure by the Association or any Owner to enforce any of the covenants, restrictions, rights, reservations, and limitations contained herein shall not in any event be construed and held to be a waiver thereof or consent to any further or succeeding breach or violation thereof, or a waiver of the right of the Association or any Owner to enforce and or all violations of this Declaration in the future.

D. Invalidity. Invalidation of any of these covenants, restrictions, reservations, conditions and servitudes by judgment, court order, or otherwise shall in no way affect the validity of any of the other provisions of this Declaration, all of which shall remain in full force and effect.

E. Term. The covenants, conditions, restrictions and servitudes of this Declaration, as the same may be hereafter amended in accordance with the terms hereof, shall run with and bind the Property unless and until terminated at any time by the written approval or the affirmative vote of Owners representing at least two-thirds (2/3) of the Lots. Any termination of this Declaration shall be evidenced by a Declaration or Termination signed by the President or Vice President of the Association and recorded with the County Recorder of Gila County, Arizona.

F. Amendments.

(1) Except for amendments which may be executed by the Board pursuant to Subsection (b) of this Section, the Declaration or the Plat may only be amended by the written approval or the affirmative vote, or any combination thereof, of Owners of not less than two-thirds (2/3) of the Lots entitled to vote.

(2) The Board may amend this Declaration or the Plat, without obtaining the approval or consent of any Owner, in order to conform this Declaration or the Plat to the law or the requirements or guidelines of any federal, state or local governmental agency.



(3) Any amendment approved pursuant to this Article X(F) shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of Gila County, Arizona. Any such amendment shall certify that the amendment has been approved as required by this Section.

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

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

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

J. Delivery of Notices and Documents. Any written notice or other document relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Association or the Architectural Committee at the address of the Association on file with the Coconino County Recorder; if to an Owner, to the address of his Lot or to any other address last furnished by the Owner. Each Owner of a Lot shall file the correct mailing address of such Owner with association, and shall promptly notify the Association in writing of any subsequent change of address.

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

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

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

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



others, the Articles shall prevail over the Bylaws, and the Bylaws shall prevail over the Association Rules and Architectural Control Committee Rules.

O. Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of the Project 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 hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Project Documents.

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

Q. Attorneys' Fees. In the event the Association incurs legal expenses and costs, including but not limited to attorney's fees, in bringing claims against Owners or defending claims brought by Owners in an administrative action or proceeding, including but not limited to, proceedings before an Administrative Law Judge, the Association shall be entitled to recover its attorney fees and costs from the Owner involved in the administrative proceeding.

ARTICLE XI ALTERNATE DISPUTE RESOLUTION

A. Alternate Dispute Resolution. Any dispute or claim between the Association and any Owner in which the Owner claims that the Association has not complied with Arizona law in enforcing this Declaration, including any such claim based on contract, tort, or statute, arising out of or relating to the rights or duties of the parties under this Declaration, except for any dispute or claim related to the payment or non-payment of Assessments or the Association's efforts to collect delinquent Assessments (a "Dispute"), shall be subject first to mediation as set forth in this Article XI prior to any party to the Dispute instituting litigation with regard to the Dispute. Provided, however, that this provision shall not limit the binding nature of any design, architectural or related decision of the Architectural Control Committee. Notwithstanding any other provision of this Article XI, if injunctive relief is the necessary or required remedy to a Dispute, then the party instituting the Dispute (the "Disputing Party") shall be able to assert such Dispute and seek injunctive relief through litigation or such other means as may be appropriate.

(1) Written notice of any Dispute shall be presented to the other party (a "Respondent"). Written notice of the Dispute (the "Dispute Notice"), shall state plainly and concisely: (a) the nature of Dispute, including, date, time, location, persons involved, and Respondent's role in the Dispute; (b) the factual and legal basis of the Dispute; and (c) what the Disputing Party wants Respondent to do or not do to resolve the Dispute. All statutes of limitations applicable to Disputes shall apply to providing the Dispute Notice to the Respondent. If the Dispute Notice is not delivered to the Respondent within the time period provided by Arizona law for the filing of a legal action with respect to the Dispute, the Dispute shall forever be barred.



(2) Upon receiving the Dispute Notice, the parties shall negotiate in good faith to try to resolve the Dispute. If the parties do not resolve the Dispute within thirty (30) days of the date of the Dispute Notice, either party may, within 30 days, file for mediation by the American Arbitration Association (“AAA”) or such other independent mediation service selected by mutual agreement of the Disputing Party and the Respondent. No person shall serve as a mediator in any Dispute in which such person has a financial or personal interest in the result of the mediation, except by the written consent of all parties to the dispute. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. Expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Dispute unless agreed to otherwise. Each party to the Dispute shall bear its/their own attorneys’ fees, witness fees, and costs in connection with such mediation. If the parties do not settle the Claim within sixty (60) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation Notice”). The Termination of Mediation Notice shall set forth when and where the parties met, that the parties are at an impasse, and the date that mediation was terminated.

B. Failure to Resolve Dispute. If the parties cannot resolve their Dispute through mediation and a Termination of Mediation Notice is issued, then either party shall have the right to file such legal action as may be appropriate to the Dispute. Nothing in this Article XI shall be considered to toll, stay, reduce, or extend any applicable statute of limitations. If the parties to a Dispute resolve such Dispute through mediation and any party thereafter fails to abide by the terms of such mediation, then the other party to the Dispute may file suit or initiate legal proceedings to enforce the terms of such mediation without the need to again comply with the procedures set forth in this Article XI. In such event, the party taking action to enforce the terms of the mediation shall be entitled to recover from the non-complying party(ies) all costs incurred to enforce the terms of the mediation, including, without limitation, attorneys’ fees and court costs.



IN WITNESS WHEREOF, the President of the Association hereby certifies that the provisions contained with this Amended and Restated Declaration have been approved by the required percentage of the Owners.

DATED this 14 day of January, 2011.

THE KNOLLS PROPERTY OWNERS ASSOCIATION, INC.

Signature: *Laurence M York*

Printed Name: Laurence M York
President

STATE OF ARIZONA)
) ss.
County of Gila)

On this 14th day of January, 2011, before me personally appeared Laurence M York, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and who acknowledged that he/she signed this document.

Casey Baker
Notary Public

Notary Seal:

