

91 39442

DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS, ASSESSMENTS, LIENS, RESERVATIONS
AND EASEMENTS
FOR
TROON RIDGE

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
ASSESSMENTS, LIENS, RESERVATIONS AND EASEMENTS
FOR TROON RIDGE

91 394426

This Declaration of Covenants, Conditions, Restrictions, Assessments, Liens, Reservations and Easements is made as of the 22nd day of August, 1991, by TRA LIMITED PARTNERSHIP, an Arizona limited partnership (hereinafter termed "Declarant").

R E C I T A L S:

A. Declarant is the owner of the Property, together with that certain Annexable Property in the vicinity of the Property.

B. Declarant desires to develop the Property and the Annexable Property under the name "Troon Ridge" as a planned area development, in stages, with Declarant as the master developer.

C. As part of the development of Troon Ridge, Declarant intends to Record various subdivision plats, to dedicate portions of Troon Ridge to the public, and to Record various Tract Declarations covering certain portions of Troon Ridge to be specified in such Tract Declarations, which Tract Declarations may set forth additional covenants, conditions and restrictions applicable to such portions of Troon Ridge.

D. Declarant desires to form a non-profit corporation for the benefit of Troon Ridge, its Owners and Occupants, which non-profit corporation (hereinafter termed the "Association") will (1) acquire, operate, manage, maintain, repair, replace and reconstruct the Common Area in Troon Ridge; (2) establish, levy, collect and disburse the Assessments and other charges imposed hereunder; (3) as the agent and representative of the Members of the Association and Occupants of Troon Ridge, administer and enforce all provisions hereof and enforce use and other restrictions imposed on Troon Ridge.

E. In order to establish the Association to accomplish the purposes outlined above, all of Troon Ridge shall be subjected to the covenants, conditions, restrictions, assessments, liens, reservations and easements (hereinafter collectively termed "Covenants") hereinafter set forth.

F. In order to cause the Covenants to run with Troon Ridge and to be binding upon Troon Ridge and the Owners and Occupants thereof from and after the date of Recordation of this Declaration, Declarant intends to make all conveyances of any portion of the Property, whether or not so provided therein, subject to the Covenants herein set forth; and by accepting deeds, leases, easements or other grants or conveyances of any portion of the Property, the Owners, Occupants and other transferees, for themselves and for their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree

that they shall be personally bound by all of the Covenants (including but not limited to the obligation to pay Assessments) hereinafter set forth, except to the extent such Persons are specifically exempted therefrom.

G. Declarant may hereafter also from time to time wish to add all or portions of the Annexable Property to Troon Ridge and to subject all or portions of the Annexable Property to the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees that the Property shall be held, sold, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, subject to this Declaration, as amended or modified from time to time. This Declaration is in furtherance of a general plan for the subdivision, improvement and sale of Troon Ridge and is established for the purpose of protecting the value and desirability and attractiveness of Troon Ridge. This Declaration shall run with all of the real property now and hereafter subjected to this Declaration and shall be binding on all parties having any right, title or interest in or to such real property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner of all or any part thereof. Declarant further declares, covenants and agrees as follows:

ARTICLE 1

DEFINITIONS

The following words, phrases and terms used in this Declaration shall have the meanings set forth below:

1.1 "Agency" shall mean the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and any other governmental or quasi-governmental entity or federal corporation guaranteeing or insuring Mortgage loans or governing transactions involving Mortgage instruments (including, without limitation, the issuance, guarantee, insurance or purchase of securities or other debt instruments backed or secured by Mortgages).

1.2 "Annexable Property" shall mean the real property described on Exhibit B attached hereto and incorporated herein by reference.

1.3 "Annual Assessments" shall mean the charges levied and assessed each year against each Lot, Parcel or Owner pursuant to Section 8.6 of this Declaration.

1.4 "Architectural Committee" shall mean the committee of the Association established pursuant to Article 9 of this Declaration.

1.5 "Articles" shall mean the articles of incorporation of the Association, as amended from time to time in accordance with the provisions thereof.

1.6 "Assessments" shall mean the Annual Assessments, the Parcel Assessments and/or the Special Assessments, as well as any other amounts declared by this Declaration to be a part of the Assessments or declared by this Declaration to be secured by the lien created under Section 8.5.

1.7 "Assessment Lien" shall be the lien created and imposed by Article 8.

1.8 "Association" shall mean Troon Ridge Community Association, an Arizona non-profit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration.

1.9 "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to Section 7.5 of this Declaration.

1.10 "Board" shall mean the board of directors of the Association.

1.11 "Bylaws" shall mean the bylaws of the Association, as amended from time to time in accordance with the provisions thereof.

1.12 "City" shall mean the City of Scottsdale, Arizona, provided, however, that if Troon Ridge (or any part thereof) at any future time becomes part of a municipality other than the City of Scottsdale or of an unincorporated part of a county, the term "City" shall mean and refer, to the extent applicable, to such other municipality or county.

1.13 "Common Area" shall mean all real property (including the improvements thereon), all easements and licenses, and all personal property and facilities owned by the Association for the common use and enjoyment of the Owners and Occupants.

1.14 "Common Expenses" shall mean the actual and estimated expenses of operating the Association and performing all obligations and exercising all rights and powers of the Association hereunder, including the establishment and funding of reserves, as deemed necessary or appropriate by the Board.

1.15 "Condominium Parcel" shall mean (a) a Parcel designated in a Tract Declaration as having a residential

condominium development land use classification; or (b) a Parcel with respect to which no Tract Declaration has yet been Recorded but which is designated for residential condominium use on the Master Development Plan.

1.16 "Condominium Unit" shall mean a Dwelling Unit which constitutes a "unit" within a "condominium," together with any appurtenant interest in all "common elements," as those terms are defined in the Arizona Condominium Act, Chapter 9 of Title 33 of the Arizona Revised Statutes, as amended.

1.17 "Declarant" shall mean TRA LIMITED PARTNERSHIP, an Arizona limited partnership, and the successors and assignees of the rights and powers granted or reserved to Declarant hereunder.

1.18 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, Assessments, Liens, Reservations and Easements, as amended or supplemented from time to time.

1.19 "Developer Owner" shall mean a Person, other than Declarant, in the business of developing, leasing or selling real property, who has acquired one or more Lots or Parcels in connection with, such business for the purpose of developing, leasing or selling such Lots or Parcels.

1.20 "Dwelling Unit" shall mean any building or part of a building situated upon a Lot or Parcel designed and intended for use and occupancy as a residence by a Single Family.

1.21 "Exempt Property" shall mean the following areas now or hereafter located within Troon Ridge: (a) all land and improvements owned by or dedicated to and accepted by the United States, the State of Arizona, Maricopa County, the City of Scottsdale, or any other political subdivision, for as long as any such entity or political subdivision is the owner thereof for so long as said dedication remains effective; (b) all Common Area; and (c) all Limited Common Areas.

1.22 "First Mortgage" shall mean a Mortgage Recorded against a Lot which has priority over all other Mortgages Recorded against that Lot.

1.23 "Guidelines" shall mean the rules and regulations adopted, amended and supplemented by the Architectural Committee pursuant to Article 9 of this Declaration, and architectural standards for the development of Troon Ridge to be used in procedures rendering its decisions.

1.24 "Limited Common Areas" shall mean those areas, amenities and facilities of any Parcel or subdivision within the Property which are now or hereafter designated on a Tract Declaration, Subsidiary Declaration, Recorded subdivision plat or

other Recorded instrument which are intended for the general benefit of the Owners or Occupants of Lots in such Parcel or subdivision.

1.25 "Lot" shall mean and refer to (a) any area of real property within the Property designated as a Lot on any subdivision plat recorded or approved by Declarant and limited by a Tract Declaration or other Recorded instrument to Single Family residential use; or (b) a Condominium Unit.

1.26 "Master Development Plan" shall mean the conceptual or site development plan at any time in effect for Troon Ridge and approved by the City or other governmental jurisdiction having the authority to approve and regulate master plans for planned area developments located in Troon Ridge, as the same may be amended from time to time.

1.27 "Maximum Annual Assessment" shall mean the amounts determined for each fiscal year of the Association in accordance with Section 8.9 of this Declaration.

1.28 "Member" shall mean any Person entitled to membership in the Association, as provided in this Declaration.

1.29 "Mortgage" shall mean a deed of trust, as well as a mortgage, which, in either case, is Recorded against a Lot.

1.30 "Mortgagee" shall mean a beneficiary under a deed of trust, as well as a mortgagee under a mortgage, which, in either case, is Recorded against a Lot.

1.31 "Non-Developer Owner" shall mean any Owner (other than Declarant) who is not a Developer Owner.

1.32 "Occupant" shall mean (a) any Person, other than an Owner, who legally occupies or is in possession of a Lot or Parcel or any portion thereof or building or structure thereon, whether as a tenant under a lease or otherwise; and (b) members of the immediate family of each Owner and Occupant actually living in the same household as such Owner or Occupant.

1.33 "Owner" shall mean the record holder of legal title to the fee simple interest in a Lot or Parcel, including contract sellers but excluding parties who hold title merely as security. In the case of a Lot or Parcel, the fee title to which is vested of record in a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes, legal title shall be deemed to be in the trustor.

1.34 "Parcel" shall mean each area of the Property shown as a separate piece of real property on the Master Development Plan; provided, however, that if a Parcel is split in any manner into portions under separate ownership (other than by subdivision

of the Parcel by Recordation of a subdivision plat into Lots), each portion under separate ownership shall thereafter constitute a separate Parcel. Any portion of a Parcel subdivided by Recordation of a subdivision plat shall cease to be a Parcel upon such Recordation; any remaining portion of such Parcel not so subdivided shall continue to be a Parcel unless and until such remaining portion is so subdivided.

1.35 "Parcel Assessments" shall mean those Assessments levied in accordance with Sections 4.6, 4.7 and 8.12 of this Declaration.

1.36 "Person" means a natural person, corporation, partnership, trustee or other legal entity.

1.37 "Property" shall mean the real property described on Exhibit A attached hereto, plus any portion of the Annexable Property which becomes annexed to Troon Ridge and subjected to this Declaration pursuant to Article 6 hereof.

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

1.39 "Single Family" shall mean a group of individuals related by blood, marriage or legal adoption, or a group of not more than three unrelated individuals maintaining a common household.

1.40 "Single Family Parcel" shall mean (a) a Parcel designated in a Tract Declaration as having a Single Family residential land use classification; or (b) a Parcel with respect to which no Tract Declaration has yet been Recorded but which is designated for Single Family residential use on the Master Development Plan.

1.41 "Special Assessments" shall mean those Assessments levied in accordance with Section 8.11 hereof.

1.42 "Special Use Fees" shall mean any fees charged by the Association for use of the Common Area pursuant to Section 2.1 (a) of this Declaration.

1.43 "Subsidiary Association" shall mean an Arizona nonprofit corporation established for the purpose of administering and enforcing the provisions of any Subsidiary Declaration.

1.44 "Subsidiary Community" shall mean a portion of the Property designated in a Tract Declaration as a Subsidiary Community.

1.45 "Subsidiary Declaration" shall mean any declaration of covenants, conditions and restrictions, declaration of

condominium or like instrument, other than a Tract Declaration, Recorded after the Recording of this Declaration with respect to any Parcel, or part thereof, or group of Lots, by the Owner of such Parcel or part thereof, or group of Lots, which shall in all cases be consistent with and subordinate to this Declaration and any applicable Tract Declaration.

1.46 "Tract Declaration" shall mean any declaration of covenants, conditions and restrictions or like instrument Recorded by Declarant after the Recording of this Declaration with respect to one or more Parcels, or portions thereof, or one or more groups of Lots. Any such Tract Declaration shall be consistent with and subordinate to this Declaration.

1.47 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing at ground level on any part of such neighboring property or across the street therefrom.

ARTICLE 2

EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREA

2.1 Easements of Enjoyment. Every Owner, Occupant and Member shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area which shall be appurtenant to and shall pass with the title to every Lot and Parcel, subject to the following provisions:

(a) The right of the Association to charge Special Use Fees for the use of the Common Area. Special Use Fees shall be established by the Board from time to time, in its absolute discretion. Special Use Fees shall be charged only for actual entry upon or utilization of those portions of the Common Area selected by the Board to be subject to a Special Use Fee.

(b) The right of the Association to suspend the voting rights and the right to use and enjoyment of recreational facilities upon the Common Area of any Owner or Occupant, as the case may be (i) for any period during which an Assessment remains delinquent; (ii) for a period not to exceed 60 days for any infraction of this Declaration, a Tract Declaration, a Subsidiary Declaration, the Association Rules or the Guidelines; and (iii) for successive 60-day periods if any such delinquency or infraction is not corrected during any prior 60-day suspension period.

(c) The right of the Association to limit the number of guests of an Owner or Occupant who may use the Common Area.

(d) The right of the Association to regulate use of the Common Area through the Association Rules in accordance with this Declaration.

(e) The right of the Association to change the size, shape or location of Common Area, to exchange Common Area for other lands or interests therein which become Common Area and to abandon, or otherwise transfer Common Area so long as, in each case, either (i) the Members are not materially and adversely affected, or (ii) Persons holding two-thirds (2/3) of the votes of each class of membership have executed an instrument agreeing to such change in size, shape or location, exchange, abandonment or other transfer.

(f) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association. Unless otherwise required by zoning stipulations or agreements with the City of Scottsdale effective prior to the date hereof or specified on a Recorded subdivision plat, no such dedication or transfer shall be effective unless an instrument signed by Persons holding two-thirds (2/3) of the votes of each class of memberships agreeing to such dedication or transfer has been Recorded, except that the Board shall have authority without such agreement to transfer to such public agencies, authorities or utilities (i) fee title to portions of the Common Area which are not used for recreational or social purposes and which will not have any substantial adverse affect on the enjoyment of the Common Area by the Members, and (ii) easements which are intended to benefit Troon Ridge and which do not have any substantial adverse affect on the enjoyment of the Common Area by the Members.

2.2 Delegation of Use. In accordance with the Association Rules and the limitations therein contained and this Declaration, any Member may delegate such Member's right of enjoyment in the Common Area and facilities to such Member's Occupants, guests or invitees.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS

3.1 Votes of Owners of Lots and Parcels. Every Owner of a Lot or Parcel automatically shall be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Owner's membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot or Parcel to which the membership is attributable. If any Lot or Parcel is owned by two or more Persons, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the membership as to such Lot or Parcel

shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall either (a) make such designation, in which event such designation shall be binding for all purposes; or (b) declare that until all Persons who together hold such membership jointly make such written designation, the vote(s) attributable to such membership under this Declaration shall not be cast or counted on any questions before the Members. So long as the Class B membership is in existence, no Class B Member shall at the same time be a Class A Member nor shall a Class B Member have any Class A votes, and the membership and number of votes of the Class B Member shall be determined in accordance with Subsection 3.3.2.

3.1.1 Number of Votes. Subject to Section 3.3 below, each Owner (other than Declarant, so long as the Class B membership is in existence) shall have the following applicable number of votes in the Association:

(a) One vote for each Lot owned by such Owner;

(b) In the case of the Owner of a Single Family Parcel or Condominium Parcel which has not been divided into Lots by a Recorded subdivision plat or other Recorded instrument, one vote for each Dwelling Unit permitted upon the Parcel under the applicable Tract Declaration, or if no Tract Declaration has been Recorded with respect to such Parcel, then one vote for each Dwelling Unit permitted upon such Parcel under the then current Master Development Plan. If a subdivision plat or other instrument creating Lots is Recorded covering all or part of such Parcel, then the votes attributable to the Lots shall be determined pursuant to Subsection 3.1.1 (a) above, and the number of votes held by the Owner of such Parcel as Owner of the portion of such Parcel not so divided into Lots (if any) shall be equal to the number of Dwelling Units permitted on such Parcel pursuant hereto less the number of votes determined pursuant to Subsection 3.1.1 (a) above. If a Tract Declaration or subdivision plat for such Parcel is thereafter Recorded for a different number of Dwelling Units, the number of votes shall be adjusted to reflect the actual number of Dwelling Units as set forth in such Tract Declaration or Recorded subdivision plat. All votes attributable to such Parcel (as opposed to votes attributable to Lots created from such Parcel) shall cease when the property ceases to be a Parcel because all of the area therein is platted (or otherwise divided into Lots) or dedicated to the public.

3.2 Declarant. Declarant shall be a Member of the Association for so long as it holds the Class B membership pursuant to Section 3.3.2 below or owns any Lot or Parcel in Troon Ridge.

3.3 Voting Classes. The Association shall have two classes of voting Members:

3.3.1 Class A. Class A Members shall be all Owners, except Declarant for as long as Declarant is the Class B Member. Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, and except as provided in this Subsection 3.3.1, a Class A Member shall have the number of votes provided in Section 3.1. Notwithstanding the foregoing, a Developer Owner who is a Class A Member and is entitled to pay only a reduced Assessment pursuant to Section 8.4 shall be entitled only to the number of votes equal to the percentage of the full Assessments such Member is entitled to pay multiplied by the number of votes such Member would otherwise have under Section 3.1 above. The Owner of Exempt Property shall not be entitled to any votes with respect to such Exempt Property except as provided in Section 3.7 below; and

3.3.2 Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to the number of votes equal to three (3) times the number of votes which would otherwise be attributable to Lots and Parcels owned by Declarant as determined pursuant to Section 3.1 above; provided, however, that for any Parcel owned by Declarant which has not yet been subjected to a Tract Declaration (and therefore has not yet been assigned to a particular land use classification), for purposes of determining the votes to which Declarant shall be entitled with respect to such Parcel, such Parcel shall be deemed to be a residential Parcel and shall be deemed to have the maximum number of Dwelling Units permitted for such Parcel under the Master Development Plan. Subject to the provisions of Article 6 below, the Class B membership automatically shall cease and be converted to a Class A membership upon the earliest to occur of the following events:

(a) Declarant ceases to own any real property in Troon Ridge;

(b) the date which is twenty (20) years after the date this Declaration is Recorded; or

(c) the date on which Declarant Records a written notice electing to convert its Class B membership to a Class A membership; provided, however, that Declarant may not give such written notice until at least seventy-five percent (75%) of the acreage of the Property and the Annexable Property have been sold.

3.4 Right to Vote. No change in the ownership of a Lot or Parcel shall be effective for voting purposes until the Board receives satisfactory evidence of such change in ownership. The votes for each Member must be cast as a single unit. Split or fractional votes shall not be allowed. Any Owner of a Lot or Parcel which is leased or which is subject to a valid, outstanding and Recorded executory agreement of sale may assign, in the lease, agreement of sale or other written instrument, the voting right appurtenant to the Lot or Parcel to the lessee thereof or to the

purchaser thereof under such agreement of sale, as applicable, provided that a copy of the written assignment of such voting rights is furnished to the Secretary of the Association prior to any meeting at which such lessee or purchaser seeks to exercise such voting right.

3.5 Members' Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, any applicable Tract Declaration or Subsidiary Declaration, the Association Rules, the Guidelines and any other rules and regulations adopted pursuant to any of the foregoing.

3.6 Transfer of Membership. Except as otherwise provided in this Declaration, the rights, duties and obligations of a Class A Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Class A Member's Lot or Parcel, and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure or other legal process authorized under Arizona law. Any transfer of ownership to a Lot or Parcel shall operate to transfer the membership appurtenant thereto to the new Owner. Any other form of transfer shall be void.

3.7 Exempt Property. Exempt Property shall remain subject to all provisions of this Declaration, except that so long as such property is Exempt Property, it shall not be subject to Annual Assessments, Parcel Assessments or Special Assessments unless otherwise expressly provided in this Declaration or in an applicable Tract Declaration. The Owner of Exempt Property (other than Common Area or Limited Common Area) may elect at any time to subject such property to Assessments and to have such property no longer treated as Exempt Property by Recording a written instrument against such property signed by the Owner of such Exempt Property and by Declarant, so long as Declarant owns any portion of the Property or the Annexable Property or otherwise by a majority of the members of the Board, whereupon such property shall cease to be Exempt Property and shall be subject to Annual Assessments, Parcel Assessments and Special Assessments in accordance with the provisions of this Declaration and shall be deemed to be a Single Family Parcel for purposes of establishing the Assessments to which it is subject and the votes to which its Owner is entitled, unless otherwise provided in a Recorded instrument.

3.8 Voting for Board Members. No cumulative voting shall be permitted.

ARTICLE 4

MAINTENANCE

4.1 Association's General Responsibilities. The Association, or its duly delegated representative, shall maintain

and otherwise manage all Common Area and other areas as expressly provided in this Article 4, and the costs of such maintenance shall be Common Expenses of the Association. This maintenance shall include, but not be limited to the landscaping, walkways, riding paths, parking areas and drives; provided, however, the Association shall not be responsible for providing or maintaining the landscaping or structures on any Common Area which are part of Lots or Parcels unless (i) such landscaping or structures are available for use by all Owners and Occupants or are within easements intended for the general benefit of Troon Ridge and (ii) the Association assumes in writing the responsibility for such maintenance or such responsibility is set forth in a Recorded instrument. The Association also shall maintain any landscaping and other improvements not on Lots and Parcels which are within the exterior boundaries of Troon Ridge, which are within areas shown on a subdivision plat or other plat of dedication for Troon Ridge or covered by a Tract Declaration, and which are intended for the general benefit of the Owners and Occupants of Troon Ridge, except the Association shall not maintain areas which (i) the City of Scottsdale or other governmental entity is maintaining or (ii) pursuant to Section 4.3 of this Declaration are to be maintained by the Owner of a Lot or Parcel, unless the Association elects to maintain such areas. Specific areas to be maintained by the Association may be identified on subdivision plats Recorded or approved by the Declarant, in Tract Declarations and in deeds from the Declarant to a transferee of a Lot or Parcel, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect to such Common Area and other areas intended for the general benefit of Troon Ridge.

4.2 Standard of Care. The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property so that the Troon Ridge development will reflect a high pride of ownership. In this regard, the Association may, subject to any applicable provisions on Special Assessments for capital improvements, in the sole discretion of the Board:

(a) Reconstruct, repair, replace or refinish any improvement or portion thereof upon Common Area;

(b) Replace injured and diseased trees and other vegetation in any Common 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;

(c) Place and maintain upon any Common Area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof.

(d) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and

the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Board shall be the sole judge as to the appropriate maintenance of all Common Area and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

4.3 Assumption of Owner's Duties. If any subdivision plat, Tract Declaration, Subsidiary Declaration or this Declaration permits the Board to determine whether or not Owners of certain Lots or Parcels will be responsible for maintenance of any Common Area or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants of Troon Ridge for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board.

4.4 Assessment of Certain Costs of Maintenance and Repair of Common Area and Public Areas. If the need for maintenance or repair of Common Area and other areas maintained by the Association is caused through the willful or negligent act of any Member, Occupant, or their respective guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Member and the Member's Lot or Parcel are subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot or Parcel in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

4.5 Improper Maintenance and Use of Lots and Parcels. If any portion of any Lot or Parcel is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots and Parcels or other areas of Troon Ridge which are substantially affected thereby or related thereto, or in the event any portion of a Lot or Parcel is being used in a manner which violates this Declaration or any Tract Declaration or Subsidiary Declaration applicable thereto, or in the event the Owner of any Lot, Parcel or portion thereof is failing to perform any of its obligations under this Declaration, any Tract Declaration, Subsidiary Declaration or the Guidelines, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within thirty (30) days, the Board may cause such action to be taken at Owner's cost. If at the expiration of said 30-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof

shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot or Parcel are subject and shall be secured by the Assessment Lien.

4.6 Maintenance of Areas Covered by a Subsidiary Declaration. The Association shall be responsible for maintaining all areas within a Subsidiary Community required to be maintained by a Subsidiary Association pursuant to a Subsidiary Declaration and shall cause all such areas to be maintained in accordance with the same standards established for the Common Area. Such maintenance may be performed by employees of the Association or persons or entities designated by, or under contract to, the Association. The Association shall be compensated for maintaining such subsidiary community common areas in accordance with the provisions of Article 8 herein. The compensation payable to the Association shall be established at amounts intended to reimburse the Association for costs incurred in performing such maintenance, including labor, materials and supplies, supervision, and overhead. The Association shall not attempt to make a profit from its activities with respect to Subsidiary Associations.

4.7 Additional Parcel Assessments. When the Association has the responsibility to maintain, repair, replace, repave, resurface and operate private streets or private roadways constituting a part of the Common Area (or private street lights, light poles, street signs and other equipment and facilities appurtenant thereto), or any open space, recreational or other common facilities constituting a part of the Common Area, the Board, in its sole discretion may determine that such private streets or private roadways (or appurtenant equipment and facilities), or open space, recreational or other common facilities, exclusively or disproportionately benefit the Owners of Lots within a particular subdivision and their respective Occupants, guests and invitees as compared to the Owners of other Lots or Parcels within the Property and their respective Occupants, guests and invitees, and may assess all (or such appropriate portion as the Board shall reasonably determine) of the costs of such maintenance, repair, replacement, repaving, resurfacing and operation solely against the Lots within such subdivision (and the respective Owners thereof) as additional Parcel Assessments. Such additional Parcel Assessments shall be assessed equally against each of the Lots within such subdivision, shall be the personal obligation of the Owners of each of such Lots and shall be secured by the Assessment Lien created by and described in, and enforceable in accordance with, Article 8 below. Such additional Parcel Assessments also may include amounts to establish and fund reserves for such maintenance, repair, replacement, repaving, resurfacing and operation, and to purchase public liability, property damage and/or casualty insurance with respect to such private streets or private roadways (and such appurtenant equipment and facilities) and such open space, recreational and other common facilities, all as the Board may deem reasonable and appropriate. In no event shall the amount assessed by the Board against any Lot pursuant to

this Section 4.5 for any fiscal year of the Association exceed one hundred percent (100%) of the Maximum Annual Assessment for a Lot for such fiscal year, as determined in accordance with Section 8.7 below. The intention of this Section 4.5 (which shall be considered in its interpretation and application) is to establish a mechanism whereby various facilities intended and designed solely or primarily for use by the Owners of Lots within a particular subdivision (and their Occupants, guests and invitees) may be owned and maintained by the Association, at the sole or primary expense of such Owners, rather than require formation of a Subsidiary Association to undertake such ownership and maintenance, when it appears likely at the time the subdivision is developed that cost or management efficiencies would be realized by giving those rights and obligations to the Association rather than to a Subsidiary Association.

4.8 No Discrimination. The provision of services in accordance with this Article shall not be deemed to be discrimination in favor of or against any Owner or Subsidiary Association.

ARTICLE 5

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS APPLICABLE TO LOTS AND PARCELS WITHIN TROON RIDGE

5.1 Covenants, Conditions, Restrictions and Easements. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots and Parcels, the Owners thereof, and all Occupants:

(a) Architectural Control. No improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any property within Troon Ridge, or the improvements located thereon, shall be made or done without the prior approval of the Architectural Committee pursuant to Article 9 hereof, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered, or made without the prior written approval of the Architectural Committee. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade or Lots or Parcels, shall be subject to the prior written approval of the Architectural Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Committee shall be made without the prior written approval of the Architectural Committee.

(b) Animals. No animal, bird, fowl, poultry or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot or Parcel and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal, bird, fowl, poultry, or livestock shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any animal, bird, fowl, poultry, or livestock shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner or Occupant, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal, bird, fowl, poultry, or livestock is a generally recognized house or yard pet, whether such a pet is a nuisance, or whether the number of animals or birds on any such property is reasonable. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained herein.

(c) Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any property shall be removed immediately after the completion of construction.

(d) Maintenance of Lawns and Plantings. Each Owner of a Lot or Parcel shall keep all shrubs, trees, hedges, grass and plantings of every kind located on

(i) his Lot or Parcel (including set back areas and Common Area),

(ii) planted public right-of-way areas between sidewalks (or bikepaths) and the street curb in front of his property, if any,

(iii) any other public right-of-way or easement area which abuts the Owner's Lot or Parcel and which is located between the boundary line of his Lot or Parcel and the paved area of any street, sidewalk, bikepath or similar area, and

(iv) any non-street public right-of-way or easement area adjacent to his Lot or Parcel,

neatly trimmed, shall keep all such areas properly cultivated and free of trash, weeds and other unsightly material and shall maintain all paved and concrete areas, including driveways, roadways and parking areas, in good condition and repair; provided, however, that such Owner shall not be responsible for maintenance of any area over which (1) the Association or any Subsidiary

Association assumes or has been given the responsibility in writing; or (2) the City assumes responsibility. The Board also may, require, in its discretion, landscaping by the Owner of the areas described in Subsections (i) - (iv) above on or before expiration of such time periods as the Board may establish.

(e) Nuisances; Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or Parcel, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the Occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot or Parcels so as to be offensive or detrimental to any other property in the vicinity thereof or to its Occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property. Normal construction activities and parking in connection with the building of improvements on a Lot or Parcel shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and Parcels shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by the Architectural Committee. In addition, any construction equipment and building materials stored or kept on any Lot or Parcel during construction of improvements may be kept only in areas approved by the Architectural Committee, which may also require screening of the storage areas. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

(f) Diseases and Insects. No Owner shall permit any thing or condition to exist upon such Owner's Lot or Parcel which shall induce, breed or harbor infectious plant diseases or noxious insects.

(g) Repair of Buildings. No building or structure on any Lot or Parcel shall be permitted to fall into disrepair and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Subsection (a) above, such building or structure shall be immediately repaired or rebuilt or shall be demolished.

(h) Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any Lot or Parcel, whether attached to a

building or structure or otherwise, unless approved by the Architectural Committee.

(i) Mineral Exploration. No Lot or Parcel shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

(j) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Parcel, except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. The Architectural Committee may also, in its discretion and at its option, designate the location on a Lot or Parcel where such containers shall be stored between collection times in order to protect adjacent properties from noise or odors emitting from the use of such containers. All rubbish, trash, or garbage shall be removed from the Lots and Parcels and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot or Parcel.

(k) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot or Parcel unless they are erected, placed and maintained exclusively within a fenced service yard or otherwise concealed and shall not be Visible From Neighboring Property.

(l) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Parcel except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other improvements; or (ii) that which Declarant or the Association may require for the operation and maintenance of Troon Ridge.

(m) Signs. No signs whatsoever (including, but not limited to, commercial, political and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot or Parcel except:

(i) Signs required by legal proceedings.

(ii) Not more than two (2) identification signs for individual residences, each with a face area of seventy-two (72) square inches or less.

(iii) Signs (including "for sale" and "for lease" signs) the nature, number, and location of which have been approved in advance and in writing by the Architectural Committee.

(iv) Signs of builders on any Lot or Parcel approved from time to time by Declarant as to number, size, colors, design, message content, location and type.

(v) Such other signs (including but not limited to construction job identification signs and builders signs) which are in conformance with the requirements of the City and which have been approved in writing by Declarant as to size, colors, design, message content and location.

(n) Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot or Parcel shall be further subdivided or separated into smaller lots or parcels by any Owner, any no portion less than all of any such Lot or Parcel, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Board, which approval must be evidenced on the plat or other instrument creating the subdivision, easement or other interest. This provision shall not, in any way, limit Declarant from subdividing or separating into Lots or Parcels any property at any time owned by Declarant and which has not previously been platted or subdivided into Lots. No portion of a Lot but for the entire Lot, together with the improvements thereon, may be rented, and then only to a Single Family. No further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any Lot or Parcel without the provisions thereof having been first approved in writing by the Board and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any Lot or Parcel, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot or Parcel has been approved by the Board and the proposed use otherwise complies with this Declaration and any applicable Tract Declaration.

(o) Utility Easements. There is hereby created a blanket easement upon, across, over and under each Lot and Parcel for ingress to, egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to water, sewers, gas, telephones, electricity, television cable, communication and security lines and system, etc. as such utilities and services are installed in connection with the initial development of the Lot or Parcel and the construction of the first Dwelling Unit or other building thereon. Pursuant to this easement, a providing utility or service company, the Declarant or the Association may install and maintain facilities and equipment on the property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the Lots and Parcels.

Notwithstanding anything to the contrary contained in this Subsection, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on any Lot or Parcel except as initially programmed and approved by the Declarant or the Architectural Committee, or, if installed after recordation of the Tract Declaration, approved by the Owner and the Architectural Committee.

(p) Party Walls. Except as hereinafter provided, the rights and duties of Owners with respect to walls or fences located on the dividing line between two Lots or Parcels ("Party Walls") shall be as follows:

(i) The Owners of contiguous Lots or Parcels who have a Party Wall shall both equally have the right to use such Party Wall, provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner.

(ii) If any Party Wall is damaged or destroyed through the act of an Owner or Occupant, or the agents or guests of such Owner or Occupant (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Party Wall without cost to the Owner of the adjoining Lot or Parcel.

(iii) If any Party Wall is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner or Occupant or the agents or guest of such Owner or Occupant, it shall be the obligation of all Owners whose Lots or Parcels adjoin such Party Wall to rebuild and repair such Party Wall at their joint expense, such expense to be allocated among the Owners in accordance with the frontage of their Lots or Parcels on the Party Wall.

(iv) Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any Party Wall without the prior consent of all Owners of any interest therein, whether by way of easement or in fee.

(v) In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Party Wall, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which shall be binding.

Anything in the foregoing to the contrary notwithstanding:

(vi) In the case of Party Walls (1) between Common Area and Lots or Parcels, or (2) constructed by the Declarant or the Association on Common Area within a Lot or Parcel, the Association shall be responsible for all maintenance thereof, except that each Owner of a Lot or Parcel shall be responsible for

painting the portion of any Party Wall facing his Lot or Parcel or the portion thereof which is not a portion of the Common Area, and

(vii) The provisions of this Subsection (p) shall not apply to any Party Wall which separates the interiors of two Dwelling Units and the rights of the owners of such Dwelling Units with respect to Party Walls shall be governed by Tract Declarations, Subsidiary Declarations or by plats or restrictions to be recorded by the developer of the Dwelling Units.

(q) 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 or Parcel unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

(r) Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot or Parcel shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

(s) Trucks, Trailers, Campers and Boats. No motor vehicle classed by manufacturer rating as exceeding 3/4-ton, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or Parcel or on any street so as to be Visible From Neighboring Property, the Common Area or the streets; provided, however, the provisions of this Section shall not apply to pickup trucks of 3/4-ton or less capacity with camper shells not exceeding seven (7) feet in height measured from ground level or to mini-motor homes not exceeding seven (7) feet in height and eighteen (18) feet in length which are parked as provided in Subsection (u) below and are used on a regular and recurrent basis for basic transportation.

(t) Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or repaired upon any Lot, Parcel or street, and no inoperable vehicle may be stored or parked on any such Lot, Parcel or street, so as to be Visible From Neighboring Property or to be visible from Common Area or streets; provided, however, that the provisions of this Section shall not apply to (i) emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Architectural Committee; or (ii)

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the storage of such vehicles in an area designated for such purposes on a Tract Declaration or on a site plan approved by the Architectural Committee.

(u) Parking. It is the intent of the Declarant to restrict on-street parking as much as possible. Vehicles of all Owners and Occupants, and of their guests and invitees, are to be kept in garages, carports, residential driveways of the Owner.

(v) Health, Safety and Welfare. If additional uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or Occupants, the Board may make rules restricting or regulating their presence in Troon Ridge as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots or Parcels as part of the Guidelines.

(w) Model Homes. The provisions of this Declaration and of Tract Declarations which prohibit nonresidential use of Lots and Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction of residential dwellings at Troon Ridge and parking incidental to the visiting of such model homes so long as the location of such model homes are approved by the Architectural Committee, the opening and closing hours are approved by the Board, and the construction, operation (including means of access thereto, amount of lighting and number and appearance of signs) and maintenance of such model homes otherwise comply with all of the provisions of this Declaration and the Association Rules. The Architectural Committee may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of the City of Scottsdale and any rules of the Architectural Committee. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner or Occupant thereof is not actively engaged in the construction and sale of single family residences at Troon Ridge and no home shall be used as a model home for the sale of homes not located at Troon Ridge.

5.2 Variances. The Board, at its option and in extenuating circumstances, may grant variances from the restrictions set forth in Article 5 of this Declaration or in any Tract Declaration if the Board determines in its discretion (a) either (i) that a restriction would create a substantial hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and (b) that the activity permitted under the variance will not have any substantial adverse effect on the Owners and Occupants of Troon Ridge and is consistent with the high quality of life intended for residents of Troon Ridge.

ARTICLE 6ANNEXATION OF ADDITIONAL PROPERTY; DEANNEXATION

6.1 Annexation. All or portions of the Annexable Property may be annexed from time to time to Troon Ridge by a Declaration of Annexation executed and Recorded by Declarant on the portions of the Annexable Property then being annexed by Declarant. Upon the Recordation of such Declaration of Annexation, the portions of the Annexable Property so annexed shall be subject in all respects to this Declaration as a portion of Troon Ridge.

6.2 De-Annexation. Notwithstanding any other provision of this Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any other Person (except as provided in this Section 6.2), to delete from the Property and remove from the effect of this Declaration one or more portions of the Property; provided, however, that (a) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal such portion is owned by Declarant (subject to Section 11.9 below) or Declarant executes and Records an instrument approving such deletion and removal; (b) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal no Dwelling Units or Common Area recreational facilities have been constructed thereon; and (c) a portion of the Property may not be so deleted and removed if such deletion and removal would deprive Owners and Occupants of other parts of the Property of access or other easements or rights-of-way necessary to the continued use of their respective parts of the Property (unless Declarant at the same time provides for reasonably adequate replacement easements or rights-of-way). Declarant may exercise its rights under this Section 6.2 in each case by executing and causing to be Recorded an instrument which identifies the portion of the Property to be so deleted and removed and which is executed by each owner of such portion (if other than Declarant). The deletion and removal of such portion of the Property shall be effective upon the later of (i) the date such instrument is Recorded; or (ii) the effective date specified in such instrument, if any, whereupon, except as otherwise expressly provided in this Section 6.2, the portion of the Property so deleted and removed shall thereafter for all purposes be deemed not a part of the Property and not subject to this Declaration, and the owner(s) thereof shall not be deemed to be Owners or Members or have any other rights or obligations hereunder except as members of the general public. No such deletion and removal of a portion of the Property shall act to release such portion from the lien for Assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal, and no Assessments or other charges shall thereafter accrue hereunder with respect to the portion of the Property so deleted and removed. Each portion of the Property deleted and removed pursuant to this Section 6.2 shall

thereafter be deemed to be a part of the Annexable Property unless otherwise expressly provided to the contrary in the instrument Recorded by Declarant to effect such deletion and removal.

ARTICLE 7
RIGHTS AND POWERS OF
THE ASSOCIATION

7.1 Association's Rights and Powers as Set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Declaration and are necessary, desirable or convenient for effectuating the purposes set forth in this Declaration.

7.2 Association's Rights of Enforcement of Provisions of this and Other Instruments. The Association, as the agent and representative of the Owners, shall have the right to enforce the Covenants set forth in this Declaration and any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant.

7.3 Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including Declarant and its affiliated companies, for the performance of the Association's duties and other purposes consistent with this Declaration, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee is employed by or otherwise connected with Declarant or its affiliates; provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided, further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies or any competitor thereof and may vote thereat to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

7.4 Change of Use of Common Area and Procedure Therefor.

Upon (a) adoption of a resolution by the Board stating that in the Board's opinion the then-present use of a designated part of the Common Area is no longer in the best interests of the Owners and Occupants or no longer necessary or appropriate for the purposes intended, and (b) the approval of such resolution by a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to sell, exchange, convey or abandon such Common Area or change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Owners and Occupants, and (ii) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Common Area. Notwithstanding anything in the foregoing to the contrary, if the Board determines, and the resolution of the Board recites, that any transaction involving the disposition or exchange of the Common Area will not have an adverse effect on the Association and the Owners and Occupants of Troon Ridge, the Board may, in lieu of calling a meeting pursuant to Subsection (b) above, notify in writing all Owners of the proposed transaction and of their right to object thereto and, if the owners of no more than ten percent (10%) of the Class A Members eligible to vote at a meeting object in writing to the Association within thirty (30) days after receipt of such notice, the transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

7.5 Rules and Regulations.

By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. The Association Rules may restrict and govern the use of the Common Area; provided, however, that the Association Rules shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles or the Bylaws. The Association Rules are intended to enhance the preservation, development, maintenance and operation of the Property, the Common Area and the Limited Common Areas. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth herein. Sanctions for violation of the Association Rules, or of this Declaration, any applicable Tract Declaration, Subsidiary Declaration or the Guidelines, may be imposed by the Board and may include (without limitation) suspension of the right to vote and the right to use the recreational facilities on the Common Area, and may also include (without limitation) reasonable monetary fines deemed appropriate by the Board. No suspension of an Owner's right to vote or of the right of such Owner (or any Occupant of such Owner's Lot or Parcel or any guest or household member of such Owner or Occupant) to use the recreational facilities on the Common Area due to a violation of the Association Rules, this Declaration, any applicable Tract

Declaration or the Guidelines may be for a period longer than sixty (60) days (except where such Owner or Occupant fails or refuses to cease or correct an on-going violation or commits the same or another violation, in which event such suspension may be extended for additional periods not to exceed sixty (60) days each until such violation ceases or is corrected).

7.6 Availability of Books, Records and Other Documents.

The Association shall maintain complete and current copies of this Declaration, the Articles, the Bylaws, any Tract Declarations, the Association Rules and the Guidelines and of the books, records and financial statements of the Association. Upon the prior written request to the Association by any Owner, the Association shall make such above-referenced documents available for inspection, at reasonable times and under reasonable circumstances, by such Owner.

7.7 Association Rights with Respect to Subsidiary Associations. If any homeowners' or similar Subsidiary Association is formed by a Developer Owner of a Parcel or portion thereof, or group of Lots, such Subsidiary Association's Subsidiary Declaration, Articles and Bylaws and any other governing documents shall not be effective unless and until such documents have been approved by the Board. The Association shall have all rights described in Article 10, Section 10.2, to take control of a Subsidiary Association for such period of time as shall be necessary to bring about collection of assessments or to otherwise cause the Subsidiary Association to meet the standards and obligations described in Article 10, Section 10.2. Such control may be effected by the Association removing such officers and directors as the Association deems appropriate and substituting therefor other individuals, including, if the Board so elects, individuals who are also officers and directors of the Association. The Association also shall have the right to add to the Assessment against each Lot and Parcel in a Subsidiary Community (a) any assessments against such Lot or Parcel levied by the Subsidiary Association which are not paid in a timely manner, and (b) all sums owing to the Association by the Subsidiary Association pursuant to Section 4.6, 10.1 and 10.2, of this Declaration which are not paid to the Association in a timely manner, such sums to be allocated among the Lots and Parcels in the Subsidiary Community which have not paid assessments to the Subsidiary Association.

7.8 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The initial Board and each Board thereafter for so long as there is a Class B Member of the Association shall consist of not fewer than three (3) Members or other individuals, all of whom shall be appointed by (and any or all of whom may be removed and replaced by) Declarant. Commencing with the first annual meeting of the Members when there is no longer a Class B Member, the Board shall consist of, and the voting Members shall elect, five (5) directors, all of whom must be Members. For purposes of

this Section 7.8, "Member" may include a Person represented by a designated agent. The initial terms of the first directors elected by the voting Members shall be one (1) year for three (3) of such directors and two (2) years for the other two (2) directors, thus establishing a staggered Board. In succeeding years, directors shall be elected for two-year terms. The foregoing reference to five (5) directors shall be subject to increase in the number of directors as provided in the Bylaws. The Board may appoint various committees at 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 the manager. No member of the Board or of any committee of the Association, no officer of the Association, and no manager or other employee of the Association shall be personally liable to any Member or Occupant, or to any other person, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the manager, any representative or employee of the Association, or any committee, committee member or officer of the Association, as provided more fully in Section 11.3 below.

ARTICLE 8

ASSESSMENTS

8.1 Creation of Assessment Right. In order to provide funds to enable the Association to meet its financial and other obligations and to create and maintain appropriate reserves (including reserves for contingencies, reserves for maintenance, repair and replacement, and reserves to cover deductible amounts under policies of insurance owned or held by the Association), there is hereby created a right of assessment exercisable on behalf of the Association by the Board. Annual Assessments and Special Assessments shall be for Common Expenses and shall be allocated among all Lots and Parcels as provided in this Article 8. Parcel Assessments shall be for the purposes provided in Sections 4.6, 4.7 and 8.12 hereof and shall be levied against one or more Parcels or against one or more groups of Dwelling Units in particular portions of the Property only in accordance with such Sections.

8.2 Owner Covenants with Respect to Assessments. Each Owner, by acceptance of such Owner's deed with respect to a Lot or Parcel, is deemed to covenant and agree to pay the Assessments levied pursuant to this Declaration with respect to such Owner's Lot or Parcel, including without limitation the following, which are deemed, by definition, to be part of all such Assessments: (a) interest from the date due at the rate of eighteen percent (18%) per annum; and (b) such costs and reasonable attorneys' fees as may be incurred by the Association in seeking to collect such Assessments. Each of the Assessments with respect to a Lot or Parcel also shall be the personal obligation of the Person who was

the Owner of such Lot or Parcel at the time such Assessment arose with respect to such Lot or Parcel; provided, however, that the personal obligation for delinquent Assessments shall not pass to a successor in title of such Owner unless expressly assumed by such successor. No Owner shall be relieved of such Owner's obligation to pay any Assessment by abandonment or nonuse of such Lot or Parcel or the Common Area, or by leasing or otherwise transferring occupancy rights with respect to such Lot or Parcel. However, upon transfer by an Owner of fee title to such Owner's Lot or Parcel, as evidenced by a Recorded instrument, the transferring Owner shall not be liable for any Assessments thereafter levied against such Lot or Parcel. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of the alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration, the Articles, the Bylaws, the Association Rules, any applicable Tract Declaration, Subsidiary Declaration or the Guidelines, 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 any order or directive of any municipal or other governmental authority.

8.3 Association as Enforcing Body. The Association, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Declaration.

8.4 Association's Remedies to Enforce Payment of Annual, Special and Parcel Assessments and Maintenance Charges. If any Member fails to pay any Assessments when due, the Association may enforce the payment of the such Assessments by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise the other remedy):

(a) Bring an action at law and recover judgment against the Member personally obligated to pay the amounts owed;

(b) Foreclose the Assessment Lien against the Lot or Parcel in accordance with the then-prevailing Arizona law relating to the foreclosure of realty mortgages (including the right to recover any deficiency), and the Lot or Parcel may be redeemed after foreclosure sale as provided by law.

In any action taken pursuant to this Section, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Annual, Special and Parcel Assessments, together with interest and the Association's collection costs and attorneys' fees, including those costs and fees specified in Section 8.2.

8.5 Lien for Assessments; Foreclosure. There is hereby created and established an Assessment Lien against each Lot or Parcel which shall secure payment of all present and future Assessments assessed or levied against such Lot or Parcel or the Owner thereof (together with any present or future charges, fines, penalties or other amounts levied against such Lot or Parcel or the Owner or Occupant thereof pursuant to this Declaration or the Articles, the Bylaws, any applicable Tract Declaration, Subsidiary Declaration, the Association Rules or the Guidelines). The Assessment Lien is and shall be prior and superior to all other liens affecting the Lot or Parcel in question, except: (a) all taxes, bonds, assessments and other levies which, by law, are superior thereto; and (b) the lien or charge of any First Mortgage (or in the case of a Parcel, any first priority mortgage or deed of trust affecting such Parcel) made in good faith and for value. The Assessment Lien may be foreclosed in the manner provided by law for the foreclosure of mortgages. The sale and transfer of any Lot or Parcel pursuant to a mortgage foreclosure or any proceeding in lieu thereof relating to a Mortgage or other lien having higher priority than the Assessment Lien shall extinguish the Assessment Lien as to payments which became due prior to such sale or transfer, but no such sale or transfer shall relieve such Lot or Parcel from liability for any Assessments becoming due after such sale or transfer, or from the Assessment Lien. The Association shall have the power to bid for any Lot or Parcel at any sale to foreclose the Association's lien on the Lot or Parcel, and to acquire and hold, lease, mortgage and convey the same. During the period any Lot or Parcel is owned by the Association, no right to vote shall be exercised with respect to said Lot or Parcel and no Assessment (whether Annual Assessments, Special Assessments or Parcel Assessments) shall be assessed or levied on or with respect to said Lot or Parcel; provided, however, that the Association's acquisition and ownership of a Lot or Parcel under such circumstances shall not be deemed to convert the same into Common Area. Recording of this Declaration constitutes record notice and perfection of the Assessment Lien established hereby, and further Recordation of any claim of an Assessment Lien or other amounts hereunder shall not be required, whether to establish or perfect such lien or to fix the priority thereof, or otherwise (although the Board shall have the option to Record written notices of claims of lien in such circumstances as the Board may deem appropriate).

8.6 Annual Assessments. In order to provide for the uses and purposes specified in Section 8.19 hereof, including the establishment of replacement and maintenance reserves, the Board in each year, commencing with the year in which the first Tract Declaration is recorded, shall assess against each Lot or Parcel an Annual Assessment. The amount of the Annual Assessment shall be in the sole discretion of the Board, subject to Section 8.9 below, but shall be determined with the objective of fulfilling the Association's obligations under this Declaration. The Board may revise the amount of the Annual Assessment during the Assessment period in order to meet expenses which exceed the amounts

anticipated by the Association and collect such increased Assessment in accordance with procedures established pursuant to Sections 8.7 and 8.9 below.

8.6.1 Uniform Rate of Assessment. The amount of any Annual or Special Assessment against each Lot or Parcel shall be fixed at a uniform rate per Owner, except as follows:

(a) a Developer Owner of a Lot shall pay only 25% of the Annual Assessments, Special Assessments and Parcel Assessments for such Lot until the earliest of (i) the initial conveyance of a completed Dwelling Unit thereon to a different Owner; or (ii) 12 months from the later of (A) the date on which the Lot (or the Parcel from which such Lot was established) was included within the Property; or (B) the date of Declarant's conveyance of the Lot (or the Parcel from which such Lot was established) to a Developer Owner.

(b) If the site plan for a Condominium Parcel approved by the Architectural Committee contemplates the construction thereon of more than one building containing Dwelling Units, the Condominium Parcel shall, for purposes of this Section only, be deemed subdivided into the number of sub-parcels equal to the number of buildings containing Dwelling Units shown on the approved site plan, in which case the Annual Assessments, Special Assessments and Parcel Assessments shall be deemed divided among such sub-parcels in proportion to the number of Dwelling Units to be contained in the buildings on the respective sub-parcels, such that each of the buildings shall be allocated to a separate sub-paragraph, and the Developer Owner shall pay only 25% of the prorated Annual Assessments, Special Assessments and Parcel Assessments against each sub-paragraph until the earliest of the events specified in subsections (i) and (ii) above, with respect to such sub-paragraph.

(c) The Developer Owner of a Single Family Parcel which remains an intact Parcel because it has not yet been subdivided shall pay reduced rates hereunder as though the Parcel had already been subdivided into the number of Lots designated in a Tract Declaration Recorded against such Parcel or, if no Tract Declaration designating such number of Lots has been Recorded, then the number of Lots shown for such Parcel on the Master Development Plan. In the event the Parcel is subdivided into phases and less than all of such phases are subdivided into Lots, the applicable reduced rates set forth above in this Subsection 8.6.1 will continue to apply to the unsubdivided remainder of the Parcel until the dates specified above.

(d) If the Developer Owner of a Parcel or Lot ceases to qualify for the reduced 25% rate during the period to which an Annual or Special Assessment is attributable, the Assessment shall be prorated between the applicable rates on the basis of the number of days that the Developer Owner qualified for

each rate. Annual Assessments may be collected on a monthly, quarterly or annual basis and Special Assessments may be collected as specified by the Board unless otherwise determined by resolution of the Members of the Association approving the Special Assessment.

8.6.2 Owners Entitled to Reduced Assessment Rates. Subject to Subsection 8.6.3, a Non-Developer Owner shall not be entitled to the reduced assessment rates provided in Subsection 8.6.1 and a Developer Owner shall be entitled to such reduced rates only if such Developer Owner is a Developer Owner with respect to the specific Lot or Parcel in question. If a Developer Owner ceases to qualify for such reduced assessment rates during any fiscal year of the Association, the Developer Owner shall immediately notify the Board, in writing, of the change in status. The failure of a Developer Owner to notify the Board of the change in status shall not prevent or preclude the reinstatement of the obligation to pay Assessments at the full rate pursuant hereto as of the applicable date provided herein. The Association may from time to time request that any Developer Owner of property being assessed at a reduced rate furnish to the Association evidence that such Developer Owner continues to be entitled to a reduced assessment rate under Subsection 8.6.1, and if such Developer Owner fails to produce such evidence within 30 days following the date of the Association's request, or if such evidence as is furnished is unsatisfactory, in the Board's reasonable discretion, to demonstrate such Developer Owner's continued entitlement to the reduced assessment rate, the Board may terminate such reduced assessment rate as of the date reasonably deemed appropriate by the Board and the property in question shall thereafter be subject to Assessments at the full rate otherwise provided in this Declaration.

8.6.3 Declarant's Entitlement to Reduced Rates. Solely for purposes of determining the rate of Assessments payable by Declarant hereunder, Declarant shall be deemed a Developer Owner under this Section 8.6.3 with respect to all Lots and Parcels owned by Declarant.

8.7 Annual Budget. The Board shall prepare and adopt an annual budget for each fiscal year of the Association, which annual budget shall serve as the basis for determining the Annual Assessments for the applicable fiscal year, subject to the limitations of Section 8.9 hereof. Such budget shall be prepared in accordance with Section 8.19 below, taking into account the estimated Common Expenses and cash requirements of the Association for the year; the estimated net available cash income for the year, if any, from the operation or use of any of the Common Area, whether from Special Use Fees or otherwise; and the provision of adequate reserves. If the Board fails to adopt a budget for any fiscal year prior to commencement of such fiscal year, then until and unless such budget is adopted, the budget (and the amount of the Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. Subject to the

provisions of this Section 8.7 and of Sections 8.9 and 8.11, neither the annual budget adopted by the Board, nor any Assessment levied pursuant thereto, shall be required to be ratified or approved by the Owners or any other Persons. If, at any time during a fiscal year of the Association the Board deems it necessary to amend the budget for such year, the Board may do so and may levy an additional Annual Assessment for such year (subject to the limitations imposed by Section 8.9) or may call a meeting of the Members to request that the Members approve a Special Assessment pursuant to Section 8.11.

8.8 Due Dates. Annual Assessments for each fiscal year shall be due and payable in equal periodic installments, payable not more frequently than monthly nor less frequently than semiannually, as determined for such fiscal year by the Board, with each such installment to be due and payable on or before the first day of each applicable period during that fiscal year. Parcel Assessments and Special Assessments, if any, shall be paid in such manner and on such dates as may be fixed by the Board. In addition to any other powers of collection or enforcement granted hereunder, if any Assessments with respect to a Lot or Parcel are delinquent, the Board shall have the right, in its sole discretion, to accelerate the dates on which all Assessments (or installments thereof) with respect to such Lot or Parcel are due and payable. For purposes of this Declaration, Assessments shall be deemed "paid" when actually received by the Association or by its manager or agent designated by the Association to collect the same (provided, however, that if any Assessments are paid by check and the bank or other institution upon which such check is drawn thereafter dishonors or refuses to pay such check, those Assessments shall not be deemed "paid" and shall remain due and payable with interest accruing from the date such Assessments were originally due).

8.9 Maximum Annual Assessment. The Annual Assessments provided for herein shall not at any time exceed the Maximum Annual Assessment, as determined in accordance with this Section 8.9.

8.9.1 Calculation of Maximum Annual Assessment. For purposes of calculating the Maximum Annual Assessment, the Board shall establish the Maximum Annual Assessment for each Lot or Parcel for the first fiscal year of the Association. The Maximum Annual Assessment for the first fiscal year shall be \$275.00. Thereafter, unless a greater increase is approved by the affirmative vote of two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose, the Maximum Annual Assessment for each subsequent fiscal year shall be equal to the Maximum Annual Assessment for the immediately preceding fiscal year increased at a rate equal to the greater of: (a) the percentage increase for the applicable fiscal year over the immediately preceding fiscal year in the Consumer Price Index -- All Urban Consumers -- All Items (1982-1984 Average = 100 Base) published by

the Bureau of Labor Statistics of the U.S. Department of Labor (or its successor governmental agency), or, if such index is no longer published by said Bureau or successor agency, in the index most similar in composition to such index; or (b) ten percent (10%) per annum.

8.9.2 Additions to Maximum Annual Assessment. Notwithstanding the foregoing, the Board may, without the approval of the Members, increase the Maximum Annual Assessment for any fiscal year by an amount sufficient to permit the Board to (i) meet any increases over the preceding fiscal year in premiums for any insurance coverage maintained by the Association or charges for utility services necessary to the Association's performance of its obligations under this Declaration; or (ii) pay any unanticipated taxes or tax increases. In addition, in the event Declarant at any time hereafter annexes any portion(s) or all of the Annexable Property, and the Association's added maintenance and other responsibilities with respect to the Common Areas and other property thereby annexed necessitate an increase in the Maximum Annual Assessment greater than otherwise permitted under this Section 8.9 without approval of the Members, Declarant may nevertheless increase such Maximum Annual Assessment, effective not earlier than the first sale to a retail purchaser of a Lot within the portion(s) so annexed, without the vote of the Members, so long as such increase is in an amount not greater than ten percent (10%) of the allowable Maximum Annual Assessment immediately prior to such increase; such new Maximum Annual Assessment shall thereupon be substituted for the previously established Maximum Annual Assessment for the applicable fiscal year of the Association. Nothing herein shall obligate the Board to levy, in any fiscal year, Annual Assessments in the full amount of the Maximum Annual Assessment for such fiscal year, and the election by the Board not to levy Annual Assessments in the full amount of the Maximum Annual Assessments for any fiscal year shall not prevent the Board from levying Annual Assessments in subsequent fiscal years in the full amount of the allowable Maximum Annual Assessment for such subsequent fiscal year based on the cumulative maximum rate of increase, as determined in accordance with this Section 8.9. If, for any fiscal year, the Board elects to levy an Annual Assessment at less than the full amount of the Maximum Annual Assessment for such fiscal year, the Board may, in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Annual Assessment during said fiscal year so long as the total of the Annual Assessments levied during said fiscal year does not exceed the Maximum Annual Assessment for such fiscal year.

8.10 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of (a) approving the establishment of any Special Assessment, as required by Section 8.11 hereof; or (b) approving any increase in the Maximum Annual Assessment greater than that permitted under Section 8.9 hereof, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Annual Assessment, a quorum shall consist of sixty percent (60%) of the votes (exclusive of suspended voting rights) in each class of Members (whether represented in person or by valid proxy); provided, however, that if a quorum is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

8.11 Special Assessments. In addition to the Annual Assessments and Parcel Assessments authorized by this Article 8, the Association may levy Special Assessments from time to time, provided, however, that any Special Assessment shall be effective only with the approval of not less than two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called and convened to consider such Special Assessment. Subject to Section 8.6, Special Assessments shall be allocated equally among all Lots.

8.12 Parcel Assessments. In addition to the Annual Assessments and Special Assessments authorized by this Article 8, the Association may levy Parcel Assessments from time to time against one or more Parcels or against one or more groups of Lots in particular portions of the Property to reimburse the Association for any and all expenses incurred by the Association for the benefit of such Parcel or group of Lots as provided in Article 4 hereof.

8.13 Certificates. The Association, upon the written request of any Owner or the holder, insurer or guarantor of any Mortgage, or of any mortgage or deed of trust affecting any Parcel, and upon payment of such reasonable charge as may be determined by the Board, shall furnish to the requesting party a certificate, executed by an officer of the Association, stating the date to which Assessments with respect to such Owner's Lot or Parcel (or the Lot or Parcel against which such Mortgage or such mortgage or deed of trust, as applicable, is Recorded) have been paid and the amount, if any, of any Assessments which have been levied with respect to said Lot or Parcel but which remain unpaid as of the date of such certificate. Any such certificate shall be binding

upon the Association as to the matters set forth therein as of the date thereof.

8.14 Surplus Monies. Unless otherwise expressly determined by the Board, any surplus monies of the Association shall be held by the Association and placed in one or more reserve accounts as determined by the Board, and shall not be paid to the Owners or credited against the Owners' respective liabilities for Assessments.

8.15 Billing and Collection Procedures. The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments and Special Use Fees, which procedures may include delegating to the applicable Subsidiary Association the authority and obligation of billing and collecting some or all of the Assessments and Special Use Fees. The failure of the Association to send a bill to an Owner shall not relieve such Owner of the Owner's liability for an Assessment or Special Use Fee. No Assessment Lien shall be foreclosed or otherwise enforced until the Owner has been given not less than 30 days written notice thereof prior to the commencement of such foreclosure or enforcement. The notice shall be addressed to the Owner at the address of the Owner on the records of the Association. It shall be the responsibility of the Owner to inform the Association in writing of a change of address. The Association shall be under no duty to refund any payments received by the Association even if the ownership of a Lot or Parcel changes during a fiscal year of the Association. Any successor Owner shall be given credit for any unrefunded prepayments made by a prior Owner. If the Owner of a Lot or Parcel having a right to pay a reduced payment amount as provided herein fails to notify the Board at such time as the payment amount should be increased, such Owner shall nonetheless be liable for the full amount of the Assessment and such Owner's failure to notify the Board shall not relieve such Owner of the liability for such full Assessment.

8.16 Declarant's Obligation for Deficiencies. So long as the Class B membership exists and subject to this Section 8.16, Declarant shall pay and contribute to the Association, within thirty (30) days after receipt of a request from the Board, such funds as may be necessary to cover any deficits existing in connection with the applicable budget prepared pursuant to Section 8.7; provided, however, Declarant shall not be obligated to fund any deficits resulting from nonpayment of Assessments by any Owner. Declarant's obligations under this Section 8.16 may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of both.

8.17 Common Expenses Resulting from Misconduct. Notwithstanding any other provision of this Article 8, if any Common Expense is caused by the misconduct of any Owner (or of any Occupant, employee, servant, agent, guest or invitee for whose actions such Owner is responsible under applicable law), the

Association may assess that Common Expense exclusively against such Owner and such Owner's Lot or Parcel, which amount (together with any and all costs and expenses, including but not limited to attorneys' fees, incurred by the Association in recovering the same) shall be secured by the Assessment Lien created pursuant to Section 8.5.

8.18 Exempt Property. Exempt Property shall be exempt from Annual Assessments, Special Assessments and Parcel Assessments, and no voting rights in the Association shall attach to Exempt Property, except as provided in Section 3.7. If any Exempt Property ceases to be Exempt Property for any reason, it shall thereupon be subject to Annual Assessments, Special Assessments and Parcel Assessments (prorated as of the date it ceased to be Exempt Property) secured by the lien created pursuant to Section 8.5 above, and voting rights in the Association shall attach thereto as determined in Section 3.7 of this Declaration.

8.19 Purposes for which Association's Funds may be Used. Subject to any express restrictions on the use of funds set forth in this Declaration, the Association shall apply all funds and property collected and received by it (including the Annual, Special and Parcel Assessment, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of Troon Ridge and the Members and Occupants, by devoting said funds and property, among other things, to the acquisition, reconstruction, maintenance and repair, alteration, maintenance, provision, protection and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without Troon Ridge, which may be necessary, desirable or beneficial to the general common interests of Troon Ridge, the Members and the Occupants. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Members and Occupants, maintenance of landscaping on Common Area and public right of way and drainage areas within Troon Ridge, protection of persons and property, recreation, liability insurance, communications, education, transportation, health utilities, public services, safety and indemnification of officers and directors of the Association. The Association also may expand its funds for any purposes which any municipality in the State of Arizona may expend its funds under the laws of the State of Arizona or such municipality's charter.

8.19.1 Borrowing Power. The Association may borrow up to \$20,000 at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate without the consent of the Members. Any borrowing in excess of \$20,000 shall require an affirmative vote of Persons holding two-thirds (2/3) of the votes of each class of memberships.

8.19.2 Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual, Special or Parcel Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Assessments in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

8.19.3 Insurance. The Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Area and Limited Common Area in an amount determined by the Board, provided, however, the amount of such liability insurance for any one occurrence shall not be less than \$1,000,000. The Association shall maintain other insurance coverage as may be reasonably prudent to maintain.

ARTICLE 9

ARCHITECTURAL COMMITTEE

9.1 Establishment. Declarant shall establish an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration, which Architectural Committee shall adopt procedural rules and regulations for the performance of its duties, including procedures for the preparation, submission and determination of the application for any approvals required by this Declaration or any Tract Declaration. The Architectural Committee shall consist of such number of regular members and alternate members as Declarant may designate and such members shall be appointed by Declarant. The appointees need not be architects, Owners or Occupants and do not need to possess any special qualifications of any type except such as Declarant may, in its sole discretion, require. The Architectural Committee shall hold regular meetings; a quorum for such meeting shall consist of a majority of the regular members; and the concurrence of a majority of the regular members shall be necessary for any decision of the Architectural Committee. An alternate member may participate at any meeting at which there is not a quorum of regular members present shall count towards a quorum, and shall have all of the authority of a regular member while so participating. The Architectural Committee shall promulgate the Guidelines, which Guidelines must be approved by Declarant prior to implementation. If the Architectural Committee adopts any changes or modifications to the architectural guidelines after the initial approval thereof by Declarant, such changes or modifications must also be approved by Declarant prior to implementation. Subject to the provisions of Section 9.2 of this

Article, the decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. Unless waived in writing by Declarant, Declarant's power hereunder shall exist so long as Declarant owns any portion of the Property or the Annexable Property; thereafter, such power shall be vested in the Board.

9.2 Appeal to Declarant/Enforcement. Any Owner or Occupant aggrieved by a decision of the Architectural Committee may appeal the decision to Declarant in accordance with the procedures to be established by Declarant. In the event the decision of the Architectural Committee is overruled by Declarant on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by Declarant and, for purposes of this Declaration, such decision, as so modified, shall thereafter be deemed the decision of the Architectural Committee. Authority and standing on behalf of the Association to enforce in any court of competent jurisdiction decisions of the Architectural Committee and the provisions of this Article 9 shall be vested in the Board; provided, however, that so long as Declarant has the right to appoint the Board under Section 9.1, Declarant shall have the exclusive right to enforce such decisions and this Article 9 on behalf of the Association in courts of competent jurisdiction.

9.3 Jurisdiction of the Architectural Committee; Promulgation of Guidelines. In addition to the rights and duties set forth in Article 5 and elsewhere in this Declaration, the Architectural Committee shall have exclusive jurisdiction over all construction, installation and any modifications, additions or alterations to improvements (collectively termed "Construction") on any portion of the Property, including, but not limited to, the Construction of (a) buildings and other structures; (b) landscaping; (c) fences; (d) heating, ventilating, air conditioning and cooling units; (e) solar panels; (f) paint; (g) satellite dishes or similar communications equipment; (h) signage; or (i) any other Construction affecting the exterior appearance of any structure, Lot or Parcel. The Guidelines shall have the same force and effect as the Association Rules.

9.4 Submission and Review of Plans. No Construction, subject to the Architectural Committee's jurisdiction shall be commenced until it has been approved or is deemed approved by the Architectural Committee. The Architectural Committee shall have forty-five (45) days after its receipt of such plans, specifications and elevations to approve or disapprove of the proposed Construction, or to request additional information. If the Architectural Committee disapproves of the proposed Construction, the Owner or other Person shall be provided with written reasons for such disapproval. If the Architectural Committee fails either to approve or disapprove the proposed Construction or to request additional information within said forty-five (45) day period, the proposed Construction shall be deemed approved.

9.5 Changes to Interiors of Dwelling Units or Other Structures. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of such Owner's Dwelling Unit or other structure on such Owner's Lot or Parcel or to paint the interior of such Owner's Dwelling Unit or such other structure any color desired, except to the extent such remodeling or painting is visible from outside such Dwelling Unit or other structure or affects the exterior appearance of such Dwelling Unit or other structure.

9.6 Other Approvals; Liability. No approval by the Architectural Committee of any proposed Construction shall be deemed to replace or be substituted for any building permit or similar approval required by any applicable governmental authority, nor shall any such approval be deemed to make the Architectural Committee (or the Board or the Association) liable or responsible for any damage or injury resulting or arising from any such Construction. Neither Declarant nor the Association nor the Board nor the Architectural Committee shall be liable to the Association, any Owner or any other Person for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or (c) the development of any Lot or Parcel.

9.7 Fee. The Board may establish a reasonable processing fee to defer the costs of the Architectural Committee in considering any request for approvals submitted to the Architectural Committee or for appeals to the Board, which fee shall be paid at the time the request for approval or review is submitted.

9.8 Inspection. Any member or authorized consultant of the Architectural Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot or Parcel, after reasonable notice to the Owner or Occupant of such Lot or Parcel, in order to inspect any Parcel or Lot and the improvements or work being performed thereon to ascertain that such improvements or work have been, or are being, built or performed in compliance with this Declaration, any applicable Tract Declaration, the Guidelines and any approved plans, drawings or specifications.

9.9 Waiver. Approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring approval of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

9.10 Nonapplicability to Declarant. This Article 9 shall not apply to any portions of the Property owned by Declarant or any

Person affiliated with Declarant so long as any Construction is constructed in a good and workmanlike fashion and are generally comparable in terms of quality of construction to other improvements theretofore constructed by Declarant or any Person affiliated with Declarant on the Property or the Annexable Property. This Article 9 may not be amended without Declarant's written consent so long as Declarant owns any of the Property or any of the Annexable Property.

9.11 Landscaping. All landscaping on the Property shall be consistent with the character of the natural environment surrounding the Property and shall comply with any and all provisions of the Guidelines relating to permitted plants. All Lots and Parcels (other than Condominium Units), excluding driveways and parking areas, and excluding that portion of the Lot or Parcel, if any, which is enclosed by a perimeter wall around the rear yard, shall be landscaped in a manner and using plants and soil approved in advance by the Committee. No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon any Lot or Parcel except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Committee in accordance with this Article 9 and the Guidelines. No material changes or deviations in or from the plans and specifications for any work to be done on any Lot or Parcel once approved by the Architectural Committee, shall be permitted without approval of the change or deviation by the Architectural Committee. Nothing in this Article 9 shall be construed to prevent normal landscape maintenance or the replacement of dead or diseased plants with other similar plants, so long as the replacement plants are permitted by the Guidelines.

ARTICLE 10

SUBSIDIARY COMMUNITIES AND SUBSIDIARY ASSOCIATIONS

10.1 Formation. Any Developer Owner may establish a Subsidiary Community by Recording a Subsidiary Declaration with respect to any Parcel or portion thereof of which a Tract Declaration authorizes the formation. The Articles of Incorporation and Bylaws of the Subsidiary Association and the Subsidiary Declaration shall provide for, among other things, (a) an annual budget to be prepared by the Subsidiary Association which shall determine the funds needed by the Subsidiary Association during each year to operate and maintain the Subsidiary Community common area, to pay the expenses of operating the Subsidiary Association, and to otherwise fund the expenses contemplated by the Articles and Bylaws of the Subsidiary Association, which budget shall not be effective until it has been submitted to, reviewed and approved by the Board, (b) assessments against Lots or Parcels in the Subsidiary Community to raise the funds required to meet the anticipated cash requirements set forth in the annual budget and reserves for unanticipated and special improvement expenses; (c) assessment liens and other procedures to enforce the collection of all assessments; (d) membership rights and voting rights; (e)

meetings of members and directors of the Subsidiary Association and the election of officers and directors of the Subsidiary Association; (f) the right of the Association to take temporary control of the Subsidiary Association in the event the Subsidiary Association is failing to levy and collect assessments in an amount sufficient to pay its obligations to the Association or otherwise failing, in the opinion of the Board, to perform its functions and duties in a manner consistent with the standards established by other Subsidiary Associations in Troon Ridge or necessary for the maintenance of the high quality of residential development envisioned for the residential areas of Troon Ridge; and (g) for the Association to provide management and maintenance of the Subsidiary Community common areas and, if provided for in the Tract Declaration, the exterior portions of buildings in the Subsidiary Community, and also the furnishing by the Association of management support services, all as contemplated by in Articles 4, 7, 8 and 10 of this Declaration and the payment by the Subsidiary Association to the Association of all costs incurred by the Association in performing such maintenance support.

10.2 Management Support. Although the Subsidiary Association will be governed by its board of directors and its officers, the Association shall provide administrative and management services to the Subsidiary Association. The Association, through its staff of employees and contractors, shall act as accountants for the Subsidiary Association, shall handle the collection of assessments levied by the Subsidiary Association and enforce such collection, assist in the preparation of budgets, administer the use of the Subsidiary Community common area, negotiate contracts for services and enforce the governing documents of the Subsidiary Association. Such duties shall be performed under the direction of the board and officers of the Subsidiary Association.

ARTICLE 11

GENERAL PROVISIONS

11.1 Term. All of the covenants, conditions, restrictions, assessments, liens, reservations and easements and other provisions of this Declaration (as amended from time to time in accordance with the provisions hereof) (a) shall run with and bind the Property; (b) shall inure to the benefit of and shall be enforceable by the Association or by the owner of any property subject to this Declaration, and their respective legal representatives, heirs, successors and assigns; and (c) shall remain in full force and effect until January 1, 2041, at which time said conditions, covenants, restrictions and other provisions, unless revoked by an affirmative vote of Members owning not less than seventy-five percent (75%) of all Lots, shall automatically be

extended for successive periods of twenty-five (25) years each, until revoked in the manner provided above. Notwithstanding any such revocation of this Declaration, each Owner of a Lot or Parcel (and such Owner's Occupants, agents, guests and invitees) shall nevertheless have a permanent easement across the Common Area for access to such Lot or Parcel and as may be necessary for access to and use of such recreational facilities as may exist on the Common Area at the time of such revocation.

11.2 Amendment. Except as otherwise provided in this Declaration, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members holding at least sixty-seven percent (67%) of the votes in each class of membership. No amendment to this Declaration shall be effective unless and until such amendment is Recorded.

11.3 Indemnification. The Association shall indemnify each and every officer and director of the Association (including, for purposes of this Section, former officers and directors of the Association and members of the Architectural Committee) against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which such officer or director may be a party by reason of being or having been an officer or director of the Association, except for such person's individual willful misfeasance, malfeasance, misconduct or bad faith. Officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except indirectly to the extent that such officers or directors also are be Members 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 officer and director free and harmless for, from and against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or former officer or director of the Association, may be entitled. The Board, in its sole discretion, may advance funds for the benefit of any director or officer of the Association who may be entitled to indemnification hereunder in order to enable such officer or director to meet on-going defense costs and expenses in any action or proceeding brought against such officer or director. In the event it is ultimately determined that a current or former officer or director to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 11.3 or otherwise under the Articles, Bylaws or applicable law, such current or former officer or director shall promptly repay, upon demand, the Association the total of such funds advanced by the Association to on behalf of such officer or director, with interest (should the

Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

11.4 Easements for Utilities. There is hereby created a blanket easement upon, across, over and under all of the Common Area for installation, replacement, repair, and maintenance of master television antenna systems, security and similar systems, and all utilities, including, but not limited to, water, sewers, telephones, cable television, gas and electricity, and for delivering or providing public or municipal services such as refuse collection and fire and other emergency vehicle access (which easements shall also include appropriate rights of ingress and egress to facilitate such installation, replacement, repair and maintenance, and the delivery or provision of such public, municipal or emergency services); provided, however, that no such easement shall interfere with a Dwelling Unit, Apartment Unit or other building or their reasonable use or with Declarant's construction and sales activities and such easements shall require the holder of the easement to repair any damage caused to the property of any Owner. If any entity furnishing a service covered by the general easement herein provided request a specific easement by separate Recordable document, the Association shall have the right to grant such easement in accordance with the terms hereof.

11.5 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 or Parcel (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 may or may not be subject to this Declaration.

11.6 Severability; Interpretation; Gender. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. The provisions hereof shall be construed and interpreted with reference to the laws of the State of Arizona. Where the context hereof so requires, any personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all genders, and the singular shall include the plural and vice versa. Titles of Articles and Sections are for convenience only and shall not affect the interpretation hereof.

11.7 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against

perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the President of the United States in office on the date this Declaration is Recorded.

11.8 Property Held in Trust or by Affiliates of Declarant or a Developer Owner. Any and all portions of the Property and of the Annexable Property which are now or hereafter held in a subdivision or similar trust or trusts, the beneficiary of which trust(s) is Declarant or a Developer Owner, shall be deemed for all purposes to be owned by Declarant or such Developer Owner and shall be treated for all purposes in the same manner as if such property were owned in fee by Declarant or such Developer Owner. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by Declarant or such Developer Owner to any such trust (or the trustee thereof) or to Declarant or such Developer Owner by any such trust (or the trustee thereof) shall be deemed for all purposes to be a sale of such property or any right, title or interest therein. Similarly, except as otherwise expressly stated in a Recorded instrument executed by Declarant or a Developer Owner, any and all portions of the Property and of the Annexable Property which are now or hereafter owned or held by an Affiliate (as defined below) of Declarant or such Developer Owner shall be deemed for all purposes to be owned by Declarant or such Developer Owner and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by Declarant or such Developer Owner. Except to the extent otherwise expressly stated in a Recorded instrument executed by Declarant or such Developer Owner, no conveyance, assignment or other transfer of any right, title or interest in or to any such property by Declarant or such Developer Owner to any Affiliate, or from any Affiliate to Declarant or such Developer Owner, shall be deemed for all purposes to be a sale of such property or any right, title or interest therein. For purposes of this Section, the term "Affiliate" shall mean any Person controlling, controlled by or under common control with Declarant or such Developer Owner and shall further include, without limiting the generality of the foregoing, any general or limited partnership having as a general partner Declarant or such Developer Owner or any subsidiary, parent or any general partner of Declarant or such Developer Owner, as well as any subdivision or similar trust or trusts having any one or more of the foregoing as beneficiaries. For purposes of this Section, the phrase "for all purposes" shall mean "for all purposes under this Declaration or under any Tract Declaration or Subsidiary Declaration."

11.9 Declarant's Easement for Annexable Property. Declarant shall have, and hereby expressly reserves, an easement over and across the Common Area for the purposes of reasonable ingress to and egress from, over and across the Property, including private roads and pathways, to the Annexable Property until all of the Annexable Property is fully developed and sold to retail purchasers.

11.10 Amendments Requested by Governmental Agency. Notwithstanding any other provision of this Declaration, Declarant shall have the right to amend all or any part of this Declaration to such extent and with such language as may be requested by any Agency or any other governmental quasi-governmental entity which governs development of the Property or the Annexable Property, as a condition to such Agency's or entity's approval of this Declaration, the development encompassing the Property or any subdivision constituting a part of the Property. Any such amendment shall be effected by Declarant's Recording an instrument executed by Declarant and appropriately acknowledged, specifying the Agency or other governmental or quasi-governmental entity requesting such amendment and setting forth the appropriate amendatory language. Recording of such amendment shall constitute conclusive proof of such Agency's or other governmental or quasi-governmental entity's request for such amendment. Such amendment shall be effective, without the consent or approval of any other Person, on and as of the date the same is Recorded, and shall thereupon and thereafter be binding upon any and all Owners or other Persons having any interest in all or any part of the Property. Except as expressly provided in this Section, neither Declarant nor any other Person(s) shall have the right to amend this Declaration except in accordance with and pursuant to the other provisions and requirements of this Declaration.

11.11 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

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

11.13 Temporary Sign Easement. Declarant hereby reserves to itself and its agents a temporary easement over, upon and across those portions of the Common Area adjacent to publicly dedicated streets and roadways for purposes of installing and maintaining signs identifying Persons building upon or developing portions of

the Property. The easement reserved hereby shall expire and terminate upon completion of construction and sales activities upon the Property, but in no event later than twenty (20) years after the date this Declaration is Recorded.

11.14 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of this Declaration, the Articles, the Bylaws or the rules and regulations of the Association. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot or Parcel against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps must be taken by the Lot or Parcel Owner or Occupant to cure the violation. The Recording of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot or Parcel, that there is such a violation. If, after the Recording of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot or Parcel against which the notice of violation was Recorded, and the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

11.15 Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the County Recorder of Maricopa County, Arizona, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Troon Ridge can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

11.16 Declarant's Rights. Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided, further, that no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly Recorded.

Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the Annexable Property in any manner whatsoever. Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units and sales offices, and Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by Declarant and any clubhouse or community center which may be owned by the Association, as models, sales offices and other purposes related to Developer's sales activities on the Property and the Annexable Property. So long as Declarant continues to have rights under this Section, no Person shall Record any subdivision plat or map, any declaration of covenants, conditions and restrictions, any declaration of condominium or any similar instrument affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted Recordation without compliance herewith shall result in such subdivision plat or map, declaration of covenants, conditions and restrictions, declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by Recorded consent signed by Declarant. This Section may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Section shall terminate upon the earlier of: (a) twenty (20) years from the date this Declaration is Recorded; or (b) upon Recording by Declarant of a written statement that all sales activity has ceased.

11.17 References to the Covenants in Deeds. Deeds to and instruments affecting any Lot or Parcel or any part of Troon Ridge may contain the Covenants 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 Covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and such Owner's heirs, executors, administrators, successors and assigns.

11.18 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner or Occupant then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within the City of Scottsdale or Troon Ridge. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

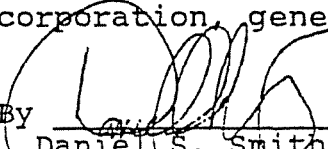
51 394426

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first set forth above.

DECLARANT:

TRA LIMITED PARTNERSHIP,
an Arizona limited partnership

By DTO, INC., an Arizona
corporation, general partner

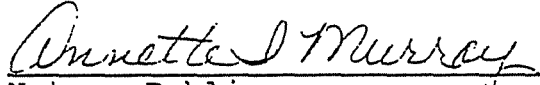
By 
Daniel S. Smith
Its President

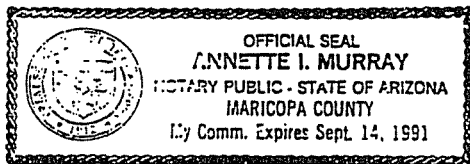
STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 22nd day of August, 1991, before me, the undersigned notary public, personally appeared Daniel S. Smith, who acknowledged himself to be President of DTO, INC., an Arizona corporation, as General Partner of TRA LIMITED PARTNERSHIP, an Arizona limited partnership, and that he, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of the partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Seal and expiration date:


Notary Public



LENDER CONSENT AND SUBORDINATION

VALLEY NATIONAL BANK OF ARIZONA, a national banking association ("Lender"), is the holder of the beneficiary's interest under that certain Deed of Trust (the "Deed of Trust") dated November 16, 1990, executed by TRA Limited Partnership, an Arizona limited partnership, as trustor, in favor of Arizona Trust Deed Corporation, an Arizona corporation, as trustee, and Lender, as beneficiary, and recorded November 26, 1990 at Recorder's No. 90 524163, records of Maricopa County, Arizona. Lender hereby consents to the execution and recordation of the foregoing Declaration of Covenants, Conditions and Restrictions for Troon Ridge, and hereby subordinates the Deed of Trust and the lien thereof to such Declaration so that, among other things, a foreclosure or other enforcement action under the Deed of Trust shall not extinguish, terminate, alter or otherwise affect such Declaration, provided, however, that the lien of the Deed of Trust shall remain prior and superior to any lien arising pursuant to or under such Declaration (including, but not limited to, any lien securing payment of assessments).

VALLEY NATIONAL BANK OF ARIZONA,
a national banking association

By [Signature]
Its Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 22nd day of August, 1991, before me, the undersigned officer, personally appeared Carol A. Russell, who acknowledged himself to be Vice President of Valley National Bank of Arizona, a national banking association, and that he/she, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Seal and expiration date:

[Signature: Nancy J. Russell]
Notary Public

My Commission Expires Jan. 10, 1995

Lots 1 through 58, inclusive, and Tracts "A", "B", "C", "D", and "E" of DESERT CREST AT TROON RIDGE as recorded in Book 344, Page 31 in the office of the Maricopa County Recorder, Maricopa County, Arizona;

AND Lots 1 through 18, inclusive, and Tract "A" of THE ESTATES AT DESERT CREST as recorded in Book 344, Page 32 in the office of the Maricopa County Recorder, Maricopa County, Arizona.

EXCEPT all the coal and other minerals as reserved in the Patent.

EXHIBIT A

All of Section 10, Township 4 North, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion lying within the FINAL PLAT OF TROON RIDGE ESTATES, according to Book 309 of Maps, page 5, records of Maricopa County, Arizona; and

EXCEPT any portion lying within the FINAL PLAT OF TROON RIDGE ESTATES UNIT II, according to Book 315 of Maps, page 14, records of Maricopa County, Arizona; and

EXCEPT any portion lying within the FINAL PLAT OF TROON RIDGE ESTATES UNIT III, according to Book 318 of Maps, page 23, records of Maricopa County, Arizona; and

EXCEPT any portion lying within the FINAL PLAT OF TROON RIDGE ESTATES UNIT IV, according to Book 319 of Maps, page 13, records of Maricopa County, Arizona; and

EXCEPT any portion lying within HAPPY VALLEY ROAD, according to the Map of Dedication recorded in Book 287 of Maps, page 10, records of Maricopa County, Arizona; and

EXCEPT any portion lying within 116th STREET according to the Map of Dedication recorded in Book 315, page 26, records of Maricopa County, Arizona.

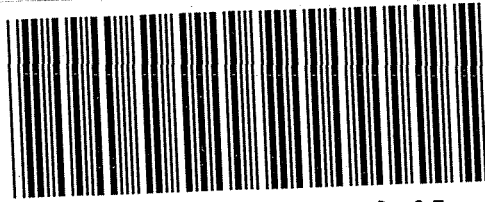
EXCEPT Lots 1 through 58, inclusive, and Tracts "A", "B", "C", "D", and "E" of DESERT CREST AT TROON RIDGE as recorded in Book 344, Page 31 in the office of the Maricopa County Recorder, Maricopa County, Arizona.

EXCEPT Lots 1 through 18, inclusive, and Tract "A" of THE ESTATES AT DESERT CREST as recorded in Book 344, Page 32 in the office of the Maricopa County Recorder, Maricopa County, Arizona.

EXCEPT all the coal and other minerals as reserved in the Patent.

EXHIBIT B

AUG 20 1996



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

96-0497929 07/16/96 10:58

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LAWYERS TITLE OF ARIZONA, INC.

When recorded, return to:

Troon Ridge Community Association
c/o John Jenkins
Rossmar Management Company
5050 N. 8th Place - Suite 6
Phoenix, Arizona 85014

AUG 20 1996

JAS 4/1

NOTICE OF ELECTION TO CONVEY MEMBERSHIP

Pursuant to paragraph 3.3.2 of the Declaration of Covenants, Conditions, Restrictions, Assessments, Liens, Reservations and Easements for Troon Ridge, recorded August 23, 1991 as Instrument No. 91-394426, official records of Maricopa County, Arizona, the undersigned Declarant hereby provides notice that effective 6/26, 1996, the undersigned has elected to convert its Class B Membership to a Class A Membership.

TRA LIMITED PARTNERSHIP, an Arizona
limited partnership

By: DTO, Inc., an Arizona corporation, its
managing partner

By: 

Daniel S. Smith

Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 26th day of June, 1996, by Daniel S. Smith, the President of DTO, Inc., an Arizona corporation, the managing partner of TRA Limited Partnership, an Arizona limited partnership, on behalf of the partnership.

Barbara J. Williams
Notary Public

My commission expires:

~~January 15, 2000~~ 4/29/98

