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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HAVEN

(REVISED)

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HAVEN

This Declaration of Covenants, Conditions, and Restrictions for Haven (the **"Declaration"**) is executed this ___ day of May, 2018, by Mattamy Arizona, LLC, an Arizona limited liability company (the **"Declarant").**

RECITALS

A. Declarant is the owner of the real property located in the City of Chandler, Maricopa County, Arizona, described on Exhibit A (the **"Project"**) attached hereto.

B. The Project shall generally be known as **"Haven."** Declarant desires to develop the Project in phases, together with such portions of the Annexable Property as are subsequently annexed to the Project, into a planned community of various types of single-family residential homes.

C. For the purpose of protecting the value, desirability, attractiveness and character of the Project, Declarant intends that the Project shall be held, sold, and conveyed subject to the provisions hereof, which shall run with all of the Project. This Declaration shall be binding on all parties having any right, title or interest in the Project, or any part thereof, and shall inure to the benefit of such parties and their successors and assigns. This Declaration shall supersede and supplant all prior Declarations recorded as to the Project, including the prior Declaration Recorded as Document Number 2018-0179512.

D. Declarant has formed a nonprofit corporation for the purpose of benefiting the Project, the Owners, and the Residents, which nonprofit corporation (the **"Association")** will (i) acquire, operate, manage and maintain any Common Areas in the Project, (ii) establish, levy, collect and disburse the Assessments and other charges imposed hereunder, and (iii) as the agent and representative of the Members of the Association and of the Owners, and the Residents of the Project, administer and enforce this Declaration and enforce the use and other restrictions imposed on various parts of the Project.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

ARTICLE 1

DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

1.1 "Adjoining Owner" means the Owner of any Lot that has along the rear or side yard of such Owner's Lot a portion of the Perimeter Wall as shown on the Improvement Plans.

1.2 "Annexable Property" means any real property described in Exhibit B or otherwise adjacent to, the exterior boundary of the property described in Exhibit A. No part of the Annexable Property shall be subject to this Declaration until such portion of the Annexable Property is annexed to the Project pursuant to the provisions of Article 13.

1.3 "Areas of Association Responsibility" means: (a) all of the Common Area; (b) the landscaping Improvements located within the Public Yards of Lots, or within a public or non-public right-of-way which the Association is obligated to maintain, repair, and replace pursuant to the terms of this Declaration, a Supplemental Declaration or other Recorded document executed by the Declarant or the Association; and (c) all land or right-of-way easements which are dedicated to a governmental entity and which the governmental entity requires the Association to maintain.

1.4 "Articles" means the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

1.5 "Assessable Lot" means any Lot located within the Project or a Parcel which is subject hereto by the Recordation of this Declaration or is Annexed herein by the Recordation of a Declaration of Amendment and in which one Lot within the Parcel has been sold to an Owner other than the Declarant or a Builder.

1.6 "Assessment" means a Regular Assessment, Special Assessment, Enforcement Assessment, and Benefited Property Assessment.

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

1.8 "Association" means Haven Homeowners Association, an Arizona nonprofit corporation.

1.9 "Association Expenses" means the actual and estimated expenses incurred or anticipated to be incurred by or on behalf of the Association including any allocations to reserves determined by the Board to be necessary and appropriate, and all other financial liabilities of the Association.

1.10 "Association Rules" or **"Rules"** means the rules adopted by the Board pursuant to Section 6.6.

1.11 "Benefited Property Assessment" means an assessment levied by the Board pursuant to Section 8.5.

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

1.13 "Builder" means any Owner designated as a "Builder" by the Declarant in a Supplemental Declaration or other Recorded Instrument.

1.14 "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.15 "Class A Member" shall have the meaning set forth in Section 7.2(a).

1.16 "Class B Member" shall have the meaning set forth in Section 7.2(b).

1.17 "Collection Costs" mean all costs, fees, charges, and expenditures, including, without limitation, attorneys' fees (whether or not a legal action is filed), court costs, filing fees, and recording fees incurred by the Association in collecting and/or enforcing payment of Assessments, late fees, demand fees, interest or other amounts payable to the Association pursuant to the Project Documents.

1.18 "Common Area" or **"Common Areas"** means all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest, except Common Area shall not include any Lot the Association acquires by the foreclosure of the Assessment Lien or by any deed in lieu of foreclosure.

1.19 "Covenants" means the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

1.20 "Declarant" means Mattamy Arizona, LLC, an Arizona limited liability company, and any Person to whom it may expressly assign any or all its rights under this Declaration by a Recorded Instrument.

1.21 "Declarant Control Period" means the period commencing upon the Recording of this Declaration and ending on the date the Class B Membership in the Association terminates pursuant to Section 7.2(b).

1.22 "Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Haven, as amended from time to time, which supplants and replaces for all purposes, all prior Declarations Recorded against the Project.

1.23 "Declaration of Annexation" means a declaration Recorded pursuant to the provisions of Article 13 for the purpose of annexing any portion of the Annexable Property to the Project.

1.24 "Declaration of De-annexation" means a declaration Recorded pursuant to the provisions of Article 13 for the purpose of de-annexing any portion of the Project.

1.25 "Deed" means a Deed or other instrument conveying the fee simple title in any portion of the Project from one Owner to another Owner;

1.26 "Deficiency Assessments" means assessments which are imposed against Assessable Lots owned by Declarant and Builders pursuant to Section 8.7.

1.27 "Design Guidelines" means those architectural and design guidelines established by the Design Review Committee pursuant to the provisions of Article 5.

1.28 "Design Review Committee" means the committee to be created pursuant to Article 5.

1.29 "Development Plan" means the plan or plans maintained in the offices of the Declarant depicting the plan for future development of portions of the Project and Annexable Property. The Development Plan, or any portion thereof, may from time to time be amended at the sole and absolute discretion of Declarant.

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

1.31 "Enforcement Assessment" means an assessment levied pursuant to Section 8.4.

1.32 "First Mortgage" means any deed of trust or mortgage Recorded against a Dwelling Unit which has priority over all other deeds of trust or mortgages Recorded against the same Dwelling Unit.

1.33 "Improvement" means: (a) a Dwelling Unit or other building; (b) a fence or wall; (c) a swimming pool, tennis court, basketball goal, backboard or apparatus or playground equipment; (d) a road, private drive, driveway, paved area, sidewalk, sign or parking area; (e) a tree, plant, shrub, grass or other landscaping improvement of any type or kind; (f) statuary, fountain, artistic work, craft work, sculpture, figurine or ornamentation of any type or kind; and (g) any other physical structure, fixture or facility of any type, kind or nature existing, constructed, placed, erected or installed on any Lot or Parcel, or otherwise within the Project.

1.34 "Improvement Plans" means those plans for certain of the Improvements to the Project approved by the City of Chandler, as applicable, in connection with the approval of the Plat, including any landscape plans approved therewith.

1.35 "In Good Standing" means that the Owner or Member is not delinquent in the payment of any Assessment or any other amounts owed to the Association, and the Owner, as well as any Resident or guest, is not in violation of the Project Documents.

1.36 "Lot" means any part of the Project designated as a residential "Lot" on any Plat Recorded with respect to any portion of the Project and, where the context indicates or requires, any Improvements constructed from time to time thereon.

1.37 "Maintenance Charges" means any and all costs assessed pursuant to Article 12.

1.38 "Member" means any Person holding a Membership in the Association pursuant to this Declaration, as further set forth in Section 7.2.

1.39 "Membership" means a "Membership" in the Association and the rights granted to the Owners pursuant to Article 7 to participate in the Association.

1.40 "Owner" means (when so capitalized) the record holder of legal title to the fee simple interest in any portion of the Project, but excluding those who hold such title merely as security for the performance of an obligation. In the case of any portion of the Project the fee simple title to which is vested of Record in a seller under a valid and outstanding Agreement or Contract of Sale, as defined in the applicable Arizona statutes, legal title shall be deemed to be in the purchaser under such Agreement or Contract of Sale. In the case of any portion of the Project the fee simple title to which is vested of Record in a trustee pursuant to the applicable Arizona statutes, legal title shall be deemed to be in the Trustor. An Owner shall include any Person who holds record title to any portion of the Project in joint ownership with any other Person or who holds an undivided fee interest in such Dwelling Unit.

1.41 "Parcel" means any part of the Project designated as a parcel on any Plat Recorded with respect to any portion of the Project and, where the context indicates or requires, any Improvements constructed from time to time thereon.

1.42 "Perimeter Walls" means the walls designated as such on the Improvement Plans and as further described in Section 4.9(f).

1.43 "Person" means a natural person, corporation, partnership, limited liability company, trust or any other legal entity.

1.44 "Plat" means any subdivision plat Recorded with respect to any portion of the Project.

1.45 "Project Documents" means this Declaration, any Declaration of Annexation, the Articles, the Bylaws, the Association Rules, the Design Guidelines, any amendments to any of the foregoing, and any duly adopted resolutions of the Board.

1.46 "Project" or **"Haven"** means the real property legally described in Exhibit A attached hereto and incorporated herein by this reference, together with all Improvements constructed thereon from time to time, and all portions of the Annexable Property to the extent annexed pursuant to the provisions of Article 13. The Project shall not be deemed to include any portion of the Annexable Property until such time as the Annexable Property or any portion thereof is annexed to the Project pursuant to the applicable provisions hereof.

1.47 "Recording," "Recorded" or **"Recordation"** means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona, and **"Recorded"** means having been so placed of public record.

1.48 "Reduced Assessments" means assessments which are imposed against Assessable Lots owned by Declarant and any Builder pursuant to Section 8.6.

1.49 "Regular Assessments" means assessments which are imposed against Assessable Lots pursuant to Section 8.2.

1.50 "Resident" means each natural person legally occupying or residing in a Dwelling Unit.

1.51 "Single Family" means a group of one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than four (4) persons not all so related, who maintain a common household in a Dwelling Unit.

1.52 "Special Assessment" means any assessment levied and assessed pursuant to Section 8.3.

1.53 "Supplemental Declaration" means a supplemental Declaration as set forth in Section 4.25.

1.54 "Visible From Neighboring Property" means, with respect to any given object, that such object is, or would be, visible to a natural person six feet (6') tall, standing on the same plane as the object being viewed at a distance of one hundred feet (100') or less from the nearest boundary of the property being viewed. The Design Review Committee shall have the right to determine the meaning of the term "Visible From Neighboring Property" as applied on a case by case basis, and the determination of the Design Review Committee shall be binding in that regard, subject to any appeal granted by the Board.

1.55 "**Yard**" means the portion of the Lot, if any, devoted to Improvements other than the Dwelling Unit. "**Private Yard**" means that portion of a Yard which is enclosed or shielded from view by walls, fences, hedges or the like so that it is not generally Visible From Neighboring Property and is accessible only by a Resident of a Dwelling Unit and/or his Invitees. "**Public Yard**" means that portion of a Yard which is generally located in front of or beside the Dwelling Unit but in front of any fencing and which specifically excludes any private courtyard area or gated entry area in the front of the Dwelling Unit.

ARTICLE 2

PLAN OF DEVELOPMENT

2.1 Purpose and Binding Effect. Declarant intends by this Declaration to impose upon the Project covenants, conditions, restrictions and easements to create a general plan of

development for the Project and to provide a flexible and reasonable procedure for the administration, maintenance, preservation, use, and enjoyment of the Project. The Declarant declares that all of the Project shall be held, sold, used, and conveyed subject to the Covenants which are for the purpose of protecting the value, desirability, and appearance of the Project. Declarant further declares that all of Covenants shall run with the Property and shall be binding upon and inure to the benefit of the Declarant and all Owners and Residents and all other Persons having or acquiring any right, title, or interest in the Project or any part thereof, their heirs, successors, successors in title, and assigns. Each Person who acquires any right, title, or interest in the Property, or any part thereof, agrees to abide by all of the provisions of the Project Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association.

2.2 Disclaimer of Representations and Implied Covenants. The Declarant makes no representation or warranty that the Project will be developed in accordance with the zoning or Development Plan for the Project as it exists as of the Recording of this Declaration. Each Owner, Resident and other Person acquiring any Lot or other property in the Project acknowledges that the zoning and/or the Development Plan may be amended from time to time by the City of Chandler and/or the Declarant. The Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Project Documents or as to the compliance of any provision of the Project Documents with public laws, ordinances, or regulations applicable to the Project. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of any property subject to this Declaration or any part of the Annexable Property.

2.3 Development Plan. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, with any applicable approval required by the City of Chandler, but without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to the zoning and Development Plan with respect to any property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the property owned by such Declarant or changing the nature or extent of the uses to which the property may be devoted.

2.4 Further Subdivision, Project Restrictions, Rezoning and Timeshares. Without the prior written approval of the Declarant (so long as Declarant owns any portion of the Project or Annexable Property), and thereafter, the Association, no Owner (other than the Declarant) shall do any of the following: (a) further subdivide a Lot or separate a Lot into smaller lots or parcels; (b) convey or transfer less than all of a Lot; (c) replat a Lot or combine a Lot with other Lots; (d) record covenants, conditions, restrictions or easements against any Lot; (e) file any application for zoning, rezoning, variances or use permits pertaining to any Lot with any governmental entity having jurisdiction; or (f) subject or use a Lot for any timesharing, cooperative, weekly, monthly or any other type of revolving or periodic occupancy by multiple owners, cooperators, licensees, lessees, occupants or timesharing participants.

ARTICLE 3

EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS

3.1 Easements of Enjoyment. Declarant and every Owner and Resident of the Project shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to, and shall pass with, the title to every Dwelling Unit subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other special use fees for the use of the Common Areas or any facilities constructed thereon for special events according to rules adopted by the Association;

(b) The right of the Association to suspend the voting rights, right to use of the facilities and other Common Areas by any Member, and any other rights incidental to Membership (including, but not limited to, the right to Design Review Committee review and approval of proposed Improvements), (i) for any period during which any Assessment against his Dwelling Unit remains delinquent, (ii) for a period not to exceed sixty (60) days for any infraction of this Declaration or the Association Rules, and (iii) for successive sixty (60) day periods if any such infraction is not corrected during any prior sixty (60) day suspension period, provided, however, that a Member's rights may only be suspended under procedures sufficient to comply with Arizona law;

(c) The right of the Association to regulate the use of the Common Areas through the Association Rules and to prohibit or limit access to certain Common Areas, such as specified landscaped areas. The Association Rules shall be intended, in the absolute discretion of the Board, to enhance the preservation of the Common Areas for the safety and convenience of the users thereof, and otherwise shall serve to promote the best interests of the Owners and Residents;

(d) The right of the Association to dedicate or transfer all or any part of the Common Areas to any entity for such purposes and subject to such conditions as may be agreed to by the Association. Security interests, leases, easements, and licenses shall not be considered dedications or transfers for purposes of this Section. Except for dedications to public entities or utilities, which shall not require approval of the Members, no such dedication or transfer shall be effective unless approved by at least two-thirds (2/3) of the Members who are voting on the matter in an action without a meeting or at a meeting of the Association where a quorum is present and separately approved by the Declarant (so long as Declarant owns any portion of the Project). In addition, if ingress or egress to any Dwelling Unit is provided through the Common Area, then any dedication or transfer of such Common Area shall be subject to such Dwelling Unit Owner's continuing right and easement for ingress and egress;

(e) The right of the Association to change the use of the Common Areas in accordance with this Declaration;

(f) The exclusive use and enjoyment easement granted to Adjoining Owners in connection with the Perimeter Wall pursuant to Section 4.9(f).

(g) Any Member may, in accordance with this Declaration and the Association Rules and the limitations therein contained, delegate his right of enjoyment in the Common Areas and facilities to the members of the Member's family, guests or Residents.

3.2 Easements to Facilitate Development.

(a) Declarant shall have a blanket easement over the Common Areas in order to construct Improvements thereon and in connection with the construction of Dwelling Units within the Project.

(b) The Declarant shall not exercise any of the rights or easements reserved by or granted pursuant to this Section 3.2 in such a manner as to unreasonably interfere with the construction, development, or occupancy of any part of the Project.

(c) The rights and easements reserved by or granted pursuant to this Section 3.2 shall continue so long as the Declarant owns any Lot. Declarant may make limited temporary assignments of their easement rights under this Declaration to any Person performing construction, installation, or maintenance on any portion of the Project.

3.3 Utility Easements. A nonexclusive, perpetual blanket easement is hereby created over and through the Common Areas, and a limited, specific easement over and through those portions of the Project shown as public utility easement areas on any Plat is hereby created, for the purpose of:

(a) Installing, constructing, operating, maintaining, repairing or replacing equipment used to provide to any portion of the Project any utilities, including, without limitation, water, sewer, drainage, gas, electricity, telephone and television service, whether public or private;

(b) Ingress and egress to install, construct, operate, maintain, repair and replace such equipment; and

(c) Exercising the rights under the easement.

Such easement is hereby granted to any Person providing such utilities or installing, constructing, maintaining, repairing, or replacing equipment related thereto. Any pipes, conduits, lines, wires, transformers, and any other apparatus necessary for the provision or metering of any utility may be installed or relocated only where permitted by the Declarant, where contemplated on any Plat or Improvement Plans, or where approved by resolution of the Board. Equipment used to provide or meter such utilities or services may be installed aboveground during periods of construction if approved by the Declarant. The Person providing the service, or installing a utility pursuant to this easement shall install, construct, maintain, repair or replace the equipment used to provide or meter utilities as promptly and expeditiously

as possible, and shall restore the surface of the land and the improvements situated thereon to their original condition as soon as possible.

3.4 Easement for Maintenance of Areas of Association Responsibility and Public Yards. The Association shall have an easement upon and over the Lots for the purpose of carrying out its powers and duties related to maintaining the Areas of Association Responsibility pursuant to this Declaration. The Association shall also have an easement upon and over the Lots for the purpose of carrying out its powers and duties related to maintaining the Public Yards for those Lots for which such maintenance is to be provided hereunder, if any.

3.5 Easements for Encroachments. If any Improvement constructed by or for Declarant on any Lot now or hereafter encroaches on any other portion of the Project by an amount of deviation permitted by customary construction tolerances, a perpetual easement is hereby granted to the extent of any such encroachment, and the owner of the encroaching Improvement shall also have an easement for the limited purpose of the maintenance and repair of the encroaching Improvement.

To the extent the Perimeter Wall, as defined in Section 4.9(f), encroaches on a Lot as shown on Improvement Plans, the Association shall have a perpetual easement for such encroachment, and any portion of the Lot that (a) is separated from the remainder of the Lot by the Perimeter Wall and (b) adjoins Common Area or a right-of-way shall be an Area of Association Responsibility. Any portion of Common Area that (a) is separated from other Common Area by the Perimeter Wall and (b) adjoins a Lot shall be maintained by the Owner of the Lot, who shall have a perpetual easement for the exclusive use and enjoyment of such area, subject only to the easements of the Association, the Declarant, and any Builder set forth in the Declaration.

BY ACCEPTING CONVEYANCE OF A LOT WHICH HAS A PORTION OF THE PERIMETER WALL AS SHOWN ON THE IMPROVEMENT PLANS ALONG THE REAR OR SIDE YARD, SUCH ADJOINING OWNER HAS GRANTED AN EXCLUSIVE EASEMENT FOR THE USE AND ENJOYMENT OF COMMON AREA PURSUANT TO THIS SECTION AND SUCH ADJOINING OWNER HEREBY WAIVES ANY CLAIM FOR ANY INJURY TO PERSON OR PROJECT ARISING FROM THE USE OF SUCH EASEMENT.

3.6 Use and Benefit Easements. To the extent any Lot is encumbered by a Use and Benefit Easement as established by the Plat, the use of the area of the Lot so encumbered shall be as provided in this Section 3.6 and in the Plat. The Grantee of such a Use and Benefit Easement shall be entitled to the possession and quiet enjoyment of the area so encumbered for all purposes, except as restricted by the Plat or as otherwise provided below:

(a) Landscaping, even if not Visible From Neighboring Property, shall be limited to hard surface flat improvements including walkways or concrete patios, pavers, gravel and other non-plant materials that in no way change the grading and drainage of the easement area;

(b) No changes to the common wall or other Improvements established by a Builder or Declarant shall be made without the approval of the Design Review Committee and the Grantor of the Use and Benefit Easement;

(c) No permanent structures, other than as provided in (a) above, shall be constructed within the easement area of any Use and Benefit Easement;

(d) No barbeque grills or other devices utilizing heat, flammable fuels or open flames and materials shall be permitted to be stored or used within the easement area of any Use and Benefit Easement;

(e) Grantor shall not be permitted to install any walls or fences along or within the boundary of the easement area of any Use and Benefit Easement; and

(f) Grantor shall only have such access to the Use and Benefit Easement area as necessary to inspect, repair and maintain Grantor's party wall, exterior walls, roof and fence, and may only do so after receiving any required approvals under the Declaration and with forty-eight (48) hours prior written notice to Grantee for such access during normal business hours and reasonably accommodating the schedule of Grantee. The foregoing notwithstanding, in the event of an emergency, Grantor may gain access to the easement area for the limited purpose of making necessary repairs. Any damage done to the easement area or Grantee's property shall be restored to its prior condition by Grantor at Grantor's sole cost and expense.

ARTICLE 4

PERMITTED USES AND RESTRICTIONS

4.1 Residential Purposes. All Dwelling Units within the Project shall be used for Single Family residential purposes. No gainful occupation, profession, business, trade, or other nonresidential use shall be conducted on or in any Dwelling Unit, provided that an Owner or any Resident may conduct limited business activities in a Dwelling Unit so long as (a) the existence or operation of the business activity is not apparent or detectible by sight, sound, or smell from outside the Dwelling Unit, (b) the business activity conforms to all applicable zoning requirements, (c) the business activity does not involve door-to-door solicitation of other Owners or Residents, (d) the business activity does not generate drive-up traffic or customer or client parking, and (e) the business activity is consistent with the residential character of the Project, does not constitute a nuisance or a hazardous or offensive use, and does not threaten the security or safety of other Owners or Residents, as may be determined in the sole discretion of the Board. No Dwelling Unit will ever be used, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, industrial, mercantile, commercial storage, vending, or other similar uses or purposes, provided, however, that the Declarant and each Builder, and their respective agents, successors, or assigns, may use the Project, including any Lot or Dwelling Unit, for any of the foregoing uses as may be required, convenient, or incidental to the construction and sale of Dwelling Units thereon, including, without limitation, for the purposes of a business office, management office, storage area, construction yard, signage, model sites and display and sales office during the construction and sales period. The leasing of a Dwelling Unit by the Owner otherwise in compliance with Section 4.23 by the

Owner thereof shall not be considered a trade or business within the meaning of this Section. The Board shall have broad authority to enact rules and regulations to implement this Article 4.

4.2 Animals. No animal, bird, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot or Dwelling Unit and then only if they are kept, bred, or raised thereon solely as domestic pets and not for commercial purposes. No house or yard pets 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 house or yard pet shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Member or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal, bird, 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 and in this Declaration. The Board may adopt such rules and regulations relating to animals permitted and maintained on the Project.

4.3 Temporary Occupancy and Temporary Building. 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 as approved in writing by the Declarant may be used during the construction of a Dwelling Unit, provided that they shall be removed immediately after the completion of construction.

4.4 Diseases, Insects, and Pests. No Owner shall permit any thing or condition to exist upon any Lot or Dwelling Unit which shall induce, breed, or harbor infectious plant diseases, insects, or pests.

4.5 Antennas. No antenna, aerial, satellite dish or other device for the transmission or reception of television or radio (including amateur or ham radio) signals of any kind (collectively referred to herein as **"Antennas"**) will be allowed outside any Dwelling Unit, except a device covered by 47 C.F.R. § 1.4000 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, will be permitted. Any such device shall comply with the applicable antenna installation rules of the Association and shall be mounted, to the extent reasonably possible, so as to not be Visible From Neighboring Property or the street. The devices governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule) as of the date of the recording of this Declaration are as follows:

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

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

(c) Antennas designed to receive local television broadcast signals ("**TVBS**"); and

(d) Antennas designed to receive and/or transmit data services, including Internet access.

If the FCC expands the types of antennas that fall under the rules adopted by the FCC pursuant to 47 CFR Section 1.4000, et seq., this Section 4.5 shall encompass those antennas as well.

Subject to any limitations imposed by law, any transmission cable for a receiver to the house must be underground. The Board is hereby vested with the broadest discretion to enact rules and regulations to implement this Article to conform to the law. The Board may enact rules and regulations that are more restrictive than this Section 4.5, if permissible by federal and state law.

4.6 Mineral Exploration. No Lot or Dwelling Unit 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.

4.7 Trash and Recycling Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Dwelling Unit, except in covered containers of a type, size, and style which are approved by the Board and provided by the City of Chandler, as applicable, or other authorized provider. The Board may adopt such reasonable rules and regulations as it deems necessary regarding trash containers and collection of trash. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection from 2:00 p.m. the day before collection and then only until 9:00 a.m. the day following collection. Trash containers shall be placed on the street, not the sidewalks, for collection, unless otherwise required by the garbage collection company. All rubbish, trash or garbage shall be promptly removed from all Lots or Dwelling Units and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot or Dwelling Unit.

4.8 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 Dwelling Unit, unless they are erected, placed, and maintained exclusively within a Private Yard and are not Visible From Neighboring Property.

4.9 Party Walls and Perimeter Walls. A party wall and party fence shall be defined as any wall or fence that is located (i) between Lots, (ii) at the boundary of any Use and Benefit Easement separating the area subject to same and the remainder of any adjacent Lot, or (iii) between a Lot and an Area of Association Responsibility, whether the wall is located directly on the dividing line or whether it is not located directly on the dividing line but serves as the wall or fence separating the referenced areas. The Perimeter Walls are not considered party walls, but are addressed separately in Section 4.9(f). Except as hereinafter provided, the rights and duties of Owners with respect to party walls or party fences between Lots, between areas

subject to Use and Benefit Easements and the remainder of any adjacent Lot, or between Lots and Common Areas, shall be as follows:

(a) The Owners of contiguous Lots who have a party wall or party fence shall both equally have the right to use such wall or fence, provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner, subject to the provisions of any applicable Use and Benefit Easement.

(b) In the event that any party wall or party fence is damaged or destroyed through the act of an Owner or any of his Residents, agents, trees, irrigation systems, guests, or members of his family (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, or party fence without cost to the Owner of the adjoining Lot or the Association, if the party wall or party fence is adjacent to an Area of Association Responsibility. Failure to pay such amounts as and when incurred shall be a default hereunder of such Owner and shall result in the amount due being an Enforcement Assessment hereunder.

(c) In the event any party wall or party fence located between Lots is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his Residents, agents, trees, irrigation systems, guests or members of his family, it shall be the obligation of all Owners whose Lots adjoin such party wall or party fence to rebuild and repair such wall or fence at their joint expense, such expense to be allocated among the Owners in accordance with the frontage of their Lots on the party wall or party fence. Either of such Owners may perform any necessary repair, maintenance or replacement of the party wall and in such event, such Owner shall be entitled to reimbursement from the other Owner for such Owner's share of such cost. The right of any of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. Failure to pay such amounts as and when incurred shall be a default hereunder of such Owner and shall result in the amount due being an Enforcement Assessment hereunder.

(d) In the event any party wall or party fence located between Lots and an Area of Association Responsibility is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time) other than by the act of an adjoining Owner, his Residents, agents, trees, irrigation systems, guests or members of his family, the Association shall be responsible for all maintenance thereof, including the painting of all portions of any fencing, subject to the provisions of Section 12.1 and Subsection (f) below, except that the Owner of the Lot shall be responsible for maintaining and painting the surface of the party wall facing his Lot. The Association shall charge the Owner of the Lot a Benefited Property Assessment equal to one-half of the cost of any structural repairs or replacements to the party wall or party fence bordering the Owner's Lot. Failure to pay such amounts as and when incurred shall be a default hereunder of such Owner and shall result in the amount due being an Enforcement Assessment hereunder.

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

(f) The Declarant intends to construct certain perimeter walls facing dedicated and developed public rights-of-way and certain portions of the non-public right-of-way within the Project as shown on the Improvement Plans (the **"Perimeter Walls"**). All Perimeter Walls shall be shown on the Improvement Plans. The Association shall be responsible for painting and maintaining all surfaces of the Perimeter Wall that do not directly face or adjoin a Lot, including, without limitation, all surfaces facing dedicated and developed public rights-of-way and certain portions of the right-of-way within the Project as shown on the Plat and Improvement Plans. The Owner of any Lot that directly faces, or is adjacent to, a portion of the Perimeter Wall as shown on the Improvement Plans (**"Adjoining Owner"**) shall be responsible for painting and maintaining the surface of such portion facing their Lot. The Association shall be responsible for the structural repair and replacement of the Perimeter Wall. The Association shall charge the Owner of the Lot a Benefited Property Assessment equal to one-half of the cost of any structural repairs or replacements to the Perimeter Wall directly facing, or adjacent to, the Adjoining Owner's Lot. Failure to pay such amounts as and when incurred shall be a default hereunder of such Owner and shall result in the amount due being an Enforcement Assessment hereunder.

(g) Except for painting and maintenance of surfaces and any structural repair or replacement, no Perimeter Wall or party wall may be removed or altered permanently, without approval from the City of Chandler, as applicable.

4.10 Overhead Encroachments.

(a) No tree, root, shrub or planting of any kind on any Lot or Dwelling Unit shall be allowed to overhang or otherwise to encroach (other than visibly) upon any other Lot or Dwelling Unit without the approval of the Owner of the affected Lot or Dwelling Unit.

(b) No tree, root, shrub or planting of any kind on any Lot or Dwelling Unit shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, party wall for which the Association has any repair or maintenance responsibility, or Area of Association Responsibility from ground level to a height of eight feet (8') without the prior written approval of the Design Review Committee.

4.11 Window Coverings. In no event shall the interior or exterior of any windows be covered with reflective material, such as foil, or with paper, bed sheets, or other temporary coverings. The Board shall have the broadest authority to enact rules and regulations relating to window coverings.

4.12 Garages and Driveways. The interior of all garages situated upon any Lot shall be maintained by the respective Owners thereof in a neat and clean condition. No garage shall be converted to livable space, and same shall be maintained and used as a garage for parking purposes. It is recommended and preferred that garage doors be kept closed unless vehicles or

Persons are entering or exiting, work is being performed on the Lot, or a Resident is nearby. All driveways on Lots shall be of concrete construction or pavers. A carport may not be built in addition to a garage, unless initially constructed by the Declarant or a Builder.

4.13 Heating, Ventilating, and Air Conditioning Units. No heating, air conditioning or evaporative cooling units or equipment shall be placed, constructed or maintained upon the Project, including, but not limited to, upon the roof or exterior walls of any structure on any part of the Project unless (a) where such unit or equipment is installed upon the roof of any structure by the Declarant, such unit or equipment is in part not Visible from Neighboring Property and from any adjacent Lots by a parapet wall which conforms architecturally with such structure, or (b) in all other cases, such unit or equipment is attractively screened or concealed and is not Visible From Neighboring Property, which means of screening or concealment shall (in either case (a) or (b)) be subject to the regulations and the prior written approval of the Design Review Committee, provided, however, that where such unit or equipment is Visible From Neighboring Property solely through a "view fence" or by an upper story, no screening or concealment shall be required.

4.14 Solar Collection Panels or Devices. Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, Declarant desires to promote and preserve the attractive appearance of the Project and the improvements thereon, thereby protecting the value generally of the Project and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to the restrictions of applicable law and prior written approval of the plans therefor by the Design Review Committee, solar collecting panels and devices may be placed, constructed, or maintained upon any Lot within the Project (including upon the roof of any structure upon any Lot). The Design Review Committee may adopt rules and regulations regarding the placement of solar energy devices in order to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed by a Person six feet (6') tall standing at ground level on adjacent properties. The restrictions in this Section 4.14 shall be subject to any limitations imposed by law and shall not apply to such solar energy improvements to the extent installed by Declarant or any Builder.

4.15 Basketball Goals. Permanent basketball goals shall not be permitted. The Design Review Committee may adopt such rules and regulations as it deems appropriate relating to the use and placement of portable basketball goals or similar structures or devices. All such portable basketball goals shall be properly maintained in good working order or shall be stored when not in use so as to not be Visible From Neighboring Property.

4.16 Vehicles; Access and Parking.

(a) Vehicles that do not exceed factory settings of one (1) ton in carrying load or cargo capacity, ninety-six inches (96") in height or width, or two hundred fifty inches (250") in length, may be parked on the Project within a garage or on a private driveway appurtenant to a Dwelling Unit. Parking by Owners, Residents and Guests on the private streets within the Project shall be limited to areas designated by the Board and in accordance to the rules as may be adopted by the Board from time to time. A vehicle permitted to park on a driveway must park on

the paved surface of the Lot. Owners and/or Residents shall maintain any garages so cars may be parked therein and shall only park on driveways to the extent cars are already parked in the garage.

(b) No vehicle may be parked on the landscaped portion of a Lot. No other vehicle, including, but not limited to, mobile homes, motor homes, boats, recreational vehicles, trailers, semi-trucks, campers, permanent tents, or similar vehicles or equipment that exceeds factory settings of one (1) ton in carry load or cargo capacity, ninety-six inches (96") in height or width, or two hundred and fifty inches (250") in length, or similar vehicles or equipment, shall be kept, placed or maintained upon the Project or any street or roadway adjacent thereto, except (i) within a garage approved by the Design Review Committee or constructed by the Declarant or a Builder; or (ii) in such areas and subject to such rules and regulations as the Board may designate and adopt in its sole discretion (and the Board in its sole discretion may prohibit such other vehicles and equipment completely). No vehicle of any kind (including, but not limited to, those enumerated in the preceding sentences) shall be constructed, reconstructed, or repaired on driveways or on any roadway therein or adjacent thereto except within a garage. No motor vehicles of any kind which are not in operating condition shall be parked in any unenclosed parking areas (including, but not limited to, private driveways appurtenant to a Dwelling Unit). For purposes of this Section 4.16, a vehicle is not in operating condition if it is not currently capable of being legally driven, has a flat or missing tire for ten (10) or more days, or is not properly licensed and registered. No vehicle may be parked on a sidewalk or on a driveway so as to encroach on a sidewalk for any length of time.

(c) The provisions of this Section 4.16 shall not apply to vehicles of Declarant, any Builder or its respective employees, agents, affiliates, contractors or subcontractors during the course of construction activities upon or about the Project. Notwithstanding anything herein to the contrary, the restrictions on parking on streets and driveways shall not apply to vehicles permitted by law to park in streets or driveways.

4.17 Landscaping and Maintenance.

(a) Within ninety (90) days of acquiring a Lot with a Dwelling Unit thereon, each Owner (other than Declarant or any Builder) shall landscape (if not already landscaped by Declarant or Builder) the Public Yard of such Lot and any public right-of-way areas or Tracts (other than sidewalks or bicycle paths) lying between the front or side boundaries of such Lot and any adjacent street. Each Owner shall submit a landscaping plan which meets the minimum requirements specified in any Design Guidelines adopted by Declarant for the Project to the Design Review Committee for review and approval pursuant to Article 5.

(b) Within one hundred and eighty (180) days of acquiring a Lot with a Dwelling Unit thereon, each Owner (other than Declarant or any Builder) shall landscape (if not already landscaped) the Private Yard of such Lot. If any portion of the Private Yard landscaping will be Visible From Neighboring Property, the Owner shall submit a landscaping plan to the Design Committee for review and approval pursuant to Article 5.

(c) Unless the Public Yard is installed by Declarant or a Builder and maintained by the Association, each shall irrigate and maintain the landscaping on such Owner's Public Yard and any public right-of-way areas lying between the front or side boundaries of such Lot and an adjacent street, shall keep the land free of debris and weeds at all times, and shall promptly repair portions of the landscaping, street, Tracts, curb and sidewalk which have been damaged by the Owner. Landscaping shall be installed under this Section 4.17 as to be consistent, in terms of general appearance and level of care and attention, with other normal completed residential landscaping within the Project and within other residential properties in the vicinity of the Project and in accordance with Design Review Guidelines established by the Design Review Committee. Each Owner shall maintain the aforementioned landscaping and exterior of the Owner's Dwelling Unit in a neat, clean and attractive condition consistent in appearance with other properly maintained, improved Lots within the Property and, if applicable, to the standard of any landscaping installed by the Builder of the Dwelling Unit. In the event any Public Yard landscaping is damaged or disturbed as a result of the installation or maintenance of any utility lines, cables or conduits for the use or benefit of the Owner of the Lot, then, in that event, such Owner shall promptly repair and restore any damage or disturbance to such landscaping in accordance with at least the minimum requirements of the landscape plans previously approved by the Design Review Committee, if applicable. Each Owner shall promptly (i) replace any dead tree and (ii) restore any uprooted or toppled tree to an upright position if such tree is Visible From Neighboring Property, provided that, if the Owner wishes to replace the tree with a different type of tree, then the Owner shall submit a plan to the Design Review Committee for review and approval pursuant to Article 5. If the Association provides Public Yard maintenance, the Owners shall not modify the landscaping provided by Declarant or any Builder. In the event that Owners of three-quarters (3/4) of the Lots collectively approve termination of the Public Yard maintenance, the Association shall at any point cease providing Public Yard maintenance, and the Owners will be required to meet all requirements set forth above. In such event, the Association shall modify the irrigation systems such that each Public Yard of a Lot shall be irrigated by such Lot's own water meter, and the costs for this conversion shall be shared by the Owners of such Lots through a Special Assessment levied by the Association, and such Special Assessment shall not be subject to the vote or approval of the Association.

4.18 Prohibited Uses. No use which is offensive by reason of odor, fumes, dust, smoke, noise, glare, heat, sound, vibration, radiation or pollution, or which constitutes a nuisance or unreasonable source of annoyance, or which is hazardous by reason of risk of fire or explosion, or which is injurious to the reputation of any Owner, shall be permitted on any Lot. No use which is in violation of the laws (after taking into account the application of any validly granted or adopted variance, exception, or special use ordinance or regulation) of the United States, the State of Arizona, the City of Chandler, as applicable, or any other governmental entity having jurisdiction over the Project shall be conducted on any Lot.

4.19 Dust Control. The areas on each Lot which are not improved with buildings (**"Clear Areas"**) shall be landscaped as provided in Section 4.17. After a sale of any Lot by Declarant, until such landscaping is installed, the Clear Areas shall be maintained in a neat and attractive condition, free of weeds and debris and the Owner thereof shall take necessary and appropriate measures to prevent and control the emanation of dust and dirt from the Clear Areas,

which may include the use of gravel, grass, ground cover, or the sealing of the ground surface. After landscaping has been installed, each Owner shall continue to maintain his Lot in a manner which minimizes the possibility of dust being transmitted into the air and over adjacent properties.

4.20 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any portion of the Project for any unreasonable time, and no odors shall be permitted to arise therefrom, so as to render the Project or any portion thereof unsanitary, unsightly, offensive or detrimental to any other portion of the Project in the vicinity thereof or to its Owners or Residents. No loud, noxious, or offensive activity shall be carried on or permitted on any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to Persons or property in the vicinity of such Lot, or which shall interfere with the quiet enjoyment of each of the Owners and Residents. Owners shall not allow any standing bodies of water to accumulate on their Lot, including, but not limited to, neglected pools, spas, or water features, that could become breeding environments for mosquitos or other insects. The Board shall have the right to determine, in its sole discretion, whether the provisions of this Section 4.20 have been violated. Any decision rendered by the Board shall be enforceable and be binding in the same manner as other restrictions in this Declaration. Nothing contained in the foregoing shall be construed to prevent the construction, installation, sales, or marketing by any Declarant or Builder of any Dwelling Units on any Lot within the Project.

4.21 Drainage/Underground Storage of Storm Water.

(a) No Owner or Resident or other Person shall interfere with the drainage established by the Declarant or any Builder for any portion of the Project or on any area subject to a Use and Benefit Easement. No Owner or Resident or other Person shall obstruct, divert, alter or interfere in any way with the drainage of ground and surface water upon, across, or over any portion of the Lots, rights-of-way, Common Area(s) or other portions of the Project, including, but not limited to, construction or installation of any type of structure or the planting or placement of any vegetation that would cause such interference. Each Owner shall, at its own expense, maintain the drainage ways and channels on its Lot in proper condition free from obstruction. The Association shall have the right, after ten (10) days' notice to an Owner, except in the case of emergency (in which case the Association shall have an immediate right of access), to repair or otherwise maintain the drainage way or channel on said Owner's Lot, which the Association, acting through the Design Review Committee, determines has not been maintained by the Owner in compliance with this provision. All costs and expenses, including, but not limited to, reasonable attorneys' fees and costs incurred by the Association, shall be borne by the Owner, and shall be paid to the Association upon demand, plus interest at an annual rate of twelve percent (12%) from ten (10) days after said demand until paid in full. Any sum not paid by an Owner may be treated as an assessment, subject to lien, and collected in like manner as Assessments levied pursuant to this Declaration. For the purpose of this clause, "drainage" means the drainage that exists at the time the overall grading of the Lots, rights-of-way, and Common Area(s) were completed by the Declarant or any Builder in accordance with the Improvement Plans and/or the Development Plan.

(b) Each Owner hereby acknowledges by acquiring title to a Lot an underground drainage system for storm water drainage purposes (the "UDS") is located within the Common Areas. The UDS is included in the Common Areas and is maintained by the Association. The current UDS is comprised of 120-inch corrugated metal pipe storm drain per the City of Chandler Specification 618, although the type of, and materials used in, the UDS may change from time to time in accordance with applicable law. The costs of maintenance, repair, and replacement of the UDS will be included in the Association operating budget and applicable reserves, and will be included in Assessments paid to the Association by each Owner.

BY ACCEPTING CONVEYANCE OF A LOT LOCATED ADJACENT TO OR DOWNSTREAM OF A UNDERGROUND DRAINAGE SYSTEM, DRAINAGE CHANNEL, RETENTION BASIN AND/OR ANY FLOOD RETARDING STRUCTURE, THE OWNER OF SUCH LOT HEREBY ACKNOWLEDGES THAT SUCH LOT IS LOCATED WITHIN THE POTENTIAL INUNDATION AREA FOR EMERGENCY DISCHARGE OF FLOOD WATERS AND HEREBY RELEASES AND DISCHARGES THE DECLARANT, THE ASSOCIATION, AND ANY BUILDER FROM ANY AND ALL CLAIMS RELATED TO FLOOD WATERS.

4.22 Health, Safety and Welfare. In the event additional uses, activities, or facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety, or welfare of Owners and Residents, the Board may make rules restricting or regulating their presence on the Lot as part of the Association Rules.

4.23 Leasing; Obligations of Tenants and Other Occupants.

(a) All tenants shall be subject to the terms and conditions of the Project Documents. Each Owner shall cause his, her, or its Residents or other occupants to comply with the Project Documents and, to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such Residents or other occupants, notwithstanding the fact that such Residents or other occupants are also fully liable for any violation of each and all of those documents.

(b) For purposes of this Section 4.23, a lease is defined as any occupancy of the Dwelling Unit (whether or not money is exchanged) by anyone other than: (a) the Owner, (b) the Owner's spouse, (c) the Owner's or the Owner's spouse's children or parents, (d) any individuals living with the Owner who are maintaining a common household with the Owner, or (e) guests of an Owner residing with the Owner of the Dwelling Unit. No Owner may lease less than his, her or its entire Dwelling Unit. No Dwelling Unit may be leased for a period of less than one (1) consecutive month. Each Owner who rents a Dwelling Unit or his Dwelling Unit thereon is required to advise the Board within fifteen (15) days of the effective date of the lease therefor. The Board may request the Owner to furnish the Board with the form of lease to be used, without any tenant date. Written leases are required. All leases must restrict occupancy to a Single Family. The Owner of a leased Dwelling Unit must furnish the Board with a tenant information form requiring only such information as is allowed to be requested under Arizona law (provided by the Board) certifying that the tenant has agreed to be bound by this Declaration, the Articles, the Bylaws and the rules and regulations of the Association, and that the Owner

accepts responsibility for the tenant's violation of such documents. All leases must include a crime-free lease addendum on a form provided by the Board.

(c) The Association is a third-party beneficiary of any such lease solely for the purpose of enforcing this Declaration, and shall have the right to establish and charge fines against any Owner failing to enforce the provisions of the Project Documents.

(d) The provisions of this Section 4.23 shall not apply to the use of Lots or Dwelling Units owned by (or leased to) Declarant or any Builder as a model home or for marketing purposes.

4.24 Environmental Protections. No Lot, Dwelling Unit nor any facilities on any Lot, shall be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Substances or solid waste, except in compliance with all applicable federal, state, and local laws or regulations. For purposes of this Section, **"Hazardous Substances"** shall be deemed to include pollutants or substances defined as "hazardous waste," "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (**"CERCLA"**) as amended by the Superfund Amendments and Reauthorization Act of 1986 (PL 99-499), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq., the Arizona Environmental Quality Act, Laws 1986, Chap 368, and in the rules or regulations adopted and guidelines promulgated pursuant to said laws.

4.25 Supplemental Declaration; Project Restrictions. No further covenants, conditions, restrictions or easements (**"Supplemental Declaration"**) shall be Recorded by any Owner, Resident, or other Person against any Lot without the provisions thereof having been first approved in writing by the Board and the Declarant (so long as Declarant owns any portion of the Project or Annexable Property), and any Supplemental Declaration which is Recorded without such approval being evidenced thereon shall be null and void, provided, however, that, without prior approval of the Board, the Declarant shall have the right to record a Supplemental Declaration against any portion of the Project owned by Declarant either prior to or simultaneously with the conveyance of any such portion of the Project to a Builder or other Owner. Notwithstanding the foregoing or anything else in this Declaration to the contrary, no Supplemental Declaration Recorded by an Owner shall operate to modify or amend this Declaration but, in the event that such covenants, conditions and restrictions impose restrictions on the use or occupancy of the real property subject to the Supplemental Declaration which are more restrictive than the restrictions set forth in this Declaration, the more restrictive provisions shall prevail. No application for rezoning, variances, or use permits pertaining to any Lot shall be filed with any governmental authority by any Person unless the application has first been approved by the Board and the Declarant (so long as Declarant owns any portion of the Project or the Annexable Property), and the proposed use otherwise complies with this Declaration. Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, its employees, agents and subcontractors, or parties designated by it in connection

with the construction, completion, sale or leasing of Lots, Common Areas, or any other portion of the Project.

4.26 Model Homes. The provisions of this Declaration that prohibit nonresidential use of Lots and regulate parking of vehicles shall not prohibit the construction, operation and maintenance of model homes and a sales office by Declarant and/or Builders engaged in the construction and/or sale of Dwelling Units within the Project and parking and any street closure incidental to the operation of such model homes or any model home complex. The remainder of this Section 4.26 shall not apply to model homes or any model home complex owned or utilized by Declarant, and Declarant specifically reserves the right to close one or more streets within the Project for operation of any such model home complex. The location of any model home owned or utilized by a Builder must be approved by the Design Review Committee, which approval shall not be unreasonably withheld, and the construction, operation, and maintenance of such model homes otherwise comply with all of the provisions of this Declaration. It shall be deemed reasonable for the Design Review Committee to withhold its approval of the location of any such model home to the extent that the location of such model home would materially and adversely interfere with the free-flow of pedestrian or vehicular traffic, create an unreasonable amount of dust and debris, or would otherwise constitute a public or private nuisance to other Residents within the Project. The Design Review Committee shall also permit other areas to be used for parking in connection with the showing of model homes provided such parking areas are in compliance with the ordinances of any applicable governmental entity and any rules of the Board. Any Dwelling Units constructed as model homes shall cease to be used as model homes at any time the Builder thereof is not actively engaged in the construction and/or sale of single-family residences within the Project, and no Dwelling Units shall be used as a permanent main model home for the sale of Dwelling Units not located within the Project, unless otherwise approved in writing by the Declarant.

4.27 Repair of Building; Reconstruction. No building or structure on any Lot 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 Dwelling Unit or other structure is totally or partially damaged or destroyed by fire, Act of God, or any other cause, the Owner shall commence the repair or reconstruction of the Dwelling Unit or other structure, subject to the approvals required by Article 5, within six (6) months after occurrence of the damage or destruction, and shall complete such repair or reconstruction within twelve (12) months, unless the Owner is prevented from doing so by an Act of God or other event beyond the Owner's control, in which case the applicable time period shall be extended by the amount of time necessitated by such event. The provisions of this Section 4.27 shall not apply to any portion of the Project owned by Declarant or any Builder.

4.28 Signs. No signs whatsoever which are Visible From Neighboring Property shall be erected or maintained on any Lot except:

(a) Signs required by legal proceedings and signs that must be permitted by law;

(b) No more than two (2) identification signs for individual residences, each with a face area of seventy-two square inches (72") or less;

(c) Signs and notices erected or posted in connection with the provision of building security with a face area of seventy-two square inches (72") or less;

(d) A "For Sale" or 'For Lease" sign by any Owner so long as such signs are reasonable and customary in size for the area of the Project and are maintained in a neat and clean fashion;

(e) Promotional and advertising signs of Builder on any Lot, approved from time to time in advance and in writing by the Design Review Committee as to number, size, color, design, message content, location, and type. In addition, the Declarant shall have the right and authority to permit and authorize any Builder to construct and install temporary signage necessary or convenient for the development and sale of any Lots within the Project, which may be as more particularly provided in Section 4.31; and

(f) Such other signs (including, but not limited to, construction job identification signs, builder identification signs and subdivision identification signs) which are in conformance with the applicable requirements of the City of Chandler or other applicable governmental agencies and which are permitted by the Design Guidelines or have been approved in advance and in writing by the Design Review Committee as to size, color, design, message content, and location.

4.29 Utility Service. Except as required to be permitted by law, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground, except to the extent (if any) such underground or concealed placement may be prohibited by law, and except for such above-ground structures and/or media for transmission as may be originally constructed by the Declarant or any Builder or as may be otherwise approved by the Design Review 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.

4.30 Right of Entry. During reasonable hours and upon reasonable prior notice to the Owner or other Resident of a Dwelling Unit, any member of the Design Review Committee or the Board, or any authorized representative thereof, shall have the right to enter upon and inspect any Dwelling Unit, and the Improvements thereon, except for the interior portions of any completed Dwelling Units, for the purpose of ascertaining whether or not the provisions of this Declaration have been, or are being, complied with, and such Persons shall not be deemed guilty of trespass by reason of such entry, provided that the right to enter upon or inspect the Private Yard of any Lot pursuant to this Section 4.30 shall be limited to the purpose of ascertaining whether or not a nuisance exists in the Dwelling Unit, including, by way of example (but not limitation), the existence of a breeding environment for mosquitos such as a neglected pool, spa, or water feature.

4.31 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of structures, Improvements or signs necessary or convenient to the development or sale of Lots within the Project and, in connection therewith, Declarant shall have the right and authority to permit and authorize Builder to construct and install temporary signage which is necessary or convenient to the development and sale of any Lots within the Project.

4.32 Crime and Drug Free Community. The Association shall have the right and power to enact rules prohibiting criminal and drug activity on the Project, including the right to assess fines and evict tenants who engage in such activity. The Association shall have the right and power to require Residents and Owners to sign reasonable contracts and forms that assure there is no criminal and drug related activity on the Project.

4.33 Sidewalks, Paths, and Walkways. Sidewalks, paths, and walkways within the Project are designed for pedestrian traffic. Motorized vehicles, including, but not limited to ATVs and motorcycles, may not be operated on the sidewalks, paths, or walkways within the Project. Horses may not be ridden on sidewalks, paths, walkways, streets, or any other portion of the Project.

4.34 Flags and Flagpoles. No flags or flagpoles whatsoever which are Visible From Neighboring Property shall be erected or maintained on any Lot except as permitted by the Design Guidelines or as approved by the Design Review Committee, and as must be permitted by law.

4.35 Variances. The Board, in its good-faith discretion, may grant such variances of the restrictions contained in this Article 4 as it shall deem appropriate, so long as the use or condition permitted by such variance does not result, as determined by the Board in its sole discretion, in an unsafe, unsanitary, or aesthetically displeasing condition, or in a substantial departure from the common plan of development contemplated by this Declaration.

4.36 Maximum Number of Residents. To protect the health and safety of all Residents within the Project, each Dwelling Unit shall be permitted to have no more than the number of natural persons residing therein as set forth in this Section 4.36. The number of natural persons residing in any Dwelling Unit shall not exceed the lesser of:

(a) the maximum number of natural persons allowed to reside in a Dwelling Unit as provided in the applicable codes of the City of Chandler, as applicable; or

(b) the number of natural persons equal to the number of bedrooms in the applicable Dwelling Unit plus 2, provided if any natural person residing in a Dwelling Unit is under the age of 19, such natural person under the age of 19 shall be allowed at a rate of 2 per bedroom or shall count as ½ of a natural person. For example, if a Dwelling Unit contains three (3) bedrooms and is occupied by a married couple with four children, 2 of whom are under the age of 19 and two of whom are 19 or older, the calculation is as follows: the 2 children under nineteen are allocated to one bedroom, the children 19 or older are allocated a bedroom each, and

two additional persons are allowed, then such married couple and their children do not exceed the maximum allowable.

The foregoing notwithstanding, any enforceable limitation contained within this Declaration that would further limit the number of natural persons residing in a Dwelling Unit shall be given effect. Any natural person living in a Dwelling Unit for more than ten (10) days in any calendar month shall be deemed to be residing therein for purposes of this Section 4.36. A Dwelling unit shall be deemed to contain the number of bedrooms as determined by the applicable development standards of Declarant, or if Declarant no longer owns any portion of the Project, by the City of Chandler, as applicable.

ARTICLE 5

ARCHITECTURAL CONTROL

5.1 Approval Required. No Improvement which would be Visible From Neighboring Property, or which would cause any Person or thing to be Visible From Neighboring Property, shall be constructed or installed on any Lot without the prior written approval of the Design Review Committee, which shall have the authority to regulate the external design and appearance of the Lots and all Improvements constructed thereon. No addition, alteration, repair, change, or other work which in any way alters the exterior appearance of any part of a Lot, or any Improvements located thereon, which are or would be Visible From Neighboring Property shall be made or done without the prior written approval of the Design Review Committee. Any Owner desiring approval of the Design Review Committee for the construction, installation, addition, alteration, repair, change, or replacement of any Improvement which is or would be Visible From Neighboring Property shall submit to the Design Review Committee their written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change, or other work which the Owner desires to perform. Any Owner requesting the approval of the Design Review Committee shall also submit to the Design Review Committee any additional information, plans, and specifications which the Design Review Committee may reasonably request.

5.2 Design Review Fee. The Design Review Committee shall have the right, as allowed by law, to charge a fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, or other work pursuant to this Article 5, which fee shall be payable at the time the application for approval is submitted to the Design Review Committee. To the extent the Design Review Committee employs professionals or otherwise incurs costs in connection with any Owner's application, such costs as may be reasonable under the circumstances, shall be reimbursed by the Owner so applying.

5.3 Construction Deposit. The Design Review Committee shall have the right to require a fully-refundable construction deposit, not to exceed five percent (5%) of the proposed cost of such construction solely for the purpose of (i) ensuring compliance with the Declaration and compliance with the approved plans, and (ii) protect the Association against damage to the Areas of Association Responsibility. Such deposit shall be payable at the time the application is approved by the Design Review Committee. Any such deposit shall be fully refundable to the

Owner upon: (i) the completion of the Improvements in accordance with the plans and specifications approved by the Design Review Committee; and (ii) the Owner's written request to the Design Review Committee, so long as there is no damage caused to an Areas of Association Responsibility by the Owner, its agents, or contractors. If an Owner or an Owner's agent causes damage to an Area of Association Responsibility, the Association may use the construction deposit to repair the Area of Association Responsibility. The Association's costs of repairing an Area of Association Responsibility beyond the construction deposit shall be paid by the Owner upon demand from the Association and any sum not paid by an Owner may be treated as an assessment, subject to lien, and collected in like manner as Assessments levied pursuant to this Declaration. Additionally, any delinquent assessments may be collected from the construction deposit.

5.4 Owners in Good Standing. In addition to all other requirements of this Article 5, the Owner of a Lot must be In Good Standing to be eligible to submit plans for Improvements, additions, alterations, repairs, changes, or other work to the Design Review Committee for approval.

5.5 Timeline for Review. If the Design Review Committee fails to approve or disapprove an application for approval within forty-five (45) days after the confirmed receipt of an application meeting all of the requirements of this Declaration and of the Design Guidelines, together with any fee required to be paid and any additional information, plans, and specifications requested by the Design Review Committee, the application will be deemed to have been disapproved. The approval by the Design Review Committee of any construction, installation, addition, alteration, repair, change, or other work shall not be deemed a waiver of the Design Review Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, or other work subsequently submitted for approval.

5.6 Review of Plans. In reviewing plans and specifications for any construction, installation, addition, alteration, repair, change, or other work which must be approved by the Design Review Committee, the Design Review Committee, among other things, may consider the quality of workmanship and design, harmony of external design with existing structures and location in relation to surrounding structures, topography, and finish-grade elevation. The Design Review Committee may disapprove plans and specifications for any construction, installation, addition, alteration, repair, change, or other work which must be approved by the Design Review Committee pursuant to this Article 5 if the Design Review Committee determines, in its sole and absolute discretion, that:

(a) The proposed construction, installation, addition, alteration, repair, change, or other work would violate any provision of this Declaration;

(b) The proposed construction, installation, addition, alteration, repair, change, or other work does not comply with all of the Design Guidelines;

(c) The proposed construction, installation, addition, alteration, repair, change, or other work is not in harmony with existing Improvements in the Project or with Improvements previously approved by the Design Review Committee but not yet constructed;

(d) The proposed construction, installation, addition, alteration, repair, change, or other work is not aesthetically acceptable;

(e) The proposed construction, installation, addition, alteration, repair, change, or other work would be detrimental to or adversely affect the appearance of the Project; or

(f) The proposed construction, installation, addition, alteration, repair, change, or other work is otherwise not in accord with the general plan of development for the Project.

The approval required by the Design Review Committee pursuant to this Article 5 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation. The approval by the Design Review Committee of any construction, installation, addition, alteration, repair, change, or other work pursuant to this Article 5 shall not be deemed a warranty or representation by the Design Review Committee as to the quality of such construction, installation, addition, alteration, repair, change, or other work or that such construction, installation, addition, alteration, repair, change, or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule, or regulation.

5.7 Design Review Committee. The Design Review Committee shall initially consist of up to three (3) regular members, each appointed by Declarant. Members of the Design Review Committee appointed by Declarant need not be Owners or Residents but must include at least one member that is also a member of the Board and such person shall serve as the chairperson of the Design Review Committee. Declarant may replace any member of the Design Review Committee which it has appointed at any time with or without cause. Declarant's right to appoint and remove Design Review Committee members shall cease and the Board shall be vested with that right and all rights of the Declarant pertaining to the Design Review Committee when the Declarant no longer owns any portion of the Project or Annexable Property or Declarant relinquishes such rights in writing. After such time as the Declarant's rights to appoint the members of the Design Review Committee expire or are relinquished by the Declarant, the Design Review Committee shall consist of five (5) regular members, each of which shall be a Member In Good Standing appointed by the Board, and one such Board member shall serve as the chairperson of the Design Review Committee for all purposes. In the event the Board does not appoint a Design Review Committee for any reason, the Board shall exercise the authority granted to the Design Review Committee under this Declaration.

5.8 Design Guidelines. The Design Review Committee may adopt, amend, and repeal architectural guidelines, standards, and procedures to be used in rendering its decisions. Such guidelines, standards, and procedures (**"Design Guidelines"**) may include, without limitation, provisions regarding (i) architectural design, with particular regard to the harmony of

the design with the surrounding structures and topography, (ii) placement of Dwelling Units and other buildings, (iii) landscape design, content and conformance with the character of the Project and permitted and prohibited plants, (iv) requirements concerning exterior color schemes, exterior finishes, and materials, (v) signage, and (vi) perimeter and screen wall design and appearance. Notwithstanding anything herein to the contrary, the Design Guidelines may not conflict with this Declaration and this Declaration will prevail in the case of any conflict with the Design Guidelines.

5.9 Decisions and Appeals. Except as provided in this Section 5.9, the decisions of the Design Review Committee shall be final on all matters submitted to it pursuant to this Declaration. An Owner who submitted a request for approval to the Design Review Committee may, in writing, appeal the Design Review Committee's decision to the Board. The Board shall have the right, but not the obligation, to review an appeal of any decision of the Design Review Committee and the decision of the Board in all cases shall be final and binding.

5.10 Exclusions. The provisions of this Article 5 shall not apply to, and approval of the Design Review Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change, or replacement of any Improvements made by or on behalf of Declarant, nor shall the Design Review Committee's approval be required for the construction of any Dwelling Units by any Builder which are constructed in accordance with plans and specifications therefor which have previously been approved by the Declarant in writing.

ARTICLE 6

ASSOCIATION

6.1 Formation. The Association shall be an Arizona nonprofit corporation. The Association shall have all of the common law and statutory powers conferred upon nonprofit corporations under Arizona law and all powers necessary or desirable: (a) to perform the Association's duties and obligations under the Project Documents or imposed by law; (b) to exercise the rights and powers of the Association set forth in the Project Documents; and (c) to foster and promote the common good and general welfare of the Project, the Owners and Residents, and the surrounding community. The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege.

The Association may create profit or nonprofit subsidiaries which may be tax-exempt organizations and delegate to such subsidiaries portions of the powers and authority of the Association under the Project Documents. The Association may engage in activities to benefit persons other than Owners and Residents and may operate, manage and maintain property not owned by the Association (including, without limitation, property dedicated to public use) if the Association determines in its discretion that such action confers some benefit upon the Project.

6.2 Board of Directors and Officers; Management. The affairs of the Association shall be conducted by the Board elected in accordance with this Declaration and the Articles and Bylaws, and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws as the same may be amended from time to time. During the Declarant Control Period, the Directors of the Association shall be appointed by and may be removed solely by Declarant. After the Declarant Control Period, or at such earlier time as Declarant relinquishes its rights to appoint the Board, Directors shall be elected by the Members in accordance with the Bylaws. The Board may also appoint various committees and may appoint a manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager or any other employee of the Association.

6.3 Role of Association. The role of the Association includes, but is not limited to, the following functions:

(a) The operation and maintenance of all Areas of Association Responsibility, which such areas shall be maintained (i) in good condition and repair at all times; and (ii) in compliance with all valid applicable laws, regulations, rules and ordinances;

(b) Appointment of individuals to serve on the Design Review Committee pursuant to the provisions of Section 5.7; and

(c) In the exercise of the Board's sole discretion, the enforcement of the Covenants contained in this Declaration.

6.4 Authorized Community Activities, Services and Programs. The Association may organize, fund, and administer community-building activities, services and programs as the Association deems necessary, desirable, or appropriate. Examples of such activities, services and programs include, but are not limited to, the following:

(a) Primary and adult education programs;

(b) Recreation and social programs;

(c) Activities designed to promote compliance with the Project Documents through education and communication;

(d) Public relations activities on behalf of the Project;

(e) Cultural, arts, environmental, and wellness programs;

(f) Community service activities for the benefit of Owners or Residents of the Project and the surrounding community;

(g) Community internet and intranet sites;

(h) Charter clubs and other volunteer organizations and activities;

(i) Other services, activities, and programs which enhance the sense of community in the Project.

Nothing in this Section shall be construed as a representation by the Declarant or the Association as to what, if any, activities, services, and programs will be provided by the Association. In addition, the Association may modify or cancel existing activities, services, and programs in its discretion. Nonuse of any activities, services, or programs offered by the Association shall not exempt any Owner from the obligation to pay Assessments.

6.5 Relationship with Other Entities. The Association may enter into cooperative agreements and expend funds for facilities, services, and activities which benefit the Project and the surrounding area. The Association may provide, or provide for, such services and facilities for all of the Owners and Residents and their Lots, and the Association is authorized to enter into and terminate contracts or agreements with other entities, including the Declarant or its affiliate, to provide such services and facilities. The Association may charge use or service fees for any such services and facilities provided, but may also include all or a portion of the cost thereof in the Association's budget as an Association Expense and assess it as part of the Regular Assessment if the services and facilities are provided to all Lots or may also include all or a portion of the cost thereof in a Benefited Property Assessment if the services and facilities are provided to less than all of the Lots. In any contracts or agreements with third parties for the provision of services within the Project, the Association may assign to the service provider the right to bill Owners directly and to pursue all legal or equitable remedies otherwise available to the Association for the collection of such bills.

6.6 Association Rules. By a vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations, which shall apply to, restrict, and govern, the use of any Common Areas and the Lots by any Member or Resident, provided, however, that the Rules shall not be inconsistent with this Declaration, the Articles, or Bylaws of the Association. Upon adoption, the Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

6.7 Personal Liability. No member of the Board or of any committee of the Association, no officer of the Association, no Declarant, no Builder, and no manager or other employee of the Association shall be personally liable to any Member, 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. The Board may enforce any such Rules as shall be properly adopted by imposing fines according to policies for such fines as may also be adopted by the Board.

ARTICLE 7

MEMBERSHIPS AND VOTING

7.1 Membership. Each Owner of a Dwelling Unit shall automatically be a Member of the Association. Each such Membership shall be appurtenant to and may not be separated from ownership of the Dwelling Unit to which the Membership is attributable, and joint ownership or ownership of undivided interests in any real property which establishes a Membership shall not cause there to be more Memberships than the number established for purposes of this Section 7.1. Each Member shall have one (1) Membership for each Dwelling Unit owned by such Owner within the Project as shown on any Plat.

7.2 Right to Vote; Declarant's Retention of Class B Voting Rights. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided with satisfactory proof thereof. The vote for each such Membership must be cast as a unit and fractional votes shall not be allowed. If a Membership is owned by more than one Person or entity and such Owners are unable to agree amongst themselves as to how their vote or votes shall be cast, they shall lose the right to vote on the matter in question. If any Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that such Member was acting with the authority and consent of all other owners of the same Membership unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast for a particular Membership, none of said votes shall be counted and all said votes shall be deemed void. The Association shall have two (2) classes of voting Members, as follows:

(a) **Class A.** Class A Members shall be all Owners except Declarant and any Builder. A Class A Member shall have one (1) vote for each Dwelling Unit owned by such Member; and

(b) **Class B.** Class B Members shall be the Declarant and all Builders. The Class B Members shall have three (3) votes for each Dwelling Unit owned. The Class B Memberships shall automatically cease and be converted to Class A Memberships upon the happening of the first to occur of the following:

(i) The date upon which Declarant no longer owns any portion of the Project or Annexable Property, or

(ii) The date that is twenty (20) years after the date this Declaration is recorded.

7.3 Membership Rights. Each Member shall have the rights, duties, and obligations set forth in this Declaration and such other rights, duties, and obligations as are set forth in the Articles and the Bylaws, as the same may be amended from time to time.

7.4 Transfer of Membership. The rights and obligations of the Owner of a Membership in the Association shall not be assigned, transferred, pledged, conveyed, or

alienated in any way except upon transfer of ownership to an Owner's Dwelling Unit and then only to the transferee of ownership of the Dwelling Unit. A transferor of a Dwelling Unit must notify the Board of the transfer in writing, and remains liable for all obligations hereunder until the transferor so notifies the Board. A transfer of ownership to a Dwelling Unit may be effectuated by deed, intestate succession, testamentary disposition, foreclosure of a mortgage or deed of trust of record, or such other legal process as is now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of the ownership of the Dwelling Unit shall operate to transfer the Membership(s) appurtenant to said Dwelling Unit to the new Owner thereof.

ARTICLE 8

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

8.1 Creation of Lien and Person Obligation of Assessments. Each Owner, by becoming the Owner of an Assessable Lot, is deemed to covenant and agree to pay to the Association all Assessments, Collection Costs, and all other fees and costs which may become payable by the Owner to the Association under the Project Documents. All Assessments shall be established and collected as provided in this Declaration. Assessments hereunder shall commence only upon a Lot becoming an Assessable Lot as provided herein. Each Assessment, together with all interest thereon, shall also be the personal obligation of the Person who was the Owner of the Dwelling Unit at the time when the Assessment became due. No Owner shall be relieved of the obligation to pay any of the Assessments by abandoning or not using his, her or its Dwelling Unit or the Common Areas, or by leasing or otherwise transferring occupancy rights with respect to his, her or its Dwelling Unit. However, upon transfer by an Owner of fee title to such Owner's Dwelling Unit and Recording of a deed effecting transfer, such transferring Owner shall not be liable for any Assessments thereafter levied against such Dwelling Unit. 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, the Board, or the Design Review Committee to take some action or perform some function required to be taken or performed under the Project Documents.

8.2 Regular Assessments. The Board shall adopt a budget of the estimated Association Expenses for each fiscal year, including any contribution to be made to a reserve fund, which budget shall serve as the basis for determining the Regular Assessments for the applicable fiscal year. The Regular Assessment shall be levied at a uniform amount for each Assessable Lot, except for additional services provided to certain Lots or Dwelling Units as set forth in Section 8.5 below. Within a reasonable period following the meeting of the Board at which it adopts the budget for the year in question, the Board shall deliver or mail to each Owner and Builder a copy of the budget and a statement of the amount of Regular Assessments to be levied against such Owner's or Builder's Lot(s) for that year. In the event 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 assessments provided for therein) for the year immediately preceding shall remain in effect. Except as provided in Section 8.9, neither

the budget nor any Regular Assessment levied pursuant thereto shall be required to be approved by the Owners.

Subject to the limitations of Section 8.9, if the Board determines that the funds budgeted for the fiscal year are, or will, become inadequate to meet all Association expenses for any reason, including, without limitation, nonpayment of the Regular Assessment, the Board may amend the budget and increase the Regular Assessment for that fiscal year and the revised Regular Assessment shall commence on the date designated by the Board.

8.3 Special Assessments. The Association may levy against each Assessable Lot a Special Assessment for any proper Association purpose, provided, however, that, except as provided in Section 4.17, such Special Assessment must be approved by at least two-thirds (2/3rds) of the votes of a quorum of the Members who are voting in Person or by absentee ballot (or by proxy during the Period of Declarant Control) at a meeting of the Association duly called for such purpose where quorum is present.

8.4 Enforcement Assessment. The Association may impose against an Owner as an Enforcement Assessment any of the following: (a) Collection Costs incurred by the Association in attempting to collect assessments or other amounts payable to the Association by the Owner; (b) costs (including attorneys' fees) incurred in bringing the Dwelling Unit into compliance with terms of the Project Documents; and (c) costs (including attorneys' fees) incurred as a consequence of the conduct of the Owner or Resident of the Dwelling Unit, including their families, invitees and guests. The Enforcement Assessment shall be automatically imposed against an Owner at such time as the Collection Cost or other amounts are incurred by the Association.

8.5 Benefited Property Assessments. The Board shall levy Benefitted Property Assessments against any Assessable Lot or Lots for expenses incurred or to be incurred by the Association for maintenance of Public Yards in which such Public Yard maintenance is provided. The Board may also levy Benefitted Property Assessments against a particular Assessable Lot or Lots for expenses incurred or to be incurred by the Association, as follows:

(a) To cover the costs of maintenance of easements and other property that benefit certain Lots but not all of the Project; and

(b) To cover the costs, including overhead and administrative costs, of providing benefits, items or services to the Lots, group of Lots, or Residents thereof, upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, caretaker service, or similar activities), which assessments may be levied in advance of the provision of the requested benefit, item, or service as a deposit against charges to be incurred by the Owner or Resident.

8.6 Reduced Assessments. During the Period of Declarant Control, the Declarant and each Builder shall not be required to pay a Regular Assessment. However, if required by Declarant in writing, Declarant and each Builder shall pay an assessment for each Assessable Lot

owned by such Declarant or Builder in an amount equal to twenty-five percent (25%) of the Regular Assessment (**"Reduced Assessments"**). Such Reduced Assessments shall apply only to Assessable Lots and shall only commence upon such Lots becoming Assessable Lots and Declarant requesting same in writing, as provided herein.

8.7 Deficiency Assessments. During the Period of Declarant Control, the Declarant and each Builder, as applicable, shall pay or contribute to the Association cash as may be necessary to make up any budget shortfalls, which contribution shall be based upon the number of Assessable Lots owned by the Declarant and the Builder, if any, as of the end of the period for which the deficiency has been calculated, which period shall be determined by the Board in its sole discretion (hereinafter referred to as **"Deficiency Assessments"**). The Deficiency Assessments, when added to the Reduced Assessments, shall not exceed the Regular Assessments or pro rata portion thereof that would be payable by an Owner other than Declarant or a Builder. The Declarant and each Builder may at any time at their sole discretion elect to cease paying the Deficiency Assessment, if any, and to pay instead the full Regular Assessment.

8.8 Due Dates. Assessments for each fiscal year shall be due and payable as determined by the Board. Assessments shall be deemed "paid" when actually received by the Association or by its designated manager or agent (but if any Assessments are paid by check and the bank or other institution upon which such check is drawn thereafter dishonors and 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 Regular Assessments provided for under Section 8.2 shall not at any time exceed the **"Maximum Annual Assessment,"** as determined in accordance with this Section 8.9. Unless a greater Maximum Annual Assessment is approved by majority of all Members of the Association, the Maximum Annual Assessment for any fiscal year shall be equal to the Regular Assessment levied in the immediately preceding fiscal year increased by twenty percent (20%). Increases in Regular Assessments shall be subject to any limitations imposed by the applicable Arizona law.

8.10 Effect of Nonpayment of Assessments; Remedies of Association.

(a) The Association shall have a lien on each Lot for: (a) all Assessments levied against the Lot or the Owners, and (b) any other amounts payable to the Association pursuant to the Project Documents, subject to A.R.S. § 33-1807, as amended from time to time.

Such lien shall be prior and superior to all other liens affecting the Lot in question, except (a) taxes, bonds, assessments and other levies which, by law, are superior thereto, and (b) the lien or charge of any First Mortgage made in good faith and for value. Such liens may be foreclosed in the manner provided by law for the foreclosure of mortgages. The sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer, but shall not relieve such Lot from liability for any Assessments becoming due after such sale or transfer, or from the lien thereof. The Association shall have the power to bid for any Lot at any sale to foreclose the Association's lien on the Lot, and to acquire and hold, lease,

mortgage and convey the same. During the period the Lot is owned by the Association, no right to vote shall be exercised with respect to that Lot and no Assessment shall be assessed or levied on or with respect to that Lot, provided, however that the Association's acquisition and ownership of Lots shall not be deemed to convert the same into Common Areas. Recording of this Declaration constitutes record notice and perfection of the liens established hereby, and further Recordation of any claim of a lien for Assessments 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).

(b) The Board may invoke any or all of the sanctions provided for herein or in this Declaration, or any other reasonable sanction, to compel payment of any Assessment (or installment thereof), or any other amount payable to the Association under the Project Documents, which is not paid when due (a **"Delinquent Amount"**). Such sanctions include, but are not limited to, the following:

(i) **Interest and Late Fees.** The Board may impose late fees for payment of any Delinquent Amount that is not made within fifteen (15) days of the due date, and interest in such amounts as it determines are appropriate from time to time, subject to any limitations stated herein or imposed by law which such amounts shall be secured by the aforementioned liens;

(ii) **Suspension of Rights.** The Board may suspend for the entire period during which a Delinquent Amount remains unpaid the obligated Owner's voting rights, rights to use and enjoy the Common Areas, and other Membership rights as provided herein, in accordance with the procedures that conform to Arizona law;

(iii) **Collection of Delinquent Amount.** The Board may institute an action at law for a money judgment or any other proceeding to recover the Delinquent Amount to the fullest extent permitted by law;

(iv) **Recording of Notice.** Subject to applicable law, the Board may record a notice of lien covering the Delinquent Amount plus interest and accrued collection costs as provided in this Declaration. The Board may establish a fixed fee to reimburse the Association or its representative for the cost of recording the notice, processing the delinquency, and recording a notice of satisfaction of the lien; and

(v) **Foreclosure of Lien.** The Board may foreclose the Recorded lien against the Lot in accordance with then prevailing Arizona law relating to the foreclosure of realty mortgages (including the right to recover any deficiency).

(c) It shall be the duty of every Owner to pay all Assessments and any other amount payable with respect to the Owner's Dwelling Unit in the manner provided herein. Such Assessments and other amounts, together with interest and costs of collection as provided for herein and in this Declaration, shall, until paid, be a charge and continuing servitude and lien

upon the Dwelling Unit against which such Assessments and other amounts are made, provided, however, that such lien shall be subordinate to only those matters identified in this Declaration. The Association and the Board shall have the authority to exercise and enforce any and all rights and remedies provided for in this Declaration or the Bylaws, or otherwise available at law or in equity for the collection of all unpaid Assessments or other amounts payable to the Association, interest thereon, costs of collection thereof and reasonable collection agency fees and attorneys' fees.

(d) The Association shall be entitled to maintain suit to recover a money judgment for unpaid Assessments and other amounts payable to the Association without a foreclosure of the lien for such Assessments, and the same shall not constitute a waiver of the lien for such Assessments or such other amounts payable to the Association.

8.11 Reserves. The Board shall establish reserves for the future periodic maintenance, repair, or replacement of the major components of the Areas of the Association Responsibility. The reserves may be funded from Regular Assessments, the Reserve Contribution Fee paid pursuant to Section 8.14 or any other revenue of the Association. All amounts designated as reserves shall be deposited by the Board of Directors in a separate bank account (the **"Reserve Account"**) to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. To assist the Board in determining the appropriate amount of reserves, the Board shall obtain a reserve study at least once every five years, which study shall at a minimum include (a) identification of the major components of the Project which the Association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years; (b) identification of the probable remaining useful life of the identified major components as of the date of the study; (c) an estimate of the cost of repair, replacement, restoration, or maintenance of the identified major components during and at the end of their useful life; (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the identified major components during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

8.12 Administrative Fee. Each Person, other than Declarant or Builder, who purchases or obtains a Lot from a Person shall pay to the Association, or the Association's managing agent, a transfer fee in such amount as is established from time to time by a written resolution of the Board. The transfer fee shall become due at the close of escrow or immediately upon the transfer of the Lot, whichever occurs first, and shall be required upon each transfer of title to each Lot. The transfer fee shall be used exclusively to cover administrative costs related to the transfer and shall not, when combined with other similar fees, exceed the amounts allowed by law for such fees.

8.13 Working Capital Fee. To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Person (other than a Builder) who purchases or obtains a Lot shall pay to the Association a sum not to exceed one-sixth ($1/6^{th}$) of the current Regular Assessment for such Lot (the **"Working Capital Fee"**) The Working Capital Fee shall not, when combined with other similar fees, exceed the amounts allowed by law for such fees. Such payment shall become due at the close of escrow or

immediately upon the transfer of title to the Lot, whichever occurs first, and shall be required upon each transfer of title to each Lot. Funds paid to the Association pursuant to this Section shall be kept in a separate account and may be used by the Association for payment of operating expenses related to the operation, maintenance, repair, and replacement of the Areas of Association Responsibility. Payments made pursuant to this Section shall be nonrefundable and shall not be offset or credited against or considered as advance payment of the Regular Assessment or any other Assessments levied by the Association pursuant to this Declaration.

8.14 Reserve Contribution Fee. To assist the Association in establishing adequate reserve funds to meet its capital expenses, each Person (other than a Builder) who purchases or obtains a Lot shall pay to the Association a sum not to exceed one-sixth ($1/6^{th}$) of the then current Regular Assessment for such Lot (the **"Reserve Contribution Fee"**). The Reserve Contribution Fee shall not, when combined with other similar fees, exceed the amounts allowed by law for such fees. Such payment shall become due at the close of escrow or immediately upon the transfer of title to the Lot, whichever occurs first, and shall be required upon each transfer of title to each Lot. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any other Assessments levied by the Association pursuant to this Declaration. The Board shall have the right, by an affirmative vote of the majority of the members of the Board, and based upon the Board's analysis of replacement and repair reserves to permanently or temporarily cease to assess the Reserve Contribution Fee, and having ceased to assess the Reserve Contribution Fee, the Board shall have the right to reinstate the assessment of such fee at any time thereafter, it being the intent that the Board shall have the right to begin or cease assessment of the Reserve Contribution Fee as the Board deems appropriate from time to time.

8.15 Bulk Transfer Exempt. Any bulk sale of five (5) or more Lots by Declarant or a Builder to another Builder shall be exempt from the fees set forth in Sections 8.12, 8.13 and 8.14 above.

ARTICLE 9

USE OF FUNDS; BORROWING POWER

9.1 Purposes for which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including, without limitations, the Regular Assessments, Reduced Assessments, Special Assessments and Deficiency Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision, and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Members and the Residents. 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: maintenance of landscaping on Common Areas and public right-of-way and drainage areas within or serving the Project, maintaining the Areas of Association Responsibility

as provided in this Declaration, obtaining property and liability insurance, supplying utilities and other public services, providing for communication and transportation within and dissemination of information concerning the Project, obtaining legal and accounting services for the Association, indemnification of officers and directors of the Association, and generally protecting the health and safety of the Members and the Residents. The Association may also expend its funds for any purposes which any municipality may expend its funds under the laws of the State of Arizona or such municipality's charter.

9.2 Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such period of time as is necessary or appropriate, provided, however, that no portion of the Common Areas shall be mortgaged or otherwise encumbered, nor shall the Association pledge future Assessments as collateral for a loan, without the approval of at least two-thirds (2/3) of the Members who are voting on the matter at a duly called meeting and the Declarant (so long as Declarant owns any portion of the Project or Annexable Property). Notwithstanding anything contained in the foregoing to the contrary, if ingress and egress to any Owner's Lot is over or through any Common Areas which will be mortgaged or otherwise encumbered as provided in the foregoing, any such mortgage or encumbrance shall be subject to such Owner's right and easement for ingress and egress.

9.3 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 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 Regular 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.

ARTICLE 10

DISPUTE RESOLUTION

10.1 Defined Terms. As used in this Article 10, the following terms shall have the meaning set forth below:

(a) **"Alleged Defect"** means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of Common Area or any Lot.

(b) **"Bound Parties"** means: (i) the Declarant; (ii) any Builder; (iii) all Owners; (iv) any contractors or subcontractor, architect, engineer, consultant or other Person who performs or furnishes the design, specifications, surveying, planning, supervision, testing, construction or observation of construction of the Common Area or Lots and who agrees in writing to be bound by the provisions of this Article 10; and (iv) any employee or other representative of the Declarant who serves as a director or officer of the Association.

(c) **"Claim"** means: (i) any claim or cause of action arising out of or related in any way to an Alleged Defect, including, without limitation, any claim or cause of action for breach of express or implied warranties or for negligence in the planning, design, engineering, grading, construction or development of the Project; or (ii) any claim or cause of action arising out of or in any way related to the development of the Project or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty.

10.2 Agreement to Resolve Certain Disputes Without Litigation. The Bound Parties agree that all Claims shall be resolved exclusively in accordance with the dispute resolution procedures set forth in this Article 10.

10.3 Notice of Claim. Any Bound Party who contends or alleges to have a Claim (a **"Claimant"**) against another Bound Party (a **"Respondent"**) shall notify each Respondent in writing of the Claim (the **"Claim Notice"**), stating plainly and concisely: (a) the nature of Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; and (c) what Claimant wants Respondent to do or not do to resolve the Claim. If the Claim involves an Alleged Defect, the Claim Notice shall state plainly and concisely: (a) the nature and location of the Alleged Defect; (b) the date on which the Association or Owner giving the Notice of Alleged Defect first became aware of the Alleged Defect; and (c) whether the Alleged Defect has caused any damage to any persons or property. If the Alleged Defect is alleged to be the result of an act or omission of a person licensed by the State of Arizona under Title 20 or Title 32 of the Arizona Revised Statutes (a **"Licensed Professional"),** then the Claim Notice from the Association must be accompanied by an affidavit from a Licensed Professional in the same discipline as the Licensed Professional alleged to be responsible for the Alleged Defect. The affidavit must contain the information required to be contained in a preliminary expert opinion affidavit submitted pursuant to Section 12-2602B of the Arizona Revised Statutes, as amended from time to time. The Claimant and the Respondent shall negotiate in good faith in an attempt to resolve the Claim. If the Claim is not resolved to the satisfaction of the Claimant within one hundred twenty (120) days after the Claim Notice is given to the Respondent, then the Claimant may proceed with submitting the Claim to mediation pursuant to Section 10.5.

10.4 Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by the Declarant or a Builder of a Claim Notice, the Declarant or Builder shall have the right, upon reasonable notice to the Association or an Owner and during normal business hours, to enter onto or into, as applicable, the Common Areas and any Lot, including any Dwelling Unit constructed thereon, for the purposes of inspecting and/or conducting testing with respect to any Alleged Defect, and, if deemed necessary by the Declarant or Builder, to correct, repair and/or replace any Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, the Declarant or Builder shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

Nothing set forth in this Section 10.4 shall be construed to impose any obligation on the Declarant or Builder to inspect, test, repair, or replace any item or Alleged Defect for which the Declarant or Builder is not otherwise obligated under applicable law or any limited warranty

provided by the Declarant or a Builder in connection with the sale of the Lots and/or Improvements constructed thereon. The right of the Declarant or Builder to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a written document, in recordable form, executed and Recorded by the Declarant or Builder.

10.5 Mediation. If the Parties do not resolve the Claim through negotiation within one hundred twenty (120) days after the Claim Notice is given to the Respondent, Claimant shall have sixty (60) additional days within which to submit the Claim to mediation by the American Arbitration Association ("**AAA**") or such other independent mediation service selected by mutual agreement of the Claimant and the Respondent. If Claimant does not submit the Claim to mediation within the time period specified in this Section, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim. If the Parties do not settle the Claim within sixty (60) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (**"Termination of Mediation Notice"**). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

10.6 Binding Arbitration. In the event a Claim is not resolved by mediation, the Claimant shall have ninety (90) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim.

The Bound Parties agree that all Claims that are not resolved by negotiation or mediation shall be resolved exclusively by arbitration conducted in accordance with this Section 10.6. The Bound Parties waive their right to have a Claim resolved by a court, including, without limitation, the right to file a legal action as the representative or member of a class or in any other representative capacity. The Claimant and Respondent shall cooperate in good faith to assure that all Bound Parties who may be liable to the Claimant or Respondent with respect to the Claim are made parties to the arbitration. If the Claimant submits the Claim to binding arbitration in accordance with this Section, the arbitration shall be conducted in accordance with the following:

(a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the AAA Commercial Arbitration Rules or such other AAA rules as may applicable to the arbitration (the "**AAA Rules**").

(b) **Governing Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, *et seq*. In the event of a conflict between the AAA Rules and this Section 10.6, the provisions of this Section 10.6 shall govern.

(c) **Appointment of Arbitrator.** The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection (c) is referred to as the **"Arbitrator"**.

(d) **Qualifications of Arbitrator.** The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges from acting as the Arbitrator.

(e) **Disclosure.** Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection (c) above.

(f) **Compensation.** The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate unless otherwise agreed to by the parties. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(g) **Preliminary Hearing.** Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Rules, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost effective conduct of the proceeding.

(h) **Management of the Arbitration.** The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation, but shall in any event require Rule 26.1 Disclosure Statements (as defined in Arizona law) and shall allow discovery in accordance with Arizona's Rules of Civil Procedure, with time frames shortened to accommodate the time frames set forth herein.

(i) **Confidentiality.** All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not

disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), and as required by law, except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) **Hearings.** Hearings may be held at any place within Maricopa County, Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) **Final Award.** The Arbitrator shall promptly (but, in any event, no later than sixty (60) days following the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator shall not, under any circumstances, award any party in the proceeding any part of such party's attorneys' fees or expert witness fees, with each party being bound to an agreeing to bear their own attorney's fees and expert witness fees, regardless of the outcome or identity of the prevailing parties. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made. The Arbitrator shall assess the costs of the proceedings (including only the fees of the Arbitrator) against the non-prevailing party.

10.7 Use of Funds. Any judgment, award or settlement received by a Claimant in connection with a Claim involving an Alleged Defect shall first be used to correct and/or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. If the Claimant receiving the judgment, award or settlement is the Association, any excess funds remaining after repair of such Alleged Defect and payment of all fees and costs incurred in bringing such action shall be paid into the Association's Reserve Account.

10.8 Approval of Arbitration or Litigation. The Association shall not file or commence any legal action or arbitration proceeding or incur legal expenses (including without limitation, attorneys' fees) of more than $10,000.00 in connection with any Claim without first obtaining the approval of two-thirds (2/3) of the Owners voting on the matter at a meeting duly called for such purpose, excluding the votes of any Owner who would be a defendant in such proceedings. In the event that the Association commences any legal action or arbitration proceeding involving a Claim relating to an Alleged Defect, all Owners must notify prospective purchasers of their Lot of such legal action or arbitration proceeding.

10.9 Statute of Limitations. All statutes of limitations applicable to Claims shall apply to the commencement of arbitration proceedings under Section 10.6. If the arbitration proceedings are not initiated within the time period provided by Arizona law for the filing of a legal action with respect to the Claim, the Claim shall forever be barred. If, however, a Notice of Claim is filed prior to the expiration of the relevant statute of limitations, the statute of limitations shall be tolled for three hundred (300) days. In other words, if the Notice of Claim is filed with Respondent within the applicable statute of limitations, but arbitration proceedings are not commenced within three hundred (300) days after the filing of the Notice of Claim, and the

statute of limitations has otherwise run by the time arbitration proceedings are commenced, said Claim shall forever be barred.

10.10 Conflicts. In the event of any conflict between this Article 10 and any other provision of the Project Documents, this Article 10 shall control. In the event of any conflict between the provisions of this Article 10 and the terms of any express warranty provided to an Owner by the Declarant, Builder, or any third party home warranty company in connection with the purchase of a Lot from the Declarant or Builder, the provisions of the express warranty shall control; provided, however, that if the Claim is being asserted by the Association, the approval of the members of the Association required by Section 10.8 must be obtained prior to the Association demanding arbitration of the Claim or filing any legal action with respect to the Claim.

ARTICLE 11

INSURANCE

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

(a) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to maintain under this Declaration;

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

(c) Directors and officers liability insurance; and

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

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

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

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

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

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

(v) Statement of the name of the insured as the Association.

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

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

11.4 Payment of Premiums and Deductible. The premiums for any insurance obtained by the Association pursuant to Section 11.1 of this Declaration shall be included in the budget of the Association and shall be paid by the Association. The Board shall have the authority to adopt reasonable rules and procedures for the payment of the insurance deductible.

11.5 Payment of Insurance Proceeds. With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 11.6, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

11.6 Repair and Replacement of Damaged or Destroyed Property. Any portions of the Area of Association Responsibility required by any governmental entity to be maintained by the Association which is damaged or destroyed shall be repaired or replaced promptly by the Association in accordance with the restrictions and requirements of such governmental entity. Any Area of Association Responsibility which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any

state or local health or safety statute or ordinance, (ii) Members representing at least eighty percent (80%) of the total authorized votes in the Association vote not to rebuild, or (iii) the cost of repair or replacement is in excess of insurance proceeds and reserves and the Members do not approve a Special Assessment to fund the additional cost of repair or replacement. If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either (i) be retained by the Association as an additional capital reserve, or (ii) be used for payment of operating expenses of the Association.

ARTICLE 12

MAINTENANCE

12.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall, in the exercise of its discretion, maintain and otherwise manage, all Areas of Association Responsibility, including, but not limited to, private streets, entry gates, landscaping, walkways, parks, paths, greenbelts, medians, parking areas, drives, designated Public Yards and other facilities. The Association shall not maintain areas which the public utilities located in the public utility easements referenced by Section 3.3, which the City of Chandler or other governmental entity are obligated to maintain, or are required to be maintained by the Owners of a Lot. The Association shall, in the discretion of the Board:

(a) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon Areas of Association Responsibility;

(b) Replace injured and diseased trees and other vegetation in any Areas of Association Responsibility 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 Areas of Association Responsibility 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 Areas of Association Responsibility 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 Areas of Association Responsibility. 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.

In the event any Plat, Supplemental Declaration, deed restriction, or this Declaration permits the Board to determine whether Owners of certain Dwelling Units will be responsible for maintenance of certain Common Areas 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 Residents of the Project 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. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Article 12 and, in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to Owners of Dwelling Units having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon. Any charges or fees to be paid by the Owner of a Lot in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall become a Benefited Property Assessment and shall be secured by the Assessment Lien.

Notwithstanding anything contained herein to the contrary, the Association shall be responsible for the cleaning, maintenance, and visual up-keep of the entry monument or any other improvements, if any, located at the community entrances. The City of Chandler shall not be responsible for the cleaning, maintenance, and visual up-keep of such monument improvements.

12.2 Assessment of Certain Costs of Maintenance and Repair of Areas of Association Responsibility. In the event that the need for maintenance or repair of Common Areas and other areas maintained by the Association is caused through the act of any Owner or Resident, or any family, guest, tenant, or invitee of any Owner or Resident, the Association shall perform the needed maintenance or repairs and the cost of such maintenance or repairs shall be due within thirty (30) days of notice and shall be added to, and become a part of, the Assessment to which such Owner and the Owner's Lot is subject, and shall be secured by the Assessment Lien. Notwithstanding the foregoing, prior to submitting a bill for such costs, the Board shall cause a notice to be sent to Owner specifying the maintenance or repairs and Owner shall have the right to object to his responsibility. Following the Board's consideration of such objection, the Board may absolve Owner or demand that Owner pay the bill within the thirty (30) day period provided above. The decision of the Board shall be final and binding.

12.3 Improper Maintenance and Use of Lots. In the event any portion of any Lot 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 or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event the Owner of any Lot is failing to perform any of its obligations under this Declaration or the Association Rules, the Association may give notice to the offending Owner of the particular condition or conditions that exist and inform the Owner that, unless corrective action is taken within fourteen (14) days, the Association may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen (14) day period of time the requisite corrective action has not been taken, the Association shall be authorized and empowered to cause such action to be taken (either by undertaking such corrective actions or bringing suit to compel the offending Owner to undertake such corrective action) and the cost thereof, together with any attorney's fees expended by the Association in connection therewith, shall be added to, and become a part of, the Assessment to

which the offending Owner and the Owner's Lot is subject, if any, and shall be secured by the Assessment Lien. The Association is hereby granted an easement to enter the Lot to perform such corrective action and, to the extent the Association or its agents or contractors enters the Owner's Lot to perform such corrective action, they shall not be deemed guilty of trespass. The Board may delegate any of its rights and responsibilities under this Section to a Committee appointed by the Board, or to its managing agent.

12.4 Maintenance of Common Areas and Landscaping Within Rights of Way. To the extent the Association is obligated to maintain the Common Areas and the landscaping within certain rights of way and the Association fails to so maintain such areas as required or to the standards required, the City of Chandler, may undertake such maintenance of such areas and bill the Association for same. The City of Chandler, is hereby granted an easement to access such areas for the maintenance thereof to the extent undertaken by the City of Chandler, pursuant to this Section 12.4. If the Association fails to pay said bill, the City of Chandler, shall have the right to assess the Members pro-rata to collect same as such authority is otherwise provided to the Association in Section 8.4 hereof without any vote of the Members and the same may be enforced by a lien as provided in Section 8.10 hereof. In no event shall the City of Chandler undertake Public Yard maintenance.

ARTICLE 13

ANNEXATION AND DE-ANNEXATION

13.1 Annexation of Annexable Property. So long as the Declarant owns any portion of the Project or the Annexable Property, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Annexable Property. The annexation of all or any portion of the Annexable Property shall be effected by the Declarant Recording a Declaration of Annexation setting forth the legal description of the Annexable Property being annexed and stating that such portion of the Annexable Property is annexed and subjected to this Declaration. If the portion of the Annexable Property being annexed is not owned by the Declarant, the Declaration of Annexation must be signed by the owner of fee title to the portion of the Annexable Property being annexed.

The Annexable Property may be annexed as a whole, at one time, or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. The property annexed by the Declarant pursuant to this Section need not be contiguous with other property already subject to this Declaration, and the exercise of the right of annexation as to any portion of the Annexable Property shall not bar further exercise of the right of annexation as to any other portion of the Annexable Property. The Declarant makes no assurances as to which, if any, part of the Annexable Property will be annexed.

After the Declarant no longer owns any portion of the Project or Annexable Property, the Association may annex and subject all or any portion of the Annexable Property to this Declaration by executing and Recording a Declaration of Annexation containing the information required for a Declaration of Annexation Recorded by the Declarant pursuant to this Section,

provided the annexation is approved at a meeting of the Association where a quorum is present, by the approval of Members holding at least two-thirds (2/3) of votes in the Association who are voting on the matter.

The Declaration of Annexations contemplated above may contain such complementary additions and modifications of the Covenants as may be necessary to reflect the different character, if any, of the annexed property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Declaration of Annexation, revoke, modify or add to the Covenants established by this Declaration within the existing Project.

13.2 Annexation of Other Real Property. Real property other than the Annexable Property may be annexed to the Project and become subject to this Declaration and subject to the jurisdiction of the Association at a meeting of the Association where quorum is present, by the approval of Members holding at least two-thirds (2/3) of the votes in the Association who are voting on the matter. In the event that any additional real property is annexed to the Project, such annexation shall be effected by the Recordation of a Declaration of Annexation covering the real property sought to be annexed and executed and Recorded by the Board and by the fee title holders of the real property sought to be annexed.

13.3 De-Annexation. The Declarant shall have the right to de-annex property from the Project and this Declaration without the consent of any other Owner or Person. The de-annexation of all or any portion of the Project shall be effected by the Declarant Recording a Declaration of De-Annexation setting forth the legal description of the property being de-annexed. If the Declarant does not own the property to be de-annexed, then the Declaration of De-annexation must be signed by the Owners of fee title to the property to be de-annexed. Upon the de-annexation of any property from the Project pursuant to this Section, such property shall no longer be subject to any of the covenants, conditions and restrictions set forth in the Project Documents.

ARTICLE 14

TERM; AMENDMENTS; TERMINATION

14.1 Term; Method of Termination. This Declaration shall be effective upon the date of its Recordation and, as amended from time to time, shall continue in full force and effect, as amended from time to time, unless and until Members owning ninety percent (90%) of the total Lots in the Association vote to terminate this Declaration; provided, however, to the extent the City of Chandler, as applicable, require the Declaration or the Association to be maintained, such Declaration shall only be revoked with the additional approval of the City of Chandler and the Association shall only be dissolved if and when another party or association has agreed to fulfill the obligations of the Association and the City of Chandler has approved same. If the necessary votes are obtained, the Board shall cause to be Recorded with the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested to by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon, these Covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

14.2 **Amendments.**

(a) **By Declarant.** In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Declarant Control Period, Declarant may amend this Declaration for any purpose, and without the consent or approval of any Owners or Members, or any other Person.

In addition to the foregoing, after termination of the Declarant Control Period, Declarant may of its own volition, and without the consent or approval of any Owners or Members, or any other Person, amend this Declaration for the following purposes: (a) to bring any provision hereof into compliance with applicable law; (b) to satisfy the requirements of any governmental agency pertaining to lending criteria, or established as conditions for acceptability or approval of mortgages, mortgage insurance, loan guarantees or other factors; or (c) to correct any error or ambiguity, or to further the intent or purposes hereof by expanding upon the existing provisions hereof.

Any amendment during such time as Declarant owns any portion of the Project shall require the written approval of Declarant. Further, so long as Declarant owns any land within the Project, Declarant may, without any other consent or approval, amend this Declaration to clarify the application of the provisions hereof to any land which may be annexed, or for any other reasonable purpose in connection with any land which may be annexed.

(b) **By the Association.** Except as otherwise specifically provided above or elsewhere in the Declaration, this Declaration may be amended at a meeting where quorum is present, by the approval of Members holding at least two-thirds (2/3) of the votes in the Association who are voting on the matter. Notwithstanding the foregoing, the Board may, with written consent of the Declarant so long as Declarant is a Member, amend this Declaration, without obtaining the approval or consent of any Owner, solely to conform this Declaration to the law. A certificate of amendment, setting forth the full amendment adopted, duly signed and acknowledged by the President or Vice-President of the Association shall be Recorded.

(c) **Challenge to Amendment.** Any challenge to an amendment to this Declaration for reason that the amendment was not adopted by the required number of Members or was not adopted in accordance with the procedures set forth in this Article must be made within (1) year after the Recording of the amendment.

(d) **Amendment of Supplemental Declarations.** A Supplemental Declaration may be amended as provided in such Supplemental Declaration, but only with the consent of Declarant so long as Declarant owns any portion of the Project. Thereafter, a Supplemental Declaration may be amended as provided therein, and with the approval of the Board.

(e) **Amendment of Section 12.4 Prohibited.** No party hereto shall be empowered to amend Section 12.4 hereof without the specific written approval of such amendment by the City of Chandler.

14.3 Amendments as to Maintenance Obligations. Any amendment of this Declaration that would modify the provisions of this Declaration pertaining to the maintenance of Common Areas must receive the written approval of the City of Chandler, as applicable, prior to any such amendment having any force or effect as to such matters.

ARTICLE 15

MISCELLANEOUS

15.1 Enforcement.

(a) The Association, the Declarant, a Builder, or any Owner shall have the right to enforce the Project Documents and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (i) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (ii) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association, the Declarant, Builders, or Owners.

(b) This right of enforcement shall be in any manner provided for in the Project Documents or by law or in equity, including, but not limited to, an action to obtain an injunction to compel removal of any Improvements constructed in violation of this Declaration or to otherwise compel compliance with the Project Documents.

(c) In the event the Association acts to enforce the Project Documents, regardless of whether suit is filed, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith including but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be secured by the Assessment Lien against said Owner's Lot. If, however, a lawsuit is filed, and the Owner is the prevailing party in such lawsuit, the Owner shall not be required to pay the Association's attorneys' fees, court costs, costs of investigation and other related expenses incurred therewith. If any lawsuit is filed by the Declarant, a Builder, or any Owner to enforce the provisions of the Project Documents or in any other manner arising out of the Project Documents or the operations of the Association, the prevailing party in such action shall be entitled to recover from the other party all attorneys' fees incurred by the prevailing party in the action.

(d) If the Board, in its business judgment, determines to not take enforcement action in a specific situation, such enforcement shall not be required. No Member may bring legal or equitable action or an administrative claim against the Board or the Association for failure to enforce the Project Documents without joining as claimants at least twenty percent (20%) of the Members.

15.2 Laws, Ordinances and Regulations.

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

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

15.3 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Owner or Resident of any restriction or other provision of the Project Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (i) the name of the Owner or Resident violating, or responsible for the violation of, the Project Documents; (ii) the legal description of the Lot against which the notice is being Recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and Resident, and any subsequent purchaser of the Lot, that there is such a violation. If, after the Recordation 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 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 that the violation did not exist.

15.4 Waiver. The waiver of or failure to enforce any breach or violation of this Declaration will not be deemed a waiver or abandonment of any provision of the Declaration or a waiver of the right to enforce any subsequent breach or violation of the Declaration. The foregoing shall apply regardless of whether any Person affected by the Declaration (or having the right to enforce the Declaration) has or had knowledge of the breach or violation.

15.5 Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of the Project Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions of the Project Documents shall be final, conclusive, and binding as to all Persons and property benefited or bound by the Project Documents.

15.6 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

15.7 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not expressly inconsistent with the provisions of this Declaration.

15.8 References to the Covenants in Deeds. Deeds to, and instruments affecting, any Lot or any part of the Project 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 an interest in the Lot through any Deed or instrument and his heirs, executors, administrators, successors and assigns.

15.9 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders, words used in the neuter gender shall include the masculine and feminine genders, words in the singular shall include the plural, and words in the plural shall include the singular.

15.10 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

15.11 Notices. Any written notice or other documents relating to or required by this Declaration may be delivered personally, by first class mail, certified mail, facsimile, e-mail, overnight delivery service or by any other reasonably reliable method. If by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: if to the Association or the Design Review Committee, at the address of record for the Association on file with the Maricopa County Recorder's office; if to an Owner, to the address of any Lot within the Project owned, in whole or in part, by the Owner or to any other address last furnished by the Owner to the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

15.12 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 the Board, may encompass any and all things which a 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.

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

15.14 Responsibility for Others. Owners hereby acknowledge and agree that they are fully responsible for the actions and inactions of the Owner's family, Residents, guests, licensees, invitees, tenants, and pets. If an Owner's family, Resident, guest, licensee, invitee, tenant, or pet commits a violation of this Declaration, the Owner will be responsible in the same manner as if the Owner had committed such violation.

15.15 Priority of Project Documents. If a conflict exists between the provisions of the Declaration and the other Project Documents, the Declaration prevails. If a conflict exists between the provisions of the Articles and Bylaws or Rules, the Articles prevail. If a conflict exists between the provisions of the Bylaws and the Rules, the Bylaws prevail.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Declarant has executed these Declarations as of the date first written above.

DECLARANT:

Mattamy Arizona, LLC,
an Arizona limited liability company

By: _____
Name: Kevin R Rust
Its: Assistant Vice President

STATE OF ARIZONA)
) ss
County of Maricopa)

Acknowledged before me this 11th day of May, 2018, by Kevin R. Rust, the Assistant Vice President of Mattamy Arizona, LLC, on behalf of the company.

_____
Notary Public

My commission expires: 9/2/18

OFFICIAL SEAL
JOYCE LOGGINS
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Sept. 2, 2018

EXHIBIT "A"
Legal Description of Project

Lots 1 through 94, inclusive, and Tracts A through J, inclusive, L, M, O, W and CC according to Haven, a Final Plat, Recorded at Document Number according to and as set forth in the Final Plat of Haven recorded as Document Number 2018-0179393, Book 1375 of Maps, Page 9 in the Official Records of Maricopa County.