

DECLARATION OF HOMEOWNER BENEFITS AND
COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

TATUM MANOR AND TATUM HEIGHTS

(A Single Family Subdivision)

TABLE OF CONTENTS

	<u>Page</u>
RECITALS	1
ARTICLE 1 - DEFINITIONS.....	2
1.1 "Architectural Committee".....	2
1.2 "Architectural Committee Rules".....	2
1.3 "Articles".....	2
1.4 "Assessment," "assessment," "annual assessment," and "special assessment".....	2
1.5 "Association".....	2
1.6 "Association Rules".....	2
1.7 "Board" and "Board of Directors".....	2
1.8 "Bylaws".....	3
1.9 "Common Area" and "Drainage Tract".....	3
1.10 "Declarant".....	3
1.11 "Declaration".....	3
1.12 "Detached Dwelling Unit".....	3
1.13 "Eligible Insurer".....	3
1.14 "Lot" and "Inventory Lot" and "Completed Inventory Lot".....	3
1.15 "Member".....	4
1.16 "Mortgage" and "First Mortgage".....	4
1.17 "Mortgagee" and "First Mortgagee" and "Eligible Mortgage Holder".....	4
1.18 "Mortgagor".....	4
1.19 "Owner".....	4
1.20 "Person" and "person".....	4
1.21 "Plats".....	4
1.22 "Project Documents".....	5
1.23 "Single Family".....	5
1.24 "Single Family Residential Use".....	5
1.25 "Visible From Neighboring Property".....	5
ARTICLE 2 - PROPERTY RIGHTS IN COMMON AREAS.....	5
2.1 Owners' Easements of Enjoyment.....	5
2.2 Delegation of Use.....	6
2.3 Conveyance of Common Area.....	6

ARTICLE 3 - MEMBERSHIP AND VOTING RIGHTS.....	7
3.1 Membership.....	7
3.2 Class.....	7
3.3 Transfer of Control.....	8
ARTICLE 4 - COVENANT FOR MAINTENANCE ASSESSMENTS.....	8
4.1 Creation of the Lien and Personal Obligation for Assessments.....	8
4.2 Purpose of Assessments.....	9
4.3 Initial and Annual Assessments.....	10
4.4 Special Assessments for Capital Improvements.....	10
4.5 Notice and Quorum.....	11
4.6 Uniform Rate of Assessment.....	11
4.7 Date of Commencement of Assessments.....	12
4.8 Effect of Nonpayment of Assessments - Remedies of the Association.....	12
4.9 Subordination of the Lien to Mortgages.....	13
4.10 Notice of Lien.....	14
4.11 Initial Working Capital Contribution by Owners.....	14
ARTICLE 5 - EXTERIOR MAINTENANCE.....	15
5.1 Common Area by Association.....	15
5.2 Common Area Necessitated by Owner.....	15
5.3 Lot Maintenance by Owner.....	16
5.4 Access at Reasonable Hours.....	16
5.5 Landscaping.....	17
5.6 General Standards.....	17
ARTICLE 6 - DUTIES AND POWERS OF THE OWNERS' ASSOCIATION.....	17
6.1 Duties and Powers.....	17
6.2 Insurance.....	18
6.3 Damage and Destruction - Reconstruction.....	22
6.4 Other Duties and Powers.....	22
6.5 Association Rules.....	23
ARTICLE 7 - UTILITIES.....	23
7.1 Utility Service.....	23
7.2 Underground Utilities.....	23
ARTICLE 8 - USE RESTRICTIONS.....	24
8.1 Restricted Use.....	24
8.2 Business and Related Uses.....	24
8.3 Signs.....	24
8.4 Noxious or Offensive Activities.....	25
8.5 Restricted Residences.....	25
8.6 Vehicles and Recreational Equipment.....	25
8.7 Animals.....	25
8.8 Drilling and Mining.....	26
8.9 Trash.....	26
8.10 Screening and Fencing.....	26

8.11	Antennas.....	26
8.12	Temporary Window Covering.....	26
8.13	Leasing.....	26
8.14	Encroachments.....	27
8.15	Machinery and Equipment.....	27
8.16	Restriction on Further Subdivision and Time Shares.....	27
8.17	Diseases and Insects.....	27
8.18	Repair of Buildings.....	27
8.19	Increased Risk.....	27
8.20	Drainage Plan.....	27
8.21	Clothes Drying Facilities.....	28
8.22	Outdoor Burning.....	28
8.23	Fuel Tanks.....	28
8.24	Hazardous Wastes.....	28
8.25	Minimum Dwelling Unit Size.....	28
8.26	Roofs.....	28
8.27	Parking.....	28
8.28	Declarant's Exemption.....	29
ARTICLE 9	- BUILDING ENVELOPES.....	29
9.1	Building Envelopes and Setbacks.....	29
9.2	Construction.....	29
ARTICLE 10	- FENCES AND WALLS.....	29
10.1	Fences and Walls.....	29
10.2	Encroachments.....	30
10.3	Maintenance and Repair of Fences.....	30
10.4	Easement for Repair.....	30
10.5	Permanent Easement for Fences.....	30
10.6	Visible Side of Fences.....	31
ARTICLE 11	- ARCHITECTURAL CONTROL.....	31
11.1	Architectural Approval.....	31
11.2	Appointment of Architectural Committee.....	31
11.3	Reflective Materials.....	31
11.4	Architectural Committee Rules.....	32
11.5	Limited Effect of Approval.....	32
ARTICLE 12	- RESERVATION OF EASEMENTS.....	32
12.1	Utility Easements.....	32
12.2	Declarant's Construction Easements.....	33
12.3	Easement for Encroachments.....	33
12.4	Easements for Ingress and Egress.....	33
12.5	Water Easement.....	33
12.6	Drainage Easement.....	33
12.7	Dwelling Unit Construction Easement.....	33
12.8	Visibility Easement.....	34
12.9	Vehicular Non-Access.....	34
12.10	Sewer Easement.....	34

	<u>Page</u>
ARTICLE 13 - CONDEMNATION.....	34
13.1 General Provisions on Condemnation.....	34
13.2 Partial Condemnation of Lot.....	35
13.3 Condemnation of Common Area.....	35
ARTICLE 14 - GENERAL PROVISIONS.....	35
14.1 Enforcement.....	35
14.2 Severability.....	36
14.3 Term.....	36
14.4 Amendment.....	36
14.5 FHA/VA.....	37
14.6 Construction.....	37
14.7 Notices.....	37
14.8 General Declarant Rights.....	38
14.9 Leases of Lots.....	38
14.10 Management Agreements.....	38
14.11 No Partition.....	38
14.12 Declarant's Right to Use Similar Name.....	39
14.13 Joint and Several Liability.....	39
14.14 Construction.....	39
14.15 Survival of Liability.....	39
14.16 Waiver.....	39
14.17 Attorneys' Fees.....	39
14.18 Security.....	40
ARTICLE 15 - RIGHTS AND DUTIES OF FIRST MORTGAGEE.....	40
15.1 First Mortgagee Protections.....	40
15.2 Mortgagee and Insurer Notices.....	40
15.3 Approval Required to Terminate Project.....	41
15.4 Approval Required for Amendment to Declaration, Articles or By-laws.....	41
15.5 First Mortgagee's Right of Inspection.....	42
15.6 Limitation on Partition and Subdivision.....	43
15.7 Conflicting Provisions.....	43
ARTICLE 16 - DEVELOPMENT PLAN AND ANNEXATION.....	43
16.1 Proposed Development.....	43
16.2 Annexation Without Approval.....	44
16.3 Annexation With Approval of Membership.....	45
16.4 Acquisition of Additional Common Area.....	45
16.5 Effect of Annexation.....	46
16.6 No Assurance on Annexable Property.....	46
16.7 Amendment.....	46
EXECUTION	47
EXHIBIT "A"	48
EXHIBIT "B"	49

DECLARATION OF HOMEOWNER BENEFITS AND
COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

TATUM MANOR AND TATUM HEIGHTS

(A Single Family Subdivision)

This Declaration of Homeowner Benefits and Covenants, Conditions, and Restrictions for Tatum Manor and Tatum Heights (A Single Family Subdivision) is made as of the date set forth at the end of this Declaration by WH/Arizona, Inc., a California corporation, which is authorized to transact business in Arizona as WH/Arizona, Inc. of CA(FN).

RECITALS:

A. Declarant is the owner of certain real property located in the City of Phoenix, County of Maricopa, State of Arizona, (hereinafter called "Property" or "Project") which is described on the Plats and which is additionally described as follows:

See Exhibit "A" and Exhibit "B" attached to and incorporated in this Declaration by this reference.

B. Declarant desires to provide for the phased construction of a planned average lot subdivision consisting of detached single family residences, common areas, and other facilities;

C. Declarant, at this time, includes in this Declaration and imposes these benefits, covenants, conditions, and restrictions upon only the lots and those tracts described on the Plats, but may, subsequent to the date of this Declaration, desire to include in this Declaration additional phases of TATUM MANOR or TATUM HEIGHTS (i.e., to incorporate additional lots and tracts in these subdivisions) as provided in Article 16 below; and

D. Declarant intends that this Declaration and the other Project Documents will facilitate a general plan for development for the Property.

NOW, THEREFORE, Declarant declares that the lots and tracts described on the Plats, together with any other lots and tracts which, in the future, may be included in this Declaration as provided in Article 16, shall be held, sold, mortgaged,

encumbered, leased, rented, used, occupied, improved, and conveyed subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, conditions, charges, and liens (collectively termed "covenants and restrictions"). The covenants and restrictions are for the purpose of protecting the value, attractiveness, and desirability of the Property, and the covenants and restrictions shall benefit, burden, and run with the title to the Property and shall be binding upon all parties having any right, title, or interest in or to any part of the Property, or any part of the Property, and their heirs, successors, and assigns. The covenants and restrictions shall inure to the benefit of each Owner. The Declarant further declares as follows:

ARTICLE 1

DEFINITIONS

1.1 "Architectural Committee" shall mean the committee established pursuant to Article 11 of this Declaration and the provisions of any other Project Documents.

1.2 "Architectural Committee Rules" shall mean any rules and regulations adopted by the Architectural Committee, as may be amended from time to time.

1.3 "Articles" shall mean the Articles of Incorporation of the Association which have been or will be filed in the office of the Corporation Commission of the State of Arizona, as may be amended from time to time in the manner set forth in the Articles.

1.4 "Assessment," "assessment," "annual assessment," and "special assessment" (and the plural of each) shall mean the assessments authorized in this Declaration including those authorized in Article 4.

1.5 "Association" shall mean NORTH PHOENIX TATUM HOMEOWNERS ASSOCIATION, INC., which has been or will be incorporated by Declarant and/or others as a non-profit Arizona corporation, and shall mean additionally the Association's successors and assigns.

1.6 "Association Rules" shall mean any rules and regulations adopted by the Association, as may be amended from time to time.

1.7 "Board" and "Board of Directors" shall mean the Board of Directors of the Association.

1.8 "Bylaws" shall mean the bylaws of the Association, as may be amended from time to time in the manner set forth in the Bylaws.

1.9 "Common Area" shall mean all that real property described on the Plats (except for the real property identified as individual Lots), and all other real property which in the future may be owned by the Association for the common use and enjoyment of the Owners. The "Common Area" shall include all structures, facilities, roadways, furniture, fixtures, improvements, and landscaping, if any and if permitted, located on the real property owned by the Association, and all rights, easements, and appurtenances relating to the real property owned by the Association. "Drainage Tract" shall mean Tract "A" as depicted on both Plats.

1.10 "Declarant" shall mean WH/Arizona, Inc., a California corporation, which is authorized to transact business in Arizona as WH/Arizona, Inc. of CA(FN), and its successors and assigns, if the successors or assigns acquire more than one undeveloped Lot from the Declarant for the purpose of resale and execute and record a supplemental declaration declaring itself as a succeeding Declarant under this Declaration. "Declarant" does not include any Mortgagee.

1.11 "Declaration" shall mean this Declaration of Homeowner Benefits and Covenants, Conditions, and Restrictions and the covenants and restrictions set forth in this entire document (in entirety or by reference), as may from time to time be amended.

1.12 "Detached Dwelling Unit" shall mean all buildings which are located on a Lot and which are used or are intended to be used for Single Family Residential Use, including the garage or carport.

1.13 "Eligible Insurer" shall mean any insurer or governmental guarantor of a First Mortgage on a Lot who has informed the Association in writing of the Eligible Insurer's address and who has requested notification from the Association on any proposed action that requires the consent of a specified percentage of the Eligible Insurers.

1.14 "Lot" shall mean any one of the lots which is described and depicted on the Plats and which is initially subjected to this Declaration and shall include any other lot which in the future may be included in this Declaration as provided in this Declaration. "Inventory Lot" shall mean any Lot owned by the Declarant upon which a Detached Dwelling Unit has not been constructed completely, as evidenced by the issuance of a final Certificate of Occupancy by the City of Phoenix. "Completed Inventory Lot" shall mean a Lot owned by Declarant

upon which a Detached Dwelling Unit has been completed, as evidenced by the issuance of a final Certificate of Occupancy by the City of Phoenix.

1.15 "Member" shall mean an Owner of a Lot which is, or has become by supplemental declaration under Article 16, subject to this Declaration.

1.16 "Mortgage" (whether capitalized or not) shall mean the conveyance or assignment of any Lot, or the creation of a lien on any Lot, to secure the performance of an obligation, and shall include the instrument evidencing the obligation, and may include a deed of trust, mortgage, assignment, or any other agreement for the purpose of creating a lien to secure an obligation or duty. "First Mortgage" shall mean a Mortgage held by an institutional lender which is the first and most senior of all Mortgages on the applicable Lot.

1.17 "Mortgagee" (whether capitalized or not) shall mean a person or entity to whom a Mortgage is made and shall include a holder of a promissory note, a beneficiary under a deed of trust, or a seller under an agreement for sale. "First Mortgagee" shall mean a Mortgagee which is the first and most senior of all Mortgagees upon the applicable Lot. "Eligible Mortgage Holder" shall mean a First Mortgagee who has informed the Association in writing of the First Mortgagee's address and who has requested notification from the Association on any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

1.18 "Mortgagor" shall mean a person or entity who is a maker under a promissory note, mortgagor under a mortgage, a trustor under a deed of trust, or buyer under an agreement for sale, as applicable.

1.19 "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple legal title to any Lot. An "Owner" shall not include those persons having an interest in a Lot merely as security for the performance of an obligation or duty (i.e., a mortgagee). In the case of Lots in which the fee simple title is vested of record in a trustee pursuant to Arizona Revised Statutes, §§ 33-801, et seq., the "Owner" of the Lot shall be deemed to be the trustor. In the case of a Lot covered by an Agreement for Sale of Real Property as described in A.R.S., §§ 33-741, et seq., the buyer of the Lot shall be deemed to be the "Owner."

1.20 "Person" and "person" shall mean a natural person, a corporation, a partnership, a trust, or other legal entity.

1.21 "Plats" will refer to the subdivision plat for TATUM HEIGHTS recorded in Book 348 of Maps, Page 48, Official Records of Maricopa County, Arizona, as it may be amended from time to time pursuant to this Declaration, and to the subdivision plat for TATUM MANOR recorded in Book _____ of Maps, Page _____, Official Records of Maricopa County, Arizona, as it may be amended from time to time pursuant to this Declaration.

1.22 "Project Documents" refers to this Declaration, the Articles, the Bylaws, the Association Rules, the Architectural Committee Rules, and the Plats, collectively, as any or all of the foregoing may be amended from time to time.

1.23 "Single Family" shall mean 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 three (3) adult persons not all so related who maintain a common household in a Detached Dwelling Unit located on a Lot.

1.24 "Single Family Residential Use" shall mean the occupation or use of a Detached Dwelling Unit and Lot by a Single Family in conformity with the Project Documents and the requirements imposed by applicable zoning laws or other state, county, or municipal rules, ordinances, codes, and regulations.

1.25 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing on any part of the neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE 2

PROPERTY RIGHTS IN COMMON AREAS

2.1 Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Areas, in common with all other persons entitled to use the Common Area. An Owner's right and easement to use and enjoy the Common Area shall be appurtenant to and pass with the title to every Lot and shall be subject to the following:

(a) Charges and Regulations. The right of the Association to charge reasonable admission and other fees for the use of the Common Areas and to regulate the use of the Common Area; the right of the Association to limit the number of the Owner's family members, pets, guests, tenants, licensees, lessees, or invitees who use the Common Area; the right of the Association to hold the Owners accountable for the conduct of their family members, pets, guests, tenants, licensees, lessees, or invitees;

(b) Suspension of Voting and Usage Rights. The right of the Association to suspend the voting rights of any Owner and to suspend the right to the use of the Common Areas by an Owner (or by the Owner's family, guests, tenants, invitees, lessees, and licensees) for any period during which any assessment (together with accrued interest, late charges, and all attorney fees incurred) against that Owner or Owner's Lot remains unpaid, and, in the case of any non-monetary infraction of the Project Documents, for any period during which the infraction remains uncured;

(c) Dedication/Grant. The right of the Association to dedicate or grant an easement covering all or any part of the Common Area to any public agency, municipality, authority, or public or private utility for the purposes, and subject to the conditions, which may be established by the Declarant during the period of Declarant Control (as defined in Section 3.2) and, after the period of Declarant Control, by the Board. Except for those easements reserved or created by Declarant under Article 12 of this Declaration, no dedications or grants of easements over all or any part of the Common Area to any public agency, municipality, authority, or private utility shall be effective unless the dedication or grant is approved by two-thirds (2/3) of each class of Members and unless the instrument evidencing the dedication or grant is executed by an authorized officer of the Association and recorded in the proper records in Maricopa County; and

(d) Declarant Use. The right of the Declarant and its agents and representatives, in addition to their rights set forth elsewhere in this Declaration and the other Project Documents, to the nonexclusive use, without extra charge, of the Common Area for sales, display, and exhibition purposes both during and after the period of Declarant Control.

2.2 Delegation of Use. Any Owner may delegate, subject to and in accordance with the Project Documents, its right of enjoyment to the Common Areas to the members of its family and the Owner's guests, licensees, lessees, tenants, invitees, or contract purchasers who reside on the Property; however, nothing contained in this Section 2.2 shall be deemed to alter or amend the definition of an "Owner" or to affect the provisions of Article 3.

2.3 Conveyance of Common Area. Immediately prior to the time as the first Lot is conveyed to a Class A Member, the Common Area shall be conveyed by Declarant to the Association by the delivery of a special warranty deed, free and clear of all monetary liens.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner of a Lot, by accepting a deed for that Lot (whether or not it is expressed in the deed or conveying instrument) or otherwise becoming an "Owner", shall be a Member of the Association and shall be bound by the provisions of the Project Documents, shall be deemed to have personally covenanted and agreed to be bound by all covenants and restrictions contained in the Project Documents, and shall be deemed to have entered into a contract with the Association for the performance of the respective covenants and restrictions. The personal covenant of each Owner described in the preceding sentence shall be deemed to be in addition to the real covenants created by the Declaration, and this personal covenant of each Owner shall not limit or restrict the intent that this Declaration benefit and burden, as the case may be, and run with title to, all Lots and Tracts covered by this Declaration. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Upon the permitted transfer of an ownership interest in a Lot, the new Owner shall automatically become a Member of the Association. With the exception of Declarant, membership in the Association shall be restricted solely to Owners of Lots.

3.2 Class. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members; however, for all voting purposes and quorum purposes, they shall together be considered to be one (1) Member. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Any attempt to cast multiple votes for a given Lot shall result in the invalidity of all votes cast for that Lot.

(b) Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the happening of any of the following events, whichever occurs earlier:

(1) Four (4) months after the date when the total votes outstanding in the Class A membership first equals or exceeds the total votes outstanding in the Class B membership;

(2) The date which is five (5) years after the date of the close of escrow on the first Lot sold by Declarant; or

(3) When the Declarant notifies the Association in writing that it relinquishes its Class B membership.

Upon the conversion of Declarant's Class B membership to Class A membership, the Declarant will be entitled to only one (1) vote for each Lot owned by the Declarant. The period of time during which Class B membership is in existence shall be referred to in this Declaration as the period of "Declarant Control." For the purposes of Section 3.2(b)(1) above, the number of votes shall be based upon the Lots initially covered by this Declaration, plus all Lots which in the future may be included in or covered by this Declaration as provided in this Declaration, minus all Lots withdrawn from this Declaration, if any.

3.3 Transfer of Control. At such time as control of the Association is transferred from the Declarant to the Owners pursuant to Section 3.2, the Class A Members shall accept control of the Association from the Declarant and full responsibility for the operation of the Association and administration of the Property as provided in the Project Documents, and Declarant shall have no further responsibility for past, present, or future acts or omissions with respect to the operation of the Association and administration of the Property.

ARTICLE 4

COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by accepting a deed for that Lot (whether or not it is expressed in the deed or conveying instrument) or otherwise becoming an "Owner", is deemed personally to covenant and agree to be bound by all duties, obligations, and provisions of the Project Documents and to pay to the Association:

(a) Annual assessments or charges;

(b) Special assessments for capital improvements, as provided in Section 4.4, and unexpected or extraordinary expenses for repairs of Common Area or other matters;

(c) An amount sufficient to, on demand, indemnify and hold the Association harmless for, from, and against all obligations undertaken or incurred by the Association at or on account of that individual Owner's special request and to repay

the Association for all expenditures on account of such special request;

(d) An amount sufficient to reimburse the Association for the cost of performing any obligation of an Owner under the Project Documents which the Owner has failed to timely pay or perform; and

(e) All other assessments as may be fixed, established, and collected from time to time as provided in this Declaration or the other Project Documents, including, without limitation, any accrued interest, taxable court costs, late fees, attorney fees, fines, penalties, or other charges.

The assessments and amounts described above, together with all accrued interest, court costs, attorney fees, late fees, and all other expenses incurred in connection with the assessments and amounts described above, whether or not a lawsuit or other legal action is initiated, shall be referred to as an "assessment" or the "assessments". The assessments shall be a charge and a continuing lien upon the Lot against which the assessment is made or with reference to which each assessment is incurred. Each assessment also shall be the personal obligation of the person who was the Owner of the Lot at the time when the assessment became due or charge was incurred, or, in the case of more than one Owner, the personal obligation of each person, jointly and severally. The personal obligation for delinquent assessments shall not pass to the particular Owner's successors in title unless expressly assumed by them; however, the prior Owner's personal obligation for the delinquent assessments or charges shall not be deemed released or discharged by reason of any assignment, conveyance, or transfer of title of a Lot. In the event of an assignment, conveyance, or transfer of title, the assessment additionally shall continue as a charge against the Lot in the hands of the subsequent Owner, except in those circumstances described in Section 4.9 below. The recordation of this Declaration shall constitute record notice and perfection of any assessment, and, notwithstanding Section 4.10 below, further recordation of any claim of lien (or Notice and Claim of Lien) for assessment shall not be required for perfection, priority, or enforcement.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of:

(a) promoting the recreation, health, safety, welfare, and desirability of the Owners, Common Areas, and Lots;

(b) operating of the Common Areas (including payment of all taxes, utilities, maintenance, and rubbish collection fees, if any, and if not individually billed to the Owners);

(c) insuring (including a reserve fund for insurance deductibles), maintaining, repairing, painting, and replacing improvements in the Common Areas (including any reserve fund for the foregoing); and

(d) enhancing and protecting the value, desirability, and attractiveness of the Lots and Common Areas generally.

4.3 Initial and Annual Assessments. Until December 31, 1993, the maximum annual assessments shall be Two Hundred Four and No/100 Dollars (\$204.00) per Lot which, unless otherwise determined by the Board, will be collected on a monthly basis and in advance. From and after the "base year" ending December 31, 1993, the maximum annual assessment shall be as determined by the Board of Directors. The percentage increase in the regular annual assessment in any given year over the assessment in the previous year may not be increased by more than the Permitted Percentage Increase (as defined below), unless any further additional increase is approved by an affirmative vote of two-thirds (2/3) of the votes cast in person or by proxy of each class of Members at a regular or special meeting duly called for that purpose. From and after December 31, 1993, the Board, without a vote of the Members, may increase the maximum annual assessments during each fiscal year of the Association by an amount ("Permitted Percentage Increase") equal to the greater of: (i) ten percent (10%); or (ii) a percentage calculated by dividing the Consumer Price Index in the most recent October (identified by an "A" in the formula) by the Consumer Price Index for the October one (1) year prior (identified by a "B" in the formula), minus one (1) (i.e., $CPI \text{ percentage} = A/B - 1$). By way of example only, the percentage increase in the assessment for 1994 cannot be increased by more than the greater of ten percent (10%) or the increase in the Consumer Price Index for October, 1993, over the Consumer Price Index in October, 1992). The term "Consumer Price Index" shall refer to the "United States Bureau of Labor Statistics, Consumer Price Index, United States and selected areas, all items" issued by the U.S. Bureau of Labor Statistics, or its equivalent or revised or successor index. The annual assessment may include a reserve fund for taxes, insurance, maintenance, repairs, and replacements of the Common Area and other improvements which the Association is responsible for maintaining.

4.4 Special Assessments for Capital Improvements. The Association may, at any time and from time to time in any assessment year, in addition to the annual assessments authorized

above or any other assessments authorized elsewhere in this Declaration, levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement (whether or not due to destruction, governmental taking, or otherwise) of a capital improvement upon the Common Areas (including fixtures and personal property related to the Common Area) or the cost of any other unexpected or extraordinary expenses for repairs of Common Area or other matters; however, any special assessment shall have the assent of two thirds (2/3) of the votes cast in person or by proxy of the Members at a regular or special meeting duly called for that purpose. Notwithstanding the foregoing, no approval of the Members shall be needed to levy assessments on an Owner which arise out of the Owner's failure to comply with the Project Documents including, without limitation, any assessment levied pursuant to Sections 4.1(c), 4.1(d), 4.6, 5.2, or 5.3 of the Declaration.

4.5 Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.3 or 4.4 shall be sent to all Members at the commonly known street address for each Lot not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first meeting called regarding any given proposal, the presence (at the beginning of the meeting) of Members or proxies entitled to cast fifty percent (50%) of all the votes of the Association, regardless of class of membership, shall constitute a quorum. If the required quorum is not present, one other meeting for the same purpose may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-third (1/3) of all the votes of the Association, regardless of class of membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.6 Uniform Rate of Assessment. Both the annual assessments outlined in Section 4.3 and the special assessments outlined in Section 4.4 must be fixed at a uniform rate for all assessable Lots. The rate of assessment for Inventory Lots and Completed Inventory Lots owned by Declarant shall be twenty-five percent (25%) of the rate for completed and occupied Lots owned by an Owner other than the Declarant. Notwithstanding the reduced assessment on Inventory Lots and Completed Inventory Lots, Declarant shall be obligated to pay to the Association for any shortages or deficiencies caused by reason of Declarant's reduced assessments; however, Declarant's maximum obligation for these shortages or deficiencies shall be equal to the uniform rate of assessment on all Lots multiplied by the number of Lots upon which Declarant paid a reduced assessment, less all amounts previously paid by Declarant as reduced assessments on such Lots. The provisions of this Section 4.6 shall not preclude the Association from making a separate or additional charge to, or

special assessment on, an Owner for or on account of special services or benefits rendered to, conferred upon, or obtained by or for that Owner or the Owner's Lot. If any expense incurred by the Association is caused by the misconduct of any Lot Owner or the Owner's guests, tenants, family, invitees, licensees, and lessees, the Association may specially assess the expense exclusively against such Owner and/or Lot.

4.7 Date of Commencement of Assessments. The annual assessments established in this Declaration regarding any given Lot subject to this Declaration shall commence on the first day of the month following the conveyance of the Common Areas to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall endeavor to fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; however, the annual assessment shall be binding notwithstanding any delay. Written notice of the annual assessment and of any special assessments shall be sent to every Owner subject to the assessment. The due dates shall be established by the Board of Directors. The Association acting through the Board of Directors, upon written demand and for a reasonable charge, shall furnish a certificate signed by an officer of the Association setting forth whether the assessments and charges on a specified Lot have been paid and setting forth any other matters as may be required from time to time by Arizona law. A properly executed certificate of the Association as to the status of assessments on a Lot and any other required matters shall be binding on the Association as of the date of issuance of the certificate and for the time period specified in the certificate. Assessments shall be payable in the full amount specified by the assessment notice, and no offsets against such amount shall be permitted for any reason whatsoever including, without limitation, abandonment of the Owner's Lot, a claim that the Association is not properly exercising its duties in maintenance or enforcement, a claim against the Declarant or its affiliates, or the non-use or claim of non-use by Owner of all or any portion of the Common Area. Assessments may be collected in advance or in arrears as the Board of Directors shall determine in their sole discretion.

4.8 Effect of Nonpayment of Assessments - Remedies of the Association. Any assessment not paid within fifteen (15) days after the due date shall be subject to a one-time late charge of Fifty Dollars (\$50.00) and additionally shall bear interest from the due date at the minimum rate of eighteen percent (18%) per annum, or at such higher legal interest rate as may be determined from time to time by the Board of Directors. Each Owner of a Lot, by accepting a deed for that Lot (whether or not it is expressed in the deed or conveying instrument), or otherwise becoming an "Owner", vests in the Association and its agents the right and power to bring all actions against the Owner

personally for the collection of all assessments due under the Project Documents as a debt and to enforce the lien securing the assessment by all methods available for the enforcement of liens, including foreclosure by an action brought in the name of the Association in the same manner as a mortgage of real property, a deed of trust, and/or a mechanic's lien. To the extent permitted by law, each Owner grants to the Association a private power of sale in connection with the lien. The Association may make payments on any prior liens including any Mortgage or taxes on the Lot, and all payments shall be added to the lien in favor of the Association. The lien established in this Article 4 shall be in favor of the Association and shall be for the benefit of all other Owners. The Association shall have the power to bid in any foreclosure, sheriff's or trustee's sale and to acquire, hold, lease, mortgage, and convey the Lot purchased. The Association may institute suit to recover a money judgment for unpaid assessments of the Owner without being required to foreclose its lien on the Lot involved and without waiving the lien which secures such assessments. Any foreclosure may be taken without regard to the value of the Lot, the solvency of the Owner, or the relative size of the Owner's default. The assessment lien and the rights of enforcement under this Declaration shall be in addition to and not in substitution of all other rights and remedies which the Association may have under the Project Documents or under Arizona law.

4.9 Subordination of the Lien to Mortgages.

Regardless of whether or not a Notice and Claim of Lien has been recorded, the lien for the assessments established in this Declaration shall be superior to all liens, charges, and encumbrances which, after the date of recordation of this Declaration, are or may be imposed on any Lot or Parcel. The lien for the assessments established in this Declaration, however, shall be automatically subordinate to: (i) the lien of any First Mortgagee who acquired its First Mortgage in good faith and for value, except for the amount of assessments which accrue from and after the date upon which the First Mortgagee acquires title to or comes in possession of any Lot; and (ii) any taxes, bonds, or assessments which by law are prior and superior to the lien for such assessments. The sale or transfer of any Lot shall not affect the lien for assessments (or the personal obligation of the Owner to pay all assessments arising during the Owner's ownership of the Lot); however, the sale or transfer of any Lot pursuant to a judicial foreclosure or trustee's sale by a First Mortgage (or the acceptance of a deed in lieu for the Lot) shall extinguish the lien on the Lot which became due prior to the transfer or sale. In the case of a sale or transfer by judicial foreclosure or trustee's sale by a First Mortgagee, the First Mortgagee or other successor Owner shall not be liable for any assessments that become due prior to the sale or transfer by the First Mortgagee. No sale or transfer pursuant to a judicial foreclosure or trustee's sale of any First Mortgagee shall

relieve any Lot from the liability or the lien for any assessments which may become due or arise after the judicial foreclosure or trustee's sale. Nothing in this Declaration, however, shall be construed to release any Owner or previous Owner from the Owner's personal obligation to pay any assessment arising during the Owner's or previous Owner's ownership of the Lot, and the Association may enforce collection of the assessments arising during his/her ownership of the Lot in any manner permitted under Arizona law or the Project Documents.

4.10 Notice of Lien. Without affecting the priority and perfection of any assessment which has been perfected as of the date of recordation of this Declaration, the Association, in addition, may give (but is not obligated to give) notice to any Owner whose assessment is due and unpaid by mailing to the Owner a copy of a "Notice and Claim of Lien" which may state, among other things, the following:

(a) The last known name of the delinquent Owner;

(b) The legal description or street address of the Lot against which the claim of lien is made;

(c) The amount claimed to be due and owing;

(d) A statement that the claim is made by the Association pursuant to the terms of the Declaration and the other Project Documents; and

(e) A statement that the lien is claimed against the Lot and Owner in the amount equal to the stated deficiency.

Each default and payment of any assessment shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single Notice and Claim of Lien. The Association may record a Notice and Claim of Lien against the delinquent Owner's Lot.

4.11 Initial Working Capital Contribution by Owners. Upon acceptance of a deed for a Lot (whether or not it is expressed in the deed or conveying instrument) or otherwise becoming an "Owner", each Owner (except for Declarant) shall contribute to the working capital of the Association an amount equal to one-half ($\frac{1}{2}$) of the annual assessment then in effect as determined in accordance with this Article 4. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed from the purchase and sale escrow directly to the Association. Declarant, in its sole discretion, may advance certain amounts to the Association as working capital; however, Declarant shall not be obligated to advance any amounts for working capital. If Declarant elects to advance any amounts for working capital, Declarant shall be entitled to a reimbursement

from the Association, upon Declarant's demand, for all working capital funds previously advanced by Declarant. Except for those amounts paid by Declarant, all amounts paid as working capital shall be nonrefundable and shall not act as a credit against any assessment payable by an Owner pursuant to this Declaration.

ARTICLE 5

EXTERIOR MAINTENANCE

5.1 Common Area by Association. Except as provided in Section 5.2, the Association shall be responsible for the maintenance, repair, and replacement of the Common Area, and, without any approval of the Owners, the Association may do any of the following:

(a) Reconstruct, repair, replace, and refinish any landscaping or improvement located on or used in connection with the Common Area; and

(b) Do any other acts which the Board of Directors of the Association deems necessary to preserve, beautify, and protect the Common Area in accordance with the general purposes specified in the Project Documents.

The Board of Directors of the Association shall be the sole and absolute judge as to the appropriate maintenance of the Common Area. Notwithstanding anything contained in this Section 5.1, the Association will have no obligation to perform any maintenance or repair work which is performed by any public agency, authority, or public or private utility that is responsible for the maintenance of the improvements located within any Common Area.

5.2 Common Area Necessitated by Owner. In the event that the need for any Common Area maintenance or repair work described in Article 5 is caused through the act or omission (including negligent acts or omissions) of an Owner, and/or the Owner's family, guests, licensee, lessees, tenants, or invitees, the cost of the maintenance or repairs, including the deductible portion of any applicable insurance policy, shall be added to and become a part of the assessment against the Lot owned by that Owner, less insurance proceeds, if any, available to the Association, to pay the cost of such maintenance or repairs. In addition to the foregoing, if the Owner of a given Lot is held liable to the Association by a court of competent jurisdiction for maintenance or repair work described in Article 5 regarding any other Lot (i.e., a Lot not owned by that Owner), the amount of that judgment shall be added to and become a part of the assessment against the Lot owned by that Owner.

5.3 Lot Maintenance by Owner. Each Lot (including all lawns, plants, irrigation systems, sprinklers, shrubs, trees, and the like) and the Detached Dwelling Unit located on the Lot (and all other permitted structures located on the Lot) must be maintained in good, clean, safe, and attractive condition and repair solely by the Owner of that Lot and Detached Dwelling Unit; however, if an Owner fails to do so by act or omission, then, upon vote of a majority of the Board of Directors and after not less than thirty (30) days prior notice to that Owner, the Association, in addition to any other remedy, shall have the right (but not the obligation) to enter upon or into that Lot and to provide the required maintenance or make the required repairs or replacements. Any entry by the Association or its agents shall not be considered a trespass. The cost of these repairs shall be added to the assessments charged to such Owner, shall be promptly paid to the Association by that Owner as a special assessment or otherwise, and shall constitute a lien upon that Owner's Lot. No Owner shall alter, remove, injure, or interfere in any way with any irrigation and sprinkler systems, shrubs, trees, grass, and plantings, if any, placed on the Common Areas without the express written consent of the Declarant, during the period of Declarant Control, or the Architectural Committee after the period of Declarant Control. Owner shall be solely responsible for the removal of all trash, weeds, and other unsightly material on the Lot. Without limiting the foregoing, the Owner of each Lot shall be responsible for the following:

(a) All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained on the Lot;

(b) All service equipment, such as refrigerators, air conditioners, heaters, dishwashers, washers, dryers, ovens, and stoves;

(c) All floor coverings, roofs, windows, doors, paint (internal and external), finishes, siding, and electrical and plumbing fixtures; and

(d) All lawns, plants, irrigation systems, sprinklers, shrubs, trees, and the like.

5.4 Access at Reasonable Hours. For the purpose of performing the maintenance, repairs, or replacements permitted by Section 5.3, the Association's agents or employees shall have the right, after reasonable notice to an Owner (except in the case of emergency, in which case no notice need be given), to enter onto the Owner's Lot at any reasonable time. For the purposes of performing the maintenance authorized by Section 5.1 upon any portion of the Common Area, the Association's agents or employees may enter onto the Common Area without notice to any Owner at reasonable hours.

5.5 Landscaping. Unless completed by Declarant as part of the Owner's purchase contract for the Lot and Detached Dwelling Unit, all portions of a Lot which are Visible From Neighboring Property must be landscaped by the Owner of the Lot within ninety (90) days of becoming an Owner. Plans for all landscaping which is to be installed by the Owner on the Owner's Lot must be approved by the Architectural Committee under Article 11 of this Declaration. Once completed, landscaping at all times must be maintained by each Owner in a clean, safe, neat, and attractive manner, and each Owner of a Lot shall keep all shrubs, trees, grass, plantings, and landscaping located on that Owner's Lot (including setback areas, if any) which are Visible From Neighboring Property neatly trimmed, properly cultivated, and free from trash, weeds, and other unsightly material.

5.6 General Standards. Except as may be otherwise provided in this Declaration or the other Project Documents, the Association and each respective Owner of a Lot, as applicable, shall maintain the areas they are respectively responsible for at a level of general maintenance at least equal to that prevailing with respect to areas of a similar nature located in residential communities commonly and generally deemed to be of high quality.

ARTICLE 6

DUTIES AND POWERS OF THE OWNERS' ASSOCIATION

6.1 Duties and Powers. In addition to the duties and powers enumerated in the Articles, Bylaws, other Project Documents, or elsewhere in the Declaration, the Association shall have the power and authority to:

(a) Common Area. Maintain and otherwise manage the Common Area and all other real and personal property that may be acquired by the Association;

(b) Legal and Accounting Services. Obtain legal, accounting, and other services deemed by the Board, in its discretion, to be necessary or desirable in the operation of the Association and the Common Area;

(c) Easements. Subject to the limitations, if any, imposed by the Project Documents, grant easements where necessary for utilities, sewer facilities, and CATV on, under, over, through, upon, or across the Common Areas to serve the Common Area or any Lot;

(d) Employment of Managers. Employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and

responsibilities of the Association, which such managers, persons, independent contractors, or managing agents may be related to or affiliated with the Declarant;

(e) Purchase Insurance. Purchase insurance for the Common Area for risks, with companies, and in amounts as the Board shall determine necessary, desirable, or beneficial, subject to the provisions of Section 6.2 below;

(f) Other. Perform other acts authorized expressly or by implication under this Declaration and the Articles, By-laws, and the other Project Documents including, without limitation, the right to construct improvements on the Lots and Common Area; and

(g) Enforcement. Enforce the provisions of this Declaration, the Articles, the By-Laws, and the other Project Documents by all legal means, including, without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, and the establishment of a system of fines or penalties for the enforcement of this Declaration, the Articles, the By-Laws, and the other Project Documents.

6.2 Insurance.

(a) Liability Insurance. Comprehensive general liability insurance covering the Common Areas shall be purchased and obtained by the Board, or acquired by assignment from Declarant, promptly following the Board's election, and shall be maintained in force at all times. The premiums shall be paid out of the Association's funds. The insurance shall be carried with reputable companies authorized and qualified to do business in Arizona. The minimum amounts of coverage shall be \$500,000 for personal injury to any one person, \$1,000,000 for personal injury to any number of persons sustained in any one accident or mishap, and \$100,000 property damage. The policy shall name as insureds the Owners, the Association (its directors, officers, employees, and agents in the scope of their employment), and the Declarant (its directors, officers, partners, employees, and agents in the scope of their employment) for so long as Declarant owns any Lot. This policy shall include, but need not be limited to, insurance against injury or damage occurring in or on the Common Area.

(b) Fire and Multi-Peril Insurance - Master Policy for Common Areas. A master or blanket fire and multi-peril insurance policy shall be purchased or obtained by the Board, or acquired by assignment from Declarant, promptly following the construction of any building or other similar permanent structure on the Common Area ("fire insurance policy"). Once purchased, obtained, or acquired, the fire

insurance policy shall be maintained in force at all times. The premiums shall be paid out of the Association's funds. The fire insurance policy shall be carried with reputable companies authorized and qualified to do business in the State of Arizona, and shall insure against loss from fire and other hazards covered in the fire insurance policy, for the full insurable value of all of the permanent improvements upon the Common Area. The fire insurance policy shall contain extended coverage and replacement cost endorsements (without deduction for depreciation), if available, as well as vandalism and malicious mischief coverage, special form endorsement, stipulated amount clause, and a determinable cash adjustment clause or a similar clause, to permit cash settlement covering full value of the improvements in the event of partial destruction. The fire insurance policy shall be in such amounts as shall be determined from time to time by the Board in its sole discretion. The fire insurance policy shall name the Declarant (for so long as Declarant owns a Lot), Association, and any First Mortgagee of the insured permanent improvements on the Common Area as insureds, as their respective interests may appear.

(c) Fire Insurance - Detached Dwelling Units.

The Association shall not be obligated to obtain property insurance, liability insurance, flood insurance, or any other type of insurance covering the Detached Dwelling Units or the Lots. The procurement and maintenance of insurance on the Detached Dwelling Units and the Lots shall be the sole obligation of the Owners of the respective Lot and Detached Dwelling Unit.

(d) Other Insurance. The Board may purchase (but is not obligated to purchase) additional insurance as the Board may determine to be advisable or necessary including, but not limited to, workmen's compensation insurance, boiler explosion insurance, demolition insurance to remove improvements that are not rebuilt, flood insurance, fidelity bonds, director and officer liability insurance, and insurance on personal property owned by the Association. All premiums for these types of insurance and bonds shall be paid out of the Association's funds. The Association may assess the Owners in advance for the estimated cost of these types of insurance. By virtue of owning a Lot subject to this Declaration, each Owner covenants and agrees with all other Owners and the Association that each Owner shall carry all-risk casualty insurance on the Detached Dwelling Units. Without limiting any other provision of the Declaration, it shall be each Owner's sole responsibility to secure liability insurance, theft, fire, multi-peril, and other hazard insurance covering loss or damage to the Owner's personal property, Detached Dwelling Unit, and any other insurance not carried by the Association which the Owner desires.

(e) General Provisions on Insurance. The Board of Directors of the Association is granted the authority to negotiate loss settlements with the appropriate insurance carriers covering insurance purchased and obtained by the Association pursuant to Paragraph 6.2. Any two (2) Directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and their signatures shall be binding on the Association and the Members. Any policy of insurance obtained by the Association may contain a reasonable deductible. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and, in the event multiple parties are responsible, the deductible shall be allocated in relation to the amount each party's loss bears to the total loss.

(f) Nonliability of Association. Notwithstanding the duty of the Association to obtain insurance coverage as stated in this Declaration, neither the Declarant (or its officers, directors, partners, or employees), the Association, nor any director, officer, or agent of the Association shall be liable to any Owner or any other party if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner may desire.

(g) Provisions Required. The comprehensive general liability insurance referred to in Subsection 6.2(a) and, if applicable, the fire insurance policy referred to in Subsection 6.2(b) shall contain the following provisions to the extent reasonably available at a reasonable cost.

(1) Any "no other insurance" clause shall exclude insurance purchased by any Owners or First Mortgagees;

(2) The coverage afforded by the policies shall not be brought into contribution or proration with any insurance which may be purchased by any Owners or First Mortgagees;

(3) The act or omission of any one or more of the Owners, or the Owner's lessees, guests, invitees, licensees, family members, or agents shall not constitute grounds for avoiding liability on the policies and shall not be a condition to recovery under the policies;

(4) A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim based upon negligent acts or omissions of the Association or Owners;

(5) Any policy of property insurance which gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that such an election is not exercisable without the prior written consent of the Association;

(6) Each insurer shall waive its rights to subrogate under each policy against the Association (and its directors, officers, agents, and employees) and the Owner (and the Owner's family members, lessees, guests, invitees, licensees, or agents);

(7) A standard mortgagee clause shall be included and endorsed to provide that any proceeds shall be paid to the Association, for the use and benefit of First Mortgagees as their interest may appear, or endorsed to fully protect the interest of First Mortgagees, FNMA, and FHLMC and their successors and assigns; and

(8) An "Agreed Amount" and "Inflation Guard" endorsement shall be obtained, when available.

(h) FNMA Requirements. Notwithstanding anything to the contrary contained in this Section 6.2, the Association shall maintain any other form or type of insurance as may be required from time to time by any applicable guidelines issued by Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC) including, without limitation, the following:

(1) Steam boiler and machinery coverage endorsement, if applicable, in a minimum liability amount per accident equal to the lesser of \$2,000,000.00 or the insurable value of the building housing the boiler or machinery;

(2) A blanket policy of flood insurance if the Project is within a special hazard flood area in an amount equal to the lesser of one-hundred percent (100%) of the insurable value of the Common Area or the maximum coverage available under the appropriate National Flood Insurance Administration program; and

(3) A blanket fidelity bond for any Member, officer, or employee (paid or unpaid) of the Association who handles or is responsible for the Association's funds, naming the Association as the obligee, in an amount equal to the minimum amount

of funds which will be in the custody of the Association at any one time, but in no event shall such coverage be less than the sum of three (3) months of assessments on each Lot plus the reserve funds of the Association.

6.3 Damage and Destruction - Reconstruction. In the event of damage or destruction of any improvements upon the Common Area, the Board shall obtain bids and contract for repair or reconstruction of these improvements. If the proceeds of any insurance policies payable as a result of the damage or destruction together with the amounts paid by a responsible Owner under Section 5.2 of this Declaration are insufficient to complete the repair or reconstruction, the deficiency shall be the subject of a special assessment against all Lots if approved by a vote of the Owners as provided in Section 4.4. In the event that the cost of repairing or reconstructing the improvements in and upon the Common Area exceeds the available insurance proceeds and the responsible Owner's payment under Section 5.2, and in the event that the Members fail to approve a special assessment to cover the deficiency, the Board shall cause any remaining portion of the improvement which is not usable (as determined by the Board in its sole discretion) to be removed and the area cleared and landscaped in a manner consistent with the appearance of the remainder of the Project. In the event that a Detached Dwelling Unit or other structure on any Lot is substantially destroyed by fire or other casualty, the Owner of the Lot shall repair or replace the Detached Dwelling Unit or other structure. If the replacement is not commenced and completed within a reasonable period of time by the Owner, the Board may elect to demolish and remove the damaged Detached Dwelling Unit or structure and clean or landscape the applicable portion of the Lot until the Owner elects to repair or replace the Detached Dwelling Unit or structure. The cost of the demolition and other work performed by or at the request of the Association shall be added to the assessments charged to the Owner of that Lot and shall be promptly paid to the Association by that Owner.

6.4 Other Duties and Powers. The Association acting through the Board shall, if required by this Declaration or by law or if deemed necessary or beneficial by the Board for the operation of the Association or enforcement of this Declaration, obtain, provide, and pay for any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, or insurance, or pay any taxes or assessments. If, however, any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are specifically provided or apply to particular Lots, the cost shall be specially assessed to the Owners of these Lots. The Association may likewise pay any amount necessary to discharge any lien or encumbrance levied against any or all the Lots which may, in the sole discretion of

the Board, constitute a lien against the Common Area. If one or more Owners is responsible for the existence of such a lien, however, they shall be jointly and severally liable for the cost of discharging it, and any costs incurred by the Association by reason of the lien or liens shall be specially assessed to the Owners. The Association may exercise any other right or privilege given to it by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it in the Project Documents or reasonably necessary to effectuate any such right or privilege.

6.5 Association Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations. The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any guest, invitee, licensee, agent, employee, or lessee of such Owner (or the Owner's family) and may additionally establish a system of fines and charges for violations of the Project Documents; however, the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles, or Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended, or repealed, shall be available for inspection by the Members at reasonable times. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in full and were a part of this Declaration.

ARTICLE 7

UTILITIES

7.1 Utility Service. Notwithstanding anything to the contrary contained in any of the Project Documents, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property except as initially installed and approved by the Declarant or except as approved by the Declarant, during the period of Declarant Control, or the Board, after the period of Declarant Control.

7.2 Underground Utilities. No wires, lines, or other devices for the communication or transmission of electric current or power, including telephone, television, cable television, and radio signals, shall be erected, placed, or maintained anywhere in or upon any Detached Dwelling Unit or Lot on the Property unless the lines, wires, or other devices are contained in conduits or cables installed and maintained underground or concealed in or on buildings or structures approved by the Architectural Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures as needed by the Declarant.

ARTICLE 8

USE RESTRICTIONS

In addition to all other covenants and restrictions contained in this Declaration and the other Project Documents, the use of the Common Areas, Lots, and the Detached Dwelling Units is subject to the following:

8.1 Restricted Use. Except as otherwise provided in this Declaration, a Lot shall be used only by a Single Family and only for Single Family Residential Use. No Lot shall have more than one living unit located on the Lot. All construction on any Lot shall be restricted to single-family houses and related improvements.

8.2 Business and Related Uses. No Lot shall ever be used, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial use, manufacturing, industrial use, mercantile, storage, vending, or other similar purposes; however, Declarant and/or its agents, successors, or assigns may use the Property or Lots for any of the foregoing uses as may be required, convenient, or incidental to the construction and sale of Detached Dwelling Units, including, without limitation, a business office, management office, storage area, construction yards, signs, a model site or sites, and display and sales office during the construction and sales period. The foregoing restriction shall not prevent an Owner from conducting his or her personal affairs on the Lot or in the Detached Dwelling Unit and shall not be deemed to prevent an Owner from using the Detached Dwelling Unit for business purposes which: (i) utilize a minimal portion of the Detached Dwelling Unit; (ii) do not result in the use of the Detached Dwelling Unit for business meetings or appointments; (iii) do not result in shipping or receiving from or to the Detached Dwelling Unit; and (iv) do not otherwise violate local zoning and use laws.

8.3 Signs. No emblem, logo, sign, or billboard of any kind shall be displayed to the public view on any of the Lots or Common Areas, except for:

(a) Signs used by Declarant to advertise the Lots or living units on the Lots for sale or lease;

(b) Signs on the Common Area as may be placed and approved by the Declarant or the Board;

(c) One sign not more than twenty-four (24) inches by twenty-four (24) inches in size, advertising a Lot and Detached Dwelling Unit for sale or rent placed in a location designated by the Board for such signs;

(d) Any signs as may be required by legal proceedings; and

(e) Signs as may be approved in advance by the Architectural Committee in terms of number, type, and style.

8.4 Noxious or Offensive Activities. No noxious or offensive activity shall be engaged in (or permitted to be engaged in) on any Lot. No act or use may be done on any Lot which may currently be, or may become, an annoyance or nuisance to the neighborhood generally or other Owners specifically, or which shall, in any way, interfere with the use and quiet enjoyment of each of the Owners, and of the Owner's respective Lot and improvements thereon, or which shall in any way increase insurance rates on policies maintained by the Association or any Owner.

8.5 Restricted Residences. No temporary structure, mobile home, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be temporarily or permanently placed, maintained, or used on any Lot at any time, unless the item or building is not Visible From Neighboring Property. No buildings or structures shall be moved from other locations onto any Lot, and all improvements erected on a Lot shall be of new construction. The restrictions contained in this Section 8.5 shall not prohibit additions to the Detached Dwelling Unit which have been approved by the Architectural Committee under Article 11 of this Declaration.

8.6 Vehicles and Recreational Equipment. No commercial truck, wagon, trailer, camper, mobile home, motor home, boat, or similar equipment or vehicles shall be kept, placed, maintained, constructed, reconstructed, or repaired upon any Lot or upon any street (public or private) unless: (i) the equipment or vehicles is not Visible From Neighboring Property; or (ii) the equipment or vehicle is kept, placed, etc., on a nonrecurring, temporary basis less than twenty-four (24) hours.

8.7 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or within any Lot or structure on a Lot; however, an Owner may keep up to two (2) dogs or two (2) cats or two (2) other household pets or two (2) of any combination of common household pets on or within the rear yard portion of the Lot or in the Detached Dwelling Unit. These permitted types and numbers of pets shall be permitted for only so long as they are not kept, bred, or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on any Lot which results in an annoyance to, or which are obnoxious to, other Owners in their reasonable opinion. Each Owner shall be responsible for the immediate removal and disposal of the waste or excrement of all the Owner's

pets. The Owner shall not leave any pet unattended for any unreasonably length of time and shall not allow its pet to move about the Property or Common Area unrestrained. Owners shall be liable for all damage caused by their pets. The Association, in the Association Rules, may establish a system of fines or charges for any infraction of this Section 8.7.

8.8 Drilling and Mining. No oil or well drilling, oil development operations, oil refining, quarrying, or mining operations of any kind, shall be permitted upon or in any Lot. No oil wells, tanks, tunnels, or mineral excavations or shafts shall be permitted upon the surface of any Lot. No derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, maintained, or permitted upon any lot.

8.9 Trash. All rubbish, trash, and garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate on any Lot. The Association may arrange and contract for trash removal services, which shall become part of the common expenses, or, in the case of an Owner who allows such trash to accumulate on the Owner's Lot, the Association may arrange and contract for the removal and cleanup of the trash, and the costs shall become a special assessment to that Owner. No incinerators shall be kept or maintained on any Lot.

8.10 Screening and Fencing. Woodpiles and storage areas may not be maintained upon any Lot, unless located in the rear yard and unless not Visible From Neighboring Property. Sheets, newspapers, foil, and similar items may not be used as window coverings on any Lot. Refuse containers may be placed on a Lot so as to be Visible From Neighboring Property only on trash collection days and then only for the shortest period of time reasonably necessary for trash collection. Except as permitted in the previous sentence, refuse containers may not be maintained on a Lot, unless they are not Visible From Neighboring Property.

8.11 Antennas. Except as may be originally installed by the Declarant, no external radio, television antenna, or satellite dish may be installed or constructed on any Lot or on the roof of any Detached Dwelling Unit in any manner that will make the external radio or television antenna or satellite dish Visible From Neighboring Property.

8.12 Temporary Window Covering. Without limiting Section 11.3 below, sheets, newspapers, and similar items may not be used as temporary window coverings.

8.13 Leasing. Nothing in the Declaration shall be deemed to prevent the leasing of a Lot and Detached Dwelling Unit to a Single Family from time to time by the Owner of the Lot, subject to all of the provisions of the Project Documents. Any Owner who leases his Lot and Detached Dwelling Unit shall

promptly notify the Association and shall advise the Association of the terms of the lease and the name of each lessee. The original term of all leases (excluding any extensions) shall not be shorter than one (1) year in length.

8.14 Encroachments. No tree, shrub, or planting of any kind on any Property shall be allowed to overhang or otherwise to encroach upon any neighboring Lot, sidewalk, street, pedestrian way, or other area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.

8.15 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a Detached Dwelling Unit, appurtenant structures, or other improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Property.

8.16 Restriction on Further Subdivision and Time Shares. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Owner shall transfer, sell, assign, or convey any time share in any Lot, and any such transaction shall be void.

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

8.18 Repair of Buildings. No building or structure upon any Lot or Common Area 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.

8.19 Increased Risk. Nothing shall be done or kept in or on any Lot, Detached Dwelling Unit, or Common Area which will increase the rate of insurance on the Common Area without the prior written consent of the Board. No Owner shall permit anything to be done or kept on or in the Owner's Lot, Detached Dwelling Unit, or in the Common Area which will result in the cancellation of insurance on any Detached Dwelling Unit or any part of the Common Area or which would be in violation of any law.

8.20 Drainage Plan. No Detached Dwelling Unit, permanent improvement, or other similar improvement shall be constructed, installed, placed, or maintained on any Lot or

Common Area in any manner that would obstruct, interfere, or change the direction or flow of water in accordance with the drainage plans for the Project, Drainage Tracts, or any Lot on file with the county or municipality in which the Project is located.

8.21 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any Lot unless they are erected, placed, or maintained in such a manner as to not be Visible From Neighboring Property.

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

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

8.24 Hazardous Wastes. Except as may be necessary for normal household, landscaping, or automotive uses, no Owner shall permit any hazardous wastes (as defined under all applicable federal and state laws) or any petroleum products or by-products to be kept, dumped, maintained, stored, or used in, on, under, or over any Lot. No gasoline, kerosene, cleaning solvents, or other flammable liquids may be stored in the Common Area.

8.25 Minimum Dwelling Unit Size. Except for those Detached Dwelling Units originally constructed by Declarant, no Detached Dwelling Unit shall be constructed on the Property so as to contain less than one thousand five hundred (1,500) net livable square feet. The term "net livable square feet" will mean the area, measured in square feet, of the interior and enclosed living area of a single family residence, excluding any garages and covered patios and balconies.

8.26 Roofs. The roofs for all Detached Dwelling Units located on the Property must be made of tile, slate, or other similar pieces of fired clay or concrete, unless otherwise approved by the Architectural Review Committee. No air conditioning units or other cooling, heating, or ventilation systems may be located on the roofs, unless approved by the Architectural Review Committee.

8.27 Parking. Each Lot shall at least have one garage which shall be used by the Owner of the Lot for parking purposes only. No garage may be used for storage or any other use which restricts or prevents the garage from being used for parking automobiles or other vehicles.

8.28 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 model homes, structures, improvements, or signs necessary or convenient to the construction, development, identification, sale, or lease of Lots or other property within the Project.

ARTICLE 9

BUILDING ENVELOPES

9.1 Building Envelopes and Setbacks. The term "building envelope" will mean that portion of each Lot which is designated by the Declarant and within which all Detached Dwelling Units and accessory structures must be located. Building envelopes may not encompass more than three thousand one hundred (3,100) square feet of a Lot located within TATUM MANOR or three thousand (3,000) square feet of a Lot located within TATUM HEIGHTS. Building envelopes may not encroach upon any minimum required setback.

9.2 Construction. Every Detached Dwelling Unit, pool, and accessory structures located on a Lot must be constructed within the building envelope for that Lot, as designated by the Declarant. Only landscaping, driveways, sidewalks, etc. will be permitted on a Lot in the area outside of the building envelope for a Lot.

ARTICLE 10

FENCES AND WALLS

10.1 Fences and Walls. Except as may be installed by the Declarant, no side or rear fence and no side or rear wall, other than the wall of the Detached Dwelling Unit constructed on the Lot, if any, shall be more than six (6) feet in height. For purposes of this Section 10, such side or rear fence or wall shall be called a "Fence" or "Fences". Notwithstanding the foregoing, any prevailing governmental regulations shall take precedent over these restrictions if the governmental regulations are more restrictive. Unless otherwise approved by the Architectural Committee, all Fences and any materials used for Fences dividing, or defining the Lots must be of new block construction and must be erected in a good and workmanlike manner. All Fences, upon being started, must be completed within a reasonable time not exceeding three (3) months from commencement of construction (except as to the Declarant). Subject to the other provisions of this Article 10, in the event any Fence installed by the Declarant is wholly or partially

damaged by any cause, the damaged portion must be promptly restored to its original condition by the Owners of the Lots adjacent to the Fence.

10.2 Encroachments. Declarant shall endeavor to construct all Fences upon the dividing line between the Lots. By virtue of accepting a deed for a Lot (whether or not it is expressed in the deed of conveying instrument) or otherwise becoming an "Owner", all Owners acknowledge and accept that the Fences installed by Declarant may not be exactly upon the dividing line, but rather may be near or adjacent to the dividing line because of minor encroachments, engineering errors, or because existing easements prevent a Fence from being located on the dividing line.

10.3 Maintenance and Repair of Fences. All Fences constructed upon or near the dividing line between the Lots shall be maintained in good condition and repaired at the joint cost and expense of the adjoining Lot Owners. Fences constructed upon the back of any Lot (which do not adjoin any other Lot) by the Declarant shall be maintained and repaired at the sole cost and expense of the Lot Owner upon whose Lot (or immediately adjacent to whose Lot) the Fence is installed. Fences may not be altered or changed in design, color, material, or construction from the original construction made by the Declarant without the prior approval of the adjoining Owners, if any, and the Architectural Committee. In the event any dividing line Fence is damaged or destroyed by the act or acts of one of the adjoining Lot Owners or the adjoining Lot Owner's family, agents, guests, invitees, licensees, or tenants (whether or not such act is negligent or otherwise culpable), that adjoining Lot Owner shall be responsible for the damage and shall promptly rebuild and repair the Fence to its prior condition, at that Owner's sole cost and expense. All gates shall be no higher than the adjacent Fence. Except as may otherwise be provided in this Declaration, the general rules of law regarding party walls and fences shall be applied to any dispute or problem.

10.4 Easement for Repair. For the purpose of repairing and maintaining any Fence located upon the dividing line between Lots (or located near or adjacent to the dividing line), an access easement not to exceed five (5) feet in width is created and reserved over the portion of every Lot immediately adjacent to any Fence.

10.5 Permanent Easement for Fences. With respect to any Fence not located exactly on a dividing line between Lots but located near or adjacent to the dividing line, an Owner of a Lot shall have and is granted a permanent easement over any property immediately adjoining the Owner's Lot up to the center line of the Fence for the use and enjoyment of that Owner.

10.6 Visible Side of Fences. Any side of any fence which is visible from any street located within or adjacent to the Property must be of new block construction and may not be painted or stuccoed unless approved by the Architectural Committee.

ARTICLE 11

ARCHITECTURAL CONTROL

11.1 Architectural Approval. No structure, building, fence, wall, solar collector, awning, or landscaping shall be commenced, erected, constructed, or maintained upon any Lot by its Owner, nor shall any exterior addition to or change or alteration be made in or on any Lot or Detached Dwelling Unit, until plans and specifications showing the nature, kind, color, shape, height, materials, floor plan, approximate cost, location, and other material attributes shall have been submitted to the Architectural Committee and approved in writing as to harmony and compatibility of external design and location in relation to surrounding structures, landscaping, and topography. In the event the Architectural Committee fails to approve or disapprove such design and location within thirty (30) days after complete and legible copies of the plans and specifications have been submitted to it, the application shall be deemed approved, and this Section shall be deemed fully complied with. All decisions of the Architectural Committee shall be final. All landscaping, structures, improvements, etc., also must be in conformity with city and county building codes and may be commenced if a proper building permit, if applicable, is issued by the appropriate authority.

11.2 Appointment of Architectural Committee. Declarant shall initially appoint the Architectural Committee which shall consist of not less than three (3) persons, who shall hold office whenever there is a Class B member. If an Architectural Committee is not appointed, the Board shall serve as the Architectural Committee. When there is no Class B member, the Architectural Committee shall be composed of the Board or by three (3) or more representatives appointed by the Board. Such representatives need not be Members of the Association. In the event of the inability, failure to serve, or the resignation of any member of the Architectural Committee prior to the time when the Board is vested with authority, Declarant shall have the right to appoint such member's successor. When the Board becomes vested with authority over the Architectural Committee, it shall have the right to appoint such member's successor.

11.3 Reflective Materials. No reflective materials, including, but without limitation, aluminum foil, reflective screens, reflective glass, mirrors, or similar type items, shall

be installed or placed upon the outside or inside of any windows of a Detached Dwelling Unit without the prior written approval of the Architectural Committee. No enclosures, shades, screens, or other items affecting the exterior appearance of a Detached Dwelling Unit shall be constructed or installed upon any Lot without the prior written consent of the Architectural Committee. Nothing contained in this Article 11 shall be construed to prohibit the installation or use of a solar energy device, solar panels, or other energy devices based on renewable sources; however, no solar energy device or panel may be installed on roofs of Detached Dwelling Units or elsewhere on the Lot without the prior written approval of the Architectural Committee or Declarant.

11.4 Architectural Committee Rules. The Architectural Committee, by unanimous vote or unanimous written consent, may adopt, amend, and repeal rules and regulations regarding the architectural style, nature, kind, shape, height, materials, exterior colors, surface texture, and location of any improvement on a Lot. These rules and regulations shall be called the Architectural Committee Rules. The Architectural Committee Rules shall not be interpreted in a manner which is inconsistent with the Declaration, the Articles, the Bylaws, or the Plats.

11.5 Limited Effect of Approval. The approval by the Architectural Committee of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring prior written approval by virtue of this Declaration or any other Project Documents, shall not be deemed to constitute a waiver of any requirement or restriction imposed by the City of Phoenix or any other law or requirement or restriction imposed by this Declaration and shall not be deemed an approval of the workmanship or quality of the work or of the integrity or sufficiency of the plans, drawings, or specifications.

ARTICLE 12

RESERVATION OF EASEMENTS

12.1 Utility Easements. Declarant reserves and creates a utility easement upon, across, over, and under those portions of the Lots and Common Area depicted and described on the Plats for the installation and maintenance of electric, telephone, water, gas, cable television, drainage facilities, sanitary sewer, or similar utility lines, together with the right of the Declarant, while it holds a Class B membership, to grant, transfer, or assign all or a portion of the benefit of the easement to any public agency, municipality, public authority, or private utility. This utility easement shall in no way affect any other recorded easements. The term of this utility easement shall be perpetual. All utilities shall be placed underground.

12.2 Declarant's Construction Easements. Declarant reserves the right to use any easement created or referred to in the Project Documents through the Common Area and the Lots (including all additional phases) for the purposes of making improvements to the Common Area or Lots.

12.3 Easement for Encroachments. Each Lot and the Common Area shall be subject to a reciprocal and appurtenant easement for encroachments created by construction, settling, and overhangs as originally designed or constructed by Declarant. A valid easement for these encroachments and for their maintenance, so long as they exist, will be deemed created and reserved by Declarant by virtue of the recordation of this Declaration for the benefit of the encroaching Lot and its Owner or the Association, as applicable.

12.4 Easements for Ingress and Egress. Easements for ingress and egress are reserved to the Declarant, the Owners, and their families, guests, tenants, licensees, and invitees for: (i) pedestrian traffic over, through, and across sidewalks, paths, walks, and lanes as from time to time may exist upon the Common Area or public right-of-ways; and (ii) other purposes reasonably necessary to the use and enjoyment of the Common Area or the Owner's Lot.

12.5 Water Easement. Without limiting any other provision of this Declaration or the Plats, there is granted to the City of Phoenix a blanket easement across the Property for the purpose of installation, repairing, reading, and replacing water meter boxes.

12.6 Drainage Easement. Declarant grants to and for the benefit of the City of Phoenix a perpetual and non-exclusive easement in, over, through, across, and under the surface of the Drainage Tract for the purpose of accepting storm water from the Project and installing, maintaining, and repairing drainage pipes, lines, drains, and other drainage facilities (together with the right to ingress and egress to perform the installation, maintenance, or repair). No buildings or similar structures may be erected on the Drainage Tract. No landscaping or vegetation may be planted in the Drainage Tract which would impede the flow of water into, through, over, or under the Drainage Tract. All landscaping installed in the Drainage Tract will be maintained by the Association.

12.7 Dwelling Unit Construction Easement. Without limiting Section 12.2, there is reserved or granted, as applicable, by Declarant to and for the benefit of itself and its agents, employees, and independent contractors a temporary and non-exclusive construction easement over and across a ten (10) foot portion of any adjoining Lot for the purposes of

construction and installation of buildings, structures, and improvements on a Lot; however, this easement shall be temporary in nature and shall automatically terminate and be of no force and effect as to any side of a Lot which adjoins a completed Detached Dwelling Unit for which a final Certificate of Occupancy is issued by the City of Phoenix. Declarant, in utilizing this temporary construction easement, shall not be liable or responsible for any damage to any landscaping or improvements located within the temporary construction easement; however, Declarant shall use (and cause its agents, employees, and independent contractors to use) reasonable care to avoid damage to any landscaping or improvements.

12.8 Visibility Easement. Declarant grants to the City of Phoenix, the Association, and all Owners a restricted visibility easement on and over those Lots indicated on the Plats. All structures and landscaping which are located within this restricted visibility easement shall have at all times a height no greater than three (3) feet higher than the highest elevation of any adjoining streets.

12.9 Vehicular Non-Access. To the extent depicted and described by the Plats, if at all, Declarant grants to the City of Phoenix a vehicular non-access easement across those portions of the Property described on the Plats. No vehicles may come across or over these easement areas to access any adjoining streets or real property.

12.10 Sewer Easement. Declarant grants to the City of Phoenix an easement for the installation, maintenance, and repair of sewer lines and sewage facilities over that portion of the Common Area designated on the Plats.

ARTICLE 13

CONDEMNATION

13.1 General Provisions on Condemnation. If an entire Lot is acquired by eminent domain, or if part of a Lot is acquired by eminent domain leaving the Owner with a remnant which may not practically be used for the purposes permitted by this Declaration, the award shall compensate the Owner for his/her Lot and its interest in the Common Area, whether or not any Common Area interest is acquired by the condemning party. Upon acquisition by condemnation of an entire Lot, unless the condemnation decree provides otherwise, the affected Lot's entire Common Area interest, vote, and membership in the Association, and all common expense liabilities, will be automatically reallocated to the remaining Lots in the Project in proportion to the respective interests, votes, and liabilities of those Lots prior to the taking, and the Association shall promptly prepare,

execute, and record an amendment to the Declaration reflecting these reallocations. For purposes of this Section, by acceptance of a Lot or any interest in a Lot, the Owners shall be deemed to have appointed the Association as their attorney-in-fact for the purposes of amending, executing, and recording the Declaration as provided in this Article 13. Any remnant of a Lot remaining after the taking under this Section 13.1 shall be deemed thereafter a part of the Common Areas.

13.2 Partial Condemnation of Lot. Except as provided in Section 13.1, if a part of a Lot is acquired by eminent domain, the award shall compensate the Owner for the reduction in value and its interest in the Common Areas. Upon such taking, the Lot's interest in the Common Areas, votes, and membership in the Association, and all common expense liabilities, shall remain the same as that which existed before the taking, and the condemning party shall have no interest in the Common Areas, votes, or membership in the Association, or liability for the common expenses.

13.3 Condemnation of Common Area. If a portion of the Common Areas is acquired by eminent domain, the award shall be paid to the Association. The Association shall cause the award to be utilized for the purpose of repairing and restoring the Common Area, including, if the Board deems it necessary or desirable, the replacement of any improvements. Any portion of the award not used for any restoration or repair of the Common Area shall be divided among the Owners and first Mortgagees in proportion to their respective interests in the Common Areas prior to the taking, as their respective interests may appear.

ARTICLE 14

GENERAL PROVISIONS

14.1 Enforcement. The Association, in the first instance, or any Owner, should the Association fail to act within a reasonable time, shall have the right to enforce, by any proceeding at law or in equity, all covenants and restrictions now or hereafter imposed by the provisions of this Declaration, or any amendment to this Declaration or by the Association's Articles of Incorporation, Bylaws, and/or other Project Documents. Failure by the Association or by any Owner to enforce any covenant and reservation in this Declaration or in the Articles, Bylaws, or other Project Documents shall in no event be deemed a waiver of the right to do so thereafter. No act or omission by Declarant shall act as a waiver or defense to the enforcement of this Declaration by the Association or any Owner. Deeds of conveyance of the Property, or any part of the Property, may incorporate the covenants and restrictions by reference to this Declaration; however, each and every covenant and restriction

shall be valid and binding upon the respective grantees whether or not such reference is made in the deed or conveying instrument. Violators of any one or more of the covenants and restrictions may be restrained by any court of competent jurisdiction and damages awarded against such violators; however, a violation of these covenants and restrictions (or any one or more of them) shall not affect the lien of any Mortgage now of record or which hereafter may be placed of record upon the Lots or any part of any Lot. The remedies established in this Declaration may be exercised jointly, severally, cumulatively, successively, and in any order. Without limiting anything contained in the Project Documents, a suit to recover a money judgment for unpaid Assessments, interest, rent, costs, attorneys' fees, or an other amount due, to obtain specific performance, and/or to obtain injunctive relief may be maintained without the foreclosing, waiving, releasing, or satisfying the liens created under this Declaration.

14.2 Severability. Invalidation of any one or any portion of these covenants and restrictions by judgment or court order shall not affect the validity of any other provisions of the Project Documents, which shall remain in full force and effect.

14.3 Term. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years for so long as the Lots continue to be used for Single Family Residential Uses or unless terminated at the end of such term, or any extension, by an affirmative vote of the Owners of ninety percent (90%) of the Lots entitled to vote.

14.4 Amendment. This Declaration and/or the Plats may be amended as provided in this Declaration; however, no amendment may change the ratio of assessments without prior written approval of the then holders of all First Mortgages on not less than two-thirds (2/3) of the Lots. During the first twenty (20) year term of this Declaration and except as otherwise provided in Section 14.8, amendments shall be made only by a recorded instrument executed on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association, and any amendment shall be deemed adopted if approved by the vote of not less than two-thirds (2/3) of the Members cast in person or proxy at a regular or special meeting. After the initial twenty (20) year period, amendments shall be made by a recorded instrument approved and adopted by the vote of not less than two-thirds (2/3) of the Members cast in person or by proxy at a regular or special meeting, and the amendment shall be executed on behalf of the Association by an officer of the Association designated for the purpose or, in the absence of designation, by the President

of the Association. Declarant may unilaterally amend this Declaration or Plats or the other Project Documents prior to recordation of the first deed of any Lot to an Owner or the recordation of a contract to sell a Lot to an Owner other than Declarant.

14.5 FHA/VA. If Federal Housing Administration (FHA) or Veterans Administration (VA) financing is applicable to the Property, any amendment to the Declaration made by the Declarant pursuant to the last sentence of Section 14.4 and any annexation amendment made by the Declarant pursuant to Article 16 shall either: (i) contain the approval of FHA or VA; or (ii) an affidavit that FHA's and VA's approval has been requested in writing and that it has not either approved or disapproved the amendment or annexation within thirty (30) days of Declarant's request.

14.6 Construction. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan and scheme for the development of a planned area development consisting of Single Family Detached Dwelling Units and Common Area with maintenance as provided in this Declaration and the other Project Documents. The provisions of this Declaration shall be construed in a manner which will effectuate the inclusion of additional lots pursuant to Article 16. Section and Article headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. All terms and words used in this Declaration (including any defined terms) regardless of the number and gender in which they are used shall be deemed and construed to include any other number and any other gender as the context or sense of this Declaration may require, with the same effect as if such number and words had been fully and properly written in the required number and gender. Whenever the words and symbol "and/or" are used in this Declaration, it is intended, if consistent with the context, that this Declaration be interpreted and the sentence, phrase, or other part be construed in both its conjunctive and disjunctive sense, and as having been written twice, once with the word "and" inserted, and once with the word "or" inserted, in the place of words and symbol "and/or." Any reference to this Declaration shall automatically be deemed to include all amendments to this Declaration.

14.7 Notices. Any notice permitted or required to be delivered may be delivered either personally, by mail or by express delivery service. If delivery is made by mail, it shall be deemed to have been delivered and received two (2) business days after a copy of the notice has been deposited in the United States mail, postage prepaid, addressed to each person at the address given by such person to the Association for the purpose of service of such notice. If delivery is made by express delivery service, it shall be deemed to have been delivered and

received on the next business day after a copy of the notice has been deposited with an "overnight" or "same-day" delivery service, properly addressed. This address may be changed from time to time by notice in writing received by the Association. If an Owner fails to provide the Association with an address for purposes of receiving notices, the address of any Detached Dwelling Unit owned by the Owner may be used in giving the notice.

14.8 General Declarant Rights. Declarant specifically reserves the right to construct such improvements to the Lots or Common Area as are provided for in this Declaration or the Plats and to change the unit mix of the Lots as provided for in the Declaration or the Plats, without the vote of any Members. Declarant also reserves the right, during any period of Declarant Control, to amend the Declaration or Plats without the vote of any Members to comply with applicable law or correct any error or inconsistency in the Declaration provided the amendment does not materially and adversely affect the rights of any Owner. Declarant reserves the right, during any period of Declarant Control, to amend the Declaration to conform with any rules or guidelines of FNMA, FHA, VA, FHLMC, or other guaranty or secondary market guidelines. Declarant reserves the right, during any period of Declarant Control, without the vote of any Members (but with the consent of the Eligible Insurer, if applicable), to withdraw the Property or portions of the Property from this Declaration and subdivide Lots, convert Lots into Common Area, and convert Common Area into Lots.

14.9 Leases of Lots. Without limiting any other provision of this Declaration, any lease of a Lot must be in writing and must provide that the lease is subject in all respects to the provisions of the Declaration, the Articles of Incorporation, Bylaws of the Association, and the other Project Documents and that any failure by the lessee to comply with those instruments shall be a default under the lease, which default shall be enforceable by the Association.

14.10 Management Agreements. Any management agreement made by the Association or Declarant may be made with an affiliate of Declarant and shall be terminable by the Association with or without cause and without penalty upon thirty (30) days written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive periods of one year or less.

14.11 No Partition. There shall be no partition of any Lot, nor shall Declarant or any Owner or other person acquiring any interest in any Lot, or any part thereof, seek any partition.

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

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

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

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

14.16 Waiver. The waiver of or failure to enforce any breach or violation of the Project Documents shall not be deemed a waiver or abandonment of any provision of the Project Documents or a waiver of the right to enforce any subsequent breach or violation of the Project Documents. The foregoing shall apply regardless of whether any person affected by the Project Documents (or having the right to enforce the Project Documents) has or had knowledge of the breach or violation.

14.17 Attorneys' Fees. In the event an action is instituted to enforce any of the provisions contained in the Project Documents, the party prevailing in such action shall be entitled to recover from the other party all reasonable attorneys' fees and court costs. In the event the Association is the prevailing party in such action, the amount of such attorneys' fees and court costs may be deemed all or part of a special assessment against the Lot and Owner involved in the action.

14.18 Security. Each Owner understands and agrees that neither the Association (nor its officers, directors, employees, and agents) nor the Declarant (nor its officers, directors, employees, and agents) is responsible for the acts or omissions of any third parties or of any other Owner (and the Owner's family members, pets, guests, tenants, licensees, lessees, or invitees) or for any damages or injury to person or property which may result from the acts or omissions of any third party or of any other Owner (and the Owner's family members, pets, guests, tenants, licensees, lessees, or invitees). Any security measures or devices (including security guards, gates, or patrol) which may be used at the Project will commence and be maintained by the Association solely through a majority vote of the Board, and each Owner understands that any security measures or devices which are in effect at the time he or she accepts a deed for a Lot (or otherwise becomes an "Owner") may be abandoned, terminated, or modified by a majority vote of the Board. Nothing contained in this Declaration shall be deemed to be an express or implied warranty of the Association or Declarant that the Project is or will be free from crime, and the commencement of security devices or controls shall not be deemed to be an assumption of a duty on the part of the Association or the Declarant to keep the Project and its Owners safe or free from crime.

ARTICLE 15

RIGHTS AND DUTIES OF FIRST MORTGAGEE

15.1 First Mortgagee Protections. Notwithstanding any other provisions of this Declaration or any other Project Documents, the following provisions shall apply to and benefit each holder of a First Mortgage upon a Lot:

(a) The First Mortgagee shall not be personally liable for the payment of any assessment or charge or for the observance or performance of any covenants and restrictions, except as provided in this Declaration;

(b) At the time any First Mortgagee becomes the record Owner of a Lot, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration and the Project Documents, including, but not limited to, the obligation to pay for all assessments and charges accruing after the First Mortgagee becomes an Owner, in the same manner as any Owner.

15.2 Mortgagee and Insurer Notices. Upon furnishing the Association with a written request stating the name and address of the Eligible Mortgage Holder or the applicable Eligible Insurer and stating the address of the Lot upon which the First Mortgage of the Eligible Mortgage Holder is held,

Eligible Mortgage Holders and Eligible Insurers shall be entitled to the following notices:

(a) Written notification from the Association of any default in the performance by the individual Owner (and borrower on the applicable First Mortgage) of any obligation under the Project Documents which has remained uncured for a period of sixty (60) days;

(b) Written notification from the Association of any casualty loss or condemnation loss which affects a material portion of the Project or any Lot upon which there is a First Mortgage held by an Eligible Mortgage Holder or upon which there is a First Mortgage insured by an Eligible Insurer;

(c) Written notification from the Association of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Written notification from the Association of any proposed action which will require the consent of a specified number of Eligible Mortgage Holders or Eligible Insurers, as set forth in this Declaration.

15.3 Approval Required to Terminate Project. Any termination of the legal status of the Project for reasons other than the substantial destruction or condemnation of the Project shall not be effective unless approved by at least two-thirds (2/3) of the Eligible Mortgage Holders.

15.4 Approval Required for Amendment to Declaration, Articles or By-laws. The approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders shall be required to add to or amend any material provisions of the Declaration, Articles, or Bylaws which establish, provide for, govern, or regulate any of the following:

(a) Voting rights;

(b) Assessments, assessment liens, or subordination of assessment liens;

(c) Reserves for maintenance, repair, and replacement of Common Area;

(d) Insurance of the Association or fidelity bonds;

(e) Responsibility for the maintenance and repairs of the Common Area;

(f) Expansion or contraction of the Project, or the addition, annexation, or withdrawal of real property to or from the Project (except that the addition, annexation, or withdrawal of the Annexable Property shall not require the vote of any of the Eligible Mortgage Holders);

(g) Boundaries of any Lot sold to an Owner (other than those Lots owned by Declarant);

(h) Reallocation of interests in the Common Area or the rights to the use of the Common Area;

(i) Convertability of Lots into Common Area or Common Area into Lots;

(j) Leasing of Detached Dwelling Units;

(k) Imposition of any restrictions on an Owner's right to sell or transfer his Lot;

(l) A decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;

(m) Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;

(n) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; and

(o) Any provisions which expressly benefit First Mortgagees, Eligible Mortgage Holders, or Eligible Insurers.

Any addition or amendment to the Declaration, Articles, or Bylaws shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. Any First Mortgagee who has been delivered a written request to approve additions or amendments to the Declaration, Articles, or Bylaws which are not material and who does not deliver or mail to the requesting party a negative response within thirty (30) days from the date the notice is deemed received shall be deemed to have approved the request and consented to the action.

15.5 First Mortgagee's Right of Inspection. Any First Mortgagee will, upon written request to the Association, be entitled to: (i) inspect the books and records of the Association during normal business hours; (ii) receive, within ninety (90) days following the end of any fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of

charge to the First Mortgagee; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

15.6 Limitation on Partition and Subdivision. No Lot shall be partitioned or subdivided without the prior written approval of the holder of any First Mortgage on such Lot.

15.7 Conflicting Provisions. Except as set forth in the following sentence, in the event of any conflict or inconsistency between the provisions of this Article 15 and any other provision of the Project Documents, the provisions of this Article 15 shall prevail. In the event of any conflict or inconsistency between the different sub-sections of this Article 15 or between the provisions of this Article 15 and any other provision of the Project Documents with respect to the number or percentage of Owners, First Mortgagees, Eligible Mortgage Holders, or Eligible Insurers that must consent to an amendment of the Declaration, Articles, or Bylaws, or a termination of the Project, or certain actions of the Association as specified in this Declaration, the provision requiring the consent of the greatest number or percentage of Owners, First Mortgagees, Eligible Mortgage Holders, or Eligible Insurers shall prevail.

ARTICLE 16

DEVELOPMENT PLAN AND ANNEXATION

16.1 Proposed Development. Declarant currently contemplates the development of a residential subdivision which may, if completed, encompass more real property than that currently described as the Property. The foregoing, however, is not a representation, warranty, or assurance by the Declarant that the contemplated development will be completed. Each Owner of a Lot, by acceptance of a deed for that Lot (or otherwise becoming an "Owner"), acknowledges that it has not relied upon any representation, warranty, or expression, written or oral, made by Declarant or any of its agents, regarding: (i) whether the contemplated development will be completed or carried out; (ii) whether any land now or in the future owned by Declarant will be subject to this Declaration or developed for a particular use; or (iii) whether any land now or in the future owned by Declarant was once or is used for a particular use or whether any prior or present use will continue in effect. Declarant need not construct Detached Dwelling Units on any Lot subject to the Declaration in any particular order or progression, but Declarant may build Detached Dwelling Units on any Lot subject to this Declaration in an order or progression as Declarant desires to meet its needs or desires or the needs or desires of a potential purchaser.

16.2 Annexation Without Approval.

(a) Annexable Property. Declarant shall have the unilateral right, privilege, and option, from time to time and at any time until seven (7) years from the date of recordation of this Declaration, to conditionally annex and subject to the provisions of this Declaration all or any portion of the Annexable Property, by recording, in the Official Records of Maricopa County, Arizona, an amendment to this Declaration ("Annexation Amendment"). For purposes of this Declaration, the term "Annexable Property" shall mean real property depicted on the Plat which has not initially been subjected to this Declaration.

(b) Annexation Amendment. An Annexation Amendment to this Declaration shall not require the vote or consent of any Member, Eligible Mortgage Holder, First Mortgagee, or Eligible Insurer. The Annexation Amendment must be signed by the Declarant only, must describe the lots and tracts to be included, and must expressly refer to the Declaration and recite that the lots and tracts are annexed into the Declaration and Project. The Annexation Amendment also may contain any modifications to this Declaration as may be necessary to reflect the different character or use of the Annexable Property. Declarant shall have the unilateral right to transfer to any other person the right, privilege, and option to annex the Annexable Property provided that the transfer is memorialized in a written and recorded instrument.

(c) Irrevocable Annexation. Any portion of the Annexable Property which is conditionally annexed pursuant to this Section 16.2 shall not become irrevocably annexed to the Project until the date upon which the first Lot within the annexed portion of the Annexable Property is conveyed to a purchaser. The irrevocable annexation of any portion of the Annexable Property may, but need not, be evidenced by an additional written instrument recorded in the Official Records of Maricopa County, Arizona.

(d) Phasing. If any Annexation Amendment recorded pursuant to this Section 16.2 divides the portion of the Annexable Property being annexed into new and separate phases, each phase of the real property being annexed shall not become irrevocably annexed into the Project until the date on which the first Lot within the new phase is conveyed to a purchaser.

(e) Changes and Withdrawal. The Declarant shall have the unilateral right to amend any Annexation Amendment recorded pursuant to this Section 16.2 to change the description of phases within the property being annexed (and such phases need not be exactly those phases described on the Plat); however,

Declarant may not change any portion of the Annexable Property which has already become irrevocably annexed into the Project. At any time prior to the date which is seven (7) years after the date of recordation of this Declaration, the Declarant, without the vote or consent of the Members, Eligible Mortgage Holders, First Mortgagees, or Eligible Insurers, may withdraw from the Project any part of the Annexable Property which has not been irrevocably annexed to the Project pursuant to the provisions of this Article 16. Any withdrawal of property from the Project shall be accomplished by the recording, in the Official Records of Maricopa County, Arizona, a "Declaration of Withdrawal" executed by the Declarant describing the portion of the real property being withdrawn. Upon the recordation of any such Declaration of Withdrawal, the portion of the Annexable Property described in the Declaration of Withdrawal shall no longer be part of the Project or subject to the Declaration.

(f) Voting. The voting rights of the Owners (including the weighted voting rights of the Declarant of Lots annexed pursuant to this Section 16.2 shall be effective as of the date the Annexation Amendment is recorded.

(g) Assessments on Annexed Land. Any assessments for Lots annexed by the Declarant pursuant to Section 16.2 of this Declaration shall commence on the first day of the first month following that date the annexed portion of the Annexable Property becomes irrevocably annexed into the Project, and no assessments shall be levied or collected against any Lot or its Owner until irrevocable annexation.

16.3 Annexation With Approval of Membership. Upon the written consent or affirmative vote of at least two thirds (2/3) of the Class A Members of the Association present in person or by proxy at a meeting duly called for such purpose (and further upon the written consent of the Declarant so long as Declarant owns real property subject to this Declaration or which may become subject to the Declaration pursuant to Section 16.2), the Association may annex real property other than the Annexable Property to the provisions of this Declaration by recording in the Official Records of Maricopa County, Arizona, a "Supplemental Declaration" describing the real property being annexed. Any Supplemental Declaration shall be signed by the President and the Secretary of the Association and the owner or owners of the properties being annexed, and any annexation under this Section 16.3 shall be effective upon its recordation.

16.4 Acquisition of Additional Common Area. From time to time, Declarant may convey additional real estate, improved or unimproved, located within the Annexable Property to the Association. Upon conveyance to the Association, the real property shall be deemed to have been accepted by the Association and, after the conveyance, shall be maintained by the Association at its expense for the benefit of all its Members.

16.5 Effect of Annexation. Except as provided in Section 16.2(g) with regard to the commencement of assessments on conditionally annexed Annexable Property, when a phase has been included (annexed) under this Declaration, the Owners of the Lots of the additional phase shall have the same rights, duties, and obligations (including the obligation to pay for assessments) under this Declaration as the Owners of Lots in the first phase (i.e., the Lots initially covered by this Declaration) and vice versa. Any tracts added as Common Area shall be added for the benefit of the Owners of Lots in the first phase and in any previously added phases as well as the Owners of Lots added in the same phase as that tract. The Association shall maintain any added Common Area tracts, and all Owners shall be assessed for the maintenance and subsequent development of any additional tract as though all Lots and all Common Area tracts then covered by this Declaration had been initially subject to this Declaration.

16.6 No Assurance on Annexable Property. Declarant makes no assurances that all or any portion of the Annexable Property will be annexed into the Property, and Declarant makes no assurances as to the exact type or location of buildings and other improvements to be constructed on the Annexable Property, if annexed. Declarant makes no assurances as to the exact number of Lots which may be added by annexation of all or any portion of the Annexable Property, if annexed. Declarant makes no assurances as to the style or type of improvements which may be constructed on the Annexable Property; however, the improvements shall be consistent in quality with the improvements constructed on the real property described in Exhibit "A" and Exhibit "B" attached to this Declaration. All taxes and other assessments relating to all or any portion of the Annexable Property annexed by the Declarant covering any period prior to the time at which such portion of the Annexable Property is irrevocably annexed to the Project in accordance with Section 16.2 of this Declaration shall be the responsibility of, and shall be paid for, by the Declarant. Declarant reserves the right, without the vote or consent of the Members, Eligible Mortgage Holders, First Mortgagees, or Eligible Insurers, to: (i) sell the Annexable Property to any other Person; (ii) change the character and use of the Annexable Property; and (iii) to amend, modify, abandon, or change the Plat to reflect the foregoing or the withdrawal of any portion of the Annexable Property from the Project.

16.7 Amendment. This Article 16 shall not be amended without the written consent of Declarant, so long as the Declarant owns all or any portion of the Project or the Annexable Property.

DATED as of 3/24, 1992.

92 151682

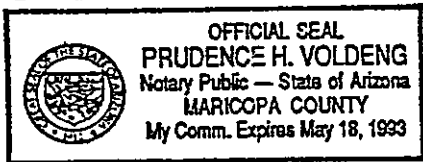
"DECLARANT"

WH/Arizona, Inc., a California corporation, which is authorized to transact business in Arizona as WH/Arizona, Inc. of CA(FN)

By: [Signature]
Its: Vice President - Sales

STATE OF ARIZONA)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 24 day of March, 1992, by Joseph Thompson the Vice President - Sales of WH/Arizona, Inc. a California corporation, which is authorized to transact business in Arizona as WH/Arizona, Inc. of CA(FN), who executed the foregoing on behalf of the corporation, being authorized so to do for the purposes therein contained.



Kathleen P Voldeng
Notary Public
Prudence Voldeng

My Commission Expires:

May 18, 1993

EXHIBIT "A"

92 151682

(legal description - Tatum Heights)

Lots 1 through 53, inclusive, and Tract A, TATUM HEIGHTS, according to the plat of record as shown in Book 348 of Maps, Page 48, Official Records of Maricopa County, Arizona.

[Note: This may be revised to reflect any FNMA or FHA phasing applicable to the Project.]

EXHIBIT "B"

(legal description - Tatum Manor)

Lots 1 through 109, inclusive, and Tracts A, B, and C, TATUM MANOR, according to the plat of record as shown in Book 349 of Maps, Page 11, Official Records of Maricopa County, Arizona.

[Note: This may be revised to reflect any FNMA or FHA phasing applicable to the Project.]