

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: BMV
DEPUTY RECORDER
1985 PE7

REZMS
EZ MESSENGER ATTORNEY SERVICE
EZ-WATERFALL



DOCKET: 12684
PAGE: 7310
NO. OF PAGES: 2
SEQUENCE: 20052251302
11/21/2005
NOTICE 17:30
PICKUP
AMOUNT PAID \$ 9.00

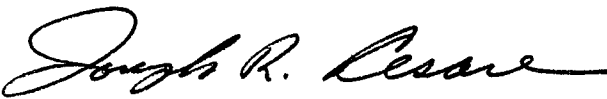
Hugh M. Caldwell, Jr., Esq.
Waterfall, Economidis, Caldwell,
Hanshaw & Villamana, P.C.
5210 East Williams Circle, Suite 800
Tucson, AZ 85711

NOTICE FOR STAR VALLEY MASTER HOMEOWNERS ASSOCIATION

Pursuant to A.R.S. §33-1807(J) **STAR VALLEY MASTER HOMEOWNERS ASSOCIATION** gives Notice of the following information:

1. The name of this Association (as reflected in the records of the Arizona Corporation Commission) is: **Star Valley Master Homeowners Association** (the "Association").
2. The address of the Association is: P.O. Box 17539, Tucson, AZ 85731.
3. The designated agent/management company for the Association is: Platinum Management Inc.
4. The telephone number for the Association is: (520) 623-2324.
5. The name of this subdivision as reflected on the plat for this development is Star Valley.
6. The Second Amendment and Restatement of Declaration of Covenants, Conditions, and Restrictions for Star Valley was recorded on November 19, 2004, in Docket 12432, at page 415, Office of the Pima County Recorder. Amendments to the Declaration are recorded as follows: None

STAR VALLEY MASTER HOMEOWNERS
ASSOCIATION

By: 
Joseph R. Cesare, President 16 Nov 05

Page 1 of 2

STATE OF ARIZONA)
) ss.
County of Pima)

ACKNOWLEDGED before me on this 16th day of November, 2005, by JOSEPH R. CESARE, acting in his capacity as President of Star Valley Master Homeowners Association.

(Seal)



Marsha Corral

Notary Public

1-2005-01-24

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: JAS
DEPUTY RECORDER
8542 ES2



DOCKET: 12432
PAGE: 415
NO. OF PAGES: 72
SEQUENCE: 20042240108
11/19/2004
REST 09:55
MAIL
AMOUNT PAID \$ 77.00

TTIGA
BROADWAY REALTY & TRUST
P O BOX 12863
TUCSON AZ 85732

I
D
E

When recorded return to:

Broadway Realty & Trust, Inc.
P.O. Box 12863
Tucson, Arizona 85732
#253457DM

For Recorder's Use

**SECOND AMENDMENT AND RESTATEMENT
OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
STAR VALLEY**

RECORDING DEPARTMENT

TABLE OF CONTENTS

		Page
ARTICLE 1	DEFINITIONS.....	4
	"Additional Covenants"	4
Section 1.1	"Agency" or "Agencies"	4
Section 1.2	"Annexable Property"	4
Section 1.3	"Annual Assessments"	4
Section 1.4	"Apartment Block"	4
Section 1.5	"Apartment Unit"	4
Section 1.6	"Architectural and Development Guidelines"	4
Section 1.7	"Articles"	5
Section 1.8	"Assessments"	5
Section 1.9	"Assessment Lien"	5
Section 1.10	"Assessment Period"	5
Section 1.11	"Association"	5
Section 1.12	"Association Rules"	5
Section 1.13	"Block".....	5
Section 1.14	"Board"	5
Section 1.15	"By-Laws"	5
Section 1.16	"Common Areas"	5
Section 1.17	"Condominium Block".....	6
Section 1.18	"Condominium Unit"	6
Section 1.19	"Covered Property"	6
Section 1.20	"Declarant".....	6
Section 1.21	"Declarant Affiliate"	6
Section 1.22	"Declaration"	6
Section 1.23	"Delinquent Amount"	7
Section 1.24	"Design Review Committee"	7
Section 1.25	"Developer Owner"	7
Section 1.26	"Dwelling Unit"	7
Section 1.27	"Eligible Insurer or Guarantor"	7
Section 1.28	"Eligible Mortgage Holder"	7
Section 1.29	"Event of Foreclosure"	7
Section 1.30	"Exempt Property"	7
Section 1.31	"FHA"	7
Section 1.32	"First Mortgage"	8
Section 1.33	"First Mortgagee"	8
Section 1.34	"Funds"	8
Section 1.35	"Government Property"	8
Section 1.36	"Land Use Classification"	8
Section 1.37	"Limited Common Areas"	8
Section 1.38	"Lot"	8
Section 1.39	"Maintenance Assessments"	8
Section 1.40	"Member"	8
Section 1.41	"Membership"	8
Section 1.42		

2014-01-14 10:10:10 AM

TABLE OF CONTENTS
(cont'd)

	Page
Section 1.43 "Net Acre"	9
Section 1.44 "Non-Developer Owner"	9
Section 1.45 "Occupant"	9
Section 1.46 "Owner" or "Homeowner"	9
Section 1.47 "Perimeter Wall"	9
Section 1.48 "Person"	10
Section 1.49 "Plat"	10
Section 1.50 "Record", "Recording" and "Recorded"	10
Section 1.51 "Residential Apartment Development"	10
Section 1.52 "Residential Condominium Development"	10
Section 1.53 "Single Family"	10
Section 1.54 "Single Family Block"	10
Section 1.55 "Special Assessments"	10
Section 1.56 "Special Use Fees"	10
Section 1.57 "Subsidiary Association"	10
Section 1.58 "Taking"	10
Section 1.59 "Tenant"	11
Section 1.60 "Tract Declaration"	11
Section 1.61 "VA"	11
Section 1.62 "Visible From Neighboring Property"	11
ARTICLE 2 PROPERTY AND PERSONS BOUND BY THIS DECLARATION.....	11
Section 2.1 General Declaration	11
Section 2.2 TGA Trust 1440 Rights	12
Section 2.3 Owners and Occupants Bound.....	12
Section 2.4 Association Bound.	12
Section 2.5 Subsidiary Associations Bound.	12
Section 2.6 Government Property.	12
Section 2.7 Star Valley Specific Plan.	12
ARTICLE 3 EASEMENTS AND RIGHTS OF ENJOYMENT IN THE COMMON	
 AREAS	12
Section 3.1 Easements and Rights of Enjoyment	12
Section 3.2 Delegation of Use	14
Section 3.3 Waiver of Use	14
Section 3.4 Acceptance of Certain Common Areas.....	14
Section 3.5 Temporary Sign Easement.....	14
Section 3.6 Exclusive Use and Benefit Easements	15
Section 3.7 Blanket Easements	15
Section 3.8 Class B and Class C Riparian Habitats	16
Section 3.9 Bufferyard C	16
ARTICLE 4 DESIGN REVIEW COMMITTEE.....	16

4-1-2008 10:00 AM

TABLE OF CONTENTS
(cont'd)

Page

	Organization of Design Review Committee	16
Section 4.1	Multiple Committees	18
Section 4.2	Meetings and Compensation of Design Review Committee	18
Section 4.3	Architectural and Development Guidelines	18
Section 4.4	Obligation to Obtain Approval	19
Section 4.5	Waiver	19
Section 4.6	Liability	19
Section 4.7	Appeal to Board	20
Section 4.8	Fee	20
Section 4.9	Inspection	20
Section 4.10	Blanket Approval by Declarant	20
Section 4.11	Jurisdiction over Other Blocks	21
Section 4.12		
ARTICLE 5	LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS	21
	Section 5.1 Land Use Classifications	21
	Section 5.2 Covenants, Conditions, Restrictions, and Easements Applicable to All Land Use Classifications	23
	Section 5.3 Variances	33
	Section 5.4 Declarant's Exemption	33
	Section 5.5 Savings Clause	34
ARTICLE 6	ORGANIZATION OF ASSOCIATION	34
	Section 6.1 Formation of Association	34
	Section 6.2 Board of Directors and Officers	34
	Section 6.3 Association Rules	34
	Section 6.4 Personal Liability	35
	Section 6.5 Subsidiary Associations	35
	Section 6.6 Mergers or Consolidations	35
ARTICLE 7	MEMBERSHIPS AND VOTING	36
	Section 7.1 Votes of Owners of Lots and Blocks	36
	Section 7.2 Membership is Appurtenant to Ownership	37
	Section 7.3 Declarant	37
	Section 7.4 Voting Classes	37
	Section 7.5 Right to Vote	38
	Section 7.6 Members' Rights	38
	Section 7.7 Transfer of Membership	38
ARTICLE 8	ASSESSMENTS AND CREATION OF LIEN	39
	Section 8.1 Creation of Assessment Lien; Personal Obligation of Lot or Block Owner	39
	Section 8.2 Annual Assessments	39
	Section 8.3 Rate of Assessment	39

TABLE OF CONTENTS
(cont'd)

		Page
	Payment of Charges by First Mortgagees	53
Section 13.4	Right of Inspection of Records	53
Section 13.5		
ARTICLE 14	EMINENT DOMAIN INVOLVING THE COMMON AREA	53
Section 14.1	Eminent Domain	53
Section 14.2	Representative of Owners	54
ARTICLE 15	INSURANCE	54
Section 15.1	Association's Insurance Requirements	54
Section 15.2	Exceptions	55
Section 15.3	Waiver of Subrogation: Claims Against Declarant, Etc	55
Section 15.4	Association's Insurance Premiums a Common Expense	56
Section 15.5	Insurance for Residences and Lots	56
Section 15.6	Use of Insurance Proceeds	56
ARTICLE 16	DISPUTE RESOLUTION	56
Section 16.1	Consensus for Association Action	56
Section 16.2	Alternative Method for Resolving Disputes	57
Section 16.3	Claims	57
Section 16.4	Mandatory Procedures	57
Section 16.5	Amendment of Article	59
ARTICLE 17	TERM; AMENDMENTS; TERMINATION	60
Section 17.1	Term; Method of Termination	60
Section 17.2	Amendments	60
Section 17.3	Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institution	60
ARTICLE 18	ANNEXATION AND WITHDRAWAL OF PROPERTY	61
Section 18.1	Annexation by Declarant	61
Section 18.2	Annexation of TGA Trust 1440 Blocks	61
Section 18.3	Annexation by Owners	62
Section 18.4	Tract Declarations	62
Section 18.5	Withdrawal of Covered Property	62
ARTICLE 19	MISCELLANEOUS	63
Section 19.1	Severability	63
Section 19.2	Change of Circumstances	63
Section 19.3	Declarant's Disclaimer of Representations	63
Section 19.4	Successors and Assigns; Assignees of Declarant	64
Section 19.5	Gender and Number	64
Section 19.6	Captions	64
Section 19.7	Notices	64

REPRODUCED FROM ORIGINAL

**SECOND AMENDMENT AND RESTATEMENT
OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
STAR VALLEY**

This Second Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Star Valley is made this 18 day of NOVEMBER, 2004 by TITLE GUARANTY AGENCY OF ARIZONA, as Trustee under Trust T-1330 ("Declarant"), with the consent of TITLE GUARANTY AGENCY OF ARIZONA, as Trustee under Trust T-1440.

WITNESSETH:

WHEREAS, Declarant is the Owner of certain real property in the County of Pima, State of Arizona, which is more particularly described as:

Star Valley Block 2, Lots 1 through 212 and Common Areas A (Open Space and Landscape Bufferyard); Common Area B (Private Drainage), and Common Area C (Drainageway Open Space) a subdivision of Pima County, Arizona as recorded Book 57 at Page 86, of Maps and Plats, Pima County Records, a resubdivision of Block 2 of the Star Valley Master Block Plat as recorded in Book 56 at Page 55 of Maps and Plats, Pima County Records (hereinafter "Block 2);

Star Valley Block 10, Lots 1 through 228, and Common Areas A (Open Space, Pedestrian, and Landscape Bufferyard); Common Area B (Private Drainage), Common Area C (Drainageway Open Space) and Common Area D (Parking), a subdivision of Pima County, Arizona as recorded Book 57 at Page 87, of Maps and Plats, Pima County Records, a resubdivision of Block 10 of the Star Valley Master Block Plat as recorded in Book 56 at Page 55 of Maps and Plats, Pima County Records (hereinafter "Block 10);

Star Valley Block 15, Lots 1 through 484, Block 15A and Common Areas A (Open Space and Landscape Bufferyard); Common Area B (Private Drainage), and Common Area C (Drainageway Open Space), a subdivision of Pima County, Arizona as recorded Book 57 at Page 88, of Maps and Plats, Pima County Records, a resubdivision of Block 15 of the Star Valley Master Block Plat as recorded in Book 56 at Page 55 of Maps and Plats, Pima County Records (hereinafter "Block 15);

Star Valley Block 18, Lots 1 through 286, and Common Areas A (Open Space); Common Area B (Private Drainage and Landscape Bufferyard), and Common Area C (Drainageway Open Space), a

LAW OFFICE OF JEFFREY M. HARRIS

subdivision of Pima County, Arizona as recorded Book 57 at Page 89, of Maps and Plats, Pima County Records, a resubdivision of Block 18 of the Star Valley Master Block Plat as recorded in Book 56 at Page 55 of Maps and Plats, Pima County Records (hereinafter "Block 18");

Blocks 1, 3, 4, 7, 8, 9, 13, 14, 19, 20, 21, 22, 23, 25, 26, 27, 28 and 29 of that certain plat known as Star Valley Master Block Plat recorded in Book 56 of Maps and Plats at Page 55 thereof, in the Office of the Pima County Recorder, Pima County, Arizona.

WHEREAS, Declarant and Title Guaranty Agency of Arizona, as Trustee under Trust T-1440 (hereinafter "TGA Trust 1440"), heretofore executed that certain Declaration of Covenants, Conditions and Restrictions for Star Valley Blocks 1 through 30, recorded at Docket 11922, Page 3223, Pima County Records (the "Original Declaration").

WHEREAS, Declarant, by recordation of that certain Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Star Valley, recorded Docket 12203 Page 368, Pima County Records (the "First Restatement") confirmed its general plan to govern Blocks 2, 10, 15 and 18, as resubdivided (hereinafter the "Covered Property"), and to withdraw from the purview of the Original Declaration all Blocks recited above owned by Declarant other than the Covered Property, but to allow for the annexation of such withdrawn land and other land, including but not limited to all other Blocks on the Plat, pursuant to the provisions hereof.

WHEREAS, pursuant to the provisions of the Original Declaration and the First Restatement, TGA Trust 1440 consented to the withdrawal of all Blocks from the purview of the Original Declaration, other than the Covered Property, including without limitation, the withdrawal of Blocks 5, 6, 11, 12, 16, 17, 24 and 30 of Star Valley as shown on the Plat and owned by TGA Trust 1440 (hereinafter referred to herein as the "TGA Trust 1440 Blocks"), leaving the TGA Trust 1440 Blocks or all or any portion thereof to be subject to annexation into the Covered Property, at the sole discretion of TGA Trust 1440, under the purview of this Declaration and solely pursuant to the provisions hereof.

WHEREAS, the Covered Property has been, or shall be, platted into various Lots and Common Areas, which Common Areas shall be owned or maintained by the Association.

WHEREAS, this instrument does hereby amend and restate in its entirety that certain Original Declaration and the First Restatement, and shall apply to the Annexable Property only upon annexation thereof, except that the owners of the Annexable Property shall be bound to adhere to and comply with the provisions of Section 3.8 and Section 3.9 hereof. Upon recordation of this Declaration, the Original Declaration and First Restatement shall be deemed entirely superceded and of no further force or affect.

WHEREAS, Declarant desires to see the Covered Property developed as one or more planned communities with open spaces, pedestrian and other trails, paths and other facilities.

RECORDED

WHEREAS, as part of the development of the Covered Property, and without obligation to do so, Declarant may provide for the Recordation of various additional covenants, conditions and restrictions apart from this Declaration in the form of separate Tract Declarations which shall cover certain portions of the Covered Property to be specified in such Tract Declarations.

WHEREAS, Declarant desires and intends that the Covered Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easements in this Declaration, which: (i) are for the purpose of protecting the value, desirability, attractiveness and character of the Covered Property; (ii) shall run with all of the real property comprising the Covered Property; (iii) shall be binding on all parties having any right, title or interest in the Covered Property, or any part thereof; and (iv) shall inure to the benefit of the aforementioned parties and their successors and assigns. No promise or undertaking of any nature whatsoever exists or is, or has been, made that any particular land use type or classification will be built upon any portion of the Covered Property or elsewhere, or that any development plan or scheme will not be changed, or that any particular improvement will or will not be built at any location whether or not within the Covered Property.

WHEREAS, Declarant desires to form an Arizona nonprofit corporation to be known as the "Star Valley Master Homeowners Association," or by another legally available name, for the purposes of, among other things: (i) holding title in fee or otherwise to the Common Areas; (ii) fostering the efficient preservation of the values and amenities of the Covered Property, in regard to which the Association will be delegated certain powers of administering and maintaining the Common Areas and enforcing this Declaration and the Architectural and Development Guidelines adopted pursuant hereto; and (iii) establishing, collecting, disbursing and enforcing the Assessments created herein.

WHEREAS, until such time as the Association is incorporated, Declarant shall and does hereby reserve to itself, its successors and assigns, the right to exercise the powers, rights and duties granted to or imposed upon the Association under this Declaration.

NOW, THEREFORE, Declarant hereby declares that this Declaration shall apply to the Covered Property and is in furtherance of a general plan for the development and sale of the Covered Property and is established for the purpose of enhancing and protecting the desirability and attractiveness of the Covered Property, all as provided herein. This Declaration shall run with the Covered Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, and all Owners and Occupants of the Covered Property and their successors in interest. The Covered Property, and all land annexed into the Covered Property pursuant to the provisions hereof, if any, shall be the only land encumbered by this Declaration, with the sole exception Declarant and its successors and assigns agree to and shall be bound to and comply with the provisions of Section 3.8 and 3.9 hereof as to the Annexable Property regardless of whether or not the Annexable Property or any portion thereof is annexed and that TGA Trust 1440 and its successors and assigns agrees to and shall be bound to adhere to and comply with the provisions of Section 3.8 and Section 3.9 hereof as to the TGA Trust 1440 Blocks regardless of whether or not the TGA Trust 1440 Blocks or any portion thereof are

ASSISTANT SECRETARY

annexed. Except as aforesaid, all land other than the Covered Property is hereby declared withdrawn and not subject to this Declaration unless and until annexed.

Declarant, with the consent of TGA Trust 1440, does hereby declare that the Original Declaration and the First Restatement are entirely superceded by this instrument and are of no further force or affect, and, accordingly, the following covenants, conditions, restrictions and easements are established to govern the Covered Property:

ARTICLE 1

DEFINITIONS

As used in this Declaration, the following terms shall have following meanings:

Section 1.1 "Additional Covenants" shall mean the covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements in addition to those provided for in this Declaration, which are provided for in any Tract Declaration, any Recorded contract, deed, declaration or other instrument impacting the Covered Property and recorded pursuant to this Declaration or at the direction of Declarant in furtherance of this Declaration.

Section 1.2 "Agency" or "Agencies" shall mean the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and any other governmental agency or financial institution participating in the insuring or guaranteeing of home loans within the Covered Property.

Section 1.3 "Annexable Property" shall mean any real property near or adjacent to the Covered Property and which may be annexed pursuant to the provisions hereof. Annexable Property includes, without limitation, Blocks 1, 3 through 9, 11 through 14, 16, 17, and 19 through 30 of Star Valley, as shown on the Star Valley Master Block Plat recorded in Book 56 of Maps and Plats at Page 55, Pima County records.

Section 1.4 "Annual Assessments" shall mean the annual assessments levied by the Board pursuant to Section 8.2 of this Declaration.

Section 1.5 "Apartment Block" shall mean a Block designated in a Tract Declaration as having a Residential Apartment Land Use Classification.

Section 1.6 "Apartment Unit" shall mean a Dwelling Unit located on a portion of the Covered Property which has been designated as being for Residential Apartment Development use, the occupancy of which is or is planned to be governed by a rental agreement as defined in A.R.S. §33-1310(11).

Section 1.7 "Architectural and Development Guidelines" shall mean the rules and regulations adopted, amended and supplemented by the Design Review Committee pursuant to Section 4.4 of this Declaration, and shall include architectural and landscape guidelines.

Section 1.8 "Articles" shall mean the Articles of Incorporation of the Association, as amended or restated from time to time, on file with the Arizona Corporation Commission.

Section 1.9 "Assessments" shall mean all Annual Assessments, Special Assessments and Maintenance Assessments levied by the Board pursuant to the provisions hereof.

Section 1.10 "Assessment Lien" shall mean the charge and continuing servitude and lien against a Lot or Block for payment of Assessments and Special Use Fees as described in Section 8.1 of this Declaration.

Section 1.11 "Assessment Period" shall mean each period for which Assessments are to be levied against a Lot or Block pursuant to this Declaration, as more particularly described in Section 8.8 below.

Section 1.12 "Association" shall mean the "Star Valley Master Homeowners Association," an Arizona nonprofit corporation, its successors and assigns, or the association, by whatever name, that Declarant incorporates to govern the Covered Property.

Section 1.13 "Association Rules" shall mean the rules and regulations adopted by the Association pursuant to Section 6.3 and Section 12.2 of this Declaration.

Section 1.14 "Block" shall mean any numbered Block or any portion thereof within the Covered Property, including a parcel designated for Residential Apartment Development Use or Residential Condominium Development Use, other than Common Areas to be owned in fee title by the Association, and including any portion, pad, or subparcel thereof, if such portion, pad, or subparcel shall have been created by a parcel split or subdivision approved or permitted in accordance with this Declaration. Notwithstanding the foregoing, a Block shall cease being a Block upon Recording of a subdivision plat or a declaration of condominium creating Lots or Condominium Units in regard thereto. In the case of the staged development of a Block having a Land Use Classification of Cluster Residential Use, Single Family Residential Use or Residential Condominium Development Use, those areas of such Block not yet covered by a Recorded subdivision plat or declaration of condominium creating Lots or Condominium Units shall continue to be a Block for purposes of this Declaration. Solely for the purposes of the application of Section 3.8 and Section 3.9 and until annexed, the term "Block" shall include the TGA Trust 1440 Blocks.

Section 1.15 "Board" shall mean the Board of Directors of the Association.

Section 1.16 "By-Laws" shall mean the By-Laws of the Association, as amended or restated from time to time.

Section 1.17 "Common Areas" shall mean all real property and improvements or amenities thereon owned by the Association, and all easement and license rights owned or controlled by the Association (except such easements or licenses which grant a use within a public right-of-way). Common Area shall include all flood control, drainage, bicycle or jogging paths, parks, recreational areas, open space, and walkways, if any, and pedestrian and vehicular

UNRECORDED

ingress and egress within real property owned by the Association, or with respect to which the Association has undertaken administrative, maintenance or other similar responsibilities pursuant to (i) written agreement; or (ii) the Star Valley Specific Plan as enacted by Pima County Ordinance #1987-64 as amended by Ordinance 1992-101 and by Ordinance 1998-40 (hereinafter collectively the "Star Valley Specific Plan"; or (iii) the provisions hereof. Solely for purposes of confirming necessary budgets and Assessments, and to accomplish the obligations and duties of the Association hereunder, including maintenance, repair, upkeep and insurance, the term "Common Area" shall include areas of Association responsibility within certain public rights of way, including areas used for landscaping or landscaping irrigation, areas within bufferyards required by local ordinance, as shown on the Plat or on individual subdivision plats, and areas, if any, controlled by the Association within the public rights-of-way for Yedra Road, Wade Road, Camino Verde and Los Reales Road or located adjacent to such public right-of-way between right-of-way and any Perimeter Walls.

Section 1.18 "Condominium Block" shall mean a Block designated in a Tract Declaration as having a Residential Condominium Development Land Use Classification

Section 1.19 "Condominium Unit" shall mean a Dwelling Unit constituting a "unit" in a "condominium", together with any appurtenant interest in all "common elements", as such terms are defined in Chapter 9, Title 33, Arizona Revised Statutes, as amended

Section 1.20 "Covered Property" shall mean Blocks 2, 10, 15 and 18 of Star Valley and attendant common areas, including those shown on plats which have been or will be recorded in the Office of the County Recorder of Pima County, Arizona, and such portions of the Annexable Property as may be annexed pursuant to the provisions hereof by Recordation of a Tract Declaration. At such time as a Plat for the Covered Property, or any portion thereof is Recorded, Declarant shall Record a Tract Declaration for such property designating the land use classification for the subject property.

Section 1.21 "Declarant" shall mean Title Guaranty Agency of Arizona, as Trustee under Trust No. T-1330, and not otherwise, and any assignee of all or part of the rights and duties granted or reserved to Declarant herein, which assignment shall be evidenced by a Recorded instrument executed by the assigning Declarant. All rights of the Declarant hereunder may be exercised directly by its beneficiary USH/SVA Star Valley LLC, an Arizona limited liability company.

Section 1.22 "Declarant Affiliate" shall mean any Person directly or indirectly controlling, controlled by or under common control with Declarant, and shall include without limitation, any general or limited partnership, limited liability company, corporation or trust in which Declarant (or another Declarant Affiliate) is a general partner, managing member, controlling shareholder, or beneficiary, provided such Person or entity is designated in writing by Declarant as a Declarant Affiliate, and any such designation may, at Declarant's direction, be deemed retroactive.

Section 1.23 "Declaration" shall mean this Second Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Star Valley, as amended from time to time.

Section 1.24 "Delinquent Amount" shall mean any Assessment or Special Use Fee, or installment thereof, not paid when due.

Section 1.25 "Design Review Committee" shall mean the committee(s) formed pursuant to Article 4 of this Declaration. The Design Review Committee may elect to adopt any other name it may desire, including Architectural and Landscape Review Committee.

Section 1.26 "Developer Owner" shall mean a Person in the business of developing, leasing and/or selling real property and who owns four or more Lots or all or a portion of a Block in the Covered Property, in connection with, and in the course of, such business, for the purpose of developing, leasing or selling such Lots or Block, or portion thereof. A Developer Owner must be designated as such by Declarant.

Section 1.27 "Dwelling Unit" shall mean any building, or part thereof situated upon a Lot or Block and intended for use and occupancy as a residence by a Single Family.

Section 1.28 "Eligible Insurer or Guarantor" shall mean a governmental insurer or guarantor of a First Mortgage who has in writing requested notice of certain matters from the Association in accordance with ARTICLE 13 of this Declaration.

Section 1.29 "Eligible Mortgage Holder" shall mean a First Mortgagee who has in writing requested notice of certain matters from the Association in accordance with Section 13.1 of this Declaration.

Section 1.30 "Event of Foreclosure" shall mean the foreclosure, the acceptance of a deed in lieu of foreclosure, or the transfer of title by trustee's deed at a trustee's sale in regard to a mortgage, deed of trust or other encumbrance inferior in priority to an Assessment Lien.

Section 1.31 "Exempt Property" shall mean any property within the Covered Property subject to the terms and conditions of this Declaration, but which is exempt from Assessment, and with respect to which no voting rights shall exist, such land to include:

1.31.1 All Government Property;

1.31.2 All Common Areas for so long as Declarant or the Association is the owner thereof;

1.31.3 All Limited Common Areas; and,

1.31.4 All unmanned utility substations which provide utility services to all or any portion of the covered Property unless and to the extent that the applicable Tract Declaration or other appropriate Recorded instrument indicates such a Lot or Block is subject to Assessments.

Section 1.32 "FHA" shall mean the Federal Housing Administration.

Section 1.33 "First Mortgage" shall mean any mortgage or deed of trust on any Lot or Block, or portion thereof, with the first priority over any other mortgage or deed of trust encumbering such Lot or Block, or portion thereof.

Section 1.34 "First Mortgagee" shall mean the holder of any First Mortgage.

Section 1.35 "Funds" shall mean all funds and property collected and received by the Association from any source.

Section 1.36 "Government Property" shall mean all land and improvements owned by or dedicated to a public or governmental agency or authority for so long as the public or governmental agency or authority is the owner or beneficiary thereof, except for land or improvements, or both, owned and/or operated by a public or governmental agency or authority acting in a proprietary capacity, or owned and occupied as a residence by a Single Family.

Section 1.37 "Land Use Classification" shall mean a classification of a portion of the Covered Property, as set forth in a Tract Declaration, restricting development to the applicable classification(s).

Section 1.38 "Limited Common Areas" shall mean all areas of any Block now or hereafter designated on a Recorded Tract Declaration or a Recorded subdivision plat as an area to be used in common by the Owners or Occupants of a particular Block or subdivision, but not by all Owners or Occupants of the Covered Property, which areas shall also be maintained by and at the expense of the Owners or Occupants of such Block or subdivision, or by a homeowners or similar Subsidiary Association established with respect to such Block or subdivision.

Section 1.39 "Lot" shall mean:

1.39.1 An area of real property within the Covered Property designated as a "Lot" on any Recorded subdivision plat and which has a designated Land Use Classification of Single Family Residential Use, Residential Condominium use, or Cluster Residential use; or

1.39.2 A Condominium Unit.

Section 1.40 "Maintenance Assessments" shall mean the Assessments, if any, levied by the Board pursuant to Section 8.7 and Section 11.3 through Section 11.5 of this Declaration.

Section 1.41 "Member" shall mean any Owner, including Declarant. Declarant shall be a member of the Association so long as it owns any land within the Covered Property or within the Annexable Property, and for so long it is deemed, for purposes of voting rights, to own any Lot or Block owned by one or more Developer Owners.

Section 1.42 "Membership" shall mean the amalgam of rights and duties of Owners, including Declarant, with respect to the Association.

Section 1.43 "Net Acre" shall mean a gross acre of forty-three thousand five hundred sixty (43,560) square feet, less any dedicated rights-of-way for public roads, public and private drainage ways, and public utilities, and, except as the context may otherwise clearly indicate, less Common Areas accepted for ownership by the Association, if any. Net Acre computations shall be rounded to the nearest one-hundredth.

Section 1.44 "Non-Developer Owner" shall mean any Owner who is not a Developer Owner.

Section 1.45 "Occupant" shall mean:

1.45.1 Each Tenant who resides on the Covered Property and the licensees, guests, and members of the immediate family of each Tenant who reside on the Covered Property;

1.45.2 Each Owner who resides on the Covered Property and the licensees, guests, and members of the immediate family of each Owner who reside on the Covered Property; and

1.45.3 Such other person or persons as the Board, in its absolute discretion, may designate.

Section 1.46 "Owner" or "Homeowner" shall mean a record holder of beneficial or equitable title, and legal title if legal title has merged with the beneficial or equitable title, to the fee simple interest in any Lot or Block. Owner shall not include Persons having an interest in any Lot or Block merely as security for the performance of an obligation. Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale, or any similar contract through which a seller has conveyed to a purchaser equitable title in a Lot or Block under which the seller is obligated to convey to the purchaser the remainder of seller's title in the Lot or Block, whether legal or equitable, upon payment in full of all monies under the contract. Owner shall not include a purchaser under a purchase contract, escrow instructions, or similar executory contract that is intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale and purchase transaction. If the fee simple title in a Lot or Block is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the Lot or Block shall be deemed to be the Owner. If the fee simple title to a Lot or Block is vested in a trustee pursuant to A.R.S. §§ 33-801 *et. seq.*, for purposes of this Declaration legal title shall be deemed to be held by the trustor or the trustor's successor of record, and not by the trustee. An Owner shall include any Person who holds record title to a Lot or Block, or any portion thereof, individually, in joint ownership or as an undivided fee interest.

Section 1.47 "Perimeter Wall" shall mean those side or rear yard walls of subdivisions, or those boundary walls of Blocks or subdivisions, benefiting a Block or a group of Owners of Lots, which are adjacent to any public street, including without limitation, Yedra Road, Wade Road, Camino Verde and Los Reales Road, or separated from a public street only by a Common Area or public rights of way, or which are immediately adjacent to Common Area.

11-11-11 11:11:11

Notwithstanding the foregoing, a Perimeter Wall shall in no case include any exterior or bearing wall of a Dwelling Unit, Apartment Unit or Condominium Unit.

Section 1.48 "Person" shall mean a corporation, partnership, limited liability company, joint venture, individual, trust or any other legal entity.

Section 1.49 "Plat" shall mean the Star Valley Master Block Plat recorded in Book 56 of Maps and Plats at Page 55, Pima County records, as amended and resubdivided from time to time. Except as the context may otherwise dictate, reference herein to the Plat shall include reference to a plat which resubdivides a portion of the Plat. Without limitation, reference to the "Plat" shall include those certain plats described above for Block 2, Block 10, Block 15 and Block 18.

Section 1.50 "Record", "Recording" and "Recorded" shall mean placing or having placed a document of public record, or the act of recording, in the Official Records of Pima County, Arizona.

Section 1.51 "Residential Apartment Development" shall mean a development comprised of Apartment Units and the surrounding area which is intended to be integrated and under the same ownership.

Section 1.52 "Residential Condominium Development" shall mean a development comprised of Condominium Units and the surrounding Limited Common Areas.

Section 1.53 "Single Family" shall mean a group of persons living together and maintaining a single nonprofit housekeeping unit together with their domestic servants.

Section 1.54 "Single Family Block" shall mean a Block designated on the Plat or in a Tract Declaration as having a Single Family Residential or Cluster Residential Land Use Classification.

Section 1.55 "Special Assessments" shall mean the assessments, if any, levied by the Board pursuant to Section 8.4 of this Declaration.

Section 1.56 "Special Use Fees" shall mean any fees charged by the Association for use of the Common Areas pursuant to Section 3.1, Section 8.1 and other provisions of this Declaration.

Section 1.57 "Subsidiary Association" shall mean an Arizona nonprofit corporation, its successors and assigns, established for the purpose of administering and enforcing the provisions of any Tract Declaration.

Section 1.58 "Taking" shall mean condemnation by eminent domain or sale or other transfer under threat of condemnation.

Section 1.59 "Tenant" shall mean a Person occupying any part of the Covered Property under any type of rental agreement, whether such rental agreement is within the definition set forth in A.R.S. §33-1310(11) or otherwise.

Section 1.60 "Tract Declaration" shall mean any declaration of covenants, conditions and restrictions or like instrument Recorded after the Recording of this Declaration in regard to one or more Blocks, or portions thereof, or group(s) of Lots, by the Owner of such Blocks or portions thereof, or group(s) of Lots, which shall in all cases be consistent with and subordinate to this Declaration. A Tract Declaration may serve any one or more of the following purposes: (i) annex Annexable Property; (ii) create covenants, conditions, restrictions or easements upon the subject property thereof; (iii) set a land use classification for the subject property thereof; or (iv) any other purpose consistent with the provisions of this Declaration.

Section 1.61 "VA" shall mean the United States Veterans' Administration.

Section 1.62 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a Person six feet tall, standing at ground level on neighboring property (including Common Area) six feet back from the property line of the neighboring property, provided, however, that the Design Review Committee shall have the right to determine the meaning of the term "Visible From Neighboring Property" as applied on a case by case basis, and the determination of the Design Review Committee shall be binding in that regard, subject to any appeal rights to the Board.

ARTICLE 2

PROPERTY AND PERSONS BOUND BY THIS DECLARATION

Section 2.1 General Declaration. As portions of the Covered Property are developed, Declarant, without obligation, intends to Record one or more Tract Declarations that will, among other things, create Blocks, designate Land Use Classifications, designate Common Areas and Limited Common Areas, and establish such additional covenants, conditions and restrictions as may be appropriate for the respective portions of the Covered Property. Declarant hereby declares that all of the Covered Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration and any Tract Declarations applicable thereto, as amended or modified from time to time. Notwithstanding the preceding sentence, except as expressly provided herein, property owned by or dedicated to a governmental agency or to the public shall not be subject to this Declaration, provided, however, that any restrictions imposed in this Declaration upon the Owners and Occupants concerning the use and maintenance of such property shall be applicable at all times.

Nothing in this Declaration or in any Tract Declaration shall be construed to prevent Declarant from modifying any initial plan contained in a zoning instrument or in any marketing or other materials, or from dedicating, conveying or developing any portion of the Covered Property for uses other than as initially intended or planned.

Section 2.2 TGA Trust 1440 Rights. Should TGA Trust 1440 determine pursuant to Section 18.2 hereof to annex any of the TGA Trust 1440 Blocks into the Covered Property, Declarant shall if requested by TGA Trust 1440, without in any way limiting its rights of designation, designate TGA Trust 1440 as a Declarant Affiliate, whereupon TGA Trust 1440 shall be entitled to such Declarant rights as described herein.

1-001000 10/15/13

Section 2.3 Owners and Occupants Bound. Upon the Recording of this Declaration, this Declaration shall be binding upon all Owners and Occupants of the Covered Property and their successors and assigns, whether or not stated in any document or deed transferring any interest in any Block or Lot to or from such Owners or Occupants.

Section 2.4 Association Bound. Upon the incorporation of the Association, this Declaration shall be binding upon and benefit the Association, and its successors and assigns.

Section 2.5 Subsidiary Associations Bound. Upon the incorporation or other formation of any Subsidiary Association, this Declaration shall be binding upon and shall benefit such Subsidiary Association, and its successors and assigns.

Section 2.6 Government Property. Notwithstanding any other provision herein, Government Property comprising a park, or other property owned in fee by a town, city, or county, shall not be deemed encumbered by any of the provisions of this Declaration. Owners shall, however, be restricted in their use of Government Property consisting of roads (i.e., the parking of vehicles, signage, and other regulations hereof).

Section 2.7 Star Valley Specific Plan. Notwithstanding anything contained in this Declaration to the contrary, development of the Covered Property is intended to conform to the requirements of that certain Star Valley Specific Plan adopted by Pima County Ordinance #1987-212 (as enacted by Ordinance #1987-64) as recorded in the Office of the Pima County Recorder in Docket 8235 at Page 863, as may be amended from time to time (the "Specific Plan"). Notwithstanding the foregoing, nothing contained herein shall be deemed to be a covenant or representation by Declarant that: (i) the Covered Property shall be developed as shown in the Specific Plan; or (ii) that the Specific Plan shall not be amended from time to time. It is intended by Declarant that the Design Review Committee perform the functions of the "Star Valley Design Review Authority" as generally set forth in the Specific Plan. It is acknowledged by each Owner that the Specific Plan provides Declarant great flexibility and latitude in developing the Covered Property by establishing numerous land use classifications and allowing density transfers and changes of use within development areas. Such changes can be made without change to the Specific Plan.

ARTICLE 3

EASEMENTS AND RIGHTS OF ENJOYMENT IN THE COMMON AREAS

Section 3.1 Easements and Rights of Enjoyment. Each Owner shall have a nonexclusive easement for use and enjoyment in and to the Common Areas, which nonexclusive easement shall be appurtenant to and shall pass with the title to each Owner's Lot or Block. All Occupants shall have a nonexclusive, nontransferable temporary license to use and enjoy the Common Areas so long as they remain Occupants. Notwithstanding the foregoing, the nonexclusive easement and license for use and enjoyment shall not apply to landscaping areas which are located on Lots but which are considered Common Area for purposes of maintenance,

repair and replacement of landscaping by the Association. Additionally, the foregoing grants and rights are subject, among other things, to the following limitations:

3.1.1 The right of the Association pursuant to this Declaration to charge reasonable Special Use Fees for the use of the Common Areas. The Special Use Fees shall be set by the Board from time to time, in its absolute discretion. Special Use Fees shall be charged only for actual entry upon or utilization of those Common Areas selected by the Board to be subject to a Special Use Fee, and shall be intended to collect revenue from the actual users of such selected Common Areas so that all of the costs of operating such selected Common Areas are not borne by all of the Owners through Annual Assessments, but rather are borne, at least in part, by the Owners, Occupants and other persons utilizing such selected Common Areas;

3.1.2 The right of the Association to suspend the voting rights and the rights to use and enjoyment of the Common Areas (other than roadways) of any Owner or Occupant, as the case may be:

3.1.3 For any period during which an Assessment remains delinquent;

3.1.4 For a period not to exceed sixty (60) days for any infraction of this Declaration, a Tract Declaration, the Association Rules, or the Architectural and Development Guidelines, or for so long as the Owner remains in violation, whichever is longer; or

3.1.5 For successive sixty (60) day periods if any such delinquency or infraction is not corrected during any preceding suspension period.

3.1.6 The right of the Association to limit the number of guests of an Owner or Occupant who may use the Common Areas; and,

3.1.7 The right of the Association to regulate use of the Common Areas in accordance with this Declaration, and to mortgage or convey portions of Common Area with the affirmative vote or written consent of Owners representing at least two-thirds (2/3) of the total votes held by the Membership, except that notwithstanding the foregoing, at any time during the pendency of the Class B Membership Declarant shall have the right to convey, or cause the Association to convey minor, insignificant, or immaterial portions of Common Area (such as those caused by encroachment areas, boundary line discrepancies, survey errors and other such matters) without the consent or vote of any other Person or Member, should Declarant determine that such conveyance or transfer is in the best interests of the Covered Property and that the said interests of the Association are best served by disposing of same. Any sale or disposition of the Common Area shall serve to extinguish any interests therein of Owners pursuant to the provisions hereof. The rights of the Association hereunder with respect to Common Area shall include conveyance and dedication to the public of roads, streets, drainageways, culverts, and sewer facilities, none of which shall require the approval of any Owners or Members of the Association. In addition, the Association shall have the right without a vote of the Members to dedicate to the public any private park or open space.

Section 3.2 Delegation of Use. Any Owner or Occupant, in accordance with the Association Rules and this Declaration, may delegate his/her rights of use and enjoyment in the Common Areas to the members of his/her family or his/her occupants, employees, customers or guests subject to the limitations set forth herein and in the Association Rules, provided, however, that the Association Rules may restrict or limit the use of Common areas by Tenants, guests and invitees.

Section 3.3 Waiver of Use. No Owner shall be exempted from personal liability for Assessments, nor shall the Owner's Block be released from liens or charges arising under this Declaration or any Tract Declaration, by waiver of any rights of use or enjoyment of the Common Areas.

Section 3.4 Acceptance of Certain Common Areas. In the course of development and sale of Blocks within the Covered Property, fee title to land which is, or is to be, restricted to use as future common area (the "Restricted Tracts") may be transferred by Declarant to Persons acquiring fee title to one or more Blocks. In such event, and notwithstanding that fee title to the Restricted Tracts may be held by Persons other than the Association (or Declarant), such Restricted Tracts, unless designated as common area of a Subsidiary Association, shall upon acceptance by the Association, if such is the case, become Common Areas hereunder upon the platting thereof. If such areas become Common Area of the Association, all Owners and Occupants shall have the easements, licenses and rights to the use and enjoyment of such Restricted Tracts as with respect to the other Common Areas generally, subject in all cases to the provisions of this Declaration and the Association Rules. In the event such areas are accepted by the Association, and the Person owning fee title to any such Restricted Tract transfers such fee title to the Association, the Association shall accept such fee title so long as, at the time of and in connection with such transfer, the Person transferring title to the Association provides to the Association, at no expense to the Association, a standard coverage owner's policy of title insurance in an amount reasonably acceptable to the Association (but in no event less than the minimum amount, if any, required for such policies by VA or FHA, if VA or FHA are involved in the insurance or guarantee of loans affecting portions of the Covered Property), issued by a title insurance company authorized to transact such business in the State of Arizona, insuring that the Association is the owner of fee title to the transferred Restricted Tract subject only to such liens or other matters as may be approved by the Association, which approval shall not be unreasonably withheld. The Association shall be conclusively deemed reasonable in withholding its approval of any monetary liens or encumbrances affecting title to any Restricted Tract proposed to be transferred to the Association.

Section 3.5 Temporary Sign Easement. Declarant hereby reserves to itself and its agents and assignees a temporary easement over, upon and across those portions of the Common Areas adjacent to publicly dedicated streets and roadways for purposes of installing and maintaining signs for the purpose of, among other things, identifying Persons building upon or developing portions of the Covered Property, and otherwise promoting the Covered Property or any property owned by Declarant. The easement reserved hereby shall expire and terminate upon completion of construction and sales activities upon the Covered Property, but in no event later than twenty-five (25) years after the date this Declaration is recorded.

Section 3.6 Exclusive Use and Benefit Easements. On certain Common Areas, including those along streets and thoroughfares, Perimeter Walls may with the approval of the Declarant be constructed partially within the Common Area at varying minor distances from the adjacent Lot line for purposes of enhancing the visual appearance or otherwise of the property and avoiding monotony of design that would otherwise be inherent in straight runs of Perimeter Walls. Portions of the Common Areas may be located on the Lot side of any such wall (each, an "Easement Area"). Each Easement Area may adjoin and be contiguous to a Lot (each, a "Dominant Lot"). In the case of an Easement Area, the Dominant Lot Owner shall have a perpetual exclusive use and benefit easement over the Easement Area abutting that Dominant Lot for the use, benefit and enjoyment of that Owner (each, an "Easement"). The Easements contemplated hereby are to be minor and limited in scope, and shall only be for the purposes stated. Each Easement shall be deemed to exist upon approval by the Declarant of the improvements depicting the encroachment, but only after completion of construction in accordance with such approval, and no consent of the Owner of the Dominant Lot shall be required. Each Easement runs with the land and is appurtenant to the abutting Dominant Lot or Common Area and may not be sold, transferred or otherwise conveyed apart therefrom. The Easements are limited to the extent that no structure or improvement of any nature may be placed, maintained or permitted to remain in any Easement Area. The Association will have no possession or control of the Easement Areas. Each Easement Area must be possessed, controlled, maintained and insured by the Owner of the abutting Dominant Lot and not by the Association. Any separate insurance maintained by the Association is excess and non-contributory. Each Owner of a Dominant Lot shall indemnify, protect, defend and hold harmless the Association for, from and against any and all losses, costs, claims, actions, damages, expenses and liabilities of any kind whatsoever arising from or in connection with the Easement Area abutting that Owner's Dominant Lot.

Alternatively, on certain Lots adjacent to such Common Areas referred to above, Perimeter Walls may also be constructed partially within Lots at varying minor distances from the adjacent Lot line for purposes of enhancing the same aesthetic appearances. In such cases, the Association shall have a perpetual exclusive use and benefit easement over portions of such Lots located on the Common Area side of any such Perimeter Wall for the use, benefit and enjoyment of the Association. Owners of such Lots shall have no possession or control of such areas and such areas must be possessed, controlled, maintained and insured by the Association as part of the Common Areas.

Section 3.7 Blanket Easements. There is hereby created a blanket easement in favor of Declarant and its assigns upon, over and under each Lot, each Block, the Common Areas and the Limited Common Areas for ingress to, egress from, all portions of the Covered Property for the installation, replacement, repair and maintenance of all utility equipment and service lines and systems (including electric, gas, telephone, cable, water and sewer), as such equipment, lines and systems are installed in connection with the initial development of Lots, Blocks, Common Areas and Limited Common Areas and the construction of buildings thereon; provided that such easements shall be specifically and permanently described and fixed by Recorded instrument either:

UNRECORDED

3.7.1 At the time a subdivision plat, approved as required by this Declaration, is Recorded with respect to the portion of the Covered Property to be served or burdened by such easement(s), as applicable; or

3.7.2 Within one hundred twenty (120) days following approval, as required by this Declaration and by the appropriate governmental agencies, of a development plan for the portion of the Covered Property to be served or burdened by such easement(s), as applicable.

Section 3.8 Class B and Class C Riparian Habitats. Shown on the Plat are "Class B Riparian Habitat" areas and "Class C Riparian Habitat" areas (hereinafter collectively, the "Riparian Habitats") which encompass portions of the Covered Property and Annexable Property. Each Owner of a Lot or Block, and each owner of any portion of the Annexable Property, upon which Riparian Habitat is located shall maintain the Riparian Habitat area in its natural and undisturbed state and shall not construct improvements thereon, of any kind, including landscaping, unless permitted hereunder.

Section 3.9 Bufferyard C. Shown on the Plat are "Bufferyard C" areas which encompass portions of the Covered Property and Annexable Property. At such time as a Block shown on the Plat on which a Bufferyard C area is located is subdivided, the Owner of such Block may be required by applicable governmental authorities to comply with specific landscaping and improvement requirements.

ARTICLE 4

DESIGN REVIEW COMMITTEE

Section 4.1 Organization of Design Review Committee. The Board shall establish a Design Review Committee and shall adopt the procedural rules and regulations for the performance of the duties of the Design Review Committee. The Design Review Committee shall be organized as follows:

4.1.1 Powers and Duties. The Design Review Committee shall have all of the powers, authority, and duties conferred upon it by this Declaration or by the Articles, By-Laws, or Association Rules, or by any Tract Declaration or similar Recorded instrument approved in advance by the Association. Without limiting the generality of the foregoing, it shall be the duty of the Design Review Committee to consider and act upon all proposals or plans submitted to it pursuant to the provisions of this Declaration or the Architectural and Development Guidelines, including approval of all landscaping to be planted or placed upon the Covered Property, to perform any other duties delegated to it by the Association, and to carry out all other duties imposed upon it by this Declaration. The Design Review Committee shall have the right from time to time to assign certain of its powers, authority and duties hereunder to one or more Subsidiary Associations.

4.1.2 Committee Composition. The Design Review Committee may consist of as many as seven (7) members; provided, however, that the number of members may be increased or decreased at any time by a vote of the Board. A member shall not be required to

satisfy any particular qualification for membership and may be a member of the Board, an officer of the Association, or an officer, agent or employee of Declarant.

4.1.3 Alternate Members. In the event of the absence or disability of a regular member or members of the Design Review committee, the remaining regular members, even though less than a quorum, may designate an alternate member to act as a substitute regular member of the Design Review Committee so long as any one or more regular members remain absent or disabled.

4.1.4 Term of Office. Unless a member of the Design Review Committee has resigned or been removed, his or her term of office shall be for a period of two (2) years, or until the appointment of his or her respective successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members of the Design Review Committee who have resigned, been removed or whose terms have expired may be reappointed.

4.1.5 Appointment and Removal. Except as hereinafter provided, the right to appoint and remove all regular and alternate members of the Design Review Committee at any time shall be and is hereby vested solely in the Board, provided, however, that no regular or alternate member may be removed from the Design Review Committee by the Board except by the vote or written consent of at least fifty-one percent (51%) of the members of the Board.

4.1.6 Resignations. Any regular or alternate member of the Design Review Committee may at any time resign from the Committee by giving written notice thereof to the Board.

4.1.7 Vacancies. Vacancies on the Design Review Committee, however caused, shall be filled by the Board. A vacancy or vacancies on the Design Review Committee shall be deemed to exist in case of the death, resignation or removal of any regular or alternate member.

4.1.8 Control By Declarant. Notwithstanding the foregoing, in order to enhance the aesthetic and economic value of the Covered Property and to maintain uniformity of architectural and landscaping standards throughout the Covered Property, until the Class B Membership ceases, or so long as Declarant owns a single Lot or Block within the Covered Property, whichever is later, Declarant shall have the right:

a. To grant blanket approval of all proposals or plans submitted by Developer Owners pursuant to the provisions of this Declaration, the Architectural and Development Guidelines or any Additional Covenants, including without limitation, any general model plans and specifications, elevations of Dwelling Units, commercial development or multi-family plan submittals, to the extent applicable;

b. To appoint and remove all regular and alternate members of the Design Review Committee; and

c. To supplement and amend the Architectural and Development Guidelines, as deemed necessary by Declarant.

1-11-2011 10:00 AM

4.4.6 Signage and mailboxes; and

4.4.7 Perimeter and screen wall design and appearance.

The Architectural and Development Guidelines may elaborate upon types of acceptable plants and shrubs and may contain rules for the treatment and control of plants, including weeds, which may pose a public or private nuisance. The Architectural and Development Guidelines shall have the same force and effect as the Association Rules.

Section 4.5 Obligation to Obtain Approval.

4.5.1 No building, fence, wall, pool, roadway, driveway, or other structure or improvement, nor any excavation, grading, landscaping, or other work, shall be commenced, erected, repaired, or maintained within the Covered Property, nor shall any exterior addition or change or alteration be made to or in any such structure or improvement (irrespective of whether any improvement, change or alteration is affixed to an exterior surface), including, without limitation, awnings, rolling shutters (interior or exterior) patio covers, antennas, exterior walls, fences, the color of any structure or improvement, or the drainage or grading on any Block, except in compliance with plans and specifications therefor that have been submitted to and approved by the Design Review Committee and any applicable Subsidiary Committee in accordance with this Declaration and the Architectural and Development Guidelines. All approvals must be in writing, and no Owner may rely on oral statements, nor shall any member of the Design Review Committee be deemed to have apparent authority.

4.5.2 No trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon the Covered Property except in compliance with plans and specifications therefor which have been submitted to and approved by the Design Review Committee in accordance with this Declaration and the Architectural and Development Guidelines.

4.5.3 No material changes or deviations in or from the plans and specifications for any work to be done on the Covered Property, once approved by the Design Review Committee, shall be permitted without approval of the change or deviation by such Committee.

Section 4.6 Waiver. The approval by the Design Review Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Design Review Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

Section 4.7 Liability. Neither Declarant nor the Design Review Committee nor any member thereof shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

4.7.1 The approval or disapproval of any plans, drawings or specifications, whether or not defective;

4.7.2 The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;

4.7.3 The development of any Lot or Block; or

4.7.4 The execution and filing of any estoppel certificate or statement, whether or not the facts therein are correct, provided, however, that with respect to the liability of a member of the Design Review Committee, such member has acted in good faith on the basis of such information as may be possessed by such member.

Section 4.8 Appeal to Board. Except as provided in this Declaration, any Owner or Occupant who submitted plans or specifications to the Design Review Committee for improvement, alteration, landscaping or other change to such Owner's Lot or Block, and who is aggrieved by a decision of the Design Review Committee may appeal the decision to the Board in accordance with procedures to be established in the Architectural and Development Guidelines. In the event the decision of the Design Review Committee is overruled by the Board on any issue or question, the prior decision of the Design Review Committee shall be deemed modified to the extent specified by the Board. Notwithstanding the foregoing, for so long as Declarant retains control over the Design Review Committee as provided in herein, no Owner or Occupant shall have the right to appeal any decision of the Design Review Committee to the Board and the decisions of the Design Review Committee shall be final.

Section 4.9 Fee. The Board may establish reasonable processing fees, and classifications of fees, to defer the costs of the Design Review Committee in considering any requests for approvals submitted to the Design Review Committee or for appeals to the Board, which fees shall be paid at the time the request for approval or review is submitted. The Board may set fees for custom homes and production homes in different amounts, and may adjust such fees from time to time.

Section 4.10 Inspection. Any member or authorized consultant or representative of the Design Review Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot or Block, after reasonable notice to the Owner or Occupant of such Lot or Block, in order to inspect the improvements constructed or being constructed on such Lot or Block to ascertain that such improvements have been, or are being, built in compliance with the Architectural and Development Guidelines, this Declaration, and any applicable Tract Declaration.

Section 4.11 Blanket Approval by Declarant. Notwithstanding anything to the contrary stated above, Declarant shall at all times, have the right, itself, to in writing approve all architectural plans and specifications for any and all commercial development projects, multi-family projects, residential condominiums or residential apartments by Developer Owners within Blocks allowing such uses pursuant to a Recorded Tract Declaration, and for any and all plans and specifications for the construction of homes by Developer Owners within a Single Family Block, without any further submittal to the Association or Design Review Committee. Such approvals may be in "blanket" form for various models, designs, or floor plans. This right and privilege is personal between Declarant and such Developer Owners, and after conveyance

of any Lot or Block receiving such approval, all further changes or revisions shall require submittal to the Design Review Committee.

Section 4.12 Jurisdiction over Other Blocks. The Covered Property shall not include any Blocks not specifically defined as the Covered Property or annexed under the purview hereof by Declarant or TGA Trust 1440.

ARTICLE 5

LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

Section 5.1 Land Use Classifications. As portions of the Covered Property are readied for development, the Land Use Classifications shall be fixed in a Tract Declaration which may be Recorded at such time as the applicable portion of the Covered Property is conveyed by deed or, if retained by Declarant, at such time as Declarant begins development thereof. Each Tract Declaration shall be construed as a supplement to this Declaration and fully a part hereof as if all of the provisions thereof were set forth herein; provided, however, that if any provision of a Tract Declaration is inconsistent with any provision of this Declaration, the provision of this Declaration shall control.

Except with respect to Covered Property owned by Declarant, no Tract Declaration, or further covenants, conditions, restrictions, or easements, or any amendments or modifications thereto, shall be Recorded against any Lot or Block without the written approval of the Declarant or, if Declarant has waived and relinquished such right, of the Board, which approval shall be evidenced on the Recorded instrument, and without such approval such Tract Declaration or further covenants, conditions, restrictions, and easements, or any amendments or modifications thereto, shall be null and void. All Tract Declarations or other Recorded covenants, conditions, or restrictions, or any amendments or modifications thereto, shall be consistent with and subordinate to this Declaration and shall contain such provisions as Declarant or the Class B Member shall reasonably require. A Tract Declaration shall not be amended except as specifically permitted by this Declaration or by such Tract Declaration.

The Land Use Classifications contemplated as of the date of this Declaration are:

5.1.1 "Cluster Residential Use", consisting of Lots with Dwelling Units including those types of single family residential housing arrangements known as "Townhouses", "clustered housing", "zero-lot line housing", and similar arrangements (but not including Condominium Units), together with related amenities;

5.1.2 "Residential Apartment Development Use", which shall include congregate care or similar facilities;

5.1.3 "Residential Condominium Development Use";

5.1.4 "Single Family Residential Use" (which includes Cluster Residential Use);

1-14-00 12:00:00

- 5.1.5 "Common Areas";
- 5.1.6 "Park Use";
- 5.1.7 "Commercial Development Use"; and
- 5.1.8 "School Use".

Unless otherwise specifically provided in this Declaration, the definitions and characteristics of the Land Use Classifications and specific permitted and prohibited uses of the real property within a particular Land Use Classification shall be set forth in the respective Tract Declarations. Such uses may at any time be amended to permit other uses, including commercial uses, provided the provisions of the Tract Declaration dealing with amendment have been met. In the event of any ambiguity or dispute regarding the nature and scope of permitted and prohibited uses of the real property within a particular Land Use Classification, the provisions of Section 19.1 hereof shall apply. Notwithstanding the foregoing listing, Declarant shall not be obligated to establish within the Covered Property each of the uses listed above, nor shall such listing prohibit the establishment by Declarant of other Land Use Classifications. Without limitation, certain commercial uses may be established near or adjacent to the Covered Property, and the Covered Property may or may not actually contain any commercial uses.

A Lot or Block shall, prior to being used or improved, be defined and limited to a specific development type or land use by a Tract Declaration approved by Declarant in accordance with the provisions hereof. Declarant or the Class B Member may require imposition of special conditions in a Tract Declaration in any case where deemed appropriate in the sole and absolute discretion of said Declarant or Class B Member, and may require adequate provisions for assessments, maintenance of property and improvements and such other provisions as are deemed proper. Should for any reason a Block be subdivided and developed or partially developed prior to Declarant's Recordation of a Tract Declaration establishing the Land Use Classification therefor, then Declarant may later record the appropriate Tract Declaration without the consent of the Owner of the property in question, which Tract Declaration shall conform to the use approved by Declarant, and until such time the Land Use Classification shall be deemed to be Single Family Residential Use.

No Condominium Block or subdivision containing common area may be developed nor shall a Tract Declaration therefor be approved, unless an incorporated owners association is established for the maintenance and repair of common elements or common area, except in cases where the Association may elect to accept ownership of same.

Declarant may approve of other Land Use Classifications in the case of Additional Property annexed under the purview hereof, in which case the Tract Declaration shall set forth such Land Use Classification.

All Lots shown upon the initial Plats, comprising a part of the Covered Property, shall be deemed Single Family Residential, for detached dwellings, and no further Tract Declaration need be established or recorded. Common Areas shown upon said Plats shall be deemed Common Area hereunder.

11-1-10 11:11 AM

Section 5.2 Covenants, Conditions, Restrictions, and Easements
Applicable to All Land Use Classifications. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots and Blocks in the Covered Property included within all Land Use Classifications, and to the Owners and Occupants thereof:

5.2.1 Plat and Permitting Notes. In addition to the restrictions contained herein, the Covered Property shall be subject to all restrictions and limitations set forth on the Plat, applicable to the Covered Property, as may be amended from time to time. Each Developer Owner and Owner shall comply with all permitting notes contained on the Plat, including without limitation, those pertaining to riparian habitat.

5.2.2 Zoning Restrictions. Each Developer Owner and Owner shall be responsible to comply with all zoning ordinances and zoning requirements on the Plat and applicable to the Covered Property and shall comply with all flood plain ordinances and flood plain use regulations, it being acknowledged that certain areas of the Covered Property lie within the Federal Emergency Management Agency ("FEMA") flood zone, as more specifically set forth on the Plat.

5.2.3 Prohibited Uses. The following uses are prohibited:

a. Any use which is offensive by reason of odor, fumes, dust, smoke, noise, glare, heat, sound, vibration, radiation or pollution, or which constitutes a nuisance, or which is hazardous by reason of risk of fire or explosion, or which is injurious to the reputation of any Lot, Block or Owner; and,

b. Any use which is in violation of the laws (after taking into account the application of any validly granted or adopted variance, exception or special use ordinance or regulation) of the United States, the State of Arizona, Pima County or any other governmental entity having jurisdiction over the Covered Property.

5.2.4 Temporary Occupancy and Temporary Buildings; Outside Storage. No trailer, tent, shack, garage, barn or temporary structure of any kind shall be used as a residence, whether temporary or permanent, except that during the construction process, a temporary building or structure may be erected, installed or maintained on a Lot or Block with the prior written approval of the Design Review Committee, including the approval of the structure's location and appearance. Such temporary structures shall be removed immediately after completion of such construction, and that portion of the Lot or Block from which the same are removed shall be promptly placed in such condition as is otherwise required by this Declaration. Except during construction, no materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be stored on any area outside of a building unless approved in advance in accordance with Article 4. Any permitted outside storage shall be screened by a solid visual barrier so as not to be Visible From Neighboring Property, provided, however, that during construction of improvements on any Lot or Block, necessary construction materials and supplies may be stored on the Lot or Block without the need for a solid visual barrier providing such materials and supplies are kept in neat order considering the construction activities. The Design Review Committee is authorized to designate the areas and manner in

1-2-2011 10:43:13

which supplies of building materials and construction equipment shall be stored and the routes construction vehicles may use. All such designations shall be reasonable.

5.2.5 Repair of Buildings. No building or improvement on any Lot or Block shall be permitted to fall into disrepair and each such building and improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished to maintain a first class appearance of the building or improvement. In the event any building or improvement is damaged or destroyed, then, subject to approval in accordance with Article 4, such building or improvement shall be immediately repaired, rebuilt or demolished by the Owner. If any Owner fails to make the necessary repairs, after receiving notice from the Board of the requirement to perform such repairs within the time limits established by the Board, the Board and its agents and representatives are empowered to enter on the Lot or Block and to make the necessary repairs. The cost of these corrective measures shall be charged to the Owner and collected in the same manner as Assessments. Any such entry shall be after reasonable notice of the time and date of entry, and after such hearings and notice as the law may require.

5.2.6 Maintenance of Landscaping and Driveways. Unless otherwise provided in a Tract Declaration, each Owner shall be responsible for the proper maintenance of all landscaping in the following locations:

a. On the Owner's Lot or Block (including set back areas), except that in the event the maintenance of any portions of such Owner's Lot or Block is the responsibility of the Association, a utility, or a governmental or similar authority, then only for so long as such entities are not undertaking such responsibility;

b. Portions of the Common Areas adjacent to an Owner's Lot or Block and which are on the Lot's or Block's side of any wall erected on the Common Areas; and,

c. Public right-of-way area; between sidewalks and the street curb on the Owner's Lot or Block, or other public or easement areas adjacent to the Owner's Lot or Block, except that in the event the maintenance of such areas is the responsibility of the Association, a utility, or a governmental or similar authority, then only for so long as such entities are not undertaking such responsibility. Without limiting the generality of the foregoing, the Association shall be responsible for maintaining the area between (i) sidewalks running alongside Yedra Road, Wade Road, Camino Verde and Los Reales Road and (ii) the street curbs of such streets.

As used herein, maintenance shall include but not be limited to keeping the areas neatly trimmed, cultivated and free of trash, weeds and unsightly materials. All lawn areas shall be timely mowed needed to keep an even, well groomed appearance and shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive and free of weeds. All trees, shrubs, plants and ground covers shall be timely and properly trimmed (including, without limitation, the removal of dead wood therefrom) according to their plant culture and landscape design and shall be watered and fertilized at such times and in such quantities as required to keep them alive and attractive. Any dead tree, shrub, plant or ground cover shall be removed and replaced immediately. All bed areas shall be kept free of

weeds and cultivated periodically as needed. Landscaping may be required to be placed on a Lot or Block within certain time frames established by the Design Review Committee. Each Owner shall maintain in good condition and repair all paved and concrete areas, including driveways and parking areas, located on the Owner's Lot or Block. Any Owner who fails to properly maintain the landscaping upon the Lot or Block, shall be given a reasonable period to conduct such maintenance. In the event Owner fails to provide such landscaping maintenance to his/her Lot or Block, after receiving notice from the Board to do so, the Association is empowered to enter upon the Lot or Block, conduct the necessary landscaping maintenance, and charge the cost to the Owner. Such charges shall be collected in the same manner as Assessments.

5.2.7 Nuisances; Dust Control; Construction Activities. No rubbish or debris of any kind shall be permitted to accumulate upon or adjacent to any Lot or Block so as to create a nuisance or render any such property or activity thereon unsanitary, unsightly or offensive. Each Lot and Block shall be landscaped and maintained in a manner which will minimize the possibility of dust being transmitted into the air and over adjacent properties. Although normal construction activities shall not be considered a nuisance or otherwise prohibited, Lots and Blocks must be kept in a neat and tidy condition during construction periods. No noxious or offensive activity shall be carried on or permitted on any Lot or Block, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to Persons or property in the vicinity of such Lot or Block, or which shall interfere with the quiet enjoyment of each of the Owners and Occupants.

5.2.8 Diseases and Insects. No Owner or Occupant shall permit any thing or condition to exist upon any Lot or Block which shall induce, breed or harbor infectious plant or animal diseases or noxious insects.

5.2.9 Antennas and Dishes; Solar Devices. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to Declarant's rights pursuant to Section 5.4 nor to those antennae specifically covered by 47 CFR Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time.

The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder, and to establish reasonable, nondiscriminatory restrictions relating to location and safety of antennae structures.

To the extent that reception of an acceptable signal would not be impaired, an antenna permissible pursuant to rules of the Association may only be installed in a side or rear yard location, not Visible From Neighboring Property, or integrated with the Residence and surrounding landscaping to prevent or limit such visibility. Antennae shall be installed in compliance with all applicable laws and regulations.

UNRECORDED

No solar heating or cooling equipment or other visible solar device may be installed or erected without approval of the Design Review Committee, which shall give due regard to state law restricting the limitation of such devices.

5.2.10 Mineral Exploration. No Lot or Block shall be used in any manner to explore for, quarry, mine, remove or transport any water, oil or other hydrocarbons, minerals, gravel, gas, earth or any earth substance of any kind, except in each case as Declarant shall specifically approve.

5.2.11 Clothes Drying Facilities. No outside clotheslines or other facilities for drying or airing clothes shall be placed on any Lot or Block without the prior written consent of the Design Review Committee unless they are not Visible from Neighboring Property.

5.2.12 Party Walls. Except as hereinafter provided, the rights and duties of Owners of contiguous Lots or Blocks which have shared walls or fences ("Party Walls") shall be as follows:

a. Each Owner shall have the right to use the Party Wall, provided that such use does not interfere with the other Owner's use and enjoyment thereof;

b. If a Party Wall is damaged or destroyed through the willful or negligent act of an Owner or the Owner's Occupants, agents, guests or family, the Owner or Occupant as the case may be, shall be obligated to rebuild and repair the Party Wall at the Owner's sole expense. Any dispute over an Owner's liability shall be resolved as provided in Subsection 5.2.12(d) below;

c. In the event any Party Wall is damaged or destroyed other than by the willful or negligent act of an adjoining Owner or the Owner's Occupants, agents, guests or family, or deteriorates from ordinary wear and tear, it shall be the joint obligation of all Owners whose Lots or Blocks adjoin the damaged or destroyed portion of such Party Wall to immediately rebuild and repair such Party Wall, such expense to be ratably divided among such Owners on the basis of the amount of frontage of their respective Lots or Blocks on the damaged or destroyed Party Wall;

d. In the event of a dispute between Owners with respect to a Party Wall or the sharing of the cost thereof, such Owners shall submit the dispute to the Design Review Committee; whose decision shall be binding unless appealed to the Board, in which event the Board's decision shall be binding and final.

e. Notwithstanding the foregoing and, unless otherwise expressly agreed in writing by the Association, except as provided herein with respect to Perimeter Walls, in the case of walls or fences: (i) between Common Areas and Lots or Blocks; or, (ii) situated on Common Areas within or adjacent to a Lot or Block, the Owners and Occupants of such Lots or Blocks shall be responsible, at their expense, for all maintenance, repair, painting and replacement thereof. Further, unless otherwise approved in writing by the Board, any wall situated generally between a Lot or Block and Common Areas shall be situated

entirely upon such Lot or Block, and not upon the Common Areas, immediately adjacent to the boundary line between the Lot or Block and the Common Areas; and

f. This Section does not and is not intended to control or relate to Party Walls between Residential Condominium Developments or Condominium Units.

5.2.13 Overhead Encroachments. No tree, shrub or planting of any kind shall be allowed to overhang or encroach upon any public right-of-way, bicycle path or any other pedestrian way from ground level to a height of eight (8) feet, without the prior written approval of the Design Review Committee. The Association shall have the right to trim any offending tree, shrub or planting.

5.2.14 Trucks, Trailers, Campers, Boats and Motor Vehicles. No motor vehicle, motor home, mobile home, trailer, camper shell, detached camper, boat, boat trailer, snow mobile, jet ski or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed, repaired or stored on any Lot or Block or on any street so as to be Visible From Neighboring Property (including but not limited to any Common Areas, Limited Common Areas or street). The foregoing limitation on parking shall not apply to:

a. Automobiles, trucks or vans, or mini-motor homes not exceeding seven (7) feet in height from ground level and twenty-two (22) feet in length, so long as such automobiles, trucks or vans or mini-motor homes (i) are parked as provided in Section 5.2.32 and (ii) are used on a regular and recurring basis for basic transportation. The Board or the Design Review Committee shall have the authority, however, to adopt and enforce regulations regarding parking of such vehicles on a Lot or Block (including, but not limited to, regulations requiring the screening of delivery trucks and vans, or other business vehicles) if, in the sole discretion of the Board or the Design Review Committee, such regulations are necessary to prevent such vehicles from being or becoming an eyesore or nuisance to the Owners or Occupants of adjacent property; or

b. Temporary facilities maintained during, and used exclusively in connection with, construction activities, provided, however, that such activities are approved in advance and in writing by the Design Review Committee.

Notwithstanding the above, no automobile, motorcycle, motorbike or other motor vehicle shall be constructed, repaired or, if inoperable, stored upon any Lot, Block or street so as to be Visible From Neighboring Property.

5.2.15 Health, Safety and Welfare. In the event uses of, activities on, or facilities upon or within a Block or Lot are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or Occupants, the Board or the Design Review Committee may make rules restricting or regulating their presence.

5.2.16 Incidental Uses. Subject to the provisions of any applicable Tract Declaration, the Board may approve, regulate and restrict incidental uses of property within a Land Use Classification. By way of example and not of limitation, the Board may permit: private roadways; tennis and/or swimming clubs intended primarily for the benefit of all

11-20-08 11:28:11

or certain Owners or Occupants; tennis courts; swimming pools; and other recreational facilities.

5.2.17 Window Coverings. No exterior window covering, awning, rolling shutter or interior or exterior reflective covering may be placed, or permitted to remain, on or adjacent to any window of any building, structure or other improvement without the prior written approval of the Design Review Committee.

5.2.18 Duty of Maintenance. Each Owner shall, at such Owner's sole cost and expense, keep such Owner's Lot or Block, including buildings, improvements, private drives, easement areas and grounds thereon, in a well-maintained, clean, neat and attractive condition at all times and shall comply in all respects with all governmental health, fire and safety statutes, ordinances, regulations and requirements.

5.2.19 Utility Lines and Connections. All utility wires, lines, pipes, conduits, facilities, connections and installations, including, without limitation, electrical, telephone, cable television, water, gas and sanitary sewer, shall be installed and maintained underground or concealed in, under, or on structures approved in writing in advance by the Design Review Committee, except that Declarant, in its discretion, may install or cause to be installed certain overhead utility lines and facilities if made reasonably necessary due to existing overhead facilities. All transformers shall be placed on or below the surface of the Lot or Block. Temporary aboveground power or telephone structures and water lines incident to construction activities shall be permitted but only with the prior written approval of the Design Review Committee.

5.2.20 On-Site Grading and Drainage. No water shall be drained or discharged from any Lot or Block, or building thereon, except in accordance with: (a) the master drainage study, if any, including any amendments thereto, approved by the appropriate governmental agency(ies) and the Declarant (or other drainage study approved by such Committee, if no such master drainage study exists); and (b) grading plans approved by the Declarant in accordance with Article 4 and applicable governmental ordinances or regulations.

5.2.21 Building Exteriors. All colors of materials on the building exteriors and all exterior wall surfaces of any building shall be in accordance with plans and designs approved in accordance with Article 4. All materials used for the exterior of the buildings shall be high quality, long-life, low maintenance materials.

5.2.22 Restrictions on Further Subdivision, Property Restrictions, and Rezoning.

a. All proposed site plans, subdivision plats, condominium declarations, easements or further covenants, conditions or restrictions, or applications for rezoning, variances or use permits for any Lot or Block, or any portion of a Lot or Block, other than those owned by Declarant, must be approved in writing by the Declarant. Declarant may relinquish its right of approval herein reserved, in which case the Board shall succeed to such right of approval. All submittals shall be reasonably reviewed and approved. The required approval shall be evidenced by the signature of the Declarant or of an authorized representative

2025 RELEASE UNDER E.O. 14176

of the Board, as applicable. Except for property owned by the Declarant, after a subdivision plat has been approved, no Lot or Block, or any portion of a Lot or Block, shall be further subdivided and no portion less than all of the Lot or Block, or any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Declarant or, if applicable the Board, unless such subdivision, subjection, conveyance or transfer:

b. Is made in connection with the development of one or more pads, lots or other subdivisions of a Block for commercial or industrial use; and,

c. Is made in accordance with a site plan for such Lot or Block approved by the Board.

d. No site plan, subdivision plat, condominium declaration, or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits, shall be made, filed, submitted to, or recorded with Pima County or any other governmental authority or agency unless it has first been approved as provided in this Section. No changes or modifications shall be made in any such documents, instruments or applications once they have been approved as provided in this Section (whether requested by Pima County or otherwise) unless such changes or modifications have also been approved in advance, in writing, in accordance with this Section. This Section 5.2.22 does not apply to portions of the Covered Property owned by Declarant or to site plans, subdivision plats, condominium declarations, or further covenants, conditions, restrictions or easements, or applications for rezoning, variances or use permits, made, filed, submitted or recorded by Declarant and pertaining to portions of the Covered Property owned by Declarant, nor does this Section authorize the denial of uses or densities allowed by law and which are approved by Declarant.

5.2.23 Permissible Encroachments. Each Owner hereby acknowledges and agrees that Dwelling Units, or privately owned patio walls, improvements and fixtures, once built and completed, and which were initially constructed on the Covered Property in the course of original construction by a Developer Owner may from time to time encroach in minor degree upon the Common Areas or other Lots in the Covered Property. Such encroachments caused incidentally and which are minor in scope and degree, such as those caused by good faith survey error, and where removal of improvements would cause gross economic waste, shall be deemed acceptable. Each Owner consents thereto and agrees that title to the land lying within such incidental encroachments is conveyed to the Owner of the Lot upon which the majority of the encroaching structure is built.

5.2.24 Single Family Residential Use and Story Heights. No structure whatsoever, other than one private, Single Family residence, together with a private garage for not more than four (4) cars and one (1) guest residence, one gazebo, one tennis court, one swimming pool, one spa, and one storage facility shall be erected, placed or permitted on any Lot designated in a Tract Declaration as having Single Family Residential Use Classification or Cluster Residential Use Classification. No Single Family residence greater than one-story in height shall be permitted or constructed upon any Lot immediately adjacent to Yedra Road, Wade Road, Camino Verde and Los Reales Road. In addition, no Single Family residence

greater than one-story shall be permitted or constructed upon any Lot immediately adjacent to Blocks 11, 12, 16 and 17 if such Blocks are either used for commercial development use or are undeveloped at the time of construction of such Single Family residences. For purposes of this Section, the term "one-story" shall have the same meaning as is used under applicable zoning. In addition, for purposes of this Section, a Lot shall not be deemed "immediately adjacent" to said rights of way or Blocks, if: a) such Lot is separated from said rights of way or Blocks by another Lot; or b) no portion of such Lot is within sixty (60) feet of said rights of way or Blocks. Any one-story limitation encumbering the Lots immediately adjacent to Yedra Road, Wade Road, Camino Verde and Los Reales Road and Blocks 11, 12, 16 and 17 may, at the sole and absolute discretion of Declarant, with regard to Lots immediately adjacent to such roadways, and the sole and absolute discretion of TGA Trust 1440, with regard to Lots immediately adjacent to Blocks 11, 12, 16 and 17, be waived without any further consent or approval at any time and regardless of the circumstances, including without limitation, whether such waiver occurs or is given before or after construction or development has already begun on the benefited or burdened property and after portions of the burdened property have been previously developed under one-story or two-story limitations. There is no intended third party beneficiary of the one-story height restriction described in this Section.

5.2.25 Residential Apartment Development Use or Residential Condominium Development Use. No structure whatsoever, other than one or more buildings each containing one or more private Dwelling Units, together with parking garages or structures, storage facilities, recreational facilities, including but not limited to tennis courts and swimming pools, and property management sales or rental offices incidental or appurtenant thereto, shall be erected, placed or permitted on any portion of the Covered Property designated in a Tract Declaration as having Land Use Classifications of Residential Apartment Development or Residential Condominium Development.

5.2.26 No Commercial Use. Except with regard to any Block designated for commercial use pursuant to a Tract Declaration, no gainful occupation, profession, trade, or other nonresidential use shall be conducted on or in any Lot or Block except as set forth in this subparagraph. The Declarant and a Developer Owner may maintain sales offices, construction offices and sales models on the Covered Property and an Owner or Occupant may carry on a "Home Occupation" as provided below. A "Home Occupation" as permitted hereby means work within the Dwelling Unit (such as the performance of accounting work, creation of art work, etc.) provided that:

- a. The existence or operation of the business activity is not apparent from the outside of the Dwelling Unit and no sound or smell from the outside of the Dwelling Unit indicating the conduct of business is detectable;
- b. The business activity conforms to all zoning requirements for the Lot; and
- c. The business activity does not involve frequent or annoying traffic by persons who do not reside therein, nor regular arrival of employees of the Owner; and

11-11-2010 11:11:11

d. The business activity is consistent with the residential character of the neighborhood and does not constitute a nuisance or hazard or offensive use, nor threaten the security or safety of other residents of the Covered Property as determined in the discretion of the Board.

If the Board determines that the Home Occupation violates the provisions hereof, then the Board shall have the authority to require that the Home Occupation in question cease immediately.

Notwithstanding any provision of this Declaration, Declarant shall not be prohibited from erecting or maintaining on the Covered Property wireless antennas and devices for the transmission or reception of data, communication, sound, video or other signals, whether or not such facilities serve more than just the Covered Property, or may be considered "hub" facilities under the federal Telecommunications Act of 1996, or amendments thereto, or under any regulations or rulings of the Federal Trade Commission. Such activities shall not constitute prohibited activity hereunder. The facilities governed by this paragraph shall be limited to antennas either reasonably hidden from sight within other structures, or which are no more than one meter in diameter, and which have appurtenant facilities no more than seven (7) feet in height and which are reasonably screened from view.

5.2.27 Leasing. The entire (but not less than all) of a Dwelling Unit or Apartment Unit may be leased to a Single Family Tenant from time to time by the Owner, subject to the provisions of this Declaration, any applicable Tract Declaration and the Association Rules.

5.2.28 Animals. No animal, livestock, poultry or fowl of any kind other than a reasonable number of generally recognized house pets, shall be maintained on or in any Lot or Block and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any permitted pet shall be Visible From Neighboring Property. Notwithstanding the foregoing, no permitted pets may be kept on or in any Lot or Block which result in an annoyance to other Owners or Occupants in the vicinity. All permitted pets shall be leashed when not on a Lot owned by the pet's owner or on which the pet's owner is a Tenant, guest or invitee. Persons walking pets shall carry a "pooper scooper" (a hand held shovel or other instrument designed for removing animal excrement from the ground) with them at all times and shall remove the pet's excrement from the Covered Property.

5.2.29 Garbage. No garbage or trash shall be allowed, stored or placed on a Lot or Block except in sanitary, covered containers. In no event shall such containers be Visible From Neighboring Property, except for a reasonable time immediately prior to and after collection. All trash and garbage shall be regularly removed from each Lot and Block and shall not be allowed to accumulate thereon. The Board may also determine to require that the Association or individual Owners shall employ one or more of a limited number of waste management or pick-up companies to retrieve waste and refuse from the Covered Property or portions thereof. The Board may establish regulations as to the times and duration that waste

containers may be visible from Neighboring Property for pick-up, and may determine and regulate the type and appearance of waste containers.

5.2.30 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, stored or maintained upon any Lot or Block, except:

a. During the period of construction, such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a building, appurtenant structures or improvements thereon; or

b. That which Declarant or the Association may require for the development, operation and maintenance of the Covered Property or other portions of the Covered Property.

5.2.31 Signs. No signs of any nature shall be placed on the Common Areas except with respect to Association or Common Areas matters as approved by the Board. No signs of any nature shall be placed on any Lot or Block, except:

a. Signs required by legal proceedings;

b. A maximum of two (2) identification signs for Dwelling Units, each with a maximum face area of seventy-two (72) square inches or less;

c. "For sale" and "for lease" signs, and subdivision, apartment and condominium identification signs, the nature, number, location, content and design of which shall comply with the Architectural and Development Guidelines; and

d. Such other signs as the Design Review Committee shall approve.

This Section shall be subject to all provisions at law, including those providing for the placement of political signs and signs pertaining to candidates for political office or to other such protected matters.

5.2.32 Parking. Vehicles shall be kept in garages to the extent of available room or in designated parking areas shown on recorded maps or plats. No Owner shall convert a garage into a living area without approval of the Design Review Committee, which approval may be denied in the sole discretion of such committee, nor may a garage be used as a storage area thereby precluding the parking of vehicles. No garage doors shall be permitted to remain open except for a temporary purpose. The Association may adopt additional parking restrictions including the establishment of fines and assessments for their violation. The Association may also delegate its authority to enforce such parking restrictions to the appropriate Subsidiary Association.

5.2.33 Commercial Vehicles. Except with regard to any Block designated for commercial use pursuant to a Tract Declaration, no vehicle shall be permitted to park on a Lot or Block if the exterior of the vehicle contains or exhibits any signage relating to a commercial enterprise or commercial activity that is visible from the exterior of such vehicle

(except for vehicles that are kept in an enclosed garage), except such signage that is limited to the exterior driver or passenger door of such vehicle shall be permitted if the vehicle is used by the Owner as regular transportation in commuting to work. No vehicle shall be permitted to park on a Lot or Block, even if such vehicle otherwise qualifies under Section 5.2.14(a) and 5.2.14(b) herein, if such vehicle is used for a commercial enterprise or activity and such vehicle has ladders, work beds, lights and/or other commercial items attached to or hanging from such vehicle so as to be visible from the exterior of such vehicle (except for vehicles that are kept in an enclosed garage). The foregoing restrictions shall not apply to vehicles parked within an enclosed structure approved by the Design Review Committee, nor to commercial vehicles of contractors, Developer Owners and others working on the Covered Property.

5.2.34 Model Homes, etc. Nothing contained herein or in any applicable Tract Declaration shall prohibit the construction and maintenance of model homes, sales offices, property management offices and parking incidental thereto by persons engaged in the construction, marketing, rental or management of Dwelling Units within the Covered Property, provided, however, that the models are open only during reasonable hours and otherwise are in compliance with the provisions of this Declaration and local ordinances. Except as otherwise approved in writing by the Board:

(a) All model homes and sales offices shall cease to be used at such time as the owner (or lessee thereof as the case may be) is not actively engaged in the construction or sale of Dwelling Units within the Covered Property (provided that the foregoing portion of this sentence shall not apply to model apartments, apartment rental offices or property management offices); and

(b) No model home, model apartment, sales office, apartment rental office or property management office shall be used for the sale or rental of residences not located within the Covered Property.

Section 5.3 Variances. The Board may, at its sole discretion, grant variances from the restrictions set forth in Article 5 hereof or in any Tract Declaration if the Board determines that:

5.3.1 Either (a) a particular restriction would create a substantial hardship or burden on an Owner or Occupant and that such hardship is not attributable to the Owner's or Occupant's acts; or (b) a change of circumstances has rendered the particular restriction obsolete; and

5.3.2 The activity permitted under the requested variance will not have a substantially adverse effect on other Owners and Occupants. The request for a variance must be made in writing and be accompanied by adequate supporting documentation. The Board shall approve or disapprove the request, in writing, as promptly as possible under the particular circumstances. All decisions of the Board shall be final and non-appealable.

Section 5.4 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by Declarant or a Declarant Affiliate or their agents, during the period of development and construction on the

Covered Property of improvements, landscaping or signs deemed necessary or convenient by Declarant or a Declarant Affiliate, in its sole discretion, to the development or sale of property within the Covered Property. Declarant may assign, in whole or in part, its rights and privileges under this Section, and Declarant may grant, in its sole discretion, any similar rights and privileges to any Developer Owner.

Section 5.5 Savings Clause. The provisions of this Declaration shall be construed to be consistent with law, and should any provision violate law, then applicable law shall govern. Without limitation, no provision hereof shall be construed to prohibit the placement of solar heating or other such devices or antennae on Lots, provided such placement conforms to such lawful requirements hereof or of the Architectural and Development Guidelines which do not conflict with law, nor shall the provisions hereof prohibit the placement of the American Flag or the parking of public service vehicles as permitted by law, again subject to the Architectural and Development Guidelines and rules and regulations of the Association not in conflict with such laws.

ARTICLE 6

ORGANIZATION OF ASSOCIATION

Section 6.1 Formation of Association. The Association shall be a nonprofit Arizona corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, the By-Laws, and this Declaration. Neither the Articles nor the By-Laws shall be amended or interpreted so as to be inconsistent with this Declaration.

Section 6.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the By-Laws. During the pendency of the Class B Membership, the Board shall consist of at least three (3) directors who shall be Members or individuals designated by a corporate, partnership or other non-individual Member, and a majority of the directors may be appointed by the Declarant during the pendency of the Class B Membership. Commencing with the first annual meeting of the Members when there is no longer a Class B Membership, the Board shall consist of, and the voting Members shall elect, not more than seven (7) directors, but never an even number, all of whom must be Members, or an individual designated by a corporate, partnership or other non-individual Member.

The Board may appoint various committees at its sole and absolute discretion, including an advisory committee of Class A Members who may provide non-binding advice to the Board and assist with gradual transition from control by the Class B Members to the Class A Members.

Section 6.3 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 the Association Rules. The Association Rules may restrict and govern the use of the Common Areas, provided, however, that the Association Rules shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles, or the By-Laws. The

Association Rules shall be intended to enhance the preservation and development of the Covered Property, the Common Areas and the Limited Common Areas. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth herein. A copy of the Association Rules as adopted, or amended, shall be available for inspection at the office of the Association.

Section 6.4 Personal Liability. No Board member, officer, committee member, employee or representative of the Association, or the Association, shall be personally liable to any Owner, or to any other Person, including the Association, for any damage, loss, costs, fees (including reasonable attorneys' fees), or prejudice suffered or claimed on account of any of their acts, omissions, errors or negligence, provided, however, that the limitations set forth in this Section shall not apply to any Person who has failed to act in good faith or has engaged in willful or intentional misconduct.

Section 6.5 Subsidiary Associations. In the event any homeowners or similar Subsidiary Association is formed by a Developer Owner of a Block or portion thereof, or group of lots, such Subsidiary Association's governing documents shall not be effective unless they have been approved in advance by Declarant and they specify that such governing documents, such Block or portion thereof, or group of Lots, the Subsidiary Association, and the Subsidiary Association's members are subject and subordinate to this Declaration, the Architectural and Development Guidelines, the Articles, the By-Laws and the Association Rules. Declarant shall not disapprove any such governing documents unless, in Declarant's sole discretion, either:

6.5.1 They are inconsistent or in conflict with this Declaration, the Articles, the By-Laws, the Association Rules, the Architectural and Development Guidelines and any applicable Tract Declaration; or

6.5.2 They fail to contain the specification required by the preceding sentence.

At such time as there is no longer a Class B Membership or Declarant no longer owns a Lot or Block within the Covered Property, whichever is later, the governing documents for any proposed homeowners or Subsidiary Association shall be approved by the Association as described in this Section, or at the election of the Board shall not be effective.

Subsidiary Associations shall have the right to own, operate and maintain Limited Common Areas and shall not be required to dedicate same as Common Area hereunder. The Board may delegate to a Subsidiary Association the responsibility and duty of billing and collecting for some or all of the Assessments.

Section 6.6 Mergers or Consolidations. The Association shall have the right, power and authority to participate in mergers or consolidations with any other nonprofit corporation whose objectives, methods, and taxable status and format of operation are similar to those of the Association (a "Merger Candidate"). Merger or consolidation of the Association with a Merger Candidate must, in addition to other requirements at law, be approved in advance by Members holding at least two-thirds (2/3) of the votes in each class of Members of the Association, whether in Person or by proxy, at a meeting duly called for such purpose. The

Association's properties, rights and obligations shall be transferred to and assumed by the surviving or consolidated corporation by operation of law, or, alternatively, the properties, rights and obligations of the Merger Candidate shall be transferred by operation of law to the Association as the surviving corporation. The surviving or consolidated corporation, at a minimum, shall have the same administrative responsibilities and enforcement rights established by this Declaration in regard to the Covered Property. In addition, for so long as there is a Class B Member and to the extent Declarant has theretofore sought the approval of an Agency in regard to the Association or any Subsidiary Association, any such merger or consolidation will be subject to the approval by such Agency if so required by the rules and regulations of the Agency.

ARTICLE 7

MEMBERSHIPS AND VOTING

Section 7.1 Votes of Owners of Lots and Blocks. Every Owner of a Lot or Block (but not an Owner who owns solely Exempt Property) shall automatically be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Owner shall have the following applicable number of votes in regard to votes of the Members of the Association:

7.1.1 In the case of Lots, one (1) vote for each Class A Member and three (3) votes for the Class B Member for each Lot owned;

7.1.2 In the case of a Single Family Residential Block which has not been divided into Lots by a Recorded subdivision plat or other Recorded instrument, six (6) votes for each Class A Member and eighteen (18) votes for the Class B Member for each Net Acre owned within such Block (in the case of fractional Net Acres, rounded to the nearest whole vote with each Member to have at least one whole vote).

7.1.3 In the case of a Residential Condominium Development Block for which a condominium declaration has not been Recorded, six (6) votes for each Class A Member and eighteen (18) votes for the Class B Member for each Net Acre owned within such Block (in the case of fractional Net Acres, rounded to the nearest whole vote with each Member to have at least one whole vote).

7.1.4 In the case of a an Apartment Block upon which construction has not yet been completed, six (6) votes for each Class A Member and eighteen (18) votes for the Class B Member for each Net Acre owned within such Block (in the case of fractional Net Acres, rounded to the nearest whole vote with each Member to have at least one whole vote); provided, however, that upon completion of construction upon an Apartment Block, the Class A owner thereof shall have the greater of six (6) votes for each Net Acre or one-half (1/2) of a vote for each Apartment Unit built upon the Block, with the Class B Member to continue to have eighteen (18) votes for each Net Acre owned within the Block.

7.1.5 If a subdivision plat, condominium declaration or other instrument creating Lots is Recorded which covers all or part of a Block, then the votes

attributable to the Lots shall be determined as set forth above. If a subdivision plat, condominium declaration or other instrument creating Lots for such Block is later Recorded showing a different number of Lots, the number of votes shall be adjusted to reflect the actual number of Lots as set forth in the Recorded subdivision plat, condominium declaration or other instrument creating Lots. All votes attributed to an unsubdivided Block as a "Block" shall cease and be made applicable to Lots when all of the area is platted or otherwise divided into Lots.

Section 7.2 Membership is Appurtenant to Ownership. Each Owner's Membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot or Block to which the Membership is attributable. There shall be only the Memberships for each Lot and Block as are described herein. Joint ownership or ownership of undivided interests in any property as to which a Membership is established pursuant hereto shall not increase the number of Memberships or votes attributable to the Lot or Block.

Section 7.3 Declarant. Declarant shall be a member of the Association for so long as it holds a Class A or Class B Membership.

Section 7.4 Voting Classes. The Association shall have two classes of voting Members:

7.4.1 Class A. Class A Members shall be all Owners except Declarant, until the conversion of Declarant's Class B Membership to Class A Membership as provided below. Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have the number of votes provided in Section 7.1 above. Notwithstanding the foregoing, a Class A Member shall not be entitled to vote with respect to any Lots or Blocks in regard to which the Owner is paying only a reduced Assessment pursuant to Section 8.3.1 unless otherwise determined in writing by Declarant in its sole discretion on a case by case basis, and Declarant's determination in such regard shall be final and conclusive. In order to effectively pursue the development of the Covered Property as contemplated herein, and solely for the purposes of calculating voting rights of the Declarant pursuant to this Article, Declarant shall at all times during the pendency of the Class B Membership be deemed to possess, in addition to its votes by reason of its ownership of Lots and Blocks, those additional three to one weighted votes determined by assuming that Declarant is the Owner of those Lots and Blocks owned by a Developer Owner paying partial or reduced Assessments pursuant to Section 8.3.1 below (and not determined by Declarant to have voting rights); provided, however, that upon expiration of the Class B Membership, Declarant shall be deemed to have relinquished its votes with respect to Lots or Blocks owned by Class A Members paying reduced Assessments pursuant to Section 8.3.1 below, in which case said Class A Members shall have the votes Class A Members would otherwise have with respect to such Lots or Blocks.

7.4.2 Class B. The Class B Member(s) shall be Declarant and any Declarant Affiliate owning any portion of the Covered Property. The Class B Member(s) shall have the number of votes as provided in Section 7.1 of this Declaration for all property owned in the Covered Property identified herein or in a Tract Declaration. The Class B Membership shall terminate and be converted to a Class A Membership upon the happening of the first of the following events:

a. Subject to the provisions of Section 7.4.1 above, the date which is one hundred twenty (120) days after the date upon which the total votes of the Class A Members entitled to vote equals the total votes of the Class B Member(s) (including the three to one weighted votes Declarant is entitled to cast as a result of Developer Owners paying partial Assessments as provided herein);

b. The date which is ten (10) years after the date this Declaration is recorded; or

c. The date on which the Class B Member(s) relinquishes its Class B Membership by notifying the Class A Members in writing.

The Class B Membership shall revive if, once the Class B previously expired, subsequent annexations or other events should cause the votes of the Class B Member, including those the Class B Member is or previously was deemed to possess by reason of land owned by Developer Owners paying partial Assessments, to exceed those of the Class A Members. Upon such revival, the Class B Member shall continue to have all weighting voting rights and the votes otherwise attributable to Developer Owners paying partial Assessments.

Declarant shall have the right to assign its rights and privileges as the Declarant and as the Class B Member, which assignment may be in whole or in part. Such assignment may include the special voting provisions set forth herein.

Section 7.5 Right to Vote. No change in the ownership of a Lot or Block shall be effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof, for example, the Recorded deed showing the name of the Owner of such Lot or Block. The vote for each Member must be cast as a single unit. Fractional votes shall not be allowed, except as provided in Section 7.1.4 relating to apartments. Fractional votes shall not be allowed. In the event that a Lot or Block is owned by more than one Person and such Owners are unable to agree as to how their vote or votes shall be cast, they shall not be entitled to vote on the matter in question. If any Owner casts a vote or votes representing a certain Lot or Block, the Owner will thereafter be conclusively presumed to be acting with the authority and consent of all other Owners of such Lot or Block unless objection thereto is made to the Board, in writing, at or prior to the time the vote or votes are cast. In the event more than one (1) Person casts or attempts to cast a vote for a particular Lot or Block all such votes shall be deemed void.

Section 7.6 Members' Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the By-Laws, the Association Rules, and the Architectural and Development Guidelines.

Section 7.7 Transfer of Membership. The rights, duties and obligations of a Class A Member cannot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Class A Member's Lot or Block, and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure, or other legal process authorized under Arizona law. Any attempt to make a nonapproved form of transfer shall be void. Any transfer of ownership in a

Lot or Block shall operate to transfer the Membership appurtenant to ownership to the new Owner.

ARTICLE 8

ASSESSMENTS AND CREATION OF LIEN

Section 8.1 Creation of Assessment Lien; Personal Obligation of Lot or Block Owner. Each Owner, other than Declarant, by acceptance of a deed therefor (whether or not it should be so expressed in any such deed or other instrument) is deemed to covenant and agree to pay to the Association the Assessments and Special Use Fees when due. The amount and time for payment of the Special Use Fees and the Assessments shall be determined by the Board pursuant to this Declaration and the Articles and By-Laws. In determining the amount of the Special Use Fees and the Assessments, the Board may give such consideration as it determines appropriate to any surplus funds or other revenue balances held by the Association from prior years and the Board shall be entitled to establish such reasonable reserves for the Association as it deems appropriate. Assessments, together with interest thereon and the costs and reasonable attorneys' fees, if any, incurred by the Association in connection with the enforcement and collection thereof or in otherwise enforcing this Declaration, shall be a charge and continuing servitude and lien upon the Lot or Block against which such Assessments are made and, in addition, shall be the personal obligation of the Owner of such Lot or Block at the time when such Assessments become due and payable. This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

Section 8.2 Annual Assessments. The Association by and through the Board shall determine and levy the Annual Assessments for the purposes set forth herein. The Annual Assessments levied by the Association shall be used to promote the recreation, health and welfare of the Owners and Occupants, to enhance the quality of life within the Covered Property, to preserve and enhance the value of the Covered Property, to pay the costs of administration of the Association and the maintenance of the Common Areas, to establish reasonable reserves, and to otherwise further the interests of the Association as the Board deems appropriate. Subject to the limitations hereof, the Board may, during an Assessment Period, revise the amount of the Annual Assessment in order to meet expenses which exceed the amounts previously budgeted by the Association and collect such increased Annual Assessment in accordance with the provisions hereof.

Section 8.3 Rate of Assessment. The amount of the Annual Assessments, Maintenance Assessments and Special Assessments shall be established by the Board, in its sole discretion.

In establishing its budget and creating its plan for Assessments each year, the Board shall first establish an Annual Assessment per Lot payable for each Lot (the "Base Assessment"). In the case of a Single Family Residential Block or Cluster Residential Use Block that has not been subdivided into Lots, the Annual Assessment shall be three (3) times the Base Assessment for each Net Acre in the Block. The amount of any increase in the Annual Assessment shall be subject to such limitations as may be established by law.

In the case of a Residential Apartment Development Use Block upon which construction has not been completed, or a Residential Condominium Development Use Block for which a condominium declaration has not been Recorded, the Annual Assessment shall be six (6) times the Base Assessment for each Net Acre in the Block. Provided, however, that upon completion of construction upon an Apartment Block, the Class A owner thereof shall pay the greater of six (6) times the Base Assessment for each Net Acre or one-half (1/2) of the Base Assessment for each Apartment Unit built upon the Block.

8.3.1 Obligation of Developer Owner. The Developer Owner of a Lot or Block shall be required to pay only fifty percent (50%) of the Annual Assessments and Special Assessments for such Lot or Block until the earlier of twenty-four (24) months from the date of the initial conveyance by Declarant of the Lot or Block (or the Block from which such Lot was established) to the first Developer Owner thereof, or

a. in the case of a Single Family Residential Use Lot or Cluster Residential Use Lot, the date of the initial conveyance of the Lot with a completed Dwelling Unit thereon to a Non-Developer Owner; and

b. in the case of a Block designated for Residential Apartment Development Use or Residential Condominium Development Use, the date of completion of construction of improvements on the Block as determined by the Board in its sole discretion.

In the case of a site plan approved by the Design Review Committee for a Block which contemplates the construction of more than one building, the Block shall, for the purposes of this Section only, be deemed subdivided into the number of sub-Blocks equal to the number of approved buildings set forth on the approved site plan.

If a Developer Owner ceases to qualify for the reduced rate as provided herein during any Assessment Period, that Developer Owner shall immediately notify the Board, in writing, of its change in status. If an Owner of a Lot or Block who has the right to pay a reduced Assessment amount as provided for in this Declaration, fails to notify the Board of the date the payment amount is to be increased, that Owner shall still be liable for the full amount of the Assessment as of the date it was required to pay the full amount of the Assessment and such Owner's failure to notify the Board shall not relieve the Owner of liability for the full amount of the Assessment. The Association may at any time request that any Developer Owner which is being assessed at a reduced rate furnish the Association with evidence that such Developer Owner continues to be entitled to a reduced assessment rate under this Section. If such Developer Owner fails to produce such evidence within thirty days of the date of the Association's request, or if the evidence which is furnished is unsatisfactory, in the Board's reasonable discretion, to demonstrate that Developer Owner's continued entitlement to the reduced assessment rate, the Board may terminate the reduced assessment rate as of a date reasonably deemed appropriate by the Board.

8.3.2 Obligation of Non-Developer Owner. A Non-Developer Owner (not including Declarant) is not entitled to the reduced assessment rates set forth in the above-

Sections and a Developer Owner is only entitled to such reduced rates if it is a Developer Owner of the specific Lot or Block being assessed.

Section 8.4 Special Assessments. In addition to the Annual Assessments, the Board may levy a special Assessment (a) for the purpose of constructing improvements to Common Area; (b) correcting an inadequacy in the Association's accounts; (c) defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement owed by the Association; or (d) defraying other extraordinary expenses or paying other expenses the Board may deem appropriate. The Board shall specify the effective date of any Special Assessment and may provide that the Special Assessment is payable in installments. Special Assessments shall be approved at any annual or special meeting of the Members with the approval of two-thirds (2/3) of the total votes of Owners voting in person or by proxy.

Section 8.5 Working Capital Fund. To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment and services, each purchaser of a Lot or Block upon which the construction of improvements is complete, as evidenced by a certificate of occupancy or similar instrument which allows the Lot or Block to be used as a residence or, as applicable, for residences, shall pay to the Association immediately upon becoming the Owner of a Lot or Block a sum equal to twenty-five percent (25%) of the then-current Annual Assessment applicable to such Lot or Block (the "Working Capital Fund Contribution"). A Working Capital Fund Contribution shall continue to be payable upon each subsequent bona fide sale of a Lot or Block (excluding conveyances from a land banker to a Developer Owner, and excluding conveyances between a trustee and its then current beneficiary, and the like). Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under this Declaration and the Articles and By-Laws. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as advance payment of any Assessments levied by the Association pursuant to this Declaration.

Section 8.6 Notice and Quorum for Any Action Authorized Under This Article. Written notice of any meeting of the Members of the Association called for the purpose of conducting a vote required under this Article shall be sent to all Owners not less than fifteen (15) days nor more than fifty (50) days in advance of such meeting. At such meeting, the presence of Members or of proxies entitled to cast twenty-five percent (25%) of all the votes of the Members (without segregation as to class of Member) shall constitute a quorum. If the required quorum is not present, another meeting shall be called for such purpose, subject to the foregoing notice requirements, and the required quorum at the subsequent meeting shall be one-half of the quorum required at the initially scheduled meeting. The subsequent meeting shall be held within sixty (60) days following the date of the initially scheduled meeting.

Section 8.7 Maintenance Assessments. In addition to any Annual Assessment or Special Assessment, the Board has the authority to levy and collect Maintenance Assessments for costs and expenses arising out of any special characteristics or needs of a particular Lot or Block, or if the Owner of a Lot or Block contracts with the Association for the Association to provide particular maintenance services to such Owner's Lot or Block. Furthermore, if any common expense is caused by the misconduct of an Owner of a Lot or Block, his/her tenants, guests, invitees or licensees, including any misconduct leading to the

imposition of any fine or penalty against such Owner, or expense by the Association to bring such Owner into compliance with the provisions hereof, the Association may assess that expense exclusively against that Owner and such Owner's Lot or Block, but in such events only after notice and an opportunity for a hearing, including as required by law. Maintenance Assessments may be enforced in the same manner as Annual Assessments. This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

Section 8.8 Fines and Penalties. If any Owner, his or her family, or any licensee, invitee, tenant or lessee violates the provisions hereof, or any provision of any of the Architectural and Development Guidelines or other rules of the Association, the Board after providing the Owner with notice of the violation and an opportunity for a hearing, may levy a fine upon the Owner and may suspend the violator's right to use the Common Area. The Board may impose a fine for each day a violation continues after the Board has provided the Owner with written notice of the violation. The Board may establish a procedure for conducting hearings and imposing penalties. This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

Section 8.9 Annual Assessment Period. Except as otherwise provided herein below, the Assessment Period shall be the calendar year. The Board may, in its sole discretion, from time to time, change the Assessment Period. The initial Assessment Period shall commence upon conveyance of the first Lot or Block from Declarant to a Developer Owner, and shall terminate on December 31 of the same year. The Annual Assessments shall be prorated for the initial Assessment Period.

If any installment permitted for the payment of Assessments is not paid when due, the Board may accelerate the entire Annual Assessment or other Assessment. Late fees and interest may be added to the delinquent amount of any Assessment and become a part thereof, and may continue to accrue interest thereon, all to the extent permitted by law. Delinquent payments shall, to the extent permitted by law, apply first to delinquent Assessments, including late fees and other sums due, and then to accrued interest and attorneys fees and other legal costs, including litigation related expenses and expert witness fees, if any.

Section 8.10 Billing and Collection Procedures. The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments and Special Use Fees, which procedures may include delegating to the applicable Subsidiary Association the authority and obligation of billing and collecting some or all of the Assessments and Special Use Fees. The failure of the Association to send a bill to an Owner shall not relieve such Owner of the Owner's liability for an Assessment or Special Use Fee. No Assessment Lien shall be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days written notice thereof prior to the commencement of such foreclosure or enforcement. The notice shall be addressed to the Owner at the address of the Owner on the records of the Association. It shall be the responsibility of the Owner to inform the Association in writing of a change of address. The Association shall be under no duty to refund any payments received by the Association even if the ownership of a Lot or Block changes during an Assessment Period. Any successor Owner shall be given credit for any nonrefunded prepayments made by a prior Owner. In case the Owner of a Lot or Block having a right to pay a reduced payment amount as provided herein fails to notify the Board at such time as the payment amount should be

Dwelling Unit ready for occupancy as a home that is in the condition of any other Dwelling Unit sold to persons living in the Covered Property (e.g., carpet, kitchen countertops and cabinets, plumbing and lighting fixtures, etc., installed), but shall not include any Lots with improvements thereon used by Declarant or Declarant Affiliates as models or sales offices. Nor shall Declarant or any Declarant Affiliates be liable for the payment of any Assessments for any Lot or Block that, having been previously sold to a purchaser, has been deeded back to the Declarant by foreclosure or deed in lieu of foreclosure, unless such Lot is a Completed Lot.

In consideration for Declarant's and each Declarant Affiliate's exemption from Assessments, Declarant and each Declarant Affiliate agree they shall pay, for any given Assessment Period in which Declarant a Declarant Affiliate has paid or contributed to the Association less than the full Annual Assessment for each Lot or Block owned, the actual shortfall or deficiency, if any, in necessary ordinary operating revenue to pay current ordinary expenses for the operation and maintenance of the Association and Common Areas, but only up to the full Annual Assessment for each such Lot or Block actually owned by Declarant or a Declarant Affiliate. A shortfall or deficiency shall exist if current ordinary expenses of the Association are greater than the revenues of the Association from all sources for the Assessment Period in question; provided, however, that neither Declarant nor a Declarant Affiliate shall be liable for any shortfall or deficiency created by any decrease in the amounts of the Annual Assessments from those charged during any prior year, nor for any shortfall or deficiency incurred after expiration of the Class B Membership. Declarant and any Declarant Affiliate may at any time at their sole discretion elect to cease paying the shortfall or deficiency, if any, and to pay up to the full Annual Assessment for each Lot or Block owned by Declarant or by Declarant Affiliate. Declarant's and Declarant Affiliate's obligation to contribute toward a deficiency as provided herein is supported by a lien on Declarant's Lots and Blocks and the Lots and Blocks of each Declarant Affiliate. Lots or Blocks deemed owned by Declarant for purposes of voting rights have no application to this provision.

In the event of deficiencies, as aforesated, Declarant and each Declarant Affiliate shall share the burden of payment of the deficiency by paying their ratable share of same, up to the full amount of the Annual Assessment for each Lot or Block owned Declarant and any Declarant Affiliate. Should Declarant assign its rights to the exemption from Assessments as provided herein, whether such assignment be in whole or in part, then the assignee shall, in the case of any deficiency as described above (and meeting the conditions set forth above), be liable for its ratable share of same, up to the full amount of the Annual Assessment for each Lot or Block owned, and not more. In addition, such assignee's exemption, if any, shall expire with respect to any Lot or Block upon which construction of improvements has been completed.

In no event shall Declarant or any Declarant Affiliate be required to contribute to any deficiency after the termination of the Class B Membership.

ARTICLE 9

ENFORCEMENT AND THE ASSESSMENT LIEN

Section 9.1 Association Remedies to Enforce Assessments. If any Owner fails to pay any Assessments or Special Use Fees when due, the Association may (and each Owner hereby authorizes the Association to) enforce the payment thereof and the Assessment Lien by taking either or both of the following actions, concurrently or separately (and by exercising either remedy the Association does not prejudice or waive its right to exercise the other remedy):

9.1.1 Bring an action at law against the Owner to recover judgment against the Owner who is personally liable for the Assessments or Special Use Fees; and

9.1.2 Foreclose the Assessment Lien against the appropriate Lot or Block in accordance with then prevailing Arizona law, and the Association may bid for and purchase the Lot or Block at any foreclosure sale, except that this Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

Section 9.2 Subordination of Assessment Lien. The Assessment Lien shall have priority from the date of recording of the original declaration to which this instrument relates (November 7, 2002), and shall be superior to all charges, liens or encumbrances which hereafter are or may be imposed on any Lot or Block except as provided by law. Without limitation, the Assessment lien is junior to:

9.2.1 The lien of any First Mortgage encumbering the Lots and Blocks; and

9.2.2 The lien for taxes or other governmental assessments which are deemed superior hereto by applicable law.

Sale or transfer of any Lot or Block shall not affect the Assessment Lien provided, however, the sale or transfer of any Lot or Block pursuant to any First Mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the Assessment Lien only as to payments which became due prior to such sale or transfer. No other sale or transfer shall relieve a Lot or Block, or the Owner thereof, for liability from any Assessment theretofore becoming due nor from the Assessment Lien arising in regard thereto. In addition, no Event of Foreclosure shall impair the Assessment Lien, except that a Person obtaining an interest in a Lot or Block through an Event of Foreclosure shall take title subject only to such Assessments as shall accrue subsequent to the date the Person acquires its interest.

ARTICLE 10

USE OF ASSOCIATION FUNDS

Section 10.1 Use of Association Funds. In addition to the powers enumerated in the Articles and By-Laws, the Association shall apply all Funds to the performance of the

11-11-02 11:11:31

duties and obligations of the Association and the Board hereunder, or under the Articles and By-Laws, and toward such other ends and purposes as the Board may reasonably determine. The Funds may be used, among other things, to insure, acquire, construct, alter, maintain, provide and operate, in any manner whatsoever, any and all land, properties, improvements, services, projects, programs, studies and systems, within the Covered Property and the Common Areas, which may be necessary, desirable or beneficial to the interests of the Owners and the Occupants and for paying real estate taxes, assessments and other charges on the Common Area, including all ad valorem taxes thereon.

Section 10.2 Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as the Board deems necessary or appropriate.

Section 10.3 Association's Rights in Spending Funds from Year to Year. The Association shall not be obligated to spend in any year all Funds received by it in such year, and the Board may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year.

ARTICLE 11

MAINTENANCE

Section 11.1 Dwelling Units. Maintenance, repair and upkeep of each Lot, including all improvements thereon, shall be the sole responsibility of each Owner.

Section 11.2 Perimeter Walls. Each Owner shall maintain and repair hairline cracks and other aesthetic matters on and repaint (if applicable), the inside or interior side of any Perimeter Walls appurtenant to such Owner's Lot or Block. Each Owner shall be entirely responsible for the maintenance and repair of any other wall or fence on its Lot or Block which is not a Perimeter Wall. The Association shall be responsible for maintaining, repairing and painting the exterior sides of all Perimeter Walls and all structural defects or cracks, other than hairline cracks, on the interior side of such walls, provided that the Owner shall be charged for any such repair work that is the result of negligence or misconduct on the part of such Owner or such Owner's guests or invitees, including without limitation, excessive watering close to the foundation of any such wall.

Section 11.3 Failure to Maintain. Maintenance, repair and repainting of a Dwelling Unit and other improvements on a Lot shall be undertaken in a manner and with such frequency as shall keep each Owner's Lot in an attractive, well-kept and maintained condition in conformity with all other Lots. In the event any Owner fails to fulfill his or her obligation under this Section, the Association, after approval of two-thirds (2/3) vote of the Board of Directors, shall have the right through its agents and employees, to enter upon the subject property, and to repair, maintain and restore the Lot, including the perimeter yard walls, or fences and any other improvements. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject. The Board shall have the right to determine whether or not a Lot is in need of maintenance, repair and upkeep in order to conform to the standards of

the general neighborhood of the Properties and the Board shall use a reasonably high standard to determine whether such maintenance, repair and upkeep is required so that the Lots as a whole will reflect a high pride of ownership. This Section shall be subject to such limitations as are imposed by A.R.S. § 33-1807.

Section 11.4 Common Areas.

11.4.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall maintain and otherwise manage all Common Areas, provided, however, that the Association shall not be responsible for providing or maintaining the landscaping or structures on any Common Areas located on or within Lots or Blocks unless:

a. Such landscaping or structures are intended for the general benefit of the Owners and Occupants; and,

b. The Association either (i) assumes in writing the responsibility for such maintenance and such instrument is Recorded; or (ii) is so specifically bound hereunder.

Common Areas to be maintained by the Association may be identified on Recorded subdivision plats approved by Declarant, or in a Tract Declaration or in deeds from Declarant, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect thereto. The Association shall be obligated to pay real estate taxes, assessments and other charges on the Common Area, including all ad valorem taxes thereon. The Association shall maintain landscaping and similar improvements within public rights of way which are the subject of a right of entry, maintenance agreement, license, or other similar approval, such as Block landscape plans, approved by Pima County. The Association may cease such maintenance, subject to the terms of any such right of entry, maintenance agreement, license or other similar approval.

11.4.2 Delegation of Responsibilities. In the event any Recorded subdivision plat, Tract Declaration, Recorded map of dedication, Recorded deed restriction or this Declaration permits the Association to determine whether Owners of certain Lots or Blocks shall be responsible for maintenance of certain Common Areas or public rights-of-way, the Board shall have the sole discretion to determine whether the Association or an individual Owner or group of Owners should be responsible for such maintenance, considering cost, uniformity of appearance, location and other relevant factors. The Board may also cause the Association to contract with others for the performance or such maintenance and other obligations of the Association and, in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to Owners of Lots and Blocks having such responsibilities in exchange for the payment of such fees as the Association and the Owner may agree.

11.4.3 Standard of Care. The Association shall use a reasonably high standard of care in providing for the repair, management and maintenance of the Common Areas so that the Covered Property will reflect a high degree of pride of ownership. The Board shall be the sole judge as to the appropriate level of maintenance of all Common Areas.

Section 11.8 Certain Maintenance Activities. Where the Association has undertaken, by virtue of its obligations hereunder or pursuant to any special contract executed by the Association, the responsibility to maintain, repair, replace, repave, resurface or operate private streets or private roadways or any open space, recreational or other common facilities or any guard gates, the Board, if in its discretion determines that such private streets or private roadways (or appurtenant equipment and facilities) or open space, recreational or other common facilities or guard gates, exclusively or disproportionately benefit the Owners of Lots within a particular subdivision of other Lots or Blocks, may assess all (or such appropriate portion as the Board shall determine in its discretion) of the cost of such maintenance, repair, replacement, repaving, resurfacing and operation solely against the Lots within such subdivision (and the respective Owners thereof) as additional Maintenance Assessments, which shall be assessed equally against each of the Lots within such subdivision and shall be secured by the lien for Assessments as described herein. Such additional Maintenance Assessments may also include amounts to establish and fund reserves as the Board may deem reasonable and appropriate. One of the purposes of this Section is to establish a mechanism whereby various facilities intended and designed solely or primarily for use by the Owners of Lots within a particular subdivision may be owned and maintained by the Association at the sole and primary expense of such Owners rather than require formation of a Subsidiary Association to undertake such ownership and maintenance.

Section 11.9 Savings Clause. Notwithstanding the provisions of this Article, or any other provision of this Declaration, the power of the Association to commence foreclosure or other proceedings shall be limited by such provisions as are established at law or in equity, including such limitations as are established and imposed by A.R.S. § 33-1807.

ARTICLE 12

RIGHTS AND POWERS OF ASSOCIATION

Section 12.1 Rights, Powers and Duties of the Association. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in the Articles and By-Laws, together with such rights and powers and duties as may be reasonably necessary in order to effect all the objectives and purposes of the Association as set forth herein. A copy of the Articles and By-Laws shall be available for inspection at the office of the Association during reasonable business hours.

Section 12.2 Rules and Regulations. In addition to the right to adopt, amend and repeal rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association, acting through the Board, shall have the right to adopt, amend and repeal rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided such rules and regulations are not inconsistent with the provisions of this Declaration, the Articles, and the By-Laws. Upon adoption, the Association Rules shall be enforceable in the same manner as this Declaration and shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 12.3 Association's Rights of Enforcement. The Association, as the agent and representative of the Owners, shall have the right, but not the obligation, to enforce

RECEIVED

the provisions of this Declaration and all Additional Covenants that shall have been executed pursuant or subject to the provisions of this Declaration or otherwise shall indicated that the provisions of such instrument were intended to be enforced by the Association or by Declarant. If the Association shall fail or refuse to enforce the provisions of this Declaration or the Additional Covenants after receipt of written request to enforce from any Owner, then any Owner shall have the right and authority, but not the obligation, to enforce the provisions of this Declaration.

Section 12.4 Enforcement Methods and Means. The Association may enforce the provisions hereof at law or in equity, including, but not limited to:

12.4.1 Imposing reasonable monetary penalties after notice and an opportunity to be heard, which penalties shall be the obligation and liability of the offending Owner to pay, with each Owner being further liable for the acts of his or her guests, invitees and Tenants or residents;

12.4.2 Suspending an Owner's right to vote;

12.4.3 Suspending any services provided by the Association to an Owner or the Owner's property if the Owner is more than 15 days delinquent in paying any Assessment or other charge owed to the Association;

12.4.4 Exercising self-help or taking action to abate any violation of the provisions hereof;

12.4.5 Requiring an Owner at the Owner's expense to remove any offending condition, structure or Improvement on the Owner's property, and further requiring the said Owner to restore his or her property to the condition in which it previously existed, without such action being a trespass;

12.4.6 Without liability to the Association or to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Declaration from continuing to perform and further activities on the Covered Property;

12.4.7 Towing vehicles which are parked in violation of the provisions hereof; and

12.4.8 Filing suit at law or in equity to enjoin a violation of the provisions hereof, or to recover fines or Assessments or such other relief as may be appropriate.

The Board may weigh financial and other factors, such as possible defenses, legal merit and other factors, in determining whether to pursue legal action, and the Board's discretion in such matters shall be final. The rights and remedies of the Association are cumulative, and the Association may pursue any or all remedies without waiver, and any failure by the Association to take legal action shall not limit or waive the right of any Owner to pursue proper action, nor the right of the Association to pursue action at a future time should it so desire.

Mortgage Holders representing at least sixty-seven percent (67%) of the votes in the Association that are allocated to Owners whose Lots or Blocks are subject to First Mortgages held by Eligible Mortgage Holders.

Any First Mortgagee who receives a written request to approve additions or amendments to this Declaration, the Articles, or the By-Laws and who does not submit a response to the requesting party within thirty (30) days after the request is made shall be deemed to have approved such request. As an example and without limiting the determination of materiality in any way, any addition or amendment to this Declaration, the Articles, or the By-Laws shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

Section 13.3 Condemnation or Insurance Proceeds. No Owner, or any other party, shall have priority over any rights of any First Mortgagee pursuant to its mortgage or deed of trust in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a Taking of Common Areas.

Section 13.4 Payment of Charges by First Mortgagees. First Mortgagees may jointly or singly pay taxes or other charges that are in default and that may or have become charges against any Common Areas, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for Common Areas in the case of lapse of a policy. First Mortgagees making such payments are due immediate reimbursement from the Association.

Section 13.5 Right of Inspection of Records. Any Owner, First Mortgagee, or Eligible Insurer or Guarantor shall be entitled to: (a) inspect current copies of this Declaration, the Articles, the By-Laws, the Architectural and Development Guidelines, the Association Rules, and the books, records, and financial statements of the Association during normal business hours; and (b) receive, upon written request therefor, an audited financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party.

ARTICLE 14

EMINENT DOMAIN INVOLVING THE COMMON AREA

Section 14.1 Eminent Domain. The term "Taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened Taking of all or any portion of the Common Area, the Owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with the Taking. The Board shall act, in its sole discretion, with respect to any awards made or to be made in connection with the Taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the Taking shall be paid to the Association. In the event of a total Taking, the Board may, in its sole discretion, retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Owners, and all holders of liens and encumbrances, as their interest may appear of Record.

1-NORTH BOSTON

other persons or entities affiliated with the Association such as a manager and its representatives, members and employees and a provision, if reasonably available in the discretion of the Board, preventing any cancellation or modification thereof, except upon at least thirty (30) days written notice to the insureds.

Liability insurance hereinabove specified shall name as separately protected insureds Declarant, the Association, the Board and such other persons or entities affiliated with the Association such as a manager and its representatives, members and employees as their interest may appear with respect to any liability arising out of the maintenance or use of any insured property.

To the extent that each such policy will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Declarant, the Board, and each Developer Owner and such other persons or entities named in said insurance policies, and against the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Section 15.4 Association's Insurance Premiums a Common Expense. Premiums for insurance purchased or obtained by the Association shall be a common expense payable through assessments of Lots and Blocks, and all such insurance coverage obtained by the Board shall be written in the name of the Association.

Section 15.5 Insurance for Residences and Lots. All Owners shall at their own expense obtain insurance for their Dwelling Units, Lots, and Blocks insuring against fire, accident and casualty, which insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of any such loss or losses.

Section 15.6 Use of Insurance Proceeds. In the event of damage or destruction by fire or other casualty to any Dwelling Unit, Lot or other property covered by insurance written in the name of an individual Owner, said Owner shall use any insurance proceeds for the repair of the damaged property.

ARTICLE 16

DISPUTE RESOLUTION

Section 16.1 Consensus for Association Action.

16.1.1 Except as provided in this Article, the Association may not commence a legal proceeding or an action without the approval of at least two-thirds of the votes of the Members eligible to vote. This Article shall not apply, however, to (i) actions brought by the Association to enforce governing documents (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it.

16.1.2 Prior to the Association or any Member commencing any proceeding to which Declarant or any Developer Owner is a party, including but not limited to an alleged defect of any improvement, Declarant and each Developer Owner shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

Section 16.2 Alternative Method for Resolving Disputes. Declarant, its officers, directors employees and agents; the Association, its officers, directors and committee members; all Persons subject to this Declaration, including all Members of the Association; any Developer Owner, its officers, directors employees and agents; and any Person not otherwise subject to this Declaration but who agrees to submit to this Article (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 16.3 (singularly, "Claim," and collectively, "Claims") to the procedures set forth in 16.4.

Section 16.3 Claims. Unless specifically exempted below, all claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including but not limited to, claims (a) arising out of or relating to the interpretation, application or enforcement of this Declaration, or to the Articles or By-Laws ("Governing Documents") or the rights, obligations and duties of any Bound Party under the Governing Documents; (b) relating to the design or construction of improvements; or (c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party, shall be subject to the provisions of 16.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of 16.4:

16.3.1 Any suit by the Association against any Bound Party to enforce the provisions hereof pertaining to assessments, fines or charges;

16.3.2 Any suit by the Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to act under and enforce the provisions hereof;

16.3.3 Any suit between or among Owners, which does not include Declarant, a Developer Owner or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

16.3.4 Any suit in which any indispensable party is not a Bound Party.

With the consent of all parties hereto, any of the above identified in this Section may be submitted to the alternative dispute resolution procedures set forth herein.

Section 16.4 Mandatory Procedures.

16.4.1 Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and the Respondent referred to herein being individually, as a "Party" or, collectively, as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- a. The nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- b. The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- c. The proposed remedy; and
- d. The fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

16.4.2 Negotiation and Mediation

a. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

b. If the Parties do not resolve the Claim within thirty (30) days after the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) days to submit the Claim to mediation under the auspices of the American Arbitration Association ("AAA") in accordance with the AAA's Commercial or Construction Industry Mediation Rules, as appropriate.

c. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

d. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall, issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration

proceedings to enforce such agreement without the need to again comply with the procedures set forth herein. In such event the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

16.4.3 Binding Arbitration

a. Upon Termination of Mediation, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Such claims shall not be decided by or in a court of law. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds \$250,000, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

b. Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s).

c. The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

Notwithstanding any provision in this Article 16 with regard to mandatory mediation or arbitration proceedings, in the event that a Developer Owner and an Owner of a Lot or Block, or any portion thereof, are parties to a separate agreement that contains an alternative dispute resolution provision which conflicts with this Article 16, any disputes between such Developer Owner and the Owner shall be governed by the alternative dispute resolution provision contained in such separate agreement. Disputes between Declarant, the Association or the Design Review Committee and Developer Owners or other Owners involving the subject matter of this Declaration or the Architectural and Development Guidelines shall be governed by this Article 16.

Section 16.5 Amendment of Article. Without the express prior written consent of Declarant, this Article may not be amended for a period of twenty years from the effective date of this Declaration.

ARTICLE 17

TERM; AMENDMENTS; TERMINATION

Section 17.1 Term; Method of Termination. This Declaration shall be effective upon its Recordation and, as amended from time to time, shall continue in full force and effect unless and until there is an affirmative vote to terminate this Declaration by the then Owners casting ninety percent (90%) of the total votes entitled to be cast by the entire Membership. Upon the Recording of a Certificate of Termination executed by the President and Secretary of the Association confirming such vote, this Declaration shall have no further force and effect and the Association thereupon shall be dissolved in accordance with the terms of its Articles and By-Laws and the laws of the State of Arizona.

Section 17.2 Amendments. Until the first conveyance of a Lot within the Covered Property to a Non-Developer Owner for use and occupancy as a Dwelling Unit, this Declaration may be amended by Recorded instrument duly executed by Declarant, without the necessity of calling a meeting of Owners or obtaining the consent of Owners. Thereafter, this Declaration may be amended by Recording an amendment, duly executed by the President or Vice President of the Association, which amendment shall set forth in full the text of the amendment adopted, and, except as provided in Section 17.3, or except as otherwise provided below, shall certify that, with or without a meeting, Owners representing two thirds (2/3) of the total votes entitled to be cast by the entire Membership consented to or voted affirmatively for such amendment.

Any amendment during such time as Declarant is a Member of the Association shall require the written approval of the Declarant.

Any amendment which adversely affects the rights or special privileges of TGA Trust 1440 shall require the written approval of TGA Trust 1440.

In addition to the foregoing, Declarant shall have the right, so long as it owns any Lot or Block, to amend this Declaration of its own volition, and without the requirement of any further consent or approval if such amendment is to correct errors or eliminate ambiguities, and to make changes designed to further the intent of this instrument by further elaborating on existing powers, privileges and restrictions in cases where correction, clarification or elaboration is warranted.

A Tract Declaration may be amended as provided in such Tract Declaration, but only with the consent of Declarant so long as Declarant owns a single Lot or Block in the Covered Property. Thereafter, a Tract Declaration may be amended as provided therein, and with the approval of the Board.

Section 17.3 Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institution. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend this Declaration or a Tract Declaration as may be requested or required by the FHA, VA or any other Agency with whom Declarant elects to do business as a condition precedent to such Agency's approval of this Declaration or

an applicable Tract Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot or Block or purchasing loans secured thereby. Any such amendment shall be effected by Declarant Recording an amendment duly executed and acknowledged by Declarant specifying the Agency or the lending institution requesting the amendment and setting forth the requested or required amendment(s). Recordation of such amendment shall be deemed conclusive proof of the Agency's or institution's request or requirement and such amendment, when Recorded, shall be binding upon all of the Covered Property and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and the Association's activities during the period of planning and development of the Covered Property. If any amendment requested or required pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant shall have the right to prepare, provide for and adopt as an amendment hereto, other and different control provisions which shall be binding upon the Covered Property and Owners without a vote of the Owners.

ARTICLE 18

ANNEXATION AND WITHDRAWAL OF PROPERTY

Section 18.1 Annexation by Declarant. Declarant may, at its sole discretion and without the approval, assent, or vote of the Association or other Owners, from time to time until fifteen (15) years after Recordation of this Declaration, annex to the Covered Property the Annexable Property or any portion or portions thereof, except for TGA Trust 1440 Blocks, which blocks shall only be annexed as described in Section 18.2 below. To effect such annexation, a Tract Declaration covering the Annexable Property (or the applicable portion or portions thereof) shall be executed and Recorded by Declarant. The Recordation of such Tract Declaration shall constitute and effectuate the annexation of the Annexable Property (or the applicable portion or portions thereof) described therein, making such Annexable Property (or the applicable portion or portions thereof) and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association. In addition to the foregoing, and notwithstanding any decision not to annex the Annexable Property or any portion thereof, Declarant may grant easements for ingress, egress, utilities, and other purposes for the benefit of such Annexable Property, all on terms deemed by Declarant to be reasonable.

Section 18.2 Annexation of TGA Trust 1440 Blocks. TGA Trust 1440 may, at its sole discretion and without the approval, assent, or vote of the Association or other Owners, from time to time until fifteen (15) years after Recordation of this Declaration, annex to the Covered Property TGA Trust 1440 Blocks or any portion or portions thereof, provided that such annexation is completed within: (i) one (1) year after the platting of such annexed property; or (ii) six (6) months after the commencement of construction of improvements on such annexed property, and provided that such platting and/or construction of improvements is in compliance with the Architectural and Development Guidelines. To effect such annexation, a Tract Declaration covering the Annexable Property (or the applicable portion or portions thereof) shall be executed and Recorded by TGA Trust 1440. The Recordation of such Tract Declaration shall constitute and effectuate the annexation of the Annexable Property (or the applicable portion or portions thereof) described therein, making such Annexable Property (or

the applicable portion or portions thereof) and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association.

Section 18.3 Annexation by Owners. The Association may, from time to time, annex to the Covered Property additional property ("Annexation Land") provided that such annexation has been approved by the Owners possessing at least seventy-five percent (75%) of the total votes then entitled to be cast by the Membership (both Classes, not each Class separately) with or without a meeting. To effect such annexation, a Tract Declaration covering the Annexation Land shall be executed by the President or Vice-President of the Association and attested to by the Secretary of the Association, and executed by the owner of the Annexation Land. The recordation of such Tract Declaration shall constitute and effectuate the annexation of the Annexation Land described therein, making such Annexation Land and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association.

Any annexation during the pendency of the Class B Membership shall have the written approval of the Class B Member and, for a period of ten years after recording hereof, the Declarant as well. Absent such approval, any such annexation shall be deemed void.

Section 18.4 Tract Declarations. The annexations authorized hereunder shall be made by Recording a Tract Declaration, in like fashion as for any Block originally subject to this Declaration. A Tract Declaration may contain such complementary additions to and modifications of this Declaration as may be necessary to reflect the different character, if any, of the Annexable Property (or the applicable portion or portions thereof). In no event, however, shall any such Tract Declaration revoke or conflict with this Declaration or any Tract Declaration. If the Annexable Property (or the applicable portion or portions thereof) is annexed, the number of Blocks shall be adjusted accordingly, Declarant shall be entitled to additional votes as determined in accordance with the provisions of this Declaration, and the Annexable Property (or applicable portion or portions thereof) shall thereupon become fully a part of the Covered Property subject to all provisions of this Declaration, including without limitation the provisions regarding Assessments.

Section 18.5 Withdrawal of Covered Property.

18.5.1 Withdrawal of Covered Property by Declarant. Declarant may, at its sole discretion and without the approval, assent, or vote of the Association or other Owners or Members, from time to time until twenty (20) years after Recordation of this Declaration, withdraw any real property subject to this Declaration, excluding TGA Trust 1440 Blocks, by executing and Recording a Notice of Withdrawal, making reference to this Declaration, and specifically describing the withdrawn property. The property so described shall be deemed completely excluded from this Declaration and shall no longer be a part of the Covered Property. Declarant may, in connection therewith, cancel any Tract Declaration for the land withdrawn. It is specifically understood that this right of withdrawal may be exercised in Declarant's sole and absolute discretion, and that once withdrawn, none of the provisions hereof shall apply to or encumber the withdrawn property. Further, Declarant or the Class B Member may cause the Association to grant and convey such easements as may be necessary to benefit

such land withdrawn, including easements for ingress, egress, and utilities, all on terms, if any, deemed by them to be proper.

18.5.2 Withdrawal of Covered Property by TGA Trust 1440. TGA Trust 1440 may, at its sole discretion and without the approval, assent, or vote of the Association or other Owners or Members, from time to time until twenty (20) years after Recordation of this Declaration, withdraw any real property subject to this Declaration which were theretofore annexed by TGA Trust 1440 by executing and Recording a Notice of Withdrawal, making reference to this Declaration, and specifically describing the withdrawn property. The property so described shall be deemed completely excluded from this Declaration and shall no longer be a part of the Covered Property. TGA Trust 1440 may, in connection therewith, cancel any Tract Declaration for the withdrawn property. It is specifically understood that this right of withdrawal may be exercised in TGA Trust 1440's sole and absolute discretion, and that once withdrawn, none of the provisions hereof shall apply to or encumber the withdrawn property. Further, TGA Trust 1440 may cause the Association to grant and convey such easements as may be necessary to benefit such land withdrawn, including easements for ingress, egress, and utilities, all on terms, if any, deemed by them to be proper.

Notwithstanding the foregoing, except as otherwise provided in the applicable Declaration of Withdrawal, withdrawal of any portion or portions of the Covered Property will not be effective until the Owner of the property to be withdrawn has paid all unpaid Assessments applicable to such property, prorated to the date of withdrawal.

It is specifically understood that this right of withdrawal may be exercised in Declarant's sole and absolute discretion, and that once withdrawn, none of the provisions hereof shall apply to or encumber the land. Further, Declarant or the Class B Member may cause the Association to grant and convey such easements as may be necessary to benefit such land withdrawn, including easements for ingress, egress, and utilities, all on terms, if any, deemed by them to be proper.

ARTICLE 19

MISCELLANEOUS

Section 19.1 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 19.2 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Section 19.3 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Covered Property can or will be carried out, or that any real property now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such real property (whether or not it has been

11/11/03 11:11:11

subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot or Block in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot or Block agrees to hold Declarant harmless therefrom.

Section 19.4 Successors and Assigns; Assignees of Declarant. Any reference in this Declaration to Declarant shall include any successors or assigns of Declarant's rights and powers hereunder, to the extent of such assignment, which may be in whole or in part, and to the extent such assignment is in writing making reference to such rights. Any such assignment shall be an instrument executed by Declarant or its successors or assigns and Recorded. Without limitation, Declarant may assign, in whole or in part, its various exemptions and privileges hereunder, including but not limited to such exemptions and privileges as may relate to signage, business use during development, voting rights and assessments, design review, its status as a Class B member, and other matters, and Declarant may grant, in its sole discretion, any similar exemptions and privileges to any Developer Owner. All rights of the Declarant hereunder may be exercised directly by its beneficiary.

Section 19.5 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders. Words in the singular shall include the plural; and vice versa.

Section 19.6 Captions. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

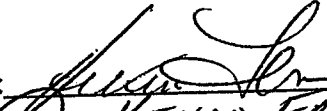
Section 19.7 Notices. If notice of any action or proposed action by the Declarant, Association or any committee or of any meeting is required by applicable law, this Declaration or any resolution of the Board to be given to any Owner or Occupant then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within Pima County. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed on the date set forth on page one of this Declaration.

1-10-11 10:10

DECLARANT:

TITLE GUARANTY AGENCY OF ARIZONA, as
Trustee under Trust No. T-1330, and not otherwise

By: 
Name: KEVIN FRENCH
Its: TRUST OFFICER

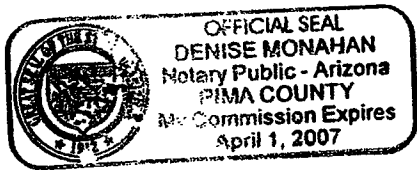
UNRECORDED

STATE OF ARIZONA)
)
COUNTY OF PIMA) ss.

The foregoing instrument was acknowledged before me this 18 day of November 2004, by Kevin French, the Trust Officer of Title Guaranty Agency of Arizona, as Trustee under Trust No. T-1330, and not otherwise.

Denise Monahan
Notary Public

My Commission Expires:
4/1/07



CONSENT:

TITLE GUARANTY AGENCY OF ARIZONA, as Trustee under Trust No. T-1440, and not otherwise

By: Kevin French
Name: KEVIN FRENCH
Its: TRUST OFFICER

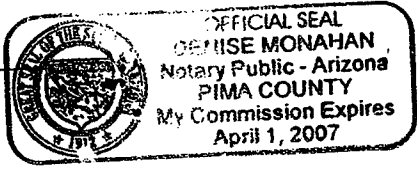
STATE OF ARIZONA)
)
COUNTY OF PIMA) ss.

The foregoing instrument was acknowledged before me this 18 day of November 2004, by Kevin French, the Trust Officer of Title Guaranty Agency of Arizona, as Trustee under Trust No. T-1440, and not otherwise.

Denise Monahan
Notary Public

My Commission Expires:
4/1/07

279069.18



2004-11-18