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**FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
ASSESSMENTS, CHARGES, SERVITUDES, LIENS,
RESERVATIONS AND EASEMENTS**

FOR

TANGERINE CROSSING

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS (hereinafter termed the "Restated Declaration") is made the day of January 17, 2007, by Ticor Title Agency of Arizona, Inc., an Arizona corporation, successor to Chicago Title Insurance Company, a Missouri corporation, as Trustee under Trust No. 12,133 ("Declarant"), Fidelity National Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 60,279 (the "Richmond Trust"), and Richmond American Homes of Arizona, Inc., a Delaware corporation ("Richmond"), the sole beneficiary of the Richmond Trust.

WITNESSETH:

WHEREAS, Declarant is the declarant under that certain Declaration of Covenants, Conditions and Restrictions for Tangerine Crossing dated December 23, 1996, Recorded (hereinafter defined) December 23, 1996 at Docket 10447, Page 1234 (the "Original Declaration"), as amended and affected by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Tangerine Crossing dated as of February 6, 2006, Recorded February 17, 2006 at Docket 12744, Page 2121 (the "First Amendment"), that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for Tangerine Crossing dated as of March 1, 2006, Recorded March 1, 2006 at Docket 12751, Page 7503 (the "Second Amendment"), that certain Partial Assignment and Assumption of Declarant's Rights and Obligations and Correction of Scrivener's Error (Tangerine Crossing) dated as of August 7, 2006, Recorded August 7, 2006 at Docket 12862, Page 5128 (the "Partial Assignment and Assumption"), that certain Deletion and Removal of Property from Declaration of Covenants, Conditions and Restrictions for Tangerine Crossing dated as of September 14, 2006, Recorded September 14, 2006 at Docket 12889, Page 2438 (the "First Deletion and Removal"), that certain Correction of Scrivener's Error and Amendment dated as of October 2, 2006, Recorded October 4, 2006 at Docket 12903, Page 919 (the "Correction"), and that certain Deletion and Removal of Property from Declaration of Covenants, Conditions and Restrictions for Tangerine Crossing dated as of October 19, 2006, Recorded October 19, 2006 at Docket 12913, Page 2449 (the "Second Deletion and Removal"). The Original Declaration, the First Amendment, the Second Amendment, the Partial Assignment and Assumption, the First Deletion and Removal, the Correction, and the Second Deletion and Removal are collectively referred to herein as the "Declaration";

WHEREAS, Declarant and the Richmond Trust, between the two entities, are the fee title owners of Lots 1 through 257, inclusive, and Lots 265 through 347, inclusive, of Tangerine Crossing, as Recorded in Book 60 of Maps and Plats at Page 87, and Lots 348 through 352, inclusive, of Tangerine Crossing Lots 348-352 (being a resubdivision of lot numbers 258-264 of Tangerine Crossing

Lots 1-347), as Recorded JANUARY 25, 2007 at Book 62 of Maps and Plats at Page 20 (individually, a "Lot," and collectively, the "Lots");

WHEREAS, the Common Areas (hereinafter defined) are owned in fee by the Association (hereinafter defined).

WHEREAS, pursuant to Section 11.2 of the Original Declaration, the Declaration may be amended or revoked by the affirmative vote or written consent of Members (as defined in the Original Declaration) holding at least seventy-five percent of all votes then entitled to be cast;

WHEREAS, as of the date of this Restated Declaration, the Declarant and the Richmond Trust together hold one hundred percent of the votes entitled to be cast and constitute the only Members (as defined in the Original Declaration);

WHEREAS, Declarant and the Richmond Trust desire to revoke the Declaration and replace, restate and supersede the Declaration in its entirety with this Restated Declaration;

WHEREAS, Declarant and the Richmond Trust desire to develop the Lots and Common Areas (collectively, the "Property") into a detached, single-family residential community;

WHEREAS, at full development it is intended, without obligation, that such community will collectively have one or more open spaces, drives, landscaped areas, and entryways;

WHEREAS, Declarant has formed the Association for the maintenance of the Common Areas and for social and recreational purposes benefiting the Property and the Owners thereof (as said term is defined hereinbelow), which Association will (1) own, acquire, construct, operate, manage and maintain any Common Areas; (2) maintain any Maintenance Areas (defined below); (3) establish, levy, collect and disburse any Assessments (hereinafter defined) and other charges imposed hereunder; and (4) as the agent and representative of the Members (hereinafter defined) of the Association, administer and enforce all provisions hereof and enforce use and other restrictions imposed on the Property;

WHEREAS, Declarant and the Richmond Trust therefore wish to subject all of the Property to the Covenants (hereinafter defined); and

WHEREAS, in order to cause the Covenants to run with the Property and to be binding upon the Property and the Owners thereof from and after the date of Recordation of this Restated Declaration, Declarant and the Richmond Trust hereby make all conveyances of any portion of the Property, except as expressly provided herein, subject to the Covenants herein set forth; and by accepting Deeds, easements or other grants or conveyances to any portion of the Property, the Owners and other transferees for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the Covenants (including but not limited to the obligation to pay Assessments) hereinafter set forth except to the extent such persons are specifically excepted herefrom.

NOW, THEREFORE, DECLARANT AND THE RICHMOND TRUST hereby declare, covenant and agree as follows:

ARTICLE I
DEFINITIONS

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

A. "Additional Property" shall mean any property and all improvements thereon located not more than one (1) mile from the Property.

B. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot or Owner pursuant to Article VII, Section 2, hereof.

C. "Architectural Committee" shall mean the committee of the Association to be created pursuant to Article XI below.

D. "Articles" shall mean the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

E. "Assessable Property" shall mean any Lot, except such part or parts thereof as may from time to time constitute Exempt Property.

F. "Assessment" shall mean an Annual Assessment, Special Assessment, and/or Maintenance Charge.

G. "Assessment Lien" shall mean the lien created and imposed by Article VII.

H. "Assessment Period" shall mean the term set forth in Article VII, Section 7.

I. "Association" shall mean the Tangerine Crossing Homeowners Association, an Arizona nonprofit corporation, organized by Declarant to administer and enforce the Covenants and exercise the rights, powers and duties set forth in this Restated Declaration, and its successors and assigns.

J. "Association Land" shall mean such part or parts of the Property, together with the buildings, structures and improvements thereon, and other real property which the Association may at any time own in fee or in which the Association may at any time have a leasehold interest, for as long as the Association is the owner of the fee or leasehold interest.

K. "Association Rules" shall mean the rules for the Association, adopted by the Board pursuant to Article V, Section 3.

L. "Board" shall mean the Board of Directors of the Association.

M. "Bylaws" shall mean the Bylaws of the Association as the same may from time to time be amended or supplemented.

N. "Common Area and Common Areas" shall mean (a) all Association Land; and (b) Common Area "A" (Private Streets), Common Area "B" (Recreation and Drainage Area), Common Area "C" (Natural Open Space), and Common Area "D" (Drainage and Landscape Area), as shown on the Plat.

O. "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

P. "Declarant" shall mean and refer to the above-recited Declarant or any Person to whom Declarant's title as "Declarant" is assigned. The Declarant's title as "Declarant" shall only be assigned by a written, recorded instrument expressly assigning that title.

Q. "Restated Declaration" shall mean this First Amended and Restated Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements, as amended or supplemented from time to time.

R. "Deed" shall mean a deed or other instrument conveying the fee simple title in a "Lot."

S. "Designee" shall mean a person designated by a Member pursuant to Article VI, Section 8, to exercise certain of the rights of a Member.

T. "Developer" means: (a) any Person (other than the Declarant) who is in the business of developing, selling or leasing real property and who acquires one or more Lots in connection with, and in the course of, such business, for the purpose of developing, selling or leasing such Lots; or (b) any prior Declarant (including the current Declarant, if and when applicable) who has assigned its title as Declarant under this Restated Declaration, but who continues to own one or more Lots for the purpose of developing, selling or leasing same.

U. "Dwelling Unit" shall mean any building situated upon a Lot designed and intended for use and occupancy as a residence by a single family.

V. "Dwelling Action" shall mean any action brought by an Owner against the Declarant arising out of or related to the design, construction, condition or sale of a Dwelling Unit.

W. "Exempt Property" shall mean the following parts of the Property:

- (1) All land and improvements owned by or dedicated to and accepted by the United States, the State of Arizona, Pima County, or any political subdivision thereof for as long as any such entity or political subdivision is the owner thereof or for so long as said dedication remains effective;
- (2) All Association Land, for as long as the Association is the owner thereof.

X. "Lot" shall mean any area of real property within the Property designated as a Lot on any subdivision plat recorded or approved by Declarant, including the Plat.

Y. "Maintenance Area" shall mean portions of the Property, including Lots, for which the Association has maintenance obligations, including, but not limited to, the construction, maintenance, repair and replacement of walls or drainage and/or flood control facilities on the Property and Lots, as such obligations are defined on the Plat, under the terms of this Restated Declaration or any Tract Declaration, or by any other recorded instrument designating the Association as the entity with the obligation to maintain, replace, repair and construct improvements on such portions of the Property so long as, in the case of such a recorded instrument, the Association has accepted the obligations.

Z. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article X, Sections 2 or 3.

Aa. "Member" shall mean any person holding a Membership in the Association and the rights granted to the Owners and Declarant pursuant to Article VI to participate in the Association.

Bb. "Membership" shall mean a membership in the Association and the rights granted to the Owners and the Declarant pursuant to Article VI to participate in the Association.

Cc. "Multijunit Dwelling Action" means a Dwelling Action brought by an association or by or on behalf of the Owners of five or more individual Dwelling Units.

Dd. "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Lot including contract sellers, but excluding others who hold such title merely as security. In the case of Lots the fee simple title to which is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., legal title shall be deemed to be in the Trustor. An Owner shall include any person who holds record title to a Lot in joint ownership with any other person or holds an undivided fee interest in any Lot.

Ee. "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

Ff. "Plat" shall mean the final plat for the Property as recorded in the Pima County Recorder's Office in Book 60 of Maps and Plats at Page 87 and as modified by the final plat recorded in Book 62 of Maps and Plats at Page 20.

Gg. "Recording" or "Recordation" shall mean placing an instrument of public record in the office of the County Recorder of Pima County, Arizona, and "Record" or "Recorded" shall mean placing or having been so placed of public record.

Hh. "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Dwelling Unit.

Ii. "Special Assessment" shall mean any assessment levied and assessed pursuant to Article VII, Section 5.

Jj. "Special Use Fees" shall mean special fees authorized by this Restated Declaration which an Owner or any other person is obligated to pay to the Association over, above and in addition to any Annual or Special Assessments or Maintenance Charges imposed or payable hereunder.

Kk. "TRA" means Tangerine Road Associates, an Arizona general partnership, the sole beneficiary of Declarant.

Ll. "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 any part of such neighboring property.

ARTICLE II
PROPERTY SUBJECT TO THIS RESTATED DECLARATION

Section 1. General Declaration. Declarant intends to develop the Property and/or sell the Lots for development and, to provide for the orderly development of such Lots and the Property, wishes to create certain conditions and restrictions which shall run with the Property and shall be an encumbrance on the Property, and shall be binding and enforceable against any and all grantees of Declarant and/or the Richmond Trust and all successors in title to all or any portion to the Property or any interest, whether legal or beneficial, therein. Declarant hereby declares that all of the 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 Restated Declaration, as amended or modified from time to time; provided, however, property which is not part of a Lot and which is dedicated to the public or a governmental entity for public purposes shall not be subject to this Restated Declaration and the Covenants herein contained while owned by the public or the governmental entity. Restrictions imposed in this Restated Declaration upon the Owners concerning the use and maintenance of such public areas shall at all times apply to the Owners. This Restated Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. All of this Restated Declaration shall run with all Lots and Association Land for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, and their successors in interest.

Section 2. Annexation of Additional Property.

a. At any time on or before December 31st of the year in which occurs the fifteenth (15th) anniversary of the date this Restated Declaration is Recorded, the Declarant or Board shall have the right to annex and subject to this Restated Declaration all or any portion of the Additional Property without the consent of any other Owner or Person (other than the Person who owns the property to be annexed). The annexation of all or any portion of the Additional Property must be effected by the Declarant or Board Recording a written instrument setting forth the legal description of the Additional Property being annexed, stating that such portion of the Additional Property is annexed and subjected to this Restated Declaration and shall be executed on behalf of Declarant and/or the Board and by the owner of the portion of the Additional Property being annexed.

b. The Additional Property may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. Property annexed by the Declarant or Board pursuant to this Section need not be contiguous with the Property, and the exercise of the right of annexation as to any portion of the Additional Property will not bar the further exercise of the right of annexation as to any other portion of the Additional Property. Neither the Declarant nor the Board makes any assurances as to which, if any, part of the Additional Property will be annexed.

Section 3. Withdrawal of Property. At any time on or before December 31 St of the year in which occurs the fifteenth (15th) anniversary of the date this Restated Declaration is Recorded, the Declarant has the right to withdraw property from the control of this Restated Declaration without the consent of any other Owner or Person (other than the Owner of such property). The withdrawal of all or any portion of the Property must be effected by the Declarant or Board Recording a written instrument setting forth the legal description of the property being withdrawn, which instrument shall be executed on behalf of the Declarant and/or Board and by the owner of the portion of the Property being withdrawn. Upon the withdrawal of any property from the control of this Restated Declaration pursuant to this

Section, such property will no longer be subject to any of the covenants, conditions and restrictions set forth in this Restated Declaration.

Section 4. Association Bound. The Covenants shall be binding upon and shall benefit the Association.

ARTICLE III
EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS

Section 1. Easements of Enjoyment. Every Owner and other Member of the Association shall have a right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission fees for the usage of any facility situated upon the Common Areas. Fees shall be uniform among Members.

(b) The right of the Association to suspend the voting rights and right to use the recreational facilities, if any, and other Common Areas by any Member (i) for any period during which any Assessment against his Lot remains delinquent; (ii) for a period not to exceed sixty (60) days for any infraction of this Restated Declaration or the Association Rules, and (iii) for successive sixty (60) day periods if any such infraction is not corrected during any prior sixty (60) day suspension period.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas or any easements or other rights thereon or therein to the Town of Marana, the County of Pima, or any agency thereof, or to any other public agency or authority, or to any utility company for such purposes and subject to such conditions as may be agreed to by the Association. Unless otherwise required by zoning stipulations or agreements with the Town of Marana or Pima County effective prior to the date hereof or specified on a recorded subdivision plat, no such dedication or transfer shall be effective except upon the affirmative vote of not less than two-thirds (2/3) of the Owners, excluding the Declarant.

(d) The right of the Association to use the Common Areas as set forth herein.

(e) Any use by the general public to the extent the general public possesses or is granted the right to use the same.

Section 2. Declarant's Use and Easements.

a. Except to the extent otherwise restricted, Declarant has the right and an easement (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to maintain sales or leasing offices, management offices and models throughout the Property and to maintain one or more advertising signs on the Common Area (other than on any portions of a Lot, unless the Owner of such Lot consents thereto) with respect to the sales of Lots contained within the Property or within any of the Additional Property. The Declarant reserves the right (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to place models, management offices and sales and leasing offices on any Lots or other property owned by the Declarant (or by such Developer(s), as applicable) and, except to the extent otherwise restricted, on any portion of the Common Area in such number, of such size and in such locations as the Declarant deems appropriate.

b. So long as the Declarant (and/or any Developer to which Declarant has delegated or shared such rights) is marketing Lots within the Property (or any portion of the Additional Property), the Declarant and/or any such Developer will have the right to restrict the use of any parking lot on the Common Area. That right will include reserving such spaces for use by prospective purchasers, Declarant's and/or any such Developer's employees and others engaged in sales, leasing, maintenance, construction or management activities.

c. Except to the extent otherwise restricted, Declarant (and/or any Developer to which Declarant has delegated or shared such rights) has the right and an easement on and over the Common Area to construct all improvements the Declarant and/or any such Developer may deem necessary and to use the Common Area and any Lots and other property owned by the Declarant and/or such Developer for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Property and property adjacent to the Property.

d. Except to the extent otherwise restricted, Declarant (and/or any Developer to which Declarant has delegated or shared such rights) has the right and an easement upon, over and through the Common Area as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by, and for performing the obligations imposed on, the Declarant and/or any such Developer in this Restated Declaration.

Section 3. Covenants, Conditions Restrictions and Easements Applicable to Lots
Within All Land Use Classifications. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots and the Owners thereof.

(a) Architectural Control. The Property is subject to architectural control as established hereby. No improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any of the Property, or the improvements located thereon, from its natural or improved state existing on the date this Restated Declaration was first recorded shall be made or done without prior written approval of the Architectural Committee, except as otherwise expressly provided in this Restated Declaration or in such design guidelines as the Architectural Committee may adopt and from time to time amend (the "Design Guidelines"). No building, fence, deck, landscaping (other than replacing existing landscaping that was properly approved), wall, residence or other structure shall be commenced, erected, improved, altered, or made without the prior written approval of the Architectural Committee except as may be provided in the Design Guidelines. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of Lots, shall be subject to the prior written approval of the Architectural Committee except as may be provided in the Design Guidelines. No changes or deviations in or from the plans and specifications once approved by the Architectural Committee shall be made without prior written approval of the Architectural Committee except as may be provided in the Design Guidelines. Any approval given by the Architectural Committee shall be valid for a period of one year, and all approved construction must be completed within such time period. Any approval given by the Architectural Committee shall be valid for the period of time designated in such approval.

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

nuisance. No structure for the care, housing or confinement of any animal, bird, fowl, poultry, or livestock shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Member, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal, bird, fowl, poultry, or livestock is a generally recognized house or yard pet, whether such a pet is a nuisance, or whether the number of animals or birds on any such property is reasonable. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained herein.

(c) Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent, except as set forth in subsection 3(y) below. Temporary buildings or structures used during the construction of a dwelling on any property shall be removed immediately after the completion of construction.

(d) Maintenance of Lawns and Plantings. Each Owner of a Lot shall keep all shrubs, trees, hedges, grass, plantings and landscaping of every kind in good condition, properly cultivated, neatly trimmed and free of trash, weeds and other unsightly material, whether located on an Owner's Lot or any of the following areas:

(i) any public right-of-way areas between sidewalks or bike paths, and the street curb in front of an Owner's Lot, if any;

(ii) any other public right-of-way or easement area which abuts the Owner's Lot and which is located between the boundary line of his Lot and the paved area of any street, sidewalk, bike path, wall or similar area; and

(iii) any non-street public right-of-way or easement area adjacent to his Lot. Such Owner shall not be responsible for maintenance of any area over which (1) the Association assumes the responsibility in writing, (2) the Association has been given such responsibility by a recorded instrument as provided in Article X, Section 1 of this Restated Declaration, or (3) the Town of Marana or Pima County assumes responsibility, for so long as the Association, Town or Marana or Pima County assumes or has responsibility as provided in Subsection (1), (2) or (3).

With respect to each Lot, no later than 180 days after the Owner's purchase of a Lot improved with a residence or 180 days after completion of a residence on a Lot (as evidenced by Pima County's issuance of a certificate of occupancy for such residence), whichever shall occur first, the Owner of such Lot shall have completed all landscaping of the Lot in front and on the sides of a residence located on the Lot, including, but not limited to, set back and common areas, according to landscaping plans approved by the Architectural Committee pursuant to the terms of this Restated Declaration. In addition, the Architectural Committee may require landscaping by the Owner of the areas described in Subsections (i) through (iii) above.

(e) Nuisances; Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes,

shall be located, used or placed on any such property, and all outdoor lighting shall be in conformance with the Design Guidelines. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Restated Declaration, but Lots shall be kept in a neat and tidy condition during construction. Trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by the Architectural Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the Architectural Committee. The Board in its reasonable discretion shall have the right to determine the existence of any such nuisance.

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

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

(h) Antennas. Subject to applicable federal and state law, no antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any Lot, whether attached to a building or structure except in compliance with the Design Guidelines adopted by the Board.

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

(j) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to affect such collection. All rubbish, trash, or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

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

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

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

(i) Signs required by legal proceedings, or as otherwise provided or permitted by applicable law.

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

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

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

(v) Such other signs (including but not limited to construction job identification signs, builder identification signs, and subdivision, shopping center, apartment and business identification signs) which are in conformance with the requirements of the Town of Marana or other governmental agencies with jurisdiction and which have been approved in writing by the Architectural Committee as to size, colors, design, message content and location or which otherwise comply with the Design Guidelines.

(n) Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein (other than an undivided percentage interest in the whole of such Lot), shall be conveyed or transferred by any Owner, without the prior written approval of the Board, which approval must be evidenced on the plat or other instrument creating the subdivision, easement or other interest. This provision shall not, in any way, limit Declarant from subdividing or separating into Lots any property at any time owned by Declarant, or designation and/or dedication of easements and rights-of-way by Declarant. Only the entirety of a Lot, together with the improvements thereon, may be rented, and then only for single-family residential purposes. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, or other person against any Lot without the provisions thereof having been first approved in writing by the Board and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void.

(o) Utility Easements. There is hereby created a blanket easement upon, across, over and under each Lot for ingress to, egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to water, sewers, gas, telephones, electricity, television cable or communication lines and systems, etc. as such utilities are installed in connection with the initial development of the Lot and the construction of the first Dwelling Unit or other building thereon. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the Lots. Notwithstanding anything to the contrary contained in this Subsection, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on any Lot except as initially programmed and approved by the Declarant or the Architectural Committee.

(p) Party Walls. Except as hereinafter provided, the rights and duties of Owners with respect to party walls between Lots or party fences between Lots shall be as follows:

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

ii. In the event that any party wall or party fence is damaged or destroyed through the act of an Owner or any of his tenants, lessees, agents, guests, or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the party wall or party fence without cost to the Owner of the adjoining Lot. Any dispute over an Owner's liability for such damage shall be resolved as provided in subsection (v) below, but any liability imposed on an Owner hereunder shall not prevent the Owner from seeking indemnity therefor from the persons causing such damage, if other than the Owner.

iii. In the event any party wall or party fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his tenants, lessees, agents, guests or family, it shall be the obligation of all Owners whose Lots adjoin such party wall or party fence to rebuild and repair such wall or fence at their joint expense, such expense to be allocated among the Owners in accordance with the frontage of their Lots on the party wall or party fence.

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

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

vi. In the case of party fences (i) between Common Areas and Lots, or (ii) constructed by the Declarant, a Developer or the Association on Maintenance Areas within a Lot, the Association shall be responsible for all maintenance thereof, subject to the provisions of Article X, Sections 2 and 3, except that each Owner of a Lot shall be responsible for painting the portion of the party fence facing his Lot or the portion thereof which is not a portion of the Common Area.

(q) Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

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

(s) Trucks, Trailers, Campers and Boats. No motor vehicle classed by manufacturer rating as exceeding one-ton, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed,

reconstructed or repaired on any Lot or on any street in the Property so as to be Visible From Neighboring Property, the Common Areas or the streets; provided, however, the provisions of this Section shall not apply to pickup trucks of less than one-ton capacity with camper shells not exceeding seven (7) feet in height measured from ground level which are parked as provided in Subsection (u) below and are used on a regular and recurring basis for basic transportation.

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

(u) Parking. Vehicles of all Owners and of their employees, guests and invitees, are to be kept in garages, carports, residential driveways of the Owner, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Lot; provided, however, this Section shall not be construed to permit the parking on the above described areas of any vehicle whose parking on the Property is otherwise prohibited or the parking of any inoperable vehicle.

(v) Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot, any member of the Architectural Committee, any member of the Board, or any authorized representative of either of them, shall have the right to enter upon and inspect any Lot, and the improvements thereon, except for the interior portions of any completed residence for the purpose of ascertaining whether or not the provisions of this Restated Declaration have been or are being complied with and such persons shall not be deemed guilty of trespass by reason of such entry.

(w) Developer and Declarant's Exemption. Nothing contained in this Restated Declaration shall be construed to prevent the erection or maintenance by Declarant or a Developer, or the duly authorized agents of either of them, of structures, improvements or signs necessary or convenient to the development or sale of any portion of the Property; provided that such improvements, structures and signs shall not obstruct access to any Lot, shall only be placed on Lots owned by Declarant or the Developer, as applicable, and shall not be inconsistent with the rights of any Lot purchaser.

(x) Health, Safety and Welfare. In the event additional uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, the Board may make rules restricting or regulating their presence on the Property as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots as part of the architectural guidelines.

(y) Model Homes. The provisions of this Restated Declaration which prohibit nonresidential use of Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction of residential dwellings within the Property and parking incidental to the visiting of such model homes so long as the location of such model homes is approved by the Architectural Committee, and the construction, operation and maintenance of such model homes otherwise comply with all of the provisions of this Restated Declaration. The Architectural Committee may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the rules

and regulations of the Town of Marana or other applicable governmental authority with jurisdiction and any rules of the Architectural Committee. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner or builder thereof is not actively engaged in the construction and sale of single family residences within the Property.

(z) Single Family Residential Use. Except as set forth herein, all Lots shall be used, improved, and devoted exclusively to single-family residential use. No gainful occupation, profession, trade or other nonresidential use other than the keeping of an office for private use shall be conducted on any such property on a regular basis and no person shall enter into any Lot for engaging in such uses or for the purpose of receiving products or services arising out of such usage; provided, however, that an Owner or Designee may conduct a business activity within a residence so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the residence; (ii) the business activity conforms to all applicable zoning ordinances or requirements; (iii) the business activity does not involve door to door or other readily apparent solicitation of other Owners within the Property; (iv) the use of the residence for the business activity in no way compromises or is incompatible with the residential character of the residence or the surrounding neighborhood; (v) the business activity is conducted only inside of the residence or garage thereof, and does not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in the residence; (vi) the business activity will be conducted by an Owner or Designee with no more than one (1) employee who is not an Owner or Designee; (vii) no more than twenty percent (20%) of the total floor area of the residence is used for such business activity; (viii) the residence is not used as a storage facility for a business conducted elsewhere; (ix) the volume of vehicular or pedestrian traffic or parking generated by the business activity does not result in congestion or is in excess of what is customary in a residential neighborhood; (x) such business activity does not utilize flammable liquids or hazardous materials in quantities not customary to residential use; and (xi) such business activity does not utilize large vehicles not customary to residential use. No structure whatever, other than one private Dwelling Unit, together with a private garage, a guest house or servant quarters, shall be erected, placed or permitted to remain on any Lot and no facilities for the preparation of food shall be provided or permitted in any guest house or servants' quarters erected on said Lot, unless appropriate zoning is obtained from the applicable governmental authority. All buildings constructed on the Property or any Lot, other than the foregoing referenced Dwelling Unit, shall be limited to two stories.

For purposes of this Section, the term "business activity" shall be construed to have its ordinary, generally accepted meaning and will include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (A) such activity is engaged in full or part time; (B) such activity is intended to or does generate a profit; or (C) a license is required for such activity. The leasing of a residence by the Owner thereof shall not be considered a business activity within the meaning of this Section.

(aa) Drainage Improvements. The drainage from, to, or on any Lot, Common Areas or Maintenance Areas, and all drainage improvements and facilities, as originally constructed by Declarant or a Developer pursuant to plans approved by the Town of Marana and/or other applicable governmental authorities with jurisdiction, (collectively the "Drainage Improvements") shall not be altered, disturbed or obstructed by any Owner; provided, however, that the Declarant or Developer may alter or construct any Drainage Improvement to the extent required by the Town of Marana or any other governmental authority with jurisdiction, and the Declarant or Developer is hereby granted a license to enter upon any Lot, Common Areas or Maintenance Areas to the extent deemed necessary or convenient by the same for the purpose of accomplishing such alteration or construction. The Lots shall be subject

to all drainage easements shown on the Plat and all drainage easements that may be required by any applicable governmental and/or quasi-governmental authority. In addition, to the extent that the drainage improvements approved by the applicable governmental and/or quasi-governmental authority require the same, each Lot shall be subject to a drainage easement to accommodate storm runoff, sheet water flows and any other drainage from adjacent Lots, Common Areas or otherwise.

ARTICLE IV TRACT DECLARATIONS

Tract Declarations, if any, designating the purpose for which portions of the Property may be used and all additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements applicable to such portions of the Property shall be subject to approval of Declarant so long as there is a Class B Member, and thereafter shall be subject to the approval of the Board.

ARTICLE V ORGANIZATION OF ASSOCIATION

Section 1. Formation of Association. The Association is a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Restated Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Restated Declaration.

Section 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 Bylaws as the same may be amended from time to time. The initial Board, and each Board thereafter so long as there is a Class B Member, shall consist of five (5) Members or other persons, designated by Declarant. The Board may also appoint various committees and appoint a property manager (a "Manager") who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the Manager or any other employee of the Association.

Section 3. The Association Rules. By a majority vote of the Board the Association may, from time to time and subject to the provisions of this Restated Declaration, adopt, amend and repeal rules and regulations to be known as the Association Rules. The Association Rules may restrict and govern the use of any Common Area by any Member or the family and Designees of such Member; provided, however, that the Association Rules shall not discriminate among Members and shall not be inconsistent with this Restated Declaration, the Articles or Bylaws. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Restated Declaration.

Section 4. Personal Liability. No member of the Board or of any committee of the Association, no officer of the Association, and no Manager or other employee of the Association shall be personally liable to any Member or to any other person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the Manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section 4 shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

ARTICLE VI
MEMBERSHIPS AND VOTING

Section 1. Owners of Lots. Every Owner of a Lot shall be a Member of the Association. Each such Owner shall have one (1) Membership for each Lot owned by such Owner and each such Membership shall be appurtenant to and may not be separated from ownership of the Lot to which the Membership is attributable. There shall be only one Membership for each Lot, which Membership shall be shared by any joint Owners of, or Owners of divided interests in, a Lot.

Section 2. Declarant. The Declarant shall be a Member of the Association for so long as Declarant owns any property within the Property.

Section 3. Voting. The Association shall have two classes of voting Memberships:

Class A. Class A Memberships shall be all Memberships, except the Class B Membership held by the Declarant, and all Owner(s) of a Lot (other than the Declarant during the period of Class B Membership) shall be entitled to one Class A Membership. Each Class A Membership is entitled to one vote, subject to the authority of the Board to suspend the voting rights of the Owner for violations of this Restated Declaration in accordance with the provisions hereof.

Class B. There shall be one Class B Membership, which shall be held by the Declarant and the Class B Membership shall be entitled to three (3) votes for each Lot owned by the Declarant. The Class B Membership shall cease and be converted to Class A Memberships for each Lot still owned by the Declarant on the happening of the first of the following events:

- (a.) Within ninety (90) days after the number of Class A votes exceeds the number of Class B votes; or
- (b.) Ten (10) years from the date of Recordation of this Restated Declaration; or
- (c.) At such time as the Declarant notifies the Board in an express writing that it is relinquishing its Class B Membership.

Votes may be cast in person, by absentee ballot or, during the period that the Class B Membership exists, by a valid proxy duly appointed by a written instrument signed by a Member, dated not more than eleven (11) months prior to such vote. Proxies are not permitted and shall not be counted for any purposes after the date that the Class B Membership ceases to exist.

Section 4. Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Membership must be cast as a unit, and fractional votes shall not be allowed. In the event that a Membership is owned by more than one person or entity and such owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other owners of the same Membership unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast for a particular Membership, none of the said votes shall be counted and all said votes shall be deemed void.

Section 5. Cumulative Voting for Board Members. Except as otherwise required by law, in any election of the members of the Board, every owner of a Membership entitled to vote at such an election shall have the number of votes for each Membership equal to the number of directors to be elected, except that the Class B Member shall have the number of votes designated in Section 3 above times the number of directors to be elected. Each Member shall have the right to cumulate his votes for one candidate or to divide such votes among any number of the candidates. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

Section 6. Membership Rights. Each Member shall have the rights, duties and obligations set forth in this Restated Declaration and such other rights, duties and obligations as are set forth in the Articles and Bylaws as the same may be amended from time to time.

Section 7. Transfer of Membership. Except as provided in this Section 7 of this Article VI, the rights and obligations of the owner of a Class A Membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Memberships appurtenant to said Lot to the new Owner thereof.

Section 8. Use of Membership; Designees. Subject to the Association Rules, all of the owners of a Membership may designate one or more non-Members (herein referred to as a "Designee") to exercise all of the rights of the Member under this Restated Declaration except the Member's voting rights, but such designation shall not relieve the Member of any liabilities or obligation as an Owner or with respect to the Membership. So long as such designation is in effect, the Member shall be permitted to exercise only his voting rights and the Board may, among other things, in its discretion, set maximum or minimum periods for which such designation may be in effect and limit the number of persons who may be so designated by any Member at any one time.

ARTICLE VII

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

Section 1. (a) Creation of Lien and Personal Obligation of Assessments and Maintenance Charges. Each Owner by accepting a Deed or entering into a recorded contract for sale of any portion of the Property (whether or not it shall be so expressed in such Deed or contract) is deemed to covenant and agree to pay to the Association the following assessments and charges: (1) Annual Assessments established by this Article VII, (2) Special Assessments for capital improvements or other extraordinary expenses or costs established by this Article VII, and (3) Maintenance Charges established by Article X, Sections 2 and 3, all such Assessments to be established and collected as hereinafter provided. The Annual Assessments, Special Assessments and Maintenance Charges, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot, and shall be a continuing servitude and lien upon the Lot against which each such Assessment is made. Each such Annual and Special Assessment and Maintenance Charge, together with interest, cost and reasonable attorney's fees, shall also be the joint and several personal obligation of each person who was the Owner of the Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

The Board's failure to fix assessment amounts or rates or to deliver to each Owner an assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Annual Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Areas, abandonment of a Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(b.) Declarant's Option to Fund Budget Deficits. For so long as there is a Class B Membership, Declarant may satisfy its obligation for Assessments (including Annual Assessments, Special Assessments and Maintenance Charges) on Lots which it owns either by paying such Assessments in the same manner as any other Owner or by paying, on an annual basis, the difference between the total amount of Assessments levied on all other portions of the Property subject to an Assessment and the actual expenditures by the Association during the preceding fiscal year (the "Budget Deficit"), provided that, if the Declarant elects to pay the Budget Deficit under the latter provision, in no event shall the Declarant be responsible for payments in excess of Assessment amounts otherwise payable on Lots owned by the Declarant if the Declarant had elected to pay the Assessments in the same manner as any other Owner. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class B Membership, Declarant shall pay Assessments on its unsold Lots in the same manner as any other Owner.

(c.) Richmond Obligation to Fund Portion of Budget Deficits. For so long as there is a Class B Membership, if Declarant funds any portion of a Budget Deficit or if Declarant pays Assessments on Lots which it owns, Richmond shall, upon ten (10) days notice, reimburse Declarant for the Richmond Percentage of such Budget Deficit so funded by Declarant and/or Assessments paid by Declarant on Declarant's Lots. For purposes hereof, the "Richmond Percentage" shall mean the percentage, from time to time, computed by dividing the total number of Lots Richmond, the Richmond Trust or their respective assigns have purchased from TRA or Declarant (and closed) by 345.

(d.) Sale of Property. If during any assessment period Declarant conveys any real property subject to this Restated Declaration (the "Sale Property") for which Declarant has elected, pursuant to subsection (b), to pay the Budget Deficit rather than Assessments on a per Lot basis, then the Association may require the grantee of the Sale Property to pay to the Association an amount equal to the pro rata portion of the Assessments that would have been payable with respect to the Sale Property for the applicable assessment period had Declarant not made such election; provided the grantee shall have no such obligation if the Sale Property is otherwise exempt from assessment pursuant to Section 13. The amount of such pro rata portion shall be based on the number of days remaining in the assessment period in which such conveyance occurs.

Section 2. Annual Assessments. To provide for the uses and purposes specified in Article IX hereof, including the establishment of replacement and maintenance reserves, the Board in each year, commencing with the year in which this Restated Declaration is recorded, shall assess against

each Lot an Annual Assessment. The amount of the Annual Assessment, subject to the provisions of Section 4 hereof, shall be in the sole discretion of the Board but shall be determined with the objective of fulfilling the Association's obligations under this Restated Declaration and providing for the uses and purposes specified in Article IX.

Section 3. Uniform Rate of Assessment. The amount of any Annual or Special Assessment against each Lot shall be fixed at a uniform rate per Membership, except that the Owner of a Lot (excluding the Declarant for so long as the Declarant is a Class B Member) shall pay only twenty-five percent (25%) of the Annual Assessment attributable to his Membership (herein, a "Reduced Rate") until the earlier of (i) the completion of a Dwelling Unit on the Lot or (ii) six (6) months from the commencement of construction of a Dwelling Unit on the Lot. For purposes of this Section, a Dwelling Unit or other building shall be deemed completed when the Town of Marana has issued a Certificate of Occupancy (or equivalent approval allowing permanent occupancy of the Dwelling Unit) in respect of such structure. If the Owner of a Lot ceases to qualify for the Reduced Rate during the period to which an Annual Assessment is attributable, the Assessment attributable to a Membership shall be prorated between the applicable rates on the basis of the number of days in the period that the Owner qualified for each rate. Annual Assessments may be collected on a monthly, quarterly or annual basis and Special Assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members of the Association approving the Special Assessments. The foregoing notwithstanding, in the event of a Budget Deficit, each Owner entitled to a Reduced Rate under the foregoing provision shall pay, not less than annually, within ten business days after receipt of written notice from the Association, an amount equal to its pro rata share of the Budget Deficit (which pro rata share shall be a fraction, the numerator of which shall be the number of Lots owned by such Owner which are subject to the Reduced Rate, and the denominator of which shall be the total number of Lots in the Property), provided that in no event shall an Owner be responsible for payments in excess of assessment amounts otherwise payable on Lots owned by such Owner if the Reduced Rate did not apply.

Section 4. Maximum Annual Assessments. The Annual Assessment to be established by the Board may not exceed a certain amount, hereinafter referred to as the "Maximum Annual Assessment," which Maximum Annual Assessment shall be determined and shall vary in accordance with the following provisions:

(a.) Until January 1 of the year following the Recording of this Restated Declaration, the Maximum Annual Assessment shall be Six Hundred Dollars (\$600.00) for each Membership.

(b.) From and after January 1 of the year immediately following the recording of the Declaration, the Board may, without a vote of the Members, increase the Maximum Annual Assessment during each fiscal year of the Association by the greatest of (i) 10% of the Maximum Annual Assessment for the immediately preceding fiscal year, (ii) the amount permitted by law, or (iii) an amount based upon the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) U.S. City Average (1982-84=100), issued by the United States Department of Labor, Bureau of Labor Statistics (the "Consumer Price Index"), which amount shall be computed in the last month of each fiscal year by subtracting X from Y, then dividing the result by X, then multiplying the quotient by the Maximum Annual Assessment for the year immediately preceding the year for which the Maximum Annual Assessment is to be determined where:

X = Consumer Price Index for September of the calendar year immediately preceding the year in which the Annual Assessments commenced.

Y = Consumer Price Index for September of the year immediately preceding the calendar year for which the maximum Per Membership Assessment is to be determined.

If the Consumer Price Index ceases to be published, then the index which shall be used for computing the increase in the Maximum Annual Assessment permitted under this Subsection shall be the substitute recommended by the United States government for the Consumer Price Index or, if no such successor index is recommended by the United States government, the index selected by the Board.

(c.) From and after January 1 of the year immediately following the recording of the Restated Declaration, the Maximum Annual Assessment may be increased by an amount greater than the maximum increase allowed pursuant to (b) above, only by a majority vote of Members entitled to be cast by Members who are voting in person, by absentee ballot or by proxy (during the period that the Class B Membership exists) at a meeting duly called for such purpose.

Section 5. Special Assessments for Capital Improvements and Extraordinary Expenses.

In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment Period, one or more Special Assessments applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Association Land, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person, by absentee ballot or by proxy (during the period that the Class B Membership exists) duly called for such purpose. In connection with any such Special Assessment, Owners qualifying for paying only twenty-five percent (25%) of the Annual Assessment attributable to their Memberships pursuant to Section 3 above shall also be required to pay only twenty-five percent (25%) of the Special Assessment otherwise attributable to each such Membership. The provisions of this Section are not intended to preclude or limit the Assessment, collection or use of Annual Assessments for the aforesaid purposes.

Section 6. Notice and Quorum for Any Action Authorized Under Section 4 and 5.

Except as otherwise required by law, written notice of any meeting called for the purpose of taking any action authorized under Sections 4 or 5 of this Article shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Except as otherwise required by law, at the first such meeting called the presence of Members or of absentee ballots or proxies (during the period that the Class B Membership exists) entitled to cast sixty percent (60%) of all the votes (exclusive of suspended voting rights) of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Establishment of Annual Assessment Period.

The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the

first Assessment Period shall commence upon the filing of this Restated Declaration and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period by recording with the County Recorder of Pima County, Arizona, an instrument specifying the new Assessment Period.

Section 8. Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Annual and Special Assessments and the Maintenance Charges imposed pursuant to Article X, Section 2 and 3, provided that said procedures are not inconsistent with the provisions hereof. The Rules and Regulations contemplated by this section shall, by way of illustration and not limitation, grant to the Association the right to require concurrently with the conveyance of a Lot the payment of all Assessments in respect of the Lot then outstanding, together with an estimated prepayment of Assessments for the next two (2) calendar months thereafter, as a condition precedent to the recognition by the Association of a successor grantee as a Member of the Association. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Restated Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period; successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners. In case the owner of a Membership becomes liable for payment of an increased sum pursuant to Section 3 of this Article during the Assessment Period, he shall notify the Association but his failure to notify the Association shall not relieve him of the liability for such amounts.

Section 9. Collection Costs and Interest on Delinquent Assessments. Any Assessment or installment thereof not paid when due shall be deemed delinquent and shall bear interest from thirty (30) days after the due date until paid at a rate equal to the greater of (a) twelve percent (12%) per annum or (b) the then prevailing interest rate on loans insured by the Federal Housing Association, or (c) the then prevailing interest rate on loans guaranteed by the Veterans Administration, and the Member shall be liable for all costs, including attorney's fees, which may be incurred by the Association in collecting the same. The applicable interest rate on delinquent Assessments shall be determined on a daily basis. The Board may also record a Notice of Delinquent Assessment against any Lot as to which an Assessment is delinquent and constitutes a lien and may establish a fixed fee to reimburse the Association for the Association's cost in recording such Notice, processing the delinquency and recording a notice of payment, which fixed fee shall be treated as a collection cost of the Association secured by the Assessment Lien.

Section 10. Evidence of Payment of Annual and Special Assessments and Maintenance Charges. Upon receipt of a written request by a Member or any other person, the Association within a reasonable period of time thereafter shall issue to such Member or other person a written certificate stating (a) that all Annual and Special Assessments and Maintenance Charges (including interest, costs and attorney's fees, if any, as provided in Section 9 above) have been paid with respect to any specified Lot as of the date of such certificate, or (b) if all Annual and Special Assessments and Maintenance Charges have not been paid, the amount of such Annual and Special Assessments and Maintenance Charges including interest, costs and attorney's fees, if any, due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as

herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Lot in question.

Section 11. Working Capital Fund. To insure that the Association will have adequate funds to meet its expenses, to purchase necessary equipment or services, or to otherwise meet its obligations, following the Recordation of this Restated Declaration each purchaser of a Lot (other than the Declarant or a Developer) shall pay to the Association immediately upon becoming the Owner of such Lot a sum equal to one-fourth (1/4th) of the current Annual Assessment for such Lot, based upon the Lot being owned by a Person other than the Declarant or a Developer, and for such purposes the current Annual Assessments for such Lot shall be calculated as if there were a completed Dwelling Unit on such Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other permitted purpose; provided, however, that such funds may not be used by the Association while there is a Class B Membership in existence or while a single Developer directly or indirectly owns more than 50% of all Class A Memberships. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Restated Declaration.

Section 12. Transfer Fee. Each purchaser of a Lot (other than the Declarant or a Developer) shall pay to the Association immediately upon becoming the Owner of such Lot a transfer fee in such amount as is established from time to time by the Board.

Section 13. Property Exempted from the Annual and Special Assessments and Assessment Lien. Exempt Property shall be exempted from the assessment of the Annual and Special Assessments and, except as provided in Article X, Section 3, from Maintenance Charges and the Assessment Lien; provided, however, that in the event any change of ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall be subject to the assessment of the Annual and Special Assessments, Maintenance Charges (prorated as of the date it became Assessable Property) and the Assessment Lien.

ARTICLE VIII ENFORCEMENT OF PAYMENT OF ANNUAL AND SPECIAL ASSESSMENTS AND MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

Section 1. Association as Enforcing Body. The Association, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Restated Declaration. However, if the Association shall fail or refuse to enforce this Restated Declaration or any provision hereof for an unreasonable period of time after written request to do so, then any Member may enforce them on behalf of the Association, but not at the expense of the Association, by any appropriate action whether in law or in equity.

Section 2. Association's Remedies to Enforce Payment of Annual and Assessments and Maintenance Charges. If any Member fails to pay the Annual or Special Assessments or installments when due, or to pay Maintenance Charges assessed pursuant to Article X, Sections 2 and 3, the Association may enforce the payment of the Annual or Special Assessments, Maintenance Charges and/or the Assessment Lien by taking either or both of the following actions, concurrently or separately and, by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise the other remedy:

a. Bring an action at law and recover judgment against the Member personally obligated to pay the Annual or Special Assessments or the Maintenance Charges;

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

The Association shall have the right from time to time to Record notices and claims of liens evidencing the Assessment Lien that encumbers any Lot(s) if the assessments, charges or other amounts giving rise to such Assessment Lien have not been timely paid.

Section 3. Subordination of Assessment Lien to First Mortgage or Deed of Trust; Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by or deed of trust which the beneficiary is a lender who has lent funds with the Lot as security, or held by the lender's successors and assigns and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or deed of trust to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Annual and Special Assessments and Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens or encumbrances (except liens for taxes or other public charges which by applicable law are expressly made superior), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take subject to the Assessment Lien and all Annual and Special Assessments and Maintenance Charges accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

Section 4. Costs to be Borne by Member in Connection with Enforcement of Payment of Annual and Special Assessments and Maintenance Charges. In any action taken pursuant to Section 2 of this Article, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Annual and Special Assessment and Maintenance Charges together with interest and the Association's collection costs and attorney's fees, including those costs and fees specified in Article VII, Section 9.

ARTICLE IX USE OF FUNDS; BORROWING POWER

Section 1. Purposes for which Association's Funds may be Used. The Association shall be responsible for the control, maintenance, safety and liability, and payment of ad valorem taxes, relating to the Common Areas, and for maintenance of the Maintenance Areas. The Association shall apply all funds and property collected and received by it (including the Annual and Special Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source, together with interest on any and all such sums) for the common good and benefit of the Property and the Members by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Property, which may be necessary, desirable or beneficial to the general common interests of the Property and the Members. The following are some, but not all, of the areas in which the Association

may seek to aid, promote and provide for such common benefit: social interaction among Members, maintenance of landscaping on Common Areas and public right of way and drainage areas within the Property, maintenance of the Maintenance Areas and recreation (including liability insurance, communications, transportation, health, utilities, public services, safety and indemnification of officers and directors of the Association). The Association also may expend its funds for any purposes which any municipality may expend its funds under the laws of the State of Arizona or such municipality's charter.

Section 2. Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such period of time as is necessary or appropriate; provided, however, that the Common Areas or any part thereof may not be mortgaged without the consent of at least two-thirds (2/3) of the Owners, excluding the Declarant, and further provided that if ingress or egress to any residence is through a Common Area, any conveyances or encumbrances of such area shall be subject to the benefiting Owners' easement.

Section 3. Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual or Special Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Section 4. Administration of Special Use Fees. The Association is authorized to bill for, sue for, collect, administer and disburse all Special Use Fees and the payment thereof shall be secured by the Assessment Lien; provided, however, that all Special Use Fees collected shall, if imposed in connection with a particular improvement, be separately accounted for as to each separate improvement pertaining to which they are collected and shall be expended on the particular improvements to which they pertain.

Section 5. Insurance. The Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Areas, as well as any other coverage the Board determines to be necessary to protect the Association, Owners or Members.

ARTICLE X MAINTENANCE

Section 1. Common Areas, Maintenance Areas and Public Rights of Way. The Association, or its duly delegated representative, shall maintain and otherwise manage all Common Areas and Maintenance Areas, including, but not limited to, the landscaping, walkways, detention and retention areas, paths, parking areas, drives, roadways, and recreational facilities; provided, however, the Association shall not be responsible for providing or maintaining the improvements on any Maintenance Areas which are part of a Lot unless such improvements are intended for the general benefit of the Property. The Association shall also maintain any landscaping and other improvements not on Lots which are adjacent to the exterior boundaries of the Property, which are within areas shown on a subdivision plat or other plat of dedication for the Property, and which are intended for the general benefit of the residents of the Property, except the Association shall not maintain areas which (i) the Town of Marana, Pima County, or other governmental entity or utility provider is maintaining or (ii) are to be maintained by the Owners of a Lot pursuant to Article III of this Restated Declaration unless the Association elects to maintain such areas and as to which the Association has made such an election to maintain. Specific areas to be maintained by the Association may be identified on subdivision plats

Recorded or approved by the Declarant and in Deeds from the Declarant to a transferee of a Lot, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect to such Common Areas, Maintenance Areas and other areas intended for the general benefit of the Property.

The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of those areas of the Property for which it is responsible so as to reflect a high pride of ownership. In this connection the Association may, in the discretion of the Board:

(a.) Reconstruct, repair, replace or refinish any improvement or portion thereof upon Common Areas and Maintenance Areas, except that no permanent improvements shall be made by the Association on any Common Area or Maintenance Area that is not Association Land.

(b.) Replace injured and diseased trees and other vegetation in any Common Area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

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

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

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

If any subdivision plat, deed restriction or this Restated Declaration requires Owners of certain Lots to, or permits the Board to determine whether or not Owners of certain Lots shall, be responsible for maintenance of certain Common Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Members or an individual Owner to be responsible for such maintenance, considering, among other things, cost, uniformity of appearance and location. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Article X 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 having such responsibilities in exchange of the payment of such fees as the Association and Owner may agree upon.

Notwithstanding anything herein to the contrary, the staff of Pima County, the Town of Marana and any other applicable governmental authority with jurisdiction has the right to inspect any drainage and detention/retention facilities located on the Common Areas to verify that any scheduled and unscheduled maintenance activities are being adequately performed by the Association. The Association may reimburse Pima County, the Town of Marana and any other applicable governmental authority for any costs associated with maintaining the private Drainage and Detention/Retention Facilities in the event that it determines that the Association has been deficient in its obligation to adequately maintain such facilities.

Section 2. Assessment of Certain Costs of Maintenance and Repair of Common Areas and Maintenance Areas. In the event that the need for maintenance or repair of Common Areas,

Maintenance Areas or other areas maintained by the Association is caused through the willful or negligent act of any Member, his family, guests, invitees or Designees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Member and the Member's Lot is subject and shall be secured by the Assessment Lien. Any charges or fee to be paid by the Owner of a Lot pursuant to Section 1 of this Article X in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

Section 3. Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to present a public, or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Restated Declaration, or in the event the Owner of any Lot is failing to perform any of its obligations under this Restated Declaration, or the architectural guidelines and standards of the Architectural Committee, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen (14) day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien.

ARTICLE XI ARCHITECTURAL CONTROL COMMITTEE

Section 1. Establishment. The Declarant shall establish an Architectural Committee to perform the functions of the Architectural Committee set forth in this Restated Declaration and may adopt the procedural rules and regulations for the performance of such duties by the Architectural Committee, including procedures for the preparation, submission and determination of the application for any approvals required by this Restated Declaration. The Architectural Committee (sometimes referred to in this Article as the "Committee") shall consist of such number of regular members and alternate members as the Declarant may designate and such members shall be appointed by the Declarant. The initial Architectural Committee shall consist of two (2) regular members.

Appointees need not be architects or Owners and do not need to possess any special qualifications of any type except such as the Declarant may, in its discretion, require. The Architectural Committee shall hold regular meetings as needed. An alternate member, approved by the Declarant, may participate at any meeting at which there is not a quorum of regular members present, may constitute a quorum by his (their) presence and shall have all of the authority of a regular member while so participating. The Architectural Committee may promulgate architectural guidelines and standards to be used in rendering its decisions (the "Architectural Guidelines"). Subject to the provisions of Section 2 of this Article, the decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Restated Declaration.

Section 2. Reconsideration. Any Owner aggrieved by a decision of the Architectural Committee may request that the Committee reconsider its decision. Such procedures would include the requirement that the Owner has modified the requested action or has new information which would in the Committee's opinion warrant a reconsideration. If the Committee fails to allow reconsideration or if the Committee, after reconsideration, again rules in a manner aggrieving the Owner, the decision of the Committee is final.

Section 3. Fee. The Board may establish a reasonable processing fee to defer the costs of the Association in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted.

Section 4. Appointment of Architectural Committee Members. Architectural Committee members are appointed by the Declarant and may be replaced at the discretion of the Declarant. Declarant's right to appoint Architectural Committee members shall cease and the Board shall be vested with that right and all other rights of the Declarant pertaining to the Architectural Committee as stated in this Article XI, at such time Declarant no longer owns any Property, or when such right is expressly relinquished by Declarant to the Board in writing, whichever condition occurs first.

Section 5. Limited Liability of Committee Approval. Approval by the Committee shall relate only to the conformity of plans and specifications to general architectural and landscaping plans for the area covered by this Restated Declaration, and such plans, drawings, and specifications are not approved as to adequacy of engineering design or architectural competence. By approving such plans, drawings, and specifications, the Committee does not assume liability or responsibility therefor, or for any defect in any structure constructed from such plans, drawings and specification. Members of the Committee shall have absolutely no personal responsibility to any person with regard to any actions taken by them in their capacity as such members and neither Declarant nor any members of the Board shall have any personal liability to any person with regard to any actions taken by the Committee.

Section 6. Declarant's Exemption. Except as otherwise restricted, nothing contained in this Restated Declaration may be construed to prevent the construction, installation or maintenance by the Declarant and/or any Developer, or any agents or contractors thereof, during the period of development, construction and sales on the Property, of improvements, landscaping or signs deemed necessary or convenient by the Declarant and/or Developer, in its reasonable discretion, to the development or sale of property within the Property, including, without limitation, construction trailers or offices, model homes and parking related to any of the foregoing; provided, however, the foregoing exemption, as it relates to a Developer, applies only to those portions of the Property owned by the Developer and not to Common Areas.

ARTICLE XII RIGHTS AND POWERS OF ASSOCIATION

Section 1. Association's Rights and Powers as Set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Restated Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Restated Declaration and are necessary, desirable or convenient for effectuating the purposes set forth in this Restated Declaration. A copy of the Articles and Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours.

Section 2. Association's Rights of Enforcement of Provisions of this and Other Instruments. The Association, as the agent and representative of the Owners, shall have the right to enforce the Covenants set forth in this Restated Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, Deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject

to, the provisions of this Restated Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association.

Section 3. Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee is employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies or any competitor thereof and may vote thereat to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

Section 4. Change of Use of Common Areas and Maintenance Areas and Procedure Therefor. Upon (a) adoption of a resolution by the Board stating that in the Board's Opinion the then present use of a designated part of a Common Area or Maintenance Area or of the Association's interest in other Common Areas is no longer in the best interests of the Owners and residents and (b) the approval of such resolution by a majority of the votes of Members who are voting in person, by absentee ballot or by proxy (during the period that the Class B Membership exists) at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Owners, and (ii) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Common Area or Maintenance Area.

ARTICLE XIII

TERM; AMENDMENTS; TERMINATION

Section 1. Term; Method of Termination. This Restated Declaration shall be effective upon the date of the Recording of a fully executed and acknowledged original hereof, and upon such effective date shall supersede and render null and void the Declaration. This Restated Declaration, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years from the effective date of this Restated Declaration. From and after said date, this Restated Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Restated Declaration by the then Members casting ninety percent (90%) of the total votes cast at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Restated Declaration may be terminated at any time if ninety percent (90%) of the votes cast by each class of Members shall be cast in favor of termination at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate this Restated Declaration shall be effective unless and until the written consent to such termination has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from the holders of Recorded first mortgages or deeds of trust to which the Assessment Lien is subordinate pursuant to Article VIII, Section 3 above, on seventy-five percent (75%) of the Lots upon which there are such Recorded first mortgages and deeds of trust. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the County Recorder of Pima County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures

acknowledged. Thereupon these Covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 2. Amendments. This Restated Declaration may be amended by recording with the County Recorder of Pima County, Arizona, a Certificate of Amendment, duly signed and acknowledged as required for a Certificate of Termination in Section 1 of this Article. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided in Section 3 of this Article, shall certify that at an election duly called and held pursuant to the provisions of the Articles and Bylaws the Members casting seven-five percent (75%) of the votes in each Membership class at the election voted affirmatively for the adoption of the amendment. Anything in this Article to the contrary notwithstanding, so long as there is no Class A Member, this Restated Declaration may be amended by Declarant any time by a recording with the County Recorder of Pima County, Arizona a Certificate of Amendment signed by Declarant with its signature acknowledged. Notwithstanding anything to the contrary, so long as the Declarant owns any Lot or other portion of the Property, or any portion of the Additional Property, no amendment to this Restated Declaration will be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendment).

Section 3. Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions. Anything in this Article to the contrary notwithstanding, Declarant or the Board may amend all or any part of this Restated Declaration, the Association Articles of Incorporation, the Association Bylaws, and/or the Plat without obtaining the approval or consent of any Owner or mortgagee, to the extent required to correct clerical errors or to such an extent and with such language as may be requested by, or necessary to comply with the requirements of, the Federal Housing Administration ("FHA"); or the Veterans Administration ("VA"), or any other federal, state, municipal, or other local authority with jurisdiction over the Property or any portion thereof, and, further, to amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Restated Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or any portions thereof. Any such amendment shall be effected by the Recording of a Certificate of Amendment duly signed by or on behalf of the partners, authorized agents, or authorized officers of Declarant or the Board, as applicable, with their signature acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. The Recording of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon all of the Property and all persons having an interest therein. Notwithstanding the foregoing, it is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development of the Property until Declarant's Class B Membership terminates. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant or the Board shall have the right to prepare, provide for and adopt as an amendment hereto, other and different control provisions. Except as provided in this Section 3 and in Section 2 above, Declarant shall not have any right to amend this Restated Declaration otherwise than in accordance with and pursuant to the provisions of Sections 2 and 3 of this Article.

ARTICLE XIV
ALTERNATIVE DISPUTE RESOLUTION PROVISIONS

14.1 Agreement to Resolve Certain Disputes Without Litigation. As used in this Article XIV, the term "Claim" shall mean: (a) any claim or cause of action, including but not limited to a Dwelling Action or a Multiunit Dwelling Action, arising out of or related in any way to the planning, design, engineering, grading, construction or development of the Property, including, without limitation, any claim or cause of action that the Property or any improvements thereon are defective or that the Declarant, a Developer, or the agents, beneficiaries, contractors, employees, subcontractors, architects, engineers or consultants thereof were negligent in the planning, design, engineering, grading, construction or development thereof; or (b) any claim or cause of action against the Declarant, a Developer, or any employee, agent, beneficiary, director, member or officer thereof, arising out of or in any way related to the development of the Property or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty. The Association, the Declarant, any Developer, all Owners, lessees, occupants and other Persons bound by this Restated Declaration, all Declarant's and any Developer's agents, beneficiaries, contractors, employees, subcontractors, architects, engineers or consultants and any Person not otherwise bound by this Restated Declaration who agrees to submit to this Article XIV (collectively, the "Bound Parties") agree that the dispute resolution procedures set forth in this Article XIV shall apply to all Claims.

14.2 Notice of Claim. Any Bound Party who contends or alleges to have a Claim (a "Claimant") against any other Bound Party (a "Respondent") shall notify each Respondent in writing of the Claim (the "Claim Notice"), stating plainly and concisely: (a) the nature of the Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; (c) what Claimant wants Respondent to do or not do to resolve the Claim; and (d) a certified statement indicating whether expert testimony will be required to prove any of the allegations contained in the Claim. In the event the Claimant is the Association and the Claim involves an Alleged Defect (as defined in Section 14.5), the Association must provide written notice to all Members prior to delivering a Claim Notice to a Bound Party or initiating any legal action, cause of action, proceeding, or arbitration against any Bound Party which notice shall (at a minimum) include: (a) a description of the Claim; (b) a description of the attempts of Declarant or any other Bound Party to correct such Alleged Defect and the opportunities provided to Declarant or any other Bound Party to correct such Alleged Defect; and (c) an affirmative statement from the Board of Directors that the action is in the best interests of the Association and its Members. The Bound Parties further agree and acknowledge that any action brought by a Claimant against a Respondent shall be brought by independent action and that no Claimant shall either serve as a class representative or become a class member to pursue such action.

14.3 Mediation. The Claimant and the Respondent shall negotiate in good faith in an attempt to resolve the claim. If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be agreed upon by the Parties ("Termination of Negotiations"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation under the auspices of an independent mediation service agreed to by Claimant and Respondent. If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process and hearing of the claims by a mediator, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of

Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

14.4 Binding Arbitration. In the event a Claim is not resolved by mediation, the Claimant shall have thirty (30) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section 14.4. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. The parties shall cooperate in good faith to assure that all necessary and appropriate persons and entities are included in the arbitration proceedings. No party shall be required to participate in the arbitration proceeding if all persons and entities against whom the party would have necessary or permissive crossclaims, counterclaims or third party claims are not or cannot be joined in the arbitration proceeding. If the Claimant submits the Claim to binding arbitration in accordance with this Section 14.4, the arbitration shall be conducted in accordance with the following rules:

14.4.1 Initiation of Arbitration. The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the American Arbitration Association ("AAA") Commercial Arbitration Rules, as amended from time to time (the "AAA Rules").

14.4.2 Governing Procedures. The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, et seq. In the event of a conflict between the AAA Rules and this Section 14.4, the provisions of this Section 14.4 shall govern.

14.4.3 Appointment of Arbitrator. The parties shall appoint a single Arbitrator by mutual agreement. Any arbitrator chosen in accordance with this Subsection 14.4.3 is referred to in this Section 14.4 as the "Arbitrator." The Arbitrator shall have no authority to conduct "class" arbitrations.

14.4.4 Qualifications of Arbitrator. The Arbitrator shall be neutral and impartial. The Arbitrator shall be a licensed attorney specializing in real estate law, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges from acting as the Arbitrator.

14.4.5 Disclosure. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection 14.4.3.

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

14.4.7 Preliminary Hearing. Within thirty (30) days after the Arbitrator has been appointed, the Arbitrator and counsel for the parties shall meet for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate writing. The matters which may be addressed include, in addition to those set forth in the AAA Rules, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what

extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

14.4.8 Management of the Arbitration. The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

14.4.9 Confidentiality. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

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

14.4.11 Final Award. The Arbitrator shall promptly (but, in no event later than sixty (60) days following the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

14.5. Right to Enter, Inspect, Repair and/or Replace. Following the receipt by a Bound Party of a Claim Notice with respect to an alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Property or any improvements thereon (the "Alleged Defect"), the Respondent and its employees, agents, contractors and consultants shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Property and any improvements thereon, for the purposes of inspecting and/or conducting testing to determine the validity of the Claim and, if deemed necessary by the Respondent, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, the Respondent shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances. Nothing set forth in this Section 14.5 shall be construed to impose any obligation on any Respondent to inspect, test, repair, or replace any item or Alleged Defect for which the Respondent is not otherwise obligated under applicable law or any warranty provided by Respondent in connection with the sale of the subject Lots or Dwelling Units. The right of a Respondent and its employees, agents, contractors and consultants to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and Recorded by the Respondent. In no event shall any statutes of limitations be tolled during the period in which a Respondent conducts any inspection, testing, repair or replacement of any Alleged Defects.

14.6 Use of Funds. Any judgment, award or settlement received by a Claimant in connection with a Claim involving an Alleged Defect shall first be used to correct and/or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. Any excess funds remaining after repair of such Alleged Defect shall be paid to the Claimant, and if the Claimant is the Association, any excess funds shall be paid into the Association's reserve fund.

14.7 Approval of Litigation. The Association shall not deliver a Claim Notice to any Bound Party or commence any legal action or arbitration proceeding or incur legal expenses, including without limitation, attorneys' fees, in connection with any Claim without the written approval of Members entitled to cast more than sixty-seven percent (67%) of each class of the total votes in the Association, excluding the votes of any Member who would be a defendant in such proceedings. The Association must pay for any such legal action or mediation or arbitration proceeding with monies that are specifically collected for such purposes and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal action or arbitration proceeding involving a Claim, all Members must notify prospective purchasers of their Lot of such legal action or arbitration proceeding and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 14.6.

14.8 Statute of Limitations. All statutes of limitations applicable to Claims shall apply to the commencement of arbitration proceedings under Section 14.4. If the arbitration proceedings are not initiated within the time period provided by Arizona law for the filing of a legal action with respect to the Claim, the Claim shall forever be barred.

14.9 Conflicts. In the event of any conflict between this Article XIV and any other provision of the Restated Declaration, the Articles or the Bylaws, this Article XIV shall control.

14.10 Severability. If any provision of this Article XIV is found by a court or arbitrator to be invalid or unenforceable for any reason, such provision shall be severed from this Article XIV, and the remaining provisions of this Article XIV shall remain unaffected and in full force and effect.

BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT (AND IN THE CASE OF THE DECLARANT AND THE RICHMOND TRUST, BY THEIR EXECUTION OF THIS RESTATED DECLARATION), EACH PERSON, FOR HIMSELF, HIS HEIRS, BENEFICIARIES, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE PROVISIONS OF THIS ARTICLE XIV AND WAIVES THE RIGHT TO PURSUE ANY DECLARANT OR OTHER BOUND PARTY IN ANY MANNER OTHER THAN AS PROVIDED IN ARTICLE XIV. THE ASSOCIATION, EACH UNIT OWNER, ANY OTHER BOUND PARTY, DECLARANT AND THE RICHMOND TRUST ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN THIS ARTICLE XIV, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH CLAIM TRIED BEFORE A JURY. THE ASSOCIATION, EACH OWNER, ANY OTHER BOUND PARTY, DECLARANT AND THE RICHMOND TRUST FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A CLAIM. BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT (AND WITH RESPECT TO DECLARANT AND THE RICHMOND TRUST, BY THEIR EXECUTION OF THIS RESTATED DECLARATION), EACH OWNER VOLUNTARILY ACKNOWLEDGES THAT HE IS GIVING

UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A CLAIM.

ARTICLE XIV
MISCELLANEOUS

Section 1. Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Restated Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.

Section 2. Severability. Any determination by any court of competent jurisdiction that any provision of this Restated Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 3. Rule Against Perpetuities. If any interest purported to be created by this Restated Declaration would otherwise be unlawful, void or voidable under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest; plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

Section 4. Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Restated Declaration, the Association shall have the right to adopt rules and regulations with respect to other matters provided said rules and regulations are not inconsistent with the provisions of this Restated Declaration.

Section 5. Declarant's Disclaimer of Representations. Anything to the contrary in this Restated Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the County Recorder of Pima County, Arizona, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out, or that any land now owned or hereafter acquired by it is or will, be subjected to this Restated Declaration, or that any such land (whether or not it has been subjected to this Restated Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

Section 6. References to the Covenants in Deeds. Deeds to and instruments affecting any Lot or any part of the Property may contain the Covenants herein set forth by reference to this Restated Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

Section 7. Successors and Assigns of Declarant. Unless and until the Declarant hereunder assigns the title of "Declarant," no partial or full assignment of any of Declarant's rights hereunder shall make the assignee of such rights (unless such assignee also becomes the assignee of the title of "Declarant" as evidenced by a Recorded instrument) the Declarant hereunder. Subject to the immediately preceding sentence, Declarant may at any time assign all or any portion of its rights

hereunder to any Person or Persons, but such assignment of rights shall only become effective upon Recordation of an instrument expressly evidencing such assignment. Notwithstanding anything to the contrary contained in this Restated Declaration, there shall never be more than one (1) Declarant under this Restated Declaration during the same period of time.

Section 8. Gender and Number. Wherever the context of this Restated Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural and words in the plural shall include the singular.

Section 9. Captions and Titles; Recitals. All captions, titles or headings of the Articles and Sections in this Restated 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. The Recitals to this Restated Declaration are acknowledged to be true and correct and are incorporated herein by this reference.

Section 10. Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Restated Declaration or resolution of the Board to be given to any Owner 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 of general circulation within the County of Pima or the Property. 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.

Section 11. FHA/VA Approval/Amendment to Comply With Certain Requirements.

(a.) If this Restated Declaration is approved by the FHA or the VA in connection with any loan programs made available by FHA or VA and any loans have been made which are insured or guaranteed by FHA or VA, then as long as there is a Class B Membership, the following actions will require the prior approval of the FHA or the VA, as applicable, unless the need for such approval has been waived by FHA or VA: Dedications of Common Areas; amendment of this Restated Declaration; and annexation of additional properties.

(b.) Anything in this Restated Declaration or the Association Articles or Bylaws to the contrary notwithstanding, the Board may amend this Restated Declaration, the Association Articles of Incorporation, or Bylaws or the Plat, without obtaining the approval or consent of any Owner or mortgagee, in order to conform this Restated Declaration or the Plat to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the project in which the Property is located.

Section 12. Bulk Service Agreements.

(a.) The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which terms is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Owners and Members services, including, without limitation, electronic services (cable television, community satellite television, high speed Internet, security monitoring, data, communication or security services), wastewater and water services, fire protection, pest control, trash collection, and recycling collection (individually or collectively "Bulk Services"): (a) which might not otherwise be generally available to such Owners and Members; (b) at rates or charges lower than might otherwise generally be charged to Owners and Members for the same or similar services; (c) otherwise on terms and conditions which the Board believes to be in the interests of Owners and Members generally; or (d) any combination of the foregoing.

If all Lots within the Property are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly). If not all Lots within the Property will be served by a particular Bulk Service Agreement, the Board shall have only the billing option described in clause (b) above.

The Declarant, for each Lot, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Lot (or in the case of the Richmond Tenant, by its execution of this Restated Declaration), is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Lot) by the Board pursuant to this Section 12, and all such amounts: (a) shall be deemed to be a part of the Assessments against the Lots against or to which they are levied or charged (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the Assessment Lien established by this Restated Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Lot at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

No Owner of a Lot covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot under this Section 12, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, at its option, to exempt from payment of such amounts any Lot upon which no Dwelling Unit or other building has been completed.

"Bulk Provider" means a private, public or quasi-public utility or other company which provides, or proposes to provide any Bulk Service(s) (as defined above) to Lots within the Property pursuant to a "Bulk Service Agreement" (as defined below).

"Bulk Service Agreement" means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide any Bulk Service(s) to Lots within the Property.

During the Period in which a Class B Membership exists, the Board shall not, without the approval of Members holding at least fifty-one percent (51 %) of all Class A Members, enter into a Bulk Service Agreement which imposes on the Association or its Members (other than Declarant or a Developer which, in either case, agrees in writing thereto) any obligation to pay the direct costs of construction of any cables, lines or other facilities or equipment for any such Bulk Services, but nothing in this Section 12 shall prevent the Board from entering into, or require approval by the Members of, any Bulk Service Agreement which imposes on the Association or its Members installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the greater Tucson, Arizona area, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

Section 13. Security Gates and Security Devices. Unmanned entry gates, security gates or similar facilities may be constructed within or adjacent to the Property. Each Owner and Member, and their families, guests and invitees, acknowledge that any such entry gates, guardhouses, security gates (manned or unmanned) or similar facilities may restrict or delay entry into, or access within, the Property by police, fire department, ambulances and other emergency vehicles or personnel. Each Owner and Member and their families, guests and invitees agree to assume the risk that any such entry gates, security gates (manned or unmanned) or similar facilities will restrict or delay entry into, or access within, the Property by police, fire department, ambulances or other emergency vehicles or personnel. Neither the Declarant, Richmond Trust, the Association, nor any director, officer, agent, beneficiary or employee of the Declarant, Richmond Trust, or the Association shall be liable to any Owner or Member or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of any such entry gates, security gates or similar facilities.

Section 14. Protection of Undisturbed Areas During Construction. The Association shall install construction fencing to assure that all areas within the Common Area required to remain in their undisturbed natural state pursuant to the terms of that certain Tangerine Crossing Development Agreement between the Town of Marana, Declarant and Tangerine Road Associates, recorded July 9, 2004 at Docket 12340, Page 3077 (the "Development Agreement") are protected during construction. Except as specifically modified by the terms of the Development Agreement, every Owner shall comply with all Town of Marana grading requirements.

Section 15. Permanent Maintenance of Undisturbed Natural Areas. With the exception of recreational trails constructed in undisturbed natural areas as provided in Paragraph 2.1 of the Development Agreement, undisturbed natural areas set aside as required by Article 2 of the Development Agreement shall be permanently maintained in their undisturbed natural state.

Section 16. Ownership and Control of Undisturbed Natural Areas. Not later than when construction begins on the last substantial phase of the Property's development, the undisturbed natural areas set aside and maintained as required by Article 2 of the Development Agreement shall be placed by the Association in the permanent ownership and control of (i) the Association, or (ii) a government or conservation entity the Town of Marana determines is willing and able to permanently maintain the undisturbed natural areas as required by Article 2 of the Development Agreement.

Section 17. Beneficiaries of Declarant and Richmond Trust. Whenever in this Restated Declaration a benefit, privilege or protection is bestowed upon Declarant or the Richmond Trust, such benefit, privilege or protection shall extend to any beneficiary of Declarant (as long as Declarant is structured as a trust) and of the Richmond Trust.

IN WITNESS WHEREOF, Declarant and the Richmond Trust have hereunto caused this Restated Declaration to be executed by its duly authorized officials as of the day and year first above written.

TICOR TITLE AGENCY OF ARIZONA, INC.,
an Arizona corporation, successor to Chicago Title
Insurance Company, a Missouri corporation, AS
TRUSTEE UNDER ITS TRUST NO.12,133,
as Trustee only and not in its general corporate
capacity

By: Janice M. Fischer
Name: Janice M. Fischer
Its: Asst. Vice President/Trust Officer

FIDELITY NATIONAL TITLE AGENCY, INC.,
an Arizona corporation, AS TRUSTEE UNDER
TRUST NO. 00,279, as Trustee only and not in
its general corporate capacity

By: MARTHA L. HILL
Name: MARTHA L. HILL
Its: TRUST OFFICER

RICHMOND AMERICAN HOMES OF
ARIZONA, INC., a Delaware corporation

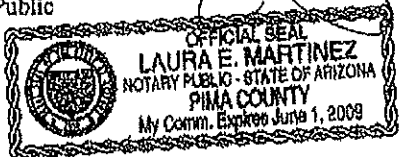
By: Daria Hopkins
Name: Daria Hopkins
Title: Director of Land Acquisition
Date: 1/17/07

STATE OF Arizona)
County Pima)

On 1.17.07, before me, LAURA E. MARTINEZ personally appeared MARTHA L. HILL personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Laura E. Martinez
Notary Public



[SEAL]

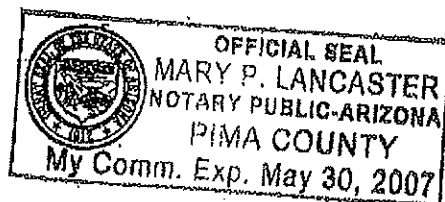
STATE OF Arizona)
County Pima)

On January 17, 2007, before me, the undersigned personally appeared Janice M. Fischer personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Mary P. Lancaster
Notary Public

[SEAL]



STATE OF ARIZONA)
County PIMA)

On JANUARY 17, 2007, before me, THE UNDESIGNED personally appeared DARIA HOPKINS personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Jean M. Teague
Notary Public

(SEAL)

