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DECLARATION OF SCRIVENER'S ERROR

TO ALL PARTIES,

This Declaration of Scrivener's Error is made by Starr Ridge, L.L.C., which caused to have recorded the First Amendment to The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Starr Ridge at Sequence No. 20142250464 in the official records of Pima County, Arizona ("First Amendment").

That said First Amendment, in paragraph B of the Recitals, contained a clerical error in stating that the document assigning Declarant's rights was recorded at Docket 13814, page 4148.

Now, therefore, let it be known that said First Amendment is hereby amended to reflect that the document assigning Declarant's rights referenced in paragraph B of the Recitals was recorded at Docket 13814, page 2409.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this 9th day of May, 2016.

STARR RIDGE, L.L.C., an Arizona limited liability company

By: Starr Ridge Managers. L.L.C., an Arizona limited liability company, Its Manager

By: Benchmark Equities, Inc., an Arizona corporation, Its Member

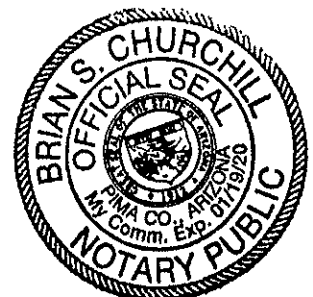
By: [Signature]
Daniel H. O'Connell, President

STATE OF ARIZONA)
) ss.
County of Pima)

SUBSCRIBED AND SWORN to before me this 9th day of May, 2016 by Daniel H. O'Connell, as President of Benchmark Equities, Inc., an Arizona corporation, as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.

[Signature]
Notary Public

My Commission expires:
JANUARY 19, 2020



F. ANN RODRIGUEZ, RECORDER
Recorded By: CML
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1951

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**FIRST AMENDMENT TO
THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR STARR RIDGE**

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STARR RIDGE is made this 7th day of August, 2013, by Starr Ridge, L.L.C. (hereinafter the "Declarant") pursuant to Section 14.2.4 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, and affecting the property legally described in Exhibit "A" attached hereto and made a part hereof.

RECITALS

A. The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Starr Ridge, dated June 20, 2006 was signed and recorded in the Recorder's Office of Pima County, Arizona in Docket 12829 Page 4148 through 4188 inclusive ("Amended and Restated Declaration").

B. Starr Ridge, L.L.C., an Arizona limited liability company, was assigned the rights and obligations as Declarant under the Amended and Restated Declaration, such assignment recorded May 21, 2010 in Docket 13814, Page 4148.

C. Article XIV, Section 14.2 of the Amended and Restated Declaration provides that during the Development Period (defined as the time prior to all of the Lots governed by the Declaration being sold to consumers), the Declarant has the right to amend the Declaration at its sole discretion as it determines it necessary or advisable without further consent.

NOW, THEREFORE, the Declarant, being properly authorized to so act by and through the Amended and Restated Declaration, amends the Amended and Restated Declaration as follows:

I.

Section 3.1.2 shall be amended, as follows:

3.1.2 Class B. The Class B Member is the Declarant. The Class B Member is entitled to three votes for each Lot it owns. During the Class B Membership, the Declarant shall appoint all members of the Board of Directors. The Class B Membership terminates upon the happening of the

first of the following events:

- A. the date which is 120 days after the end of the Development Period; or
- B. May 28, 2019, the date which is fifteen years after the date the Original Declaration was recorded; or
- C. The date on which the Declarant relinquishes its Class B votes by providing written notice to the Association.

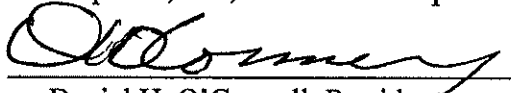
Except as amended herein, the Amended and Restated Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Starr Ridge, L.L.C., an Arizona limited liability company, the undersigned Declarant approves in writing this First Amendment to the Amended and Restated Declaration.

Starr Ridge, L.L.C., an Arizona limited liability company

By: Starr Ridge Managers, L.L.C., an Arizona limited liability company,
Its Manager

By: Benchmark Equities, Inc., an Arizona corporation, Its Member

By: 
Daniel H. O'Connell, President

By: John Herder Building Corporation, an Arizona corporation, Its
Member

By: 
John Herder, President

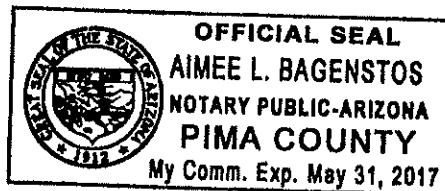
STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this 7th day of August, 2014, by Daniel H. O'Connell, as President of Benchmark Equities, Inc., an Arizona corporation, as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.

Aimee L. Bagenstos
Notary Public

My Commission Expires:

May 31, 2017



STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this 7th day of August, 2014, by John Herder, as President of John Herder Building Corporation, an Arizona corporation, as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.

Aimee L. Bagenstos
Notary Public

My Commission Expires:

May 31, 2017

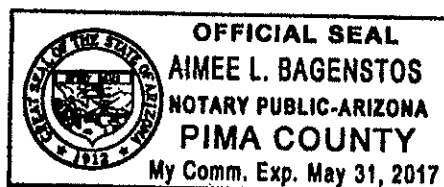


EXHIBIT A

Lots 1 through 105, and Common Areas "A", "B" and "C" of Starr Ridge, as shown on the Plat of Record in Book 58 of Maps and Plats at Page 50

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DECLARATION OF SCRIVENER'S ERROR

TO ALL PARTIES,

This Declaration of Scrivener's Error is made by Starr Ridge, L.L.C., which caused to have recorded the Second Amendment to The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Starr Ridge at Sequence No. 20151760703 in the official records of Pima County, Arizona ("Second Amendment").

That said Second Amendment, in paragraph B of the Recitals, contained a clerical error in stating that the document assigning Declarant's rights was recorded at Docket 13814, page 4148.

Now, therefore, let it be known that said Second Amendment is hereby amended to reflect that the document assigning Declarant's rights referenced in paragraph B of the Recitals was recorded at Docket 13814, page 2409.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this 9th day of May, 2016.

STARR RIDGE, L.L.C., an Arizona limited liability company

By: Starr Ridge Managers. L.L.C., an Arizona limited liability company, Its Manager

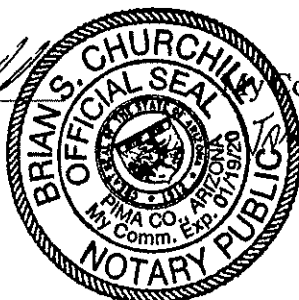
By: Benchmark Equities, Inc., an Arizona corporation, Its Member

By: [Signature]
Daniel H. O'Connell, President

STATE OF ARIZONA)
) ss.
County of Pima)

SUBSCRIBED AND SWORN to before me this 9th day of MAY, 2016 by Daniel H. O'Connell, as President of Benchmark Equities, Inc., an Arizona corporation, as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.

[Signature]
Notary Public



Commission expires:

JANUARY 19, 2020



F. ANN RODRIGUEZ, RECORDER
Recorded By: KMS
DEPUTY RECORDER
4935

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SEQUENCE: 20151760703
NO. PAGES: 5
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AMOUNT PAID: \$12.00

Recorded at the request of:
O'Connell & Associates, P.C.
3573 East Sunrise Drive, Suite 133
Tucson, Arizona 85718

DOCUMENT TITLE: SECOND AMENDMENT TO THE AMENDED AND
RESTATED DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR STARR RIDGE
STARR RIDGE, L.L.C.

**SECOND AMENDMENT TO
THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR STARR RIDGE**

THIS SECOND AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STARR RIDGE is made this 24th day of June, 2015, by Starr Ridge, L.L.C. (hereinafter the "Declarant") pursuant to Section 14.2.4 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, and affecting the property legally described in Exhibit "A" attached hereto and made a part hereof.

RECITALS

- A. The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Starr Ridge, dated June 20, 2006 was signed and recorded in the Recorder's Office of Pima County, Arizona in Docket 12829 Page 4148 through 4188 inclusive ("Amended and Restated Declaration").
- B. Starr Ridge, L.L.C., an Arizona limited liability company, was assigned the rights and obligations as Declarant under the Amended and Restated Declaration, such assignment recorded May 21, 2010 in Docket 13814, Page 4148.
- C. Article XIV, Section 14.2 of the Amended and Restated Declaration provides that during the Development Period (defined as the time prior to all of the Lots governed by the Declaration being sold to consumers), the Declarant has the right to amend the Declaration at its sole discretion as it determines it necessary or advisable without further consent.

NOW, THEREFORE, the Declarant, being properly authorized to so act by and through the Amended and Restated Declaration, amends the Amended and Restated Declaration as follows:

I.

Section 1.9 shall be amended, as follows:

1.9 "Declarant" refers to Starr Ridge, L.L.C., or its successors and assigns. "Declarant" shall also refer to any related or affiliated entities to Starr Ridge, L.L.C., including but not limited to John Herder Building Corporation and Herder & Herder Homes, L.L.C.

Section 7.6.5 shall be amended, as follows:

7.6.5 Roof Decks and RV Garages. No roof decks may be constructed on any Lot. RV Garages may be built as long they comply with the height restrictions set forth in Section 7.6.2 above.

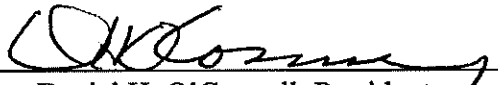
Except as amended herein, the Amended and Restated Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Starr Ridge, L.L.C., an Arizona limited liability company, the undersigned Declarant approves in writing this First Amendment to the Amended and Restated Declaration.


Starr Ridge, L.L.C., an Arizona limited liability company

By: Starr Ridge Managers, L.L.C., an Arizona limited liability company,
Its Manager

By: Benchmark Equities, Inc., an Arizona corporation, Its Member

By: 
Daniel H. O'Connell, President

By: John Herder Building Corporation, an Arizona corporation, Its
Member

By: 
John Herder, President

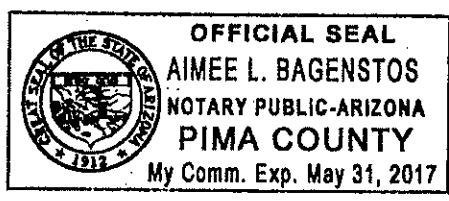
STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this 24th day of June, 2015, by Daniel H. O'Connell, as President of Benchmark Equities, Inc., an Arizona corporation, as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.

Aimee L. Bagenstos
Notary Public

My Commission Expires:

May 31, 2017



STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this 24th day of June, 2015, by John Herder, as President of John Herder Building Corporation, an Arizona corporation, as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.

Aimee L. Bagenstos
Notary Public

My Commission Expires:

May 31, 2017

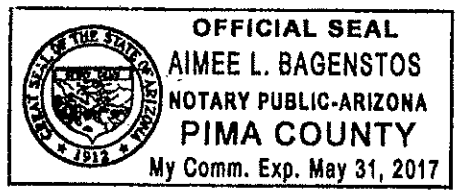


EXHIBIT A

Lots 1 through 105, and Common Areas "A", "B" and "C" of Starr Ridge, as shown on the Plat of Record in Book 58 of Maps and Plats at Page 50

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DECLARATION OF SCRIVENER'S ERROR

TO ALL PARTIES,

This Declaration of Scrivener's Error is made by Starr Ridge, L.L.C., which caused to have recorded the Third Amendment to The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Starr Ridge at Sequence No. 20152870446 in the official records of Pima County, Arizona ("Third Amendment").

That said Third Amendment, in paragraph B of the Recitals, contained a clerical error in stating that the document assigning Declarant's rights was recorded at Docket 13814, page 4148.

Now, therefore, let it be known that said Third Amendment is hereby amended to reflect that the document assigning Declarant's rights referenced in paragraph B of the Recitals was recorded at Docket 13814, page 2409.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this 9th day of May, 2016.

STARR RIDGE, L.L.C., an Arizona limited liability company

By: Starr Ridge Managers, L.L.C., an Arizona limited liability company, Its Manager

By: Benchmark Equities, Inc., an Arizona corporation, Its Member

By: [Signature]
Daniel H. O'Connell, President

STATE OF ARIZONA)
) ss.
County of Pima)

SUBSCRIBED AND SWORN to before me this 9th day of May, 2016 by Daniel H. O'Connell, as President of Benchmark Equities, Inc., an Arizona corporation, as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.

[Signature]
Notary Public

My Commission expires:
JANUARY 19, 2020



WHEN RECORDED MAIL TO:
Stewart Title & Trust of Tucson
3939 E. Broadway Blvd
Tucson, AZ 85711

ESCROW NO. 05504-10539



SEQUENCE: 20152870446
No. Pages: 4
10/14/2015 3:48 PM

F. ANN RODRIGUEZ, RECORDER
Recorded By: GMS (e-recording)



SPACE ABOVE THIS LINE FOR RECORDERS USE

CAPTION HEADING

**Third Amendment to The Amended and Restated Declaration of Covenants
Conditions and Restrictions for Starr Ridge**

DO NOT REMOVE

THIS IS PART OF THE OFFICIAL DOCUMENT

**THIRD AMENDMENT TO
THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR STARR RIDGE**

THIS THIRD AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STARR RIDGE is made this 14th day of October, 2015, by Starr Ridge, L.L.C. (hereinafter the "Declarant") pursuant to Section 14.2.4 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, and affecting the property legally described in Exhibit "A" attached hereto and made a part hereof.

RECITALS

- A. The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Starr Ridge, dated June 20, 2006 was signed and recorded in the Recorder's Office of Pima County, Arizona in Docket 12829 Page 4148 through 4188 inclusive ("Amended and Restated Declaration").
- B. Starr Ridge, L.L.C., an Arizona limited liability company, was assigned the rights and obligations as Declarant under the Amended and Restated Declaration, such assignment recorded May 21, 2010 in Docket 13814, Page 4148.
- C. Article XIV, Section 14.2 of the Amended and Restated Declaration provides that during the Development Period (defined as the time prior to all of the Lots governed by the Declaration being sold to consumers), the Declarant has the right to amend the Declaration at its sole discretion as it determines it necessary or advisable without further consent.

NOW, THEREFORE, the Declarant, being properly authorized to so act by and through the Amended and Restated Declaration, amends the Amended and Restated Declaration as follows:

I.

Section 7.6.2 shall be amended, as follows:

7.6.2 Height Limitations. One story limitation and a maximum of 16 feet high parapet and a maximum of 20 feet high with chimneys and roof ridges.

Except as amended herein, the Amended and Restated Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Starr Ridge, L.L.C., an Arizona limited liability company, the undersigned Declarant approves in writing this Third Amendment to the Amended and Restated Declaration.

Starr Ridge, L.L.C., an Arizona limited liability company

By: Starr Ridge Managers, L.L.C., an Arizona limited liability company,
Its Manager

By: The Danelle Limited Partnership, L.L.P., Member

By: The Daniel H. O'Connell Irrevocable Trust
Its General Partner


Daniel H. O'Connell, Trustee

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this 14th day of October, 2015, by Daniel H. O'Connell, Trustee of the Daniel H. O'Connell Irrevocable Trust, as General Partner of Danelle Limited Partnership, L.L.P., as Member of Starr Ridge Managers, L.L.C., an Arizona limited liability company, as Manager of Starr Ridge, L.L.C., an Arizona limited liability company.


Notary Public

My Commission Expires:

May 31, 2017

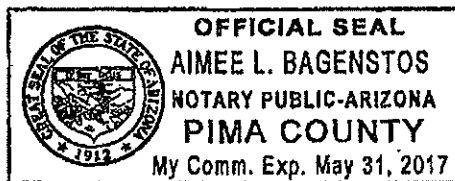


EXHIBIT A

Lots 1 through 105, and Common Areas "A", "B" and "C" of Starr Ridge, as shown on the Plat of Record in Book 58 of Maps and Plats at Page 50

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: NMB
DEPUTY RECORDER
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DOCKET: 12829
PAGE: 4148
NO. OF PAGES: 41
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AMOUNT PAID \$ 45.00

TFNTI
FIDELITY NATIONAL TITLE
7750 E BROADWAY STE #A200
TUCSON AZ 85710

AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR STARR RIDGE AS RECORDED IN
BOOK 58 OF MAPS AND PLATS AT PAGE 50.

12829 04148

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1
2
3 **AMENDED AND RESTATED**
4 **DECLARATION OF COVENANTS, CONDITIONS AND**
5 **RESTRICTIONS**
6 **FOR**
7 **STARR RIDGE**
8

9 THIS AMENDED AND RESTATED DECLARATION is made this 20th day of
10 June, 2006, by Fidelity National Title Agency, Inc., an Arizona Corporation,
11 as Trustee under Trust #60,040, hereafter referred to as the "Declarant."
12

13
14 **RECITALS**
15

16 A. Declarant is the owner of real property located in Pima County, Arizona,
17 which is described as Lots 1 through 105, and Common Areas "A", "B" and "C" of Starr
18 Ridge, as shown on the Plat of Record on Book 58 of Maps and Plats at Page 50 (the
19 "Properties" or the "Project").
20

21 B. Declarant executed the Declaration of Covenants, Conditions and Restrictions
22 for Starr Ridge, which was recorded on May 28, 2004, in Docket 12312 at page 2237 *et seq.*,
23 office of the Pima County Recorder (the "Original Declaration").
24

25 C. Declarant desires to develop the Properties as a residential community and
26 desires that all the real estate which it develops will be subject to the easements, covenants,
27 conditions and restrictions set forth in this Declaration.
28

29 D. Declarant is the owner of all lots within Starr Ridge and, therefore, is
30 authorized to amend and restate the Original Declaration.
31

32
33 **NOW THEREFORE**, the Declarant hereby declares that the Properties are and shall
34 be held, conveyed, encumbered, leased, and used subject to the following covenants,
35 conditions, uses, restrictions, limitations, obligations, easements, equitable servitudes,
36 charges and liens (hereinafter collectively referred to as the "Restrictions"), all of which are
37 for the purpose of enhancing and protecting the value, desirability and attractiveness of
38 the Properties. The Restrictions set forth herein shall run with the Properties, shall be
39 binding upon all Persons having or acquiring any right, title or interest therein, and shall
40 inure to the benefit of, be binding upon all Persons having or acquiring any right, title or
41 interest in the described properties or any part thereof, and shall inure to the benefit of
42 each such Person.
43
44

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR
STARR RIDGE**

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**ARTICLE I
DEFINITIONS**

Section 1.1 "Annual Assessments" are those assessments which are levied by the Association and used to promote the recreation, health and welfare of the Members, their families and guests, for the improvement of the Common Areas and for all other purposes set forth in the Articles, Bylaws, this Declaration and all applicable laws.

Section 1.2 "Architectural Review Committee" or "ARC" refers to the Committee established by the Board of Directors pursuant to Article VII of this Declaration.

Section 1.3 "Articles" refers to the Articles of Incorporation of the Association and any amendments which have been filed in the Office of the Arizona Corporation Commission.

Section 1.4 "Assessment Lien" means a lien against any Lot arising out of the non-payment of Annual Assessments, or any other sums due to the Association, including late fees, interest, fines, attorney fees and any other collection costs.

Section 1.5 "Association" means STARR RIDGE HOMEOWNERS ASSOCIATION, INC., an Arizona nonprofit corporation, its successors and assigns.

Section 1.6 "Board" means the Board of Directors of the Association.

Section 1.7 "Bylaws" refer to the Bylaws of the Association, as may be amended from time to time.

Section 1.8 "Common Areas" refers to the real property which is designated as Common Areas "A", "B" and "C" on the Plat and owned by the Association for the common use and enjoyment of the Owners.

Section 1.9 "Declarant" refers to Fidelity National Title Agency, Inc, as Trustee under Trust #60,040, its successors and assigns.

Section 1.10 "Declarant's Optionee" refers to any builder or contractor who is a party to an option agreement with Declarant for the purchase and development of a Lot.

Section 1.10 "Design Guidelines" means those rules and regulations adopted, amended and supplemented by the Architectural Review Committee pursuant to Article VII of this Declaration.

Section 1.11 "Development Period" refers to the period of time that it takes for the Declarant to sell all of the Lots to consumers.

1 Section 1.12 "First Mortgagee" refers to the holder of any Mortgage under which
2 the interest of any Owner of a Lot is encumbered, and which mortgage has the first and
3 paramount priority (referred to in this Declaration as "First Mortgage"), subject only to the
4 lien of general or *ad valorem* taxes and assessments and such other matters as are
5 recognized in such First Mortgage as permitted exceptions.
6

7 Section 1.13 "Governing Documents" refers to this Declaration, the Articles of
8 Incorporation, the Bylaws of the Association and any Rules and Regulations promulgated
9 by the Board.
10

11 Section 1.14 "Improvement" means buildings, roads, driveways, parking areas,
12 fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures
13 or landscaping improvements of every type and kind.
14

15 Section 1.15 "Lot" refers to any numbered parcel of real property shown on the Plat,
16 together with the Improvements, if any, thereon. A Lot does not include the Common
17 Areas.
18

19 Section 1.16 "Member" means the Owner of a Lot who is entitled to membership
20 in the Association, who has the privilege of using and enjoying the Common Areas, and
21 who has a duty to pay assessments for these privileges, as further set forth in this
22 Declaration.
23

24 Section 1.17 "Mortgage" refers to any mortgage, deed of trust or other security
25 instrument by which a Lot or any part of a Lot is encumbered.
26

27 Section 1.18 "Owner" means the record owner, whether one or more Persons, of the
28 fee simple title to any Lot which is part of Starr Ridge including a buyer under a contract
29 for the sale of real estate, but excluding any Person who holds an interest merely as
30 security for the performance of an obligation.
31

32 Section 1.19 "Person" includes a corporation, company, partnership, firm,
33 association or society, as well as a natural person.
34

35 Section 1.20 "Plat" refers to the map of record in the Office of the Pima County
36 Recorder in Book 58 at Page 50, and designated as Starr Ridge, Lots 1 through 105 and
37 Common Areas "A", "B" and "C."
38

39 Section 1.21 "Properties" and "Project" mean the real property described in the Plat
40 and also known as the "subdivision."
41

42 Section 1.22 "Rules" means those policies and procedures adopted by the Board,
43 which govern the conduct and actions of owners, tenants, visitors, and guests on Lots and
44 the Common Areas, not otherwise covered in this Declaration. Rules, when adopted by
45 the Board, have the same force and effect as the Restrictions set forth in this Declaration.

1 Section 1.23 "Single Family" refers to a group of one or more persons each related
2 to the other by blood, marriage or legal adoption; or a group of three or less persons who
3 are not related, but who maintain a common household on a Lot. The number of unrelated
4 persons residing on a Lot may be increased upon application by the Owner of the Lot to
5 the Board, and upon a showing of good cause.
6

7 Section 1.24 "Visible from Adjacent Lots" means, with respect to any given object
8 that such object is or would be visible to a person 6 feet tall, standing at ground level on
9 any part of an adjacent Lot; provided, however, that an object is not considered as being
10 Visible from Adjacent Lots if the object is visible to a person 6 feet tall, standing at ground
11 level on any part of the adjacent Lot only because the object is seen through a wrought iron
12 fence and would not be visible if the fence were solid, rather than wrought iron.
13

14 **ARTICLE II** 15 **MEMBERSHIP** 16

17 Section 2.1 Every Person who is an Owner of a Lot is a Member of the Association
18 and is subject to assessment by the Association. Membership is appurtenant to and may
19 not be separated from ownership of a Lot. Only Persons who own Lots are Members of the
20 Association.
21

22 Section 2.2 Membership shall not be transferred, pledged, or alienated in any way
23 except upon the transfer of ownership of any Lot and then Membership shall only be
24 transferred to the transferee. Any attempt to make a prohibited transfer shall be void. Any
25 transfer of ownership of a Lot shall operate to automatically transfer the membership in
26 the Association to the new Owner.
27

28 **ARTICLE III** 29 **VOTING RIGHTS** 30

31 Section 3.1 Declarant. Declarant is a Member of the Association for so long as it
32 holds a Class A or Class B Membership.
33

34 Section 3.2 Voting Classes. The Association has two classes of voting Members:
35

36 3.1.1 Class A. Class A Members are all of the Owners except the Declarant
37 (until the conversion of Declarant's Class B Membership to Class A Membership as
38 provided below). Subject to the authority of the Board to suspend an Owner's voting rights
39 in accordance with the provisions of this Declaration, a Class A Member has one vote for
40 each Lot owned. The vote for each Lot shall be exercised as the Owners agree, but in no
41 event may there be more than one vote cast for any one Lot owned.
42

43 3.1.2 Class B. The Class B Member is the Declarant. The Class B Member
44 is entitled to three votes for each Lot it owns until all of the Lots are sold, at which time it
45 will be entitled to one vote for each Lot it owns. During the Class B Membership, the

1 Declarant shall appoint all members of the Board of Directors. The Class B Membership
2 terminates upon the happening of the first of the following events:

3
4 A. the date which is 120 days after the end of the Development
5 Period; or

6
7 B. the date which is 10 years after the date this Declaration is
8 recorded; or

9
10 C. The date on which the Declarant relinquishes its Class B votes by
11 providing written notice to the Association.
12

13 Section 3.3 Right to Vote. No change in the ownership of a Lot is effective for
14 voting purposes until the Board receives written notice of such change together with
15 satisfactory evidence of the transfer. The vote for each Member must be cast as a single
16 unit. Fractional votes are not allowed. In the event that a Lot is owned by more than one
17 Person and such Owners are unable to agree on how their vote or votes shall be cast, they
18 shall not be entitled to vote on the matter in question. If any Owner exercises his/her vote
19 on any matter, it will be conclusively presumed that the Owner is acting with the authority
20 and consent of the all other Owners of the Lot unless an objection is made to the Board, in
21 writing, at or prior to the time the vote is cast. If more than one Person votes or attempts
22 to exercise the vote for a particular Lot all of those votes shall be void.
23

24 Section 3.4 Members' Rights. Each Member has all of the rights, duties and
25 obligations set forth in the Governing Documents.
26

27 Section 3.5 Suspension of Voting Rights. The right of any Member to vote is
28 automatically suspended during any period where any assessment, or other sum due to
29 the Association [including any attorney fees or other costs incurred by the Association
30 attributable to the Lot or the Owner] is unpaid and delinquent. The Association may
31 suspend the voting rights of any Member for a period specified by the Board when, in the
32 Board's discretion, such Member has caused any non-monetary violation of the Governing
33 Documents.
34

35 ARTICLE IV 36 PROPERTY RIGHTS 37

38 Section 4.1 Member's Easements of Enjoyment. Every Owner has the right and
39 an easement to enjoy the Common Areas and such easement shall be appurtenant to and
40 is conveyed with the title to each Lot. Such right and easement of enjoyment is subject to
41 the following provisions:
42

43 4.1.1 The right of the Board of Directors to adopt Bylaws and reasonable
44 Rules governing the use of the Lots and the Common Areas, as well as the Owners'

1 conduct on the Lots or Common Areas, and governing the payment and collection of
2 assessments from the Owners and penalties for failure to pay these assessments.

3
4 4.1.2 The right of the Association to borrow money for the purpose of
5 improving and maintaining the Common Areas and, if necessary, to mortgage the
6 Common Areas, but the rights of any Mortgagee of the Common Areas are subordinate to
7 the rights of the Owners.

8
9 4.1.3 The right of the Association to mortgage the Common Areas or to
10 dedicate or transfer all or any part of the Common Areas for such purposes and subject to
11 such conditions as may be agreed to by the Members. No dedication or transfer of the
12 Common Areas is effective unless approved by at least two-thirds of the Owners [with one
13 vote per Lot].

14
15 4.1.4 The right of the Association to enter into such agreements and take any
16 action which is reasonably necessary and convenient to accomplish the Association's
17 obligations and to operate and maintain the Common Areas.

18
19 Section 4.2 Delegation of Use. Any Owner may delegate his/her right to use the
20 Common Areas to the members of his/her family, his/her tenants or contract purchasers
21 who reside on a Lot, provided that such delegation is made in accordance with the
22 Governing Documents.

23
24 Section 4.3 Common Areas. Ownership of the Common Areas is vested in the
25 Association, subject to the easements created in Article V. The Common Areas shall be
26 deeded to the Association by the Declarant on or before the date the last Lot is conveyed
27 to an Owner. This conveyance shall be conveyed to the Association free and clear of all
28 liens and encumbrances, except any easements created in this Declaration or the plat, or
29 conveyed to a public authority.

30
31 Section 4.4 Condemnation of Common Area. If all or any part of the Common
32 Area is taken or condemned, or conveyed by the Association in lieu of or under threat of
33 such condemnation with the written consent or affirmative vote of Owners representing
34 at least eighty percent (80%) of the votes in the Association, by or to any authority having
35 the power of condemnation or eminent domain, the award or other compensation paid as
36 a result of such taking or conveyance shall be paid to the Association. If the taking
37 involves a portion of the Common Area upon which Improvements have been
38 constructed, then the Association shall construct replacement Improvements on the
39 remaining Common Area to the extent land is available for such construction, unless
40 within sixty (60) days after such taking the owners having at least eighty percent (80%) of
41 the votes in the Association, by written consent or affirmative vote, or any combination
42 thereof, instruct the Board not to build replacement Improvements. If such replacement
43 Improvements are to be constructed, then the Association shall be entitled to use the award
44 or other compensation made for such taking solely for the purpose of such construction.
45 If the taking does not involve any Improvements on the Common Area, or if the Owners

1 representing more than eighty percent (80%) of the votes in the Association decide not to
2 construct any replacement Improvements, or if there are any net funds remaining after
3 such construction is completed, then such awarded net funds shall be retained by the
4 Association and used for such purposes as may be determined by the Board.

5
6 **ARTICLE V**
7 **EASEMENTS, LICENSES AND COMMON WALLS**
8

9 Section 5.1 Easements for Encroachments. Each Lot and the Common Areas, are
10 subject to an easement for encroachments created by the original construction of the
11 Improvements on any Lot, including any settling and overhangs which are part of the
12 original construction. A valid easement for those encroachments and for their maintenance
13 shall continue for so long as the encroachments exist. This easement does not cover any
14 Improvements constructed by a Lot Owner after the original sale of that Lot by the
15 Declarant.
16

17 Section 5.2 Easement Over Common Areas. A blanket easement is created upon,
18 across, over and under the Common Areas for the use and enjoyment of all the Members,
19 their guests, invitees, licensees and tenants, subject to reasonable regulations of the
20 Association, and for ingress, egress, installation, replacing, repairing and maintaining all
21 utilities, including, but not limited to, water, sewer, gas, telephones, electricity and cable
22 television. Any conveyance or encumbrance of any of the Common Areas shall be subject
23 to an Owner's easement for ingress or egress to his/her Lot.
24

25 Section 5.3 Easement for Maintenance of the Perimeter Walls. The Association is
26 entitled to an easement over each Lot for the purpose of maintaining, repairing and
27 painting the perimeter walls for which it is responsible.
28

29 Section 5.4 Drainage Easement. A drainage easement is created upon, across, over
30 and under each Lot for the benefit of all other Lots.
31

32 Section 5.5 Utility Easements. The Association has an easement over any Lot on
33 which a utility easement is located [as reflected on the Plat] for the purpose of performing
34 any of its obligations required by the Governing Documents.
35

36 Section 5.6 Declarant's Easements.
37

38 5.6.1 The Declarant has an easement on and over the Common Areas to
39 construct all Improvements which the Declarant may deem necessary and to use the
40 Common Areas and any Lots owned by the Declarant for construction purposes, including
41 the storage of tools, machinery, equipment, building materials, and supplies.
42

43 5.6.2 The Declarant has the right and an easement to maintain sales or
44 leasing offices, management offices and models throughout the Project, to maintain one or

1 more advertising signs on the Common Areas and on the Lots owned by the Declarant
2 while it is selling the Lots.

3
4 5.7 Common Walls. The rights and duties of Owners with respect to common
5 walls or fences shall be as follows:
6

7 5.7.1 Definition of "Common Wall". Each wall and fence, any part of which
8 is placed on the dividing line between the Lots, shall constitute a common wall. With
9 respect to any such wall, each of the adjoining Owners shall assume the burden and be
10 entitled to the benefits recited in this Section 5.7.
11

12 5.7.2 Reciprocal Easements. The Owners of contiguous Lots who have a
13 common wall shall have reciprocal easements for support and an equal right to use the
14 common wall, provided that such use by one Owner does not interfere with the use and
15 enjoyment of same by the other Owner.
16

17 5.7.3 Repair and Maintenance. Unless other provisions of this Section 5.7
18 are applicable, the costs of reasonable repair and maintenance of a common wall shall be
19 shared equally by the Owners who make use of the common wall.
20

21 5.7.4 Damage by Adjoining Owner. This Section applies in the event any
22 common wall is damaged or destroyed through the act of one adjoining Owner, or any of
23 his/her guests or agents or members of his/her family so as to deprive the other Owner
24 of the full use and enjoyment of such wall. The Owner responsible for the damage shall
25 immediately proceed to rebuild and repair the common wall, or cause it to be rebuilt or
26 repaired, to as good condition as formerly without cost to the other Owner.
27
28

29 **ARTICLE VI** 30 **ASSESSMENTS** 31

32 Section 6.1 Creation of the Lien and Personal Obligation to Pay Assessments.
33 Each Owner upon the recordation of a deed to any Lot, whether or not it is stated in the
34 deed, covenants and agrees to pay to the Association: (A) Annual Assessments or charges,
35 (B) Reimbursement Assessments and (C) Special Assessments. These assessments shall be
36 established and collected as provided in this Article. All assessments, together with
37 interest, late fees, costs, and reasonable attorney fees, shall be charged against the Lot and
38 shall be a continuing lien upon the Lot. Delinquent assessments, together with interest, late
39 fees, costs, and reasonable attorney fees, also shall be the personal obligation of the Person
40 who was the Owner of the Lot at the time the assessment was levied.
41

42 Section 6.2 Exemption of Declarant. During the Development Period, the
43 Declarant and Declarant's Optionee are not liable for the payment of any assessments. In
44 consideration of the Declarant's exemption from the payment of assessments, it shall pay
45 any deficiency in the operating account in an amount sufficient to pay all necessary and

1 ordinary operating expenses incurred for the operation and maintenance of the Association
2 and the Common Areas, but only up to an amount equal to the full Annual Assessments
3 which would have been attributed to any Lot, if not owned by the Declarant. A deficiency
4 exists if current ordinary expenses of the Association are greater than the revenues of the
5 Association from all sources for the Assessment year in question. Declarant, may, in its
6 sole discretion, elect to pay the full amount of the Annual Assessments in lieu of paying
7 any deficiency.
8

9 Section 6.3 Purpose of Annual Assessments. The Annual Assessments levied by
10 the Association shall be used to carry out the Association's obligations under the
11 Governing Documents, including the maintenance of the Common Areas; to pay all
12 expenses and charges which are the responsibility of the Association; and for all other
13 purposes set forth in the Governing Documents.
14

15 Section 6.4 Annual Assessment. The Board is vested with full authority and
16 absolute discretion to determine the amount of the Annual Assessment, based upon the
17 operating budget of the Association, including appropriate reserves. However, the
18 amount of the Annual Assessment may not increase more than 20% over the amount of the
19 previous year's Annual Assessment [or such larger percentage provided in the Arizona
20 Planned Communities Act ("Act"), A.R.S. §33-1803, et. seq.] without the approval of a
21 majority of the Members of the Association [or in compliance with any other voting
22 requirements set forth in the Act, as amended from time to time].
23

24 6.4.1 Notification to Owners of Annual Assessments. The Board shall
25 provide notice to the Owners of any change to the amount of the Annual Assessment at
26 least 30 days before January 1 of each year. The Board may determine that the Annual
27 Assessment is payable in equal monthly installments or on any other periodic basis. In the
28 event that the Board determines that the Annual Assessment shall be paid in installments,
29 any time any Owner is delinquent in the payment of such installments, the Board has the
30 right to accelerate the balance of the year's assessment, all of which shall be due within
31 fifteen days of written notice provided by the Board to the Owner.
32

33 6.4.2 Date of Commencement of Annual Assessments. The initial Annual
34 Assessment shall commence on the first day of the month following conveyance of the first
35 Lot by Declarant to an Owner other than Declarant. The second and each subsequent
36 Annual Assessment period shall correspond with the fiscal year of the Association. Any
37 Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last
38 installment due.
39

40 Section 6.5 Initial Capital Contribution. To insure that the Association has
41 adequate funds to pay the Common Expenses, each Purchaser of a Lot, except Declarant's
42 Optionee, shall pay the Association, immediately upon becoming the Owner of the Lot,
43 a sum equal to 25% of the Annual Assessment on the Lot. Funds paid to the Association
44 pursuant to this Section may be used by the Association for the payment of operating
45 expenses or any other purposes permitted under the Governing Documents. Payments

1 made pursuant to this Section shall be non-refundable and shall not be considered as an
2 advance payment of any Assessments levied by the Association pursuant to this
3 Declaration.
4

5 Section 6.6 Special Assessments. In addition to the Regular Assessments, the
6 Board may levy Special Assessments for any of the following purposes: (A) constructing
7 capital improvements; (B) correcting an inadequacy in the current operating account; (C)
8 defraying, in whole or in part, the cost of any construction, reconstruction, unexpected
9 repair or replacement of Improvements in the Common Areas; or (D) paying for such other
10 matters as the Board may deem appropriate. The Board shall determine the due date of any
11 Special Assessment. Special Assessments require the approval of 2/3rds of the Members
12 who are voting in person or by absentee ballot at an Annual Meeting or at a Special
13 Meeting duly called for this purpose [at which a quorum is present]. Monies collected as
14 a Special Assessment shall be used only for the purpose(s) stated to the Members during
15 the approval process.
16

17 Section 6.7 Uniform Rate of Assessment. Except as otherwise provided in this
18 Declaration, all Assessments must be set at a uniform rate for all Lots [regardless of
19 whether the Lot is improved or not improved].
20

21 Section 6.8 Reimbursement Assessments. The Association shall levy a
22 Reimbursement Assessment against any Owner if a failure to comply with the Governing
23 Documents has (A) necessitated an expenditure of money by the Association to bring the
24 Owner or his/her Lot into compliance, including any attorney fees which were incurred
25 by the Association; or (B) resulted in the imposition of a fine or penalty by the Board, after
26 notice of the violation and an opportunity for a hearing has been given to the Owner.
27 Reimbursement Assessments may be collected in the same manner as Annual Assessments,
28 except that any fine or penalty is not part of the Assessment Lien and must be enforced in
29 accordance with A.R.S. §33-1807 of the Act.
30

31 Section 6.9 Effect of Nonpayment of Assessments; Remedies of the Association.
32 In addition to all other remedies provided by law, the Association, or its authorized
33 representative, may enforce the obligations of any Owner to pay the Assessments in any
34 manner provided by law or by either or both of the following procedures:
35

36 6.9.1 By Suit. The Association may file a lawsuit against any Owner who
37 is personally obligated to pay the assessments which are delinquent. Any judgment
38 obtained in the Association's favor shall include the amount of the delinquent assessments,
39 any additional charges incurred by the Association, attorney fees and court costs, collection
40 costs and any other amounts which the court may award. A proceeding to obtain a
41 judgment for unpaid assessments may be maintained without the necessity of foreclosing
42 or waiving the Association's lien.
43

44 6.9.2 By Lien. The Association's lien for any unpaid assessment arises when
45 any assessment is not paid within fifteen days of its due date. As more fully provided in

1 A.R.S. §33-1807 of the Act, the recording of this Declaration constitutes record notice and
2 perfection of the Association's lien. The Association is not required to record a lien, but
3 may do so to provide notice to third parties of its interest in the Lot. Except for the transfer
4 of a Lot pursuant to a foreclosure proceeding, the sale or transfer of a Lot does not affect
5 the Association's lien. The Association may commence and maintain proceedings to
6 foreclose its lien in the same manner as the foreclosure of mortgages. The lien for
7 assessments is prior and superior to all other liens, except (A) all taxes, bonds, assessments
8 and other levies which, by law, would be superior thereto; and (B) the lien of any mortgage
9 or deed of trust which is recorded before the date this Declaration was recorded.
10

11 6.9.3 Additional Charges. In addition to any other amounts due or any
12 other relief or remedy obtained against an Owner who is delinquent in the payment of any
13 assessments, each Owner agrees to pay such additional costs, fees, charges and
14 expenditures ("Additional Charges") as the Association may incur in the process of
15 collecting funds from any Owner. All Additional Charges shall be included in any
16 judgment in any suit to collect delinquent assessments or may be levied against a Lot as a
17 Reimbursement Assessment. Additional Charges shall include, but not be limited to, the
18 following:
19

20 A. Attorney Fees. Reasonable attorney fees and costs incurred in the
21 event an attorney is employed to collect any assessment or other sum due, including the
22 placement of the lien, or the filing of a suit or otherwise;
23

24 B. Late Charges. A late charge, in an amount to be determined by
25 the Board. An assessment is deemed to be delinquent if it is not paid within fifteen days
26 from the date it is due;
27

28 C. Costs of Suit. Litigation expenses and court costs incurred;
29

30 D. Interest. Interest on all sums due from the Owner, including
31 delinquent assessments, costs of collection, attorney fees and late charges, at an annual
32 percentage rate to be established by the Board; and
33

34 E. Other. Any other costs which the Association may incur in the
35 process of collecting delinquent assessments or other sums due to the Association.
36

37 Section 6.10 Application of Payments. All payments received by the Association
38 shall be applied first to the principal amount due, which includes the late charges and any
39 collection costs and attorney fees incurred by the Association, and then to any interest
40 which has accrued on these sums.
41

42 Section 6.11 Statement of Assessment Lien. Upon written request from any Owner,
43 the Owner's agent, or a lienholder, the Association shall furnish the person who made the
44 request with a written statement, signed by an officer or authorized agent of the
45 Association stating the amount of any assessment which is due and any additional charges

1 secured by the lien upon his/her Lot. The Board may impose a reasonable charge for the
2 issuance of this statement.

3
4 Section 6.12 No Exemption of Owner. No Owner is exempt from liability for the
5 payment of assessments because he/she does not use or enjoy the Common Areas, or has
6 abandoned his/her Lot, or for any other reason, including any allegation that the Board is
7 not performing its obligations under the Governing Documents.

8
9 Section 6.13 Mortgagees' Rights.

10
11 6.13.1 Subordination of the Lien. The lien for assessments is subordinate to
12 the lien of any first mortgage or deed of trust recorded against the Lot. The sale or transfer
13 of any Lot does not affect the Assessment Lien. However, the sale or transfer of any Lot
14 pursuant to a mortgage foreclosure, or any proceeding in lieu thereof, extinguishes the
15 Assessment Lien but only as to those payments which became due prior to such sale or
16 transfer. No sale or transfer of any Lot shall relieve the Lot Owner from liability for any
17 assessments which become due before the sale or transfer, or from the Assessment Lien.

18
19 6.13.2 Mortgage Protection and Additional Assessment as Common Expense.
20 Notwithstanding and prevailing over any other provision of the Governing Documents,
21 the following provisions shall apply to and benefit each First Mortgagee:

22
23 A. The Mortgagee shall not be personally liable for the payment of
24 any assessment, nor for the observation or performance of any provision of the Governing
25 Documents, except for those matters which are enforceable by injunctive or other equitable
26 actions, and which do not require the payment of money.

27
28 B. During the pendency of any proceeding to foreclose any
29 mortgage, including any period of redemption, the Mortgagee may, but is not required to,
30 exercise any or all of the rights and privileges of the Owner of the mortgaged Lot,
31 including but not limited to the exclusion of the Owner's exercise of such rights and
32 privileges.

33
34 C. When the Mortgagee becomes the record Owner of a Lot, it shall
35 be subject to all of the terms and conditions of the Governing Documents, including but not
36 limited to the obligation to pay all assessments and charges accruing thereafter, in the same
37 manner as any Owner.

38
39 D. The First Mortgagee, or any other party acquiring title to a
40 mortgaged Lot through foreclosure suit or through any equivalent proceeding arising from
41 the mortgage, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall
42 acquire title to the mortgaged Lot free and clear of any lien authorized by or arising out of
43 any of the provisions of the Declaration or Bylaws which secured the payment of any
44 assessment for charges accrued prior to the final conclusion of any such foreclosure suit or
45 equivalent proceeding, including the expiration date of any period of redemption.

1 E. Mortgagees are entitled to pay taxes or other charges which are
2 in default and which may or have become a charge against any Common Areas owned by
3 the Association, and such Mortgagees may pay overdue premiums on hazard insurance
4 policies, or secure new hazard insurance coverage on the lapse of a policy, for such
5 Common Areas and any First Mortgagees making such payment may be owed immediate
6 reimbursement from the Association.
7

8 F. Nothing in this Declaration shall in any manner be deemed to
9 give an Owner priority over any rights of a Mortgagee of a Lot pursuant to the terms of
10 such Mortgagee's mortgage in the case of a distribution to an Owner of insurance proceeds
11 or condemnation awards for losses or to a taking of any Lot or any part of the Common
12 Areas owned by the Association. Each Mortgagee shall be entitled to timely written notice
13 of such loss or taking.
14

15 Section 6.14 Reserves. The reserves which are collected as part of the Regular
16 Assessments shall be deposited by the Association in a separate bank account to be held
17 for the purposes for which they are collected. Such reserves shall be deemed a contribution
18 to the capital account of the Association by the Owners and once paid, no Owner shall be
19 entitled to any reimbursement of those funds. The Board is only responsible for providing
20 for such reserves as the Board in good faith deems reasonable, and no Member of the Board
21 is liable to any Owner or to the Association if the amount in the reserve account proves to
22 be inadequate.
23

24 ARTICLE VII 25 ARCHITECTURAL CONTROL 26

27 Section 7.1 Power and Duties. The Architectural Review Committee ("ARC") has
28 all of the powers, authority and duties conferred upon it by the Governing Documents. It
29 is the duty of the ARC to consider and act upon all proposals or plans submitted to it, to
30 adopt the Design Guidelines, to perform any other duties delegated to it by the Board, and
31 to carry out all other duties imposed upon it by this Declaration and/or any Rules adopted
32 by the Board.
33

34 Section 7.2 Organization of the ARC. The ARC shall be organized as follows:
35

36 7.2.1 Committee Composition. After expiration of the Development Period,
37 the ARC shall consist of three regular members and one alternate member. The Board may,
38 in its discretion, increase or decrease the number of Members on the ARC. All Members
39 of the ARC shall be Members of the Association, or an officer, agent or employee of
40 Declarant; provided, however, that the ARC may hire an approving architect to assist it
41 with its approval process.
42

43 7.2.2 Alternate Members. If any member of the ARC is absent or unable to
44 serve on this Committee, the remaining regular members may designate an alternate
45 Member to act as a substitute for the regular member of the ARC who is unable to attend.

1 7.2.3 Term of Office. Unless a member of the ARC resigns or is removed
2 by the Board, his/her term on the Committee shall be for a period of one year, or until the
3 appointment of his/her respective successor. Any new member appointed to replace a
4 member who has resigned or has been removed shall serve for the remainder of that
5 member's unexpired term. Members of the ARC who have resigned, been removed or
6 whose terms have expired may be reappointed.
7

8 7.2.4 Appointment and Removal. During the Development Period, the
9 Declarant, or its designee(s), shall act as the ARC and may, if it desires, appoint a other
10 Committee members to assist it during the Development Period. Upon the expiration of
11 Class B membership, the Board shall appoint and remove, at any time, and without cause,
12 all regular and alternate members of the ARC.
13

14 7.2.5 Resignations. Any regular or alternate member of the ARC may at any
15 time, resign from the ARC by giving written notice to the Board.
16

17 7.2.7 Vacancies. After expiration of the Development Period, the Board
18 shall fill any vacancies on the ARC. A vacancy on the ARC occurs upon the death,
19 resignation or removal of any regular or alternate member.
20

21 Section 7.3 Meetings and Compensation of the ARC. The ARC shall meet, when
22 necessary, to perform its duties. The vote or written consent of a majority of the regular
23 members (including any alternate member) shall constitute the act of the ARC. The ARC
24 shall keep and maintain a written record of all actions which it takes. Although members
25 of the ARC shall not be entitled to compensation for their services, consultants hired by the
26 ARC, as authorized by the Board, may be entitled to compensation at the discretion of the
27 Board.
28

29 Section 7.4 Design Guidelines. Subject to the written approval of the Board, the
30 ARC shall adopt, and may from time to time amend, supplement and repeal, the Design
31 Guidelines. The Design Guidelines shall: (A) interpret, implement, and supplement this
32 Declaration; (B) shall set forth procedures for the review of modifications to Improvements,
33 and for construction, and installation of Improvements on any Lot; and (C) shall set forth
34 the standards for development within the Property. The Design Guidelines shall be
35 adopted in accordance with Section 9.4, and shall have the same force and effect as the
36 Association Rules.
37

38 Section 7.5 Obligation to Obtain Approval. Except as otherwise expressly
39 provided in this Declaration or the Design Guidelines, the following actions require the
40 ARC to approve, in writing, all plans and specifications prepared and submitted to it in
41 accordance with the provisions of this Declaration and the Design Guidelines:
42

43 7.5.1 The installation of Improvements, alterations, repairs, excavation,
44 grading, landscaping or other work which in any way alters the exterior appearance of any
45 Lot from its improved state existing on the date the Lot is conveyed by the Declarant;

1 7.5.2 The construction, installation, modification or addition of or to any
2 building, fence, exterior wall, driveway or other structure, other Improvements or grading
3 on any Lot at any time;
4

5 7.5.3 No material changes or deviations in or from the plans and
6 specifications for any work to be done on any Lot, once approved by the ARC, is permitted
7 unless the change or deviation is approved by the ARC.
8

9 7.5.4 Landscaping.
10

11 A. General Requirements. All landscaping and other outdoor
12 structures and yard art on the Lots must comply with the provisions of the Design
13 Guidelines developed by the ARC. All plants on the Lots and in the Common Areas shall
14 be indigenous to Arizona or shall be drought resistant. No grass shall be permitted on any
15 Lot.
16

17 B. Approval by the ARC. No exterior trees, bushes, shrubs, plants
18 or other landscaping shall be planted or placed upon any Lot except as originally installed
19 by the Declarant unless such landscaping is in compliance with plans and specifications
20 which have been submitted to and approved by the ARC in accordance with the Design
21 Guidelines.
22

23 C. Restrictions Applicable to All Lots. All Lots shall be landscaped
24 in a manner and using plants and soil which have been approved by the ARC.
25

26 Section 7.6 Building Limitations.
27

28 7.6.1 Setbacks: Front--15 ft. for the house, and 20 ft. for the garage; Sides
29 and Back--8 ft. (except where the applicable zoning ordinance requires 10' setbacks on
30 portions of Lots 11, 13, 14, 31 and 54). The back setback for Lots 59 through 77 shall be
31 measured from the westerly edge of the 300' Buffer Overlay Zone.
32

33 7.6.2 Height Limitations: One story limitation and a maximum of 16 ft.
34 high with 2 ft. more allowed for chimneys and roof ridges.
35

36 7.6.3 Minimum Size: 1,300 square feet of interior living space.
37

38 7.6.4 Coverage Limitations: As specified by applicable zoning ordinance.
39

40 7.6.5 No roof decks or RV garages may be constructed on any Lot.
41

42 Section 7.7 Standard of Review. In reviewing the requests for the installation,
43 addition, alteration, repair, change or replacement of any Improvement, the ARC shall
44 consider whether the proposed Improvement will be consistent with the requirements of
45 this Declaration and the Design Guidelines and with any other factors which the ARC

1 deems appropriate, including the style, height, configuration, and size of the other
2 Improvements within the Project.

3
4 Section 7.8 Waiver. Approval by the ARC of any plans, drawings or specifications
5 for any work done or proposed, or for any other matter requiring approval of the ARC, is
6 not a waiver of any right to withhold approval of any similar plan, drawing, specification
7 or matter subsequently submitted for approval.

8
9 Section 7.9 Liability. Neither the Declarant, the Association, the Board nor the
10 ARC (or any Member thereof) is liable to the Association, any Owner or any other party
11 for any damage, loss or prejudice suffered or claimed arising out of:

12
13 7.9.1 The approval or disapproval of any plans, drawings or specifications,
14 whether or not defective;

15
16 7.9.2 The construction or performance of any work, whether or not pursuant
17 to approved plans, drawings and specifications.

18
19 Section 7.10 Appeal to Board. After expiration of the Development Period, and
20 except as provided in this Section, any Owner who has submitted plans and is not satisfied
21 by a decision of the ARC may appeal the decision to the Board in accordance with any
22 procedures established in the Design Guidelines. The Board shall review the decision of
23 the ARC and either approve it, reject it, or modify it. The decision of the Board is final and
24 binding and shall modify the ARC's decision to the extent specified by the Board.

25
26 Section 7.11 Fee. The Board may establish a reasonable processing fee to defer the
27 costs of the ARC in considering any requests for approvals submitted to the ARC or for
28 appeals to the Board, which fee shall be paid at the time the request for approval or review
29 is submitted. Such fee shall be paid by the Owner on the terms and within the time
30 established by the Board. Any fee not paid when required may become a lien against the
31 Lot and collected in the same manner as assessments.

32
33 Section 7.12 Inspection. Any Member of the ARC, or any authorized officer,
34 director, employee or agent of the Association, may at any reasonable time and without
35 being deemed guilty of trespass, enter on any Lot, after reasonable notice to the Owner of
36 such Lot, in order to inspect the Improvements constructed or being constructed on such
37 Lot to ascertain that such Improvements have been, or are being built in compliance with
38 the Design Guidelines, plans and specifications approved in accordance with the
39 Governing Documents.

40
41 Section 7.13 Compliance with Native Plant Preservation Ordinance. All
42 construction on the Lots shall comply with the Pima County Plant Preservation Ordinance,
43 as amended from time to time. Each Owner shall preserve all native plants located on the
44 Lot and the Association is required to preserve all native plants located in the Common
45 Areas to the extent possible in compliance with such ordinance.

1 Section 7.14 Exemption of Declarant. Nothing contained in this Declaration shall
2 limit the right of the Declarant to complete excavation, grading and construction of
3 Improvements on any property owned by the Declarant within the subdivision; or to
4 construct any additional Improvements which the Declarant deems necessary in the course
5 of developing the subdivision, including the use of any Improvement as a model home or
6 real estate sales or leasing office.
7

8 **ARTICLE VIII**
9 **OWNERS' MAINTENANCE RESPONSIBILITIES**
10

11 Section 8.1 Owners' Maintenance Responsibilities.
12

13 8.1.1 Each Owner is responsible for the payment of his/her Lot's utility
14 costs, property taxes, insurance, and for the repair of all appliances and equipment located
15 on the Lot. Each Owner is responsible for the maintaining, repairing and replacing any
16 water or sewer line which services the Lot from the point that it leaves the main water or
17 sewer line.
18

19 8.1.2 Each Owner is responsible for the upkeep and maintenance of the
20 exterior and the interior portions of the Improvements on the Lot and for the maintenance
21 of all other portions of the Lot.
22

23 8.1.3 Except as otherwise provided herein, each Owner is responsible for
24 maintaining, repairing and replacing all portions of any walls which are located on the
25 boundary of the Lot, irrespective if one of the sides of the wall faces into the Common
26 Area. However, with respect to common walls, the provisions of Section 5.7 above apply.
27

28 8.1.4 Each Owner is responsible for providing termite control and other pest
29 control on the Lot.
30

31 8.1.5 No Owner may take any action or fail to take any action which may
32 result in any damage to any other Lot or the Common Area.
33

34 8.1.6 No Owner may allow any condition to exist on his/her Lot which
35 adversely affects the other Lots or other Owners, nor may an Owner engage in any conduct
36 which causes the premiums for any insurance which is provided by the Association to
37 increase.
38

39 8.1.7 Each Owner is responsible for assuring that all construction,
40 alterations, modifications or additions to buildings, walls, fences, driveways or other
41 structures on the Lot conform to the Restrictions set forth in this Declaration. If, after
42 written notice from the Association, an Owner fails to comply with the Association's
43 request to conform to such Restrictions, the Association may, in its sole discretion, take
44 whatever action is appropriate to bring the Lot into compliance, including entering upon

the Lot and making such corrections. The cost of such action shall be charged to the Owner and collected in the same manner as the Assessments.

Section 8.2 Utilities. Electric power, natural gas, sewers, cable tv and water are or may be available to the Lots through private utility companies authorized by the State of Arizona. Neither the Declarant, the Board nor the ARC assumes any responsibility for and does not guaranty the quality or quantity of the water, natural gas, cable tv and/or electric power to be furnished to the Lot and shall not, in any way, be liable for any shortage of water, gas or electricity.

Section 8.3 Owner's Failure to Maintain.

8.3.1 Each Owner is responsible for the payment of all damages caused by the Owner, his guest, family, lessees, pets or employees to his or any other Owner's Lot or to the Common Areas. If any Owner fails to maintain the Lot in a manner satisfactory to the Board, the Board, through its agents and employees, after giving 10 days written notice to the Owner, is entitled to enter on the Lot and to make any necessary repairs, maintenance, rehabilitation or restoration of the Lot, including the exterior of any Improvements. The Association shall provide the Owner with an invoice for the work performed. In the event such invoice is not paid within 10 days of the date of such invoice, the Association may collect the amount due in the same manner as the Assessments.

8.3.2 Nothing contained in this Declaration requires the Association to charge for, or to collect, assessments for damage caused by an Owner, his guest, family, lessees, pets or employees to any other Owner's property. Any party whose property is damaged by another Owner's negligence or willful conduct, may not require the Association to make necessary repairs, to charge the offending party or to collect any incurred amounts from him/her.

ARTICLE IX ASSOCIATION'S RESPONSIBILITIES

Section 9.1 Association's Responsibilities. The Association, through its Board of Directors, is responsible for the proper and efficient management of the Association and the Common Areas.

Section 9.2 Specific Responsibilities of the Association. In addition to any other responsibilities which the Association may have, it is specifically responsible for the following:

9.2.1 Maintaining the Common Areas:

9.2.2 Maintaining the private streets:

1 9.2.3 Maintaining the Lift Station and other sewer components not
2 maintained by the Pima County Wastewater Management Department;
3

4 9.3.4 Adhering to the requirements set forth in any and all License
5 Agreements between the Central Arizona Water Conservation District and Declarant or
6 the Association affecting the Project.
7

8 9.2.5 Maintaining, repairing and replacing any walls which are located
9 solely in the Common Area and maintaining, repairing and painting the perimeter walls
10 constructed behind Lots that abut the Boy Scout Ranch property;
11

12 9.2.6 Maintaining all drainage and detention facilities in the Common Areas;
13

14 9.2.7 Providing for such additional services as the Board, from time to time,
15 determines to be in the best interests of the Association;
16

17 9.2.8 Paying real estate taxes, assessments and other charges on the
18 Common Areas;
19

20 9.2.9 Maintaining the following insurance with premiums to be paid as
21 common expenses and included in the Annual Assessments of the Association:
22

23 A. Insurance against hazards and casualties that may occur on the
24 Common Area, with limits to be determined by the Board of Directors. The Association
25 also shall insure any property whether real or personal, owned by Association, against loss
26 or damage by fire and such hazards as determined by the Board, with the Association as
27 the owner and/or beneficiary of such insurance. The insurance coverage with respect to
28 the Common Area shall be written in the name of, and the proceeds thereof shall be
29 payable to the Association.
30

31 B. Director's and Officer's Liability Insurance;
32

33 C. Fidelity Insurance against dishonest acts by directors, managers,
34 officers, employees or volunteers responsible for handling the funds which belong to or are
35 administered by the Association. The amount of fidelity insurance shall not be less than
36 1 ½ times the annual operating budget and reserves for the Association;
37

38 D. Worker's compensation insurance for any employees of the
39 Association, or those employees used by licensed contractors hired by the Association.
40

41 9.2.10 Hiring, firing, supervising, and paying employees and independent
42 contractors providing services to the Association;
43

44 9.2.11 Purchasing all goods, supplies, labor, and services reasonably
45 necessary for the performance of the obligations set forth in this Declaration;

9.2.12 Establishing and maintaining reasonable reserves for the maintenance, repair, and replacement of the Improvements for which the Association is responsible and for unforeseen contingencies;

9.2.13 Providing for the payment for any utilities which service the Common Areas;

9.2.14 Entering into such agreements and taking such actions as are reasonably necessary and convenient for the accomplishment of the obligations set forth above and the operation and maintenance of the Common Areas.

Section 9.3 Managing Agent. All powers, duties and rights of the Association or the Board may be delegated to a managing agent under a written management agreement; provided, however, that no such delegation shall relieve the Association, through its Board of Directors, of its obligations to perform any delegated act. Any agreement for professional management shall be for a term of one year, but may be renewed for successive periods of one year. The Association is expressly authorized to contract with Declarant or any affiliate of Declarant to provided management services or to perform other duties of the Association or the Board.

Section 9.4 Rules and Regulations of the Association. The Board is empowered to adopt, amend, or repeal such rules and regulations as it deems reasonable and appropriate (collectively, the "Rules"), which shall be binding upon all persons subject to this Declaration and shall govern the use or occupancy of the Properties. The Rules shall govern such matters as the Board deems to be in furtherance of the purposes of the Association, including, without limitation: (A) the management, operation and use of the Lots and Common Areas; (B) minimum standards of maintenance of the Lots; (C) any other subject within the jurisdiction of the Association; (D) the conduct and actions of Owners, tenants, guests, visitors on the Lots and Common Areas when such conduct affects the other Owners or the value, desirability, and aesthetics of the Project; (E) traffic and parking restrictions. The Rules may be adopted, amended, or repealed at any special or regular meeting of the Board upon a vote of a majority of all the Directors, and shall take effect after thirty (30) days' written notice to the Members, unless the rule(s) being adopted, amended or repealed has a compelling health or safety purpose, in which case seven (7) days' notice to the Members is required.

The Rules are deemed incorporated herein by this reference, and shall have the same force and effect as if they were set forth in and were part of this Declaration, and shall be binding upon all persons having any interest in, or making any use of, any part of the Properties, whether or not copies of the Rules are actually received by such persons. References to the covenants and restrictions contained herein shall be deemed to refer also to the Rules (except to the extent the Rules are in conflict herewith). The Rules, as adopted, amended or repealed, shall be available for review by each person reasonably entitled thereto, upon written request to the Board. It shall be the responsibility of each person subject to the Rules to review and keep abreast of any changes in the provisions thereof.

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Section 9.5 Operation of Association. The manner in which the Board of Directors of the Association carries out its responsibilities shall be controlled by the Governing Documents and any applicable Arizona law. The payment of assessments to the Association is not contingent on the performance by the Association of any of its obligations.

Section 9.6 Transition from Declarant Control.

9.6.1 No later than January 31st of each year prior to the date that the Declarant turns over the operations of the Association to the Members, the Members are required to provide to the Association, in writing, any claims or disputes regarding the operation of the Association by the Declarant for the immediately preceding year. Such claim or dispute shall include the maintenance (or lack thereof) of the Common Areas or the performance of any of the Association's obligations under the Governing Documents, including the payment and collection of assessments or the maintenance of any reserves.

9.6.2 At such time as the Declarant turns over the operation of the Association to the Members, it shall deliver all corporate books and accounting records to the first Board elected by the Members. The records shall be delivered to the Association's office. At the date that all corporate books and accounting records are delivered to the Board and the Declarant has provided written notice to the Members of its intent to relinquish control of the Association, the Members have 45 days within which to notify Declarant, in writing, of any claims or disputes regarding the operations of the Association by the Declarant which arose prior to December 31st of the preceding year, including the maintenance of any Common Areas, the collection of assessments, maintenance of a reserve account, and the performance of any other Association obligation under the Governing Documents.

9.6.3 In the event that any claims or disputes have not been presented to the Declarant, in writing, as set forth in this Section, such claims and disputes against the Declarant, shall be deemed as forever waived, relinquished and abandoned.

ARTICLE X INSURANCE

Section 10.1 Association's Obligation to Insure. The Association shall obtain and maintain in force the insurance set forth in Section 9.2.7, subject to the following:

10.1.1 All such insurance shall be written in the name of the Association,

10.1.2 The insurance coverage obtained and maintained by the Association shall not be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

1 10.1.3 Such insurance may not be canceled or modified by the insurer
2 without providing a minimum of 30 days notice to the Association.

3
4 10.1.4 The Board may obtain such other insurance which it determines is
5 necessary or expedient to carry out the Association's functions as set forth in this
6 Declaration.

7
8 Section 10.2 Individual Insurance.

9
10 10.2.1 Each Owner agrees with all other Owners and with the Association
11 that he/she shall carry insurance in an amount which is sufficient to fully cover the
12 replacement of any of the Improvements on his/her Lot. Upon the written request of the
13 Board, the Owner shall furnish proof of such insurance to the Association in writing. If the
14 Owner does not purchase adequate insurance, the Association is entitled to insure the
15 Improvements on the Lot and bill the Owner for the cost of such insurance.

16
17 10.2.2 Each individual Owner agrees that in the event of a partial loss or
18 damage and destruction to the Improvements on a Lot which results in less than total
19 destruction, the Owner shall promptly repair or reconstruct the damaged structure in a
20 manner consistent with the original construction.

21
22 10.2.3 Every policy of insurance obtained by the Owner shall provide, if
23 available, for the payment of that Lot's share of the assessments to the Association during
24 the time that the damage for which there are insurance proceeds is being repaired.

25
26 **ARTICLE XI**
27 **USE RESTRICTIONS**

28
29 Section 11.1 Animals.

30
31 11.1.1 Animal Restrictions. No animals, livestock or poultry of any kind
32 shall be raised, bred or kept on any Lot, except that each Owner may keep a maximum of
33 two generally-recognized household pets on the Lot, provided that they are not kept, bred
34 or maintained for any commercial purpose, and further provided that such pets do not
35 create a nuisance for any other resident within the Properties. At night all pets must be
36 kept on the Owner's Lot. The Board of Directors, in its sole discretion, is authorized to
37 determine whether the presence of any pet constitutes a nuisance.

38
39 11.1.2 Required Use of Leash and Clean-Up. All dogs shall be restrained
40 on a hand-held leash when outside a Lot, and all dogs shall be directly under control at all
41 times. An owner must clean up after his/her pet and dispose of excrement, bagged, in a
42 trash receptacle. Any Lot where a pet is kept or maintained shall at all times be kept in a
43 neat and clean condition.
44

11.1.3 No Structures for Animals. No structure for the care, housing, confinement, or training of any animal or pet shall be maintained on any portion of the Properties.

11.1.4 Rules. The Board of Directors shall have the right to adopt, amend and repeal rules and regulations governing the keeping of pets, and such rules and regulations may include an enforcement procedure. Such rules and regulations shall be promulgated in accordance with Section 9.4 of this Declaration.

Section 11.2 Antennas. The installation, use or maintenance of any antenna, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed on any Lot in accordance with the Design Guidelines. Except to the extent that the Federal Telecommunications Act and the Regulations adopted pursuant to such Act (collectively, the "FCC Rules") prohibit prior approval for certain devices, no antenna, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed, installed, used or maintained on any Lot without the prior written approval of the Architectural Review Committee. If any FCC Rules modify or override a portion of the Design Guidelines, the remaining Design Guidelines shall remain in full force and effect.

Section 11.3 Business Activities. All Lots shall be used for Single Family residential purposes only. The following applies with respect to business activities within the Properties: No trade or business may be conducted in or from any Lot except that an Owner or occupant residing in any Lot may conduct business activities so long as (A) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (B) the business activity conforms to all zoning requirements for the Properties; (C) the business activity does not involve any person conducting such business who does not reside on the Properties or door-to-door solicitation of residents of the Properties; (D) the existence or operation of the business does not increase that Lot's use of Common Areas over that which is standard for a single family residence; (E) the existence or operation of the business does not require customers or delivery trucks to visit the residence; and (F) the business activity does not constitute a nuisance, or a hazardous or offensive use, or cause the owners to violate any other provisions of this Declaration, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

Section 11.4 Clotheslines. Clotheslines are permitted on the Lot, provided that they are not Visible from Adjoining Lots or from the Common Areas.

Section 11.5 Drainage. No person shall interfere with the established drainage pattern over any Lot or the Common Areas, unless adequate provision is made so that the drainage conforms, in all respects, to the Pima County regulations and any drainage criteria promulgated by the ARC. "Established drainage" is defined as the drainage which exists at the time the overall grading of the Property is completed, or which is shown on any grading plans approved by Pima County. No plants or other materials shall be placed

1 or permitted to remain which may change the direction of flow or which may obstruct or
2 retard the flow of water. No fence, wall or any other structure or Improvement may be
3 constructed along any lot line in such a manner as to obstruct the natural flow of drainage
4 across the lots and over the Common Areas and the plans for all such Improvements must
5 be approved, in writing by the ARC.
6

7 Section 11.6 Heating and Cooling Units. No heating or cooling apparatus shall
8 be installed on any Lot which is Visible from Adjoining Properties or from the Common
9 Areas, without the prior written approval of the ARC.
10

11 Section 11.7 Leases
12

13 11.7.1 An Owner may lease his/her Lot for Single Family residential
14 purposes only. No lease may be for a period of less than 30 days.
15

16 11.7.2 All provisions of the Governing Documents which govern the
17 conduct of Owners also apply to all occupants of any Lot. Each Owner is responsible for
18 the actions of his/her tenants and in the event of any violation of the Governing
19 Documents, the Owner acknowledges that any sanctions arising out of such violations,
20 may be imposed directly upon the Owner. The Owner is responsible for providing his/her
21 tenant with copies of the Governing Documents. If the Owner fails to do so, the
22 Association shall provide copies to the tenant and charge the Owner for the cost of doing
23 so.
24

25 11.7.3 Requirements for Leases. All leases and subleases shall be in
26 writing and shall specifically provide:
27

28 A. The lease is subject in all respects to the provisions of the
29 Governing Documents.
30

31 B. The failure of the lessee to comply with the terms and conditions
32 of the Governing Documents is a material default of the lease.
33

34 11.7.4 Information to be Provided to the Association. If the Owner leases
35 his/her Lot, the Owner shall give the Board, in writing, the name of the lessee and such
36 other information as the Board may reasonably require.
37

38 11.7.5 Voidable Leases. All leases which do not contain these provisions
39 shall be deemed null and void at the option of the Board.
40

41 11.7.6 Default. In the event that any tenant violates any provision of the
42 Governing Documents, the Association has the right to demand that the owner take legal
43 action to permanently remove the tenant from the Lot.
44

1 11.13.1 General Restrictions. No shrubs, trees or obstructions of any kind
2 shall be placed on any Lot in a place which may cause a traffic hazard. All vegetation on
3 the Lots shall consist of low water use and low pollen producing vegetation.
4

5 11.13.2 Planting in the Common Areas and Front Yards. The planting and
6 landscaping in the Common Areas and in the front yards shall not be destroyed or
7 removed without the consent of the ARC. If natural growth is removed without such
8 consent, the Board may require the replanting or replacement of same, the cost of which
9 shall be borne by the Owner responsible for such removal.
10

11 Section 11.14 Signs. No sign of any kind shall be displayed anywhere on the Project
12 if Visible from Adjoining Lots, unless such sign has been approved by the Board except:
13

14 11.14.1 Signs which may be required by legal proceedings;
15

16 11.14.2 One sign advertising the Owner's Lot for sale or lease, provided
17 such sign does not exceed 3 square feet in size, is placed only on the Lot and is removed
18 within 2 weeks after the offer of sale or lease of the Lot has been accepted and all
19 contingencies have been removed;
20

21 11.14.3 Temporary signs indicating an "Open House" for those Lots offered
22 for sale may be placed on the Lot and one directional sign is permitted to direct interested
23 parties to the Lot, but only during those hours in which such property is actually open for
24 inspection;
25

26 11.14.4 Any signs used by the Declarant in the sale and marketing of the
27 Lots in the subdivision.
28

29 11.14.5 Political signs are allowed in accordance with State of Arizona
30 statutes.
31

32 Section 11.15 Solar Energy Devices. Only those solar energy devices which are
33 approved, in advance of installation and in writing by the ARC, are permitted.
34

35 Section 11.16 Subdividing of Lots. No Lot may be subdivided or split into two
36 or more Lots.
37

38 Section 11.17 Manufactured Housing or Trailers. No temporary house,
39 manufactured home, house trailer, motor home, tent, garage, camper or truck with camper
40 shell, boat or out-building of any kind shall be placed or erected on any Lot or located in
41 the Common Areas, whether used as temporary living quarters or for any other reason.
42

43 Section 11.18 Vehicle Parking and/or Storage.
44

1 11.18.1 There is no on-street parking except that an Owner's guests may
2 park their vehicles on the streets; provided, however, that such vehicles are not parked on
3 the streets overnight.
4

5 11.18.2 Parking or storage of recreational vehicles (including, but not
6 limited to, trailers, campers, motor homes, mobile homes, van conversions and boats) is
7 prohibited on all portions of the Property, unless parked in the enclosed garage on the Lot.
8 However, residents may park trailers or other recreational vehicles on the driveway of a
9 Lot for no more than two days (48 hours) and no more than four days (96 hours) in any
10 calendar month, and then only for the purpose of loading and unloading. No recreational
11 vehicle may be used as a residence either temporarily or permanently.
12

13 11.18.3 Except as allowed by A.R.S. §33-1809 of the Act, no commercial,
14 construction or like vehicles (including, but not limited to, pickup-type vehicles in excess
15 of one ton capacity), and vehicles bearing commercial licenses or commercial insignia shall
16 be parked or stored on any Lot other than inside the enclosed garage.
17

18 11.18.4 The Board may establish parking regulations if it determines such
19 are necessary, including, but not limited to, parking regulations which restrict the number
20 of vehicles which may be parked on the driveway or on the Lot. Parking regulations shall
21 be adopted in accordance with Section 9.4 above.
22

23 11.18.5 Except for emergency vehicle repairs, no automobile or other motor
24 vehicle shall be constructed, reconstructed or repaired on any Lot, and no inoperable
25 vehicle [including an unlicensed vehicle] may be stored or parked on any Lot if it is Visible
26 from Adjoining Lots or is visible from the Common Areas.
27

28 11.18.6 The Board has the right to have any vehicle, including, but not
29 limited to recreational vehicles, automobiles, motorcycles, etc., which is parked in violation
30 of the Governing Documents towed away at the sole cost and expense of the Owner of the
31 vehicle. Any expenses incurred by the Association in connection with the towing of any
32 vehicle shall be paid to the Association by the Owner, within ten days from the date of
33 demand by the Association and if not paid, shall be collected in the same manner as
34 assessments.
35

36 **ARTICLE XII** 37 **ENFORCEMENT** 38

39 Section 12.1 Right of Association to Enforce. The Association or any Owner has
40 the right to enforce, by any proceeding at law or in equity, all restrictions, conditions,
41 covenants, reservations, liens or charges now or hereafter imposed by the provisions of this
42 Declaration. This shall include enforcement of Rules and Regulations promulgated by the
43 Association to carry out its purposes and duties under this Declaration.
44

1 Section 12.2 Attorney Fees. The prevailing party in any Court action shall be
2 awarded reasonable attorneys' fees and costs. If no Court action is brought, the Association
3 shall be reimbursed by the pertinent Lot Owner(s) all reasonable attorneys' fees and costs
4 it incurs in enforcing the Governing Documents.
5

6 Section 12.3 Waiver. No delay or omission on the part of the Association in
7 exercising its right to enforcement of this Declaration shall be construed as a waiver of or
8 acquiescence in any breach of any of the restrictions and covenants, and no right of action
9 shall accrue against the Board of Directors, the Association or any member for their neglect
10 or refusal to exercise such right of enforcement.
11

12 Section 12.4 Protection of Mortgagee. No breach of the foregoing provisions,
13 conditions, restrictions or covenants shall defeat or render invalid the lien of any mortgage
14 or deed of trust made in good faith for value as to any portion of the Properties. Such
15 provisions, conditions, restrictions and covenants shall be enforceable against any portion
16 of the Properties acquired by any person through foreclosure for any breach occurring after
17 such acquisition.
18

19 Section 12.5 Fines and Penalties. If any Owner, his/her family, or any licensee,
20 invitee, tenant or lessee violates the Governing Documents, the Board may levy a fine upon
21 the Owner of the Lot for each violation and/or may suspend the right of such person to use
22 the Common Area, under such conditions as the Board may specify. Each day a violation
23 continues after written notice to cease has been mailed shall be considered a separate
24 violation and shall be subject to the imposition of a fine. The Board shall establish a
25 procedure by which it imposes such fines, including the right to notice and an opportunity
26 to be heard. Any fines which remain unpaid for a period of ten (10) days after notice to
27 pay, including the imposition of late fees and interest, shall be deemed delinquent and
28 subject to collection by the Association by any lawful means.
29

30 Section 12.6 Enforcement Procedures. Before a fine or penalty is levied, the
31 following enforcement procedure will be followed:
32

33 12.6.1 Demand. Written demand to cease and desist from an alleged
34 violation shall be served upon the alleged violator specifying: (A) the alleged violation; (B)
35 the action required to abate the violation and, (C) if the violation is a continuing one, a
36 time period of not less than ten (10) days, unless the violation constitutes a safety or health
37 hazard, or if the violation is not a continuing one, a statement that any further violation of
38 the same provision of the Governing Documents may result in the imposition of sanctions
39 after notice and hearing.
40

41 12.6.2 Notice. Within one (1) month of such notice, if the violations continue
42 past the period allowed in the notice for abatement without penalty, or if the same
43 provision of the Governing Documents is subsequently violated, the Board shall serve the
44 violator with written notice of a hearing to be held by the Board in executive session.
45 Service may be made personally or by first class mail to the violator's address of record.

1 The notice shall contain: (A) the nature of the alleged violation; (B) the time and place of
2 the hearing, which time shall be not less than ten days from the giving of notice; (C) an
3 invitation to attend the hearing and produce any statement, evidence and witnesses on
4 his/her behalf; and (D) the proposed sanctions to be imposed, which may include the
5 imposition of a fine.
6

7 12.6.3 Hearing. The hearing shall be held in executive session of the Board
8 of Directors, pursuant to the aforesaid Notice, thereby affording the Member a reasonable
9 opportunity to be heard. Protocol of the hearing will be set by the Board of Directors.
10 Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to
11 be heard shall be placed in the minutes of the meeting. Such proof shall be deemed
12 adequate if a copy of the notice together with a statement of the date and manner of
13 delivery is entered into the minutes by the officer or director who delivered such notice.
14 If the Member does not appear at the hearing, the Board will presume the validity of the
15 Notice of Violation and may levy a fine or penalty.
16

17 Section 12.7 Notice of Violation. In the event that any Owner, his/her guests,
18 tenants or family members are in violation of any of the provisions of the Governing
19 Documents, the Association, after providing notice and an opportunity to cure the
20 violation, has the right to record a "Notice of Violation" with the Pima County Recorder's
21 Office, stating the name of the Owner, the Lot and the nature of the violation, and the
22 Association's intent not to waive any of its rights of enforcement. The Notice shall remain
23 of record until the violation is cured.
24

25 ARTICLE XIII 26 DISPUTE RESOLUTION 27

28 Section 13.1 Approval of Association Action. 29

30 13.1.1 Except as provided in this Article, the Association may not commence
31 a legal proceeding or an action without the approval of at least two-thirds (2/3rds) of the
32 votes of the Owners eligible to vote. This Article shall not apply, however, to (A) actions
33 brought by the Association to enforce the Association Documents, including, without
34 limitation, the foreclosure of liens; (B) the imposition and collection of assessments;
35 (C) proceedings involving challenges to *ad valorem* taxation; or (D) counterclaims brought
36 by the Association in proceedings instituted against it.
37

38 13.1.2 Prior to the Association or any Owner commencing any proceeding
39 to which Declarant is a party, including but not limited to an alleged defect of any
40 Improvement, Declarant shall have the right to be heard by the Owners, or the particular
41 Owner, and to access, inspect, correct the condition of, or redesign any portion of any
42 Improvement as to which a defect is alleged or otherwise correct the alleged dispute.
43

44 Section 13.2 Alternative Method for Resolving Disputes. Declarant and its officers,
45 directors, employees and agents; the Association, its officers, directors and committee

1 members; all Persons subject to this Declaration, including all Owners; and any Person not
2 otherwise subject to this Declaration but who agrees to submit to this Article (each such
3 entity being referred to as a "Bound Party") agree to encourage the amicable resolution of
4 disputes, without the emotional and financial costs of litigation. Accordingly, each Bound
5 Party covenants and agrees to submit those claims, grievances or disputes described in
6 13.3.1 (singularly, "Claim," and collectively, "Claims") to the procedures set forth herein.
7

8 Section 13.3 Claims.
9

10 13.3.1 Unless specifically exempted below, all claims between any of the
11 Bound Parties regardless of how the same might have arisen or on what it might be based
12 including but not limited to, claims (A) arising out of the rights, obligations and duties of
13 any Bound Party under the Association Documents, (B) relating to the design or
14 construction of improvements; or (C) based upon any statements, representations,
15 promises, warranties, or other communications made by or on behalf of any Bound Party,
16 shall be subject to the provisions of 13.4.
17

18 13.3.2 Notwithstanding the above, unless all parties thereto otherwise agree,
19 the following shall not be Claims and shall not be subject to the provisions of Section 13.4:
20

21 A. any suit by the Association as set forth in Section 13.1.1;
22

23 B. any suit by the Association or Declarant to obtain a temporary
24 restraining order or injunction (or equivalent emergency equitable relief) and such other
25 ancillary relief as the court may deem necessary in order to maintain the status quo and
26 preserve the Association's ability to act under and enforce the Association documents;
27

28 C. any suit between or among Owners, which does not include
29 either the Declarant or the Association as a party, if such suit asserts a Claim which would
30 constitute a cause of action independent of Association Documents; and
31

32 D. any suit in which any indispensable party is not a Bound Party.
33

34 With the consent of all parties hereto, any of the above identified in this
35 Section may be submitted to the alternative dispute resolution procedures set forth in
36 Section 13.4.
37

38 Section 13.4 Mandatory Procedures.
39

40 13.4.1 Notice. Any Bound Party having a Claim ("Claimant") against any
41 other Bound Party ("Respondent") (the Claimant and the Respondent referred to herein
42 being individually, as a "Party" or, collectively, as the "Parties") shall notify each
43 Respondent in writing (the "Notice"), stating plainly and concisely:
44

1 A. the nature of the Claim, including the Persons involved and
2 Respondent's role in the Claim;

3
4 B. the legal basis of the Claim (i.e., the specific authority out of
5 which the Claim arises);

6
7 C. the proposed remedy; and

8
9 D. the fact that Claimant will meet with Respondent to discuss in
10 good faith ways to resolve the Claim.

11
12 13.4.2 Negotiation.

13
14 A. The Parties shall make every reasonable effort to meet in person
15 and confer for the purpose of resolving the Claim by good faith negotiation. If requested
16 in writing, accompanied by a copy of the Notice, the Board may appoint a representative
17 to assist the Parties in negotiation.

18
19 B. If the Parties do not resolve the Claim within thirty (30) days after
20 the date of the Notice (or within such other period as may be agreed upon by the Parties)
21 ("Termination of Negotiations"), Claimant shall, if it wishes to pursue the Claim, pursue
22 it solely by arbitration.

23
24 13.4.3 Binding Arbitration.

25
26 A. Claimant shall, if it elects to pursue its Claim, initiate arbitration
27 of the Claim under the auspices of the American Arbitration Association ("AAA") in
28 accordance with the AAA's applicable rules for arbitration, as appropriate. Such claims
29 shall not be decided by or in a court of law. Any judgment upon the award rendered by the
30 arbitrator may be entered in and enforced by any court having jurisdiction over such
31 Claim. If the claimed amount exceeds \$250,000, the dispute shall be heard and determined
32 by three (3) arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be
33 one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include
34 legal expertise if legal issues are involved.

35
36 B. Arbitration fees for any claim in an amount of \$10,000 or less shall
37 be apportioned as provided in the most applicable rules of AAA, as determined by AAA.
38 Unless otherwise provided by the applicable rules of AAA, for claims that exceed
39 \$10,000.00, the filing party shall pay up to the first \$750 of any initial filing fee to initiate
40 arbitration. Under the following conditions, Declarant agrees to pay up to the next \$2,000
41 of any initial filing fee: (i) Declarant or its agents, employees or representatives, or
42 Declarant's beneficiary, or the beneficiary of any agent, employee, or representative of
43 Declarant, or any combination of them, are the sole defendants or respondents against
44 whom the Claim is brought and (ii) Claimant has voluntarily participated in mediation
45 prior to initiating the arbitration, or in writing offered to do so. The portion of any filing

of the Pima County Recorder. No amendment adopted by the Declarant shall be deemed to be unenforceable or void because such amendment affects the Lots in a non-uniform manner. If the Declarant determines that any amendment is necessary or advisable, then no other consent is required and Declarant's determination that such an amendment is proper is binding on all Owners. Declarant's right to amend the Declaration is in addition to its right to amend the Declaration as an owner of 2/3 of the Lots.

Section 14.3 Term. The provisions of this Declaration shall run with the land and continue and remain in full force and effect at all times and against all Persons.

Section 14.4 Records. The Association shall maintain true and correct books and accounting records at its sole cost and expense in accordance with generally accepted accounting principles. Such books and accounting records, together with copies of the Governing Documents, are available for inspection by all Owners pursuant to the provisions of the Arizona Nonprofit Corporation Act or any other applicable law.

Section 14.5 Compliance. All covenants, conditions, provisions and restrictions contained in this Declaration or any subsequent amendments to this Declaration are subject to any and all applicable federal, state and local governmental rules and regulations.

Section 14.6 Interpretation. Except for judicial construction, the Association has the exclusive right to construe and interpret the provisions of this 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 of the Governing Documents shall be final, conclusive and binding on all Owners.

Section 14.7 Binding Effect. By accepting a deed or acquiring any ownership interest in any Lot, each Person for himself, or itself, his heirs, personal representatives, successors, transferees and assigns, bind himself and his heirs, personal representatives, successors, transferees and assigns to all of the provisions, restrictions, covenants, conditions, rules and regulations which have been imposed by this Declaration and any amendments thereto. In addition, each such Person doing so acknowledges that this Declaration sets forth a general scheme of the Project and evidences his/her intent that all restrictions, conditions, covenants, and rules and regulations contained herein or promulgated hereafter by the Association shall run with the land and be binding upon all subsequent and future Owners, grantees, purchasers, assignees and transferee thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners.

Section 14.8 Liability of Declarant, the Association, its Board, Officers and Committees. To the fullest extent permitted by law, neither the Declarant, Board, or committee members of the Association, nor any officers, directors or committees of the Declarant or the Association are liable to any Owner or to the Association for any damage, loss or prejudice arising out of any decision, course of action, act, inaction, omission, error,

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negligence, or the like, made in good faith and which such Declarant, Board, Officers or committee members reasonably believed to be within the scope of their duties.

Section 14.9 Indemnification. The Association shall indemnify to the fullest extent allowed by law every officer, director and committee member, against any and all expenses, including attorney fees, reasonably incurred by or imposed upon, any officer, director or committee member, in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board) to which he or she may be made a party by reason of being or having been an officer or director. This provision shall not be deemed to include travel expenses to attend Association meetings or legal proceedings and shall only include reasonable actual expenses. The officers, directors and committee members, shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors or committee members may also be members of the Association), and the Association shall indemnify and forever hold each such officer, director and committee member, free and harmless against any and all liability to others on account of each such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall, as a common expense, maintain adequate general liability and Officer's and Director's Liability Insurance to also include committee members, to fund this obligation.

14.10 Declarant's Exemption. Nothing contained in this Declaration or the Rules (including the Design Guidelines) shall be construed to prevent or materially impair the erection, operation, maintenance, replacement and repair by Declarant or its duly authorized agents, of structures, improvements, signs or flags necessary or convenient to the development, administration, management, sale, operation, maintenance and repair of model homes or other property within the Project. Without limiting the generality of the preceding sentence, Declarant is expressly exempted from the provisions hereof requiring submittals to or authorizations by the Board or ARC. Any provisions of this Declaration which prohibit non-residential use of Lots and which regulate parking and vehicles, shall not prohibit the construction and operation of model homes (including, without limitation, any use in whole or in part as sales offices) by Persons engaged in the construction of homes in the Project and parking available to the visiting of such model homes.

IN WITNESS WHEREOF, the Declarant executes this Declaration on the 20th day of June, 2006.

DECLARANT: Fidelity National Title Agency, Inc., an Arizona Corporation, as Trustee under Trust #60,040, and not in its corporate capacity

FIDELITY NATIONAL TITLE AGENCY, INC.
an Arizona corporation as TRUSTEE Under
TRUST NO. 60,040 and not in its
corporate capacity.
By [Signature]
Its Trust Officer

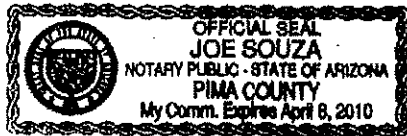
By:

Its Trust Officer

Its:

State of Arizona)
County of Pima) ss:

This instrument was subscribed and sworn before me on this 20th day of JUNE, 2006, by Fidelity National Title Agency, Inc, an Arizona Corporation, as Trustee under Trust #60,040 and not in its corporate capacity, as Declarant.



[Signature]
Notary Public