

RECEIVED

JUN 21 2004

STEWART TITLE & TRUST OF PHOENIX
WHEN RECORDED, RETURN TO:

John E. Rooney, Esq.
BEUS GILBERT PLLC
4800 North Scottsdale Road, Suite 6000
Scottsdale, Arizona 85251-7630

2008

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
20030721746 06/04/2003 15:25
ELECTRONIC RECORDING

30068-55-1-1--
Palumboa

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

SIERRA HILLS

TABLE OF CONTENTS

		<u>Page</u>
ARTICLE I DEFINITIONS		1
1.1	“Annual Assessments.....	1
1.2	“Architectural Committee.....	1
1.3	“Architectural Committee Rules.....	1
1.4	“Articles	1
1.5	“Assessable Property.....	1
1.6	“Assessment.....	1
1.7	“Assessment Lien.....	1
1.8	“Assessment Period.....	1
1.9	“Association	1
1.10	“Association Land.....	1
1.11	“Association Rules	1
1.12	“Board” or “Board of Directors	1
1.13	“Bylaws.....	2
1.14	“Common Area	2
1.15	“Common Expenses	2
1.16	“Declarant	2
1.17	“Declarant Affiliate.....	2
1.18	“Declaration	2
1.19	“Developer	2
1.20	“Development Plan	2
1.21	“Exempt Property.....	2
1.22	“First Mortgage	3
1.23	“Improvement	3
1.24	“Lessee	3
1.25	“Lot	3
1.26	“Member	3
1.27	“Mayo Clinic CC&Rs	3
1.28	“Membership.....	3
1.29	“Membership Assessment.....	3
1.30	“Mortgage	3
1.31	“Mortgagee.....	3
1.32	“Natural Area Open Space	3
1.33	“Occupant.....	3
1.34	“Owner	4
1.35	“Parcel.....	4
1.36	“Period of Declarant Control	4
1.37	“Person	4
1.38	“Project” or “Property	4
1.39	“Project Documents	4
1.40	“Purchaser	4

1.41	"Record," "Recording," "Recorded" and "Recordation	5
1.42	"Resident.....	5
1.43	"Residential Unit.....	5
1.44	"Single Family	5
1.45	"Special Assessment	5
1.46	"Visible From Neighboring Property.....	5
ARTICLE II PLAN OF DEVELOPMENT.....		5
2.1	Property Initially Subject to the Declaration.....	5
2.2	Disclaimer of Representations	5
2.3	Restriction on Liability of the Association and the Declarant.....	6
2.4	Development Plan.....	6
2.5	Mayo CC&Rs.....	6
ARTICLE III LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS		6
3.1	Land Use Classifications.....	6
3.2	Architectural Control	6
3.3	Temporary Occupancy and Temporary Building	8
3.4	Maintenance of Landscaping	8
3.5	Nuisances, Construction Activities	9
3.6	Diseases and Insects.....	9
3.7	Repair of Building.....	9
3.8	Antennas, Poles, Towers and Dishes	9
3.9	Mineral Exploration	10
3.10	Trash Containers and Collection.....	10
3.11	Clothes Drying Facilities	10
3.12	Utility Service	10
3.13	Overhead Encroachments.....	10
3.14	Health, Safety and Welfare	11
3.15	Model Homes.....	11
3.16	Incidental Uses.....	11
3.17	Residential Use and Trades or Businesses	11
3.18	Animals	12
3.19	Machinery and Equipment.....	12
3.20	Signs.....	12
3.21	Trucks, Trailers, Campers and Boats	13
3.22	Motor Vehicles.....	13
3.23	Towing of Vehicles.....	14
3.24	Variances.....	14
3.25	Change of Use of Common Area	14
3.26	Drainage	15
3.27	Garages and Driveways.....	15
3.28	Rooftop HVAQ Equipment Prohibited.....	15
3.29	Solar Collecting Panels or Devices.....	15
3.30	Basketball Goals or Play Structures.....	15
3.31	Tanks.....	15

3.32	Exterior Lighting.....	16
3.33	Declarant's Exemption.....	16
ARTICLE IV EASEMENTS.....		16
4.1	Owners' Easements of Enjoyment.....	16
4.2	Utility Easement.....	17
4.3	Easements for Ingress and Egress.....	17
4.4	Declarant's Use and Easements.....	18
4.5	Easement in Favor of Association.....	18
ARTICLE V THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS.....		19
5.1	Formation of Association.....	19
5.2	Board of Directors and Officers.....	19
5.3	Association Rules.....	19
5.4	Personal Liability.....	19
5.5	Implied Rights.....	20
5.6	Membership in the Association.....	20
5.7	Votes in the Association.....	20
5.8	Voting Procedures.....	20
5.9	Transfer of Membership.....	21
5.10	Architectural Committee.....	21
ARTICLE VI COVENANT FOR ASSESSMENTS AND CREATION OF LIEN.....		22
6.1	Creation of Lien and Personal Obligation of Assessments.....	22
6.2	Annual Assessment.....	22
6.3	Rate of Assessment.....	23
6.4	Special Assessments.....	24
6.5	Assessment Period.....	24
6.6	Rules Regarding Billing and Collection Procedures.....	24
6.7	Effect of Nonpayment of Assessments, Remedies of the Association.....	24
6.8	Evidence of Payment of Assessments.....	25
6.9	Purposes for Which Association's Funds May be Used.....	25
6.10	Surplus Funds.....	26
6.11	Transfer Fee.....	26
6.12	Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments.....	26
ARTICLE VII MAINTENANCE.....		26
7.1	Common Area and Public Right-of-Way.....	26
7.2	Lots and Parcels.....	27
7.3	Installation of Landscaping.....	27
7.4	Assessment of Certain Costs of Maintenance and Repair.....	28
7.5	Improper Maintenance and Use of Lots and Parcels.....	28
7.6	Common Walls.....	28
7.7	Maintenance of Walls Other than Common Walls.....	29

7.8	Maintenance of Natural Open Spaces	29
ARTICLE VIII INSURANCE.....		29
8.1	Scope of Coverage	29
8.2	Certificates of Insurance	30
8.3	Payment of Premiums	31
8.4	Payment of Insurance Proceeds	31
8.5	Repair and Replacement of Damaged or Destroyed Property	31
ARTICLE IX GENERAL PROVISIONS		31
9.1	Enforcement	31
9.2	Term; Method of Termination	31
9.3	Amendments	32
9.4	Interpretation	32
9.5	Severability	32
9.6	Perpetuities.....	32
9.7	Change of Circumstances.....	33
9.8	Rules and Regulations.....	33
9.9	Laws, Ordinances and Regulations.....	33
9.10	References to this Declaration in Deeds	33
9.11	Gender and Number	33
9.12	Captions and Title, Section References, Exhibits	33
9.13	Notices.....	33
9.14	Indemnification	34
9.15	No Partition	34
9.16	Property Held in Trust.....	35
9.17	Number of Days	35
9.18	Notice of Violation.....	35
9.19	Disclaimer of Representations	35
9.20	Amendments Affecting Declarant Rights	36

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**FOR****SIERRA HILLS**

This Declaration of Covenants, Conditions, and Restrictions for Sierra Hills is made this 22nd day of May, 2003, by SCOTTSDALE SIERRA HILLS, L.L.C., an Arizona limited liability company.

ARTICLE I**DEFINITIONS**

- 1.1 "Annual Assessments" means the Assessments levied pursuant to Section 6.2.
- 1.2 "Architectural Committee" means the committee established pursuant to Section 5.10.
- 1.3 "Architectural Committee Rules" means the rules and guidelines attached hereto as Exhibit "B" and incorporated herein by the reference or as subsequently adopted by the Architectural Committee pursuant to Section 5.10, as amended or supplemented from time to time.
- 1.4 "Articles" means the articles of incorporation of the Association, as amended from time to time.
- 1.5 "Assessable Property" means each Lot or Parcel, except for Exempt Property.
- 1.6 "Assessment" means an Annual Assessment or Special Assessment.
- 1.7 "Assessment Lien" means the lien created and imposed by Article 6.
- 1.8 "Assessment Period" means the period set forth in Section 6.5.
- 1.9 "Association" means Scottsdale Sierra Hills Homeowner's Association, an Arizona nonprofit corporation, and its successors and assigns.
- 1.10 "Association Land" means all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest, easement or license for as long as the Association is the owner of the fee or holds such leasehold interest, easement or license.
- 1.11 "Association Rules" means the rules adopted by the Board pursuant to Section 5.3, as amended from time to time.
- 1.12 "Board" or "Board of Directors" means the board of directors of the Association.

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

1.14 "Common Area" means: (a) all Association Land; (b) all land, and the Improvements situated thereon, within the Project which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be conveyed to the Association for the benefit and use of the Members; (c) all land, and the Improvements situated thereon, which is situated within the boundaries of a Lot or Parcel and which is designated on a Recorded subdivision plat Recorded by the Declarant or approved by the Declarant or the Association as land which is to be improved, maintained, repaired and replaced by the Association; (d) all land, and the Improvements situated thereon, within or adjacent to the Project which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be used for landscaping, drainage or water retention or flood control for the benefit of the Project or the general public; (e) all real property, and the Improvements situated thereon, within or adjacent to the Project located within dedicated rights-of-way with respect to which the City of Scottsdale has not accepted responsibility for the maintenance thereof, but only until such time as the City of Scottsdale has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas are to be maintained, repaired and replaced by the Association pursuant to this clause; and (e) have been expressly approved by either the Declarant or the Board.

1.15 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.16 "Declarant" means Scottsdale Sierra Hills, L.L.C., an Arizona limited liability company, its successors and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.17 "Declarant Affiliate" means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.18 "Declaration" means this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

1.19 "Developer" means any Person (other than the Declarant) who is in the business of developing, selling or leasing real property and who acquires one or more Lots or Parcels in connection with, and in the course of, such business, for the purpose of developing, selling or leasing such Lots or Parcels.

1.20 "Development Plan" means the Development Plan for the Project and other property adopted by the Declarant, as amended by the Declarant from time to time.

1.21 "Exempt Property" means: (a) all land and improvements owned by, or dedicated to and accepted by, the United States, the State of Arizona, Maricopa County or the City of Scottsdale, or any political subdivision of any of them, for as long as such entity or political

subdivision is the owner thereof or for as long as said dedication remains effective; (b) all Association Land; and (c) all Common Areas.

1.22 "First Mortgage" means a Mortgage Recorded against a Lot or Parcel which has priority over all other Mortgages Recorded against that Lot or Parcel.

1.23 "Improvement" means: (a) any Residential Unit, building, fence or wall; (b) any swimming pool, tennis court, basketball court, road, driveway, parking area or satellite dish; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; (d) any statuary, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot or Parcel); and (e) any other structure of any kind or nature.

1.24 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot or Parcel (or part thereof), including an assignee of the lessee's or tenant's interest under a lease.

1.25 "Lot" means a portion of the Project intended for independent ownership and residential use and designated as a lot on the Plat, and where the context indicates or requires, shall include any Residential Unit, building, structure or other Improvements.

1.26 "Member" means any Person who is a Member of the Association as provided in Section 5.7.

1.27 "Mayo Clinic CC&Rs" means that certain Declaration of Covenants, Conditions and Restrictions with the Mayo Clinic Arizona, a non-profit Arizona corporation, as "Declarant," which is recorded at document number 2002-1032990 in the Official Records of the Maricopa County Recorder and which burdens the Property.

1.28 "Membership" means a membership in the Association.

1.29 "Membership Assessment" shall have the meaning given such term in Section 6.3.1(b).

1.30 "Mortgage" means a deed of trust or a mortgage Recorded against a Lot or Parcel.

1.31 "Mortgagee" means a beneficiary under a deed of trust, or a mortgagee under a mortgage, Recorded against a Lot or Parcel, and "First Mortgagee" means such a beneficiary or mortgagee under a First Mortgage.

1.32 "Natural Area Open Space" means any designated area of undisturbed natural desert with no man-made improvements and approved revegetated areas.

1.33 "Occupant" means any Person other than an Owner who occupies or is in possession of a Lot or Parcel, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and shall include, without limitation, a Resident).

1.34 "Owner" means the Person or Persons who individually or collectively own fee title to a Lot or Parcel (as evidenced by a Recorded instrument), provided that: (a) the Declarant (and not the fee title holder) shall be deemed to be the "Owner" of each Lot or Parcel with respect to which fee title is held by a Declarant Affiliate or by a trustee (other than the trustee of a deed of trust) for the benefit of the Declarant or a Declarant Affiliate; (b) in the event that, and for so long as, the Declarant or a Declarant Affiliate has, pursuant to a written agreement, an existing right or option to acquire any one or more Lots or Parcels (other than by exercise of a right of first refusal or right of first offer), the Declarant shall also be deemed to be the "Owner" of each Lot or Parcel with respect to which the Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust, the owner of the trustor's interest under the deed of trust shall be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to Lots or Parcels "owned by" a Person, such phrase shall be deemed to refer to Lots or Parcels of which that Person is the Owner, as determined pursuant to this Section.

1.35 "Parcel" means each area of real property in the Project, and all Improvements situated thereon, shown as a separate parcel of land on the Development Plan, provided, however, that in the event a Parcel is split in any manner into portions under separate ownership (other than by subdivision of the Parcel by Recordation of a subdivision plat into Lots, each of which constitutes or may have constructed thereon only one Residential Unit), each portion under separate ownership shall thereafter constitute a separate Parcel. If two or more contiguous parcels of land are owned by the same Person, they shall be considered one Parcel for purposes of this Declaration.

1.36 "Period of Declarant Control" means the period commencing on the date of the Recording of this Declaration and ending on the earlier of: (a) one hundred twenty (120) days after the number of votes entitled to be cast by Owners other than the Declarant exceeds the number of votes entitled to be cast by the Declarant; (b) December 31, 2015; or (c) the date the Declarant Records a written instrument terminating the Period of Declarant Control.

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

1.38 "Project" or "Property" means the real property described on Exhibit "A," together with all Improvements located thereon.

1.39 "Project Documents" means this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules.

1.40 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot or Parcel, except for: (a) a Person who purchases a Lot or Parcel and then leases it to the Declarant for use as a model in connection with the sale or lease of other Lots or Parcels; or (b) a Person who, in addition to purchasing a Lot or Parcel, is expressly assigned any or all of the Declarant's rights as the Declarant under this Declaration; or (c) a Developer.

1.41 "Record," "Recording," "Recorded" and "Recordation" means placing or having placed an instrument of public record in the official records of Maricopa County, Arizona.

1.42 "Resident" means each individual who resides in any Residential Unit.

1.43 "Residential Unit" means any building, or portion of a building, situated upon a Lot or Parcel and designed and intended for separate, independent use and occupancy as a residence.

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

1.45 "Special Assessment" means any Assessment levied pursuant to Section 6.5.

1.46 "Visible From Neighboring Property" means, with respect to an object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of neighboring property, except where the object is visible solely through a wrought iron fence and would not be visible if the wrought iron fence were a solid fence.

ARTICLE II

PLAN OF DEVELOPMENT

2.1 Property Initially Subject to the Declaration. This Declaration is being Recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. All of the property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, Purchasers, assignees, Lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

2.2 Disclaimer of Representations. The Declarant makes no representations or warranties whatsoever that: (a) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (b) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (c) any property not now subject to this Declaration will be subjected to the provisions hereof; or (d) the use of any property subject to this Declaration will not be changed in the future. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen representing the Declarant or any Developer shall be deemed to create any covenants

or restrictions, implied or express, with respect to the use of any property subject to this Declaration.

2.3 Restriction on Liability of the Association and the Declarant. Gates may be constructed within or adjacent to the Project in order to limit access and to provide more privacy for the Owners and Occupants. Each Owner and Occupant, and their families, guests and invitees, acknowledge that any such gate will not assure the security of their person or property and that any such gate may restrict or delay entry into, or access within, the Project by police, fire department, ambulances and other emergency vehicles or personnel. Each Owner and Occupant and their families, guests and invitees agree to assume the risk that any such gate will restrict or delay entry into, or access within, the Project by police, fire department, ambulances or other emergency vehicles or personnel. Neither the Declarant, the Association nor any director, officer, agent or employee of the Declarant or the Association shall be liable to any Owner or Occupant or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of any such gate.

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

2.5 Mayo CC&Rs. The Property is subject to the terms and conditions of the Mayo CC&Rs. Each Owner shall comply in all respects of the Mayo CC&Rs. All consents or approvals of the Board required by this Declaration shall be in addition to any consents or approvals required by the Mayo CC&Rs. In the event of any conflict in consistency between the restrictions with respect to the use or design of the Property set forth in the Mayo CC&Rs and this Declaration, the more restrictive provision shall control.

ARTICLE III

LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

3.1 Land Use Classifications. Subject to the remaining provisions of this Declaration and the applicable provisions of the Mayo CC&Rs, the purposes for which property within the Project may be used shall be Single Family Residential Use.

3.2 Architectural Control. All Improvements initially constructed within the Project shall be of new construction, and at no time shall buildings or other structures be placed on the Property which were moved from other locations to the Project (except for construction and sales trailers or similar facilities approved in advance by the Architectural Committee).

3.2.1 No devegetation, excavation or grading work shall be performed within the Project without the prior written approval of the Architectural Committee.

3.2.2 No Improvement shall be constructed or installed within the Project without the prior written approval of the Architectural Committee.

3.2.3 No addition, alteration, repair, change or other work which in any way alters the exterior appearance (including but without limitation, the exterior color scheme) of any property within the Project, or any Improvements located thereon, shall be made or done without the prior written approval of the Architectural Committee, nor shall any Lot be split, divided or further subdivided in any manner without the prior written approval of the Architectural Committee.

3.2.4 Any Owner or other Person desiring approval of the Architectural Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his, her or its Lot, Parcel or other portion of the Project, or any Improvements located thereon, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other Person desires to perform. Any Owner or other Person requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may reasonably request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within thirty (30) days after the application, together with all supporting information, plans and specifications required by the Architectural Committee Rules or reasonably requested by the Architectural Committee, have been submitted to it, approval shall be deemed to have been denied.

3.2.5 The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change, replacement or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

3.2.6 Upon receipt of approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

3.2.7 Any change, deletion or addition to the plans and specifications approved by the Architectural Committee must be approved in writing by the Architectural Committee.

3.2.8 The Architectural Committee shall have the right to charge a reasonable fee for reviewing each request for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Section, which fee

shall be payable at the time the application for approval is submitted and/or resubmitted to the Architectural Committee. Such fee(s), if established and charged by the Architectural Committee, shall be set at such reasonable level as the Architectural Committee may estimate will be necessary to defray the reasonable costs and expenses of the Architectural Committee in reviewing and evaluating any such request or application, and may include, if the Architectural Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Architectural Committee by an architect, engineer or attorney.

3.2.9 The provisions of this Section do not apply to, and approval of the Architectural Committee shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

3.2.10 The approval required of the Architectural Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other Recorded instrument, including, without limitation, the Mayo CC&Rs. The Architectural Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Architectural Committee of evidence satisfactory to the Architectural Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Architectural Committee shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Architectural Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity.

3.3 Temporary Occupancy and Temporary Building. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Architectural Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Architectural Committee.

3.4 Maintenance of Landscaping. Each Owner of a Lot or Parcel shall properly maintain and keep neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material all shrubs, trees, hedges, grass and plantings of every kind (collectively, "Landscaping") located on: (a) his, her or its Lot or Parcel; (b) any public right-of-way or easement area which abuts or adjoins the Owner's Lot or Parcel and which is located between the boundary line of his Lot or Parcel and the paved area of any street, sidewalk, bike-path or similar area (unless otherwise directed by the Board); and (c) any non-street public right-of-way or easement area adjacent to his Lot or Parcel (unless otherwise directed by the Board); provided, however, that such Owner shall not be responsible for maintenance of any area over which: (i) the Association assumes the responsibility in writing; (ii) the Association has been given such responsibility by the City of Scottsdale, Maricopa County or other governmental agency or entity having jurisdiction; or (iii) the City of Scottsdale, Maricopa County or any other municipality or other

governmental agency or entity having jurisdiction over such property assumes responsibility, for so long as the City of Scottsdale, Maricopa County or such other municipality or other governmental agency or entity assumes or has responsibility. For purposes of this Section 3.4, proper maintenance of Landscaping shall include, without limitation, removal and replacement of dead Landscaping, subject to the Architectural Committee Rules.

3.5 Nuisances, Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, Parcel or other property, and no odors, loud noises or loud music shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon or adjacent to any Lot, Parcel or other property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot, Parcel or other property shall not be considered a nuisance or otherwise prohibited by this Declaration, but during construction periods, Lots, Parcels and other property shall be kept in a neat and tidy condition, trash and debris shall not be permitted to accumulate, supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved in writing by the Architectural Committee, and no loud music shall be permitted. In addition, any construction equipment and building materials stored or kept on any Lot, Parcel or other property during the construction of Improvements may be kept only in areas approved in writing by the Architectural Committee, which may also require screening of the storage areas. The Architectural Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section shall not apply to construction activities of the Declarant.

3.6 Diseases and Insects. No Person shall permit any thing or condition to exist upon any Lot, Parcel or other property which shall induce, breed or harbor infectious diseases or noxious insects.

3.7 Repair of Building. No Residential Unit, building, structure or other Improvement on any Lot, Parcel or other property shall be permitted to fall into disrepair and each such Residential Unit, building, structure and other Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Residential Unit, building, structure or other Improvement is damaged or destroyed, then, subject to the approvals required by Section 3.2, such Residential Unit, building, structure or other Improvement shall be immediately repaired or rebuilt or shall be demolished.

3.8 Antennas, Poles, Towers and Dishes. Subject to the provisions of applicable law, no television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or maintained upon any Lot, Parcel or other part of the Property unless such antenna, pole, tower or dish is reasonably and attractively screened or concealed so as to be minimally Visible From Neighboring Property, which means of screening or concealment shall be subject to the regulation and prior approval of the Architectural Committee. Notwithstanding the foregoing, the Architectural Committee may adopt a rule or regulation permitting an Owner or Occupant to install and maintain a flagpole upon the Owner's or Occupant's Lot or Parcel, provided that the location and size of such flagpole (and the number and size of any flag(s))

mounted thereon) may be regulated by the Architectural Committee and may, if so provided in such rule or regulation, be made subject to the prior approval thereof by the Architectural Committee. Nothing in this Section shall be deemed to prohibit the Declarant from installing and maintaining flagpoles on, at or adjacent to model homes within the Project. Poles to which basketball backboards, goals and related equipment are affixed shall be governed by Section 3.30.

3.9 Mineral Exploration. No Lot, Parcel or other property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind, except for the drilling, operation and maintenance of any testing, inspection or other water wells approved by the Declarant.

3.10 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, Parcel or other property except in sanitary, covered containers of a type, size and style which are approved by the Architectural Committee or provided by the City of Scottsdale but only for so long as the City of Scottsdale provides municipal trash pick-up. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash or garbage shall be removed from Lots, Parcels and other property and shall not be allowed to accumulate thereon. No outdoor incinerators shall be maintained on any Lot, Parcel or other property.

3.11 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot, Parcel or other property so as to be Visible From Neighboring Property.

3.12 Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot, Parcel or other property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures for emergency purposes or incident to the construction of buildings or structures approved by the Architectural Committee. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body, provided that reasonable efforts shall be made to avoid placing any such meter, panel or other equipment on the outside front wall of a residence or other building facing the street running directly in front of such residence.

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

3.14 Health, Safety and Welfare. In the event additional uses, activities or facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Lessees and Occupants, the Board may make rules restricting or regulating their presence in the Project as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots, Parcels or other property as part of the Architectural Committee Rules.

3.15 Model Homes. Any provisions of this Declaration which prohibit non-residential use of Lots and certain Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes (the "Models") by Persons engaged in the construction of Residential Units in the Project, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. The Architectural Committee may also permit Lots and other areas to be used for parking in connection with the showing of Models. Any homes or other structures constructed as Models shall cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Residential Units in the Project, and no home or other structure shall be used as a Model for the sale of homes or other structures not located in the Project.

3.16 Incidental Uses. The Architectural Committee may approve uses of property which are incidental to the full enjoyment of the Owners and Occupants of the property within the Project. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Architectural Committee may wish to impose, in its sole discretion, for the benefit of the Project as a whole.

3.17 Residential Use and Trades or Businesses. All Lots and Residential Units shall be used, improved and devoted exclusively to residential use by a Single Family. No trade or business may be conducted on any Lot or Parcel or in or from any Residential Unit, except that an Owner or other Resident may conduct a business activity in a Residential Unit so long as: (a) the business activity conforms to all applicable zoning ordinances or requirements; (b) the business activity does not involve the door-to-door solicitation of Owners or other Residents in the Project; (c) the use of the Residential Unit for trade or business shall in no way destroy or be incompatible with the residential character of the Residential Unit or the surrounding neighborhood; (d) the trade or business shall be conducted only inside the Residential Unit or inside an accessory building or garage, and shall not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any Residential Unit; (e) the trade or business shall be conducted by a Resident or Residents of the Residential Unit with no more than one (1) employee working in or from such Residential Unit who is not a Resident thereof; (f) no more than twenty percent (20%) of the total floor area of the Residential Unit shall be used for trade or business; (g) the Residential Unit used for trade or business shall not be used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business shall not utilize large vehicles not customary to a residential use. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on

an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Residential Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

3.18 Animals. No animal, livestock, poultry or fowl of any kind, other than a reasonable number of house pets, shall be maintained on or in any Lot or Parcel and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any pet shall be Visible From Neighboring Property. Notwithstanding the foregoing, no pets may be kept on or in any Lot or Parcel which, in the opinion of the Board, result in an annoyance to other Owners or Occupants in the vicinity. All pets shall be leashed when not on property owned by the pet's owner or on which the pet's owner is a Resident or guest, and persons walking any pet shall promptly and properly remove and dispose of the pet's waste.

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

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

3.20.1 Signs required by legal proceedings or residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Committee.

3.20.2 Signs of Developers approved from time to time by the Architectural Committee as to number, size, color, design, message content, location and type.

3.20.3 Such construction job identification signs, business identification signs and subdivision identification signs which are in conformance with the requirements of any municipality having jurisdiction over the property and which have been approved in writing by the Architectural Committee as to number, size, color, design, message content and location.

3.20.4 Temporary "Open House" signs indicating that a Residential Unit is available for inspection by interested parties, but such signs may only be erected or maintained during the hours of 10:00 A.M. through 6:00 P.M. on Saturdays, Sundays, legal holidays or other days designated by the Architectural Committee.

3.20.5 Temporary "for sale" signs, which shall be subject to any limitations as to such signs adopted by the Architectural Committee, and which shall not be allowed to remain on a Lot or Parcel for more than a total of ninety (90) days during any 365-day period, except as otherwise permitted by the Architectural Committee.

3.21 Trucks, Trailers, Campers and Boats. Except as provided in Section 3.22.4, no truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot, Common Area or other portion of the Property, or on any street, so as to be Visible From Neighboring Property without the prior written approval of the Architectural Committee except for: (a) temporary construction trailers or facilities maintained during, and used exclusively in connection with, construction of any Improvement approved by the Architectural Committee; (b) boats and vehicles parked in garages on Lots so long as such vehicles are in good operating condition and appearance and are not under repair; (c) the storage of vehicles in any area designated or approved for such purposes by Declarant or by the Board (including, but not limited to, one or more recreational vehicle storage facilities, whether operated on a for-profit or not-for-profit basis); or (d) motor vehicles not exceeding seven (7) feet in height and eighteen (18) feet in length which are not used for commercial purposes and which do not display any commercial name, phone number or message of any kind, and which may not be parked on any Lot, Common Area or other portion of the Property or on any street for a period which exceeds five (5) days.

3.22 Motor Vehicles.

3.22.1 Except for emergency vehicle repair, no automobile or other motor vehicle shall be constructed, reconstructed or repaired upon a Lot or other property in the Project, and no inoperable vehicle may be stored or parked on such Lot or other property in the Project so as to be Visible From Neighboring Property or be visible from any Common Area or any street.

3.22.2 No motorcycle, motorbike, all-terrain vehicle, off-road vehicle or any similar vehicle shall be parked, maintained or operated on any portion of the Project except in garages on Lots.

3.22.3 No automobile or other motor vehicle shall be parked on any road or street in the Project, except automobiles or motor vehicles of guests of Owners which may be parked on a road or street in the Project for a period of not more than twenty-four (24) hours.

3.22.4 Notwithstanding anything herein contained to the contrary, the Association shall not prohibit an Owner, or Resident from parking a motor vehicle with a gross vehicle weight of 20,000 lbs or less on a street or driveway in the Project, if all the following apply:

(a) The vehicle is required to be available at designated periods at the person's residence as a condition of the person's employment;

(b) The resident is employed by a public service corporation that is regulated by the Corporation Commission and that is required to prepare for emergency deployments of personnel and equipment for repair or maintenance of natural gas pipelines and related infrastructure.; and

(c) The vehicle is owned or operated by the public service corporation and bears an official emblem or other visible designation of that corporation.

3.23 Towing of Vehicles. Except as provided in Section 3.22.4, the Board shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed or taken away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments.

3.24 Variances. The Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 if the Architectural Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or Occupant or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Owners and Occupants and is consistent with the high quality of life intended for residents of the Project.

3.25 Change of Use of Common Area. Upon: (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Common Area is no longer in the best interests of the Owners; and (b) the approval of such resolution by Members casting more than fifty percent (50%) of the votes entitled to be cast by Members who are present in person or by proxy at a meeting duly called for such purpose and who are entitled to use such Common Area under the terms of this Declaration, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use shall be consistent with any zoning regulations restricting or limiting the use of the Common Area. This Section 3.25 shall not apply to, or be deemed to limit in any way, the right and power of the Association pursuant to Section 4.1.1 (a) to grant easements over, under or through portions of the Common Area, or to dedicate portions of the Common Area, to public, quasi-public or private utility companies, municipalities or other governmental agencies or entities, in connection with or at the time of development of property within or adjacent to the Project, where required or requested by any municipality or other governmental agency or entity, or any public, quasi-public or private utility company.

3.26 Drainage. No Residential Unit, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot or Parcel as shown on the drainage plans on file with the county or municipality in which the Project is located.

3.27 Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and sightly condition. Garages shall be used only for parking vehicles and storage, and shall not be used or converted for living or recreational activities. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

3.28 Rooftop HVAQ Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residential Unit or other building so as to be Visible From Neighboring Property.

3.29 Solar Collecting Panels or Devices. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans therefor by the Architectural Committee, solar collecting panels and devices may be placed, constructed or maintained upon any Lot within the Property so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Committee may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property). Notwithstanding any other provision of this Declaration to the contrary, the Declarant (during the Period of Declarant Control) or the Board (after the expiration or termination of the Period of Declarant Control) shall have the right, without the consent or approval of any Owner or other Person, to amend this Section (which amendment may, without limitation, impose additional or different restrictions on solar collecting panels and devices) as the Declarant or the Board (as applicable) deems appropriate in the event that, after the date this Declaration is Recorded, Section 33-439 of the Arizona Revised Statutes (or any successor thereto) is amended, repealed or replaced.

3.30 Basketball Goals or Play Structures. No permanent basketball goal, backboard or similar structure or device, and no swing sets or other play structures visible from Neighboring Properties, shall be placed or constructed on any Lot without the prior written approval of the Architectural Committee (including, without limitation, approval as to appearance and location).

3.31 Tanks. No storage tank or under of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot or Parcel. Nothing herein shall be deemed to prohibit use or storage upon any Lot or Parcel of an aboveground propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace or a spa or "hot tub," so long as any such tank either: (a) has a

capacity of ten (10) gallons or less; or (b) is appropriately stored, used and/or screened, in accordance with the Architectural Committee Rules or as otherwise approved by the Architectural Committee, so as not to be Visible From Neighboring Property.

3.32 Exterior Lighting. Exterior lighting shall be permitted on a Lot or Parcel so long as: (a) the source of such lighting is not Visible From Neighboring Property; (b) such lighting is limited to that which is reasonably necessary for the safety and convenience of the Occupants of such Lot or Parcel; and (c) such lighting conforms to such other requirements as may be imposed by the Architectural Committee. Notwithstanding the foregoing, but subject to reasonable regulation by the Architectural Committee, Owners or Occupants of Lots or Parcels may display temporary holiday lighting during the Christmas season, provided that no such lighting shall be permitted for a period in excess of thirty (30) days.

3.33 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by the Declarant, any Declarant Affiliate or any agents or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property.

ARTICLE IV

EASEMENTS

4.1 Owners' Easements of Enjoyment.

4.1.1 Subject to the rights and easements granted to the Declarant in Section 4.4, each Owner, and each Occupant of such Owner's Lot or Parcel, shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area, which right and easement shall be appurtenant to and shall pass with the title to each Lot and Parcel, subject to the provisions of this Declaration including, without limitation, the following:

(a) Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Area shall be effective unless approved by Owners representing two-thirds (2/3) of the votes in each class of Members. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association shall have the right, without the consent of the Owners or any other Person (except Declarant, whose consent shall be required so long as Declarant owns any part of the Property or of the Additional Property), to dedicate portions of the Common Area to the public, or grant easements over, under or through portions of the Common Area to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by the City of Scottsdale or any municipal or other governmental agency or entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property or of portions of the Additional Property.

(b) The Association shall have the right to regulate the use of the Common Area through the Association Rules (which may include, without limitation, the adoption and implementation of a reservation system for such portions of the Common Area, or Improvements or amenities thereon, as the Board deems appropriate) and to prohibit access to such portions of the Common Area, such as landscaped right-of-ways, not intended for use by the Owners, Lessees or other Occupants.

(c) The Declarant and the Association shall each have the right to grant easements or licenses to Developers or other Persons for the construction of Improvements on the Common Area, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the streets and roads in the Project to Persons who are not Members of the Association.

(d) The Declarant and the Association shall each have the right to convey certain portions of the Common Area to Owners of adjoining Lots or Parcels in connection with the correction or adjustment of any boundary between Common Area and any one or more adjoining Lots or Parcels; provided, however, that neither the Association nor the Declarant shall have the right to transfer or convey any portion of the Common Area upon which is situated any recreational facility unless approved by a vote of the Members pursuant to Subsection 4.1.1(a).

4.1.2 If a Lot or Parcel is leased or rented by its Owner, the Occupants of such Lot or Parcel shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot or Parcel shall have no right to use the Common Area until the termination or expiration of such lease.

4.2 Utility Easement. There is hereby created an easement upon, across, over and under the Common Area, Lots, Parcels and other property for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary equipment on the Common Area, Lots, Parcels and other property but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Area, Lots, Parcels and other property except as initially designed, approved and/or constructed by the Declarant or as approved by the Board (and, in the case of a Lot or Parcel, by the Owner of such Lot or Parcel). If any utility company requests that a more specific easement be granted in its favor in substitution for the blanket easement hereby established with respect to the Common Area, the Association shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

4.3 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Area. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such

easements shall run in favor of and be for the benefit of the Owners and Occupants of the Lots and Parcels and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over the Common Area and all private streets, private roadways, private driveways and private parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel.

4.4 Declarant's Use and Easements.

4.4.1 The Declarant shall have the right and an easement (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, Parcels or other property in the Project or within any of the Additional Property. The Declarant reserves the right (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to place models, management offices and sales and leasing offices on any Lots, Parcels or other property owned by the Declarant (or by such Developer(s), as applicable) and on any portion of the Common Area in such number, of such size and in such locations as the Declarant deems appropriate.

4.4.2 So long as the Declarant is marketing Lots, Parcels or other portions of the Property or the Additional Property, the Declarant shall have the right to restrict the use of the parking spaces on the Common Area. Such right shall include reserving such spaces for use by prospective Purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

4.4.3 The Declarant shall have the right and an easement on and over the Common Area to construct all Improvements the Declarant may deem necessary and to use the Common Area and any Lots, Parcels and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project and property adjacent to the Project.

4.4.4 The Declarant shall have the right and an easement upon, over and through the Common Area as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

4.5 Easement in Favor of Association. The Lots, Parcels and Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.5.1 For inspection during reasonable hours of the Lots, Parcels and Common Area in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.5.2 For inspection, maintenance, repair and replacement of portions of the Common Area accessible only from such Lots or Parcels;

4.5.3 For correction of emergency conditions on one or more Lots, Parcels or Common Area or on portions of the Common Area accessible only from such Lots or Parcels;

4.5.4 For the purpose of enabling the Association, the Board, the Architectural Committee or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under the Project Documents;

4.5.5 For inspection during reasonable hours of the Lots, Parcels, and Common Area in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents.

ARTICLE V

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS

5.1 Formation of Association. The Association shall be a nonprofit Arizona corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, the Bylaws and this Declaration. In the event of any conflict or inconsistency between this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, this Declaration shall control.

5.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area; the Board shall determine the compensation to be paid to any such manager.

5.3 Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (a) the management, operation and use of the Common Area including, but not limited to, any recreational facilities situated upon the Common Area; (b) traffic and parking restrictions including speed limits on private streets within the Project; (c) minimum standards for any maintenance of Common Areas, Lots and Parcels within the Project; or (d) any other subject within the jurisdiction of the Association. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

5.4 Personal Liability. No member of the Board, the Architectural Committee or any other committee of the Association, no officer of the Association and no manager or other employee of the Association shall be personally liable to any Member, or to any other Person including the Association, for any damage, loss or prejudice suffered or claimed on account of

any act, omission, error or negligence of the Association, the Board or any member thereof, the Architectural Committee or any member thereof, the manager, any representative or employee of the Association, any officer of the Association or any member of any other committee of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

5.5 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege.

5.6 Membership in the Association. Every Owner of a Lot or Parcel which is Assessable Property shall be a Member of the Association, and the Declarant shall be a Member of the Association so long as it owns any part of the Project or of the Additional Property (unless and until the Declarant expressly relinquishes in writing its status as a Member). Each such Owner shall have the following number of Memberships in the Association:

5.6.1 An Owner shall have one (1) Membership for each Lot owned by that Owner.

5.7 Votes in the Association.

5.7.1 Each Owner other than the Declarant shall be entitled to one (1) vote for each Membership held by such Owner.

5.7.2 Until the expiration or termination of the Period of Declarant Control, the Declarant shall be entitled to ten (10) votes for each Lot owned by Declarant. After the expiration or termination of the Period of Declarant Control, the Declarant shall have one (1) vote for each Membership held by the Declarant.

5.7.3 Until the expiration or termination of the Period of Declarant Control: (a) the Association shall be deemed to have two classes of Members, Class A and Class B; (b) the Declarant shall be the Class B Member, and all votes held by the Declarant shall be Class B votes; (c) all Owners other than Declarant shall be Class A Members, and all votes held by such Owners shall be Class A votes. Following expiration or termination of the Period of Declarant Control, the Association shall be deemed to have a single class of Members and votes. Notwithstanding the foregoing, however, except as otherwise expressly provided in this Declaration or in any of the other Project Documents, any issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting, regardless whether such votes are otherwise deemed to be Class A votes or Class B votes.

5.8 Voting Procedures. A change in the ownership of a Lot or Parcel shall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded; the Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof. The vote for each such Lot or Parcel must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot or Parcel is owned by more than one

Person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot or Parcel, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Lot or Parcel unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote or votes for a particular Lot or Parcel, the vote or votes for that Lot or Parcel shall be deemed void and shall not be counted.

5.9 Transfer of Membership. The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot or Parcel, and then only to the transferee of ownership of the Lot or Parcel. A transfer of ownership of a Lot or Parcel may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot or Parcel shall operate to transfer the Membership appurtenant to said Lot or Parcel to the new Owner thereof. Each Purchaser of a Lot or Parcel shall notify the Association of his, her or its purchase of a Lot or Parcel. The Association may require the Purchaser of a Lot or Parcel to pay to the Association a transfer fee in an amount to be set by the Board, and the transfer fee shall be secured by the Assessment Lien.

5.10 Architectural Committee.

5.10.1 The Association shall have an Architectural Committee to perform the functions assigned to it as set forth in this Declaration. So long as the Declarant owns any Lot, Parcel or other property within the Project, the Architectural Committee shall consist of three (3) regular members and one (1) alternate member, each of whom shall be appointed by, and serve at the pleasure of, the Declarant. At such time as the Declarant no longer owns any Lot, Parcel or other property within the Project, or any portion of the Additional Property, the Architectural Committee shall consist of such number of regular and alternate members as the Board may deem appropriate from time to time (but in no event less than three (3) nor more than seven (7) regular members, nor less than one (1) nor more than three (3) alternate members), each of whom shall be appointed by, and serve at the pleasure of, the Board. The Declarant may at any time voluntarily surrender in writing its right, as the Declarant, to appoint and remove the members of the Architectural Committee pursuant to this Section 5.10.1, and in that event the Declarant may require, for so long as the Declarant owns any Lot, Parcel or other property within the Project, that specified actions of the Architectural Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

5.10.2 The Architectural Committee may promulgate additional or amended architectural design guidelines and standards (including, but not limited to, color palettes and plant materials) to be used in rendering its decisions. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. As provided in Section 3.2.8, the Architectural Committee may establish a reasonable fee to defer the costs of considering any requests for approvals submitted to

the Architectural Committee, which fee shall be paid at the time the request for approval is submitted.

ARTICLE VI

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot and Parcel, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot or Parcel, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot or Parcel and shall be a continuing lien upon the Lot or Parcel against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of each Person who was an Owner of the Lot or Parcel at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessment or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

6.2 Annual Assessment.

6.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, there is hereby created a right of assessment exercisable on behalf of the Association by the Board.

6.2.2 Assessments shall be payable with respect to a Lot commencing with the initial conveyance of such Lot to a purchaser by Declarant. Assessments with respect to a Lot shall be prorated as of the date of such initial conveyance. Declarant shall not be obligated to pay any Assessments with respect to Lots owned by Declarant, provided that until the expiration of the Period of Declarant Control Declarant shall pay or contribute to the Association cash, goods or services (as Declarant may elect) as may be necessary to make up any budget shortfalls of the Association resulting from Declarant's exemption from Assessments (but in no event shall Declarant be required to make such payments or contributions in excess of the Assessments Declarant would be required to pay, in the absence of this sentence, with respect to Lots owned by Declarant.)

6.2.3 If the Assessments collected by the Association are insufficient to cover the costs of the maintenance of the Common Areas and the operation of the Association,

even after payment or contribution by Declarant in accordance with Section 6.2.2 of the Declaration, the Declarant may, but without requirement to do so, advance funds to the Association as a loan when so requested from time to time by the Association. Interest on loans shall be paid at a rate of ten percent (10%) per annum from the date funds are advanced until the date repaid. Principal and interest on loans shall be repaid as soon as the Association has sufficient funds to do so, taking into account its continuing obligations and ongoing administration, and in all events no later than one (1) year from the date of the loan.

6.3 Rate of Assessment.

6.3.1 The amount of the Annual Assessment against each Lot or Parcel shall be determined as follows:

(a) The Board of Directors shall adopt for each fiscal year of the Association a budget for the Association containing an estimate of the total amount of funds which the Board of Directors believes will be required during the ensuing fiscal year to pay all Common Expenses, including, but not limited to: (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements, which the Association has a responsibility of maintaining, repairing and replacing; (ii) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Common Elements; (iii) the amount required to render all services required to be rendered by the Association under the Project Documents; and (iv) such amounts as may be necessary to provide general operating reserves and reserves for contingencies and replacements.

(b) At least ten (10) days before the beginning of each fiscal year of the Association (except for the first fiscal year), the Board of Directors shall send to each Owner a summary of the budget and a statement of the amount of Common Expenses assessed against its Lot in accordance with the previous section (the "Membership Assessment"). The failure or delay of the Board of Directors to prepare or adopt the budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay his allocable share of the Common Expenses as provided herein, and each Owner shall continue to pay the Assessment against his Lot as established for the previous fiscal year until notice or the Assessment for the new fiscal year has been given to the Owners by the Board of Directors.

(c) The Board of Directors is expressly authorized to adopt and amend budgets for the Association, and no ratification of any budget by the Unit Owners shall be required.

(d) For each fiscal year of the Association commencing with the fiscal year in which the first Lot is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of

Directors shall be assessed against each Lot equally. The amount of the Assessment assessed pursuant hereof shall be in the sole discretion of the Board of Directors. If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are or will become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, the Board of Directors may increase the Assessment for that fiscal year and the revised Common Expenses Assessment shall commence on the date designated by the Board of Directors.

6.4 Special Assessments. The Association may levy against each Lot and Parcel which is Assessable Property, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Improvements upon the Common Area, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

6.5 Assessment Period. The period for which the Annual Assessments are to be levied (the "Assessment Period") shall be the calendar year. The Board in its sole discretion from time to time may change the Assessment Period.

6.6 Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on a monthly basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot or Parcel changes during an Assessment Period; successor Owners of Lots or Parcels shall be given credit for prepayments, on a prorated basis, made by prior Owners.

6.7 Effect of Nonpayment of Assessments, Remedies of the Association.

6.7.1 Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

6.7.2 The Association shall have a lien on each Lot and Parcel for all Assessments levied against the Lot or Parcel and for all other fees and charges payable to

the Association by the Owner of the Lot or Parcel pursuant to this Declaration. Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, Record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot or Parcel against which the notice of lien is Recorded and the amount claimed to be past due as of the date of the Recording of the notice, including interest, lien recording fees and reasonable attorneys' fees.

6.7.3 The Assessment Lien shall have priority over all liens or claims except for (a) tax liens for real property taxes; (b) assessments in favor of any municipal or other governmental body; and (c) the lien of any First Mortgage.

6.7.4 The Association shall not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Owner of the Lot or Parcel have been paid in full.

6.7.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys fees and any other sums due to the Association in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments; or (b) bringing an action to foreclose the Assessment Lien against the Lot or Parcel in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots or Parcels purchased at such sale. All such remedies shall be cumulative and not exclusive of one another.

6.8 Evidence of Payment of Assessments. Upon receipt of a written request by a Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Member or other Person a written certificate stating: (a) that all Assessments, interest and other fees and charges have been paid with respect to any specified Lot or Parcel as of the date of such certificate; or (b) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot or Parcel in question.

6.9 Purposes for Which Association's Funds May be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the

Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies. The following are some, but not all, of the areas in which the Association may seek, to, aid, promote and provide for such common benefit: (a) social interaction among Members and Occupants, (b) maintenance of landscaping on Common Area and public right-of-way and drainage areas within the Project, (c) construction, operation and maintenance of recreational and other facilities on Common Area, (d) recreation, insurance, communications, ownership and operation of vehicle storage areas, (e) education, transportation, health, utilities, public services, safety, (f) indemnification of officers, directors and committee members of the Association, (g) employment of professional managers, and (h) hiring professional consultants such as architects, engineers, attorneys and accountants.

6.10 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

6.11 Transfer Fee. Each Purchaser of a Lot or Parcel shall pay to the Association immediately upon becoming the Owner of the Lot or Parcel a transfer fee in such amount as is established from time to time by the Board.

6.12 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 6.5 hereof; or (b) approving any increase in the Maximum Membership Assessment greater than that permitted by Section 6.3.1(b), shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Membership Assessment, a quorum shall consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy); provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

ARTICLE VII

MAINTENANCE

7.1 Common Area and Public Right-of-Way.

7.1.1 The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Common Area and all Improvements located thereon

(subject to Section 7.1.3), except the Association shall not be obligated to maintain areas which any governmental entity or any utility company is maintaining or is obligated to maintain.

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

7.1.3 In the event any subdivision plat, deed restriction or this Declaration permits the Board to determine whether or not Owners of certain Lots of Parcels will be responsible for maintenance of certain Common Area or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners of Lots and Parcels having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

7.2 Lots and Parcels. Each Owner of a Lot or Parcel shall be responsible for maintaining, repairing or replacing his, her or its Lot or Parcel, and all buildings, Residential Units, landscaping or other Improvements situated thereon, except for any portion of the Lot or Parcel which is Common Area (unless otherwise required by the Board pursuant to Section 7.1.3). All buildings, Residential Units, landscaping and other Improvements shall at all times be kept in good condition and repair. Landscaping shall be maintained as required by Section 3.4. All Lots and Parcels upon which no Residential Units or other Improvements have been constructed shall be maintained in a weed free and attractive manner.

7.3 Installation of Landscaping. Except as otherwise referred by the Architectural Committee Rules, the Owner of a Lot shall install (if not already installed) landscaping improvements (together with an irrigation system sufficient to adequately water and maintain the same): (a) in the front yard of the Lot and in any side or backyard of the Lot which is not fully enclosed by a solid fence or wall at least six (6) feet high, not later than sixty (60) days after the date on which a certificate of occupancy is issued for a Residential Unit on the Lot; and (b) in any side or back yard of the Lot which is fully enclosed by a solid fence or wall at least six (6) feet high, not later than one hundred twenty (120) the date on which a certificate of occupancy is issued for a Residential Unit on the Lot. All landscaping must be installed in accordance with plans approved in writing by the Architectural Committee. If landscaping and an irrigation system are not installed on a Lot in the manner and by the applicable dates provided for in this Section, the Association shall have the right, but not the obligation, to enter upon such Lot to install such landscaping improvements as the Association deems appropriate (together with an irrigation system sufficient to adequately water the same), and the cost of any such installation shall be paid to the Association by the Owner of the Lot, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this Section shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same

manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

7.4 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Area or any other area maintained by the Association is caused through the willful or negligent act of any Member, his family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Member and the Member's Lot or Parcel is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot or Parcel pursuant to this Section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

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

7.6 Common Walls. The rights and duties of Owners of Lots or Parcels with respect to common walls shall be as follows:

7.6.1 The Owners of contiguous Lots or Parcels which have a common wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

7.6.2 In the event that any common wall is damaged or destroyed through the act of an Owner (or of his, her or its agents, tenants, invitees, licensees, guests or family members), it shall be the obligation of such Owner to rebuild and repair the common wall without cost to the other Owner or Owners;

7.6.3 In the event any such common wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, or his, her or its agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense;

7.6.4 The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title;

7.6.5 In addition to meeting the other requirements of this Declaration and of any other building code or similar governmental regulations or ordinances, any Owner proposing to construct, modify, make additions to or rebuild a common wall shall first obtain the written consent of each other Owner whose Lot or Parcel adjoins such common wall or any portion thereof;

7.6.6 In the event any common wall encroaches upon a Lot or the Common Area, a valid easement for such encroachment and for the maintenance of the common wall shall and does exist in favor of the Owners of the Lots which share such common wall; and

7.6.7 In the event of any dispute between two or more Owners of contiguous Lots or Parcels regarding a common wall or walls, such dispute shall be submitted to the Board for resolution, and the decision of the Board as to any such dispute shall be final and binding.

7.7 Maintenance of Walls Other than Common Walls.

7.7.1 Walls (other than common walls) located on a Lot or Parcel shall be maintained, repaired and replaced by the Owner of the Lot or Parcel.

7.7.2 Any wall which is placed on the boundary line between a Lot or Parcel and the Common Area shall be maintained, repaired and replaced by the Owner of the Lot or Parcel, except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Common Area.

7.8 Maintenance of Natural Open Spaces. All property designated as Natural Open Space by applicable zoning or other laws or ordinances, shall be maintained by the Owner thereof in a natural, undisturbed condition (after any initial approved revegetation), and the Owner thereof shall promptly remove any litter, waste or debris as may be dumped, left or deposited thereon, and shall otherwise protect and preserve the same and maintain the same in compliance with any and all applicable laws or ordinances, and with any applicable provisions of the Architectural Committee Rules.

ARTICLE VIII

INSURANCE

8.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot or Parcel to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

8.1.1 Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, as determined by the Board; provided however, that the total

amount of insurance shall not be less than one hundred percent (100%) of the current replacement cost of the insured property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy;

8.1.2 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area and other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

8.1.3 Workmen's compensation insurance to the extent necessary to meet the requirements of applicable law;

8.1.4 Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners;

8.1.5 Each insurance policy purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(a) The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;

(b) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or adversely affect recovery on the policy;

(c) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners, Occupants or Mortgagees;

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

(e) Statement naming the Association as the insured;

(f) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

8.2 Certificates of Insurance. An insurer which has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Any insurance obtained pursuant to this Article shall not

be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued.

8.3 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Declaration shall be included in the budget of the Association and shall be paid by the Association.

8.4 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 8.5, the proceeds shall be disbursed for the repair or restoration of the damage to the Common Area.

8.5 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners representing at least eighty percent (80%) of the total votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either: (i) be retained by the Association as an additional capital reserve; or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Association.

ARTICLE IX

GENERAL PROVISIONS

9.1 Enforcement. The Association or any Owner shall have the right to enforce the Project Documents.

9.2 Term; Method of Termination. Unless terminated in accordance with this Section, this Declaration shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is Recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Members holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to applicable law.

9.3 Amendments.

9.3.1 Except for amendments made pursuant to Subsections 9.3.2 or 9.3.3 of this Declaration, this Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Members holding not less than sixty-seven percent (67%) of the votes in the Association.

9.3.2 Either the Board or the Declarant may amend this Declaration, without obtaining the approval or consent of any Owner, Mortgagee or other Person, in order to conform this Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project or the Project Documents is required by law or requested by the Declarant.

9.3.3 So long as the Declarant is entitled to cast at least sixty-seven percent (67%) of the votes in the Association, the Declarant may amend this Declaration without the consent or approval of any other Owner or other Person.

9.3.4 So long as the Declarant or any Declarant Affiliate owns any Lot, Parcel or other portion of the Property, or any portion of the Additional Property, no amendment to this Declaration shall be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendments).

9.3.5 Any amendment approved pursuant to Subsection 9.3.1 of this Declaration or by the Board pursuant to Subsection 9.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Subsections 9.3.2 or 9.3.3 of this Declaration shall be executed by the Declarant and shall be Recorded.

9.4 Interpretation. Except for judicial construction, the Association shall have 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 hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration.

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

9.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

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

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

9.9 Laws, Ordinances and Regulations.

9.9.1 The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Architectural Committee with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation also to comply with all applicable laws, ordinances and regulations.

9.9.2 Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be in violation of this Declaration and subject to any or all of the enforcement proceedings set forth herein.

9.10 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or Parcel or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

9.11 Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders shall include each of the other genders, words in the singular shall include the plural, and words in the plural shall include the singular.

9.12 Captions and Title, Section References, Exhibits. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof. References in this Declaration to numbered Articles, Sections or Subsections, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

9.13 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, the Project Documents or resolution of the Board to be given to any Owner, Lessee or Resident then, unless otherwise specified in the

Project Documents or in the resolution of the Board, or unless otherwise required by law, such notice requirement shall be deemed satisfied if notice of such action, proposed action or meeting is published once in any newspaper in general circulation within Maricopa County. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

9.14 Indemnification. The Association shall indemnify each and every officer and director of the Association, each and every member of the Architectural Committee, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, former members of the Architectural Committee, and former members of committees appointed by the Board) (collectively, "Association Officials" and individually an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, except for his or her own individual willful misfeasance, malfeasance, misconduct or bad faith. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be a Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 9.14 or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest. (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

9.15 No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Area, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot or Parcel (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area, which shall be subject to Section 4.1) which may or may not be subject to this Declaration.

9.16 Property Held in Trust. Except as otherwise expressly provided in this Declaration, any and all portions of the Property (and of the Additional Property) which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is the Declarant or a Declarant Affiliate, shall be deemed for all purposes under this Declaration to be owned by the Declarant or such Declarant Affiliate, as applicable, and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by the Declarant or such Declarant Affiliate, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by the Declarant or any such Declarant Affiliate to any such trust (or the trustee thereof) or to the Declarant or any such Declarant Affiliate by any such trust (or the trustee thereof) shall be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

9.17 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

9.18 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of the Project Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot or Parcel against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot or Parcel, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot or Parcel against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

9.19 Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither the Declarant nor any Declarant Affiliate makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant or by any Declarant Affiliate is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While neither the Declarant nor any Declarant Affiliate believes that any of the restrictive covenants contained in this Declaration is or may be invalid or unenforceable for any reason or to any extent, neither the Declarant nor any Declarant Affiliate

makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot or Parcel in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot or Parcel agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

9.20 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate or a trustee for the benefit of the Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set forth above.

SCOTTSDALE SIERRA HILLS, L.L.C., an Arizona limited liability company

By [Signature]
Its Managing Member

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 22nd day of May, 2003, by Mike Earl, the Managing Member of Scottsdale Sierra Hills, L.L.C., an Arizona limited liability company, on behalf of such entity.

Kimberly A. Keith
Notary Public

My Commission Expires:



EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Lots 1-32 of the Final Plat for Sierra Hills, as recorded in Book 638, Page 5 of the Official Records of the Maricopa County Recorder, at Document No. 2003-0705949

EXHIBIT "B"**ARCHITECTURAL AND LANDSCAPING
DESIGN AND REVIEW
STANDARDS AND PROCEDURES
FOR
SIERRA HILLS**

1. **Introduction.** The following Architectural and Landscaping Design and Review Standards and Procedures ("Architectural and Landscaping Standards") are established to provide standards and procedures to be used in the planning, design and construction of all Improvements on Lots within the Project, thus insuring the development and maintenance of the Project as an attractive, exclusive, harmoniously designed residential community. These Architectural and Landscaping Standards are part of the Declaration to which these Architectural and Landscaping Standards are attached and shall be binding upon each Owner who at any time wishes to construct, reconstruct, refinish, remodel or alter any Improvements on its Lot or install or modify Landscaping on its Lot or makes any changes to the natural or existing surface or drainage thereon. Notwithstanding the foregoing, these Architectural and Landscaping standards shall not apply to any improvements that are wholly interior to a Residential Unit and which is not readily visible from the exterior of any such Residential Unit. In the event of any conflict between these Architectural and Landscaping Standards and the Declaration, these Architectural and Landscaping Standards shall apply, unless the context clearly requires otherwise. The Architectural and Landscaping Standards are supplemental to any standards, requirements and restrictions imposed by any applicable governmental authorities. The Association, acting by and through the Board, shall have the authority to take whatever steps are necessary to enforce these Architectural and Landscaping Standards. These Architectural and Landscaping Standards may be amended from time to time in accordance with Section 5.10 of the Declaration, and it shall be the responsibility of each Owner or other interested party to obtain and review a copy of the most recently revised Architectural and Landscaping Standards.

2. **Definitions.** Capitalized words used herein shall have the same meanings designated for such words in Article 1 of the Declaration. In addition, the following words or phrases, when used herein, shall have the following meanings:

(a) **"Architect"** means a person appropriately licensed to practice architecture in Arizona.

(b) **"Contractor"** means a person or entity engaged by an Owner (other than Builder) for the purposes of constructing any Improvement within such Owner's Lot. All Contractors must hold a current and appropriate Arizona contractor's license in good standing.

(c) **"Enclosed Area"** means any fenced or screened rear yard area on a Lot or any areas of front entrance to a Living Unit which are not visible from the street which is located immediately adjacent to the front of the Lot.

(d) **"Grading"** means any disturbance of the surface of a Lot (except to the extent reasonably necessary for planting of approved vegetation), including any trenching which results in the removal of earth, rock or other materials from a depth of more than twelve (12) inches below the natural surface of a Lot, or any grading of the surface of a Lot.

(e) **"Indigenous Specie"** means a specie of plant, whether ground cover, shrub, cactus or tree, which is listed on the Indigenous Plant List set forth in Appendix A hereto.

(f) **"Natural Area"** means that portion of the natural desert within a Lot which must remain undisturbed pursuant to the regulations of the City, and no Improvements are to be built within the Natural Area

(g) **"Prohibited Plants"** means those plants and trees identified on Appendix B attached hereto.

(h) **"Protected Plants"** means those Indigenous Species of trees or cacti listed in the City's Native Plant Ordinance No. 455, Article 7, as may be amended from time to time including, without limitation, those of four (4) inch caliper or six (6) foot in height or greater including: ironwood, Mesquite, palo verde, saguaro, barrel cactus, ocotillo and yucca.

(i) **"Unenclosed Area"** means that part of any Lot excluding the Natural Area and any Enclosed Area.

3. **Architectural Design Standards.** The concept and design of all proposed Improvements to be constructed on each Owner's Lot must be approved by the Committee. It is recommended that each Owner retain competent professionals to plan and design Improvements. Only plans of professional quality will be accepted for review by the Committee. Each Owner must strictly comply with these Architectural and Landscaping Standards, the Declaration, the Rules and Regulations and any ordinances, laws and regulations of any governmental authority, in order to bring the design review process to a speedy and satisfactory conclusion. The following architectural standards must be followed in connection with any Improvements on any Lot:

(a) **Design.** The exterior of all Improvements within the Project must be a design consistent with what is commonly known as Santa Fe, Santa Barbara, Southwestern Tuscan or Mediterranean architecture.

(b) **Size.** Living Units shall exceed 3200 square feet of living area unless there are special circumstances requiring unique design solutions, in which case the size requirements can be slightly modified in the sole discretion of the Committee. Notwithstanding the foregoing, not more than sixty-five percent (65%) of the gross square footage of any Lot shall be covered by Improvements and the remainder of each Lot shall remain natural area/open space. In addition, any Residential Unit proposed to be constructed on a Lot that is contiguous at any point to 136th Street shall be orientated north and south (with all primary views facing north and south). For each such Residential Unit, a six foot (6') high non-transparent wall shall run from within four (4) feet of the front of each structure to the rear of the building envelopes, and such wall must be completed before the Residential Unit is occupied. A diagram showing the wall is attached to the Mayo CC&Rs as Exhibit "E".

(c) **Height and Siting of Structures.** Living Units shall be limited to a maximum height of (i) twenty-four (24) feet above the highest adjacent natural grade portion of the Lot, (ii) thirty (30) feet over the lowest point from the natural grade of the Lot, or (iii) any lower height limitations imposed by the City. Sensitivity to height and relationship to other Living Units immediately surrounding the Lot must be taken into consideration and will play a role in the review process by the Committee. Notwithstanding the foregoing, Improvements constructed within 200 feet of either Via Linda or 136th Street shall not exceed twenty-four(24) feet in height from the final building pad elevation.

(d) **Walls and Fencing.** To the extent not restricted by any applicable City ordinance, exterior walls with a stuccoed finish may be used for privacy. All fencing and walls built upon a Lot shall be of masonry and/or wrought iron material only and shall be meandering in configuration and shall be subject to and shall comply with City of Scottsdale Design Review Standards. Walls are required as screening to enclose all above-ground garbage and trash containers, heating and cooling equipment and other outdoor maintenance and service facilities, and such walls should be a visual extension of the architecture of the Living Unit. The maximum allowable height of walls shall be eight (8) feet measured from the top of the exterior side of the wall to this natural grade immediately adjacent to said wall, and a wall may not exceed an average of six (6) feet in height measured as herein provided. The color of walls must conform to the color standards set forth in Section 5 below. Walls may not be intended to delineate property lines. Acceptability of wall locations and heights shall be determined by the Committee.

(e) **Garages.** In order to establish a visually attractive residential streetscape and to encourage architectural creativity, side entry garages shall be encouraged on all Living Units. No garage doors directly facing a residential street shall be permitted except in cases of extreme hardship as determined in the sole discretion of the committee. Hardship shall be determined on the basis of safety, Lot grade and configuration, visibility from neighboring property and the architectural appropriateness and integrity of the proposed Living Unit as sited on the Lot as it relates to surrounding residences. In the event a hardship is determined to exist and a front-entry garage is permitted (garage doors facing the street), the garage faced shall be stepped back or recessed from the primary face of the Living Unit so as to diminish its prominence, and in such event, the maximum number of street-facing doors shall be three (3). In the event that a 3-door front-entry garage is approved, the face of all three garage doors may not be on the same plane; at least one door must be stepped back or recessed from the others and further differentiated by its roof line and treatment. All garage stalls must be immediately adjacent to each other. No garage door shall be permitted to be more than two (2) feet higher than any other garage door or standardized garage doors and no such larger than normal garage doors shall be permitted on front-entry garages.

(f) **Solar Application.** Passive solar application or the orientation and design of the Living Unit for winter solar gain will reduce winter heating needs and will be encouraged. Solar collectors, however, can result in excessive glare and reflection and will only be approved by the Committee if they are integrated into the structures or landscaping on a Lot and are not Visible from Neighboring Property. Rooftop solar collectors, however, are not allowed, except as otherwise required by law.

(g) **HVAC Facilities.** All heating, air conditioning, evaporative cooling or similar facilities may be installed, constructed or maintained upon any Living Unit only if (i) such facilities are ground mounted and (ii) the committee has approved the installation and location of such facilities.

(h) **Tennis and Sports Courts.** Tennis and sports courts shall not be permitted within the Project.

(i) **Lights.** Only low level, low intensity accent lights will be allowed at exterior locations on Lots and such lights must be used in a manner that softens the exterior character of the Living Unit. Spotlights or other lights shall not be installed, maintained or used in a manner which causes glare to neighboring property or an annoyance to the Occupants of neighboring property within the Project, and all spotlights shall be mounted and maintained so that the light is directed downward at no less than a 45° angle. Overhead swimming pool lights shall not be allowed except as approved by the Committee. All outside lights will be of a height, design and type approved by the Committee.

(j) **Roofs.** All roofs shall be of a material, color and texture approved by the Committee. The overall appearance of the Living Unit will be an important consideration. The Committee may approve pitched roofs up to a maximum pitch of 5 in 12. The color of roofs must conform to the color standards set forth in Section 5 below. Reflective roof surfaces which cause excessive glare are not allowed. Only roofs composed of clay, sandcast or concrete flat tiles or another material approved by the Committee shall be constructed on any Lot. No asbestos or shake shingle roofs shall be allowed. No Residential Unit shall include roof top patios, gardens or similar facilities.

(k) **Driveway Construction and Use.** The location of a driveway on all Lots is subject to the Committee's approval. All driveways shall be paved with concrete or other solid materials approved by the Committee. Each driveway shall be at least fifteen (15) feet in width. The use of special texturing, integral color borders, etc. shall be required with respect to all driveways.

(l) **Basketball Goals and Play Structures.** No basketball goal, backboard or similar structure or devise, and no swing set or other play structure shall be placed or constructed on any Lot without the prior written approval of the Committee (including, but not limited to, approval of the design, height, color, appearance and location). In no event shall basketball goals be permitted to be attached to any Living Unit. All basketball goals must be installed, placed and kept no further forward on any Lot than the garage doors of the Living Unit situated on that Lot. Permanent basketball goals must include a free-standing pole, which must be painted the color of the body of the Living Unit. The blackboard of any basketball goal must be composed of clear material.

(m) **Setbacks.** The front, rear, left and right side yard setbacks shall conform with the code of the City.

(n) **Porte Cochere.** A porte cochere shall be permitted on a Lot so long as (i) the side of the porte cochere closest to the street does not extend closer than twenty-five (25) feet

from the front yard property line; (ii) the porte cochere extends completely over the width of the driveway; (iii) the porte cochere is for the sole purpose of vehicular unloading; and (iv) the design of the porte cochere is approved in writing by the Committee.

(o) **Antennas, Poles, Towers and Dishes.** Since television, radio, short wave, microwave, satellite and other antennas, poles, towers, masts, dishes or other similar devices ("Transmission/Reception Devices") can be unsightly, intrusive and inconsistent with the desired character and appearance of the Project, it is essential that the installation within the Project of all such Transmission/Reception Devices be monitored and controlled by the Association to eliminate or minimize the visibility of such devices from all areas within the Project. Accordingly, each Owner, as essential consideration for the deed to its Lot, and except as may be limited by any applicable law, shall be deemed to have covenanted that no Transmission/Reception Devices shall be placed, constructed, installed or maintained upon its Lot (including, but not limited to, upon the roof or exterior walls of any Living Unit or other structure) unless the Transmission/Reception Device is fully screened due to a parapet wall or other structure which conforms architecturally with the structure of the Living Unit or unless such Transmission/Reception Device is otherwise approved by the Committee; or the Transmission/Reception Device is otherwise reasonable and attractively screened so as to be minimally Visible From Neighboring Property. Any means of screening or concealment shall be subject to the Architectural and Landscaping Standard adopted by the Committee and shall be subject to approval by the Committee in accordance with Article 4 of this Declaration.

4. **Materials.**

(a) **Exterior Surface Materials.** Exterior surfaces shall be generally of natural materials that blend and are compatible with the natural landscape. Masonry and stucco are to be the predominant exterior surfaces. These materials provide an outer surface to withstand the climatic extremes. Large expanses of wood surfaces will not weather well in desert conditions and will not be approved. No untreated exposed metal or wood siding shall be allowed as an exterior construction material provided, however, that wood beams shall be an acceptable construction material.

(b) **Reflective Finishes.** No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces of hardware fixtures) including, without limitation, the exterior surfaces of any of the following: roofs, all projections above roofs, retaining walls, doors, trim, walls, fences, pipes and equipment.

(c) **Windows.** All aluminum window frames must be anodized-bronzed or another color approved by the Committee or coated with an equivalent finish acceptable to the Committee, and no white or mill colored finishes will be allowed.

5. **Color.** The color of all of the external materials must generally be earth tones and muted to allow the natural colors of the desert to predominate, and in no event shall external materials with a light reflective value (LRV) in excess of forty percent (40%) be used in the construction of any Improvements on any Lot. Approval of all colors of external materials used in construction of Improvements on any Lot must be obtained from the Committee prior to construction.

6. **Miscellaneous Architectural Standards.** In addition to other restrictions contained herein, the following restrictions shall apply to all Improvements constructed or installed on the Lots.

(a) **Mechanical Systems.** No rooftop mechanical units are allowed. All ground-based systems shall be screened by approved landscaping, building configuration or walls. Without limiting the generality of the foregoing, all heating, ventilation and other mechanical and/or other electrical equipment and similar items shall be screened by visual barriers so as not to be Visible from Neighboring Property. The visual barriers screening such equipment shall be designated upon any pedestrian walkways constructed adjacent thereto.

(b) **Service Yard.** Walls are required as screening for a service yard, if any, to enclose all above-ground heating and cooling equipment, garbage and trash containers, clotheslines and other outdoor maintenance and service facilities.

(c) **Mailboxes.** The design and location of mailboxes and newspaper tubes must be approved by the Committee, and the Committee may require that mailboxes be grouped. In any event, mailboxes are to be located in conformance with U.S. Postal Service requirements.

(d) **Additions; Alterations; Reconstruction.** All additions, alterations or reconstruction to the Living Unit or to any other Improvement on a Lot shall be reviewed and approved by the Committee to ensure conformance with previously approved design and quality.

(e) **Utility and Irrigation Meters and Panels.** No utility or service equipment or lines may be installed or located on any Lot except as has been approved by the Committee. No utility meter or apparatus shall be located on any pole or attached to the outside of any Improvement which is exposed to view from any street within the Project. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls as necessary to comply with the requirements, requests, regulations, orders, commissions or specifications of any public, quasi-public or private utility or any governmental agency or body provided that reasonable efforts shall be made to avoid placing any such meter, panel or equipment on the outside front wall of any Living Unit or other building facing the street directly in front of or to the side of the Living Unit. All sprinkler and irrigation controls, valves, panels and equipment installed on any Lot shall be installed so as not to be visible from any street directly in front of or to the side of any Lot.

(f) **New Construction.** All Improvements subject to this Architectural and Landscaping Standards shall be of new construction, and no buildings or other structures shall be moved from other locations onto any Lot.

7. **Site Development.** No excavation or Grading shall be performed on any Lot without the prior written approval of the Committee. No Owner shall erect, construct, maintain, permit or allow any fence, building pad or other Improvement which interrupts the normal drainage of the land within any Lot without the prior written approval of the committee. On-Lot retention shall be maintained pursuant to the ordinances of the City. No Owner shall alter the elevation of natural grade without the prior written approval of the Committee, and any Grading must be performed with minimum disruption to the Lot and shall not cause water existing on the

Lot to drain from different points, in greater quantities or at greater velocities than occurred in its natural condition. On-Lot retention shall be maintained pursuant to the ordinances of the City.

8. **Landscaping Standards.** Except as necessary in connection with the routine maintenance of Landscaping, no Landscaping shall be planted, installed or placed on or removed from any Lot unless and until a landscaping plan for such is submitted to and approved by the Committee, all in accordance with these Architectural and Landscaping Standards.

(a) **Landscaping Requirements.** Except as necessary in connection with the routine maintenance of Landscaping, no Landscaping shall be removed from or planted, placed or replaced on any Lot unless and until the plans and specifications for such Landscaping are submitted to and approved by the Committee, all in accordance with these Architectural and Landscaping Standards. If the front yard Landscaping (including any side yard Landscaping visible from any street adjacent thereto) is not installed, and if any areas disturbed during construction are not revegetated (the "Revegetation"), prior to the closing of the sale of a Lot improved with a Living Unit (a "Home") to a Purchaser who will be the first occupant of the Home (the "Initial Homeowner"), Initial Homeowner shall, within sixty (60) days of the date of issuance for its certificate of occupancy for its Home, cause the front yard Landscaping on its Lot to be fully installed and revegetate all areas disturbed during construction, all in accordance with a professionally prepared landscape plan which must be approved by the Committee. If the front yard Landscaping of a Lot is not installed or the Revegetation is not completed as aforesaid and the Association shall be entitled to take all available action necessary to cause such Landscaping and Revegetation to be installed, including the initiation of legal proceedings against the non-complying Owner. In the event of such non-compliance, the Association shall also have the right to levy a fine or lien against such Owner and suspend such Owner's rights under this Declaration and the Project Documents. The non-complying Owner shall be responsible for all fees and costs incurred by the Association or the Declarants in connection with the enforcement of this Section, including reasonable attorneys' fees, and such amounts shall be added to and become part of the Assessment for which the non-complying Owner's Lot is subject.

(b) **Protected Plants.** Protected plants are those existing desert plants which must be protected due to size and type pursuant to governmental standards. Improvements must be sited to avoid Protected Plants. If transplanting of Protected Plants is required in order to create a usable building pad, it is recommended that professionals be consulted.

(c) **Natural Area.** Each of the Lots is subject to City ordinances relating to the preservation of natural open spaces and by accepting a deed to a Lot, an Owner agrees to leave the Natural Area in its undisturbed and natural state and to comply with all such ordinances. Each Owner shall also fully comply with City statutes and ordinances which (i) prohibit grass from being planted or maintained on certain parts of Lots, (ii) restrict the amount of grass which may be installed on Lots, or (iii) restrict certain types of Landscaping from being installed on Lots. Owners understand that severe fines may be imposed for violation of any natural area open space and landscaping ordinances, and each Owner, by accepting a deed to a Lot, agrees to be responsible for any fines imposed by the City as a result of any violation of natural area open space and landscaping ordinances affecting such Owner's Lot.

(d) **Unenclosed Area.** The plant materials permitted to be used in the Unenclosed Area are listed on Appendix A, and no other plants or materials shall be used in the Unenclosed Area without the prior written consent of the Committee. Irrigation systems must be carefully designed to minimize overspray and runoff onto the Natural Area.

(e) **Enclosed Area.** Any plant materials except the Prohibited Plans may be used in the Enclosed Area.

(f) **Prohibited Plants.** Under no circumstances shall any of the Prohibited Plants be planted on any Lot.

(g) **Fire Break.** Adequate precautions should be taken with Landscaping to protect from brush fires. Please consult with the City for current guidelines and requirements.

9. **Design Review Procedures.** The process for obtaining approval from the Committee of proposed Improvements and Landscaping is set forth in this Section.

(a) **Initial Consultation.** Prior to preparing preliminary plans for any proposed Improvement and Landscaping, it is mandatory that the Owner and/or its Architect meet with the Committee or a member thereof or its appointed consultant to discuss proposed plans and to explore and resolve any questions regarding architectural and Landscaping requirements in the Project. This informal review is intended to provide guidance prior to initiating the preliminary design. An appointment with the Committee for a pre-design meeting should be made at least one week in advance. Conceptual elevations and a site plan must be presented at the pre-design meeting.

(b) **Preliminary Review.** Subsequent to the initial consultation, Owner and/or its Architect must submit to the Committee the following documents:

(i) Site plan (at no less than 10' = 30'), showing the location of all Improvements proposed to be constructed thereon; all driveway and parking areas; a grading plan, including existing and proposed topography; utility connections; and finished floor elevations. Also shown must be the area where building materials and debris will be confined during construction.

(ii) Preliminary Plans and Specifications for all Improvements proposed to be constructed on the Lot, including the exterior elevations, with both existing and proposed grades shown; the roof plan; floor plans; wall sections; and details of exterior decks or patios.

(iii) Samples of all exterior materials and colors under consideration. Samples must be presented on an 18" x 34" board (at least 1/8" thick) clearly marked with Owner's name, filing date and Lot number. All samples must be identified by the manufacturer's name, color and style number.

(iv) Preliminary landscape plan, on same scale as the site plan, showing areas to be irrigated, if any; proposed plants and sizes thereof; driveway; retainage, decorative features, etc.

(v) An approximate time schedule indicating starting and completion dates of construction, utility hook-up, completion of landscaping work and anticipated occupancy date.

(vi) A submittal fee or resubmittal fee, as applicable, as established from time to time by the Committee.

(c) **Final Review.** Subsequent to the preliminary review, the Owner and/or its Architect and/or Landscaping consultant must submit to the Committee a full set of detailed working drawings and specifications for all Improvements and Landscaping to be located on the Lot. The Committee shall not be deemed to have approved such plans until and unless it issues a written certificate of approval of such plans. All construction documents are to be in accordance with the final plans approved by the Committee. No construction shall commence until such final review is completed and such final approval is given by the Committee.

(d) **Review of Plans.** The Committee shall conduct reviews of plans during its regular meeting or at such other times as it deems appropriate. Owners, Architects and Contractors shall have no right to attend any meetings of the Committee unless specifically requested by the Committee. The Committee shall have the right to disapprove any plans and specifications if they are not complete or are not suitable or desirable, in the Committee's opinion, or aesthetic or other reasons, in light of the general plan for the improvement and development of the Property as an attractive, exclusive, harmoniously designed residential development of custom homes. In so passing upon the plans and specifications for any Improvements, including any Landscaping plans, and without limiting the foregoing rights of the Committee, the Committee shall have the right to take into consideration the character, color and design of the proposed Improvements, Landscaping, alterations, repair or change, the materials of which the proposed Improvements, Landscaping, alterations, repair or change is to be built or installed, the conformity of the proposed Improvements, Landscaping, alterations, repair or change with the standards contained in the schedules attached to the Architectural and Landscaping Standards, the site upon which the Improvements, Landscaping, alterations, repair or change is proposed to be erected, the extent to which natural growth and elevation would have to be altered, the harmony thereof with the surroundings and the effect of the proposed Improvements, Landscaping, alterations, repair or change on the adjacent or neighboring Lots. The Committee shall respond in writing within thirty (30) days after a submittal of all required documents is complete, provided that the plans are in accordance with the requirements outlined above. In the event the Committee fails to approve or disapprove in writing an application for an improvement, addition or alteration to a Lot within thirty (30) days after its receipt of a complete application, duly prepared in accordance with the rules promulgated by the Declarant or the Board, as the case may be, approval of the Committee will not be required for the Improvements, additions or alterations which were subject to the submitted application, provided such improvements, additions or alterations are carried out in precise conformity with such application. Results of reviews will not be discussed over the telephone by members of the Committee with an Owner or its Architect or Contractor. Any responses an Owner may wish to make in reference to the Committee's notice following review of submitted plans must be addressed to the Committee in writing. An application fee of Two Hundred Fifty Dollars (\$250) per application (except for any application submitted by Builder), payable to the Association,

may be required at the time the preliminary Plans are submitted if an outside architectural or Landscaping consultant is used by the Committee to review the submission.

(e) **Resubmittal of Plans.** In the event of any disapproval by the Committee of a submission, a resubmission of plans should follow the same procedure as an original submittal unless the committee determines that the required revisions are minor in nature, in which case the Committee may, in its sole discretion, approve the plans with conditions and waive resubmission and/or payment of a new application fee.

(f) **Commencement of Construction.** Upon receipt of final approval from the Committee, the Owner shall diligently proceed with the commencement and completion of all construction pursuant to the approved plans. However, at least three days prior to commencement of construction or any other on-site work, Owner shall notify the Committee so that it can make a visual inspection of the Lot to ensure that the final building layout and staking is in accordance with the final plans approved by the Committee. Owner shall satisfy all conditions and commence construction pursuant to the approved plans within six (6) months from the date of such approval. If Owner shall fail to comply with this paragraph, any approval given shall be deemed revoked unless, upon the written request of Owner made to the Committee prior to the expiration of such six (6) month period and upon a finding by the Committee that there has been no change in circumstances, the time for such commencement is extended in writing by the Committee. Owner shall in any event complete construction of the foundation and all exterior surfaces (including the roof, exterior walls, windows and doors) of any Improvement on its Lot within one (1) year after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to Owner due to strikes, fires, national emergencies or natural calamities.

(g) **Work in Progress – Inspection.** The Committee may inspect all work in progress and give notice of noncompliance. Absence of such inspection and notification during the construction period does not constitute either approval of the Committee of work in progress or compliance with these Architectural and Landscaping Standards or the Declaration.

(h) **Completed Work.**

(i) Upon final completion of any Improvement or Landscaping for which final approval was given by the Committee, Owner shall give written notice of completion to the Committee.

(ii) Within such reasonable time as the Committee may determine, but in no case exceeding ten (10) days from receipt of such written notice of completion from owner or its duly authorized representative, the Committee may inspect the Improvements. If it is found that such work was not done in strict compliance with the final plan approved by the Committee, it shall notify Owner in writing of such noncompliance, specifying in reasonable detail the particulars of noncompliance, and shall require Owner to remedy the same.

(iii) If, upon the expiration of thirty (30) days from the date of such notification by the Committee, Owner shall have failed to remedy such

noncompliance, the Committee shall notify the Owner, and the Association may take such action as is necessary to remove the noncomplying Improvements or otherwise bring the noncomplying Improvements into compliance including, without limitation, injunctive relief and/or the imposition of a fine.

(i) **Prior Approval.** The approval by the Committee of any plans, drawings or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the Committee under these Architectural and Landscaping Standards or the Declaration shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additionally submitted for approval.

(j) **Right of Waiver.** The Committee reserves the right to waive or vary any of the procedures or standards set forth herein at its discretion for good cause shown if the Committee determines in its discretion that (i) the procedure or standard would create a substantial hardship or burden on an Owner or (ii) the waiver will not have any substantial adverse effect on the other Owners in the Project.

(k) **Subsequent Changes.** Any change, deletion or addition to the plans and specifications approved by the Committee must be approved in writing by the Committee. Additional Improvements or Landscaping to a Lot and/or any changes after completion of approved Improvements must be submitted to the Committee for approval prior to making such changes and/or additions.

10. **Construction Regulations.** Contractors, Owners and any subcontractors shall be bound by these regulations. Any violation by a Contractor or subcontractor shall be deemed to be a violation by the Owner of the Lot.

(a) **Debris and Trash Removal.** Owners and Contractors shall clean up all trash and debris on the construction site at the end of each day. Trash and debris shall be removed from each construction site at least once a week to a dumping site located off the Project. Lightweight material, packaging and other items shall be covered or weighed down to prevent wind from blowing such materials off the construction site. Owners and Contractors are prohibited from dumping, burying or burning trash anywhere on the Lot or in the Project, except in areas, if any, expressly designated by the Committee. During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore or affecting other Lots. Any clean-up costs incurred by the Association in enforcing these requirements will be billed to Owner. Dirt, mud or debris resulting from activity on each construction site shall be promptly removed from roads and driveways or other portions of the Project.

(b) **Sanitary Facilities.** Each Owner and Contractor shall be responsible for providing adequate sanitary facilities for its construction workers. Portable toilets or similar temporary toilet facilities shall be located only on the site itself or in areas approved by the Committee.

(c) **Conservation of Landscaping Materials.** Owners and Contractors are advised of the fact that the Lots contain valuable native plants and other natural landscaping materials that should be protected during construction, including topsoil, rock outcroppings and boulders and plant materials. Protected features of the landscape for which removal is prohibited should be marked and protected by flagging, fencing or barriers. The committee may independently flag major terrain features or plants which are to be fenced off for protection. Any trees or branches removed during construction must be promptly cleaned up and removed immediately from the construction site.

(d) **Off-Site Materials.** Any rocks, plant material, topsoil or similar items shall not, without the prior written consent of the Committee, be removed from any Lot within the Project, including construction sites.

(e) **Restoration or Repair of other Damaged Property.** Damage and scarring to adjacent Lots, streets and/or Improvements constructed thereon will not be permitted. If any such damage occurs, it must be repaired and/or restored promptly at the expense of the Owner of the Lot. Upon completion of construction, each Owner and Contractor shall clean its construction site and repair all property which was damaged including, but not limited to, restoring grades, plants, shrubs and trees as approved or required by the Committee and repair of streets, driveways, pathways, drains, culverts, ditches, signs, lighting and fencing.

(f) **Construction Access.** The only approved construction access during the time Improvements are being built will be over the approved driveways for the Lot unless the Committee approves an alternative access point.

(g) **Vehicles and Parking Areas.** Construction crew shall not park on, or otherwise use, other Lots. Private and construction vehicles and machinery shall be parked only in areas designated by the Committee. All vehicles shall be parked so as not to inhibit the flow of traffic and within the designated areas so as not to damage the Natural Areas.

(h) **Equipment Cleaning.** Changing oil on any vehicle or equipment or allowing concrete suppliers and contractors to clean their equipment on the site itself at other than a location designated for that purpose by the Committee is prohibited.

(i) **Dust and Noise.** Owner and his Contractor shall be responsible for controlling dust and noise from the construction site (including the use of radios by construction crews).