

OFFICIAL RECORDS OF MARICOPA
COUNTY RECORDER HELEN PURCELL
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WHEN RECORDED, RETURN TO:

Scott Homes IV
2151 East Broadway Road, Suite 210
Tempe, Arizona 85282
Attention: Jesse Flores
33-5443

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
DOBBINS PLACE**

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This Declaration of Covenants, Conditions and Restrictions for Dobbins Place (the "Declaration") is made this 5th day of APRIL, 2007, by Scott Homes IV, L.L.C., an Arizona limited liability company ("Declarant").

RECITALS

A. Declarant is the fee owner of certain real property located in Maricopa County, Arizona, described on Exhibit A attached hereto (as further defined in Article 1, the "Real Property" or the "Property").

B. Declarant intends to develop the Real Property into a planned residential neighborhood of single family detached residences to be known as Dobbins Place ("Dobbins Place" or, as further defined in Article 1, the "Project").

C. Declarant deems it desirable to establish covenants, conditions, restrictions and easements upon the Real Property and each and every portion thereof, which will constitute a general scheme for the development, government and management of the Real Property, and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Property and enhancing the quality of life in the Project.

D. Declarant deems it desirable for the efficient development, government and management of the Real Property to create an owners association to which shall be delegated and assigned the powers of (i) administering and enforcing these covenants, conditions and restrictions, (ii) collecting and disbursing funds pursuant to the assessments and charges hereinafter created, and (iii) performing such other acts as are herein provided to which generally benefit its members, the Real Property, and the owners of any interest therein.

E. The Dobbins Place Homeowners Association, Inc., a nonprofit corporation (as further defined in Article 1, the "Association"), has been, or will be, incorporated under the laws of the State of Arizona for the purpose of exercising such powers and functions referenced in Recital D above.

F. Declarant desires and intends that the owners, mortgagees, beneficiaries and trustees under trust deeds, occupants and all other persons hereinafter acquiring any interest in the Real Property shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights hereinafter set forth, all of which are declared to be in furtherance of a plan to promote the Real Property.

NOW, THEREFORE, Declarant, for the purposes above set forth, declares that the Real Property, including each Lot, hereafter shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights hereinafter set forth, all of which shall run with the land and be binding upon the Real Property and all parties having or acquiring any right, title or interest in or to the Real Property, or any part thereof, and shall inure to the benefit of each owner thereof, Declarant, the Association, and each member of the Association.

ARTICLE 1 **DEFINITIONS**

Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows. Defined terms should appear throughout this Declaration with the initial letter of such term capitalized.

1.1 “Additional Property” shall mean real property and any improvements thereon, which is added to the Project, and made subject to this Declaration, in one or more additional phases, by a recorded Declaration of Annexation.

1.2 “Architectural Committee” means the architectural committee or committees established by the Board.

1.3 “Architectural Rules” means the rules, guidelines, standards and procedures adopted by the Architectural Committee (which may be amended from time to time), governing architectural control of the Project, and which have been approved by the Board.

1.4 “Articles” means the Articles of Incorporation of the Association, which have been, or will be, filed in the Office of the Corporation Commission of the State of Arizona, as such Articles may be amended from time to time, or of any successor thereto.

1.5 “Assessments” means the charges levied and assessed pursuant to this Declaration.

1.6 “Association” means the Dobbins Place Homeowners Association, Inc., an Arizona nonprofit corporation, its successors and assigns.

1.7 “Association Rules” means the rules and regulations adopted by the Board of Directors of the Association pursuant to this Declaration, as may be amended from time to time.

1.8 “Board” means the Board of Directors of the Association.

1.9 “Bylaws” means the Bylaws of the Association (or of any successor thereto) adopted in accordance with the Articles, as such Bylaws may be amended from time to time.

1.10 “City” means the City of Phoenix, Arizona.

1.11 “Common Area” means all real property, and the improvements thereon, owned by the Association, including easements granted to the Association, or leased from time to time

by the Association, for the common use and enjoyment of the Members. Such Common Area shall include, but not be limited to, all roadways within the Project providing ingress and egress thereto.

1.12 “Common Expenses” means the actual and estimated costs incurred by the Association in administering, maintaining and operating the Project, including, but not limited to, the maintenance, management, operation, repair and replacement of the Common Area; collection of unpaid Assessments; management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees; the costs of fire, casualty, liability, workmen’s compensation and/or other insurance covering the Common Area or obtained by the Association; reasonable reserves, if deemed appropriate by the Board; the costs of bonding of the members of the Board, the Association officers, and professional managing agent or any other person handling the funds of the Association; taxes paid or payable by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Area; costs incurred by the Architectural Committee or other committees established by the Board; any other expenses incurred by the Association for any reason whatsoever in connection with the Common Area; the costs of any other items designated by this Declaration, the Articles, Bylaws, Association Rules or Architectural Rules as being a Common Expense, payable by the Association, or a necessary or permissible expense for the maintenance, administration and/or operation of the Project and/or Common Area, whether stated or implied; and those costs incurred in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.13 “Declarant” means Scott Homes IV, L.L.C., or any Owner to whom Declarant assigns Declarant’s rights, powers and duties hereunder (which Declarant may do in its sole and absolute discretion) and who accepts the same, as may be established by a Notice of Assignment referring to this Declaration and recorded in the Real Property Records of Maricopa County, Arizona. For the purposes hereof, once an assignee has accepted the assignment of Declarant’s rights, powers and duties hereunder, any reference herein to “Declarant” shall thereafter be deemed to include such assignee.

1.14 “Declaration” means this instrument, as it from time to time may be amended.

1.15 “Default Rate of Interest” means an annual rate of interest equal to the “prime rate” as announced by JP Morgan, Arizona from time to time while interest is accruing plus three (3) percentage points (with interest hereunder adjusted as and when said prime rate is adjusted). Notwithstanding anything herein to the contrary, if, during any periods, the highest lawful rate of interest which may be paid by the Person required to pay the Default Rate of Interest hereunder, despite the provisions hereof, is less than the rate provided above, the interest payable by such Person during said periods shall be the highest lawful rate. If Bank One should cease doing business or no longer announce its prime rate as described above, the Association may compute interest hereunder upon the announced prime rate of any other bank doing business in Arizona. If such banks should cease announcing prime rates, the Association may specify the rate under which the Association would reasonably have to pay to borrow money at the time.

1.16 “Dwelling Unit” means any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by a Single Family.

1.17 “Improvement(s)” shall mean each and every physical improvement of any kind whatsoever to any portion of the Real Property, including, but not limited to, any excavation, grading, fill work, building, Dwelling Unit, walkway, driveway, road, parking area, wall, fence, swimming pool, utility installation, drainage facility, stairway, patio, courtyard, pole, sign, or any trees, grass, plants, shrubs or other landscaping and any and all components of any of the foregoing (including, but not limited to, exterior paint, texture, color and finish scheme) and any and all modifications, alterations of, or additions to, any of the foregoing.

1.18 “Lot” means any parcel of real property designated as a numbered lot on the Plat and any Improvements located thereon. The platted lots are referred to collectively herein as “Lots,” and all such Lots in the Project are subject to the Declaration. The Lots shall be further categorized and referred to as “A-1 Lots,” i.e., those Lots sometimes referred to as “Classic Series Lots,” and “A-2 Lots,” i.e., those Lots sometimes referred to as “Cottage Lots.” Lots within the initial Property shall be both A-1 Lots and A-2 Lots, as such Lots shall be designated by Declarant (e.g., on any applicable Plat). Additional Property, if and when annexed as permitted hereunder, may contain A-1 Lots and/or A-2 Lots, as such Lots may be designated by Declarant (e.g., in connection with such annexation or on any applicable Plat).

1.19 “Member” means every Person who qualifies for membership in the Association pursuant to this Declaration, including Declarant so long as Declarant owns any Lot within the Project.

1.20 “Mortgage” means any duly recorded mortgage or deed of trust encumbering a Lot. A “First Mortgage” shall refer to a Mortgage that has priority over any other Mortgage encumbering a specific Lot.

1.21 “Mortgagee” means the mortgagee or beneficiary under any Mortgage. A “First Mortgagee” shall mean the holder of a Mortgage that has priority over any other Mortgage encumbering a Lot.

1.22 “Owner” means one or more Persons who are alone or collectively the record owner of fee simple title to a Lot, including Declarant, or the vendee under an installment land sales contract, but excluding those having any such interest merely as security for the performance of an obligation. If fee title to a Lot is owned other than by Declarant, the Owner of the fee title and not the lessee of such Lot shall be deemed the Owner regardless of the term of the lease.

1.23 “Person” means an individual, corporation, partnership, trust, limited liability company or other entity capable of holding title to real property, and their respective heirs, successors and assigns.

1.24 “Plat” means collectively the plat of Dobbins Place as now recorded, or to be recorded in the future, in the Official Records of Maricopa County, Arizona, which subdivides the Real Property, and as thereafter from time to time amended or supplemented, together with all subsequent plats of subdivision for Additional Property annexed to the Real Property.

1.25 “Project” means the Real Property located in Maricopa County, Arizona, which is described in Exhibit A attached hereto, together with all Improvements located thereon or to be

located thereon and all easements, rights, and appurtenances belonging thereto, together with all other real property and Improvements subsequently annexed to the Real Property.

1.26 “Purchaser” means any Person other than Declarant who by means of a voluntary transfer becomes the Owner of a Lot other than a Person who, in addition to purchasing a Lot, is assigned any or all of Declarant’s rights under this Declaration.

1.27 “Real Property” or “Property” means all the real property located in Maricopa County, Arizona, which is described on Exhibit A attached hereto, together with all Improvements located thereon or to be located thereon and all easements, rights and appurtenances belonging thereto, together with all other real property and Improvements subsequently annexed to the Real Property.

1.28 “Residence” means any subdivided Lot shown on the Plat, together with the residential Dwelling Unit, garage, patio and other Improvements thereon and all rights and easements appurtenant thereto granted pursuant to this Declaration and to the deed of conveyance.

1.29 “Single Family” or “Family” means an individual, or a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, together with their domestic servants, who maintain a common household.

1.30 “Visible From Neighboring Property” means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property (which may include a Lot or any portion of the Common Area) at an elevation no greater than the elevation of the base of the object being viewed.

1.31 “Visible From the Street” means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of the adjacent roadway at an elevation no greater than the elevation of the base of the object being viewed.

1.32 “Working Capital Reserve Fund” means the reserve fund described in Section 5.15 herein.

ARTICLE 2

DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION

2.1 Description of Project. The Project shall be composed of the Real Property described in Exhibit A attached hereto, together with all Improvements located thereon or to be located thereon and all easements, rights and appurtenances belonging thereto, together with all other real property and Improvements subsequently annexed to the Real Property.

2.2 Name of Project. The Project shall be referred to as Dobbins Place.

2.3 Disclaimer of Representations. Notwithstanding anything herein to the contrary, Declarant makes no representations or warranties whatsoever that (i) the Project (including Common Areas) will be completed or maintained in accordance with any particular plans,

including the plans for the Project as they exist on the date this Declaration is recorded; (ii) any portion of the Property subject to this Declaration will be committed to or developed for a particular use or for any use; (iii) the use of any portion of the Property subject to this Declaration will not be changed in the future; (iv) any real property now owned or hereafter acquired by Declarant is or will be subjected to this Declaration; or (v) any or all of the restrictive covenants contained herein are or in the future will be deemed to be valid or enforceable.

ARTICLE 3
THE ASSOCIATION

3.1 General Duties and Powers. In addition to the duties and powers provided by law and enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this Article.

3.2 General Duties of the Association. The Association, through its Board, shall have the duty, obligation and power to:

A. Maintain and otherwise manage the Association and all of its properties to the full extent permitted by law, including:

- (i) the Common Area and all Improvements thereon;
- (ii) the turf/grass and other landscaping in the courtyards of A-2 Lots, in accordance with the provisions of Section 9.2;
- (iii) all personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association;
- (iv) all property, real or personal, which the Association is obligated to repair or maintain pursuant to this Declaration; and
- (v) all property, real or personal, which the Association is obligated to repair or maintain pursuant to laws, rules or regulations or pursuant to agreements with the City or other governmental authorities.

B. Pay all real and personal property taxes and other charges assessed to or payable by the Association.

C. Obtain for the benefit of the Common Area, water, electric, refuse collections and other services.

D. Establish an Architectural Committee to govern issues set forth in this Declaration as being within the purview of the Architectural Committee as well as other issues the Board deems suitable for the Architectural Committee. All members of such committees shall hold office for the balance of the calendar year appointed, or until their successors have been approved.

E. Perform the maintenance obligations, obtain and maintain in force and effect policies of liability insurance (including but not limited to officers, directors and umbrella coverage, as applicable) and perform such other obligations of the Association as may be set forth in any easement by Declarant in favor of the Association which shall be recorded in the Official Records of Maricopa County, Arizona following the recording of this Declaration.

3.3 General Powers of the Association. The Association, through its Board, shall have the power but not the obligation to:

A. Enforce the provisions of this Declaration, the Articles, Bylaws, Association Rules and Architectural Rules by appropriate means and carry out the obligations of the Association hereunder.

B. Employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of residential developments to perform all or any part of the duties and responsibilities of the Association.

C. Acquire interests in real or personal property for offices or other facilities that may be necessary or convenient for the management of the Project, the administration of the affairs of the Association or for the benefit of the Members.

D. Borrow money as may be needed in connection with the discharge by the Association of its powers and duties.

E. Provide maintenance of other maintenance items to the extent determined desirable by the Board.

F. Negotiate and enter into contracts with mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by Mortgages within the Project.

3.4 Legal Proceedings. Except for any legal proceedings initiated to (i) enforce any use restrictions, easement rights or non-monetary obligations of Owners (other than Declarant) expressly set out in this Declaration; (ii) enforce any Association Rules; (iii) enforce any Architectural Rules; (iv) collect any unpaid Assessments levied pursuant to this Declaration; or (v) pursue or resolve any "small claims" (i.e., matters in which the amount in controversy could not reasonably be expected to exceed \$25,000.00), the Association (or Board) shall not initiate legal proceedings or join as a plaintiff in legal proceedings (A) without the prior approval of Members of the Association entitled to cast three-fourths (3/4) of the votes of the Association, excluding the vote of any Owner who would be a defendant in such proceedings; and (B) with respect to matters involving property or improvements to property, unless (1) such property or improvements is owned either by the Association or jointly by all members of the Association; (2) the Association has the maintenance responsibility for such property or improvements pursuant to this Declaration; or (3) the Owner who owns such property or improvements consents in writing to the Association initiating or joining such legal proceeding. The costs of any legal proceedings initiated by the Association which are not included in the above exceptions shall be funded by the Association with monies that are specifically collected for that purpose

and the Association shall not borrow money, use reserve funds, or use monies collected for other specific Association obligations for such purpose. Nothing in this Section shall preclude the Board from incurring expenses for legal advice in complying with statutes or regulations related to the operation of the Association or otherwise in the normal course of operating the Association when legal proceedings are not involved. Notwithstanding anything herein to the contrary, this section may not be modified or amended without the prior approval of Members of the Association entitled to cast three-fourths (3/4) of the votes of the Association.

3.5 Association Rules. The Board shall be empowered to adopt, amend, or repeal such rules and regulations as it deems reasonable and appropriate (the "Association Rules"), binding upon all Persons subject to this Declaration and governing the use and/or occupancy of the Common Area or any other part of the Project. The Association Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments, subject to any limitations provided by law (see, e.g., A.R.S. §33-1803(B)). The Association Rules shall govern such matters in furtherance of the purposes of the Association, provided, however, that the Association Rules may not discriminate among Owners except as expressly provided or permitted herein, and shall not be inconsistent with this Declaration, the Articles or Bylaws. The Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and all other Persons having any interest in, or making any use of, the Real Property, whether or not actually received thereby. The Association Rules, as adopted, amended or repealed, shall be available to each Owner upon request. In the event of any conflict between any provision of the Association Rules and any provisions of this Declaration or the Articles or Bylaws, the provisions of this Declaration, the Articles or Bylaws shall prevail. In the event of any conflict or inconsistency between or among the Declaration, the Articles and/or the Bylaws, the Declaration shall govern and control over the Articles and Bylaws. The Articles shall govern and control over the Bylaws.

3.6 Indemnification. To the fullest extent permitted by law, every director and every officer of the Association, and Declarant (to the extent a claim may be brought against Declarant by reason of its appointment, removal or control of members of the Board) shall be indemnified by the Association, and every other person serving as an employee or direct agent of the Association, or on behalf of the Association as a member of a committee or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including attorneys' fees reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association (or, in the case of Declarant, by reason of having appointed, removed or controlled or failed to control members of the Board), or any settlement thereof, whether or not he is a director, officer or serving in such other specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that the actions (or omissions) of such officer, director, or other person which are the cause of such proceedings and/or liability, were not willfully committed in derogation of their duties, and/or were not undertaken with gross negligence or fraudulent or criminal intent. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such persons may be entitled at law or otherwise.

3.7 Non-Liability of Officials. To the fullest extent permitted by law, neither Declarant, the Board, or any other committees of the Association, nor any member thereof, or

any directors or officers of the Association, shall be liable to any Owner, tenant, the Association or any other person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which Declarant, the Board, or such committees or persons reasonably believed to be within the scope of their respective duties.

3.8 Easements. In addition to the blanket easements granted in the Declaration, any development agreement contemplated in the zoning ordinance, or any plats recorded by Declarant, the Association is authorized and empowered to grant upon, over, across, through or under Common Area owned or controlled by the Association such permits, licenses, easements, and rights-of-way for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private utility purposes, roadways or other purposes as may be reasonably necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Lot resulting from such grant shall be repaired by the Association at its expense.

3.9 Accounting. The Association, at all times, shall keep, or cause to be kept, true and correct records of account, using a recognized cash or accrual accounting method as approved by the Board, and shall have available for the inspection of all Owners at reasonable times during regular business hours, such books which shall specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise. Audited reports will not be required.

3.10 Records. The Association shall, upon reasonable written requests and during reasonable business hours, make available for inspection by each Owner the books, records and financial statements of the Association together with current copies, as amended from time to time, of this Declaration and the Articles, Bylaws and Association Rules. The Association may charge a reasonable fee for such copies and inspection. Declarant shall be under no obligation to make its own books and records available for inspection by any Owner, Member, or other person.

3.11 Delegation of Powers. The Association shall have the right, according to law, to delegate to committees, officers, employees or agents any of its duties and powers under this Declaration, the Articles, Bylaws and Association Rules; provided, however, no such delegation to a professional management company, manager or accounting firm or otherwise shall relieve the Association of its obligation to perform or have performed any such delegated duty.

ARTICLE 4

MEMBERSHIP IN THE ASSOCIATION

4.1 Membership. Every Owner shall be a Member of the Association. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws, Association Rules and Architectural Rules to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners shall be appurtenant to and may not be separated

from the interest of such Owner in any Lot. Ownership of a Lot shall be the sole qualification for membership; provided, however, a Member's voting rights may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules. Not more than one membership shall exist based upon ownership of a single Lot. Lot Owners shall have automatic membership and voting rights in the Association. Membership and voting rights in the Association shall be subject to the terms and conditions set forth in the Declaration.

4.2 Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon transfer or conveyance of ownership of a Lot. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. Any transfer or conveyance of ownership of a Lot shall operate to transfer the membership appurtenant to the Lot to the new Owner thereof. The Association shall levy a transfer fee for each ownership transfer.

4.3 Voting Rights. An Owner's right to vote shall vest immediately upon taking title to such Owner's Lot. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and Association Rules.

4.4 Classes of Voting Membership. The Association shall have three (3) classes of voting membership: "Class A-1," "Class A-2" (Class A-1 and Class A-2 being referred to collectively as "Class A") and "Class B."

Class A-1 and Class A-2: Class A-1 Members shall be all Owners of A-1 Lots with the exception of Declarant (except as provided for hereinafter). Class A-2 Members shall be all Owners of A-2 Lots with the exception of Declarant (except as provided for hereinafter). Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one Person owns a portion of the interest in a Lot required for membership, each such Person shall be a Member and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. The vote for each Lot shall be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes should be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that the individual casting the vote was acting with the authority and consent of all other Owners of the same Lot. In the event that more than one vote is cast for a particular Lot, none of such votes shall be counted and such votes shall be deemed void.

Class B: The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership; provided that the Class B membership shall cease and be converted to Class A membership (i.e., Class A-1 and/or Class A-2, as applicable,

depending upon whether a particular Lot in question is an A-1 Lot or an A-2 Lot) on the happening of either of the following events, whichever occurs earlier:

- (a) When the number of votes entitled to be cast by Class A Members exceeds the number of votes entitled to be cast by the Class B Members; or
- (b) When Declarant notifies the Association in writing that it relinquishes its Class B membership.

4.5 Voting for Board of Directors. Prior to the first vote for members of the Board after the Class B membership has been converted to Class A membership, the Board shall be constituted of two (2) directors, appointed by Declarant. Commencing with the first vote for members of the Board after the Class B membership has been converted to Class A membership, the Board shall be enlarged and be constituted of an odd number of directors, totaling three (3) or more in number. One director shall be elected "at large" by all of the Members; half of the remaining directors shall be elected by the Class A-1 Members; and the other half of the remaining directors shall be elected by the Class A-2 Members.

4.6 Corporate or Trust Membership. In the event any Lot is owned by a corporation, partnership, trust, limited liability company or other entity, the corporation, partnership, trust, limited liability company or other entity shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the chief executive officer, if any, of such corporation, partnership, trust, limited liability company or other entity, shall have the power to vote the membership, and if there is no chief executive officer, then the board of directors, general partner, manager or similar officer of such corporation, partnership, trust, limited liability company or other entity shall designate who shall have the power to vote the membership.

4.7 Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Declaration, the Articles, Bylaws, Association Rules or Architectural Rules for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association or to seek office as a director of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorney's fees associated therewith, are brought current. In the event any Owner is in default of any non-monetary obligation of this Declaration, the Articles, Bylaws, Association Rules or Architectural Rules, and remains in default for more than fifteen (15) days after notice from the Association to cure same, said Member's right to vote as a Member of the Association or to seek office as a director of the Association shall be suspended until said default is cured.

ARTICLE 5 **COVENANT FOR ASSESSMENT**

5.1 Creation of the Lien and Personal Obligation. Each Owner (other than Declarant) of any Lot by acceptance of a deed or other conveyance by which such Owner becomes the Owner of a Lot, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association Annual Assessments, Supplemental

Assessments and Special Assessments, such Assessments and/or other fees to be fixed, established and collected from time to time as provided in this Declaration. Such Assessments and/or other fees, together with interest thereon, late charges, attorney's fees, court costs, and other costs of collection thereof, shall be a continuing lien upon the Lot against which each such Assessment is made and shall also be the personal obligation of the Owner of such Lot at the time when such Assessment and/or other fees become due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them. Mortgagees are not required to collect Assessments.

5.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for (i) the operation and management of the Association, (ii) the enforcement of the Architectural Rules and related guidelines, and to otherwise enforce the terms, covenants and conditions set forth in this Declaration, the Articles, the Bylaws or Association Rules, (iii) payment of Common Expenses in connection with the upkeep, maintenance and improvement of the Common Area and such portion of the Lots and such Improvements located thereon as the Association is obligated to maintain under the provisions of the Declaration, and/or (iv) promotion of the recreation, health, safety and welfare of the Owners and residents of Lots within the Real Property, or any other matter deemed necessary for the efficient operation of the Association.

5.3 Annual Assessments.

A. 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 this Declaration, the Board, for each fiscal year of the Association, shall assess against each Lot an annual Assessment (the "Annual Assessment"). Inasmuch as the Association shall incur costs in maintaining the turf/grass and other landscaping in the courtyards of A-2 Lots, as described in Section 9.2, that shall not be incurred in connection with the A-1 Lots, the Annual Assessment established for each of the A-2 Lots shall include a component reflecting those additional costs, which shall not be assessed to the A-1 Lots. Thus it is expected and permitted that the Annual Assessment established for each of the A-2 Lots shall be greater than that established for each of the A-1 Lots as a result of this special allocation of costs. No other distinction shall be made between A-1 Lots and A-2 Lots in the establishment of the Annual Assessment.

The Annual Assessment, together with any Supplemental Assessment, levied during any fiscal year shall not exceed the maximum Annual Assessment for such fiscal year which shall be determined as follows:

(i) Until December 31 of the year in which the first Lot is conveyed by Declarant, the maximum Annual Assessment for each A-1 Lot shall not exceed \$960.00, and the maximum Annual Assessment for each A-2 Lot shall not exceed \$1080.00.

(ii) Starting January 1 of the year immediately following the conveyance of the first Lot by Declarant, the Board may, without a vote of the membership of the Association, increase the applicable maximum Annual Assessment during each fiscal year of the Association by the greater of (i) an amount proportional to the amount of increase during the

prior fiscal year in the Consumer Price Index for All Urban Consumers, U.S. City Average (1982 – 84 = 100), published by the United States Department of Labor, Bureau of Labor Statistics, or in the event said index ceases to be published, by any successor index recommended as a substitute therefore by the United States government, or if none, the most reasonably comparable index available as determined by the Board, or (ii) ten percent (10%). The Board may fix the applicable Annual Assessment at any amount not in excess of the maximum Annual Assessment.

(iii) Starting January 1 of the year immediately following the conveyance of the first Lot by Declarant, the applicable maximum Annual Assessment may be increased by an amount greater than the maximum increase allowed pursuant to Section 5.3(B)(ii) above only with the approval of Members representing at least two-third (2/3) of the votes (of each class) entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purposes.

(iv) Increases shall comply with applicable law (see, e.g., A.R.S. §33-1803(A)).

5.4 Supplemental Assessments. In the event the Board shall determine that its funds budgeted or available in any fiscal year are or will become inadequate to meet all expenses of the Association, for any reason, including, without limitation, nonpayment of Assessments by the Members, it shall determine the approximate amount of such inadequacies for such fiscal year and prepare a supplemental budget and may, without a vote of the membership of the Association, levy a supplemental Assessment (a “Supplemental Assessment”) against each Lot in such amount as the Board deems necessary in order to obtain the amount of such inadequacies. Notice of any such Supplemental Assessment shall be given to each Owner. The Supplemental Assessment shall be paid on such dates and in such installments as may be determined by the Board.

5.5 Special Assessments. In addition to the Annual Assessment and Supplemental Assessment, the Association may levy, in any year, a special Assessment (a “Special Assessment”) applicable only to that fiscal year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital Improvement of the Common Area, including fixtures and personal property related thereto, the operation and management of the Association, the enforcement of the Architectural Rules and related guidelines and property maintenance obligations as provided in this Declaration and, to the extent permitted in this Declaration, to otherwise enforce the terms, covenants and conditions set forth in this Declaration, the Articles, the Bylaws or Association Rules, and/or for any other lawful Association purpose, provided that, unless otherwise provided herein, any such Special Assessments shall have the assent of Members having at least two-thirds (2/3) of the votes (of each class) entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose. A Special Assessment may also be charged against a particular Owner and such Owner’s Lot, without the requirement of a vote of the membership, to reimburse the Association for costs incurred in bringing the Owner and such Owner’s Lot into compliance with the provisions of this Declaration, the Articles, Bylaws, Association Rules and/or Architectural Rules, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws, Association Rules and/or Architectural Rules, together with attorney’s fees

and other charges payable by such Owner, pursuant to the provisions of the Declaration, plus interest thereon as provided for in this Declaration.

5.6 Notice and Quorum for Any Action of Assessment. Written notice of any meeting called for the purpose of taking any action authorized under the foregoing paragraphs shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast more than half of all the votes of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the quorum required at the first meeting (i.e., twenty five percent (25%) of all the votes of Members). No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.7 Uniform Rate of Assessment. Annual and Supplemental Assessments and, to the extent assessed against all the Lots, Special Assessments, must be fixed as a uniform rate for all Lots, except as provided herein.

5.8 Date of Commencement of Assessments; Due Dates. The Annual Assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of the first Lot to a Purchaser. The first Annual Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of the fiscal year, and the Annual Assessment for the current fiscal year shall remain in effect until the thirtieth (30th) day after the Board fixes the Annual Assessment for the upcoming fiscal year. Written notice of the Annual Assessment shall be sent to every Owner subject thereto prior to the commencement of the fiscal year; provided, however, that failure to give such notice shall not affect the validity or enforceability of the Assessment as fixed by the Board. The Board may require or allow the Annual, Supplemental or Special Assessments to be paid in installments, including but not limited to monthly or quarterly installments, as the Board may determine to be appropriate, provided, however, that if the Board does not elect to allow Annual Assessments to be made in quarterly or monthly installments, the full Annual Assessment (taking into account any prorations as may be provided herein) shall be due and payable by (i) May 1 of the year for which such Annual Assessment is made, or (ii) thirty (30) after the conveyance of such Lot to the Owner, whichever is later. Unless otherwise specified by the Board, Special and Supplemental Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Assessment is sent to each Owner, provided, however, that failure to give such notice shall not affect the validity or enforceability of the Assessment as fixed by the Board. Notwithstanding anything herein to the contrary, in the event the Board does not permit Annual Assessments to be paid in quarterly or monthly installments, and the conveyance of a Lot is by Declarant to an Owner who does not receive an assignment of any or all of Declarant's rights simultaneously therewith, such Annual Assessment (taking into account any prorations as provided herein) shall be due and payable at the close of escrow of such Lot. Similarly, if the Board does not permit a Special or Supplemental Assessment to be made in quarterly or monthly installments, and the conveyance of a Lot is by Declarant to an Owner who does not receive an assignment of any or all of Declarant's rights simultaneously therewith, such Special or

Supplemental Assessments (taking into account any prorations as provided herein) shall be due and payable at the close of escrow of such Lot.

5.9 Alternate Assessment for Declarant. Notwithstanding the provisions in this Declaration, until such time as all of the Lots have been conveyed by Declarant to the Purchasers thereof (or, at the election of Declarant, the date upon which Declarant ceases to have Class B Membership in the Association), Declarant shall not be obligated to pay any Annual, Supplemental and/or Special Assessment for any Lot owned by Declarant; provided, however, that Declarant shall pay to the Association the difference between the total of Assessments owed by all Owners other than Declarant for such assessment period and the Common Expenses incurred by the Association during such period. In the case of a Special Assessment levied by the Association for reconstruction costs and/or capital Improvements, Declarant shall pay the difference between the total of such Special Assessments owed by all Owners other than Declarant and the total amount of the reconstruction costs or other costs for which the Special Assessment was levied. If, after all of the Lots have been sold by Declarant, Declarant acquires title to any Lot, Declarant shall be responsible for paying Annual, Supplemental and/or Special Assessments on the same basis as any other Owner except that in the event Declarant acquires Lots upon which Dwelling Units have not been constructed, the Annual Assessment, Special Assessment, or Supplemental Assessment charged to Declarant for each such Lot shall not exceed twenty-five percent (25%) of the rate charged to other Owners.

5.10 Effect of Nonpayment of Assessments. Any Assessment, or any installment of any Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due shall be deemed delinquent and shall bear interest from the due date at the Default Rate of Interest. Each Owner shall also pay a late charge as established by the Board for each delinquent Assessment or installment of an Assessment, subject to any limitations provided by law (see, e.g., A.R.S. §33-1803(A)). The Association shall have a lien on each Lot for: (i) all Assessments levied against the Lot; (ii) all interest, late charges and lien fees charged against the Lot or payable by the Owner of the Lot; (iii) all attorney fees, court costs, title report fees, costs and fees charged by any collection agency to the Association and any other fees and costs incurred by the Association in collecting or attempting to collect Assessments or other amounts due to the Association by the Owner of the Lot; and (iv) any other amounts payable to the Association by the Owner of the Lot. The recording of this Declaration constitutes record notice and perfecting of the assessment lien of the Association. The Association may, at its option, record a "Notice of Claim of Lien" which shall set forth (a) the name of the delinquent Owner as shown on the records of the Association, (b) the legal description, street address and number of the Lot against which the claim of lien is made, (c) the amount claimed as of the date of the recording of the notice including interest, collection costs, late charges, lien recording fees and attorneys' fees, and (d) the name and address of the Association. The Association's lien priority shall relate back to the date of recordation of this Declaration subject to the provisions below.

Before recording a Notice of Claim of Lien against any Lot, the Association shall present to the defaulting Owner a written demand for payment. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the

Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Board may assess a lien fee in such amount as may be set by the Board against the Owner of any Lot against which the Association records a Notice of Claim of Lien. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent Assessments, interest, lien fees, late charges, attorneys' fees and all other amounts payable to the Association by the Owner of the Lot against which the Notice of Claim of Lien was recorded have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, late charges, attorneys' fees and any other sums due to the Association in any manner allowed by law or in equity including, but not limited to, (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments (such action may be brought without waiving any lien securing any such delinquent Assessments) and/or (ii) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage or trust deed. 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 purchased at such sale.

5.11 Subordination of the Lien to Mortgages. The lien of the Association provided for in this Declaration shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a lien with greater priority or any proceeding in lieu thereof, shall extinguish the lien of such Assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any Assessments thereafter becoming due or from the lien thereof.

5.12 Exemption of Owner. No Owner of a Lot may exempt himself from liability for Assessments levied against his Lot or for other amounts which he may owe to the Association under this Declaration, the Articles, Bylaws or Association Rules by waiver or by the abandonment of his Lot.

5.13 Certificate of Payment. The Association shall, within fifteen (15) days of a request from an Owner, furnish to such Owner a certificate in writing signed by an officer of the Association, authorized managing agent, accountant, or similar agent, setting forth whether the Assessments on a particular Lot have been paid and the amount of any unpaid Assessments. The Association may charge the Owner requesting a certificate a reasonable fee (as established by the Board) for each such certificate. Such certificate shall be conclusive evidence of payment of any Assessment described in the certificate as having been paid.

5.14 Unallocated Tax Assessments. In the event that any taxes are assessed against the personal property of the Association, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, a Supplemental or Special Assessment may be levied against the Lots in an amount equal to said taxes, to be paid in two (2) installments, each of which shall be due thirty (30) days prior to the due date of each installment of taxes.

5.15 Establishment and Maintenance of Reserve Fund. Out of the Annual Assessments, the Association may establish but is not required to maintain a reserve fund (the “Working Capital Reserve Fund”) for the periodic maintenance, repair and replacement of Improvements to the Common Area and such Improvements on the Lots as the Association is obligated to maintain under the provisions, operation and management of the Association, the enforcement of the Architectural Rules and related guidelines in this Declaration, the Articles, the Bylaws or Association Rules. If and to the extent that Declarant and/or Members other than Declarant contribute to the Working Capital Reserve Fund prior to such time as the Class B membership is converted to Class A membership, either through contributions by Declarant or Annual Assessments or charges to Members by Declarant at the time such Members purchase their Lots from Declarant, Declarant may use such Working Capital Reserve Fund amounts for the maintenance, repair and replacement of Improvements to the Common Area and for any other Common Expenses without any responsibility to replace or replenish such Working Capital Reserve Fund amounts; except that on or before such time as the Class B membership is converted to Class A membership Declarant shall restore to the Working Capital Reserve Fund (in addition to such remaining sums as were not used for the maintenance, repair or replacement of Improvements to the Common Area or for any other Common Expenses) such amounts as may be necessary to assure that the total amount of the Working Capital Reserve Fund is equal to the sum of all the amounts charged to Members for contribution to the Working Capital Reserve Fund at the time such Members purchased their Lots from Declarant (without interest being accrued thereon).

5.16 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.

5.17 Failure to Pay Assessments. Nothing in this Declaration shall require that failure to pay Assessments constitutes a default under an insured Mortgage.

ARTICLE 6

USE RESTRICTIONS

6.1 Scope. Except as otherwise specified, the provisions of this Article shall apply to all of the Project.

6.2 Residential Use. All Lots shall be used, improved and devoted exclusively to residential use. Each Dwelling Unit construction on the Real Property may be occupied only by a Single Family.

6.3 No Commercial Use; Leasing. Except for Declarant’s use of the Project for display and exhibit purposes, for the maintenance of sales facilities, and for purposes of selling Lots and/or constructing Dwelling Units and other Improvements, no part of a Lot shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business,

commercial, manufacturing, mercantile, storing, vending, or any nonresidential purpose. Leasing of a Dwelling Unit shall be permitted only upon compliance with the express provisions of this Declaration (see Section 11.13 hereof), the Articles, Bylaws, Association Rules and Architectural Rules. Any Owner who leases his Residence shall promptly notify the Association and shall advise the Association of the term of the lease and the name of each tenant.

6.4 Improvements, Alterations and Architectural Committee Control. All Real Property within the Project is subject to Architectural Rules and other rules and requirements of the Architectural Committee. Except for construction work undertaken by Declarant or its agents or contractors, no Improvements may be constructed or installed on any Real Property within the Project and no construction, alterations, repairs, excavations, grading, landscaping or other work which in any way alters the exterior appearance of any Real Property within the Project, or the Improvements located thereon, from its natural or improved state existing on the date such property was first conveyed in fee by Declarant to an Owner shall be made or done without the prior written approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. All additions to or changes or alterations in any landscaping, building, Dwelling Unit, fence, wall or other structure or Improvement, including exterior color scheme, shall be subject to the prior written approval of the Architectural Committee. No change or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. All decisions of the Architectural Committee shall be final and no Owner or other Person shall have recourse (other than by any appeal procedure of the Architectural Committee) against the Architectural Committee or members thereof for its refusal to approve any such plans and specifications or plot plans.

6.5 Additional Powers of the Architectural Committee. The Architectural Committee may promulgate as design guidelines, additional architectural and landscape standards, rules and regulations as it deems appropriate, subject to consent of the Board; provided the standards, rules and regulations are not in conflict with this Declaration or the architectural and landscape standards, rules and regulations promulgated by Declarant in the exercise of its powers hereunder. Without limiting the generality of the preceding sentence, and in addition to, not in lieu of, the remedies provided elsewhere in this declaration, the Architectural Committee may fix a fine of up to \$10,000 for failure to obtain required approval from the Architectural Committee or for failure to comply with any approval of the Architectural Committee after proper notice is provided and an opportunity to be heard has been extended.

6.6 Architectural Design. The architectural design of all Dwelling Units and other Improvements constructed within the Project shall not be of such a sharply contrasting nature so as to make the Dwelling Unit and other Improvements look unusual or incompatible with other existing or contemplated Dwelling Units or other Improvements, and shall additionally be consistent with and subject to any further or more intensive restrictions or requirements as may be imposed from time to time by the Architectural Committee or by the City.

6.7 Minimum Dwelling Unit Size. Any Dwelling Unit erected, permitted or maintained on any Lot shall have a minimum livable square footage, excluding garage, porches, guest house, and patios, of: for A-1 Lots, thirteen hundred fifty (1350) square feet; and for A-2 Lots, thirteen hundred (1320) square feet, such requirement to be deemed modified to be

consistent with and subject to any greater area minimum or any further or more intensive restrictions or requirements as may be imposed from time to time by the Architectural Committee or by the City.

6.8 Roofing Material. All roofing material used on pitched or sloping roofs shall be the same as that used in the original construction of the Dwelling Units within the Project, unless otherwise authorized and approved in writing by the Architectural Committee. Rolled roofing material may be used on non-air-conditioned patio covers attached to the home when approved in writing by the Architectural Committee.

6.9 Walls and Fences. All perimeter fences or Boundary Fences, gates and garden walls shall be constructed of the same materials as used in the original construction of the Dwelling Units within the Project. Accent panels or decorative trim may be used with prior written approval and authorization of the Architectural Committee.

6.10 Shared Cost of Boundary Fences. The cost of any boundary fence or wall constructed upon the dividing property line or boundary between Lots (a "Boundary Fence") or near or adjacent to said dividing property line when existing easements prevent a fence from being located on the dividing property line, shall be shared, on an equal basis between the adjacent Lot Owners whether the said Owner is a contractor or adjoining Lot Owner. If the adjoining Lot Owner had already constructed said Boundary Fence, the adjacent Owner shall reimburse said adjoining Lot Owner for one-half (1/2) of the actual cost of said Boundary Fence, as evidenced by actual receipts and invoices. Said amounts shall be paid in cash within sixty (60) days from proof of construction costs. If the Boundary Fence has not yet been constructed, then the Owners shall share the cost, on an equal basis, with its adjacent Owner or Owners. Said Boundary Fence cost sharing shall not apply to Declarant unless Declarant constructs a Dwelling Unit or other building on an adjacent Lot and Declarant did not construct such Boundary Fence on the first lot. In the event of a dispute between Owners with respect to the cost of installation of a Boundary Fence or with respect to sharing of the cost thereof, then, upon written request of both of such Owners addressed to the Board, the matter shall be submitted for arbitration before the Board under such rules as may from time to time be adopted by the Board. The decision of the Board shall be final and conclusive. Notwithstanding anything herein to the contrary, the foregoing shall not apply to a fence or wall separating the Project from adjacent property that is not part of the Project.

6.11 New and Permanent. All Dwelling Units and other structures on the Property shall be of new and permanent construction, and no structure shall be moved from any location on or off the Property onto any portion of the Property.

6.12 Air Conditioners. No air conditioning units, heating units, compressors, evaporative coolers, or similar equipment shall be constructed or installed on the roof, or in the windows, or in or on the exterior walls of any Dwelling Unit in the Project.

6.13 Solar Panels. Unless otherwise required by law, no solar panels shall be installed on any Dwelling Unit or Lot without the prior written approval and authorization of the Architectural Committee. If such approval is granted, the Architectural Committee may specify the size and type of solar panels allowed, and the location where they may be installed.

6.14 Planting and Landscaping. Except for such planting and landscaping as is installed by Declarant and is in an area maintained by the Association, no planting or landscaping (including but not limited to replanting or replacing plants or landscaping) shall be done and no fences, hedges or walls shall be erected or maintained on any Lot without the prior written approval of the Architectural Committee. These restrictions shall not apply to Declarant's activities in connection with construction of the Project.

6.15 Installation of Landscaping Improvements. Within ninety (90) days after the date on which the City issues a Certificate of Occupancy for a Dwelling Unit on a Lot, the Owner of the Lot shall install plants and other landscaping improvements (together with a sprinkle or drip system sufficient to adequately water the plants and other landscaping improvements) in the front yard (together with any side yards that may be Visible From the Street) of his Lot in a manner that would give such portion of the Lot an attractive and fully landscaped appearance. Within one hundred eighty (180) days after the date on which the City issues a Certificate of Occupancy for a Dwelling Unit on a Lot, the Owner of the Lot shall install plants and other landscaping improvements (together with a sprinkle or drip system sufficient to adequately water the plants and other landscaping improvements) in the rear yard (together with the balance of the exterior portion of the Lot) in a manner that would give such portion of the Lot an attractive and fully landscaped appearance. In each case, the grass, plants, trees and other landscaping improvements shall be installed in accordance with plans approved in writing by the Architectural Committee.

6.16 Permitted and Prohibited Vegetation. Planting and vegetation shall conform to any schedule of permitted and prohibited vegetation that may be attached to this Declaration or otherwise adopted by the Architectural Committee.

6.17 Outside Speakers and Amplifiers. No radio, stereo or other broadcast units of any kind and no amplifiers or loudspeakers of any kind shall be placed, allowed or maintained outside a Dwelling Unit in a location that would be Visible From the Street, or shall be directed to the outside of any Dwelling Unit, or shall be operated at a sound level or in a manner that would generally be considered objectionable or unreasonable, in any such case without the prior written approval and authorization of the Architectural Committee.

6.18 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot which in any manner will allow light to be directed or reflected on any other Lot except as may be expressly permitted by the Association Rules or the Architectural Rules or as may be approved by the Architectural Committee. Exterior low voltage landscape lighting is encouraged.

6.19 Antennae. No television, radio, or other electronic antennae or satellite dish or device of any type shall hereafter be erected, constructed, placed or permitted to remain on a Lot in a location that would be Visible From the Street unless and until the same shall have been approved in writing by the Architectural Committee, or unless the same is contained within a building, or unless and to the extent otherwise required by law (e.g., Title 47, Section 1.4000 of the Code of Federal Regulations).

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

6.21 Temporary Structures. No structure of a temporary character, trailer, basement of an incomplete building or Dwelling Unit, tent, shack, garage or other out-building shall hereafter be used at any time, on any portion of the Real Property for a residence, either temporarily or permanently, without the prior written approval and authorization of the Architectural Committee. Temporary buildings or structures, approved by the Architectural Committee for use during the construction of a Dwelling Unit shall be removed immediately after the completion of construction. Declarant shall be permitted to place temporary buildings or structures on portions of the Real Property for the purposes of conducting sales or construction operations.

6.22 Drainage; Interruption of Barriers. No Owner shall erect, construct, maintain, permit or allow any fence, landscaping or other Improvement or other obstruction or alteration of any grading (i) which would interrupt the normal drainage of the Lot or land from its natural or improved state existing on the date such property was first conveyed in fee by Declarant to an Owner or (ii) within any area designated on the Plat (or other building document) as a "Drainage Easement," except that, with the prior consent of the Architectural Committee, non-permanent structures, including fences, may be erected in those areas which contain only underground closed conduit storm drainage facilities. No Owner shall erect, construct, maintain, permit or allow any fence, landscaping or other Improvement or other obstruction or alteration of any grading which would interrupt any physical or chemical termite "barrier" on the Lot or land in the improved state existing on the date such property was first conveyed in fee by Declarant to an Owner.

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

6.24 Signs. No sign of any kind which is Visible From Neighboring Property shall be installed or displayed on any Lot or Common Area except: (i) such signs as may be used by Declarant in connection with the development and sale of Lots and/or Dwelling Units or Common Area in the Project; (ii) such signs as may be required by legal proceedings, or which by law, may not be prohibited; (iii) such signs as may be required for traffic control; or (iv) such other signs (including construction job identification signs, builders' signs, subdivision identification signs, and "for sale" signs; but not "for lease" signs, temporary "rent" signs, "garage sale" or similar signs) as are in conformance with the requirements of the City and which have been approved in advance in writing by the Architectural Committee (which

approval may be in the form of rules and regulations of general applicability) as to size, colors, design, message content, number and location.

6.25 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities shall be provided within each Dwelling Unit.

6.26 Window Covers. Interior curtains, drapes, shutters or blinds may be installed as window covers. No aluminum foil, reflective material, newspaper or other materials not customarily made for use as window covers may be installed or placed upon the inside or outside of any Dwelling Unit or other structure. Exterior awnings, canopies, shutters and similar items may not be installed without prior written approval of the Architectural Committee.

6.27 Vehicles. Except with the prior approval of the Architectural Committee, no mobile home, motor home, trailer, truck with a capacity of more than one ton, camper, boat or any other type of recreational vehicle, or vehicle displaying a substantial amount of commercial advertising, shall be kept, placed, maintained, constructed, reconstructed or repaired within the Project, nor shall any of such named vehicles be permitted to park on or adjacent to an Owner's Lot for more than 48 hours in any 7 day period. Notwithstanding the foregoing to the contrary, a trailer or boat may be kept on an Owner's Lot without time limitation or approval if it is Not Visible From Neighboring Property. Furthermore, the foregoing shall be subject to applicable laws and regulations pertaining to emergency vehicles.

6.28 Animals. No animals, including horses or other domestic farm animals, fowl, or poisonous reptiles of any kind, may be kept, bred or maintained within the Project. Notwithstanding the foregoing, a reasonable number of generally recognized household pets that are kept in accordance with the Association Rules shall be permitted. No animals shall be kept, bred or raised within the Project for commercial purposes. All pets, when not kept in a homeowner's residence, shall be kept in a fenced yard or on a leash at all times. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance or annoyance to other Owners. It shall be the responsibility of each Owner to remove immediately any droppings from pets. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be Visible From Neighboring Property, unless otherwise approved by the Architectural Committee. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this Section, a particular animal is a generally recognized house or yard pet or a nuisance, or whether the number of animals exceeds the maximum number permitted. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained in this Declaration.

6.29 Garbage, Trash, Debris and Hazardous Materials. No rubbish, hazardous materials, or debris of any kind shall be placed, stored, or permitted to accumulate upon or adjacent to any Lot or other portion of the Project and no odors shall be permitted to arise therefrom, so as to render any such Lot or any portion of the Project unsanitary, unsightly, offensive or detrimental to any other Lot or other portion of the Project or to its occupants. No garbage or trash shall be placed or kept on any Lot or other portion of the Project except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property

except to make the same available for collection and then only for the time reasonably necessary to effect such collection. The Board shall have the right, in its sole discretion, to require all Owners to place their garbage or trash containers at a specific location for collection or to require all Owners to subscribe to a trash collection service. All rubbish, trash and garbage shall be removed from the Lots or other portion of the Project and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot or other portion of the Project. No garbage or trash containers shall be kept or placed on any grass or other landscaped area.

6.30 Fires. Other than barbecues in properly constructed barbecue pits or grills, and firepits in compliance with the Association Rules and the Architectural Rules, or as otherwise expressly permitted in such rules, no open fire shall be permitted on a Lot or other portion of the Project nor shall any other similar activity or condition be permitted.

6.31 Nuisances. No Owner shall permit or suffer anything to be done or kept about or within his Lot or on or about the Project which may cause the insurance to be canceled or the premiums of such insurance to be increased for any Lot or other portion of the Project, or which may obstruct or interfere with the rights of other Owners, or annoy them by unreasonable noises or otherwise, nor will he commit or permit any nuisance or commit or suffer any illegal act to be committed therein. Each Owner shall comply with the Association Rules, the requirements of all health authorities and other governmental authorities having jurisdiction over the Project. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

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

6.33 Mining. No portion of the Project shall be used in any manner to explore for or remove any water, oil or other hydrocarbons or minerals of any kind or earth substance of any kind.

6.34 Playground and Sports Equipment. No permanently installed or located jungle gyms, swing sets, basketball hoops or standards, or similar playground or sports equipment or structures which would be Visible From the Street may be constructed, erected or installed on any Lot without the prior written approval of the Architectural Committee.

6.35 Tennis Courts and Sports Courts. No tennis court, racquetball court, basketball court, or similar sports court, with related equipment, structures or facilities, including but not limited to lighting fixtures, may be constructed, erected or installed on any Lot without the prior written approval of the Architectural Committee.

6.36 Safe Condition. Without limiting any other provision in this Article, each Owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Lots.

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

6.38 Model Homes. The provisions of this Declaration which may prohibit nonresidential use of Lots and which regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction or marketing of Dwelling Units within the Project or parking incidental to the visiting of such model homes. Any Dwelling Units constructed as model homes shall cease to be used as model homes at any time when the owner thereof is not actively engaged in the construction and sale of Dwelling Units within the Project.

6.39 Variances. The Architectural Committee may, at its sole option and in extenuating circumstances, grant variances from restrictions set forth in this Declaration if the Committee determines, in its sole discretion:

A. That either (i) enforcement of a particular restriction would create a substantial hardship or burden on an Owner or occupant, or (ii) a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete; and

B. That the activity permitted under the variance will not have any substantial adverse effect on the Owners and occupants and is consistent with the high quality of life intended for residents of the Project.

6.40 Further Subdivision. No Lot shall be further subdivided or separated into smaller lots by any Owner and no portion less than all of any Lot shall be conveyed or transferred by an Owner without the prior written approval of the Board.

6.41 Timeshares and Shared Occupancy Arrangements. It is expressly acknowledged that the value of the Project, and the value of individual developed Lots within the Project, will be materially reduced if timeshare arrangements, shared occupancy arrangements or leasing (other than as specifically permitted under Section 11.13) of Lots are permitted, and it is expressly understood that the consideration paid by Lot Owners for Lots shall be based upon the expectation that timeshare arrangements, shared occupancy arrangements and leasing of Lots (other than as specifically permitted under Section 11.13) shall not be permitted. In that regard, no Owner shall transfer, sell, assign or convey any timeshare in his Lot or Dwelling Unit, or enter into or permit a shared occupancy arrangement relating to the Lot or Dwelling Unit, or lease his Lot or Dwelling Unit (other than as specifically permitted under Section 11.13), and any such transaction shall be void. "Timeshare" as used in this Section shall mean the right to occupy a Dwelling Unit or any one of several Dwelling Units during five (5) or more separated time periods of less than thirty (30) days per period over a period of at least five (5) years, including renewable options, whether or not coupled with an estate or interest in Real Property or a specified portion of a Dwelling Unit. "Shared occupancy arrangement" as used in this Section shall mean occupancy of the Lot or Dwelling Unit by more than one (1) Single Family in any calendar year, exclusive of arrangements resulting from a bona fide conveyance or transfer of full legal title to the Lot.

6.42 Declarant's Exemption. Notwithstanding any other provision of this Declaration, the Articles, Bylaws, Association Rules or Architectural Rules, it shall be expressly permissible for Declarant or its duly authorized agents, employees and representatives to maintain during the period of construction and sale of Lots and/or Dwelling Units such facilities, structures, signs or

other sales-related items as are necessary or convenient, in the sole opinion of Declarant, to the sale of the Lots and/or Dwelling Units, including without limitations, a business office, storage area, construction yards, model units or homes and sales offices (any of the foregoing may be permanent or temporary), and to otherwise construct Dwelling Units in accordance with its plans and specifications.

6.43 Enforcement. The Association or its authorized agents may, upon reasonable written notice, enter any Lot in which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses, and such fines as may be imposed pursuant to this Declaration or the Bylaws or Association Rules, shall be a Special Assessment secured by a lien upon such Lot enforceable in accordance with the provisions of this Declaration. All remedies available at law or equity shall be available in the event of any breach of any provision of this Article by any Owner, tenant or other person.

6.44 Modification. Except where Declarant's rights are involved or Declarant's consent is required, the Board may modify or waive the foregoing restrictions contained in this Declaration or otherwise restrict and regulate the use and occupancy of the Project, the Lots and the Dwelling Units by reasonable rules and regulations of general application adopted by the Board from time to time which shall be incorporated into the Association Rules.

6.45 Common Area Dedication. The dedication of Common Areas shall require the prior approval of HUD(FHA) or Veterans Administration so long as there is a Class B membership if HUD(FHA) or Veterans Administration has previously approved this Declaration.

6.46 Common Area Mortgage or Conveyance. The Common Area cannot be mortgaged or conveyed without the consent of the Owners of at least two-thirds of the Lots (excluding Declarant), except that the Association may dedicate or transfer all or part of the Common Area to any public agency, authority or utility upon the consent of a majority of the votes of each class of memberships, or if there is no substantial adverse effect on the enjoyment of the Common Area, or if required by a recorded subdivision plat, zoning stipulation, or agreement with the City effective prior to the date of this Declaration.

6.47 Parking. It is intended that on-street parking of vehicles will be restricted as much as reasonably possible. Vehicles of all Owners and residents, and of their Family members, employees, guests and invitees, shall be kept in garages and the parking areas (which shall not include driveways on Lots) designated or approved by Declarant or the Board; provided, however, this subsection shall not be construed to permit the parking or storing in the above described areas of any vehicle whose parking or storage is otherwise prohibited herein. The Association Rules may permit temporary parking on streets or other areas in the Project for public or private social events or other permitted activities.

ARTICLE 7 **ARCHITECTURAL COMMITTEE**

7.1 Approval of Plans. No Improvements shall be commenced, erected or maintained within any portion of the Property (other than by Declarant in the ordinary course of constructing Dwelling Units) unless and until detailed plans and specifications (including site plans) showing

the proposed nature, location, identity, type, and quality of proposed materials, size, area, height, color, shape and design of the proposed Improvements, as well as any other matters required by this Declaration or by the Architectural Rules described below, have first been approved by the Architectural Committee. No Improvement shall be commenced, erected or maintained within the Property (other than by Declarant in the ordinary course of constructing Dwelling Units) except in compliance with this Declaration and with the approved plans and specifications for such Improvements.

7.2 Establishment. The Architectural Committee shall consist of a minimum of three (3) persons. So long as Declarant owns any Lot or Parcel, Declarant shall have the right to appoint and remove the members of the Architectural Committee. At such time as Declarant no longer owns any Lot, the members shall be appointed and removed by the Board. The members of the Architectural Committee need not be architects, Owners, occupants or homeowners, and need not possess any special qualifications. Architectural Committee members shall serve for a term of one (1) year and may be reappointed or re-elected; provided that such members may be removed by the Board at any time during their term of office, with or without cause. Upon removal of a member of the Architectural Committee, the Board shall appoint a replacement member of the Architectural Committee as soon as possible, such that the Committee consists of the minimum number of members designated in this Declaration.

7.3 Meetings. The Architectural Committee shall hold meetings as it deems necessary. A quorum for such meetings shall consist of a majority of the members, and the affirmative vote of a majority of the members present at any meeting at which a quorum is present shall be necessary for any decision of the Architectural Committee. The Architectural Committee shall keep and maintain a record of all actions taken at its meetings.

7.4 Architectural Rules and Committee Procedures. The Architectural Committee may promulgate written Architectural Rules to be followed by Owners in preparing and submitting plans and specifications and which will be used by the Architectural Committee in reviewing plans and specifications for proposed Improvements in rendering its decisions and otherwise performing its functions under this Declaration. Such rules shall be subject to approval by the Board before being put into use. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. The Architectural Rules shall not be inconsistent with the terms of this Declaration and if there are any inconsistencies, the provisions of this Declaration shall control.

7.5 Fee. The Architectural Committee may establish reasonable processing fees to defray its costs in considering any requests for approvals submitted to it. The appropriate fee shall be paid at the time the request for approval is submitted.

7.6 Compensation; Delegations. The members of the Architectural Committee shall not receive any compensation for services rendered. All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Architectural Committee function or duty. Professional consultants retained by the Architectural Committee shall be paid such compensation as the Architectural Committee determines. The Architectural Committee may delegate its plan review responsibilities, except final plan approval, to one or more of its members or to architectural consultants which it retains.

7.7 Non-Liability. Neither the Association, the Board members, Declarant, any member of the Architectural Committee, or any agent, employee or other party providing architectural consulting services to the Architectural Committee shall be liable in damages to anyone submitting plans to it for approval or to any Owner or other person by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans submitted to the Architectural Committee, and each Owner or other person submitting plans agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Association, the Board members, Declarant, or the members of the Architectural Committee, or their agents or employees, or parties providing architectural consulting services to the Architectural Committee, to recover damages arising out of or in connection with flooding, natural disaster or soil conditions. Approval by the Architectural Committee shall not be deemed to be a representation or warranty that the plans and specifications (design, construction or otherwise) are free from hazards, such as flooding, natural disaster or adverse soil conditions or complies with applicable governmental ordinances or regulations, including, but not limited to, rezoning ordinances and local building codes. It shall be the sole responsibility of the Owner, or other person submitting plans to the Architectural Committee or performing any construction, to comply with all such ordinances, regulations and codes. Each Owner understands that due to the location and condition of the Owner's Lot there may be certain inherent risks including, but not limited to, those related to flooding, soil conditions or natural disaster and agrees for himself, his Family, guests and invitees (the "Releasing Parties") to release the Association, the Board members, the members of the Architectural Committee and Declarant, their agents, employees and parties providing architectural consulting services to the Architectural Committee from any and all liability arising from any damage or injury to the person or property of the Releasing Parties rising out of or in connection with such hazards.

ARTICLE 8 **EASEMENTS**

8.1 Easement of Enjoyment. Each Owner of a Lot has an easement to use and a right to enjoyment of the Common Areas located within the Project, which is appurtenant to the title to such Lot, subject to the restrictions and limitations set forth in this Declaration.

8.2 Amendment to Eliminate Easements. This Declaration cannot be amended to modify or eliminate the easements reserved to Declarant without prior written approval of Declarant and any attempt to do so shall have no effect. Any attempt to modify or eliminate this Section shall likewise require the prior written approval of Declarant.

8.3 Utility Easement. There is hereby created a blanket easement upon, across, over and under the building setback areas and such other portions of the Lots and Common Area which will not have a materially adverse effect on the ability to construct improvements on any Lot for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewer, natural gas, telephone, electricity, high-speed Internet, and a cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain any necessary facilities and equipment on the Lots and Common Area. This easement shall in no way affect any other recorded easements on the Lots and Common Area.

8.4 Easement for Encroachment. Each Lot and the Common Area shall be subject to an easement for encroachments created by construction, settling, overhangs, and discrepancies between the Plat and construction, as originally designed or as constructed by Declarant or its agents or contractors, and by overspray from watering systems on adjoining Lots and Common Area. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist, running in favor of the Owners of the applicable adjoining Lots or Common Area. In the event a building containing an encroachment is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of the adjacent Dwelling Unit or other building due to construction shall be permitted and that a valid easement for said encroachments and maintenance thereof shall exist. Notwithstanding any provisions in this Section to the contrary, any encroachment (other than for overspray) permitted by this Section shall not exceed one (1) foot.

8.5 Easement for Ingress and Egress. Easements for ingress and egress are hereby reserved to Declarant, the Owners, and their families, guests, tenants, and invitees for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area (including all streets and roadways) as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of Lots. If ingress or egress to any Dwelling Unit in the Project is through the Common Area, any conveyance or encumbrance of the Common Area shall be subject to the Lot Owner's easement for ingress and egress.

8.6 Association's Right of Entry. During reasonable hours, the Association, any member of the Architectural Committee, any member of the Board or any authorized representative of them, shall have the right to enter upon and inspect any land surrounding any structure on the Real Property, excluding the interior of any Dwelling Unit located thereon, for the purpose of making inspections to determine whether the provisions of this Declaration, the Association Rules and the Architectural Rules are being complied with by each Owner.

8.7 Association's Easement for Performing Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area or any other features in the Project which the Association is obligated to maintain.

8.8 Refuse Collection and Emergency Access Easement. There is hereby created an easement over the streets and roadways located within the Project for ingress and egress for emergency vehicles and for refuse collection. Such easement for ingress and egress shall extend to all Common Areas (but not Limited Common Areas).

ARTICLE 9 **MAINTENANCE**

9.1 Maintenance of Common Area by Association. The Association shall be responsible for the maintenance, repair and replacement of the Common Area and may, without any approval by the Owners, do any of the following:

A. Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a government entity, if any, responsible for the maintenance and upkeep of such area);

B. Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway or parking area;

C. Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

D. Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

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

The Board shall be the sole judge as to the appropriate maintenance of the Common Area. Absolute liability is not imposed by this Declaration upon the Owners for damage to Common Area or Lots in the Project.

9.2 Limited Maintenance of A-2 Lot Courtyards by Association. Except as otherwise provided in this Declaration, the Association shall have the duty to maintain in a suitable condition at all times the turf/grass and other landscaping (including but not limited to all trees, bushes, shrubs and plants) in the courtyards of all A-2 Lots not owned by Declarant. Such maintenance shall include planting, fertilizing, overseeding, watering, maintaining, cutting and trimming the turf/grass and other landscaping, as applicable, but shall not include maintaining, repairing, restoring or replacing watering lines, heads, timers or other portions of watering systems, which shall be the responsibility of the Owners of the applicable Lots. The Association shall have an easement upon, across, over and under such Lots as may be necessary or reasonable to permit the accomplishment of the foregoing maintenance obligations. Each Owner of an A-2 Lot shall assure that the Association shall have all access to such timers or other water distribution equipment on the Lot as may be necessary or reasonably requested by the Association in order to permit the accomplishment of the foregoing maintenance obligations. Each Owner of an A-2 Lot shall be responsible to assure the availability on and from the Lot and pay for the water to be used to water the turf/grass and other landscaping in the courtyard of the Lot. Except as otherwise provided herein and subject to the assessment provisions of Section 5.3(A), all costs and expenses for such maintenance above shall be a Common Expense.

9.3 Maintenance of Lots by Owners. Each Owner of a Lot shall be solely responsible for the maintenance of all portions of his Lot, except for turf/grass and other landscaping in the courtyards of A-2 Lots pursuant to Section 9.2 above and except for any portion of his Lot which is Common Area. The Owner of each Lot shall at all times perform his obligations under this Section so that the land and Improvements comprising his Lot shall be in good condition and repair. Such obligations of Owner shall include keeping all shrubs, trees, grass, plantings and landscaping of every kind properly cultivated and free of trash, weeds and other unsightly

material. All maintenance of the exterior of the Dwelling Unit, including, without limitation, walls, fences and roofs, shall be accomplished in accordance with the Architectural Rules and, if required by the Architectural Rules, only after approval of the Architectural Committee.

9.4 Damage or Destruction by Owners. No Owner shall in any way (i) damage or destroy any Common Area or, in the case of Owners of A-2 Lots, the turf/grass and other landscaping in the courtyards of such A-2 Lots, or (ii) interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid by said Owner to the Association upon its demand to the extent that the Owner is liable therefore under Arizona law, and such amounts shall be a lien on any Lot(s) owned by such Owner, and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

9.5 Nonperformance by Owners. If any Owner fails to maintain any portion of the Lot and Improvements located thereon which he is obligated to maintain under the provisions of this Declaration, the Articles, Bylaws, Association Rules or Architectural Rules, then the Association shall have the right, but not the obligation, to enter upon such Owner's Lot to perform the maintenance and repairs not performed by the Owner, and the cost of any such work performed by or at the request of the Association shall be paid for by such Owner upon demand from the Association, and such amounts shall be a lien upon the Owner's Lot 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.

9.6 Total or Partial Destruction. If any Dwelling Unit is totally or partially destroyed, the Owner shall either rebuild the structure in a timely manner or demolish the same and remove the debris from the Project in a timely manner. If the Owner fails to comply with this Section, the Association may undertake the work on the Owner's behalf and charge the Owner therefor. 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.

9.7 Payment of Utility Charges. Each Lot shall be separately metered for water, sewer, cable television, telephone, electrical, and/or gas service, and all charges for such service to the Lot shall be the sole obligation and responsibility of the Owner of each Lot.

9.8 Boundary Fences. The rights and duties of Owners and Lots with respect to Boundary Fences shall be governed by the following provisions:

A. Each of the adjoining Owners shall assume the burden and be entitled to the benefit of the restrictive covenants contained in this Declaration, and to the extent not inconsistent with this Declaration, the general rules of law regarding Boundary Fences shall be applied;

B. The cost of reasonable repair and maintenance of a Boundary Fence shall be shared by the adjoining Owners of such Boundary Fence in proportion to the use thereof, without prejudice, however, to the right of any Owner to require a larger contribution from the

adjoining Owner under any rule of law regarding liability for negligent or willful acts or omissions;

C. In the event any Boundary Fence is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his 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;

D. Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes any Boundary Fence to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements;

E. 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 Owners and their successors in title;

F. In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to, or rebuild a Boundary Fence shall first obtain the written consent of the adjoining Owner and the Architectural Committee;

G. In the event of a dispute between Owners with respect to the repair or the rebuilding of a Boundary Fence or with respect to sharing of the cost thereof, then, upon written request of both of such Owners addressed to the Board, the matter shall be submitted for arbitration by the Board under such rules as made from time to time to be adopted by the Board. The decision of the Board shall be final and conclusive;

H. In the event any Boundary Fence encroaches upon a Lot or the Common Area, a valid easement for such encroachment of, and for the maintenance of, the Boundary Fence shall and does exist in favor of the Owners of the Lots which share such Boundary Fence.

9.9 Maintenance of Walls and Fences Other than Boundary Fences.

A. Walls or fences (other than Boundary Fences) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot; and

B. Any wall or fence, if approved by the Association, which is placed on the boundary line between a Lot and the Common Area shall be maintained, repaired and replaced by the Owner of the Lot, except the Association shall be responsible for the repair and maintenance of the side of the wall or fence which faces the Common Area if such wall or fence was placed thereon by Declarant, or with Declarant's permission.

ARTICLE 10 **INSURANCE**

10.1 Scope of Coverage. Commencing not later than the date of the conveyance by Declarant of the Common Area described on Exhibit B attached hereto (which sets out a legal

description of that portion of the Common Area to which the Association shall have fee title), the Association shall make a good faith effort to obtain and maintain, to the extent reasonably available, the following insurance coverage:

A. Property insurance on the Common Area insuring against all risk of direct physical loss, insured 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 after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavation, foundations and other items normally excluded from a property policy;

B. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board. 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 all 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 coverage with cost liability endorsements to cover liabilities of the Owners as a group and to each individual Owner;

C. Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of the State of Arizona;

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

E. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their households; (ii) that no act or omission of any Owner (unless acting within the scope of his authority on behalf of the Association) will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by the Owners or their Mortgagees; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the "Association"; (vi) for policies of hazard insurance, a standard mortgage clause providing that the insurance carrier shall notify the First 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; (vii) and "Agreed Amount" and "Inflation Guard" endorsements.

10.2 Insurance on Lots. The Association shall not be obligated to obtain property insurance, liability insurance, flood insurance or any other type of insurance covering the Lots or the Improvements located thereon. The procurement and maintenance of insurance on each Lot, including all Improvements on such Lot shall be the sole obligation of the Owner thereof. Each Owner shall also be responsible for obtaining all liability insurance, personal property insurance and any other type of insurance to the extent desired by such Owner.

10.3 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, at the requesting party's expense to any Owner. Any insurance obtained pursuant to this Article may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner to whom certificates of insurance have been issued.

10.4 Fidelity Bonds. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, without limitation, any management agent to whom the Association has delegated some or all of the responsibility for the handling of such funds. The total amount of fidelity bond coverage shall be based upon the best business judgment of the Board, and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. In no event shall the aggregate amount of such fidelity bonds be less than a sum equal to three (3) months of Annual Assessments on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association must also:

- A. Name the Association as an obligee;
- B. Contain waivers by the insurers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and
- C. Provide that they may not be canceled (including cancellation from non-payment of premium) or substantially modified without at least ten (10) days prior written notice to the Association.

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

10.6 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association. The proceeds shall be disbursed for the repair or restoration of the damage to the Common Area.

10.7 Annual Insurance Review. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Common Area in light of increased construction costs, inflation, practice in Maricopa County, Arizona, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Owners and of the Association. If the Board determines that increased coverage of additional insurance is appropriate, it shall obtain the same.

10.8 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 (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners representing at least eighty percent (80%) of the total authorized 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 all of the 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 11

GENERAL PROVISIONS

11.1 Construction by Declarant. Nothing in this Declaration shall limit the right of Declarant to alter the Common Area or the Lots, or to construct such additional or different Improvements as Declarant deems advisable prior to completion of Improvements upon and sale of the entire Project. Such right shall include but shall not be limited to erecting, constructing and maintaining on the Real Property such structures and displays as may be reasonably necessary for the conduct of the business of completing the work and disposing of the same by sale, lease or otherwise. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title by a Purchaser to establish on the Real Property additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Project. Declarant reserves the right to alter its construction plans and designs as it deems appropriate. Declarant also reserves the right, at any time until all the Lots within the Project have been transferred to other Owners, to replat all or any portion of the Project for the purpose of updating boundary lines of Lots and Common Areas as shown on the original Plat to more closely reflect the boundary lines established through actual construction of the Project and, by accepting a deed to a Lot, each Owner shall be deemed to have given its consent to such replatting. The rights of Declarant hereunder may be assigned to any successor or successors to all or part of said entity's respective interest in the Project by an express assignment incorporated in a recorded deed, lease or other instrument, as the case may be, transferring such interest to such successor. Declarant shall exercise its rights contained in this provision in such a way as not to unreasonably interfere with the Members' rights to use and enjoy the Common Area.

11.2 Enforcement. The Association, or any Owner, shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, easements and reservations, now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants, easements or reservations and the right to recover the damages or other dues for such violation. The Association, or any Owner, shall also have the right to enforce, by proceedings at law or in equity, the provisions of the Articles or Bylaws and any amendments thereto. With

respect to Assessment liens or any other liens or charges and Association Rules, the Association shall have the exclusive right to enforcement thereof.

11.3 Alternative Dispute Resolution. Except for any legal proceedings initiated to (i) enforce any use restrictions, easement rights or nonmonetary obligations of Owners (other than Declarant) expressly set out in this Declaration; (ii) enforce any Association Rules; (iii) enforce any Architectural Rules; (iv) collect any unpaid Assessments levied pursuant to this Declaration; or (v) pursue or resolve any "small claims" (i.e., matters in which the amount in controversy could not reasonably be expected to exceed \$25,000.00), any dispute or claim (a "Dispute") under or pertaining to this Declaration or any provision hereof between or among (1) any Owner(s) and any other Owner(s), (2) any Owner(s) and the Association, or (3) the Declarant (or its brokers, agents, consultants, contractors, subcontractors or employees) and any Owner(s) or the Association, shall be subject to the negotiation, mediation and arbitration provisions contained herein.

A. Negotiation. Each party to a Dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving the Dispute by good faith negotiation before resorting to any legal proceedings or any other dispute resolution procedure. Upon receipt of a written request from any party to the Dispute, the Board may appoint a representative to assist the parties in resolving the Dispute by negotiation.

B. Mediation. If the Dispute cannot be settled through negotiation, the parties to the Dispute shall make every reasonable effort to settle the Dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules (or if such procedure is unavailable, by such other comparable entity or comparable rules as the parties to the Dispute may in good faith agree upon) before resorting to any legal proceedings or any other dispute resolution procedure.

C. Arbitration. If a Dispute cannot be settled through mediation, the Dispute shall be settled by binding, non-appealable arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. If any party to the Dispute does not submit the Dispute to arbitration within thirty (30) days after termination of the mediation proceedings, such party shall be deemed to have waived any claims under the Dispute and all of the other parties to the Dispute shall be released and discharged from any and all liability to such party on account of such Dispute; provided, however, nothing herein shall release or discharge such party or parties from any liability to persons or entities not a party to the foregoing proceedings. The parties to a Dispute shall cooperate in good faith to assure that all necessary and appropriate persons and entities are included in the arbitration proceeding. No party shall be required to participate in the arbitration proceeding if all persons and entities against whom the party would have necessary or permissive cross-claims, counterclaims or third-party claims are not or cannot be joined in the arbitration proceeding.

11.4 No Waiver. Failure by the Association, or by any Member, to enforce any covenant, condition, restriction or easement herein contained, or the Articles, Bylaws, or Association Rules in any certain instance or on any particular occasion shall not be deemed a

waiver of such right on any such future breach of the same or any other covenant, condition, restriction or easement.

11.5 Cumulative Remedies. All rights, options and remedies of Declarant, the Association, or the Owners under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant, the Association, or the Owners shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

11.6 Severability. Invalidation of any one or a portion of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

11.7 Violations and Nuisance. Every act or omission whereby any provision of the Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, the Association or any Owner.

11.8 Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

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

11.10 Attorneys' Fees. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any Assessments or other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with this Declaration, the Articles, Bylaws, and/or Association Rules, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in any such action.

11.11 Binding Effect. By acceptance of a deed or other conveyance of title or by acquiring any ownership interest in any of the Real Property subject to this Declaration, each Person, for himself or itself, his heirs, personal representatives, successors, transferee and assigns, binds himself, his heirs, personal representatives, successors, transferee and assigns, to all of the provisions, restrictions, covenants, conditions, easements, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Project and hereby evidences his interest that all the restrictions, conditions, covenants, easements, 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 various subsequent and future Owners. The interest of each Owner by virtue of his purchase

of a Lot within the Project and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

11.12 Notices. Any notice to be given under the provisions of this Declaration shall be in writing and may be delivered as follows:

A. Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners on behalf of all co-owners and shall be deemed delivered to all such co-owners;

B. Notice to the Association shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, addressed as follows:

Dobbins Place Homeowners Association, Inc.
2151 East Broadway Road, Suite 210
Tempe, Arizona 85282

or to any other address requested by the Association pursuant to written notice to the Declarant and the Owners.

C. Notice to Declarant shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, addressed as follows:

Scott Homes IV, L.L.C.
2151 East Broadway Road, Suite 210
Tempe, Arizona 85282

or to any other address requested by Declarant pursuant to written notice to the Association.

Any of the above notices so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

11.13 Leases. Generally Prohibited. No renting or leasing of a Dwelling Unit (hereafter referred to as a "Lease") shall be permitted except as provided herein. No Lease of a Dwelling Unit, other than to a member of the Family of Lot Owner, shall be permitted without the prior and express approval of the Board based on the determination of the Board that the Lease is reasonably necessary to avoid substantial hardship to the Owner (e.g., ownership and leasing of a Dwelling Unit for normal investment income purposes would not be permitted). Additionally, no Lease of a Dwelling Unit shall be permitted for less than a twelve (12) month period, other than to a member of the Family of Lot Owner; and no renting or leasing of a Dwelling Unit shall be permitted if to, pursuant to, or facilitated by, a vacation club, fractional ownership

arrangement, timeshare arrangement, any similar entity, program or arrangement, or any other entity, program or arrangement that involves or facilitates occupancy sharing arrangements involving more than one (1) Single Family. Any renting or leasing arrangement in violation of such prohibition shall be void and of no force or effect. Any Lease shall provide that the terms of such Lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, the Association Rules, the Architectural Rules and applicable agreements between the Association and any state, local municipal or federal agency. Said Lease shall further provide that any failure by the tenant thereunder to comply with the terms of the foregoing documents shall be a default under the Lease. All Leases shall be in writing. Any Owner who shall lease or rent his Dwelling Unit shall be responsible for assuring compliance by such Owner's tenant with this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Rules, and shall be jointly and severally responsible for any violation thereof by his tenant. Notwithstanding anything to the contrary contained herein, Owner may lease a Dwelling Unit to Declarant who may use such Dwelling Unit for purposes of marketing the Lots in the Project.

11.14 Nonliability of Officials. To the fullest extent permitted by law, neither the Board, the Architectural Committee, any committees of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith and which such Board, committees or persons reasonably believed to be within the scope of their duties.

11.15 Term. The covenants, conditions, restrictions and easements of this Declaration shall run with and bind the Project for a term of twenty (20) years from the date this Declaration is recorded. Thereafter they shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Members or their proxies casting seventy-five percent (75%) of the total votes cast at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

11.16 Amendments. Subject to the other provisions of this Declaration, including paragraph C below, this Declaration may be amended as follows:

A. Until such time as there is a Class A Membership pursuant to this Declaration, amendments or modifications shall be immediately effective (notwithstanding the existence of successive terms under Section 11.15) when executed by Declarant and recorded in the official records of Maricopa County, Arizona. Thereafter, any amendments shall require the affirmative written assent or vote of the Owners holding not less than seventy-five percent (75%) of the votes; except that the Declarant in its sole and absolute discretion may amend this Declaration at any time without the assent or vote of the Owners as may be requested by HUD(FHA), VA, FHLMC, FNMA, the City, the Arizona Department of Environmental Quality, any government agency which requests such amendment as a condition of approving this Declaration, any federally chartered lending institution which requests such amendment as a condition to lending funds upon the security of any Lot, any other applicable governmental authority, or any engineer or consultant performing work with respect to the Project, or as may be appropriate in the event of any such requested amendment that deletes, diminishes or alters

Declarant's control of the Association and its activities, to permit the Declarant to adopt other and different control provisions, or as Declarant may determine to be necessary or appropriate to correct an error or inconsistency, and in any such event such amendment shall be immediately effective (notwithstanding the existence of successive terms under Section 11.15) when executed by Declarant and recorded in the official records of Maricopa County, Arizona.

B. An amendment or modification that requires the vote and written assent of the Members as herein above provided shall be immediately effective (notwithstanding the existence of successive terms under Section 11.15) when executed by the President and Secretary of the Association who shall certify that the amendment or modification has been approved as herein above provided, and when recorded in the official records of Maricopa County, Arizona; and

C. Notwithstanding the foregoing, (i) so long as Declarant owns any Lot, no amendment to this Declaration shall be effective unless approved in writing by Declarant; and (ii) so long as there is a Class B membership, amendment to this Declaration shall require prior approval of HUD(FHA) or Veterans Administration if HUD(FHA) or Veterans Administration has previously approved this Declaration.

11.17 Termination. The provisions of this Declaration may be terminated only with the approval of Declarant, if Declarant still owns a Lot within the Project, and the Owners of seventy-five percent (75%) or more of the rest of the Lots. Any such termination of this Declaration shall be executed by the President and Secretary of the Association and recorded in the official records of Maricopa County, Arizona. No such termination of these provisions shall be a bar for any subsequent commitment of the Project to certain covenants, conditions, restrictions and easements acceptable to the then Owners.

11.18 Gender. The singular, wherever used in this Declaration shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to entities or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

11.19 Section Headings. The marginal or topical headings of the Sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Articles or Sections of this Declaration.

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

11.21 Annexation of Additional Property. Declarant shall have the right, at any time or from time to time, to annex Additional Property into the coverage of this Declaration by recording, in the real property records of the Recorder of Maricopa County, a declaration of annexation ("Declaration of Annexation") describing the real property to be brought within the

coverage of this Declaration. Lots within such real property shall be designated as A-1 Lots and/or A-2 Lots, as applicable. Any such Declaration of Annexation may supplement this Declaration with such additional provisions as Declarant may deem appropriate for the real property annexed. Notwithstanding the foregoing to the contrary, any annexation of Additional Property shall require the prior approval of HUD(FHA) or Veterans Administration, so long as there is a Class B membership if HUD(FHA) or Veterans Administration has previously approved this Declaration.

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first written above.

SCOTT HOMES IV, L.L.C.,
an Arizona limited liability company

By: Scott Management Company,
an Arizona corporation, its Manager

By: *Jesse Flores*
Jesse Flores, Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 4th day of April, 2007, by Jesse Flores, the Vice President of Scott Management Company, an Arizona corporation, the Manager of SCOTT HOMES IV, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

Julie A. Munson
Notary Public

My Commission Expires:
11-1-09



List of Exhibits

- A - Legal Description of the Real Property
- B - Legal Description of the Common Area

EXHIBIT A

Legal Description of the Real Property

Lots 1 - 176 according to the plat recorded at Book 873, Page 13, records of Maricopa County, Arizona

EXHIBIT B

Legal Description of the Common Area

Tracts A through FF according to the plat recorded at Book 873, Page 13, records of Maricopa County, Arizona, as amended by that certain Affidavit of Correction and Amendment to Final Plat for Dobbins Place recorded February 9, 2007, in the Official Records of Maricopa County Recorder as recording number 20070168299

**COURTESY RECORDING
NO ESCROW OR TITLE LIABILITY**

WHEN RECORDED RETURN TO:

Julie Munson
KDB Management, Inc.
P.O. Box 14000
Sun Lakes, AZ 85248

**ASSIGNMENT OF DECLARANT'S RIGHTS UNDER
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
DOBBINS PLACE**

THIS ASSIGNMENT OF DECLARANT'S RIGHTS UNDER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR DOBBINS PLACE (the "Termination") is made as of the 20th day of December, 2012, by Scott Homes IV, LLC, an Arizona limited liability company ("Original Declarant"), in favor of Dobbins Place, LLC, a Wyoming limited liability company ("Owner").

RECITALS:

A. Original Declarant is the Declarant under that certain **Declaration of Covenants, Conditions, Restrictions for Dobbins Place (the "Declaration")**, recorded in the Records of Maricopa County on April 5, 2007, at Recorder's No. 20070403230, and holds all of and has not previously transferred any of Declarant's rights under the Declaration.

B. Owner has acquired for the purpose of development and/or sale and now owns all of that certain Property described in the Declaration, which is the real property (the "Property") described on Exhibit "A" attached hereto and incorporated herein by reference.

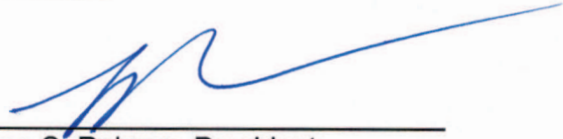
C. In accordance with Section 1.13 of the Declaration, Original Declarant desires to designate Owner as the Declarant under the Declaration.

ASSIGNMENT OF DECLARANT'S RIGHTS:

In consideration of the premises and for other good and valuable consideration received, Original Declarant hereby designates Owner as the sole Declarant under the Declaration and assigns and transfers to Owner all rights, title and interest of Declarant under the Declaration.

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

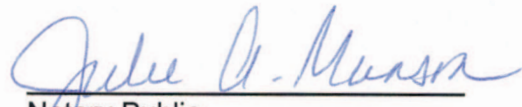
SCOTT HOMES IV, LLC
an Arizona limited liability company
By: KDB Management, Inc.,
an Arizona corporation
Its: Manager



Steven S. Robson, President

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me, the undersigned Notary Public, this 20th day of December, 2012, by SCOTT HOMES IV, LLC, an Arizona limited liability company, by Steven S. Robson, its Manager.



Notary Public

My commission expires:

1-7-2014



Exhibit "A"

Legal Description of the Real Property

Lots 1 – 176 according to the plat recorded at Book 873, Page 13, records of Maricopa County, Arizona

1453497328254-4-3-3--
sarabiam

When Recorded, Return To:

David L. Lansky
Dickinson Wright PLLC
1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
748391

NOTICE OF ASSIGNMENT OF DECLARANT'S RIGHTS

THIS NOTICE OF ASSIGNMENT OF DECLARANT'S RIGHTS (this "Assignment") is made as of the 22 day of January, 2016, by and between DOBBINS PLACE, LLC, a Wyoming limited liability company ("Assignor"), and CALATLANTIC HOMES OF ARIZONA, INC., a Delaware corporation ("Assignee"), with reference to the facts set forth below.

WHEREAS, as of the date of recordation of this instrument, Assignee has acquired title from Assignor to that certain real property and any improvements situated thereon (the "Real Estate") more particularly described on Exhibit "A" attached hereto; and

WHEREAS, in connection with the conveyance of the Real Estate from Assignor to Assignee, Assignor and Assignee intend and agree that Assignor shall assign to Assignee the right to act as "Declarant" under that certain Declaration of Covenants, Conditions, Restrictions and Easements for Dobbins Place ("Declaration") recorded in the records of Maricopa County on April 5, 2007, at Recorder's No. 20070403230;

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Pursuant to Section 1.13 of the Declaration, Assignor hereby assigns and transfers to Assignee the right to act as "Declarant" under the Declaration. Assignor agrees to indemnify and hold harmless Assignee from any and all liabilities, claims, damages, costs or expenses (including reasonable attorneys' fees) arising under the Declaration as a result of obligations and duties of the Declarant arising prior to the date hereof.
2. Assignee hereby accepts the assignment of the right to act as "Declarant" under the Declaration and assumes from Assignor the obligations of the "Declarant" under the Declaration. Assignee agrees to indemnify and hold harmless Assignor from any and all liabilities, claims, damages, costs or expenses (including reasonable attorneys' fees) arising under the Declaration solely and directly as a result of Assignee's exercise of its right to act as "Declarant" under the Declaration with respect to the Real Estate arising after the date hereof.
3. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
4. Each of the parties signing this Assignment hereby warrants and represents that it has the full legal power, authority and right to execute, deliver and perform the obligations under this Assignment, that this Assignment has been duly authorized by all requisite actions on the part of such warranting party, and that no remaining action or third party action is required to make this Assignment binding upon such party.

5. This Assignment shall be construed and enforced in accordance with the laws of the State of Arizona.

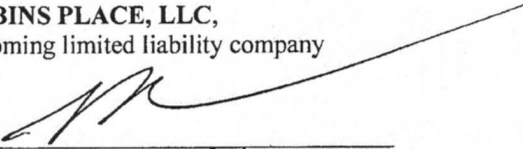
6. This Assignment may be executed in any number of counterparts, each of which, when so executed and when delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument.

7. When recorded in the official records of Maricopa County, Arizona, this Assignment shall constitute notice of the Assignment by Assignor to Assignee of the Declarant's Rights under the Declaration.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Declarant's Rights as of the day and year first set forth above.

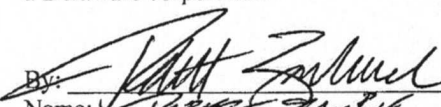
ASSIGNOR:

DOBBINS PLACE, LLC,
a Wyoming limited liability company

By: 
Name: Steven S. Robinson
Its: President

ASSIGNEE:

CALATLANTIC HOMES OF ARIZONA, INC.,
a Delaware corporation

By: 
Name: ROBERT GAMBIE
Its: VICE PRESIDENT

STATE OF ARIZONA)
) ss.
County of MARICOPA)

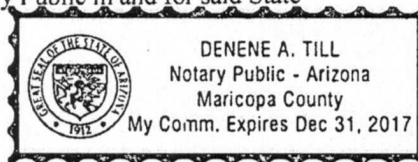
On January 21, 2016, before me, Denene A. Till, a Notary Public in and for said state, personally appeared Steven S. Robson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Denene A. Till
Notary Public in and for said State

My commission expires:

12/31/17



STATE OF Arizona)
) ss.
County of Maricopa)

On Jan 22, 2016, before me, Thomas P. Anzaldua, a Notary Public in and for said state, personally appeared Robert Zambie, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Thomas P. Anzaldua
Notary Public in and for said State

My commission expires:

11/25/18

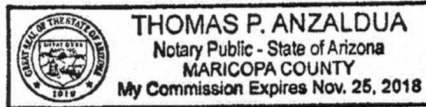
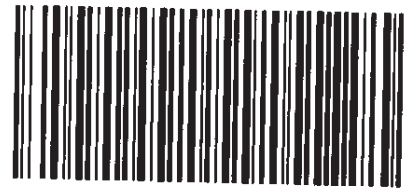


EXHIBIT "A"
Legal Description of Real Estate

Lots 81 through 83, inclusive; Lots 96 thru 137, inclusive; Lots 141 thru 173, inclusive; and Lot 176, inclusive; as shown on the "Final Plat for Dobbins Place," according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, recorded in Book 873 of Maps, Page 13, recorded at 2006-1347988, and Affidavit of Correction and Amendment recorded as 2007-168299 of official records.

When recorded, return to:

Dobbins Place LLC
P.O. Box 14000
Sun Lakes, AZ 85248
Attention: Julie Munson



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2013-0246207 03/18/13 03:38 PM
1 OF 1

RAMIREZP

**Amendment to the Declaration of Covenants,
Conditions and Restrictions for Dobbins Place**

Whereas, the original recording of the Dobbins Place Covenants, Conditions and Restrictions were recorded on April 5, 2007, with recording number 20070403230

Whereas, the original Declarant Scott Homes IV, LLC, an Arizona limited liability company terminated its rights and assigned the same Declarant Rights to Dobbins Place, LLC, a Wyoming limited liability company. The Assignment of Declarant's Rights were recorded on January 4, 2013 with recording number 20130011611

Whereas Section 6.47 is deleted in its entirety and replaced with the following:

6.47 Parking. It is intended that on-street parking of vehicles will be restricted as much as reasonably possible. Vehicles of all Owners and residents, and of their Family members, employees, guests and invitees, shall be kept in garages and the parking areas designated or approved by the Declarant or the Board; provided, however, this subsection shall not be construed to permit the parking or storing in the above described areas of any vehicle whose parking or storage is otherwise prohibited herein. No vehicle parked in a driveway may be permitted to encroach the sidewalk or dedicated common area/private drives. The Association Rules may permit temporary parking on streets or other areas in the Project for public or private social events or other permitted activities.

Whereas Section 6.48 is added as follows:

6.48 Towing of Vehicles. The Board shall have the right to have any truck, mobile home, travel trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle; or any automobile, motorcycle, motor bike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of this Declaration towed 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 and storage 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 an 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.

IN WITNESS WHEREOF, Declarant has executed this instrument this 18th day of March, 2013.

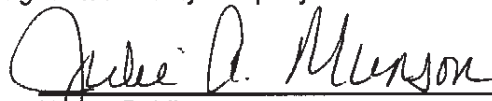
DOBBINS PLACE, LLC
a Wyoming limited liability company
By: KDB Management, Inc., an Arizona
corporation
Its: Manager



Steven S. Robson, President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 18th day of March, 2013 by Steven S. Robson, the President of KDB Management, Inc., an Arizona corporation in its capacity as Manager of Dobbins Place, LLC, a Wyoming limited liability company.



Notary Public

My Commission Expires:
1-7-2014

