

Hold for P/w
DCD/ Legal Eagles

When recorded mail to:

Clare H. Abel, Esq.
Burch & Cracchiolo, P.A.
P. O. Box 16882
Phoenix, Arizona 85011

Unofficial
Document

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PEAK VIEW RANCH

TABLE OF CONTENTS

ARTICLE I

<u>DEFINITIONS</u>	2
--------------------------	---

ARTICLE II

<u>PEAK VIEW RANCH HOMEOWNERS' ASSOCIATION, INC.</u>	4
2.1 <u>ORGANIZATION</u>	4
2.2 <u>MEMBERSHIP</u>	5
2.2.1 <u>Qualifications</u>	5
2.2.2 <u>Membership Rights and Duties</u>	5
2.2.3 <u>Transfer of Membership</u>	5
2.3 <u>VOTING</u>	5
2.3.1 <u>Number of Votes</u>	5
2.3.2 <u>Commencement of Voting Rights</u>	6
2.3.3 <u>Joint Owners' Disputes</u>	6
2.3.4 <u>Election and Removal of Board of Directors - Cumulative Voting</u> <u>Features</u>	6
2.4 <u>DUTIES OF THE ASSOCIATION</u>	6
2.4.1 <u>Maintenance and Management of Common Areas, Easements,</u> <u>Additional Maintenance Areas</u>	6
2.4.2 <u>Water and Other Utilities</u>	6
2.4.3 <u>Insurance</u>	6
2.4.4 <u>Rule Making</u>	7
2.4.5 <u>Design Review Committee</u>	7
2.4.6 <u>Taxes and Assessments</u>	7
2.4.7 <u>Enforcement of Restrictions and Rules</u>	7
2.4.8 <u>Budgets and Financial Statements</u>	7
2.5 <u>POWERS AND AUTHORITY OF THE ASSOCIATION</u>	8
2.5.1 <u>Assessments</u>	8
2.5.2 <u>Right of Entry and Enforcement</u>	8
2.5.3 <u>Easements</u>	8
2.5.4 <u>Transfer, Dedication and Encumbrance of the Common Area</u>	9
2.5.5 <u>Employment of Agents</u>	9
2.5.6 <u>Borrowing of Money</u>	9
2.5.7 <u>Hold Title and Make Conveyances</u>	9
2.6 <u>LIMITATIONS ON POWERS OF THE BOARD</u>	9
2.6.1 <u>Vote of Members Required</u>	9
2.6.2 <u>Termination of Agreements</u>	10
2.7 <u>THE ASSOCIATION RULES</u>	10
2.7.1 <u>Adopted by the Board</u>	10
2.7.2 <u>Adopted by the Committee</u>	11
2.8 <u>PERSONAL LIABILITY</u>	11

ARTICLE III

ASSESSMENTS 11

3.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS 11

3.2 PURPOSES OF ASSESSMENTS 11

3.3 OPERATING FUND. 11

3.4 ANNUAL ASSESSMENTS 12

 3.4.1 Levy and Enforcement of Annual Assessments. 12

 3.4.2 Amount of Assessments. 12

 3.4.3 Commencement Date for Annual Assessments. 12

 3.4.4 Increase of Annual Assessments. 12

 3.4.5 Reserve Fund. 12

3.5 ASSESSMENT ROLL. 13

3.6 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. 13

3.7 EMERGENCY ASSESSMENTS. 13

3.8 NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER PARAGRAPHS 3.4.4, 3.6 and 3.7. 13

3.9 REMEDIAL ASSESSMENTS 14

3.10 DUE DATES OF ASSESSMENTS; CERTIFICATE REGARDING ASSESSMENTS. 14

 3.10.1 Due Dates. 14

 3.10.2 Certificate of Payment 14

 3.10.3 Priority of Application of Payment. 14

3.11 EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. 14

 3.11.1 Suspension of Rights; Monetary Penalties 15

 3.11.2 Enforcement by Suit. 15

 3.11.3 Enforcement by Lien 15

3.12 SUBORDINATION TO CERTAIN LIENS. 16

3.13 TRANSFER FEE. 16

3.14 INITIAL CAPITAL CONTRIBUTION. 17

3.15 INCOME TAX ELECTIONS. 17

ARTICLE IV

COVENANTS AND USE RESTRICTIONS 17

4.1 RESIDENTIAL USE 17

4.2 MINIMUM SETBACK REQUIREMENTS 17

4.3 TIME-SHARING; SUBDIVIDING PROHIBITED 17

4.4 ALTERATIONS AND IMPROVEMENTS 17

4.5 LANDSCAPE MATERIALS; LIMITATION ON USE OF TURF 18

4.6 MAINTENANCE BY OWNER 18

4.7 STORM WATER RUNOFF COLLECTION AND DRAINAGE SYSTEM IMPROVEMENTS 18

4.8	<u>OWNERS' NONCOMPLIANCE WITH MAINTENANCE REQUIREMENTS</u>	18
4.9	<u>PROXIMITY TO MILITARY AIR FIELD; OVERFLIGHTS; NOISE ATTENUATION REQUIREMENTS</u>	19
4.10	<u>NOISE</u>	19
4.11	<u>OBNOXIOUS AND OFFENSIVE ACTIVITIES</u>	19
4.12	<u>ANTENNAS AND EXTERIOR APPLIANCES</u>	19
4.13	<u>COMPLIANCE WITH LAWS</u>	20
4.14	<u>EXTRACTION OF MINERALS</u>	20
4.15	<u>COMMERCIAL AND PROFESSIONAL USE</u>	20
4.16	<u>GRADES, SLOPES AND DRAINAGE</u>	20
4.17	<u>USE OF IMPROVEMENTS DURING CONSTRUCTION; DILIGENCE IN CONSTRUCTION</u>	20
4.18	<u>CHEMICALS</u>	20
4.19	<u>POISONOUS PLANTS AND ALLERGENS</u>	21
4.20	<u>OPEN FIRES</u>	21
4.21	<u>SIGNS</u>	21
4.22	<u>ANIMALS</u>	21
4.23	<u>USE OF TRAIL BIKES</u>	21
4.24	<u>EXTERIOR LIGHTING</u>	21
4.25	<u>DUST CONTROL</u>	22
	4.26 <u>PARKING RESTRICTIONS</u>	22
4.27	<u>SEPTIC SYSTEMS</u>	22
4.28	<u>"ECCLESIA" PERMITTED</u>	22
4.29	<u>EXCEPTIONS</u>	22

ARTICLE V

	<u>DESIGN REVIEW</u>	23
5.1	<u>DESIGN REVIEW COMMITTEE</u>	23
	5.1.1 <u>Purpose</u>	23
	5.1.2 <u>Establishment of Committee.</u>	23
	5.1.3 <u>Initial Members.</u>	24
	5.1.4 <u>Appointment, Removal and Resignation</u>	24
	5.1.5 <u>Vacancies</u>	24
5.2	<u>MEETINGS</u>	24
5.3	<u>DUTIES</u>	24
5.4	<u>OPERATION OF COMMITTEE</u>	24
	5.4.1 <u>Documents Required.</u>	25
	5.4.2 <u>Committee Discretion.</u>	25
	5.4.3 <u>Automatic Approval.</u>	25
	5.4.4 <u>Fees.</u>	25
	5.4.5 <u>Developer Exemption</u>	25
	5.4.6 <u>Professional Advisors.</u>	25
5.5	<u>ACCESS TO PROPERTY.</u>	25
5.6	<u>WAIVER.</u>	26
5.7	<u>LIABILITY</u>	26

ARTICLE VI

DESTRUCTION

..... 26

6.1 RECONSTRUCTION WITHOUT ELECTION OF OWNERS 26

6.2 RECONSTRUCTION BY CONSENT OF OWNERS 26

6.3 ASSESSMENTS 26

6.4 OBLIGATION OF BOARD 27

6.5 DETERMINATION NOT TO REBUILD 27

6.6 DAMAGE TO LOT 27

ARTICLE VII

CONDEMNATION 27

7.1 TAKING OF ENTIRE COMMON AREA 27

7.2 PARTIAL TAKING OF COMMON AREA 27

7.3 TAKING OF LOTS 28

ARTICLE VIII

EASEMENTS 28

8.1 USE OF THE COMMON AREA 28

8.2 EASEMENT FOR ACCESS 28

8.3 PUBLIC UTILITY EASEMENT 29

8.4 DRAINAGE EASEMENTS AMONG OWNERS 29

8.5 TO THE ASSOCIATION 29

8.6 COVENANTS RUNNING WITH THE LAND 29

8.7 OWNERS' INTERESTS IN UTILITY EASEMENTS 29

 8.7.1 On Common Areas and Other Lots 29

 8.7.2 Shared Utility Connections 30

 8.7.3 Resolution of Disputes 30

8.8 EASEMENTS RESERVED BY DECLARANT ON BEHALF OF DEVELOPER 30

 8.8.1 Within Public Utility Easements 30

 8.8.2 Within Common Area and Other Areas 30

 8.8.3 Transfer By Developer 31

 8.8.4 Owner Access Restricted 31

ARTICLE IX

ENFORCEMENT 31

9.1 ALL REMEDIES ARE AVAILABLE 31

9.2 EXPENSE OF ENFORCEMENT IS LIEN ON LOT 32

9.3 CUMULATIVE REMEDIES 32

9.4 LIEN FOR UNSUCCESSFUL SUIT BY OWNER 32

ARTICLE X

INTEGRATED NATURE OF THE COVERED PROPERTY 32

10.1 DEVELOPMENT OF THE COVERED PROPERTY 32

 10.1.1 Annexation Necessary 32

10.2 ANNEXATION WITHOUT APPROVAL AND PURSUANT TO GENERAL PLAN. 33

10.3 MERGERS, CONSOLIDATIONS OR AFFILIATION 33

10.4 LIMITATION UPON ANNEXATION 33

ARTICLE XI

GENERAL PROVISIONS 33

11.1 AMENDMENTS 33

 11.1.1 By Owners 33

 11.1.2 By Declarant 33

 11.1.3 Compliance with Law 33

 11.1.4 Apply to all Covered Property 33

11.2 NOTICES. 34

11.3 SEVERABILITY 34

11.4 SUCCESSORS OF DECLARANT 34

11.5 SUCCESSORS OF DEVELOPER 35

11.6 INAPPLICABILITY TO PROPERTY OF PUBLIC ENTITY. 35

11.7 VIOLATION AND NUISANCE. 35

11.8 VIOLATION OF LAW 35

11.9 BREACH. 35

11.10 CONSTRUCTION OF DOCUMENT. 35

11.11 SPECIAL MORTGAGEE REQUIREMENTS. 35

 11.11.1 Notice of Delinquency. 35

 11.11.2 Mortgagee Entitlement to Notice. 35

 11.11.3 Right of First Refusal Restricted. 35

 11.11.4 Nonliability for Assessment Prior to Foreclosure. 36

 11.11.5 Examine Books. 36

 11.11.6 Reserve Fund. 36

 11.11.7 Acts Requiring Prior Written Approval of Mortgagee. 36

 11.11.8 Notice of Taking or Damaging 36

 11.11.9 Payment of Delinquent Taxes. 37

11.12 GENERAL MORTGAGEE PROVISIONS. 37

 11.12.1 Right to Encumber. 37

 11.12.2 Not Required to Cure Breach 37

 11.12.3 Rights on Resale After Foreclosure. 37

 11.12.4 Limit on Amendments Not Signed by Mortgagee. 37

 11.12.5 Right to Attend Meetings. 37

 11.12.6 Information Given to Board. 37

11.12.7 Insurance Loss Payable. 37
11.12.8 Mortgagee Protection Superior. 37
11.13 TERM. 38
11.14 PLURALS; GENDER. 38
11.15 HEADINGS. 38
11.16 CAPITALIZATION. 38
11.17 PERPETUITIES AND RESTRAINTS ON ALIENATION. 38
11.18 DOCUMENTS TO PREVAIL. 38

Unofficial Document

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PEAK VIEW RANCH**

THIS DECLARATION made this 13 day of May, 2004, by PEAK VIEW RANCH, L.L.C., an Arizona limited liability company, as owner, hereinafter referred to as Declarant, is as follows:

WITNESSETH:

WHEREAS, Declarant is now the owner of all of the real property described as:

Lots 1 through 93, inclusive, and Tract B, inclusive, of Peak View Ranch - Unit 1, a residential development, in Maricopa County, Arizona, according to the plat recorded on the 17th day of September, 2003, at Book 652 of Maps, Page 20 thereof, and at Instrument No. 2003-1306791, Official Records of Maricopa County, Arizona, the "Plat" (such real property hereinafter referred to as the "Initial Covered Property" or "Property").

WHEREAS, Declarant intends to and does hereby establish for its own benefit, for the benefit of Developer, as defined herein, and for the mutual benefit of all future owners or occupants of said Property as said Property is now and may subsequently be constituted, and each part thereof, certain easements and rights in, over and upon said Property, and certain mutually beneficial covenants, conditions, restrictions and obligations with respect to the proper use, conduct and maintenance thereof; and

WHEREAS, Declarant intends that the owners, mortgagees, occupants and all other persons hereafter acquiring any interest in said Property or any part thereof, shall at all times enjoy the benefits of, and shall hold, sell and convey their interests subject to the rights, easements, covenants, conditions, restrictions and obligations hereinafter set forth, all of which are hereby declared to be in furtherance of a general plan to promote and protect the cooperative aspect of such development and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property;

NOW, THEREFORE, Declarant, as owner of the Property and for the purposes above set forth, hereby declares that all of the Property as defined herein and each part thereof, as may hereafter be annexed as provided herein, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall constitute equitable servitudes on the "Property" (as hereinafter

defined) and which shall run with said Property and be binding on and inure to the benefit of all parties having any right, title or interest therein, or any part thereof, their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

As used herein, unless otherwise specified or unless the context otherwise requires:

1.1 "Accessory Use" shall mean a use naturally and normally incidental to, subordinate to, and devoted exclusively to the permitted main use of a Lot.

1.2 "Additional Maintenance Areas" shall mean those portions of a Lot, public rights-of-way or other off-site areas that are located in and around the Property that are maintained by the Association.

1.3 "Annexation Property" shall mean such other property, whether adjacent to the Covered Property or not, as is identified by Declarant for the purpose of bringing such additional property within the scope of this Declaration.

1.4 "Articles" shall mean the Articles of Incorporation of Peak View Ranch Homeowners' Association which are, or shall be, ^{Unofficial Document} filed with the Arizona Corporation Commission, as said Articles are amended from time to time.

1.5 "Association" shall mean Peak View Ranch Homeowners' Association, Inc., an Arizona nonprofit corporation, its successors or assigns.

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

1.7 "Building" means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels and located on a Lot and forming a part of such Lot.

1.8 "Bylaws" shall mean the Bylaws of the Association as such Bylaws may be amended from time to time.

1.9 "Common Area" shall mean the Tracts, if any, the drainage easement areas and additional maintenance areas described in the Plat, including, but not limited to, landscaping, drainage easements, private access ways, common irrigation facilities, ditches, pipelines and equipment, perimeter wall or fence structures, roadway and other areas or structures constructed thereon.

1.10 "Declarant" shall mean Peak View Ranch, L.L.C., an Arizona limited liability company, as owner, its successors and assigns, provided that such successor or assign is designated

as the Successor Declarant in a document executed by the Declarant and recorded in the Official Records of Maricopa County, Arizona.

1.11 "Declaration" shall mean this instrument by which the Property is established as a residential development, as this Declaration may from time to time be amended.

1.12 "Developer" shall mean R.J. Springer Construction, L.L.C., an Arizona corporation, and any successor or assign, if such successor or assign should acquire any portion of the Property from the Declarant for the purpose of development and is designated by Developer as the Successor Developer for the purpose hereof by a duly recorded written instrument.

1.13 "Dwelling" shall mean any building or portion thereof which is used as a private residence or sleeping place of one or more human beings.

1.14 "Improvement(s)" shall mean buildings, private streets, garages, carports, driveways, walkways, parking areas, barns, stables, fences, walls, porches, patios, hedges, plants, planters, planted trees and shrubs, swimming pools, spas and all other structures or landscaping improvements of every kind, nature or description.

1.15 "Initial Covered Property" or "Property" shall mean Lots 1 through 93, inclusive, of Peak View Ranch and only such additional property within Peak View Ranch as is brought within the Property and specifically made subject to this Declaration pursuant to the Article of this Declaration titled "Integrated Nature of the Covered Property."
Unofficial Document

1.16 "Lien" shall mean both voluntary and involuntary liens.

1.17 "Lot" shall mean each parcel of real property in the Property as shown with a separate and distinct number on a final subdivision plat, which has been duly recorded or filed in the Office of the County Recorder of Maricopa County, Arizona, exclusive of the Common Area.

1.18 "Member" shall mean every person or entity who holds membership in the Association.

1.19 "Membership" shall mean that every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment, except as provided for Developer in the Article titled "Peak View Ranch Homeowners' Association, Inc.," Section titled "Membership."

1.20 "Mortgage" shall mean and refer to all instruments establishing a security interest, including deeds of trust.

1.21 "Mortgagee" shall mean the beneficiary of a recorded deed of trust or the holder of a recorded mortgage.

1.22 "Owner" shall mean the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Lot, but excluding those having an interest merely as security for the performance of an obligation.

1.23 "Plat" shall mean the subdivision plat recorded in Book 652 of Maps, Page 20 thereof and at Instrument No. 2003-1306791, Official Records of Maricopa County, Arizona, as the same may be amended from time to time, and may include the subdivision plat(s) for property that is brought within this Declaration pursuant to Article X hereof.

1.24 "Public Utility Easement" shall mean an easement over, under, upon and through an area as shown on the final recorded plat for the purpose of maintaining public utilities, including water, sewer, electric, telephone, fiber optic cable, cable television, irrigation lines or ditches .

1.25 "Rules" shall mean any rules adopted by the Board, and any architectural standards, landscaping standards and procedures for applying for approval, as determined by the Design Review Committee on an ad hoc basis or which, in the discretion of the Design Review Committee, may be adopted and published to the Owners.

1.26 "Storm Water Runoff Collection and Drainage System" shall mean and include that certain storm water runoff collection and conveyance system, including, but not limited to, all easements, ditches, underground pipelines, other equipment and improvements located within the Property and that may be located off-site but convey storm water to or from the Property, through which the storm water runoff and drainage is designed to flow over, under, around and through the Property.

1.27 "Tract A" shall mean that portion of real property designated on the Plat as Tract A which contains a well for potable water production, storage and distribution and including all facilities appurtenant thereto, which Tract A shall be conveyed to the Beardsley Water Company for the benefit of the Owners within Peak View Ranch.

1.28 "Visible from Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE II

PEAK VIEW RANCH HOMEOWNERS' ASSOCIATION, INC.

2.1 ORGANIZATION. The Association is a nonprofit Arizona corporation, which corporation shall be the governing body for all of the Owners for the maintenance, repair, replacement, administration and operation of the Common Area and the Storm Water Runoff Collection and Drainage System and all other property it is required or permitted to maintain pursuant to this Declaration, and shall have the duties and powers prescribed by law and set forth

in the Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

2.2 MEMBERSHIP.

2.2.1 Qualifications. Each Owner of a Lot, except Declarant, but excluding persons or entities who hold an interest merely as security for the performance of an obligation, shall automatically, upon becoming an Owner, become a Member of the Association and shall remain a Member until such Owner ceases to own a Lot. The Declarant shall be a Member as long as any Lot in the Property and Annexation Property has not been conveyed to an Owner, and Declarant has not voluntarily relinquished Membership by written notice to the Association.

2.2.2 Membership Rights and Duties. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws and the Association Rules as said documents may be amended from time to time.

2.2.3 Transfer of Membership. The Association Membership of each Owner (and Declarant) shall be appurtenant to the Lot giving rise to such Membership, and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to said Lot, and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the Membership in the Association appurtenant thereto to the new Owner thereof.

2.3 VOTING.

Unofficial Document

2.3.1 Number of Votes. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, except Declarant, and shall be entitled to one vote for each acre owned. When more than one person is the Owner of an acre, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any acre.

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each acre in the Covered Property and Annexation Property which has not been conveyed to an Owner. Class B Membership shall cease and be converted to Class A Membership on the happening of the earliest of the following events:

(i) Within One Hundred Twenty (120) days after the sale of all Lots to individual Owners; or

(ii) Fifteen (15) years from the date of the first recording of the Declaration with the Maricopa County Recorder; or

(iii) The Declarant advises the Association in writing that it is relinquishing all Class B votes.

2.3.2 Commencement of Voting Rights. Voting rights for both the Covered Property and any Annexation Property shall commence upon the first conveyance of a Lot within that Phase by Declarant to an Owner.

2.3.3 Joint Owners' Disputes. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that the joint Owners are unable to agree among themselves as to how their one vote shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners cast a vote representing a Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot. In the event more than one (1) vote is cast for a particular acre, none of said votes shall be counted and said votes shall be deemed void.

2.3.4 Election and Removal of Board of Directors - Cumulative Voting Features. Every Owner entitled to vote at any election of the Board may cumulate his vote and give one candidate a number of votes equal to the number of Directors to be elected multiplied by the number of votes to which his Lot(s) are entitled. The entire Board or any individual Director may be removed from office with or without cause by vote of the majority of the voting power of the Members, provided, however, unless the entire Board is removed, an individual Director shall not be removed prior to the expiration of his term of office if the number of votes against the resolution for his removal or not consenting in writing to such removal would be sufficient to elect the Director if voted cumulatively at an election at which the same number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Director were then being elected. If any or all of the Directors are so removed, new Directors may be elected at the same meeting. Each Director must be a Member of the Association or a representative of Declarant designated by Declarant.

2.4 DUTIES OF THE ASSOCIATION. In addition to the powers delegated to it by its Articles, and without limiting the generality thereof, the Association shall have the obligation to perform each of the following duties:

2.4.1 Maintenance and Management of Common Areas, Easements, Additional Maintenance Areas. Maintain in a safe and first class condition, manage and preserve all of the Common Area, Storm Water Runoff Collection and Drainage System and such Additional Maintenance Areas as the Board elects to maintain, including all Improvements presently or hereafter located thereon and thereunder.

2.4.2 Water and Other Utilities. To acquire, provide and/or pay for water, gas, sewer, septic system, electrical, telephone, cable or other necessary or convenient utility services for the Common Area, if any.

2.4.3 Insurance. To obtain and maintain in force the following policies of insurance:

(a) Fire and extended coverage insurance on the Common Area and Storm Water Runoff Collection and Drainage System, the amount of such insurance to be not less than one hundred percent (100%) of the aggregate full insurable value.

(b) General comprehensive public liability insurance against claims for personal or bodily injury, death or property damage with limits with regard to injury or death of not less than \$1,000,000.00 per person and \$3,000,000.00 per occurrence; and with limits of not less than \$500,000.00 per occurrence in respect of property damage, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction. Said liability insurance shall name and separately protect as insureds each Owner, Developer, the Association, the Board and their representatives, members and employees, and the Association Members (as a class), with respect to any liability arising out of the maintenance or use of the Common Areas, Storm Water Runoff Collection and Drainage System, Additional Maintenance Areas or other property under the jurisdiction of the Association, and activities of the Association.

(c) Such other insurance, including director and officer insurance (errors and omissions), and worker's compensation liability insurance to the extent necessary to comply with any applicable law, faithful performance and fidelity bonds to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property and such indemnity and other bonds as the Board shall deem necessary or expedient to carry out the Association's functions.

(d) The Association shall maintain blanket fidelity bonds for all officers, directors, trustees, employees of the Association and all other persons handling or responsible for funds of or administered by the Association. In the event the Association delegates responsibility for handling such funds to a management agent, such management agent shall be required to maintain such bonds for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association.

2.4.4 Rule Making. To make, establish, promulgate, amend and repeal the Association Rules.

2.4.5 Design Review Committee. To appoint and remove members of the Design Review Committee all subject to the provisions of this Declaration subject to the Declarant's right to appoint and remove all members of the Design Review Committee for so long as the Declarant has an interest in the Covered Property or any Annexation Property.

2.4.6 Taxes and Assessments. Pay all taxes and assessments which are or could become a lien on the Common Area or other property owned by the Association.

2.4.7 Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration and the Association Rules.

2.4.8 Budgets and Financial Statements. The Board shall cause financial statements for the Association to be regularly prepared and copies to be made available to each Member of the Association. Such reports shall include the following: (i) a pro forma operating statement (budget) for each fiscal year (which shall include a reserve for the repair and replacement of Common Area facilities and Storm Water Runoff Collection and Drainage System improvements

and such Additional Maintenance Areas for which maintenance is assumed by the Association) shall be available not less than sixty (60) days before the beginning of each fiscal year of the Association; (ii) an annual report consisting of the following shall be available to any Owner within one hundred twenty (120) days after the close of the fiscal year.

2.5 POWERS AND AUTHORITY OF THE ASSOCIATION. The Association shall have all the powers of a nonprofit corporation organized under the Nonprofit Corporation Law of the State of Arizona, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws or this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association by this Declaration, the Articles and the Bylaws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including without limitation:

2.5.1 Assessments. To levy assessments against Lots and to enforce payment of such assessments, all in accordance with the provisions of the Article hereof entitled "Assessments."

2.5.2 Right of Entry and Enforcement. To enter upon any Lot (excluding the interior of any dwelling thereon) or any Common Area or Storm Water Runoff Collection and Drainage System for the purpose of ascertaining whether the provisions of this Declaration and Association Rules have been or are being complied with, for the purpose of enforcing by peaceful means any of the provisions of this Declaration or the Association Rules, or for the purpose of maintaining or repairing any such area as required to be maintained or repaired by this Declaration or the Association Rules. Such entrance shall be after twenty-four (24) hours' prior written notice to the Owner, or such greater notice as may be required by any provision hereof; provided, however, that such entrance shall be permitted without any prior notice whatsoever in the event of an emergency. The Association shall also have the power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration and the Association Rules, and to enforce, by mandatory injunction or otherwise, all of the provisions hereof. In addition, or as an alternative method of enforcing this Declaration and the Association Rules, the Board may impose monetary penalties, temporary suspensions of an Owner's rights as a Member or other appropriate discipline for failure to comply with the provisions of this Declaration or the Association Rules, provided that the procedures for notice and hearing set forth in the Article titled "Enforcement" are given to the accused Member before a decision to impose discipline is reached.

2.5.3 Easements. To grant and convey to any third party, easements and access ways in, on, over or under any Common Area or Storm Water Runoff Collection and Drainage System for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder (i) underground water lines, shared well facilities, overhead or underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, security system, telephone, fiber optic cable, cable television and other purposes, irrigation ditches, lines or facilities; (ii) public sewers, storm water drains and pipes, water systems, sprinkling

systems, water, heating and gas lines or pipes, and (iii) any similar public or quasi-public improvements or facilities.

2.5.4 Transfer, Dedication and Encumbrance of the Common Area. To sell, transfer or encumber all or any portion of the Common Area that is owned by the Association, and any other portion of the Property owned by the Association, to a person, firm or entity, whether public or private, and to dedicate or transfer all or any portion of the Common Area or other property owned by the Association to any public agency, authority, or utility for such purposes. No such sale, transfer, encumbrance or dedication shall be effective unless an instrument signed by Declarant and by Members representing seventy-five percent (75%) of the total voting power of the Association other than Declarant has been recorded, agreeing to such sale, transfer, encumbrance or dedication, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance.

2.5.5 Employment of Agents. To employ the services of any person or corporation as managers, advisors, consultants, contractors or employees to manage, conduct and perform the business, obligations and duties of the Association or to provide advice and counsel as may be directed by the Board and to enter into contracts for such purpose. Such agents shall have the right to ingress and egress over such portions of the Property as is necessary for the performance of such business, duties and obligations.

2.5.6 Borrowing of Money. To borrow and repay monies for the purpose of maintaining and improving the Common Area or Storm Water Runoff Collection and Drainage System, and to encumber property of the Association as security for the repayment of such borrowed money.

2.5.7 Hold Title and Make Conveyances. To acquire, hold title to and convey, with or without consideration, real and personal property and interests therein, including, but not limited to, easements.

2.6 LIMITATIONS ON POWERS OF THE BOARD.

2.6.1 Vote of Members Required. Notwithstanding the powers of the Association as set forth in the paragraph hereof titled "Powers and Authority of the Association," the Board shall not take any of the following actions without the prior vote or written consent of the Owners of a majority of the land area in the Association, including a majority of the voting power residing in Members other than Declarant:

(a) Enter into a contract with a third person or entity wherein such person or entity will furnish goods or services for the Common Area or Storm Water Runoff Collection and Drainage System or the Association for a term longer than one (1) year with the following exceptions:

(i) A contract with a public utility company if the rates charged for the materials or services are regulated by the Corporation Commission or successor thereof;

provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(ii) Prepaid casualty and/or liability insurance policies of not to exceed three years' duration provided that the policy permits short rate cancellation by the insured.

(b) Incur aggregate expenditures for capital improvements to the Common Area or Storm Water Runoff Collection and Drainage System in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(c) Pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a director or an officer to be reimbursed for expenses incurred in carrying on the business of the Association.

(d) Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(e) Fill any vacancy on the Board created by the removal of a member of the Board.

2.6.2 Termination of Agreements. Notwithstanding anything herein contained to the contrary, any agreement for professional management of the Property, or any other contract providing for services by Developer, must provide for termination by either party without cause or payment of a termination fee on not more than ninety (90) days' written notice and a maximum contract term of three (3) years.

2.7 THE ASSOCIATION RULES.

2.7.1 Adopted by the Board. By a majority vote of the Board, the Association may, from time to time, adopt, amend and repeal such rules and regulations as it may deem reasonable (the "Association Rules"). The Association Rules shall govern the use of the Common Area and Storm Water Runoff Collection and Drainage System, by any Owner, or by any invitee, licensee or lessee of such Owner, by the family of such Owner, or by any invitee, licensee or lessee of the family of such Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or the Bylaws. A copy of the Association Rules as they may be amended, adopted or repealed from time to time, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between any of the Association Rules and any of the other provisions of this Declaration, or the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of such inconsistency.

2.7.2 Adopted by the Committee. In addition, the Design Review Committee may adopt standards for construction and landscaping and may adopt procedures for making, hearing and ruling on such applications. Such standards and procedures, when adopted by the Design Review Committee and delivered to each Owner, as set forth above, shall be Association Rules, subject to the same provisions and enforcement procedures, except that approval of one application and disapproval of a similar application shall not be discriminatory enforcement.

2.8 PERSONAL LIABILITY. No member of the Board or the Design Review Committee or any officer of the Association, or Declarant, or the manager, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, the Design Review Committee, the manager or any other representative or employee of the Association, Declarant, or any officer of the Association, or of Declarant, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, and without willful or intentional misconduct.

ARTICLE III

ASSESSMENTS

3.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. Declarant, for each Lot owned, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, and whether or not any Improvements exist on such Lot, is deemed to covenant and agree, for each Lot owned, to pay to the Association Annual Assessments, Special Assessments, Emergency Assessments and Remedial Assessments, all of which shall be established, made and collected as hereinafter provided. The Annual, Special, Emergency, and Remedial Assessments, together with interest, costs and reasonable attorneys' fees, shall, when perfected in the manner hereinafter provided, be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be a personal obligation of the person who is the Owner of such Lot at the time the assessment becomes due and payable. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them, however, all perfected liens shall be liens on the interests of successive Owners of the Lots subject thereto, except as otherwise provided herein for Mortgagees. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by nonuse of the Common Area, or Storm Water Runoff Collection and Drainage System or any part thereof, or abandonment of the Lot.

3.2 PURPOSES OF ASSESSMENTS. Assessments levied shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property, the improvement, operation and maintenance of the Common Area or Storm Water Runoff Collection and Drainage System and the performance of the duties of the Association as set forth in this Declaration.

3.3 OPERATING FUND. There shall be an operating fund, into which the Association shall deposit all monies paid to it as (i) Annual Assessments; (ii) Emergency

Assessments; (iii) Special Assessments; (iv) Remedial Assessments; (v) Use fees, if any, paid by users of recreational facilities; (vi) Miscellaneous fees; (vii) Income attributable to the operating fund; and from which the Association shall make disbursements in performing the functions for which the foregoing assessments are levied.

3.4 ANNUAL ASSESSMENTS.

3.4.1 Levy and Enforcement of Annual Assessments. Annual Assessments shall be made, and enforced, by the Board in the manner provided in this Declaration against the Owners or trustors of all Lots, including Declarant for such Lots owned by Declarant and annexed into the Covered Property. The operation, management and maintenance of the Common Area, and Storm Water Runoff Collection and Drainage System with the rights, duties and obligations of the Association as set forth in this Declaration, shall be the exclusive obligation of the Association.

3.4.2 Amount of Assessments. Beginning with the fiscal year of the Association following termination of all Class B votes, the amount of the total Annual Assessment for all the Lots shall be determined by the Board at least thirty (30) days prior to the commencement of each fiscal year based on the budget for such fiscal year called for by paragraph 2.4.9 above.

(a) Except as otherwise provided herein, the total Annual Assessment and any Special or Emergency Assessments shall be assessed equally against all of the Lots.

(b) Declarant may pay twenty-five percent (25%) of the annual assessment for each Lot in the Covered Property ^{Unofficial Document} which is not improved with an occupied Dwelling, provided that all Owners within a phase shall pay a full assessment no later than sixty (60) days after commencement of assessments for that phase.

3.4.3 Commencement Date for Annual Assessments. Subject to any assessment maintenance or subsidy program established by the Declarant, the Annual Assessment hereunder shall commence to accrue on all Lots in a phase on the date ("Initial Commencement Date") which is the first day of the first month following the first recordation of a deed of a Lot in that phase from Declarant to any Owner other than Declarant pursuant to the sale of such Lot by Declarant to such Owner.

3.4.4 Increase of Annual Assessments. The maximum Annual Assessments for each succeeding fiscal year may be increased each year above the Maximum Assessments for the previous year without a vote of the Membership in an amount no more than twenty percent (20%) of the prior year's Annual Assessment without a vote of the Members. Any increase in the Annual Assessments which exceeds the allowable increase shall be made only upon the affirmative vote or written consent of the Owners of two-thirds (2/3) of the land area in each class who are voting as set forth below in the section titled "Notice and Quorum for any Action Authorized Under Paragraphs 3.4.4, 3.6 and 3.7."

3.4.5 Reserve Fund. For purposes of creating reserves to ensure payment when due of the cost of capital expenditures relating to the repair and replacement of the Common Area and Storm Water Runoff Collection and Drainage System and equipment, fixtures and

furnishings in the Common Area and Storm Water Runoff Collection and Drainage System, a portion of the Annual Assessments shall constitute a contribution to the reserve fund of the Association. The specific items for which such contribution shall be made and the amount of such contribution in respect of each such item shall be determined by the Board, acting in its sole discretion, at the time it adopts the budget for the Annual Assessments in accordance with this Declaration. All such contributions shall be collected in equal monthly installments as provided herein, shall be accounted for separately and shall be held in trust and used to pay for each specific capital expenditure in such manner and at such times as the Board, acting in its sole discretion, shall determine. Immediately upon receipt, all such capital contributions shall be deposited in a separate interest-bearing account or accounts, denominated Trustee Capital Account in any FDIC insured financial institution as may be determined by the Board by resolution, or invested in certificates of deposit issued by a bank or financial institution having assets in excess of Five Hundred Million Dollars (\$500,000,000.00).

3.5 ASSESSMENT ROLL. An assessment roll shall be accurately maintained and available in the office of the Association for inspection at all reasonable times by any Owner or his duly authorized representative. Said assessment roll shall indicate for each Lot, the name and address of the Owner thereof, all assessments levied against each Owner and his Lot, and the amount of said assessments paid and unpaid.

3.6 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the Annual Assessments authorized above, the Board may levy, during any fiscal year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or unexpected repair or replacement of a capital improvement upon the Common Area or Storm Water Runoff Collection and Drainage System, including the necessary fixtures and personal property related thereto, provided that any such assessment shall be made only upon vote or written consent of the Owners of two-thirds (2/3) of the land area in each class of Members voting as provided in the paragraph hereof titled "Notice and Quorum for any Action Authorized Under Paragraphs 3.4.4, 3.6 and 3.7."
Unofficial Document

3.7 EMERGENCY ASSESSMENTS. If the assessments levied are, or will become, inadequate to meet all expenses incurred hereunder for any reason, including nonpayment of any Owner's assessments on a current basis, the Board shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noted as to the reason therefor, and levy an emergency assessment for the amount required to meet all such expenses on a current basis ("Emergency Assessment") against the Owners of each of the Lots. Emergency Assessments which in the aggregate in any fiscal year exceed an amount equal to five percent (5%) of the budgeted gross expenses of the Association for the fiscal year may be levied only upon vote or written consent of the Owners of two-thirds (2/3) of the land area in each class of Members voting as provided in the paragraph hereof titled "Notice and Quorum for any Action Authorized Under Paragraphs 3.4.4, 3.6 and 3.7."

3.8 NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER PARAGRAPHS 3.4.4, 3.6 and 3.7. Written notice of any meeting called for the purpose of taking any action authorized under paragraphs 3.4.4, 3.6 or 3.7 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 sixty percent (60%) of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

3.9 REMEDIAL ASSESSMENTS. Pursuant to this Declaration, the Board may levy an assessment against any Lot to reimburse the Association for costs incurred in bringing such Lot and its Owner into compliance with provisions of this Declaration, the architectural and landscaping standards or the Association Rules. Remedial Assessments shall be due ten (10) days after the Board gives written notice thereof to the Owner subject thereto. The provisions of the section titled "Notice and Quorum for any Action Authorized Under Paragraphs 3.4.4, 3.6 and 3.7," of this Article with respect to approval of Special Assessments and Emergency Assessments shall not apply in the case of Remedial Assessments.

3.10 DUE DATES OF ASSESSMENTS; CERTIFICATE REGARDING ASSESSMENTS.

3.10.1 Due Dates. The first Annual Assessment and all Special Assessments shall be adjusted according to the number of months remaining in the fiscal year. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of all assessments shall be sent to each Owner subject thereto. The Annual Assessments and Special Assessments shall be collected monthly on the first day of each month commencing on the Initial Commencement Date. The Emergency Assessments shall be due and payable at the time and in the manner specified by the Board.

3.10.2 Certificate of Payment. The Board shall, upon written request therefor from any Owner or his Mortgagee, and for a reasonable charge furnish a certificate to such person or entity, signed by an officer of the Association, setting forth whether all Annual, Special, Emergency and Remedial Assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

3.10.3 Priority of Application of Payment. Any monies paid by an Owner to the Association shall be applied in the following priority: (i) monetary penalties; (ii) late fees; (iii) interest; (iv) use fees; (v) remedial assessments; (vi) emergency assessments; (vii) special assessments; and (viii) annual assessments. Misapplication of funds by the Association to a lower priority shall not extinguish a higher priority indebtedness.

3.11 EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. In the event of a default in payment of any assessment when due, such assessment shall be deemed to be delinquent. Each Owner vests in the Association or its assigns the right and power to bring all actions at law, liens, foreclosures or other remedies provided herein against the Owners for the collection of delinquent assessments. In the event an attorney or attorneys are employed for collection of any assessment, whether by suit or otherwise, each Owner agrees to pay reasonable attorneys' fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. In addition to any other remedies herein or by

law provided, the Association may enforce the obligations of the Owners to pay the assessments provided for herein, and each of them, in any manner provided by law or in equity, and without any limitation of the foregoing by any or all of the following procedures:

3.11.1 Suspension of Rights; Monetary Penalties. The Board may (i) suspend the voting rights of any Owner, and after a hearing by the Board (whether or not the delinquent Owner appears), upon ten (10) days' written notice to the delinquent Owner, (ii) suspend such Owner's right to use the Common Area for any period during which any assessment against such Owner's Lot remains unpaid; provided that this provision shall not operate or be construed to deny or restrict ingress or egress of any Owner to his Lot, and/or (iii) impose reasonable monetary penalties pursuant to a monetary penalty schedule established by the Association.

3.11.2 Enforcement by Suit. The Board may commence and maintain a suit at law or equity against an Owner or prior Owner to enforce said assessment obligation, such suit to be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the delinquency, with interest thereon at the rate equal to the highest rate for VA mortgage loans during the period of delinquency, from the date of the delinquency, and all court costs and reasonable attorneys' fees, in such amount as the court may adjudge against the delinquent Owner.

3.11.3 Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on each and every Lot to secure payment to the Association of any and all assessments levied against any and all Lots under this Declaration, together with interest thereon at the rate equal to the highest rate for VA PUD mortgage loans during the period of delinquency from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any default in the payment of such assessment, the Association or any authorized representative may, but shall not be required to make a written demand for payment to the delinquent Owner. 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 or a 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, or at any time after the delinquency if no written demand is made, the Association may elect to file and record a notice of assessment and claim of lien on behalf of the Association against the Lot of the defaulting Owner in the Office of the County Recorder of Maricopa County, Arizona. Such a notice of assessment and claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information: (i) the name of the delinquent Owner; (ii) the legal description of the Lot against which the claim of lien is made; (iii) the total amount of the delinquency, interest thereon, collection costs and reasonable attorneys' fees (with any proper offset allowed); (iv) that the notice of assessment and claim of lien is made by the Association pursuant to this Declaration; (v) that a lien is claimed against said Lot in an amount equal to the amount stated.

(a) A copy of the lien shall be mailed to said Owner upon such recordation of a duly executed original or copy of such a notice of assessment and claim of lien, the lien claimed therein shall immediately attach and become effective.

(b) Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust by exercise of a power of sale contained therein or in the manner provided by law for the enforcement of a judgment as the laws of the State of Arizona may from time to time be changed or amended. The Association shall have the power to bid in at any foreclosure sale, Trustee's sale or judgment sale and to purchase, acquire, lease, hold, mortgage and convey any Lot. Reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law and the Owner shall be deemed to have contractually agreed to payment of such costs and expenses upon recordation of this Declaration.

(c) The proceeds of any foreclosure, trustee's or judgment sale provided for in this Declaration shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees, title costs and costs of the sale, and all other expenses of the proceedings and sale, and the balance of the proceeds, after satisfaction of such charges and unpaid assessments hereunder or any liens, shall be paid to the defaulting Owner.

(d) Any purchaser at such sale shall thereupon be entitled to a deed to the Lot and immediate possession of the Lot and shall have the right to apply to a court of competent jurisdiction for such orders as may be reasonable for the purpose of acquiring and possessing the Lot. It shall be a condition of such sale, the deed so made shall provide, but, whether or not the deed so provides, the purchaser shall take the interest in the Lot sold subject to this Declaration.

(e) Upon the ^{Unofficial Document} timely curing of any default for which a notice of assessment and claim of lien was filed by the Association, the officers of the Association are hereby authorized to record an appropriate release of such lien in the Office of the Maricopa County Recorder.

3.12 SUBORDINATION TO CERTAIN LIENS. The lien of the assessments shall be prior to all encumbrances made by the Owner or imposed by legal process upon any Lot except taxes, bonds, assessments and other levies, which, by law, are prior thereto, whether the notice of assessment and claim of lien is recorded prior to, or subsequent to, any such encumbrances, except that the lien of the assessments shall be subordinate to the lien of any first Mortgage in favor of any Mortgagee, provided such first Mortgage is made in good faith and for value and recorded in the Office of the Recorder of Maricopa County prior to the recordation of a notice of assessment and claim of lien for said assessments. Sale or transfer of any Lot shall not defeat or affect the assessment lien. However, the sale or transfer of any Lot which is subject to any first or second Mortgage described above pursuant to a foreclosure or trustee's sale under such Mortgage shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer, except for the personal obligation of the Owner at the time the assessments became due. No such sale or transfer shall relieve such Lot or the purchaser thereof from liability for any assessments thereafter becoming due or from the lien thereof.

3.13 TRANSFER FEE. Each Owner, other than Declarant or any Developer who purchases a Lot from an Owner other than Declarant or any Developer, shall pay to the Association

immediately upon becoming the Owner of the Lot, a transfer fee in such amount as is established from time to time by the Board.

3.14 INITIAL CAPITAL CONTRIBUTION. Each Purchaser of a Lot from the Declarant or a Developer shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth (1/6th) of the then current Annual Assessment for a Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Declaration. Payments made pursuant to this Section shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. Payments made pursuant to this Section shall be deemed a contribution to the capital of the Association.

3.15 INCOME TAX ELECTIONS. The Board shall have the right, exercisable in its sole discretion, to elect to report the receipts, expenses, deductions and credits, if any, of the Association for income tax purposes pursuant to Section 528 of the Internal Revenue Code of 1954, as amended, or any comparable statute or amendment thereto hereinafter enacted.

ARTICLE IV

COVENANTS AND USE RESTRICTIONS

In addition to all other covenants and restrictions contained herein, the following covenants and restrictions shall govern the use and occupancy of the Property:

4.1 RESIDENTIAL USE. No part of any Lot shall be used for other than private dwelling purposes and Accessory Uses. Any Dwelling constructed on a Lot must have a front yard setback of not less than forty (40) feet and not more than sixty (60) feet, unless a variance from this requirement is obtained from the Board or the Design Review Committee, as appropriate, due to special circumstances pertaining to the land..

4.2 MINIMUM SETBACK REQUIREMENTS. No part of any Building on Lots 63 through 83, inclusive or any Lots within Annexation Property that are similarly encumbered by drainage easements as a part of the Storm Water Runoff Collection and Drainage System shall be located within the Drainage Easement line as shown on the Plat.

4.3 TIME-SHARING; SUBDIVIDING PROHIBITED. No Owner shall create undivided interests or any other interests in a Lot for time-sharing or similar purposes. No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by an Owner with out the written approval of the Declarant and the Board. The purpose of this restriction is to prohibit shared ownership or other arrangements regarding any Lot which result in the interval use of such Lot or the overburdening of Common Area and Storm Water Runoff Collection and Drainage System facilities.

4.4 ALTERATIONS AND IMPROVEMENTS. No Improvements of any type or any structural or any other alteration to any Improvements, or any exterior additions or modifications

to any Improvements (including, but not limited to, painting and solar panel installations), shall be made, constructed or maintained upon any Lot until the plans and specifications therefor showing the appearance, height, materials and color therefor, a plot plan showing the location thereof and appropriate grading plans for the site upon which any structure is to be or is located shall have been approved by the Design Review Committee in the manner set forth herein. All alterations and Improvements may be subject to timetables (for commencement and completion) as established by the Design Review Committee. In addition, all Improvements, alterations, additions, or modifications shall be subject to the ordinances of Maricopa County or its successor, and to the provisions of this Declaration.

4.5 LANDSCAPE MATERIALS; LIMITATION ON USE OF TURF. Landscape materials planted or installed on any Lot shall generally be water conservative and drought tolerant materials including primarily desert or xeriscape landscaping. Notwithstanding anything contained herein to the contrary, the amount of turf area permitted on any Lot, whether or not it is located in an area that is Visible From Neighboring Property, shall be limited to 5% of the total Lot area.

4.6 MAINTENANCE BY OWNER. Except as otherwise provided herein, the Owner of each Lot shall maintain all Improvements on his Lot in a clean and attractive condition, and without limiting the generality of the foregoing, the Owner of each Lot shall:

- (i) keep his Lot free from rubbish, litter and noxious weeds;
- (ii) maintain, cultivate and keep in good condition and repair, shrubs, trees, grass, lawns, plantings and other landscaping located or from time to time placed upon the Lot.
- (iii) maintain in good condition and repair and adequately paint or otherwise finish all drainage Improvements and structures located or from time to time placed upon his Lot;

4.7 STORM WATER RUNOFF COLLECTION AND DRAINAGE SYSTEM IMPROVEMENTS. No Owner shall install a culvert of less than twelve (12) inches in any borrow ditch or easement along and adjacent to any property line. No Owner shall level, clear or otherwise alter his land to reduce the amount of soil covering any irrigation pipe to less than twenty-four (24) inches. No fences, walls, or structures of any kind shall be permitted within any irrigation easement without the written consent of the Board.

4.8 OWNERS' NONCOMPLIANCE WITH MAINTENANCE REQUIREMENTS. In the event an Owner shall fail to comply with the provisions of the paragraph above titled "Maintenance by Owner," the Association shall notify such Owner in writing of such specific lack of compliance, which notice shall specify the nature of such lack of compliance. If such Owner fails to remedy such lack of compliance within five (5) days after receipt of such notice (or within such greater time period as may be specified in such notice), or, in the alternative, fails to deliver written notice to the Board within five (5) days from receipt of such notice requesting a hearing before the Board with regard to the matters of noncompliance set forth in such notice, the Association or its authorized agents shall have the right to enter upon such Owner's Lot for the purpose of remedying the matters set forth in the notice, and shall not be liable for trespass in connection with such entry. If the Owner timely requests a hearing before the Board, the Board shall schedule a hearing and shall

provide the Owner with at least seven (7) days' written notice as to the date, time and place thereof. At the hearing the Owner will have an opportunity to discuss with the Board the merits of the claims set forth in the Association's original notice of noncompliance, and the Board will determine what action, if any, need be taken by the Owner and the time within which it must be accomplished. The decision of a majority of the members of the Board present at the hearing will be binding upon the Association and the Owner, subject only to legal remedies instituted within 20 days of the Board's decision. In the event it is determined that the Owner has not complied with the provisions of the paragraph titled "Maintenance by Owner" of this Article, the Board shall establish a reasonable time within which the Owner shall so comply. The cost to the Association of remedying such Owner's failure to comply with the provisions of this paragraph shall be assessed to the Owner as a Remedial Assessment, enforceable in the manner provided in the Article of this Declaration titled "Assessments." The authority of the Board to require the painting or other maintenance of the Dwelling, shall be limited to those portions of the Dwelling visible from neighboring streets.

4.9 PROXIMITY TO MILITARY AIR FIELD; OVERFLIGHTS; NOISE ATTENUATION REQUIREMENTS. Notice is hereby given that the Covered Property is located in proximity to Luke Air Force Base Auxiliary Field No. 1 and will be subject to noise events and military aircraft overflights, take offs and landings. Owners of Lots may be subject to attendant noise, vibrations, fumes, dust, fuel and lubricant particle and all other effects which may be caused by the operation of military aircraft landing at, taking off from Luke Air Force Base Auxiliary Field No. 1. In addition, all habitable Buildings constructed within the Covered Property shall have a minimum R18 exterior wall assembly, a minimum R30 roof and ceiling assembly, dual glazed window and solid wood, foam-filled fiberglass or metal doors to the exterior to achieve a maximum interior noise level due to exterior noise, of 45 decibels. Unofficial Document

4.10 NOISE. No power tools, speaker, horn, whistle, bell or other similar sound facility or equipment shall be permitted upon any Lot which is capable of producing any sound in excess of sixty-five (65) decibels measured at a point one hundred (100) feet from (i) the outside of any Improvement within which the sound emanates or (ii) the speaker or other similar sound facility or equipment from which the sound emanates. Decibel measurements shall be the average of at least three (3) and at most five (5) decibel readings by a qualified engineer. In the event an Owner is in violation of this section, the cost of retaining the qualified engineer may be assessed against the Owner as a Remedial Assessment. The foregoing provisions of this Section shall not, however, prohibit the installation or use of devices designed and used solely for security purposes.

4.11 OBNOXIOUS AND OFFENSIVE ACTIVITIES. No obnoxious or offensive activity shall be carried on, in or upon any Lot or any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or which may in any way interfere with the quiet enjoyment by each of the Owners of his respective Lot, or which shall in any way increase the premium rate of insurance.

4.12 ANTENNAS AND EXTERIOR APPLIANCES. No towers, antennas, satellite dishes, aerials, or other facilities for the reception or transmission of radio or television broadcasts or other means of communication shall be erected and maintained or permitted to be erected and maintained on any Lot except by installations inside of structures constructed on said Lot, or by underground conduits, without the prior written consent of the Design Review Committee. No

wiring for electrical or telephone installations, television antennas, security systems, machines or air conditioning units, or appliances shall be permitted on the exterior of any building or to protrude through the walls or roof of any building except as permitted by the Board or the Design Review Committee pursuant to the Article hereof titled "Design Review."

4.13 COMPLIANCE WITH LAWS. Each Owner shall promptly comply with all laws, statutes, ordinances, rules and regulations of federal, state or municipal governments or authorities applicable to use and occupancy of and construction and maintenance of any Improvements.

4.14 EXTRACTION OF MINERALS. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on any Lot, nor shall oil wells, tanks, tunnels or mineral excavations be permitted on any Lot or within five hundred (500) feet below the surface of any Lot and no derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, maintained or permitted upon any Lot.

4.15 COMMERCIAL AND PROFESSIONAL USE. No Lot shall be used in a manner which results in the unreasonable use (quantity of use or otherwise) of any portion of the Common Area. Nothing herein shall be deemed to prevent the leasing of any Lot from time to time by the Owner thereof for residential purposes only and subject to all of the provisions of this Declaration.

4.16 GRADES, SLOPES AND DRAINAGE. No Owner of any Lot shall in any manner alter, modify or interfere with the Unofficial Document grades, slopes or drainage on any Lot or on the Common Area. No structure, plants, or other material shall be placed or permitted to remain on or within any slopes nor shall any other activities be undertaken by the Association or by any other person which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels or across Lots.

4.17 USE OF IMPROVEMENTS DURING CONSTRUCTION; DILIGENCE IN CONSTRUCTION. No Improvement upon any Lot shall be occupied until the same is completed and made to comply with the restrictions, covenants and conditions contained in this Declaration. Any Improvement which is partially or totally destroyed or damaged shall be removed, repaired or replaced within a reasonable time after such destruction or damage occurs and subject to the requirements of this Declaration, by the then Owner or Owners of that portion of the Lot or Lots upon which the destroyed or damaged Improvement was or is located. All work of construction, removal or repair of any Improvement upon any Lot shall be prosecuted diligently and continuously from the time of commencement thereof until the same shall be fully completed, except to the extent prevented by strikes, lockouts, boycotts, the elements, war, inability to obtain materials, acts of God or similar causes. No mobile homes or manufactured homes shall be kept placed or maintained on any Lot, except as may be required by the Declarant for temporary construction office or sales trailer in connection with the development and marketing of the Lots.

4.18 CHEMICALS. The Design Review Committee shall have the power, but not the duty, from time to time to determine that the use of particular chemicals on any Lot constitutes

or would constitute a clear danger to the residents, and to publish the names of such chemicals and prohibit their use. No chemical so prohibited shall be used on or above any Lot. Additionally, the Design Review Committee may prohibit specified chemicals, including but not limited to pesticides and herbicides, from use on or above the open surface area of any Lot, or above any Lot, whether once or intermittently or continuously, if such chemical or any product or residue thereof does or may seep, drain, flow, drift or otherwise migrate into any natural or artificial waterway or body of water existing in the Property, into or above any part of the Common Area, or into or above any other Lot.

4.19 POISONOUS PLANTS AND ALLERGENS. The Design Review Committee shall have the power, but not the duty, from time to time, to determine that the use of particular plants in landscaping on any Lot or Common Area constitutes or would constitute a danger to residents and others because of the poisonous nature of the plant or likelihood of allergic reactions caused by contact, ingestion of the plant, or airborne pollens. No plant so prohibited shall be used on any Lot or Common Area.

4.20 OPEN FIRES. Exterior fires and barbecues shall be prohibited except in confined pits or barbecue facilities designed for such purpose, and no refuse shall be burned on the Property.

4.21 SIGNS. The only signs permitted on any Lot or Structure shall be: (i) One sign of customary size for offering of signed property for sale. For rent signs shall be prohibited. Such prohibition shall not preclude an Owner from renting his premises; however, any tenant or occupant shall be bound to comply to the provisions of the Declaration and the Owner shall be primarily responsible for such compliance by a tenant or occupant; (ii) Residential identification signs of a face area of seventy-five (75) square inches or less for identification of the occupant and address of any Dwelling, in a style designated or approved by the Design Review Committee; (iii) Such multiple signs for sale, administration and directional purposes during development as are required by Developer and approved by Declarant; (iv) Such signs as may be necessary to advise of rules and regulations or to caution or warn of danger and as are approved by Declarant; and (v) Such signs as may be required by law.

4.22 ANIMALS There shall be no commercial breeding, raising or boarding of any animals. All animals must be fenced or kept on a leash so as not to interfere with any other Owners or Lots. No horses, poultry, hogs or swine of any kind shall be raised, bred or kept on the Property. Exotic animals shall not be allowed. No more than a reasonable number of adult dogs and adult cats may be kept per Lot, regardless of the size of the Lot.

4.23 USE OF TRAIL BIKES. No trail bikes, ATV's, motorcycles or motor driven vehicles of any kind which are kept, located or are traveling from or to a Lot shall make use of any easement, trail, sidewalk or Common Area within Peak View Ranch without the prior consent and approval of the Design Review Committee.

4.24 EXTERIOR LIGHTING. All exterior lighting of a Lot shall be subject to approval of the Design Review Committee. All exterior lighting shall be unobtrusive and shall not produce excessive glare. Acceptable lamp types are mercury vapor, metal halide and incandescent.

The use of other than white exterior lights shall be prohibited except for colored lighting used as holiday decoration.

4.25 DUST CONTROL. Owners and their occupants shall be responsible for controlling dust on their Lots at all times.

4.26 PARKING RESTRICTIONS. No Owner shall do anything that will in any manner prevent the public streets from at all times being free and clear of all obstructions and in a safe condition for vehicular use. So that the Property may function in an orderly manner, it shall be the duty and obligation of every Owner on behalf of himself, his family, tenants, servants, guests and invitees to observe and enforce the parking restrictions.

(a) Trailers , recreational vehicles, campers, boats, trucks, equipment or other vehicles used by the occupant of the Lot for their personal recreational or household use may be parked on the back of any Lot provided that any such parking shall be attractively screened or concealed so they are not Visible from Neighboring Property and then only with the prior approval of the Design Review Committee.

(b) No trucks, vehicles or equipment shall be kept on any street. In addition to the other enforcement provisions contained within this Declaration, the Board may have any offending vehicle upon the Property removed from the Property to a commercial storage lot after notice to the Owner, if reasonably possible, or after posting the vehicle for six (6) hours with notice that the vehicle will be towed if it is not brought into compliance, if such notice or posting is consistent with safe practice. The recording of this Declaration shall be deemed to put every Owner, guest and invitee on notice of this provision as though the Common Areas were posted in accordance with applicable statutes of the State of Arizona and ordinances of the Maricopa County or its successor. Any car parked within a posted fire lane may be removed without notice.

4.27 SEPTIC SYSTEMS. All Owners of Lots that utilize a septic system for wastewater disposal shall design, install, operate, maintain, repair and replace such septic system in a clean and safe manner in accordance with all federal, state and local regulations and requirements. Septic systems and any appurtenant facilities shall be designed, installed, maintained, repaired and replaced in such a manner as to maintain the quality and integrity of any surrounding property, wells and water table in the area.

4.28 "ECCLESIA" PERMITTED. Notwithstanding anything herein contained to the contrary, nothing in this Declaration or in the Rules of the Association shall prohibit or interfere with the practice or conduct of "Ecclesia", the assembling of one or more persons on any Lot, meeting together for regular, organized home Bible study.

4.29 EXCEPTIONS. The covenants, conditions and restrictions set forth in the Article titled "Covenants and Use Restrictions," and the Article titled "Design Review" shall not and do not apply to any of the following:

(i) Any act done or proposed to be done upon the Property, or any condition

created thereon, by any utility company (including, but not limited to, companies furnishing electric, gas, water, telephone, cable television and/or sewer service to all or parts of the Property), or the agents or employees of any such company, which act could be done by such company were this Declaration not made;

(ii) Any act done or proposed to be done upon the Property, or any condition created thereon, by Developer, or its successors, assigns, agents, employees or contractors, in connection with the marketing and sales by Developer of the Lots, or in the course of planning for, preparing the Property for and/or construction upon the Property or any Lot of streets, utilities, recreational facilities and residential buildings, security systems, and all other original Improvements, or in connection with the exercise of any easement reserved to Developer in the Article hereof titled "Easements";

(iii) Any act done or proposed to be done upon the Property, or any condition created thereon, which act or condition has been approved in advance by the Board or the Design Review Committee acting within its authority as set forth in the Article of this Declaration titled "Design Review";

(iv) Any act done or proposed to be done upon the Property, or any condition created thereon, by any person pursuant to court order, or the order of any public officer or public agency; provided, however, that the orders contemplated in this subparagraph are only those which are the result of action initiated by public officers or agencies and which embody mandatory requirements with penalties for nonperformance, and are not those orders which result from the application of private parties or are merely permissive.

ARTICLE V

DESIGN REVIEW

5.1 DESIGN REVIEW COMMITTEE.

5.1.1 Purpose. It is the intention of Declarant, while imposing the within covenants, conditions and restrictions in order to provide for the orderly and attractive development of the Property, to provide through the Design Review Committee described herein a means by which the architectural and landscaping standards set forth in this Declaration, in Rules adopted by the Committee, and as ad hoc decisions of the Committee, will be enforced for proper development and operation of the Property.

5.1.2 Establishment of Committee. The Design Review Committee shall consist of no fewer than one (1) nor more than a maximum of five (5) individuals. The terms "Design Review Committee" and "Committee," as used herein, shall refer to such committee. Notwithstanding anything herein contained to the contrary, for so long as Declarant owns any of the Lots in the Covered Property or the Annexation Property, the Design Review Committee shall be appointed by the Declarant. Thereafter, the Design Review Committee shall be appointed by the Board.

5.1.3 Initial Members. The following persons are hereby designated as the initial members of the Design Review Committee established hereby:

Mr. Dean Doty
 Ms. Patricia Hardee
 c/o RJ Springer Construction, L.L.C.
 7119 East Shea Boulevard Suite 102, PBM 237
 Scottsdale, Arizona 85254

All of the rights, powers and duties of the Design Review Committee as set forth in this Declaration are hereby delegated to the Design Review Committee established hereby.

5.1.4 Appointment, Removal and Resignation. The right to appoint and remove all members of the Design Review Committee at any time, shall be and is hereby vested solely in the Board; provided, however, that no initial member of the Design Review Committee may be removed, nor any successor appointed for an initial member who dies or resigns, except by Declarant prior to the sale of all of the Lots within the Covered Property or the Annexation Property. Any member of the Design Review Committee may at any time resign from the Committee by giving written notice thereof to the Declarant, if, pursuant to this paragraph, Declarant has the right to appoint a successor to such member, or, if Declarant does not have the right, to the Board. Members of the Committee are not required to be Members of the Association.

5.1.5 Vacancies. ^{Unofficial Document} Except as otherwise provided herein for Developer, vacancies on the Design Review Committee, however caused, shall be filled by vote of a majority of the members of the Board. A vacancy shall be deemed to exist in case of the death, resignation or removal of any member. Failure of the Board to fill any vacancy in the Committee shall not prevent action by the Committee on any matter to the extent that a majority thereof each join in and consent thereto.

5.2 MEETINGS. The Design Review Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of members, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is specifically required under any provision of this Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise.

5.3 DUTIES. It shall be the duty of the Design Review Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to administer Rules pertaining to architecture and landscaping, to ensure that any Improvements constructed or installed on the Property by anyone other than the Developer conform to plans approved by the Design Review Committee, to perform other duties delegated to it by the Declarant within the time periods set forth herein, and to carry out all other duties imposed upon it by this Declaration. The Design Review Committee, in its own name or on behalf of the Association, may exercise all available legal and equitable remedies to prevent or remove any unauthorized and unapproved construction of Improvements on the Property or any portion thereof.

5.4 OPERATION OF COMMITTEE.

5.4.1 Documents Required. The Committee may require the submission to it of any or all of the following documents and such additional documents which it determines to be reasonably appropriate to the activity for which consent is requested: (i) all required documents set forth in its Rules, if any, including, without limitation, soil reports, if required by the Committee; (ii) a written description; (iii) plans and specifications; (iv) schematics; (v) elevations; (vi) a plot plan showing the location of the proposed Improvement; (vii) an engineering opinion; and (viii) timetables.

5.4.2 Committee Discretion. The Committee, before giving such approval, may require that changes be made to comply with the requirements of this Declaration, the Association Rules and such additional requirements as the Committee may, in its absolute discretion, impose as to structural features of any proposed Improvement, the type of material used, or other features or characteristics thereof not expressly covered by any provisions of this instrument, including the location of any proposed Improvement with respect to the topography and finished ground elevation. The Committee may also require that the exterior finish and color, the architectural style or character of any proposed Improvement which constitutes a building or structure, and the landscaping plan shall be such as in the discretion of the Committee shall be deemed suitable in view of the general architectural style and character of existing Improvements within the Property.

5.4.3 Automatic Approval. If the Committee fails to mail its certificate with regard to any matter submitted to it hereunder, within forty-five (45) days after submission of all materials required by the Committee to be submitted to it, it shall be conclusively presumed that the Committee has approved the specific matters ^{Unofficial Document} as to which approval was sought in the submission. It shall thereupon be the duty of the members of the Committee, forthwith upon the request of the submitting party, to sign and acknowledge a certificate evidencing such approval.

5.4.4 Fees. As a condition precedent to its consideration of or action upon any material or matter submitted to it hereunder, the Committee shall be entitled to receive a sum fixed by it from time to time for each set of plans, specifications, drawings or other material so submitted. Notwithstanding the provisions of the section above titled, "Information Required; Time of Application" above, until the requisite sum shall have been paid to it as provided herein, any material delivered to the Committee shall not be considered to have been submitted to the Committee for the purposes of this Declaration.

5.4.5 Developer Exemption. The provisions of this Article shall not apply with respect to construction by Developer of Improvements within the Property.

5.4.6 Professional Advisors. The Design Review Committee shall, from time to time or as a continuing service, have the right to employ professional advisors for the purpose of reviewing submitted plans, with the cost of hiring to be paid by the Owner submitting the plans.

5.5 ACCESS TO PROPERTY. Each member of the Committee, or any other agent or employee of the Board, shall at all reasonable hours have the right of access to any part of the Property, and to any structures being built thereon, for the purpose of inspection relative to compliance with this Declaration.

5.6 WAIVER. The approval or disapproval by the Committee of any plans, specifications, drawings, grading plans, heights, or any other matters submitted for approval or consent shall not be deemed to be a waiver by the Committee of its right to approve, disapprove, object or consent to any of the features or elements embodied therein when the same features or elements are embodied in other plans, specifications, drawings or other matters submitted to the Committee.

5.7 LIABILITY. Neither the Association, the Board, the Committee nor any of its members shall be responsible for any defects in any building, Improvement or other structure or planting erected, constructed, installed, placed, altered or maintained in accordance with or pursuant to any plans and specifications, color scheme, timetable or other material approved by them or any conditions or requirements that they may have imposed with respect thereto, nor shall the Association, the Board, the Committee or any of its members have any liability for the inability of anyone to obtain a building permit for the construction or alteration of any building or structure pursuant to plans and specifications approved by the Committee.

ARTICLE VI

DESTRUCTION

6.1 RECONSTRUCTION WITHOUT ELECTION OF OWNERS. In the event of a total or partial destruction of any portion of the Common Area or Storm Water Runoff Collection and Drainage System and if the available proceeds of the insurance carried pursuant to the Article titled "Peak View Ranch Homeowners' Association, Inc.," section titled "Duties of the Association," paragraph titled "Insurance," are sufficient to cover not less than ninety percent (90%) of the cost of repair or reconstruction thereof, the same shall be repaired and rebuilt promptly unless, within sixty (60) days from the date of such destruction, not less than seventy-five percent (75%) of the Members present and entitled to vote, in person or by proxy, at a duly constituted and called annual or special meeting of the Members at which a quorum is present, determine that such reconstruction shall not take place. If reconstruction is to take place, the Board shall cause to be executed, acknowledged and recorded in the Office of the Maricopa County Recorder a certificate declaring the intention of the Owners to rebuild, such certificate to be executed by any officer or agent of the Association duly authorized to execute the same by the Board.

6.2 RECONSTRUCTION BY CONSENT OF OWNERS. If the proceeds of such insurance are less than ninety percent (90%) of the costs of reconstruction, such reconstruction may nevertheless take place if a majority of the Members present either in person or by proxy and entitled to vote at a duly noticed and called annual or special meeting of the Members at which a quorum is present elect to rebuild. In the event of an election to rebuild, a certificate shall be executed, acknowledged and recorded as provided for in the paragraph of this Article titled "Reconstruction Without Election of Owners."

6.3 ASSESSMENTS. In the event of a determination to rebuild pursuant to either of the preceding paragraphs of this Article, each Owner shall be obligated to contribute such funds as shall be necessary to pay his proportionate share of the cost of reconstruction, over and above the insurance proceeds. The proportionate share of each Owner (for each Lot owned) as to such

assessment shall be equal to a fraction, the numerator of which is the size of the parcel and the denominator of which is the total land area of all Lots in the Property, and such assessment shall be due and payable in full within thirty (30) days after written notice thereof. The assessment for reconstruction shall be enforceable in the manner provided in this Declaration for any other assessment.

6.4 OBLIGATION OF BOARD. It shall be the obligation of the Board to take all steps necessary to assure the commencement and completion of such reconstruction at the earliest possible date.

6.5 DETERMINATION NOT TO REBUILD. If a certificate of intention to rebuild has not been executed, acknowledged and recorded within nine (9) months from the date of any partial or total destruction of the Common Area or Storm Water Runoff Collection and Drainage System, or if reconstruction and rebuilding has not actually commenced within such nine (9) month period, then any insurance proceeds available for such rebuilding shall be distributed by the Board among the Owners subject to (i) all unpaid assessments of each Owner together with any interest on fees attributable thereto, and (ii) the rights of any Mortgagee covering each such Owner's Lot. The proportionate interest in said proceeds for each Lot owned shall be equal to a fraction, the numerator of which is the acreage of an Owner's Lot and the denominator of which is the total area of the Property.

6.6 DAMAGE TO LOT. Any restoration and repair of any damage to a Lot shall be made by and at the individual expense of the Owner of such Lot, to the extent not covered by insurance. If an Owner fails to make such restoration or repair of his Lot, the Board may, in accordance with this Declaration, take appropriate remedial action.

ARTICLE VII

CONDEMNATION

7.1 TAKING OF ENTIRE COMMON AREA. In the event the entire Common Area or Storm Water Runoff Collection and Drainage System are taken under the power of eminent domain and are not replaced by the condemning agency, the amount payable shall be paid to the Association, as trustee, for distribution to the Owners, subject to (i) all unpaid assessments of each Owner together with any interest charges or fees attributable thereto, and (ii) the rights of any Mortgagees covering each such Owner's Lot. The proportionate interest of each Owner in the condemnation award shall be the same as that set forth in the Article titled "Destruction," Section titled "Determination Not to Rebuild."

7.2 PARTIAL TAKING OF COMMON AREA. In the event of a partial taking of the Common Area, Storm Water Runoff Collection and Drainage System, the Association shall use all amounts awarded to it on account of such taking, to acquire and improve other real or personal property to replace the property which was taken; provided, however, that the Association shall not be obligated to replace such real or personal property if seventy-five percent (75%) of the voting power of the Association elects to distribute the condemnation award in the manner provided in the Article titled "Destruction," Section titled "Determination Not to Rebuild," rather than make such

replacement. This provision is subject to the provisions of the Article titled "General Provisions," paragraph titled "Special Mortgage Requirements." If the Members of the Association do not elect, within sixty (60) days after the taking of the Common Area, to distribute the condemnation award, the Board may proceed with such acquisition and improvement of new property and may levy a Special Assessment on the Owners in accordance with the Article titled "Assessments," Section titled "Special Assessments for Capital Improvements," to raise any funds needed for such purpose in excess of the condemnation award. If the Members do not approve such Assessment, the Board shall perform such repair and restoration work and make such acquisitions as are possible with the available funds.

7.3 TAKING OF LOTS. In the event of a taking of Lots or any portion thereof, those Owners whose Lots are completely or partially taken shall be entitled to retain the award made to them, subject to (i) all unpaid assessments of each Owner together with any interest on fees attributable thereto, and (ii) the rights of any Mortgagees covering each such Owner's Lot. Nothing contained in this Article shall be deemed to limit the right of an Owner to pursue all available legal remedies and to obtain all compensation to which he may be entitled by reason of the taking of his Lot. Upon the complete taking of a Lot, that Membership of the Owner in the Association shall cease.

ARTICLE VIII

EASEMENTS

Unofficial Document

8.1 USE OF THE COMMON AREA. Declarant hereby reserves and grants to Developer and hereby grants to each Owner a non-exclusive easement for use and enjoyment over all of the Common Area. Said easements are appurtenant to and shall pass with the title to every Lot. Said easements are for the benefit of the Lots, the Owners of the Lots, and each of them, their respective families, guests, invitees, tenants, contract vendees, and such other classes of persons as to whom the Board may, from time to time and subject to published rules and regulations, extend the privilege of use and enjoyment of the Common Area, for all of the purposes and uses hereinabove set forth. In furtherance of the establishment of these easements, the individual warranty deeds to the Lots and sales contracts for the Lots, may, but shall not be required to, set forth the foregoing easements (expressly and/or by reference to this Declaration). The right of Developer and each Owner, and of such Owner's tenants and contract vendees, to use and possess the Common Area and Storm Water Runoff Collection and Drainage System as set forth herein, shall be subject to and governed by the provisions of this Declaration, the Articles and the Bylaws, and such other rules and regulations as may hereafter be adopted by the Board from time to time. The Association shall have the authority to lease or to grant licenses or concessions with respect to all or any part of the Common Area, subject only to the provisions of this Declaration, the Articles and Bylaws; provided, however, that any charges levied against the general public for any particular facilities shall not be less than charges levied against Lot Owners for the same use of the same facilities.

8.2 EASEMENT FOR ACCESS. The Common Areas shall be and hereby are made subject to an easement in favor of each adjoining Lot for access to make necessary repairs, maintenance and reconstruction upon said adjoining Lots and structures thereon. Any damage

caused by such entry shall be repaired at the expense of the Owner whose property was the object of the repair work which led to such entry. Any such entry shall be made only at reasonable times and with as little inconvenience as possible to the Association.

8.3 PUBLIC UTILITY EASEMENT. There shall be and hereby is created an easement over, upon, under and through an area as shown on the final recorded plat for the purpose of use, maintenance and repair of public utilities, including water, sewer, irrigation lines, electric, telephone, fiber optic cable, and cable television for the benefit of all Owners of Lots and the Association.

8.4 DRAINAGE EASEMENTS AMONG OWNERS. Wherever drainage, as established by the Developer, flows from one Lot onto, under or through one or more other Lots, said drainage flow shall not be impeded, diverted or otherwise changed. These easements shall include, but are not limited to, receiving the runoff from roofs and drainage under and through garden walls.

8.5 TO THE ASSOCIATION. There is hereby reserved and granted to Declarant, Developer, the Design Review Committee and the Association, their agents and employees, such easements as are necessary to perform the duties and obligations of the Association and Design Review Committee as are set forth in this Declaration, the Bylaws, the Articles and the Association Rules, including, but not limited to, the right of access at all reasonable hours to any part of the Property (excluding the interior of any Dwelling), and to any Improvements being built thereon, for the purpose of inspection relative to compliance with the Declaration, the Bylaws, the Articles and the Association Rules.

Unofficial Document

8.6 COVENANTS RUNNING WITH THE LAND. Each of the easements provided for in this Declaration shall be deemed to be established upon the recording of this Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Lots and the Common Area, as the case may be, and superior to all other encumbrances applied against or in favor of any portion of the Property which are the subject of this Declaration. In furtherance of the easements provided for in this Declaration, the individual warranty deeds to the Lots may, but shall not be required to, set forth said easements.

8.7 OWNERS' INTERESTS IN UTILITY EASEMENTS.

8.7.1 On Common Areas and Other Lots. Whenever private water lines, septic tank or sanitary sewer house connections and/or electricity, gas, water, telephone, cable television or irrigation lines or ditches are installed within the Property, which connections or any portion thereof lie in or upon the Common Area or Lots owned by persons other than the Owners of the Lot served by said connections, the Owner of any Lot served by said connections shall have the right, and is hereby granted an easement to the full extent necessary therefor,

(i) with the prior written approval of the Board or the Design Review Committee, to enter upon the Common Area or to have the utility companies enter upon the Common Area in or upon which said connections, or any portion thereof, lie, in order to modify, repair, replace and generally maintain said connection strictly in accordance with approved architectural plans, as and when the same may be necessary, and

(ii) to enter upon Lots or to have the utility companies enter upon Lots in or upon which said connections, or any portion thereof, lie, in order to repair, replace and generally maintain said connections strictly in accordance with approved architectural plans, as and when the same may be necessary as set forth below.

8.7.2 Shared Utility Connections. Whenever septic system, sanitary sewer connections and/or water connections or electricity, gas, telephone, fiber optic cable, cable television or irrigation lines or ditches are installed within the Property, which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to full use and enjoyment of such portions of said connections as serve his Lot.

8.7.3 Resolution of Disputes. In the event of a dispute between Owners with respect to the repair or rebuilding of utility service connections, or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board who shall decide the dispute and make a Special Assessment against any or all of the Owners involved, which shall constitute a Special Assessment within the meaning of the Article of this Declaration entitled "Assessments," but shall not require the consent or approval of the Members of the Association, or any percentage of them.

8.8 EASEMENTS RESERVED BY DECLARANT ON BEHALF OF DEVELOPER. In addition to any easements which have been or may hereafter be excepted or reserved in the warranty deed of each Lot or other portion of the Property or by a separately recorded instrument, Declarant excepts, reserves and grants to Developer, its contractors, subcontractors, employees, agents, invitees, successors and assigns, and declares that upon the conveyance of any Lot, there are reserved and excepted the following easements, which are nonexclusive and in gross:

8.8.1 Within Public Utility Easements. An easement over, upon, under and through an area as delineated on the final plat of the Property. Construction within the public utility easements, except by public agencies, utility companies and cable television and irrigation companies shall be limited to utilities and wood, wire and removable section type fencing. No structure, planting or other material shall be placed or permitted to remain which may interfere with the installation, use or maintenance within the easements of utilities, or which may obstruct, retard, accelerate or change the direction of the flow of water through drainage channels or in drainage easements. All such structures, planting or other material as may exist from time to time within the easements shall be maintained continuously by the Owner of the Lot subject to the easement, except only those structures for which a public entity or utility company or the Association is responsible.

8.8.2 Within Common Area and Other Areas. For a period of time extending until fifteen (15) years following the closing of the sale of the first Lot, or until all Lots are sold to an Owner other than Declarant or Developer, whichever occurs earlier, a non-exclusive easement in, over, under and through the Common Area, for ingress and egress and for the purpose of: (i) completing the development of the Property, including constructing, maintaining and retaining all Improvements on the Property now or hereafter planned to be constructed on the Property by Developer or required to be constructed on the Property by any municipal or governmental agency; (ii) marketing and selling the Lots therein, customer relations and providing post sale customer service to Owners; and in connection with such easement the right, but not the obligation:

(a) to perform any and all architectural, engineering, grading, construction, excavation, landscaping and related work and activities;

(b) to erect and maintain upon the Property storage buildings, storage areas and temporary sewage disposal facilities;

(c) to store and use materials, equipment, vehicles, tools and machines which may be necessary or desirable in connection with such construction;

(d) to display signs and erect, maintain and operate, for sales and administrative purposes, a fully staffed customer relations, customer service and sales office complex on the Property;

(e) to perform maintenance, repair and replacement work on, and to make custom Improvements, alterations and additions to Improvements; and

(f) to construct Improvements on any Lot.

No such activities shall be deemed to be a nuisance.

8.8.2.1 An easement in, over, under and upon the Additional Maintenance Areas, for the purpose of performing maintenance, repair and replacement work, and to make improvements; provided, that this easement shall not be construed to require the Association to perform any work, whatsoever, with respect to the Additional Maintenance Areas.

8.8.3 Transfer By Developer. Developer shall have the right, without the joinder of any other person or entity, to grant and transfer all or any part of the easements reserved to it in this Section.

8.8.4 Owner Access Restricted. No Owner shall enter any construction area or cross any fence or other barricade constructed to prevent such entry or otherwise impede or interfere with such development and construction.

ARTICLE IX

ENFORCEMENT

9.1 ALL REMEDIES ARE AVAILABLE. In the event of any default by any Owner under the provisions of this Declaration, the Articles, the Bylaws, or the Association Rules, and upon any failure of any Owner to comply with any requirement or restriction thereof, the Association and its successors and assigns, the Board and its agents, or any of them, shall have all the rights and remedies which may be provided for in this Declaration, the Bylaws, the Articles, or the Association Rules, or which may be available at law or in equity, and may prosecute any action or other proceeding against such defaulting Owner and/or other persons for enforcement of any lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or

injunction or specific performance, or for judgment of payment of money and collection thereof, or the right to take possession of the Lot and to sell the same as hereinabove provided, or for any combination of remedies, for any other relief. The Association and the Board, and the agents of each, shall have the authority to correct such default and to do whatever may be necessary for such purpose. Any Owner may enforce this Declaration, the Articles, Bylaws and Association rules against any other person or entity if the Association fails, within a reasonable time after written request, to do so.

9.2 EXPENSE OF ENFORCEMENT IS LIEN ON LOT. All expenses of the Association in connection with such actions or proceedings, including court costs and attorneys' fees, and all damages, together with interest thereon at the maximum rate charged for VA or FHA mortgages during the period in question, until paid, shall be charged to such defaulting or non-complying Owner, and shall be a lien on such Owner's Lot, his interest in the Association and upon all of such Owner's additions and Improvements to his Lot, which lien shall be enforceable as a Remedial Assessment in the manner set forth in the Article hereof, titled "Assessments."

9.3 CUMULATIVE REMEDIES. Any and all such remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association, or by the Board. The provisions of this Article are available in addition to the provisions in the Article hereof titled "Assessments."

9.4 LIEN FOR UNSUCCESSFUL SUIT BY OWNER. Should any Member institute suit against the Association, and should the Association be successful or sustained in its position in such suit, then such Member shall be required to reimburse the Association for its legal expenses incurred, including but not limited to attorneys' fees, fees of experts, court costs and other expenses reasonably incurred by the Association, and the amount to which the Association is entitled shall be a lien against the Owner's Lot as provided in and enforceable pursuant to the provisions of the Article hereof titled "Assessments."

ARTICLE X

INTEGRATED NATURE OF THE COVERED PROPERTY

The real property described as Annexation Property shall be annexed to and become subject to this Declaration as set forth hereinafter in this Article.

10.1 DEVELOPMENT OF THE COVERED PROPERTY.

10.1.1 Annexation Necessary. Declarant intends to sequentially develop the Annexation Property which is described herein on Exhibit "A" on a phased basis. No phase of Annexation Property shall become subject to this Declaration and until annexed pursuant to the paragraph of this Article titled "Annexation Without Approval and Pursuant to General Plan," or until a Declaration of Annexation signed by Declarant is recorded with the Maricopa County Recorder. All subsequent Improvements on Lots shall be consistent in quality of construction.

10.2 ANNEXATION WITHOUT APPROVAL AND PURSUANT TO GENERAL PLAN. Within fifteen (15) years from the recording of this Declaration, all or portions of the Annexation Property shall become Covered Property as to a particular phase upon the recording of a deed of fee title to a Lot in such phase to an Owner other than a Developer by Declarant. The recording of said deed shall make said real property phase subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter said annexed real property shall be part of the Covered Property and all of the Owners of Lots in said annexed phase shall be Members automatically.

10.3 MERGERS, CONSOLIDATIONS OR AFFILIATION. Upon a merger, consolidation or affiliation of the Association with another association, the Association's properties, rights and obligations may, by operation of law, be transferred to the surviving, consolidated or affiliated association, or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association. The surviving or consolidated Association may administer the covenants, conditions and restrictions established by this Declaration within the Covered Property, together with the covenants and restrictions established upon any other property as one plan.

10.4 LIMITATION UPON ANNEXATION. Notwithstanding the foregoing paragraphs of this Article, no annexation of additional real property to this Declaration, unless there has been approval thereof by a majority of the voting power of this Association, shall have the effect of either overburdening the Common Areas, except as set forth in this Declaration, or of substantially increasing the assessments of Owners.

Unofficial Document

ARTICLE XI

GENERAL PROVISIONS

11.1 AMENDMENTS.

11.1.1 By Owners. Except as otherwise provided, this Declaration may be amended by an instrument signed by not less than the Owners of seventy-five percent (75%) of the Property. Any amendment must be recorded prior to becoming effective.

11.1.2 By Declarant. As long as Class B votes exist, Declarant may amend this Declaration, the Articles of Incorporation of the Peak View Ranch Homeowners' Association, Inc., and the Bylaws, without approval of the Owners, in order to fulfill any requirements for obtaining financing or guarantees pursuant to VA, FHA, FNMA, GNMA, FHLMC or a similar entity.

11.1.3 Compliance with Law. No provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of any law.

11.1.4 Apply to all Covered Property. No amendment or termination of this Declaration which does not apply to all of the Property then covered by this Declaration shall be

made or recorded as to any portion of the Property without the written consent of all of the record Owners of such affected portion.

11.2 NOTICES. Notices provided for in this Declaration shall be in writing and shall be addressed to the person intended to receive the same, at the following address:

Association:

PEAK VIEW RANCH HOMEOWNERS' ASSOCIATION

At the address of the management office if professional management is obtained, if not, the address of the President of the Association or such other address as the Association may provide to the Owners.

Developer:

RJ Springer Construction, L.L.C.,
7119 East Shea Boulevard, Suite 102, PMB 237
Scottsdale, Arizona 85254

Design Review Committee:

Peak View Ranch Homeowners' Association
c/o RJ Springer Construction,
7119 East Shea Boulevard, Suite 102, PMB 237
Scottsdale, Arizona 85254

Owner:

At the address of the Lot owned by him or her or any other address designated in writing by such Owner

The Developer, the Declarant, the Association and the Design Review Committee may designate a different address or addresses for notices by giving written notice of such change of address to all Members of the Association. Any Owner may designate a different address or addresses for notices to such Owner by giving written notice of such change of address to the Association. Notice addressed as above provided shall be deemed given when deposited in the United States Mail, return receipt requested, or when delivered in person with written acknowledgment of the receipt thereof.

11.3 SEVERABILITY. If any provision of this Declaration, the Articles, the Bylaws, or any section, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of the Declaration, the Articles and Bylaws, and of the application of any such section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

11.4 SUCCESSORS OF DECLARANT. Each and every right and obligation of

Declarant under this Declaration shall inure to the benefit of and be binding on each successor of Developer which is designated as a Successor Declarant by an instrument duly recorded in the Office of the County Recorder of Maricopa County.

11.5 SUCCESSORS OF DEVELOPER. Each and every right and obligation of Developer under this Declaration shall inure to the benefit of and be binding on each successor of Developer which is designated as a Successor Developer by an instrument duly recorded in the Office of the County Recorder of Maricopa County.

11.6 INAPPLICABILITY TO PROPERTY OF PUBLIC ENTITY. The provisions hereof shall be inapplicable to any property now owned or hereafter acquired by the State of Arizona or a political subdivision thereof.

11.7 VIOLATION AND NUISANCE. Every act or omission whereby any provision of this 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 Developer, the Association or any Owner or Owners.

11.8 VIOLATION OF LAW. All activities shall be in conformance with the laws and ordinances of Maricopa County or its successor. Any violation of any federal, state, municipal or local law, ordinance or regulations, pertaining to the ownership, occupancy or use of any of the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

Unofficial Document

11.9 BREACH. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

11.10 CONSTRUCTION OF DOCUMENT. This Declaration shall be construed in accordance with the laws of the State of Arizona.

11.11 SPECIAL MORTGAGEE REQUIREMENTS.

11.11.1 Notice of Delinquency. A first Mortgagee at its request is entitled to written notification from the Association of any default by the Owner of the Lot which is subject to a Mortgage in favor of said Mortgagee, of such Owner's obligations under the constituent documents which is not cured within sixty (60) days.

11.11.2 Mortgagee Entitlement to Notice. Upon written request, any Mortgagee shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners whose property is subject to such recorded mortgage or deed of trust.

11.11.3 Right of First Refusal Restricted. Any first Mortgagee who obtains

title to a Lot pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal." In the event this Declaration is ever amended to provide for a right of first refusal, such amendment shall require the written, recorded approval of the Veteran's Administration.

11.11.4 Nonliability for Assessment Prior to Foreclosure. Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage or deed of trust or foreclosure of the mortgage or deed of trust shall not be liable for such Lot's unpaid assessments which accrue prior to the acquisition of title to such Lot by such first Mortgagee.

11.11.5 Examine Books. First Mortgagees shall have the right to examine the books and records of the Association.

11.11.6 Reserve Fund. An adequate reserve fund for replacement of the Common Area, Improvements must be established and must be funded by regular monthly payments rather than by Special Assessments.

11.11.7 Acts Requiring Prior Written Approval of Mortgagee. Notwithstanding anything to the contrary which may be set forth in this Declaration, the Articles or the Bylaws, unless at least seventy-five percent (75%) of the first Mortgagees (based upon one (1) vote for each first Mortgage owned) have given their prior written approval, the Association shall not:

(i) by act or omission^{Unofficial Document}, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwellings, the exterior maintenance of Dwellings, or the maintenance of Common Areas.

(ii) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.

(iii) fail to maintain fire and extended coverage on the Common Area and other Association Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).

(iv) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Owners shall not be deemed a transfer within the meaning of this clause;

(v) use hazard insurance proceeds for losses to any Common Area, for other than the repair, replacement or reconstruction of such areas;

(vi) amend any part of this paragraph titled "Special Mortgagee Requirements" or the paragraph titled "General Mortgagee Provisions."

11.11.8 Notice of Taking or Damaging. The Association shall give the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC") notice in writing of any loss to, or taking of, the Property if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00), or if damage to a Unit covered by a Mortgage purchased in whole or in part by FHLMC or FNMA exceeds One Thousand Dollars (\$1,000.00).

11.11.9 Payment of Delinquent Taxes. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a lien or charge against all or any portion of the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

11.12 GENERAL MORTGAGEE PROVISIONS.

11.12.1 Right to Encumber. Any Owner may encumber his Lot by Mortgage, as defined herein.

11.12.2 Not Required to Cure Breach. A Mortgagee who acquires title by foreclosure or deed in lieu of foreclosure shall not be obligated to cure any breach of this Declaration which is noncurable or of a type which is not feasible to cure or which is not practical to cure and does not materially affect the Association or any other Owners.

11.12.3 Rights on Resale After Foreclosure. Unofficial Document It is intended that any loan to facilitate the resale of any Lot after foreclosure or deed in lieu of foreclosure is a loan made in good faith and for value and entitled to all of the rights and protections afforded to Mortgagees hereunder.

11.12.4 Limit on Amendments Not Signed by Mortgagee. No amendment to this section titled "Special Mortgagee Requirements" shall affect the rights of the Mortgagee under any Mortgage recorded prior to recording of such amendment who does not join in the execution thereof.

11.12.5 Right to Attend Meetings. Because of its financial interest in a Lot, a Mortgagee may appear (but may not vote) at meetings of the Owners and the Board to draw attention to violations of this Declaration which have not been corrected or made the subject of remedial proceedings or assessments.

11.12.6 Information Given to Board. A Mortgagee is authorized to furnish information to the Board concerning the existence of any loan encumbering a Lot.

11.12.7 Insurance Loss Payable. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses naming the Mortgagees as insured parties, as their interests may appear.

11.12.8 Mortgagee Protection Superior. In the event of a conflict between any provisions of the section titled "Special Mortgagee Provisions" and "General Mortgagee Provisions," the section titled "Special Mortgagee Provisions" shall control. In the event of a conflict between any provision of the aforementioned two sections and any other provision in this Declaration, the language contained in the aforementioned two sections shall control.

11.13 TERM. This Declaration and the covenants, conditions and restrictions contained herein, as amended from time to time, shall be and remain in full force and effect for a term of twenty (20) years from the date this Declaration is recorded, after which time said Declaration shall be extended automatically for successive periods of ten (10) years, unless amended or terminated in accordance with the Article titled "General Provisions," section titled "Amendments," except that if Arizona statutes require a higher percentage of approval for termination, such higher percentage shall be required. Upon termination of the Association, its assets shall be conveyed to another nonprofit organization or to a public agency having similar purposes.

11.14 PLURALS; GENDER. Whenever the context so requires, the use of the singular shall include and be construed as including the plural, and the masculine shall include the feminine and neuter.

11.15 HEADINGS. Section headings and table of contents are inserted for convenience only and are not intended to be a part of this document or, in any way, to define, limit, or describe the scope or intent of the particular section to which they refer.

11.16 CAPITALIZATION. Capitalization of a common noun or predicate adjective indicates the term is used as defined in the Article titled "Definitions," unless the context requires otherwise.

11.17 PERPETUITIES AND RESTRAINTS ON ALIENATION. If any of the covenants, rights, privileges or duties created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the last of the now living descendants of the President of the United States, George W. Bush, and Governor of Arizona, Janet Napolitano.

11.18 DOCUMENTS TO PREVAIL. In the event there is a conflict between or among this Declaration, the Articles or Bylaws, the most restrictive provision shall apply unless such interpretation is clearly contrary to the meaning and intent of the Peak View Ranch Documents. In the event of a conflict, the provisions of the various documents shall prevail in the following order: (i) this Declaration; (ii) the Articles of Incorporation of the Peak View Ranch Homeowners'

Association; (iii) the Bylaws of the Peak View Ranch Homeowners' Association; (iv) the Association Rules.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first hereinabove written.

"DECLARANT"

PEAK VIEW RANCH, L.L.C., an Arizona limited liability company

By: Donald E. Sears
Its: manager

STATE OF Arizona
) ss.
County of Maricopa

On this, the 13 day of May, 2004, before me, the undersigned Notary Public, personally appeared Donald E. Sears, of Peak View Ranch, L.L.C., an Arizona limited liability company, who acknowledged himself to be the Declarant/manager, and that he, being authorized so to do, executed the foregoing instrument for the purposes contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Lynn Cannon
NOTARY PUBLIC

Commission Expires:

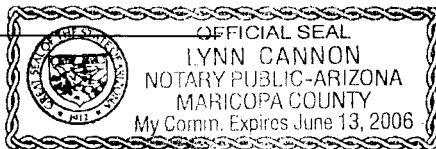


EXHIBIT "A"

ANNEXABLE PROPERTY

PEAK VIEW RANCH UNITS 2 AND 3

THE WEST HALF OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE SOUTH 500.00 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXCEPT THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

AND ALSO:

THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

Unofficial Document

PEAK VIEW RANCH UNIT 4

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT ALL THE COAL AND OTHER MINERALS AS RESERVED IN PATENT.

AND ALSO

THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

*****NOTE:** The property described in this Exhibit "A" is property which may, at some later date, be annexed into this Declaration. It is being included on this Exhibit "A" for descriptive purposes only. Nothing contained in the Declaration or in this Exhibit shall subject the property described in this Exhibit "A" to the Declaration. Until such time as a Declaration of Annexation is recorded, specifically subjecting all or any portion of the real property to the Declaration, the property herein described **SHALL NOT** be subject to the Declaration.